NHS Resolution

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28 February 2025

REF: SHA/ 26288

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY WELLBEING PHARMACY FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT 72 JOBS LANE, COVENTRY CV4 9EE

REF: SHA/ 26291

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY JT HEALTH LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 WITHIN 100 METRES OF 116-120 JARDINE CRESCENT, COVENTRY, CV4 9PP

REF: SHA/ 26313

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY CHALICE SERVICES LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT JARDINE CRESCENT, SHOPPING PARADE, TILE HILL, COVENTRY, CV4

REF: SHA/ 26316

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY BLUECROSS HEALTH LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 IN THE VICINITY OF JARDINE CRESCENT PARADE OF SHOPS, TILE HILL, COVENTRY, WEST MIDLANDS, CV4 9PP

1 Outcome

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

1.2 The Committee determined that the application made by Chalice Services Limited (application SHA/ 26313) should be granted. The Committee further determined that all other applications should be refused.

A copy of this decision is being sent to:

Wellbeing Pharmacy
JT Health Ltd
Rushport Advisory LLP on behalf of Chalice Services Ltd
Healthcare Plus Consulting Ltd on behalf of Bluecross Health Ltd
PCSE on behalf of NHS Coventry and Warwickshire ICB
Community Pharmacy Arden (Coventry & Warwickshire)

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1 A summary of the applications, decision, appeals and representations and observations are attached at Annex A.

2 **Site Visit**

2.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution (which comprised of J Whitfield KC, Mr P Bratley and Ms L Summers) attended the site on Monday 20 January 2025 and Wednesday 29 January 2025.

2.2 The Committee identified Nos. 116 – 120 Jardine Crescent where Boots was previously located. These units had a shutter covering them, but no "For Sale" signs. They are at 90 degrees to the road and face Tile Hill Primary Care Centre (PCC) which is quite a large modern building and was obviously well patronised at the times of our visit. We also identified No. 42 which also had a shutter down and the facia describing the pound shop was still there. This unit is alongside the road towards the opposite end of the parade to the PCC. Parking was available on the roadside and there were spaces available on the parade. It was obvious that the parade is well used with a steady turnover of parking places although it was obvious that people also walked to this centre.

2.3 There were a few empty units and all of the shops appeared to cater for residents of what is undoubtedly a deprived area as described in the papers. One corner unit at the end of the parade close to No. 42 appeared to be newly fitted out and had a comprehensive range of stock. It was an off license with a general store and occupied several retail units. There was a launderette, a book maker, Greggs, Farmfoods and several other shops including takeaways catering for day-to-day needs of local residents.

2.4 There were bus stops at either end of the parade of shops, and on the opposite side of the road, served by the number 6/6A bus. We did not check the timetable but, from our own observations, it was running frequently (every 10 minutes or so) and appeared to be well used. The Committee encountered buses on various of the roads around the location.

2.5 There was evidence of Tile Hill/Jardine Crescent being a self-contained and supportive community, with a community notice board (opposite the PCC) referring to a food bank, a weekly lunch club, and events at the Mosaic Centre.

2.6 To the north and west of the PCC there is a car park for the Mosaic Family Hub and Cherry Tree Nursery. This area extended along Jardine Cresent with two churches and a modern comprehensive Library.

2.7 There were several multi-level blocks of flats immediately around the District Centre and past the library. Further north the Committee travelled through a large estate of what seemed to be older social housing. It was easy to appreciate the statistics provided referring to various markers of high-level deprivation.

2.8 Buses were seen as we travelled around the area and we noted an advert on one of them for a day ticket for £4.80. We considered that likely to be unattractive to residents in the area who need to collect a prescription.

2.9 At the junction of Jardine Crescent and Broad Lane we noticed a reasonably large modern building on the right just before the junction – Hawthorne House, part of which is St Mathews Healthcare Care Home and a specialty mental health facility.

2.10 Broad Lane has a number of industrial buildings on its southern side and slightly larger homes on the northern side. Turning into Banner Lane and then the short distance to Astoria Drive the Committee saw a modern purpose built parade of shops. This included a Subway, Spar, Rupee Lounge Indian, Barnardo's, William Hill, Jolley's Pet Shop and Bannerbrook Pharmacy.

2.11 Bannerbrook Pharmacy opens for extended hours. It incorporates a sub-post office and offers a wealth of special services some of which are clearly private. In addition to all of the usual extended services including Pharmacy First, they also provide a range of blood tests via a London Clinic and have phlebotomy services. They had a consultation room and what appeared to be three treatment rooms – presumably for blood testing etc. A couch was visible in one such room. All of the surrounding property was new and almost certainly privately owned. It appeared likely that Bannerbrook's clientele may be able to afford to pay for the private services.

2.12 Travelling south on Banner Lane the land to the left (east) is parkland for part of the way, effectively creating a barrier to the deprived area around the location site. Access across the parkland was not readily apparent although a path is visible on the plans and the Committee saw one muddy path toward the southern end of the parkland. The land to the west Banner Lane had a considerable number of new up-market buildings including apartment blocks and a substantial care home.

2.13 The Mistry pharmacy is at the southern end of Banner Lane beyond Tile Hill Lane and Torrington Avenue. It is a small premises with another shop next door and a carpark to the other side. It had the appearance of a small dispensing chemist designed to cater for local needs. The Committee considered it unlikely that residents in Tile Hill would be drawn to this location to access pharmaceutical services.

2.14 Returning to Tile Hill Lane (B4101) and travelling along that road to park in The Newlands Pub car park the Committee noted a short parade of shops which incorporates Tile Hill Lane Pharmacy (No. 343, also owned by Wellbeing Pharmacy Ltd). This was old accommodation and from the livery appeared to have been acquired

from Lloyds. There was a bus stop at the parade of shops, served by the 6/6A bus. The shops in the parade were not such as to suggest that residents of Tile Hill would need to visit here for any other reason. On the north side and a little further along the Committee observed the Wellbeing Pharmacy (No. 298). This appeared to be converted from one side of a pair of semi-detached houses with the other side being Westwood Surgery (photo is in the papers). From the opening hours of Wellbeing Pharmacy, it appears that it probably opened as a 100 hour contract. The pharmacy does not have a shop window and had very limited parking. It appeared unlikely that it would be used by anyone other than residents of the immediate area and/or patients attending the attached surgery.

2.15 Returning westwards on Tile Hill Lane and turning right into Job Lane, the road is an undulating hill before the left back into Jardine Crescent and the parade of shops. That journey was not particularly long, but the hill is not insignificant and could be difficult for a number of people as suggested in the papers.

2.16 Walking back along Jobs Lane a short way to the junction with Baxter Close the Committee observed No 72, the location of the Wellbeing pharmacy application. The Committee regarded it as unlikely that a residential house would be as obvious or convenient for people attending the Jardine District Centre and it appeared to still be in use as a private house.

2.17 The Committee also attended the location of the Mount Nod Pharmacy (also owned by the owners of Bannerbrook). This involved driving or walking to the northern end of Job's Lane, crossing Broad Street, continuing along Alderminster Road and then into Sutherland Avenue. The journey included travelling along some quite steep inclines. The pharmacy was part of a small local parade of shops with limited parking for the shops. The Committee considered it to be an unlikely destination for residents of the central Tile Hill area to access pharmaceutical services.

2.18 During the various journeys undertaken the Committee observed people travelling by car, bus, bicycle, mobility scooter and on foot including with the use of walking aids such as a stick or crutches.

2.19 A summary of the above observations were provided to those in attendance. They were invited to comment upon them but no such comments or observations were made (other than those by Mr Daly as set out below).

3 Preliminary matters

3.1 Having outlined the detail of the site visits the Committee observed that it would be assisted in hearing from the applicants as to the types of services they offered, their access to premises, the hours they were offering and their understanding and awareness of the local community.

3.2 At 9am the Committee received additional documentation submitted late by Mr Koria/Bluecross Health Ltd. This consisted of two counterparts to an agreement for a lease each of 46 pages and a case record SHA/18516/SHA/ 18519 Coleford totalling 76 pages (total 168 pages).

3.3 Mr Daly expressed concern that documentation was being habitually submitted late, he referred to it as being regularly provided "in the nick of time". He observed that this was potentially prejudicial to the other applicants and reminded the Committee of its powers to exclude evidence.

3.4 Mr Koria said that the lease documentation he submitted today had only been signed by the council on 29 January and the delay was out of his client's control. No reason was provided for the late reference to the Coleford decision.

3.5 The Committee noted and agreed with Mr Daly's concern regarding late service of documentation. On this occasion the Committee was able to look briefly at the lease agreement and the Coleford decision prior to the hearing. It required Mr Koria to outline the areas of the documents, particularly the case decision that he relied upon. The Committee reaffirmed that late service of documentation was to be avoided and observed that documentation had been rejected in these circumstances in the past.

3.6 Mr Daly asked if it would be possible for him to put his case first owing to the presence of two witnesses who would otherwise be made to wait for some time. No parties raised any objection. The Committee took the view that the information would be of assistance to everyone and hearing from Mr Daly first would cause no prejudice to anyone.

4 **Oral Hearing Submissions**

Application SHA/ 26313 (Mr Daly on behalf of Mr Mann, Chalice Services Ltd)

4.1 Mr Daly started his address by saying that this case was a good example why a site visit by the Committee was very important. He said that the Tile Hill area was "inward looking" for its services with two medical practices one of which was the largest in Coventry. It was an area which people visited to access primary care services. He said that if one were to describe an area that needed a pharmacy one might describe Tile Hill.

4.2 Mr Daly described the centre of Tile Hill as comprising a large housing and retail development and said this was not simply a 'local' centre but was of a higher and more important category being a 'district' centre. He said there were twenty-one retail units and a higher than average number of convenience retailers. In addition he said the shops had a lower than average vacancy rate. He referred to the bundle which set out further facilities in the area including a primary care centre, a library, several blocks of flats and a school that was being refurbished for children with special educational needs. He observed that there were a significant number of children accessing primary schools and people in general came to the area as part of their daily lives.

4.3 In light of the above, Mr Daly submitted that the demand for a pharmacy service was obvious since not only was there a primary care centre at the location but there were high levels of poor health. When considering the statistics in the bundle Mr Daly said this suggested that about 30% of residents did not have a car. However, he said that if one concentrated on the area of Jardine Crescent and Broad Road there were about 4,200 residents and the statistics were more extreme. He said that of these residents 41.5% did not have access to a car; 50% were in poor health; 26% were disabled and 48% of the homes were social housing. He submitted that all of these figures were significantly higher than national or local averages. Mr Daly then called Mr Ali and Mr Medini as witnesses in support of his client's application.

4.4 Mr Ali stated that he was a trader at Jardine Crescent and had been in business there for twenty-five years. He said that there was a clear need for local residents in terms of a pharmacy. He agreed that some patients had dispersed elsewhere to obtain pharmaceutical services from other providers but he also said that people were asking when a pharmacy would re-open and anticipated that this would occur. Mr Ali said that he had a unit available and that Mr Mann could take it over without any problem.

4.5 Mr Medini gave evidence and said that he had lived in Jardine Crescent for eighteen years. When Boots announced that they were closing their pharmacy at Jardine Crescent he and others set up a petition in an attempt to stop the closure. He said that people with pharmaceutical needs did not always have transport to go elsewhere and whilst some people used the Bannerbrook pharmacy, he had seen and heard of accidents when people travelled. He said that some people were vulnerable including young mothers; others could not afford the cost of transport and some people had tried to walk but clearly had breathing problems. Mr Medini said that he saw such problems

daily and he knew of people who had to rely upon their relatives. They felt that they were a burden and felt humiliated. He observed that this could affect people's mental health.

4.6 Mr Medini said there was a primary care centre and a supported living centre at Jardine Crescent and these also supported the clear need for a pharmacy. He repeated that there were vulnerable people who could not afford to travel elsewhere. When he set up his petition he received several hundred signatures within days and when speaking to people he realised they were desperate. He saw some people crying at the loss of the pharmacy. Mr Medini said this need had not gone away, it remained and he had seen people walking in the rain to get to another pharmacy. As a local resident he said that the pharmacy was definitely needed. He recognised that if people had the money then obtaining pharmaceutical services at another location was not a problem but if people could not afford a bus or a car then the distance they had to travel was a problem. He said that the community looked after its own people and he felt that Boots had let them down. He said that local people struggled and implied that those in authority did not see this. He repeated that the cost of accessing alternative pharmaceutical providers was difficult for some patients, other patients' mental health was adversely affected and a pharmacy would be gratefully received. It would assist people and meet their needs. He explicitly stated it was not a convenience it was a need.

4.7 In cross-examination Mr Raza confirmed with Mr Ali that 42 Jardine Crescent was available to Chalice Services Ltd. Mr Koria asked if there were any other lease agreements in play and Mr Ali said there were not. In answer to questions from the Committee Mr Ali said that local bus fares were between £2.20 and £2.60 each way. Mr Medini confirmed that he had seen and heard from people who had the difficulties he described above. He knew of people with medical needs, he knew of people relying upon their family and said that people had signed the petition not out of a sense of convenience but because they needed the pharmacy. Mr Medini said that the petition was organised through the local MP and he had helped as a local resident. They had set up tables and had only been in place for three to four days but they had received many signatures. He had spent the time explaining what a closure would mean asking people to sign and they had done so. In doing so, people would tell him their story.

4.8 Having heard from his witnesses Mr Daly observed that there was evidence of people who regarded themselves as a burden upon their families. He said that accessing services elsewhere was not a replacement for the loss of the Boots pharmacy and "taking up the slack" did not meet the need. He said that people do not have a choice to go elsewhere if they cannot make the journey. Mr Daly continued that the primary care centre which contained two surgeries issued 25,000 prescriptions a month, he said the Tile Hill NHS dental practice also issued prescriptions. He said in total there were 27,000 prescriptions issued per month from these sources. He observed that some 50% of people attending a medical centre would include repeat appointments and there were people who would need the assistance of a nurse, have their blood pressure taken and undertake medicine reviews. He said that a significant number of people in Tile Hill had pharmaceutical needs. He also said that there was an ongoing development of a centre for homeless people with at least 50 beds and then slightly further north there was continued housing development. This, he said all showed that demand would increase.

4.9 Mr Daly took the Committee to various pages within the bundle and said that the comments by the local MP, the petition and a letter from a GP all supported the need for a pharmacy. Mr Daly said that the alternatives meant local residents now had to leave the area they lived in and travel around a mile each way to access a pharmacy. He said that 41% of residents around Jardine Crescent did not have a car but even those that do have a car on their driveway may not be in a position to use it.

4.10 Mr Daly said that the Bannerbrook and Mistry pharmacies did not serve the Jardine Crescent area and the Tile Hill and Wellbeing pharmacies both had very little parking. He said that the No.6 and No.6A buses served Jardine Crescent but the fare was £2.90

for an adult and £1.50 for a child so if a mother and child had to go to a pharmacy it could cost nearly £10 for a return fare. He observed that all the Pharmacists in the hearing had probably dealt with patients who had declined medication because they could not afford both this and living or travel expenses. He said the need was clear however the question was which application should be approved.

4.11 Mr Daly said that only one application ought to be approved. When looking at the competing applications he said that all the applicants would provide such services as may be commissioned by the NHS and in that respect there was nothing to differentiate them. He suggested it therefore came down to who had premises and the core hours they offered. He said it was only core hours that secured the provision of services. Mr Daly said that the Chalice application offered more core hours than anyone else. In addition no other applicant offered core hours on a Saturday. Only Chalice did this and it was important since it would meet the needs of those who could not access pharmaceutical services Monday to Friday. He said even though it was only three hours it would be important to some patients. He observed that although JT Health Ltd said they offered 43 hours by way of an amendment to their application, this appeal was focused upon the application that was decided upon. That application did not offer Saturday core hours. This he suggested was plain on the papers in the bundle. He said that although JT Health Ltd may complain about the ICB and may have wanted to amend the core hours in their application, this did not in fact happen. He said this Committee could not remedy that and could not deal with an amendment to an application that was not in fact determined. He said the Committee was dealing with an appeal by JT Health Ltd on the application decided upon and that it did not have Saturday hours. He said that even if the JT Health Ltd application could in some way be amended to 43 core hours, his client still offered more hours in total.

4.12 Concerning premises, Mr Daly said that Mr Ali had confirmed that premises were available to Chalice and the Committee now had the most up-to-date information. Regarding the Wellbeing pharmacy application, he said that was in a less desirable location, it was a residential property, and there was no real prospect of it being converted into retail premises. He said he would reserve his comments on the Bluecross Health Ltdross application for cross examination.

4.13 In answer to questions from Mr Koria, Mr Daly said that the position regarding his client's prospective premises had not changed because this application/appeal had not yet been determined. When asked whether his client was confident that the premises were secure and the parties would not withdraw he said the applicant wanted to open and did not wish to withdraw and the witness was keen to have a pharmacy in his premises. When asked about whether a failure to open was a possibility, Mr Daly said the Regulations dealt with probabilities and it was more likely than not that the applicant would have a property in which to open a pharmacy.

4.14 Mr Daly said that it would be open to the Committee to discount an applicant without a property and for those with a property to look at the services and the opening hours they proposed but he regarded Mr Koria's line of questioning as speculation. Mr Koria put to him that Mr Ali is a leaseholder, not the landlord, and Mr Daly replied that the leaseholder was entitled to sublet and the landlord should not unreasonably withhold consent. He said the landlord was the council who owned the block. Mr Koria said it was not a certainty that Chalice would open and Mr Daly said that was not the test to be applied by the Committee.

4.15 During Mr Daly's address, Mr Raza submitted an e-mail to NHS Resolution. It was circulated to the parties. He complained that the local authority, the landlord of premises at Jardine Crescent, had failed to engage with him in the same way as it had with other parties. He considered this to be extremely unfair. Whilst the Committee expressed some sympathy at his concerns it was not something that it could take into account in these proceedings.

Application SHA/ 26291 (Mr Iqbal & Mr Takolia on behalf of JT Health Ltd)

4.16 In a short statement to the Committee Mr Iqbal said that all the applicants were offering various facilities and services however they were not all offering them to the same extent. He said that JT Health Ltd were offering more services. In respect of core hours he said that they too were offering 43 hours and this had been confirmed in e-mail correspondence. He said this had not been altered and had been offered from the start. As to supplementary hours, he said that these should be given no weight at all since they could be withdrawn on five weeks' notice.

4.17 Mr Takolia observed that all the parties are in the pre-contract stages regarding properties. He said that 116 – 120 Jardine Crescent, their intended premises, had a long stop date of 31 March 2025. Other premises had long stop dates in April. He said that if their application were granted then other properties would become available, the implication being that those whose applications were refused would relinquish their claim to the various premises and the successful applicant could choose the premises they liked the best. Mr Takolia said that their firm could offer more hours at the weekend.

4.18 In cross examination Mr Daly took the Committee and Mr Iqbal and Mr Takolia to the JT Health Ltd application in the documentation. He confirmed that the application was for 40 hours with no hours on Saturday. Mr Takolia said that this was entered into the document by them because the form would not allow more to be offered but they went on to ask if additional core hours could be given, hence the offer to do three more hours on Saturday. Mr Daly also took the parties to the determination of the JT Health Ltd application which also confirmed that in its original form the pharmacy would be closed on Saturday. Mr Takolia again said that emails confirmed they had offered three core hours on the Saturday.

4.19 When asked about premises by Mr Koria, Mr Takolia said that they had put in an application to use premises at 116 - 120 Jardine Crescent but he conceded that Mr Koria's client had secured those premises for the time being.

4.20 In answer to questions from the Committee the applicants said that they had offered or intended to offer more services than the other parties. When asked for evidence to confirm that their original application for 40 core hours was corrected to 43 hours they said that these were in emails that formed part of the appeal process. Mr Takolia said that they had filled in the form offering 40 hours because that was all that the form allowed them to do he did not know whether this was a clerical error but they had put in 40 then offered more and the ICB had confirmed this.

4.21 In response to the above, Mr Daly conceded that there may well have been such communication between JT Health Ltd and the ICB but the change sought by the applicants was not made therefore the determination was based on 40 hours and this appeal was based on 40 hours. He submitted that the applicants were "stuck with" what had been determined.

Application SHA/ 26316 (Mr Koria on behalf of Mr Porbanderwalla and Mr Rose, Bluecross Health Ltd)

4.22 Mr Koria started his address by saying that all applicants had submitted tenders or bids to the landlord of premises in Jardine Crescent and Bluecross had been granted exclusive access in early December. He said that the heads of terms had been agreed but the lease was not provided by the local authority due to the holiday period over Christmas and the new year. He said that he did not think the agreement would materialise before the hearing however in mid-January the local authority had started to re-engage and the agreement was completed last week. He agreed this was unfortunate but said this is how it had happened.

4.23 Turning to the question of whether granting his client's application would improve access to pharmaceutical services, Mr Koria said that he grew up in the area and it was "ridiculous" that there wasn't a pharmacy given the level of deprivation in the area. He said that Bannerbrook pharmacy was in a much better off area. Mr Koria said that Mr Rose had worked at the Boots pharmacy on Jardine Crescent and he could speak about the people who attended those premises. He said that many people in the West of Coventry would attend the Boots in Jardine Crescent as well as residents of Tile Hill and this was why around 27,000 prescriptions came from the healthcare services at that location. In addition he reminded the Committee that there was a library, churches, schools including a special needs school, football facilities and numerous shops. He said that Jardine Crescent was a self-contained area or estate and residents would not exit that area as part of their daily lives. He said that all of the applicants before the Committee were shocked at the closure of the Boots pharmacy since it was so well utilised and much needed. Mr Koria then called Mr Rose to give evidence.

4.24 Mr Rose said that he had lived in the area for 46 years and knew the population and its demands. He worked and managed the Boots pharmacy for eight years and he was the only person with such a level of local knowledge. He said that there was a very high demand in the area for pharmaceutical services in addition to prescription dispensing services.

4.25 Mr Koria then went on to say that the Jardine Crescent area was in the 10 most deprived areas in the country and that such an area needed a pharmacy. He said that analysis of the area around Jardine Crescent showed that the need was even greater than the statistics suggested. He took the Committee through various statistics and said that 9.5% of residents had bad or very bad health; 15.1% of residents experienced restriction in their mobility equating to a major disability; 44.2% of residents were in social accommodation; 13.3% were long term sick; 40% had no access to a car. Each of these was way above the national average or the average in the Coventry area. He said there was direct evidence that people in the locality had poor health, poor access to a car and it was not reasonable for residents to have to undertake a 20 minute or 0.9mile walk to access pharmaceutical services. As for buses, he said that many could not afford to use them. Mr Koria submitted that it was clear residents did not have a reasonable choice when having to choose to pay for a bus or a prescription.

4.26 Turning to the question of which application should be granted, Mr Koria said that his client already had five pharmacies in the most deprived areas of Coventry and that Mr Rose had worked in the local pharmacy and was familiar with local needs. Mr Koria said that whilst others may offer slightly longer core hours the availability of premises was in fact more important when considering the question of whether granting an application would secure access to pharmaceutical services. He suggested that the only way access could be secured was by an applicant having control over premises and his client had recently received the agreement of the local authority concerning 116 - 120 Jardine Crescent. He said that this was a binding agreement to take on a 15 year lease. The lease was to Shiraz & Sons which was owned by the family and traded under the name Crest pharmacy and gave his client control over premises. He said no other applicant had a claim over the property.

4.27 Regarding the application by Chalice Services Ltd, Mr Koria said that they did not have control over the property at 42 Jardine Crecent and that the party with control over the premises could back out. He expressed doubt over the availability of the premises and suggested that even if they were available now things could change. He suggested there may be a premium payable when taking over the premises. This was in contrast to his client who had an agreement to lease and could go ahead immediately.

4.28 Mr Koria directed the attention of the Committee to the case in Coleford (SHA/ 18516 & SHA/ 18519) in which the availability of premises to one party was considered to be more important than an offer of additional core hours by a party who did not have available premises. Mr Koria said that should the Committee be minded to grant an

application, it should be based upon the principle of who had control over a property. He described the premises available to his client as being 1600 square feet with good accessibility, a bus stop outside and it was visible from the medical centre. In contrast he said the premises that Chalice Services Ltd relied upon had difficult access and was 120 metres away. He submitted that his clients' premises were preferrable due to their location, size and accessibility.

4.29 In answer to cross examination from Mr Daly, Mr Rose acknowledged that opening premises on a Saturday was important in an area of high deprivation but, he said, what was more important was opening a pharmacy in the first place. Mr Daly then asked Mr Koria who had the lease and who was making the application for a pharmacy since these were in different names. Mr Daly pointed out that the applicant is Bluecross Health Ltd but the agreement for a lease was with Shiraz & Sons. Mr Koria confirmed that the agreement for a lease was with Shiraz & Sons. Mr Daly asked if Bluecross Health Ltd was the same legal entity as Shiraz & Sons. Mr Koria said that the shareholders had control and both companies operated pharmacies under the Crest group.

4.30 Mr Porbanderwalla said that he and his brother were directors of Shiraz & Sons. He then said it was a family company with four shareholders. Regarding Blue Cross, Mr Daly said there was one shareholder shown on the Companies House website. Mr Porbanderwalla said there were three directors including Mr Rose but Mr Rose was not a director of Shiraz & Sons.

4.31 Mr Daly then took the Committee and Mr Koria/Mr Porbanderwalla to the agreement for a lease that they had just produced. He pointed out that clause 2.16.2 prohibited subletting or granting a franchise to a third party. He said that the idea Bluecross had secured premises was nonsense. Mr Koria retorted that the shareholders had control. Mr Daly responded that the companies were different legal entities with different directors and the lease agreement produced by Mr Koria did not allow assignment between them. Regarding the Coleford decision Mr Daly pointed out that part of the decision making process was the reference to matters being fraught with potential difficulty whereas in this case his client had premises and had reviewed and assessed the needs of residents.

4.32 In answer to questions from the Committee, Mr Porbanderwalla said that he and his brother did not think that obtaining the lease in the name of Shiraz & Sons would be a problem because the main shareholders were the same and they operated across all the companies. He said that there was an additional director in Bluecross Health Ltd but that didn't make any difference. He said there was no particular reason why the lease agreement had been obtained under the name of Shiraz & Sons. Mr Rose said that all the companies operated under the same banner and were in effect the same operation.

Application SHA/ 26288 (Mr Raza, Wellbeing Pharmacy)

4.33 Mr Raza addressed the Committee last with the agreement of the other applicants. He said that the question of need had already been dealt with and submitted that the evidence established that Tile Hill was a deprived area and that the cost of travel to a pharmacy made it difficult for some patients. He said it was a considerable walk to attend another pharmacy and that Bannerbrook and Mistry pharmacies were some distance away. He said that the Mount Nod pharmacy was also some distance away. Regarding the Tile Hill pharmacy and the Wellbeing pharmacy he said that his company was the owner of both and they had seen a 45% increase in pharmaceutical prescriptions since Boots closed. He said this was a "drastic" increase and although his pharmacies had tried to accommodate and meet the needs of patients, they had gone beyond capacity. He confirmed that they did not charge for delivery. He said that people in the area desperately needed another pharmacy and that he lived two minutes away and with a daughter at the nursery he knew how much people needed the pharmacy and how difficult it was for people just as the witnesses had said.

4.34 Regarding the issue of Saturday hours he said that they had not been offered, one reason being that the NHS did not provide an uplift in payment. He said that he like anyone else could apply to change the core hours.

4.35 Concerning the premises at 72 Jobs Lane he said that this was his own home. He had applied for pre-application planning advice and this had been "approved". He said that he had negotiated with the local authority concerning Jardine Crescent and he said the whole purpose of him explaining the need in the area was that he knew people by name, he knew their children, he knew their needs, he said this would not be a new venture for him it would simply be an extension of the services that he provided and which people trusted. He said that the issue of property could be dealt with but the main thing was for the Committee to grant an application.

4.36 Concerning the pre-application planning advice Mr Raza confirmed that this was an advisory process during which a planning officer suggested such changes as may be needed in any subsequent planning application. He said that he too would have the opportunity to pursue other premises if his application was granted.

4.37 Each of the applicants were then given the opportunity to make a further address to the Committee. Mr Iqbal and Mr Takolia declined since they confirmed they had said all they wanted to.

4.38 Mr Koria said that he echoed what Mr Raza had said regarding local people and it was madness for them not to have a pharmacy, the issue was which one. Concerning the issue of shares and ownership of the companies he said that the companies were owned by two brothers and their wives and that they each operated pharmacies under the name of Crest. He said that subject to the landlord's consent the tenant could assign a lease. He said that there was a clear intention on the part of the landlords to grant a lease and the premises were available. He said that Chalice's proposed premises were currently occupied and there may be a premium an occupation or this may never occur.

4.39 Mr Daly said that one of Mr Koria's clients' companies had 4 shareholders with 25% shares each, another had two shareholders with 50% each. He said they were not the same controlling shareholders and any grant to the applicant would have to be assigned. He said they were not in the same position as his own client. He took the Committee to specific conditions within the agreement for a lease and pointed out that the agreement required the tenant to obtain all consents. He said that the tenant had made no application and there was no way to assign the agreement. He pointed out that the agreement required Shiraz & Sons to notify the local authority within 3 days if it was not successful in obtaining a pharmaceutical grant in which case the agreement would terminate with immediate effect. Mr Daly said it was impossible for the agreement to take effect because Shiraz & Sons were not the applicant. The only option for Mr Koria's clients was a new agreement. He said that the current agreement was in effect meaningless whereas his own client's position was valid and indicated a significantly better interest in a property that was available.

4.40 Mr Raza concluded proceedings by observing that he knew from his own experience that a need existed he said that Wellbeing pharmacy were already engaged and it would be an easy transition for them. He said that this was not a business oriented application but an application designed to meet a need.

Additional Material (not admitted into evidence)

4.41 After the hearing had concluded and toward the end of the Committee's deliberations the Committee was alerted to further communication received by NHS Resolution from Mr Koria/Bluecross Health Ltd concerning the availability of premises.

4.42 To meet its duty to act in the public interest, the Committee's Chair considered the documentation. The Chair noted that solicitors acting for Bluecross Health Ltd had been

in contact with the local authority advising that the application had erroneously been made in the name of Shiraz & Sons rather than Bluecross Health Ltd but the shareholders were the same and asking the local authority if it had any objection to an assignment between the two companies. The information regarding the shareholders did not match the evidence before the Committee. Email correspondence from a person at the local authority suggested that there may not in principle be any concerns with Shiraz & Sons assigning a lease to Bluecross Health Ltd but this would require some consideration by the relevant lawyer and they were not available until the following week.

4.43 The Committee declined to admit the documentation into evidence. The documentation was provided after the hearing had concluded and had not been provided to any other party.

4.44 The Committee determined that to admit such evidence after the hearing and without any opportunity for challenge or cross-examination would be inappropriate and unfair to the other applicants. The alternative of reconvening the hearing to hear submissions on the admissibility of the new material which raised the potential for cross-examination of a witness who would not be available for some days was, in the Committee's view, not reasonably practicable. To take such a course was again unfair to those applicants who had attended and presented their cases fully when required so to do.

5 Consideration

5.1 The Committee had before it the papers considered by the Commissioner, together with a plan of the area showing existing pharmacies and doctors' surgeries and the location of the proposed pharmacy.

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

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

Regulation 31

5.4 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) NHS England 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).

5.5 The Committee noted the conclusions of the Commissioner in this respect and further that this had not been disputed either on appeal or in subsequent representations. The Committee was of the view that it was not required to refuse any of the applications

under the provisions of Regulation 31 since none of them related to or were adjacent to premises from which existing services were provided.

5.6 The Committee noted that, if the application from JT Health Ltd, Chalice Services Ltd or Bluecross Health Ltd were granted, the successful applicant(s) would - in due course - have to notify the Commissioner of the precise location of its premises (in accordance with paragraph 31 of Schedule 2).Such a notification would be invalid (and the applicant(s) would not be able to commence provision of services) if the location then provided would (had it been known now) have led to the application being refused under Regulation 31.

Regulation 18

5.7 The Committee noted that the applications were for "unforeseen benefits" and fell to be considered under the provisions of Regulation 18 which states:

"(1) If—

(a) NHS England receives a routine application and is required to determine whether it is satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and

(b) the improvements or better access that would be secured were or was not included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1,

in determining whether it is satisfied as mentioned in section 129(2A) of the 2006 Act (regulations as to pharmaceutical services), NHS England must have regard to the matters set out in paragraph (2).

(2) Those matters are—

(a) whether it is satisfied that granting the application would cause significant detriment to—

(i) proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB, or

(ii) the arrangements NHS England has in place for the provision of pharmaceutical services in that area;

(b) whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—

(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also NHS England's duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)),

(ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also NHS England's duties under

section 13G of the 2006 Act (duty as to reducing inequalities)), or

(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),

granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published;

(c) whether it is satisfied that it would be desirable to consider, at the same time as the applicant's application, applications from other persons offering to secure the improvements or better access that the applicant is offering to secure;

(d) whether it is satisfied that another application offering to secure the improvements or better access has been submitted to it, and it would be desirable to consider, at the same time as the applicant's application, that other application;

(e) whether it is satisfied that an appeal relating to another application offering to secure the improvements or better access is pending, and it would be desirable to await the outcome of that appeal before considering the applicant's application;

(f) whether the application needs to be deferred or refused by virtue of any provision of Part 5 to 7.

(g) whether it is satisfied that the application presupposes that a gap in pharmaceutical services provision has been or is to be created—

(i) by the removal of chemist premises from a pharmaceutical list as a consequence of the grant of a consolidation application, and

(ii) since the last revision of the relevant HWB's pharmaceutical needs assessment other than by way of a supplementary statement.

(3) NHS England need only consider whether it is satisfied in accordance with paragraphs (2)(c) to (e) if it has reached at least a preliminary view (although this may change) that it is satisfied in accordance with paragraph (2)(b)."

5.8 The Committee considered that Regulation 18(1)(a) was satisfied in that it was required to determine whether it was satisfied that granting an application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB.

5.9 The Committee went on to consider whether Regulation 18(1)(b) was satisfied, i.e. whether the improvements or better access that would be secured if the applications were granted were or was included in the Pharmaceutical Needs Assessment ("the PNA") in accordance with paragraph 4 of Schedule 1 of the Regulations.

5.10 Paragraph 4 of Schedule 1 requires the PNA to include: "a *statement of the pharmaceutical services that the HWB had identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied (a)* ***would*** *if they were*

provided….secure improvements or better access, to pharmaceutical services… (b) ***would*** *if in specified future circumstances they were provided…secure future improvements or better access to pharmaceutical services…"* (emphasis added).

5.11 The Committee considered the PNA prepared by Coventry City Council and Warwickshire County Council, conscious that the document provides an analysis of the situation as it was assessed at the date of publication. The Committee bears in mind that, under Regulation 6(2), the body responsible for the PNA must make a revised assessment as soon as reasonably practicable (after identifying changes that have occurred that are relevant to the granting of applications) unless to do so appears to be a disproportionate response to those changes. Where it appears disproportionate, the responsible body may, but is not obliged to, issue a Supplementary Statement under Regulation 6(3). Such a statement then forms part of the PNA. The Committee noted that the PNA was dated 2022 - 2025 and that a supplementary statement was issued on 3 June 2024.

5.12 The Committee noted the following under the conclusion heading:

5.12.1 *"There is good access for community pharmacies in Coventry, with 51 of the 97 pharmacies in Coventry being open on a Saturday and the majority of pharmacies being within a 5 minute drive, and all pharmacies within a 15 minute drive."*

5.13 Further under Conclusion on Essential Services, the Committee noted:

5.13.1 *"As discussed with regard to pharmacy access, essential services appear to be accessible for the majority of Coventry and Warwickshire's population both geographically and at different times of day. Therefore, there are no gaps in the provision of essential services for Coventry and Warwickshire."*

5.14 The Committee also noted the section highlighted by Community Pharmacy Arden (Coventry & Warwickshire):

5.14.1 *"As many community pharmacies are often located in deprived areas with high population density, they are an important first point of contact for patients seeking ad-hoc health advice alongside picking up regular prescribed medicines or purchasing over the counter medicines."*

5.15 The Committee also noted each conclusion for the listed advanced, enhanced and locally commissioned services that no gap had been identified.

5.16 The Committee noted the supplementary statement issued on 3 June 2024 concluded that:

5.16.1 *"It is not anticipated that these closures will result in a significant or detrimental impact on access to pharmaceutical services for our population, with an in-depth assessment needing to be carried out to further understand the implications of the recent change in provision. This will be considered in more detail as part of the next full Pharmaceutical Needs Assessment (PNA) process, which is due to be published in October 2025. The development of the new PNA is planned to begin in September 2024".*

5.17 The Committee considered that it was appropriate for NHS Resolution to enable the parties to make comments on the supplementary statement, as it forms part of the PNA and is relevant to the applications given it referenced the closure of the former Boots pharmacy. The Committee had regard to the comments made by parties in reference to the supplementary statement.

5.18 The Committee noted the comments from Bannerbrook Pharmacy on the supplementary statement and in particular the conclusion section:

5.18.1 *"Based on the HWB's PNA, Supplementary Statement, and relevant legal criteria, it is clear that there is no justified need for new pharmacy applications in Jardine Crescent. The HWB's strategic assessment, backed by recent consolidations, population corrections, and service accessibility data, demonstrates that current provision meets local needs without significant gaps. Granting these applications would create redundancy, potentially destabilising the HWB's efforts to balance service provision effectively across Coventry and Warwickshire.*

5.18.2 *We respectfully submit that the applications should be rejected on these grounds, supporting the HWB's goal of a balanced, demand-responsive pharmaceutical network without unnecessary expansion in areas adequately served."*

5.19 No party sought to argue that the benefits said to be unforeseen by the parties were in fact identified in the PNA or in any supplementary statement(s).

5.20 The Committee noted that all the applicants sought to provide unforeseen benefits to the patients of Tile Hill. Wellbeing Pharmacy sought to do so by opening a pharmacy at 72 Jobs Lane whereas the other three applicants sought to do so by opening a pharmacy on Jardine Crescent.

5.21 The Committee noted that the improvements or better access that the applicants were claiming would be secured by their applications were not included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1.

5.22 In order to be satisfied in accordance with Regulation 18(1), regard is to be had to those matters set out at 18(2). The Committee's consideration of the issues is set out below.

Regulation 18(2)(a)(i)

5.23 The Committee had regard to

"(a) whether it is satisfied that granting the application would cause significant detriment to—

(i) proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB"

5.24 The Committee noted an ambiguity in the Commissioner's decision letters in which it states that under 18(2)(a)(i) it was "not satisfied" but then appears to indicate that granting the applications would cause significant detriment to the proper planning currently in place for the provision of pharmaceutical services. This is not helpful to parties nor the Committee especially when similar ambiguity appears in the PSRC minutes where it considered this Regulation for each application and states that "granting the application will not cause significant detriment" but then subsequently for Bluecross Health Ltd it states that "granting the application will cause significant detriment to the proper planning…of pharmaceutical services". When considering the other applications "not met" is inserted after consideration of this matter. It is not clear why PSRC would make one finding against one application and not the same finding for the others. The Committee noted that Wellbeing Pharmacy and Chalice Services Ltd challenge this finding. Conversely, Bannerbrook Pharmacy support this finding.

5.25 The Committee had regard to the comments made by parties in relation to Regulation 18(2)(a)(i).

5.26 Wellbeing Pharmacy, in its appeal, stated:

5.26.1 *"The refusal letter suggests that the opening of a new pharmacy in the same area would cause significant detriment to the proper planning and provision of pharmaceutical services. However, this assertion does not take into account the fact that a Boots pharmacy operated in the exact same location for over 10-12 years, providing essential services to the community without causing any such detriment.*

5.26.2 *It is difficult to justify how reinstating a pharmacy in this location, following the closure of the Boots pharmacy, would negatively impact the planning and provision of services. On the contrary, reopening a pharmacy in this area would restore a vital service that the community has relied upon for over a decade."*

5.27 Chalice Services Ltd, in its appeal, stated:

5.27.1 *"There is no evidence that granting the application would cause significant detriment to the proper planning for provision of pharmaceutical services.*

5.27.2 *It will not cause significant detriment to the closest pharmacies which include the existing premises at Tile Hill and Wellbeing Pharmacy. This is clear because Wellbeing have also applied to open a new pharmacy at Jardine Crescent. It would be unlikely that a pharmacy would seek to open a second pharmacy if it was going to harm its current services. The other pharmacies in the wider area will be unaffected if the former Boots pharmacy is replaced by this proposal. These pharmacies are already most likely experiencing an increase in demands following other closures and as such re-opening the Jardine Crescent pharmacy will relieve pressure on these pharmacies.*

5.27.3 *As such the opening of the proposal will not affect the proper planning of pharmaceutical services."*

5.28 Bannerbrook Pharmacy, in its observations, stated:

5.28.1 *"…Approving new providers based solely on limited geographic reach would, therefore, be contrary to principles of sound healthcare planning as outlined in section 13P of the 2006 Act (duty as respects variation in provision of health services)…*

5.28.2 *…Risk of Redundancy and Detriment to Planned Provision:*

5.28.3 *Allowing these applications would risk undermining the NHSCB's [sic] established pharmaceutical planning. As per Regulation 18(2)(a)(i) and (ii), the NHSCB [sic] must consider whether new entries would cause detriment to both local service planning and the stability of existing arrangements. Each of the current providers operates with capacity to meet local demand, making additional providers unnecessary and potentially harmful to service balance in the area."*

5.29 The Committee carefully considered all the comments above.

5.30 The Committee was mindful of the determination made by the Commissioner and the comments from Bannerbrook Pharmacy. The Commissioner had provided limited reasoning for its finding and even though Bannerbrook Pharmacy had stated that a grant of an application would undermine the NHSCB's [sic] established pharmaceutical planning, this was not enough to persuade the Committee that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of an application. More robust evidence would be needed to satisfy the Committee of this finding.

5.31 The Committee considered that Regulation 18(2)(a)(i) relates to proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB if the application is granted. The reference to "proper planning in respect of the provision of pharmaceutical services" is very broad in scope.

5.32 The Committee therefore concluded that a finding that granting an application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services can only be achieved after a consideration of all the consequences of granting an application, both positive and negative, benefits and detriment, provided that these consequences were all linked to the broad concept of proper planning in respect of the provision of pharmaceutical services.

5.33 The Committee noted that the Commissioner had gone on to consider Regulation 18(2)(b) and refuse the applications. As the Commissioner concluded that the applications did not meet the requirements of Regulation 18, there were no significant benefits with which to mitigate the significant detriment. Having come to that conclusion the Commissioner therefore affirmed its initial assessment of significant detriment.

5.34 On the basis of the information available, the Committee was not satisfied that, if an application was to be granted and the pharmacy to open, the ability of the Commissioner thereafter to plan for the provision of services would be affected in a significant way.

5.35 The Committee was therefore not satisfied that significant detriment to the proper planning of pharmaceutical services would result from a grant of an application.

Regulation 18(2)(a)(ii)

5.36 The Committee had regard to

> *"(a) whether it is satisfied that granting the application would cause significant detriment to— …*
>
> *(ii) the arrangements NHS England has in place for the provision of pharmaceutical services in that area"*

5.37 The Committee noted an ambiguity in the Commissioner's decision letters in which it states that under 18(2)(a)(ii) it was "not satisfied" but then appears to indicate that granting the applications would cause significant detriment to the provision of pharmaceutical services. This is not helpful to parties nor the Committee especially when similar ambiguity appears in the PSRC minutes where it considered this Regulation for each application and states that "granting the application will not cause significant detriment" but then subsequently for Bluecross Health Ltd it states that "granting the application will cause significant detriment to the...development of pharmaceutical services". When considering the other applications "Not met" is inserted after consideration of this matter. It is not clear why PSRC would make one finding against one application and not the same finding for the others. The Committee noted that Wellbeing Pharmacy and Chalice Services Ltd challenge this finding. Conversely, Bannerbrook Pharmacy support this finding.

5.38 The Committee had regard to the comments made by parties in relation to Regulation 18(2)(a)(ii).

5.39 Wellbeing Pharmacy, in its appeal, stated:

> 5.39.1 *"The refusal letter suggests that the opening of a new pharmacy in the same area would cause significant detriment to the proper planning and provision of pharmaceutical services. However, this assertion does not take into account the fact that a Boots pharmacy operated in the exact same location for over*

10-12 years, providing essential services to the community without causing any such detriment.

5.39.2 *It is difficult to justify how reinstating a pharmacy in this location, following the closure of the Boots pharmacy, would negatively impact the planning and provision of services. On the contrary, reopening a pharmacy in this area would restore a vital service that the community has relied upon for over a decade."*

5.40 Chalice Services Ltd, in its appeal, stated:

5.40.1 *"There is no evidence that granting the application would cause significant detriment to…the existing provision of pharmaceutical services in the area.*

5.40.2 *It will not cause significant detriment to the closest pharmacies which include the existing premises at Tile Hill and Wellbeing Pharmacy. This is clear because Wellbeing have also applied to open a new pharmacy at Jardine Crescent. It would be unlikely that a pharmacy would seek to open a second pharmacy if it was going to harm its current services. The other pharmacies in the wider area will be unaffected if the former Boots pharmacy is replaced by this proposal. These pharmacies are already most likely experiencing an increase in demands following other closures and as such re-opening the Jardine Crescent pharmacy will relieve pressure on these pharmacies."*

5.41 Bannerbrook Pharmacy, in its observations, stated:

5.41.1 *"The 2013 Regulations and the NHS's duty to avoid redundancy (s.129 of the NHS Act 2006) prioritise balanced, strategic provision over proximity alone. Introducing new providers within such a short radius would over-saturate the local network, threatening the viability of existing providers and failing to meet the criteria for promoting "better access…"*

5.41.2 *…Approving new providers based solely on limited geographic reach would, therefore, be contrary to principles of sound healthcare planning as outlined in section 13P of the 2006 Act (duty as respects variation in provision of health services)…*

5.41.3 *…Risk of Redundancy and Detriment to Planned Provision:*

5.41.4 *Allowing these applications would risk undermining the NHSCB's [sic] established pharmaceutical planning. As per Regulation 18(2)(a)(i) and (ii), the NHSCB must consider whether new entries would cause detriment to both local service planning and the stability of existing*

5.41.5 *arrangements. Each of the current providers operates with capacity to meet local demand, making additional providers unnecessary and potentially harmful to service balance in the area.*

5.41.6 *Conclusion:*

5.41.7 *We therefore urge the Appeals Committee to reject these applications …approval would not only contravene the intentions of the Coventry PNA but also jeopardise the continuity of coordinated pharmaceutical services in the area…*

5.41.8 *…Introducing additional services in this area could lead to redundancy, divert resources away from areas with higher needs, and potentially disrupt the balance of pharmaceutical provision established by the HWB…*

5.41.9 *…Granting these applications would create redundancy, potentially destabilising the HWB's efforts to balance service provision effectively across Coventry and Warwickshire."*

5.42 The Committee carefully considered all the comments above.

5.43 The Committee was mindful of the determination made by the Commissioner and the comments from Bannerbrook Pharmacy. The Commissioner had provided limited reasoning for its finding and even though Bannerbrook Pharmacy had stated that a grant of an application would cause redundancy and detriment to the stability of existing arrangements, this was not enough to persuade the Committee that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of an application. More robust evidence would be needed to satisfy the Committee of this finding and no-one from Bannerbrook Pharmacy attended the hearing. Furthermore, the evidence from the Committee's site-visit suggested that Bannerbrook Pharmacy was dispensing well above the national average number of prescriptions, it was sited in a more affluent area with an alternative patient/client-base to Jardine Crescent and it offered private pharmaceutical services beyond those that could reasonably be expected from an NHS pharmacy at Jardine Crescent.

5.44 The Committee considered that Regulation 18(2)(a)(ii) relates to significant detriment to arrangements in place for the provision of pharmaceutical services if an application is granted. The reference to "arrangements in place for provision of pharmaceutical services" is very broad in scope. It is not limited to detriment to a particular person, class of person, patient, patient group or provider of pharmaceutical services whether this is a dispensing practice or community pharmacy.

5.45 The Committee therefore concluded that a finding that granting an application would cause significant detriment to arrangements in place for the provision of pharmaceutical services can only be achieved after a consideration of all the consequences of granting the application, both positive and negative, benefits and detriment, provided that these consequences were all linked to the broad concept of arrangements in place for the provision of pharmaceutical services.

5.46 The Committee noted that the Commissioner had gone on to consider Regulation 18(2)(b) and refuse the applications. As the Commissioner concluded that the applications did not meet the requirements of Regulation 18, there were no significant benefits with which to mitigate the significant detriment. Having come to that conclusion the Commissioner therefore affirmed its initial assessment of significant detriment.

5.47 The Committee was therefore not satisfied that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of an application.

5.48 In the absence of any significant detriment as described in Regulation 18(2)(a), the Committee was not obliged to refuse the applications and went on to consider Regulation 18(2)(b).

Regulation 18(2)(b)

5.49 The Committee had regard to

"(b) whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—

(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into

account also NHS England's duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)),

(ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also NHS England's duties under section 13G of the 2006 Act (duty as to reducing inequalities)), or

(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),

granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published"

Regulation 18(2)(b)(i) to (iii)

Regulation 18(2)(b)(i) (choice)

5.50 The Committee considered the Tile Hill area to be roughly in the shape of a rectangle. This area was relatively flat from east to west but, there were some significant inclines when travelling north to south or vice-versa. It was bordered by Broad Road to the north, the A45 to the east, Torrington Avenue to the south and Banner Lane to the west. There were pharmacies at the corners of the rectangle namely Bannerbrook (NW), Mount Nod (NE), Wellbeing & Tile Hill SE), and Mistry (SW) pharmacies, but none in the centre which is where the applications were focussed.

5.51 From the papers and from its own site visit, the Committee gained the impression that many of the residents in and around the central area of Tile Hill were likely to be economically deprived and experience challenges to their health. This impression was amply supported by evidence from Mr Ali and Mr Menin, witnesses called by Mr Daly to provide evidence of the local population and the needs it faced. It was further supported by evidence from Mr Rose, himself a long-term resident who had worked at the Boots pharmacy and from Mr Raza who is a long-term resident and who runs the Tile Hill and Wellbeing pharmacies. All spoke of the clear need for a pharmacy in the area. The evidence of a need thus came from both lay and professional witnesses.

5.52 On closer inspection of the documentation and following consideration of the submissions regarding social statistics, the Committee concluded that this central area was indeed likely to be the most deprived part of Tile Hill. It was most likely to have residents with more significant health challenges, with no recourse to a car and the least available funds to use alternatives such as buses or taxis. This conclusion was again amply supported by the live evidence called as named above. In particular Mr Ali and Mr Menin spoke in detail and with considerable passion regarding the need and the difficulty faced by local residents in accessing pharmaceutical services. This difficulty could be physical, financial or both. Mr Raza spoke with equal knowledge and clarity on this issue.

5.53 The Committee accepted the submission made by all Applicants that choice meant 'reasonable choice'. All submitted that it was not reasonable for the residents of Tile Hill described above, to either spend money they could not afford or undertake journeys that were potentially difficult in order to obtain pharmaceutical services.

5.54 Having considered the documentation and heard evidence concerning residents who were directly impacted by the lack of a pharmacy in the central area of Tile Hill, the Committee concluded that opening a pharmacy in this central area would improve

choice and would be of significant benefit to people living and/or working in the area. It would be of particular benefit to poorer, disabled or older persons as well as young parents and children.

5.55 The Committee was of the view that there is not already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, such that it was satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting an application would confer significant benefits on persons.

Regulation 18(2)(b)(ii) (protected characteristics and difficulty)

5.56 In considering Regulation 18(2)(b)(ii) the Committee reminded itself that it was required to address itself to people who share a protected characteristic under the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation) having access to services that meet specific needs for pharmaceutical services that, in the relevant area, are difficult for them to access.

5.57 Without specific evidence of particular persons with particular needs and particular difficulty, the Committee could not find this part of the Regulation proved. However, that is not to say that such persons did not exist and their interests are met through the issue of choice above and the commentary below.

5.58 Whilst no specific groups of residents and/or services were relied upon by any of the applicants the Committee was aware from the papers and the oral information that there were older and/or less mobile patients in the Tile Hill area. When visiting the proposed sites, the Committee saw people of all ages walking including people using aids such as a mobile scooter, walking stick and crutches.

5.59 The Committee recognised that such persons and others who may reasonably be expected to form a part of the local population are likely to experience the greatest challenges to their health. They also faced challenges to accessing pharmaceutical services as Mr Ali, Mr Menin and others stated. The Committee concluded that the current arrangements are likely to present a barrier to services in general (whether or not there was a specific need and difficulty) for such persons resident in the area and visitors from time to time who may also be eligible to access pharmaceutical services.

5.60 The Committee was therefore not satisfied that, having regard to the desirability of people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access, granting an application would confer significant benefits on persons.

Regulation 18(2)(b)(iii)

5.61 In considering Regulation 18(2)(b)(iii) the Committee had regard to the desirability of innovative approaches to the delivery of pharmaceutical services. In doing so, the Committee would consider whether there was something more over and above the usual delivery of pharmaceutical services that might be expected from all pharmacies, some ‘added value’ on offer at the location.

5.62 None of the Applicants relied on this part of the Regulations and the Committee discerned no particular innovation on the papers.

5.63 The Committee was not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting an application would confer significant benefits on persons.

Regulation 18(2)(b) generally

5.64 Having noted that there is no pharmacy in the central Tile Hill area and having concluded that opening one in that area would improve both choice and access, the Committee went on to consider the issue of opening hours.

5.65 For the reasons stated above and the fact that at present there is no pharmacy in central Tile Hill, the Committee was of the view that there was evidence to support a finding that pharmaceutical services are not currently provided at such times as needed at the location and therefore it was satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting an application would confer significant benefits (in relation to opening hours) on persons.

5.66 The Committee noted that in their representations on the appeals and on further submission at the hearing that JT Health Ltd advised that their core hours would be 43 hours a week which include 3 hours on Saturday. The Committee noted from the screenshots of emails with the Commissioner dated March 2024 that the Commissioner had acknowledged the change of proposed core hours but appeared not to have circulated or considered them.

5.67 The Committee considered that it is unusual for a party to amend the opening hours within its application as part of the application or appeal process. The Committee considered the fairness and appropriateness of this in the context of an appeal which involved four competing applications.

5.68 The Committee had regard to paragraph 9(1) of Schedule 2 of the Regulations which states:

"*An applicant (A) must provide the following undertakings—*

(a) an undertaking to notify the NHS England within 7 days of any material changes to the information provided in the application that occur before—

(i) the application is withdrawn,

(ii) while the application remains the subject of proceedings, the proceedings relating to the application reach their final outcome and any appeal through the courts has been disposed of, or

(iii) if the application is granted, A commences the provision of the services to which the application relates, whichever is the latest of these events to take place;"

5.69 The Committee considered that the Regulations envisaged that it was possible to change an application at any point prior to an application's final outcome. The Committee noted the reference in paragraph 9(1)(a) to informing the Commissioner within 7 days. The wording clearly envisages that the change will occur during the Commissioner's consideration of the application. The Commissioner had not considered the amended hours, but the Committee considered that it was JT Health Ltd's intention for the application, and any subsequent appeal, to be determined with the amended hours in mind. The difficulty for the Committee was that the Commissioner had not considered the amended hours in the first place. The Committee considered it appropriate, in the context of applications that are being reconsidered by NHS Resolution on appeal, to read that reference to NHS England as a reference to NHS Resolution. The Committee considered therefore that it was open to an applicant to materially change its application on appeal but there was no express reference in the Regulations to how NHS Resolution should deal with such changes.

5.70 The Committee considered that pursuant to paragraph 7(1) of Schedule 3 of the Regulations an appeal can be determined in such manner as the Committee sees fit except where the Regulations provide to the contrary.

5.71 The Committee had regard to the oral and written evidence from Chalice Services Ltd.

5.72 The Committee was aware that by allowing parties to increase hours at the appeal stage, especially if the change is material, could risk bypassing the original decision-making process of the Commissioner. The materially changed application would effectively be determined by NHS Resolution as a first stage determination. The Committee considered that this was not envisaged by the Regulations. Although NHS Resolution has the discretion to reconsider an application, care should be taken to ensure this is a reconsideration of an existing application and not a first stage determination on what could be argued is a new application. The Committee considered that it may well be appropriate, where an application has been materially changed in respect of opening hours, to remit the matter to the Commissioner for fresh consideration or to discount the change in hours made at the appeal stage. The Committee considered that this could be appropriate where the number or spread of opening hours was particularly relevant to the context of the appeal.

5.73 For the reasons given later in this determination, the Committee considered that the number of core opening hours offered by the parties in their applications is material to its decision-making. It therefore considered whether to remit the matter to the Commissioner or discount the change in hours made at the appeal stage. The Committee considered three possible outcomes; remitting only JT Health Ltd's application (and therefore reconsidering the other three applications), remitting all four applications or reconsidering all four applications but discounting the changes made by JT Health Ltd at appeal stage. Each outcome would likely lead to at least one party considering it unfair. The Committee considered that remitting all four applications to the Commissioner would very likely lead to a significant delay as the Commissioner would need to make a new decision which would likely lead to fresh appeals. The Committee was therefore of the view that to remit all four applications to the Commissioner would delay the process.

5.74 To remit only JT Health Ltd's application would mean reconsidering the other three applications as part of this appeal process. Assuming no reason to refuse all three applications, the outcome of the appeal would be a grant of at least one application which would very likely lead the Commissioner to refuse JT Health Ltd's application.

5.75 The Committee considered discounting the changes made to JT Health Ltd's application as part of the appeal process. The Committee considered that there did seem to be an inherent unfairness in an applicant being able to amend its hours on appeal, but the Committee also noted that nothing prevented JT Health Ltd, when notified of the other three applications, from submitting a fresh application with yet more hours and withdrawing the original application. This "tit for tat" process could potentially go on until one party considers it unsustainable to go one further but the Committee did not consider this necessarily a bad thing as patients would enjoy the benefits if a pharmacy opened for more hours.

5.76 The Committee considered that changes to applications at appeal stage could have a significant impact on the outcome of the appeal, particularly where there were competing applications. If the ability to make changes was not limited in some way, then each competing party in an appeal could simply keep "upping" their offer to beat the other by providing further comments to NHS Resolution. As indicated earlier, there is a very real potential that enabling parties to an appeal to do this results in the appeal becoming in effect a first stage determination of a new application and not a reconsideration of an existing application which is clearly the intent of the Regulations. The Committee therefore determined that for efficiency of decision-making at appeal and to avoid a significant delay to the determination of these applications, it was appropriate to discount the changes that JT Health Ltd proposes to its opening hours.

5.77 As the Committee is discounting the change of hours, it will consider JT Health Ltd's application as it was submitted to the Commissioner, i.e. that services on Saturdays would be provided via supplementary hours.

5.78 The Committee had regard to Schedule 4, Part 3 of the Regulations which states:

Pharmacy opening hours: general

23.— *(1) Subject to paragraph 23A, an NHS pharmacist (P) must ensure that pharmaceutical services are provided at P's pharmacy premises—*

(a) for 40 hours each week; …

(d) if a Primary Care Trust, or on appeal the Secretary of State, has (under previous Regulations) directed that pharmaceutical services are to be provided at the premises for more than 40 hours per week, and at set times and on set days, at the times and on the days so set, subject to any variation in respect of a rest break in accordance with sub-paragraph (7)(bd); …

5.79 The Committee noted that, if the application by Chalice Services Ltd (SHA/26313) were to be granted, a direction would need to be issued for the "additional" 3 core hours which were being offered by them. The Committee was of the view that in accordance with Regulation 18(2)(b) the granting of an application would confer significant benefits on persons in the area of the HWB which were not foreseen when the PNA was published.

Comparing the four applications

5.80 Having concluded that there is a need and that a pharmacy at the location would meet that need, the Committee then turned to consider which if any of the applications best met that need.

5.81 The Committee had regard to comments by Kerr J in *R (on the application of Rushport Advisory LLP) v NHS LA [2016] EWHC 907 (Admin)* in which he cautioned against the risk of granting more than one application in circumstances where this would provide little or no additional benefit to the public but may adversely impact the public purse.

5.82 The Committee determined that to guard against the above risk it should consider these four applications both individually and against each other and only grant such application(s) as were necessary to deliver the benefits identified. If the Committee determined that granting one application met the public benefit test and one application was superior to the others, that application alone should be granted. The less favourable application would no longer meet the public benefit test and would be refused even if, considered in isolation, they would otherwise have satisfied the test.

5.83 The Committee was satisfied that the information provided demonstrated that there is difficulty in accessing current pharmaceutical services such that a pharmacy in the central area of Tile Hill at or near to Jardine Crescent would provide better access to pharmaceutical services.

5.84 The Committee considered that granting any of the applications would provide better access, therefore the Committee considered that it had two options:

5.84.1 grant one application and refuse the others or

5.84.2 grant more than one application

5.85 On the basis of the information provided, the Committee considered that only one pharmacy was required to provide better access to pharmaceutical services in the Tile Hill area. None of the applicants suggested that the Committee should grant more than one application. All made it clear that they would only open a pharmacy if they alone were granted the right so to do. Independent of the Applicants' point of view, the Committee itself saw no justification on the papers or in the oral evidence to grant more than one application. The Committee therefore proceeded to consider which application should be granted.

5.86 The Committee considered and compared the applications on the basis of the matters it indicated namely, the types of services offered, the proposed premises, the hours being offered and the understanding and awareness of the local community.

5.87 The Committee accepted the submission that, in reality, any successful applicant would be likely to offer the range of services commissioned by the NHS. Whilst there may be some difference of emphasis or difference in the way services would be delivered, the Committee considered it likely that the successful applicant would employ professional staff and seek to provide a reasonable, efficient and cost-effective service. The Committee saw no compelling reason to differentiate between the applicants on the basis of services.

5.88 The Committee came to the same conclusion regarding the Applicants' knowledge of the local community and its needs. Whilst Mr Rose and Mr Raza had personal experience of managing a pharmacy in the area of Tile Hill, all the Applicants are established pharmaceutical service providers well able to detect and attend to local needs and expectations.

5.89 The Committee next considered the issues of premises and core opening hours. Both these issues had some complexity to them.

5.90 The application by Wellbeing Pharmacy related to residential premises currently owned by Mr Raza. JT Health Ltd had sought to obtain an exclusivity agreement with the landlord of 116 – 120 Jardine Crescent however, they had been beaten to it by Shiraz & Sons, a company associated with Bluecross Health Ltd. Chalice Services Ltd called evidence (Mr Ali) that they would be able to lease 42 Jardine Crescent. Whilst various of the Applicants claimed to have secured premises by way of formal or informal agreements, the Committee noted that all such agreements were conditional upon an application being granted. Those premises 'held' by an unsuccessful applicant may thereafter come back onto the market and be available to the successful applicant – a point made by Mr Takolia, but there was no evidence as to the likelihood of this nor how long any subsequent negotiation may take.

5.91 Whilst the line of reasoning regarding premises is superficially attractive, the Committee had no evidence to support the conclusion that the landlord of 116 – 120 Jardine Crescent (the local authority) and/or the assignor of the lease to 42 Jardine Crescent (Mr Ali) would be willing to make premises available to an alternative applicant. Even if they were willing, the Committee had no information regarding how long it would take to negotiate and agree terms. It noted that negotiations between Shiraz & Sons and the local authority seemed to have taken several months and only reached a conclusion the day before the hearing. The Committee regarded the suggestion that any applicant would be able to secure any of the available commercial properties within a reasonable time as speculative and uncertain. That being the case it determined that it should consider the premises as proposed by each of the Applicants.

5.92 The Committee first considered Mr Raza's premises at 72 Jobs Lane. This is a house currently occupied by Mr Raza and, whilst he had started to investigate converting some or all of this into commercial premises for a new pharmacy he was at the very early stages of that process. He had taken pre-planning advice during which a planning

officer had provided an opinion on what required changing to obtain full planning permission. He thought that the advice was positive. However the Committee is aware from its own knowledge that such advice is merely the opinion of one planning officer and it is not binding on any application that may follow. In addition Mr Raza had not as yet applied for full planning permission. It was not unreasonable to suppose that consideration of such an application would take many months and there was no guarantee that it would be granted.

5.93 Mr Raza offered 40 core hours as part of his application. This was the same or less than the number of hours offered by the other Applicants.

5.94 Looking therefore at the proposed premises and the hours offered by Wellbeing Pharmacy the Committee considered it was unlikely to be granted in its own right and it was less attractive than other applications. The Committee therefore determined to reject the application by Wellbeing Pharmacy.

5.95 The Committee next considered the application by JT Health Ltd on its own merits and in comparison to others. Mr Iqbal and Mr Takolia conceded that they had not secured premises at this time but relied upon the prospect of gaining premises at 116 - 120 Jardine Crescent should their application be successful and Bluecross Health's application be unsuccessful. The Committee has already commented above that it finds such an argument unattractive and that there being no evidence that the premises would be made available to JT Health Ltd or if they were, how long that process of negotiation and agreement would take. Given this uncertainty the Committee concluded that the application by JT Health Ltd was less attractive than other applications.

5.96 Turning to the consideration of core hours, the Committee noted its finding above regarding the hours offered by JT Health Ltd. The Committee determined that there was nothing within the hours offered by JT Health Ltd to outweigh their lack of available premises. The Committee therefore determined to reject the application by JT Health Ltd.

5.97 The Committee next considered the remaining applications by Bluecross Health Ltd and Chalice Services Ltd.

5.98 Looking at the issue of core hours, Chalice Services Ltd offered 43 core hours, including core hours on Saturday. As such, their application appeared at first sight to be preferable to that of Bluecross Health Ltd who offered 40 hours.

5.99 However, the Committee considered that it should look at the issue of premises to see whether the Bluecross Health Ltd application was still to be preferred, despite this deficit (as argued by Mr Koria). That said, the position of Chalice Services Ltd appeared to be relatively straightforward. That of Bluecross Health Ltd much less so.

5.100 Mr Daly called evidence from the occupier of 42 Jardine Crescent, Mr Ali, who said that he would assign his lease to Chalice Services Ltd. No-one else sought these premises and as Mr Daly asserted the landlord (local authority) should not unreasonably refuse an application to assign the lease. The Committee therefore had evidence that supported the conclusion that Chalice Services Ltd had premises available to them within a reasonable time.

5.101 Mr Koria asserted that the assignment may never happen and/or that situations change and/or one party may walk away from the deal. However, as Mr Daly pointed out, such assertions were merely speculative comment. They had no evidential basis and were contrary to the evidence of both Mr Ali and the applicant’s stated desire to open a pharmacy – a position they, like others, had expended time and money to achieve including participating in this hearing.

5.102 The Committee next analysed the question of Bluecross Health Ltd's premises. Mr Koria placed considerable weight upon the availability of premises indeed he submitted that the availability of premises could outweigh the importance of core hours. In making that assertion he relied upon the decision in the Coleford case referred to above. However, whilst the Committee considered that the availability of premises may be of prime importance in some cases that was not always so. The decision in Coleford was based upon its own facts. It was an example of a case in which premises were of particular importance but it did not create a precedent in the sense that the availability of property was always to be preferred over the number of hours offered. These were simply factors that any Committee was obliged to consider when weighing competing applications. How much weight was to be applied to each factor was a matter for the committee dealing with the particular case.

5.103 The documentation presented by Mr Koria on the morning of the hearing included two counterparts for an agreement to a lease between the local authority and Shiraz & Sons. It was a condition of the lease that Shiraz & Sons succeed in an application to open a pharmacy. The difficulty with that is that Shiraz & Sons are not the applicant. The Applicant is Bluecross Health Ltd.

5.104 The Committee understood that Shiraz & Sons and Bluecross Health Ltd are part of the Crest Group. The Crest Group was not a party to these proceedings and the Committee had little or no information concerning this entity. The Committee received conflicting evidence concerning who held shares in Shiraz & Sons and Bluecross Health Ltd although it appeared there was some overlap in shareholders and/or directors. What was clear is that they are separate entities and, on the one hand Shiraz & Sons are not party to these proceedings and on the other, Bluecross Health Ltd do not currently have an agreement to secure premises.

5.105 The Committee enquired as to how this situation had arisen and why the agreement for a lease was with Shiraz & Sons. It was simply asserted that there was no reason for this. Given the importance of the premises as argued by Mr Koria, the Committee considered this to be a less than satisfactory answer. The Applicant suggested that due to the relationship between Shiraz & Sons and Bluecross Health Ltd, the agreement for a lease or any lease obtained could simply be transferred from Shiraz & Sons to Bluecross Health Ltd. However, that was to ignore the condition in the agreement to the lease that Shiraz & Sons could not meet namely succeeding in an application/appeal before this Committee.

5.106 The Committee considered that even if it were the case that Bluecross Health Ltd could in some way take-over the agreement with the local authority, the Committee had no information as to how long that process would take. The additional material received after proceedings had closed and referred to above, which the Committee declined to admit into evidence, did not address this issue. Rather it suggested the lawyers would need to consider the matter.

5.107 The Committee was thus left with an applicant who placed great weight on the availability of premises but who at the date of the hearing had not secured premises in the way they asserted nor had they clarified why this had occurred or how long it would take to be rectified. This was in contrast to Chalice Services Ltd who had provided straightforward evidence as to the premises they expected to take on. As such the Committee concluded that the Bluecross Health Ltd application was again inferior to that of Chalice Services Ltd.

5.108 The Committee was mindful of the desirability of only granting one application and on the basis of the advantages outlined above, it preferred the application of Chalice Services Ltd.

Other Regulations

5.109 Having determined that Regulation 18(2)(b) had been satisfied, the Committee needed to have regard to Regulation 18(2)(c) to (e) and determined that it was not aware of any other applications or appeals relating to applications offering to secure improvements or better access that the Applicants were offering to secure and that there was no need to consider applications from other persons offering to secure such improvements or better access.

5.110 No deferral or refusal under Regulation 18(2)(f) was required in this case.

5.111 The Committee had regard to Regulation 18(2)(g) and found that it was not applicable.

5.112 The Committee considered whether there were any further factors to be taken into account and concluded that there were not.

Other considerations

5.113 The Committee was satisfied that the information provided demonstrates that there is difficulty in accessing current pharmaceutical services such that a pharmacy at the proposed site of Jardine Crescent would provide better access to pharmaceutical services. It was further satisfied that as per the requirements of Regulation 18(2)(b) granting an application would confer significant benefits.

5.114 The Committee had regard to Regulation 19(6) which states:

(6) If NHS England is satisfied as mentioned in regulation 18(2)(b), it may grant the application not withstanding that the improvements or better access were or was not included in the relevant pharmaceutical needs assessment.

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

5.115.1 confirm the Commissioner's decision(s);

5.115.2 quash the Commissioner's decision(s) and redetermine the applications;

5.115.3 quash the Commissioner's decision(s) and, if it considers that there should be a further notification to the parties to make representations, remit the matter to the Commissioner.

5.116 In those circumstances and for the reasons stated above the Committee determined that the decisions of the Commissioner must be quashed.

5.117 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 the Commissioner) or whether it was preferable for the Committee to redetermine the applications.

5.118 The Committee noted that representations on Regulation 18 had been sought from parties by the Commissioner and representations had already been made by parties to the Commissioner in response. These had been circulated and seen by all parties as part of the processing of the applications by the Commissioner. The Committee further noted that when the appeals were circulated representations had been sought from parties on Regulation 18.

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

6 DECISION

6.1 In respect of all the above named applications the Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashed the decision of the Commissioner for the reasons given above, and redetermined the applications as follows:

6.2 The Committee concluded that it was not required to refuse any of the applications under the provisions of Regulation 31.

6.3 The Committee has considered whether the granting of an application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area covered by the HWB, or the arrangements in place for the provision of pharmaceutical services in that area and is not satisfied that it would.

6.4 In respect of the application by Wellbeing Pharmacy (SHA/ 26288) the Committee refused the application.

6.5 In respect of the application by JT Health Ltd (SHA/ 26291) the Committee refused the application.

6.6 In respect of the application by Bluecross Health Ltd (SHA/ 26316) the Committee refused the application.

6.7 In respect of the application by Chalice Services Ltd (SHA/26313) the Committee granted the application.

6.8 The Committee determined that the application by Chalice Services Ltd should be granted on the following basis:

6.8.1 In considering whether granting the application by Chalice Services Ltd would confer significant benefits, the Committee determined that –

6.8.1.1 there is not already a reasonable choice with regard to obtaining pharmaceutical services;

6.8.1.2 there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and

6.8.1.3 there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services;

6.8.2 Having taken these matters into account, the Committee is satisfied that granting the application by Chalice Services Ltd would confer significant benefits as outlined above and would secure improvements or better access to pharmaceutical services.

6.8.3 The core hours and the premises proposed by Chalice Services Ltd are benefits which outweighed those which may flow from all other applications. As such the Chalice Services Ltd application was to be preferred.

6.9 The Committee noted that the Commissioner would now need to consider the issuing of a direction for the hours above 40 core hours which Chalice Services Ltd had offered to provide.

Committee Chair

Annex A

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REF: SHA/ 26288

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY WELLBEING PHARMACY FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT 72 JOBS LANE, COVENTRY CV4 9EE

REF: SHA/ 26291

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY JT HEALTH LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 WITHIN 100 METRES OF 116-120 JARDINE CRESCENT, COVENTRY, CV4 9PP

REF: SHA/ 26313

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY CHALICE SERVICES LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT JARDINE CRESCENT, SHOPPING PARADE, TILE HILL, COVENTRY, CV4

REF: SHA/ 26316

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY BLUECROSS HEALTH LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 IN THE VICINITY OF JARDINE CRESCENT PARADE OF SHOPS, TILE HILL, COVENTRY, WEST MIDLANDS, CV4 9PP

1 A summary of the applications and decisions are attached at Annex B (SHA/ 26288), Annex C (SHA/ 26291), Annex D (SHA/ 26313) and Annex E (SHA/ 26316).

2 **The Appeals**

SHA/ 26288

In an email of 28 August 2024 and letter dated 10 September 2024 addressed to NHS Resolution, Wellbeing Pharmacy appealed against the Commissioner's decision. The grounds of appeal are:

2.1 "I am writing to formally appeal the decision made regarding my application for the establishment of a new pharmacy under the unforeseen benefits category. I believe that the refusal was based on an incomplete review of the additional information provided with my original application. Below, I outline my concerns and reasons why the decision should be reconsidered.

2.2 **Regulation 18(1)(a): Access to Pharmaceutical Services**

2.3 In response to Regulation 18(1)(a), I provided detailed information in my original application that clearly highlighted the accessibility issues faced by patients in the area. It was noted that patients living near and visiting the surgery are currently required to either walk, drive, or take public transport to reach the nearest pharmacies, all of which are located more than one mile away.

2.4 I am surprised that this critical information appears to have been overlooked. The Coventry & Warwickshire PNA 2022-2025 [screenshot provided, see appendix C, page 6] may not have identified a specific need for better access or improvements, but it also did not account for the recent closure of the BOOTS pharmacy in Jardine Crescent Parade, which was a significant local resource serving nearly 2,000 patients. The absence of this pharmacy creates a clear and substantial gap in services, which my proposed pharmacy aims to fill.

2.5 **Regulation 18(1)(2): Impact on Proper Planning and Provision of Services**

2.6 The refusal letter suggests that the opening of a new pharmacy in the same area would cause significant detriment to the proper planning and provision of pharmaceutical services. However, this assertion does not take into account the fact that a Boots pharmacy operated in the exact same location for over 10-12 years, providing essential services to the community without causing any such detriment.

2.7 It is difficult to justify how reinstating a pharmacy in this location, following the closure of the Boots pharmacy, would negatively impact the planning and provision of services. On the contrary, reopening a pharmacy in this area would restore a vital service that the community has relied upon for over a decade.

2.8 **Regulation 18(2)(b)(i)(ii): Consideration of the PNA and Recent Developments**

2.9 The Coventry & Warwickshire PNA, last updated in October 2022, concluded that there was no need for a pharmacy in the area. However, this assessment did not take into account the closure of the Boots pharmacy in August 2023. The closure of this pharmacy is a significant change in circumstances that the PNA could not have anticipated, and it is clear that this development necessitates a re-evaluation of the need for a pharmacy in the area.

2.10 While there are pharmacies in the surrounding area, patients have not been given the option to choose a pharmacy closer to their homes or the surgery. The closure of the Boots pharmacy has left them with no choice but to travel further afield, which is inconvenient and potentially burdensome for many, particularly those with limited mobility or access to transport.

2.11 **Conclusion**

2.12 Considering the points mentioned above, I strongly urge the NHS and ICB to reconsider their decision. The recent closure of the Boots pharmacy has created a clear gap in pharmaceutical services in the area, and the re-establishment of a pharmacy at this location would directly address this gap and benefit the local community. I have also attached the additional information provided with my initial application, which I believe will further support my case [1.5 to 1.40 of annex A].

2.13 Thank you for your attention to this matter. I look forward to your favourable reconsideration."

In a further email of 24 September 2024, Wellbeing United Kingdom Ltd provided further information:

2.14 “I just wanted to let you know about something ..but I am not sure how important this information will be at this stage of the application .

2.15 The previous Boots Pharmacy in Jardine crescent (which has closed now) ..the shop was not available until last week.

2.16 We have successfully had an agreement with the HOLT company to rent that place based on our approval of this appeal. I am not sure how important this information at this stage but I thought I will share it with you to strengthen my appeal.”

SHA/ 26291

In a letter dated 1 September 2024 addressed to NHS Resolution, JT Health Ltd appealed against the Commissioner’s decision. The grounds of appeal are:

2.17 “In response to NHS England's decision, dated 17th August 2024, which denied application ME3028, we wish to submit the following appeal:

2.18 The context of this application involves the recent closures of several pharmacies across the country, with more closures anticipated, particularly from Boots Pharmacy. The closure of Boots Pharmacy at 116-120 Jardine Crescent, Coventry, CV4 9PP, was not driven by a lack of demand but by a corporate consolidation strategy.

2.19 Our proposal is to re-establish a thriving pharmacy in the area to serve local residents. The primary considerations under Regulation 18 are access and reasonable choice. NHS England's decision report is notably brief and fails to discuss the merits of the application or the local situation regarding pharmaceutical service provision.

2.20 Residents have long relied on the Boots Pharmacy at 116-120 Jardine Crescent as part of their daily routine. The closure of this pharmacy has undeniably created a significant service gap in the area, and our application, if approved, would address this issue. Reopening the pharmacy would restore the residents' choice of provider. Patients visiting The Tile Hill Primary Centre for acute conditions requiring prescriptions or further advice must now travel an additional 0.8 miles to fulfil these needs, which is particularly challenging for elderly patients, patients with disabilities and those with children who are acutely unwell.

2.21 The nearest alternative, Tile Hill Pharmacy at 343 Tile Hill, CV4 9DU, is situated in a congested area with limited parking options. Walking to this pharmacy would take 16 minutes (0.8 miles), and a bus journey would take 5 minutes from our proposed location.

2.22 With the closure of Boots, we believe that patients no longer have a reasonable choice for pharmaceutical services due to the need to travel outside their immediate area. In our original application, we highlighted the demographics of the area (CV4 9PP), indicating a higher demand for pharmaceutical services among patient groups with protected characteristics. We believe these demographics were not fully considered, and the health of residents could suffer as a result of the Boots Pharmacy closure.

2.23 *"The ICB has received no complaints regarding the existing provision of pharmacies and access to them."*

2.24 It is not uncommon for residents to refrain from complaining to NHS England about the lack of pharmaceutical services. Many people are unaware that they can complain or do not know how to go about it. In fact, it is rare for patients to file formal complaints even when there is a shortage of pharmaceutical services in an area. However, a petition led by local MP and former pharmacist Taiwo Owatemi garnered 966 signatures opposing the closure of Boots Pharmacy. She also addressed the issue of pharmacy closures publicly:

(https://www.chemistanddruggist.co.uk/CD137410/Irreplaceable-Boots-branch-closes-despite-APPG-chair-campaign) :

2.24.1 *"As the only pharmacy in Jardine Crescent, the closure will not only impact patient access to medicine but will exacerbate health inequality in the area," the petition states. "Customers relying on the local Boots pharmacy will now have to travel to the Boots store at Cannon Park, which is two miles away. This will disproportionately impact those with travel difficulties, including disabled and elderly customers."*

2.24.2 The report also mentions, *"All the pharmacies within a mile offer collection and delivery services."*

2.24.3 Even though other pharmacies offer delivery services, this does not replace the need for a comprehensive pharmacy service where patients can have face-to-face interactions for services like Pharmacy First (Otitis Media), Hypertension Service, Contraception Service, etc. A new pharmacy would make these services more accessible and available without the need to travel long distances.

2.25 "*The applicant's core hours do not include opening on weekends."*

2.26 Our application does include core hours on Saturday (9 am - 12 pm), which we have previously confirmed.

2.27 In summary, there is a need to determine whether granting this application will enhance the pharmaceutical services available to this population. The applicant has outlined their plan to provide a full range of services from the proposed pharmacy. Clearly, the provision of a new pharmacy will improve the quality and availability of pharmaceutical services in the area.

2.28 Furthermore, it is important to consider whether granting this application would improve access to pharmaceutical services for the local population. We believe that the ability of patients to access these services has been significantly reduced following the closure of Boots Pharmacy in the area."

SHA/ 26313

In a letter dated 14 September 2024 addressed to NHS Resolution, Rushport Advisory LLP on behalf of Chalice Services Ltd, appealed against the Commissioner's decision. The grounds of appeal are:

2.29 "I act for Chalice Services Limited and have been instructed to submit this appeal against the decision of the Commissioner to refuse the above application.

2.30 As the Committee will note, the Commissioner provides no reasons for refusing the application save for simply stating that regulations are "not met".

2.31 The enclosed report therefore sets out the basis for the appeal and why the decision of the Commissioner was wrong."

Report [also see appendix D]

2.32 "**INTRODUCTION**

2.33 Chalice Services Limited have submitted an application for inclusion in the pharmaceutical list for the Coventry Health and Well Being Board. The location of the proposed premises is at Jardine Crescent, Tile Hill Coventry.

2.34 This report has been prepared for the applicant, Chalice Services Limited.

2.35 Structure of Report

2.36 This report sets out the case for this application. It is structured as follows:

2.36.1 Section 2 discusses a preliminary matter;

2.36.2 Section 3 sets out the background to the application site and its surroundings;

2.36.3 Section 4 comments on the statutory tests;

2.36.4 Section 5 reviews the Coventry PNA;

2.36.5 Section 6 sets out the details of health care provision in Tile Hill;

2.36.6 Section 7 provides an assessment against the key regulation 18 tests; and Section 8 sets out the conclusion.

2.37 Appendices

2.38 The following appendices are included:

2.38.1 Appendix 1 Map of South West Coventry;

2.38.2 Appendix 2 Council Audit of Jardine Crescent District Centre;

2.38.3 Appendix 3 Coventry JSNA Family Hub Profile for the Mosaic area 2020;

2.38.4 Appendix 4 MP Letters, News Articles and Petition;

2.38.5 Appendix 5 Bus Routes in Coventry.

2.39 **PRELIMINARY MATTERS**

2.40 This is an application by Chalice Services Limited which seeks to provide a new pharmacy in the Tile Hill area of Coventry. This is a positive intervention proposal which seeks to redress the significant depletion of pharmaceutical and health care services that have taken place in Coventry in the last year.

2.41 Tile Hill Primary Care Centre is a main health centre in west Coventry and provides essential services to the Tile Hill suburb located in the south west of the City. This Primary Care Centre has Limbrick Wood Surgery and Woodside Medical Centre which has a combined patient list of about 14,000. Until October 2023, these medical centres were supported by Boots located at 116-120 Jardine Crescent, which dispensed about 32.5% of the items prescribed at these surgeries.

2.42 Former Boots Pharmacy. Jardine Crescent, Tile Hill [image provided, see appendix D, page 5].

2.43 At one stage the Jardine Crescent pharmacy was the busiest in the whole of Coventry. However, on 28th October 2023 Boots closed this pharmacy. Despite public demand for the store to remain open, Boots closed the store due to the lease of the premises and the commercial performance of the business. It was not closed because of a lack of demand for pharmaceutical services clearly given the scale of dispensing it was achieving. Boots were dispensing over 8,800 items per month before its closure. There remains strong demand for the re-opening of a pharmacy in the Jardine Crescent area to serve the needs of the 14,000 patients which are now left without a pharmacy beside their surgeries or within their local shopping area.

2.44 The Boots closure leaves a gap in service provision as it sits in the heart of the Tile Hill area. That gap is clearly accepted by the pharmacy providers in the area given there are 4 different companies including Chalice Services Limited that are seeking to open in the area to address the closure of Boots. It is important that urgent action is taken to remedy the deficit in services arising from this recent closure.

2.45 **THE SITE AND SURROUNDING AREA**

2.46 General Location

2.47 A map of the Tile Hill area is at Appendix 1 [appendix D, pages 38 & 39 and duplicated at 40 & 41]. Tile Hill is located about 2.5 miles southwest of Coventry City Centre. It is located in a densely built up inner city area on the west side of the A45 Fletchamstead Highway. This is a busy dual carriageway that links Coventry to Birmingham in the west and the M1 Motorway in the east.

2.48 The area of west Coventry known as Tile Hill would extend from the A45 in the east, to Broad Road in the north, the railway line to the south and Banner Lane in the east. It would have a population of about 12,800.

2.49 Tile Hill can be subdivided as comprising the area of northern Tile Hill located between Tile Hill Lane and Broad Road and the area of southern Tile Hill, being the area south of Tile Hill Lane and the railway.

2.50 Jardine Crescent is located in the north Tile Hill area. It is located about 900m south of Broad Road and about 800m north of Tile Hill Lane. It is about a mile from the railway line. West of Jardine Crescent is a large area of forest and open space that is about 500m wide and separates the Tile Hill area from Banner Lane.

2.51 Jardine Crescent is defined as a District Centre in the Coventry City Council Local Plan 2017. It is the heart of this area and serves the needs not only of Tile Hill but the wider west Coventry area. It is centrally located, has pedestrian paths from nearby tower blocks and has car parking for people arriving by car and is on a bus route for people traveling by public transport.

2.52 The Proposal Site

2.53 The proposal site is located at 42 Jardine Crescent. These are retail premises in the middle of this designated District Centre. The premises are only 120m from the former Boots store. The premises have a retail use and there is no requirement for any further planning permission as no change of use arises. The premises have on street parking in front of them, with 3 parking spaces for disabled car drivers available about 30m from the shop door. The bus stop is about 90m from the shop entrance.

2.54 The proposal will be located where the established patterns of movement of existing patients visiting their GP and collecting their prescription at the District Centre will be re-introduced.

2.55 The Surrounding Area

2.56 The area surrounding the proposal site includes a variety of community uses. The District Centre has been audited by the Council in 2023 (Appendix 2) [appendix D, pages 42 & 46]. This found it to contain 21 units with 4 comparison shops, 5 convenience shops, 6 retail services, 5 leisure services and 1 vacant unit. It is a very popular centre, with its vacancy rate below the UK average. It has above average convenience units and retail services. The main shops are Greggs, Nisa Local, Costcutter and Farmfoods. It has a Ladbrookes Bookmakers and a Post Office. It also has a Laundrette, The hearing care partnership and opticians.

2.57 A short distance west is the Tile Hill Primary Care Centre, Tile Hill Library, Cherry Tree Nursery, St Oswald's Church, Coventry Seventh Day Adventist Church, Mosaic Family Hub, and a children's playground. On the south side of Jardine Crescent is a new development of where permission has been granted for 28 specialist assisted living apartments. Also a specialist mental health care facility has been developed at Hawthorne House at the end of Jardine Crescent.

2.58 North of the District Centre at Ferrers Close is a large development of tower blocks each about 11 storeys [sic] in height dating from the 1960s. Also to the north is another church at Limbrick Wood Baptist Church, and further north is Limbrick Wood Primary School (174 children).

2.59 The former Woodlands School and sports complex is being redeveloped to provide a school for special educational needs. The site will accommodate both primary and secondary teaching facilities for up to 280 pupil places and approximately 85 staff including professional specialists. There are about 149 pupils at Woodfield Special Educational needs School beside this site.

2.60 There are 1226 pupils at West Coventry Academy at Tile Hill Lane, and Our Lady of Assumption Primary has about 230 pupils and Templars Primary School has about 630 pupils. Finham Park Secondary has about 760 pupils attending. There are therefore over 3,300 children traveling to schools in this area daily.

2.61 Local shops and services such as bars and restaurants and hot food take aways are dotted around the area.

2.62 The area south of Tile Hill along the railway line is a major area of employment with large industrial estates located along Torrington Avenue. The map below [appendix D, page 9] gives a sense of the change in topography in the area. There is a drop of over 25m between the proposal site and the Torrington Avenue area.

2.63 Tile Hill is a relatively self contained area within its own shops and services centred on Jardine Crescent District Centre, its own medical centre, churches, schools and indeed places of employment to the south. There would be little reason for many of the residents to leave this area on a daily basis to access their services.

2.64 Wider Area

2.65 The areas to the south of Tile Hill is Canley and the barrier of the industrial area and the railway station means there is little interaction between the two areas. This is confirmed in the Family Hub Profile (FHP) at Appendix 3 [appendix D, pages 47 to 79]. Indeed the FHP states that there is a disconnect between the two areas.

2.66 The area west of Tile Hill at Banner Lane comprises new housing at the northern end of Banner Lane. The Google earth images below show [appendix D, page 10] the new housing built in this area since 1999. Large housing estates have been built in the eastern area, which are planned urban expansion area and would have their own services and facilities.

2.67 To the south of Banner Lane at Tile Hill Village/Tanyard Farm, there are shops and services located close to the railway station. However, because of the distance and the change in land uses with the industrial area and the barriers to movement of the railway line, there is limited integration between the people of Tile Hill Village / Tanyard Farm and Tile Hill. Again the FHP notes that the population around Tanyard Farm consider themselves to be isolated from Tile Hill and the rest of the area. However, it can be noted that the area of Tanyard and Banner Lane have two pharmacies at Bannerbrook and KK Minstry serving their needs.

2.68 The areas to the north and east are clearly separated from Tile Hill because of the Broad lane and the change in neighbourhood to Eastern Green the barrier formed by

the A45 separating Tile Hill from the Whoberly suburbs. A large new urban expansion is planned for north of Eastern green which will significantly increase the population of this area.

2.69 The Tile Hill area is recognised by the council to be one of the most deprived areas in the City. In the Local Development Plan it acknowledges this in respect of the need to provide increased jobs to the area. [An extract from Coventry City Council Local Plan 2017 is provided, see appendix D, page 11].

2.70 The Tile Hill Primary Care Centre

2.71 The Tile Hill Primary Care Centre is the location of two GP practices of the Limbrick Wood Surgery and Woodside Medical Centre.

2.72 Limbrick Wood Surgery is open 8am to 12:30pm and from 2pm to 6pm Monday to Friday. It is closed at the weekend. It has two GPs and a wider support and nursing staff. It is also a train practice [sic]. It has a patient list of around 3,000.

2.73 The Woodside Medical Centre is open 8:00am to 6:30pm Monday to Friday and is closed at the weekend. This Medical Centre has about 11,000 patients registered with it.

2.74 Both Limbrick Wood Surgery and Woodside Medical Centre have the same practice area. The practice area is shown below [appendix D, page 11] and covers most of south west Coventry.

2.75 The Primary Care Centre has over 30 patient parking spaces. A bus stop is located beside the Centre. The Centre is on a bus route that runs from the City Centre to Tile Hill Lane, Jardine Crescent and Banner Lane. The Primary Care Centre forms part of the District Centre of Jardine Crecent and is a key community service in this hub of the Tile Hill community.

2.76 This is an ideal location for a pharmacy to be located to provide improved access to pharmaceutical services for patients whether they are walking, driving or taking public transport to visit their GP.

2.77 The Primary Care Centre prescribes around a combined 25,400 items per month. When it was opened Boots dispensed about 32.5% of these items.

2.78 The closure of Boots means that two pharmacies have had to provide more prescribing. Between July 2023 and May 2024, Bannerbrook Pharmacy has increased its share of items prescribed from Woodside Medical Centre from 18.6% to 32.57%. That is an increase of almost 14%. Tile Hill Lane has increased its share of items prescribed from 9.9% to 21.81%. That is an increase of 11.9%.

2.79 Over the same period the same two pharmacies have increased their share of Limbrick Wood Surgery dispensing from 17.4% to 27.47% for Bannerbrook Pharmacy and from 9.68% to 25.68% for Tile Hill Lane Pharmacy.

2.80 Consequently Bannerbrook now dispenses about 17,000 items per months, compared to about 12,000 items per month in July 2023 before Boots closed.

2.81 Similarly Tile Hill Lane pharmacy has increased its dispensing from about 5,800 in July 2023 to 10,200 items currently.

2.82 The closure of the Boots Jardine Crescent pharmacy has created significant additional burden on patients when they are visiting their GP. Patients from around the Primary Care Centre and others that have travelled a significant distance to the Tile Hill area have no pharmacy on their route to and from the Primary Care Centre and instead are

now required to go outside their area or to the eastern periphery of Tile Hill to access pharmaceutical services.

2.83 The Proposal

2.84 The proposal is for a new pharmacy contract to be located at Jardine Crescent District Centre. There is an existing retail shop which can be easily utilised for a new pharmacy. There is wide spread support for a replacement pharmacy to be provided. As shown later the closure of the Boots Pharmacy was strongly opposed by the local MP for the area. It is also noted that Woodside Medical Practice has written a letter dated 8th March 2024 to the ICB advising that a large number of patients have voiced their concerns regarding the Boots closure and that the Medical Centre has high percentage of vulnerable patients who are unable to drive and cannot travel far to collect their prescriptions. The letter confirms that there is a need for a pharmacy in Jardine Crescent.

2.85 The proposal will operate 43 core hours between 9:00am to 1:00pm and from 2:00pm to 6:00pm Monday to Friday and 9am to 12pm on Saturday. It will open a total of 49 hours each week from 9am to 6pm Monday to Friday, 9 am to 1pm on Saturday. These extended opening hours are a significant improvement on the fact that they match the opening hours of the Primary Care Centre during the week and will also provide this large local community with a medical service at the weekend when the Primary Centre Centre is closed.

2.86 It can be noted that these hours are:

2.86.1 longer than Bluecross Health Ltd who are proposing 40 core hours and 43 total hours;

2.86.2 longer than JT Health who are proposing 40 core hours and 48 total hours; and

2.86.3 longer than Wellbeing UK Limited's who are proposing core hours of 40 but less than their total hours of 52.

2.87 The proposal will provide appliances listed in Part IX of the Drug Tariff.

2.88 The proposal will provide all commissioned services and the applicant will ensure that all pharmacists employed are accredited to provide the services.

2.89 Once the premises has been secured a floor plan will be commissioned and will be provided. The premises will be registered with the GPhC and will comply with relevant legal and ethical requirements for the operation of a retail pharmacy business.

2.90 The premises will have a consultation area to provide services including NMS, CPCS and GP CPCS, EHC, Hypertension Case Finding, Smoking Cessation, Chlamydia Screening, Flu Vaccinations, Needle and Syringe Exchange, Supervised Self Administration and Locally Commissioned Services.

2.91 **THE STATUTORY TESTS**

2.92 The statutory tests are set out under "The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013" (the "Regulations"). In particular the application should be assessed under Regulation 18.

2.93 The first test is whether an application for the improvements for people living in Tile Hill has been considered under the Coventry City Council and Warwickshire County Council Pharmaceutical Needs Assessment 2022-2025 (the "PNA").

2.94 As shown below the PNA does not foresee the improvements that the proposal could deliver to the Tile Hill Lane area particularly given the changing circumstances of the

closure and potential re-opening of the pharmacy at Jardine Crescent. As such this application is an 'unforeseen' application and Regulation 18 applies to its assessment.

2.95 Other aspects of the Regulations are Regulation 18 (2)(a)(i) whether significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB would occur and Regulation 18(2)(a)(ii) whether significant detriment to the arrangements the NHSCB has in place for the provision of pharmaceutical services in that area would occur.

2.96 There is no evidence that granting the application would cause significant detriment to proper planning for provision of pharmaceutical services or the existing provision of pharmaceutical services in the area.

2.97 It will not cause significant detriment to the closest pharmacies which include the existing premises at Tile Hill and Wellbeing Pharmacy. This is clear because Wellbeing have also applied to open a new pharmacy at Jardine Crescent. It would be unlikely that a pharmacy would seek to open a second pharmacy if it was going to harm its current services. The other pharmacies in the wider area will be unaffected if the former Boots pharmacy is replaced by this proposal. These pharmacies are already most likely experiencing an increase in demands following other closures and as such re-opening the Jardine Crescent pharmacy will relieve pressure on these pharmacies.

2.98 As such the opening of the proposal will not affect the proper planning of pharmaceutical services.

2.99 The other aspects that an applicant can ground their application on includes Regulation 18 (2)(b) (ii) and (iii) being that a proposal will support the needs of people who share a protected characteristic and innovative approaches are being taken.

2.100 In terms of protected characteristics as shown above and later there are a variety of groups that live in this area that would be groups that share protected characteristics, which have been significantly disadvantaged with the closure of the Boots store at Jardine Crescent District Centre. One of these groups are the large numbers of children (many with SEN) and the elderly people (many with mental health issues) that live in the area of Tile Hill.

2.101 The Regulations have been in place for over a decade and are well understood. They have been distilled into the central issue of whether a proposal will provide better access to pharmaceutical services (Regulation 18(1)(a)) and whether there is reasonable choice of pharmaceutical services (Regulation 18(2)(b)(i). The Regulations provide no guidance as to what is "better access" or "reasonable choice", such matters are determined by the facts of the case.

2.102 Better access and reasonable choice are clearly evident in this case where there is an evidential context that shows that the closure of Boots has significantly disadvantaged a large densely populated suburban area, leaving a gap in the geographical spread in the pharmacy network of south west Coventry, particularly in the District Centre in the hub of this community and significantly limits the access of a large population to the full panoply of pharmaceutical services in the City.

2.103 **REVIEW OF THE PNA**

2.104 The Coventry City Council and Warwickshire County Council PNA (2022-2025) applies in this case. The PNA's role is to assess local needs for pharmaceutical service provision and identify any gaps in services or unmet needs of the local population. The PNA is only capable of making a judgement about the provision of services at the time of its publication.

2.105 Since its publication there have been no Supplementary Statements issued and as such there is no aspect of the PNA process that has dealt with the closure of Boots at

Jardine Crescent. On this basis the proposal to substitute the former Boots store at Jardine Crescent with a new pharmacy is unforeseen.

2.106 The PNA splits the area into localities and includes Coventry as a single locality.

2.107 The PNA notes that international migration into Coventry increased between 2020 to 2023 by 24,987. The City has a much higher population now than it had in 2017 (i.e. +15,437). Coventry's population is expected to continue to grow by 10.5% by 2030.

2.108 The PNA notes that there are pockets of deprivation in the south west of the City. This is the area of Tile Hill.

2.109 The PNA notes the significant numbers of house completions in Coventry in recent years. The housing growth in Coventry is predicted to increase, reflecting the significant population forecasts set out above. The PNA notes that north of Tile Hill at Eastern Green there is a major expansion planned which is 142 ha of land about 600m north of Broad Lane where 2,625 new homes are proposed.

2.110 The PNA (page 43) notes that its survey shows that 42% of respondents walked to their pharmacy. This is a significant number. It advises that this may have an impact on how residents access pharmacies. The increased costs of fuel has already forced 44% of people to drive their car less and this is likely to increase. However, the PNA does not address what impact this has on access to pharmaceutical services, and instead continues to provide distances to pharmacies by car. The PNA (page 68) presents the case that people without a car can access pharmacies within 15 minutes by public transport. It is inherently unfair that a person that has no private car access should have to spend longer on public transport than people who are more affluent and quite often in better health and have access to their own private transport. It would be more reasonable that people that are less affluent have better and quicker access via public transport to a pharmacy, given they are more likely to be in greatest need and higher users of pharmaceutical services.

2.111 The PNA (page 45) notes that compared to England Coventry has a higher prevalence of adults smoking. It notes that people living in the most deprived areas are more likely to smoke than those living in the least deprived areas.

2.112 The PNA notes that Coventry has seen a higher than average increase in the rate of admission episodes for alcohol related conditions compared to England between 2016/17 and 2018/19. It also notes that the rate of teenage pregnancy under 18 in Coventry is 19.5 per 1000 females which is higher than the England average of 13.

2.113 The PNA (page 49) notes that England rate for under 75 mortality from all cardiovascular diseases in 2020 was 73.8 per 100,000 population. The Coventry rate was higher at 107.2 per 100,000.

2.114 The PNA (Page 40) notes the estimated prevalence of common mental disorders of the population aged 16 and over in England is 16.9%. Coventry is higher than the England rate at 19.1%.

2.115 The PNA (page 51) notes that the under 75 mortality rate from respiratory disease in 2020 for England was 29.4 per 100,000 population. Coventry had a higher rate of 41 per 100,000 population.

2.116 The `PNA notes that Coventry had 91 pharmacies, which has a population of 379,387. Boots have closed 3 pharmacies in Coventry bring [sic] the number of pharmacies to 88. This equates to 23 pharmacies per 100,000 people. Whilst this is around the national average, the growing population predictions and the significant new housing being built north of Tile Hill will mean Coventry is under provided for in pharmacy terms.

2.117 The PNA (page 76) notes the pressure pharmacies are under nationally and notes that 92% of business owners stated that patient services are being negatively impacted by the pressure on their business with impacts ranging from being unable to spend much time with patients, taking longer to dispense prescriptions, unable to respond promptly, unable to provide advanced services and unable to provide commissioned services. The PNA sets out a plethora of issues facing existing pharmacy contractors.

2.118 The PNA (page 117) notes "As many community pharmacies are often located in deprived areas with high population density, they are an important first point of contact for patients seeking ad-hoc health advice alongside picking up regular prescribed medicines or purchasing over the counter medicines. It is important for pharmacies to continue to deliver healthy lifestyle campaigns to support the wider determinants of health, increasing awareness of local and national programmes which could positively impact the community's health and wellbeing". The closure of Boots at Jardine Crescent has removed this important first point of contact service, and patients in the area will inevitably call to their GP given it is located at Jardine Crescent rather than travelling perhaps a mile out of their way to visit a pharmacist as their first point of contact.

2.119 The Coventry Joint Strategic Needs Assessment FHP for the Mosaic area (which covers Tile Hill) (Appendix 3) [appendix D, pages 47 to 79] advises that the Coventry Pharmaceutical Needs Assessment highlights that the Mosaic area has fewer community pharmacies per person than average for Coventry, in fact the number of pharmacies per 10,000 population is the lowest out of all eight Coventry Family Hub areas. Whilst this may have been the previous PNA, it is a point lost in the new PNA which amalgamates Coventry with Warwickshire. Localised issues such as Tile Hill get therefore left behind in the new PNA. The fact that Boots has now closed is a matter that would suggest that Tile Hill is further disadvantaged and below the average for Coventry in terms of number of pharmacies per head of population.

2.120 It is clear that the PNA has identified significant health issues relating to Coventry generally, but not considered Tile Hill which is more deprived than much of the City, nor has the PNA foreseen the closure of Boots or this proposal to provide improved access to pharmaceutical services.

2.121 **HEALTHCARE IN TILE HILL**

2.122 A Map of Tile Hill is at Appendix 1 [appendix D, pages 38 & 39 and duplicated at 40 & 41].

2.123 Since the closure of Boots, there is only two pharmacies in this area, both located on the eastern periphery of Tile Hill and close to Westwood Medical Centre. With Westwood Medical Centre, and the services at the Tile Hill Primary Care Centre there are three surgeries. Therefore, with the closure of Boots, there are more surgeries in Tile Hill than pharmacies. This is an inadequacy that should be remedied.

2.124 As mentioned above, before closure Boots was providing pharmaceutical services to this area dispensing over 8,800 items per month (and significantly more historically). Historical data shows that about 82% of the items dispensed by Boots where [sic] prescribed in the Tile Hill Primary Care Centre. This equates to about 32.5% of the items prescribed in the Primary Care Centre. This demonstrates a very strong relationship between the Primary Care Centre and the Boots pharmacy.

2.125 The closure of Boots has seen the patients from the Primary Care Centre have to travel further east and west to get a pharmacy. The redistribution of the items dispensed is discussed above with two pharmacies benefiting from the closure of Boots. It is tabulated below:

2.126 Redistribution of Boots Prescriptions from Woodside Medical Centre [see appendix D, page 20].

2.127 Redistribution of Boots Prescriptions from Limbrick Wood Surgery [see appendix D, page 21].

2.128 The tables above shows that these two pharmacies have seen about a doubling of their dispensing items from the Primary Care Centre. This means that patients are having to make longer journeys away from their homes, shops, services, schools and places of work to access pharmacy services on the outskirts of their neighbourhood.

2.129 The average monthly dispensing in England is 7,399. It can be noted that:

2.129.1 Tile Hill Lane Pharmacy is now dispensing over 10,200 items per month. It is dispensing well above the national average; and

2.129.2 (whilst outside Tile Hill) Bannerbrook Pharmacy is now dispensing about 17,000 items per month. It is dispensing significantly above the national average; and

2.129.3 Wellbeing Pharmacy is now dispensing over 7,700 items per month. It is dispensing just over the national average.

2.130 The redistribution of the former Boots patients has forced patients living in one of the most deprived areas of Coventry to leave their area and travel to some affluent areas. This is both counter intuitive and unfair. It increases the inequality in this part of Coventry.

2.131 In terms of alternative pharmacies, the nearest pharmacy registered is Tile Hill Lane Pharmacy. This is located at Tile Hill Lane about 0.9 miles from the Primary Care Centre site. It opens 8:30 am to 6:00pm Monday to Friday and 9:00am to 5:30pm on Saturday.

2.132 This pharmacy is located in a local shopping area and has no parking available. It has a bus stop in front of it. It is dispensing 10,200 items per month.

2.133 Tile Hill Lane Pharmacy [image provided, see appendix D, page 22].

2.134 It would take about 20 minutes to walk to this pharmacy.

2.135 Walking Distance to Tile Hill Lane Pharmacy [map provided, see appendix D, page 22].

2.136 Wellbeing Pharmacy is located at 298 Tile Hill Lane and beside the Westwood Medical Practice. It opens 8:30 pm to 2:00pm and from 3:00pm to 9:00pm Monday to Friday and from 1:00pm to 4:00pm and from 5:00pm to 9:00pm on Saturday and from 8:00am to 9:45pm on Sunday.

2.137 Wellbeing Pharmacy [image provided, see appendix D, page 23].

2.138 This pharmacy shares parking with the adjacent Westwood Medical Centre. It is about 1.1 miles from the Primary Care Centre at Jardine Crescent.

2.139 Walking Distance to Wellbeing Pharmacy [map provided, see appendix D, page 23].

2.140 This pharmacy dispenses about 7,700 items per month. Given Wellbeing Pharmacy have also applied for a pharmacy at Jardine Crescent this is an acceptance that this pharmacy is not capable of catering for the demands from the Tile Hill Primary Care Centre or the core Tile Hill population that resort to and live around the District Centre.

2.141 The Westwood Medical Centre prescribes about 8,700 items per month of which about 58.5% are dispensed by Wellbeing Pharmacy. This shows a very strong connection

between this surgery and this pharmacy. The Medical Centres has a patient list of about 4,500.

2.142 In total therefore the three medical centres have a combined patient list of 18,500 and are prescribing about 34,100 items per month whilst the two pharmacies in the area are dispensing 17,900 items. This means a large number of items are being prescribed at Tile Hill and dispensed outside Tile Hill.

2.143 For completeness, it can be noted that the Bannerbrook Pharmacy is located about 1.4 miles walk from Jardine Crescent. It is located in an area that is recently developed and has no connections with the Jardine Crescent area. It is a local shopping area and meets the needs of its own local community. This pharmacy is dispensing about 17,000 items per month with its items mainly prescribed at Woodside Medical Centre in Tile Hill and Jubilee Health Care in the City Centre. Also Kk Minstry Pharmacy is located about 1.1 miles walk to the southwest. This pharmacy is located in Tile Hill Village and dispenses about 7,100 items per month. The majority of its items are from Jubilee Health Care in the City Centre

2.144 Summary

2.145 The former Boots pharmacy was a key pharmacy in meeting the needs of the large population of south west Coventry in the Tile Hill area. It was servicing both the Limbrick Wood Surgery and the Woodside Medical Centre.

2.146 Its closure has caused patients to have to make longer additional journeys to a number of pharmacies located east and west of the proposal site.

2.147 All existing pharmaceutical services are beyond walking distance and a long drive for people in Tile Hill. Whilst some have car parking, this is of limited benefit as many people in Tile Hill have no car, whilst others have no connections to areas such as Bannerbrook and Banner Lane. The two main pharmacies that have taken up the dispensing from the closure of Boots has pushed these pharmacies well above the national dispensing average.

2.148 **ASSESSMENT AGAINST THE REGULATION 18 TESTS**

2.149 Regulation 18 (20)(b) (i-iii) [sic] is well known and sets out the following: [18(2)(b) quoted in full].

2.150 Reasonable Choice

2.151 The first consideration is whether there is a reasonable choice with regard to obtaining pharmaceutical services in this area. Until it closed Boots was providing a vital service to the Tile Hill community. Jardine Crescent is a District Centre and the main shopping and service area in south west Coventry. Following the closure of Boots there is a reduced choice of pharmacies in the area.

2.152 With no pharmacy in Jardine Crescent District Centre, the residents and shoppers that use the Centre are clearly disadvantaged. It is not reasonable to expect people that come to this District Centre to visit their GP or undertake their weekly shopping or visit the post office to have to walk a mile and more to have a prescription dispensed. The alternative pharmacies are located in lower order shopping locations with fewer shops and services and it is unsustainable to expect the patients and visitors to a District Centre to be required to use smaller less accessible locations to collect their prescription.

2.153 It is not surprising that Jardine Crescent is designated a District Centre. It was planned and built to have a large number of shops and services to cater for the people living in the Tile Hill area. It is geographically located in the centre of the area, making it accessible to all of Tile Hill. The areas closest to the District Centre have high volumes

of population with large numbers of flats located above the shops and around the edge of the Centre. Many of these residents do not have access to a car and expect their day to day services to be provided in the District Centre they live beside. These people do not have reasonable access to pharmaceutical services and it is shown later that this is a highly deprived area.

2.154 There is deep concern at the closure of Boots. A copy of two letters, local newspaper articles and a petition are at Appendix 4 [appendix D, pages 80 to 94]. The petition was organised by the local MP for the area Taiwo Owatemi. The petition advises that news that Boots is closing "is deeply worrying for many elderly people in the local area who use this store and all those who rely on the support and advice provided by staff in our local Boots pharmacy. As the only pharmacy in Jardine Crescent, the closure will not only impact patient access to medicine but will exacerbate health inequality in the area".

2.155 The MP has written to both Boots in October 2023 and the Secretary of State for Health and Social Care (SOS) in November 2023. The MP's letter to the SOS makes stark reading on the impact of the Boots closure in that it advises "Unfortunately, this closure in my constituency mirrors the national and regional trend. Over 700 pharmacies closed their doors between 2015 and 2022 with 64% [of] the 91 total closures in the West Midlands taking place in deprived areas. However, closures are not occurring due to a lack of demand. According to the NHS Business Service Authority, from July 2017 – July 2023, pharmacies in the most deprived 20% of areas are now 13% busier".

2.156 In press articles the MP advises that the closure of Boots would be a major blow for the local community as the branch provides an irreplaceable service for those living in the area. The MP advised that "This closure will result in the loss of much needed healthcare provision which will have a severely detrimental impact on staff, residents and the wider community, particularly impacting the elderly, disabled and families".

2.157 The MP advised that people in the area described the Boots store as a "fantastic asset" and "critical to the people in the area", with several people raising concerns about travelling to their nearest pharmacy. The petition was signed by 996 people.

2.158 It is clear that the closure of Boots has removed choice for large numbers of the population of Tile Hill and this proposal by Chalice Services Limited will undoubtedly be welcomed by the local community.

2.159 Walking Distances

2.160 The Institution of Highways & Transportation provides "Guidelines or Providing for Journeys on Foot". It advises (para 3.30) that "The average length of a walk journey is one kilometre (0.6miles). This differs little by age or sex and has remained constant since 1975/76'. It suggests that an acceptable walking distance in an area such as Coventry would be 800m, though 400m would be desirable and the preferred maximum would be 1200m. There are no other pharmacies within 400m or 800m of the Tile Hill Primary Care Centre and Jardine Crescent District Centre. It is a significant distance of almost a mile for residents from the area to access the alternative pharmaceutical services at Tile Hill Lane Pharmacy. The nearest alternative pharmacies are all located beyond the maximum limit of urban walking distances from the Primary Care Centre. On this basis the alternative pharmacies in this case are not accessible.

2.161 Bus Routes

2.162 In terms of bus services, the closest pharmacies require patients to make a second bus trip from the Primary Care Centre to the alternative pharmacies. This adds additional cost and time to their journey. Bus route 6 and 6A does pass the alternative pharmacy at Tile Hill Lane, however for many patients living north and south of Jardine Crescent, they are not on a bus routes and walk to Jardine Crescent. This means patients that have never needed to use a bus, are now being required to use a bus. Patients that

do use the bus to come to Jardine Crescent will have to stay on the bus longer on their return trip to visit the pharmacies on the edge of Tile Hill. They would then have to make a third bus trip back towards their home. As shown below this area is already serving a deprived community and the nearest pharmacies to the east and west are already oversubscribed.

2.163 Use of a bus to access the nearest pharmacies in either direction is not a realistic or reasonable choice especially for patients that normally use the Primary Care Centre and have long had access to a pharmacy at Jardine Crescent District Centre.

2.164 A map of the bus routes in Coventry is at Appendix 5 [appendix D, pages 95 to 96].

2.165 Access to a Car

2.166 It is unsurprising that an area of high deprivation population such as this has a low car ownership rate. This is shown below [appendix D, page 28].

2.167 Car Ownership.

2.168 It can be seen that 29.4% (over a quarter) of all households in Tile Hill have no car or van. The area has above average single car ownership. However, much fewer than average households have 2 or more cars. This means that having local access to pharmaceutical services at the Jardine Crescent District Centre is a vital community service, particularly where the local Primary Care Centre and District Centre has historically provided pharmaceutical services to this local area and where the previous pharmacy has now closed.

2.169 Given the high levels of dispensing at the former Boots, its closure will have displaced a substantial number of patients with many of them having no access to a private car. This concern is already highlighted by the local MP and supported by almost 1,000 people signing a petition as shown above.

2.170 Continuing the provision of a pharmacy in Jardine Crescent District Centre is clearly vital for all patients, but particularly the high numbers that have no access to a car or no second car access during the working day.

2.171 Hours of Opening

2.172 The proposal will open 6 days a week and will provide for those patients that need access to a pharmacy on a Saturday even when the Primary Care Centre is closed. Given the reducing number of pharmacies in the wider area, it is important that increased choice of alternative pharmacies are available for patients should they need them especially at the weekend.

2.173 Demand at the Proposal Site

2.174 The demand in Jardine Crescent is clear, given Boots had previously been dispensing in the region of 8,800 items per month and the Primary Care Centre medical centres have a combined patient list of 14,000 and prescribes about 25,400 items a month. Added to this is the general demand at the Jardine Crescent District Centre. A large District Centre of this nature would be attracting comfortably 10,000 visitors per week. The local services of the library and other community services attracts people to this hub of Tile Hill for a wide range of activities throughout the day, and these people would also have health care needs. As such in terms of demand there are clearly high levels of demand in the Jardine Crescent District Centre and general Tile Hill area with no immediate pharmacy to provide pharmaceutical services to satisfy that need.

2.175 General Characteristics of the Area

2.176 *Population*

2.177 The population of Tile Hill is 12,800. The highest cohort of the population is in the 30-34 age group, and the area has a younger than average population profile.

2.178 Population Characteristics of the Area [image provided, see appendix D, page 29].

2.179 *Economic Status*

2.180 The economic status of the area is illustrated below. The area is dominated by social rented housing with 27.7% of people living in this accommodation compared to the England average of 17.1%. Fewer people than the England average own their home (26.5% compared to 32.5%) and fewer have a mortgage (27.4% compared to 29.8%).

2.181 It is also noted that more people than average live in a flat or apartment. These figures reflect the high rise apartment developments in the immediate area of Jardine Crescent.

2.182 Tenure and Type of Accommodation [image provided, see appendix D, page 30].

2.183 *Unemployment*

2.184 In terms of economic activity it can be seen below that there is a significantly low economically active population in the area of 56.3% compared to the England average of 57.4%. There is a high unemployment rate of 4.8% compared to the England average of 3.5%. These figures corroborate the deprivation evidence provided below [appendix D, page 30].

2.185 *Health Demand*

2.186 The health characteristics of the population is illustrated below [appendix D, page 31]. It can be seen that very good health is below the England average (44.3% compared to 48.5%). Good health is just above the England average. Fair health is above the England average (14.5% compared to 12.7%) and bad health and very bad health are above the England average) (5.2% and 1.7% respectively compared to 4% and 1.2%). There is a notable population that would be defined as disabled under the Equality Act of 20.9% compared to the England average of 17.3%.

2.187 Health of Tile Hill Population [appendix D, page 31].

2.188 Evidence of Deprivation

2.189 Consistent with the evidence above, the diagram below [appendix D, page 31] shows that the Tile Hill area has high levels of deprivation.

2.190 Household Deprivation in Tile Hill [appendix D, page 31].

2.191 It can be seen that:

2.191.1 Fewer households are not deprived in any dimension (i.e. 41.6%compared to 48.4%); and

2.191.2 More households are deprived in two dimensions (6.3% compared to 3.7%).

2.192 The Tile Hill area clearly suffers from deprivation for many people with almost 60% of households deprived in some manner. The scale of deprivation is further illustrated in the map below [appendix D, page 32].

2.193 Indices of Deprivation for Tile Hill [appendix D, page 32]. This map shows that the area around Jardine Crescent (coloured red) are among the highest levels of deprivation in England. The area to the southwest is among the third highest area of deprivation and

south of that again is the highest levels of deprivation. This reinforces the case that a pharmacy in Jardine Crescent District Centre is needed and deprived residents of this area should not be required to travel to more affluent areas to access a pharmacy. Such a scenario widens inequality in this part of the City.

2.194 The evidence demonstrates that the area around the proposal site has a significant population, with adjacent areas having high levels of deprivation and with clear health needs. The area around the proposal site is an area where improved health care can support local people. This is an area where a new pharmacy to replace the closed Boots that provides the full panoply of pharmaceutical services will provide improvements to health care outcomes.

2.195 Coventry Joint Strategic Needs Assessment

2.196 The Coventry Joint Strategic Needs Assessment provides a Family Hub Profile (FHP) for the Mosaic area (which covers Tile Hill) dated 2020. An annotated copy is at Appendix 3 [appendix D, pages 47 to 79]. This provides additional support for this new pharmacy proposal. It finds the following:

2.196.1 Cohesion between Tile Hill and Canley is low and that some residents of Tanyard Farm feel isolated from Tile Hill and the rest of the area;

2.196.2 Areas such as Tile Hill have a high percentage of residents without qualifications, amongst the highest proportions in the city;

2.196.3 Tile Hill has high levels of deprivation and unemployment. It is essential to remember these neighbourhoods when considering deprivation in the city;

2.196.4 Residents of Tile Hill have lower rates of reported satisfaction with their neighbourhood and have lower access to high quality green space;

2.196.5 A low proportion of Tile Hill residents feel safe in their neighbourhood at night, and this is borne out by some police and crime data, which suggests that violent crime rates are higher than average in Tile Hill North;

2.196.6 Tile Hill is the area with the lowest life expectancy at birth (LE) and healthy life expectancy (HLE) at birth in the Mosaic area. Not only do Tile Hill residents live notably shorter lives on average than residents in neighbouring areas but they spend a larger proportion of their life in poor health;

2.196.7 Tile Hill has a relatively high rates of death that are viewed as preventable using public health measures and more likely to have poor mental health. Rates of diagnosed HIV are also higher than the city average in Tile Hill;

2.196.8 If statistics of LE and HLE were available for more local neighbourhoods, it is likely that overall poorer health would be strongly linked to deprivation, and would be found in Tile Hill;

2.196.9 Tile Hill has fewer 5 year olds achieving a good level of development;

2.196.10 Tile Hill is amongst the most 10% deprived area in England for education and skills;

2.196.11 Tile Hill has high a percentage of children with Special Educational Needs;

2.196.12 Tile Hill has 6% of working population claiming benefits which is twice the City average;

2.196.13 Tile Hill (9%) have slightly higher levels of inactivity due to long term sickness or disability, amongst the highest rates in the City and about double the city average;

2.196.14 One of the areas in Tile Hill “Tile Hill North - Jardine Delius” is amongst the most deprived 4% of areas in England;

2.196.15 About half the households in Tile Hill have no access to a car;

2.196.16 Tile Hill is where the most social rented housing is in the Mosaic area;

2.196.17 Over half the houses in Tile Hill are flats – one of highest in the City;

2.196.18 There are indications that people from Tile Hill may be more likely than average to suffer from health problems; and

2.196.19 Coventry Pharmaceutical Needs Assessment highlights that the Mosaic area has fewer community pharmacies per person than average for Coventry, in fact the number of pharmacies per 10,000 population is the lowest out of all eight Coventry Family Hub areas.

2.197 This profile independently underscores the issues and demand for a new pharmacy in Tile Hill. It is an essential community serve and the loss of Boots must be replaced as soon as possible.

2.198 Secure Improvements

2.199 It is shown above that closure of Boots and replacement by this proposal will secure the existing much needed and much used pharmaceutical services in Tile Hill.

2.200 There was significant demand at the former Boots within the region of 8,700 items dispensed per month in recent years and a registered patient list at the Tile Hill Primary Care Centre of 14,000 patients.

2.201 This is significant demand and clearly warrants renewed provision of all pharmaceutical services in the area.

2.202 Better Access

2.203 The access issues for the people in the Tile Hill area are set out above. The proposal site is located beside the health hub of Tile Hill Primary Care Centre at a designated District Centre. It is the main hub of community shopping and services in the south west of Coventry, where patterns of movement are well established to ensure that access to pharmaceutical services are adequate. Closure of Boots has placed many local people at severe disadvantage given the low car ownership rates and high levels of deprivation in the area. It will mean some patients will have to pay to access pharmaceutical services by making two bus (possibly additional) trips to and from an alternative pharmacy. Also, it will place pharmaceutical services beyond reach of many.

2.204 Replacing Boots with the proposal will improve access to services as it will prevent the need for local patients to travel away from their local Primary Care Centre into another area to access pharmaceutical services.

2.205 Protected Characteristics

2.206 The proposal will cater for people of protected characteristics. Children and elderly people living in the Tile Hill area would be groups with shared protected characteristics.

There are 3,300 children in the area daily (many with SEN) and there are assisted living developed close to the District Centre and adults with mental health needs in this area.

2.207 These protected groups have lost access to their local pharmacy. They are no longer be able to access the full panoply of pharmaceutical services as part of their day to day lives. Many are unable to walk the journeys to alternative pharmacy provision and many would not have access to a private car. The location of the proposal in the same general location as their surgery will address this matter and will ensure that a full pharmacy service is provided to these protected groups.

2.208 Summary

2.209 Overall, having considered the requirements of Regulation 18 the proposal should be granted as there is not reasonable choice of pharmacy services in the Tile Hill area of Coventry and the Coventry and Warwickshire HWB area specifically bearing in mind the localised issues of the recent significant closure of the Boots pharmacy in Tile Hill, current high demands at the former pharmacy, the scale of deprivation in the wider area, changes and reduction in the patterns of health care provision, and distances to the existing pharmacy network. The proposal will confer significant benefits to the Tile Hill population, and these benefits are wholly unforeseen.

2.210 Comments on the Other Applications

2.211 It is noted that there are three other applications for a pharmacy at Tile Hill. This is a clear indication of demand from the pharmacy network providers. It shows that the provision being provided in Tile Hill was vital and that it must be replaced. The Chalice Services Limited proposal is the preferred application because these applicants have secured a lease on commercial premises as close to the previous Boots store as possible and their proposed opening hours, particularly their core hours - are better than the other applicants.

2.212 **CONCLUSION**

2.213 Tile Hill is an area that does not have a reasonable choice of pharmacy services and is clearly in need of better access to pharmacy services. Following assessment of the circumstances of Tile Hill the applicant contends that the application is an unforeseen proposal that will satisfy the requirements of Regulation 18."

SHA/ 26316

In a letter received 19 September 2024 addressed to NHS Resolution, Healthcare Plus Consulting Ltd on behalf of Bluecross Health Ltd, appealed against the Commissioner's decision. The grounds of appeal are:

2.214 "Thank you for your letter dated 20th August 2024 to my client. Bluecross Health Ltd have instructed us (Healthcare Plus Consulting Ltd) to act on their behalf for this appeal, please find authorisation letter attached.

2.215 We would like to appeal the decision made in relation to the above unforeseen benefits application.

2.216 Unfortunately, we were not privy to the meeting minutes and thus cannot see the full decision reasoning from NHS England. We would be grateful if this could be provided; however, we appeal based upon the very limited information available to us.

2.217 We submit that NHS England have failed to properly evaluate Regulation 18 and the fundamental question within the Regulation: does the application provide 'improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area.'

2.218 We assert that this application does provide improvements or better access to pharmaceutical provision, as set out in my client's original application and the comments previously provided by my client. We re-attach this correspondence for re-consideration by NHS resolution [see appendix E and 2.224 below].

2.219 From the decision provided, it appears that NHS England have failed to properly consider the high levels of deprivation in the area. The proposed site is situated in the Coventry 029E Lower-Layer Super Output Area, which is in the top 10% most deprived areas and consequently has greater health needs. Transport by bus and car is difficult for these residents due to the cost barriers involved. 40% of households do not have access to a car/van compared to a 23.5% average for England. Clearly residents are likely to walk to access pharmaceutical provision and following the closure of the Boots we do not consider a 1.6-mile round journey to access pharmaceutical provision as representing sufficient access or reasonable choice. It does not appear that the Committee factored local deprivation into any decision, however, we are unsure as have not seen any meeting minutes.

2.220 Conclusion

2.221 In conclusion, granting this application would secure better access and improvements to pharmaceutical services for residents of Jardine Crescent and the surrounding areas.

2.222 There is a need for a pharmacy on such a well-utilised parade, especially to serve a large deprived population who will be accustomed to accessing pharmaceutical provision by foot.

2.223 Regulation 18 has been met through previous representation by my client and thus we invite NHS Resolution to grant my client's application.

In a letter to the Commissioner dated 14 April 2024, Healthcare Plus Ltd on behalf of Bluecross Health Ltd stated:

2.224 "Thank you for your letter dated 5th April 2024. We welcome comments from other applicants and note the following taking each representation in turn:

2.225 JT Health Ltd

2.226 JT Health Ltd have chosen not to provide representation. We can only assume that this is because they have no objections to the application by my client, Bluecross Health Ltd.

2.227 Wellbeing United Kingdom Ltd

2.228 Wellbeing United Kingdom Ltd have chosen not to provide representation. We can only assume that this is because they have no objections to the application by my client, Bluecross Health Ltd.

2.229 We highlight to the committee that the Wellbeing Group own and operate the closest pharmacy to the proposed site, and yet still believe there is a need for another pharmacy.

2.230 Chalice Services Ltd

2.231 Chalice Services Ltd highlight the lack of Saturday morning core hours proposed by my client. My client has proposed to provide Saturday morning opening, however, was unaware that the ICB would direct hours above and beyond the standard 40-hour contract. My client would more than happy for the ICB to direct these Saturday morning hours, should they decide.

2.232 We reiterate to the committee, that should an application be granted, the application from Bluecross Health Ltd should be preferred to all other applicants. The Crest Pharmacy Group (of which BlueCross Health Limited are a part of), are a well-established local operator within Coventry. The group operate 5 pharmacies in Coventry, with experience in serving its most deprived areas; namely: Holbrooks, Hillfields, Ball Hill, and Stoke. The high deprivation in the Jardine Crescent/ Tile Hill area, means it is imperative that my client, who is perceptive to local health needs and well-equipped with serving high deprivation areas within Coventry, has their application granted.

2.233 Group Commercial Director, Carl Rose, has won awards for his health work within the wider Coventry community winning Clinician of the Year in 2022 for work at Hillfields Pharmacy (CV1 5JF). Carl has also been granted the Freedom of the city in Coventry for his work within Crest Pharmacy Group. Please find certificates appended below [appendix E, pages 24 & 25]. We also attach a letter of support for my client's application from the local MP, Taiwo Owatemi [appendix E, pages 22 & 23]. Should an application be granted, we urge the committee to grant the application by Bluecross Health Ltd who are a well-respected local operator.

2.234 We also welcome comments from local parties, but first note the following:

2.234.1 It is undisputed that Jardine Crescent and the surrounding areas are highly deprived.

2.234.2 It is undisputed that there are a high proportion of individuals within the Coventry 029E LSOA without access to a car/van.

2.234.3 Residents near the proposed site are no longer within a 15-minute walk of a pharmacy; a target stipulated by the PNA.

2.235 Taking each relevant representation in turn overleaf:

2.236 Bannerbrook Pharmacy (A&M Pharmacies Ltd)

2.237 We note that Bannerbrook Pharmacy is owned and operated by A&M Pharmacies Ltd, who also own and operate Mount Nod Pharmacy.

2.238 We note that Bannerbrook pharmacy is 1.4 miles/ 30-minute walk from the proposed site. We do not consider a 1.4-mile one-way journey as constituting sufficient access nor reasonable choice to pharmaceutical provision, especially in highly deprived areas. This is especially acute when we consider the lack of car ownership as highlighted in my client's original application. Such an extended journey is difficult for the elderly, disabled, and infirm.

2.239 Bannerbrook Pharmacy somewhat confusingly question my clients use of the 029E LSOA as a statistical reference point for their application. As the committee will be aware, the proposed site's situation in the heart of the Coventry 029E LSOA is highly relevant. According to the 2019 index of multiple deprivation, the Coventry 029E LSOA is amongst the top 10% most deprived areas in the country. The neighbouring 029C LSOA is also in the top 10% most deprived areas in the country. It is obvious that the proposed site and its surrounding areas are highly deprived; it is well documented that health needs are greater in areas of such high deprivation.

2.240 Bannerbrook pharmacy also make mention on the PNA and lack of identified need within this document. We highlight that an Unforeseen Benefits application is in its very nature, unforeseen, offering improvements or better access to pharmaceutical services not captured within the PNA. At the time of writing of the most recent PNA there was a Boots pharmacy located at the proposed site; its recent closure was unforeseen, hence my client's application.

2.241 Bannerbrook pharmacy purport their delivery service as a suitable replacement for an additional pharmacy. We highlight that free delivery is not in fact an NHS commissioned service and can be withdrawn at any time. As the committee will be aware, pharmaceutical provision is not just limited to dispensing prescriptions but also providing face to face services for those in need. This is especially important with the launch of Pharmacy First, and the NHS strategy for greater services to be conducted within pharmacies to ease pressures on the primary care network. As highlighted above, the journey to Bannerbrook pharmacy is too onerous for the vulnerable to receive these vital services. Granting this application would restore the critical access to pharmaceutical services for residents in Jardine Crescent and the surrounding areas.

2.242 The representation also questions the viability of a pharmacy at the proposed location given the closure of the Boots. We can assure the committee that any pharmacy at the proposed location is more than viable especially when we consider the average dispensing volume of the closed Boots was 9000 items per month. For context, if this pharmacy were located in a remote location, it would not receive PhAS subsidies based on its sizeable dispensing volume. The committee will be aware of a number of perplexing Boots closures across the country where pharmacies that are more than viable have been closed. It is noteworthy that the average pharmacy dispensing volume in England is estimated at 7000 items per month.

2.243 Bannerbrook Pharmacy also question the viability of their operation should an application be granted at the proposed site. Whilst we find this hard to believe given the pharmacy was dispensing 12,500 monthly items prior to the Boots closure, we highlight to the committee that there is no provision in the legislation for such considerations.

2.244 Mount Nod Pharmacy (A&M Pharmacies Ltd)

2.245 We note that Mount Nod Pharmacy is owned and operated by A&M Pharmacies Ltd, who also own and operate Bannerbrook Pharmacy.

2.246 The representations made by Mount Nod Pharmacy are similar to those made by Bannerbrook Pharmacy. We have addressed Mount Nod's concerns in our response to Bannerbrook Pharmacy above.

2.247 We would also like to add that Mount Nod pharmacy is a 1 mile/ 20-minute walk from the proposed site. This journey consists of navigating main roads and steep hills. We do not consider a 1-mile one-way journey across difficult terrain as constituting sufficient access nor reasonable choice to pharmaceutical provision, especially in highly deprived areas. This is especially acute when we consider the lack of car ownership as highlighted in my client's original application. Such an extended journey is difficult for the elderly, disabled, and infirm.

2.248 Conclusion

2.249 In conclusion, granting this application would secure better access and improvements to pharmaceutical services for Jardine Crescent and the surrounding areas.

2.250 The support by MP Taiwo Owatemi, the original application, and our comments, highlight how granting this application will secure improvements and better access to pharmaceutical services.

2.251 There is a need for a pharmacy at the proposed location, especially when we consider the highly deprived nature of the area.

2.252 The elderly, disabled, and the wider population are likely to find the proposed pharmacy significantly more accessible than their current choices. It would also introduce reasonable choice of a different pharmaceutical provider.

2.253 Hence, regulation 18 has been met and this application should be granted."

3 Summary of Representations

After reviewing the appeals and the paperwork provided by the Commissioner, NHS Resolution applied its discretion under Schedule 3, Part 3, paragraph 7 and allowed parties the opportunity to make comments on the Commissioner's site visit report and PSRC minutes and report dated 14 August 2024 [appendix F]. This is a summary of representations received.

3.1 Rushport Advisory LLP on behalf of Chalice Services Ltd

3.1.1 "I act for Chalice Services Limited and provide these comments in respect of the above appeals.

3.1.2 The case for granting an application is a very strong one and the Applicants have all submitted information that demonstrates why a pharmacy is required at Tile Hill. I do not intend to repeat the information already provided in support of my client's case and am instead focussing on why my client's application should be preferred over any other application.

3.1.3 With respect to service provision, each Applicant would provide any service that can be commissioned from them and we say there is nothing to chose [sic] between Applicants on the basis of services.

3.1.4 With respect to property, my client has secured premises at 42 Jardine Crescent, Tile Hill, CV4 9PQ. This property is approximately 150 metres from the entrance to the Tile Hill Primary Care Centre and within the adjoining shopping parade. We attached a copy of the deposit and exclusivity agreement which has been redacted to remove confidential and personal information [appendix G]. Two copies are provided as one is signed by the Seller and the other by the Buyer and exchanged as counterparts to execute the agreement. The agreement does not permit the owner of the property to offer it for sale to any other party until after 30 April 2025.

3.1.5 With respect to opening hours these are copied below for each application.

3.1.6 WELLBEING UNITED KINGDOM LIMITED

3.1.7 Proposed core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9am to 2pm and 3pm to 6pm	9am to 2pm and 3pm to 6pm	9am to 2pm and 3pm to 6pm	9am to 2pm and 3pm to 6pm	9am to 2pm and 3pm to 6pm	CLOSED	CLOSED	40

3.1.8 Total proposed opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9am to 6pm	9am to 6pm	9am to 6pm	9am to 6pm	9am to 6pm	9am to 4pm	CLOSED	52

3.1.9 JT HEALTH LIMITED

3.1.10 Proposed core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total

9am to 1pm and 2pm to 6pm	9am to 1pm and 2pm to 6pm	9am to 1pm and 2pm to 6pm	9am to 1pm and 2pm to 6pm	9am to 1pm and 2pm to 6pm	CLOSED	CLOSED	40

3.1.11 Total proposed opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9am to 6pm	9am to 6pm	9am to 6pm	9am to 6pm	9am to 6pm	9am to 12pm	CLOSED	48

3.1.12 CHALICE SERVICES LIMITED

3.1.13 Proposed core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9am- 1pm and 2pm-6pm	9am- 1pm and 2pm-6pm	9am- 1pm and 2pm-6pm	9am- 1pm and 2pm-6pm	9am- 1pm and 2pm-6pm	9am-12pm		43

3.1.14 Total proposed opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9.00am-6.00pm	9.00am-6.00pm	9.00am-6.00pm	9.00am-6.00pm	9.00am-6.00pm	9.00am-1pm		49

3.1.15 BLUECROSS HEALTH LIMITED

3.1.16 Proposed core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9am to 1pm and 2pm to 6pm	9am to 1pm and 2pm to 6pm	9am to 1pm and 2pm to 6pm	9am to 1pm and 2pm to 6pm	9am to 1pm and 2pm to 6pm	CLOSED	CLOSED	40

3.1.17 Total proposed opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9am to 1pm and 2pm to 6pm	9am to 1pm and 2pm to 6pm	9am to 1pm and 2pm to 6pm	9am to 1pm and 2pm to 6pm	9am to 1pm and 2pm to 6pm	9am to 12pm	CLOSED	43

3.1.18 As the Committee will note, Chalice Services Ltd offers more core hours than any other Applicant. Whilst Wellbeing United Kingdom Limited offer longer supplementary hours, these can be withdrawn by simply giving notice and should therefore not be taken into account.

3.1.19 Given that there is no other reason to prefer any competing application and given that my client has both secured property and offers better core hours than any other Applicant, the application from Chalice Services Limited should be approved and the other applications refused.

3.1.20 Letter from Local MP

3.1.21 I also attach a letter [appendix H] that was sent from the Labour MP for Coventry North West, Taiwo Owatemi to Boots. Mrs Owatemi has been an MP continually since 12 December 2019. She currently holds the Government post of Government Whip, Lord Commissioner of HM Treasury.

3.1.22 The letter sets out patient reactions to the closure of the Boots store and mentions the petition with nearly 1,000 signatures from patients asking Boots to keep the pharmacy open (which they did not).

3.1.23 The Decision of the Commissioner

3.1.24 As the Committee will note from the minutes of the Commissioner's decision in document "Final Adhoc PSRC Minutes" of 14 August 2024, the members of the PSRC were incorrectly advised on the legal test that they were required to apply.

3.1.25 The minutes state (page 2);

3.1.25.1 For clarity an unforeseen benefit needs to demonstrate that the proposed pharmacy would offer an improvement to the current pharmaceutical services with better access and choice with innovative methods of delivering services.

3.1.26 As the Committee will be aware, this is the wrong test and would be significantly more difficult for any Applicant to meet.

3.1.27 Given that the Commissioner's decisions were made after receiving incorrect advice on the legal test and cannot therefore be relied upon and given the extensive evidence now available to the Committee on appeal I ask that my client's application is approved and their appeal allowed and that the remaining appeals are refused for the reasons set out above.

3.1.28 We look forward to hearing from you in due course."

3.2 JT Health Ltd

3.2.1 "JT Health would like to make the following appeal with regards to our application.

3.2.2 We believe granting a pharmacy at the proposed area would significantly improve patients outcomes in the area.

3.2.3 We would like to make the correction with regards to our proposed opening hours. It has been stated by NHS England that our core hours are Mon-Fri for 40 hours. It has been clarified and documentation has been provided to Denise Y Pidd, the Contracts Officer of the Pharmacy & Optometry Primary Care Commissioning Team for the West Midlands.

3.2.4 We have provided the emails and forms submitted clarifying these extended core hours below [appendix I].

3.2.5 Our core hours therefore equate to 43 hours per week including 3 hours opening on a Saturday.

3.2.6 The combination of hours proposed and the services we are willing to offer would mount to the most comprehensive of facilities for patients to access should a pharmacy application be granted.

3.2.7 We are also in discussion with estate agents with regards to potentially securing a property in Jardine Crescent. Should an application be granted we hope to have advanced talks to secure the lease."

3.3 Community Pharmacy Arden (Coventry & Warwickshire)

3.3.1 "Thank you for your letter of 26th September 2024 regarding the above. The LPC has considered this application and wishes to make the following observations:

3.3.2 Relevant regulations:

3.3.3 Unforeseen benefits applications: additional matters to which the NHSCB must have regard [Regulation 18(1), Regulation 18(2)(a) and Regulation 18(2)(b) quoted in full.

3.3.4 We find that the Appeal applications are detailed and well presented. The impact of the closure of the Boots is relatively new at this stage. It was incumbent on the Boots closing to facilitate a smooth transition for their patients, subject to patients' preferences. It would appear, that the closing Boots mainly serves two nearby surgeries and dispense around 8,500+ items per month, according to PharmData.

3.3.5 The 2022 – 2025 Coventry and Warwickshire PNA operates in these appeals, which did not identify any gaps in pharmacy provision in the Coventry area. However, the PNA does state, at page 117, that as many of the community pharmacies in Coventry are located in deprived areas with high population density, they are an important first point of contact for patients seeking ad-hoc health advice alongside picking up regular prescribed medicines or purchasing over the counter medicines.

3.3.6 There is not another pharmacy in the immediate vicinity although Coventry in general is well served by pharmacies. The LPC notes there are four application appeals for the same site and notes they will be considered together.

3.3.7 The LPC has no further comments to make, but we request that we are kept informed and that we have the opportunity to attend any oral hearings should any be arranged. We look forward to hearing from you in due course."

4 Observations

Having reviewed the internal paperwork provided by the Commissioner, it was noted that a supplementary statement was in draft form for comment until 26 July 2024. At the point the applications were circulated, the Commissioner confirmed that there were no live supplementary statements. NHS Resolution requested an update at the end of the period for making representations and was advised that the supplementary statement was live. NHS Resolution applied its discretion under Schedule 3, Part 3, paragraph 7 and allowed all parties to make comments on the supplementary statement dated 3 June 2024 given it makes reference to the closure of Boots pharmacy at 116-118 Jardine Crescent, Coventry CV4 9PP.

4.1 Wellbeing Pharmacy

4.1.1 "Kindly see the attached letter [below] for your attention. Also note that I have already sent the evidence of securing the previous boots site from the estate agent.

4.1.2 We are writing to reaffirm our full support for Wellbeing United Kingdom's pharmacy application in Jardine Crescent, Coventry. I would like to reiterate that there is a desperate need of a pharmacy in this vicinity.

4.1.3 With four applications currently under discussion, we believe there is a clear and urgent need for a pharmacy in this area, and we are confident that Wellbeing United Kingdom is uniquely suited to fulfil this need for the following reasons:

4.1.4 Community-Focused Approach

4.1.5 At Wellbeing United Kingdom, our primary focus is the community and the health needs of the public and patients in Jardine Crescent. Our aim is not solely to operate for profit but to provide a much-needed service. The residents of this area deserve access to a local pharmacy where they can choose where to have their prescriptions dispensed and access essential services. The pharmacies nearest to Jardine Crescent are both owned by Wellbeing United Kingdom-Wellbeing Pharmacy (298 Tile Hill Lane) and Tile Hill Pharmacy. Despite their proximity, patients continue to express a strong preference for a pharmacy within Jardine Crescent itself. I can easily provide statements from patients who are saying that they must walk or take bus to come to Tile Hill Pharmacy to be served. Tile Hill pharmacy could not provide delivery services to them because we are already overbooked with the deliveries.

4.1.6 Increased Prescription Demand

4.1.7 We have observed a notable increase in the number of prescriptions dispensed at our owned pharmacies. Many of our patients have expressed the inconvenience of traveling to Tile Hill Lane, highlighting the need for a local pharmacy in the same location where Boots previously operated. The absence of a pharmacy in Jardine Crescent has been keenly felt by the community.

4.1.8 Deep Understanding of the Area

4.1.9 Wellbeing United Kingdom is already familiar with the local patient base and their specific needs. We have been serving many of the residents from this area through our nearby locations and have developed a deep understanding of their requirements. Our commitment to providing tailored and accessible healthcare services makes us the ideal candidate to operate a new pharmacy in this location. Our knowledge of the area and our established relationship with the community ensure that we are best positioned to meet the demand effectively.

4.1.10 Strategic Location

4.1.11 We have successfully secured the premises previously operated by Boots Pharmacy in Jardine Crescent, ensuring a seamless transition for patients. This location is well-known and easily accessible, which would minimize disruption and quickly restore essential pharmacy services to the community. I have already sent the evidence of our agreement with the agency about the premises.

4.1.12 Wellbeing United Kingdom is ready to begin operations from this site, meeting the healthcare needs of residents efficiently and immediately. The site confirmed by the Chalice Limited Services is currently a pound shop. I live in the area, and I often visit this shop as well. It is in the same parade but not closer the surgery and neither better placed like previous Boots pharmacy was.

4.1.13 As mentioned, the Chalice Services that the supplementary hours can be changed by submission of an application similarly there is a process where core hours can be changed as well. So, I find this point very weak.

4.1.14 Decision:

4.1.15 The decision made by the committee in the appeal was not based on the facts and the reality about what the people of that area feel. As I mentioned earlier, I could gather some statements from patients visiting Tile Hill Pharmacy that they are currently suffering due to the distance. There will be a definite improvement in the current pharmaceuticals services which the patients are getting now once they would not have to take a bus or walk to the nearest pharmacy.

4.1.16 Conclusion

4.1.17 There is a clear and pressing need for a pharmacy in Jardine Crescent, Coventry, which all applicants agree on. After considering the needs of the community, our local knowledge, and our ability to operate from an established, accessible location, we strongly believe that Wellbeing United Kingdom is the most suitable candidate to fulfil this role. Wellbeing United Kingdom is already operating in this area and are familiar with the need of the patients. The transfer of the patients from their current pharmacy to the new site will be internal and easily managed. We remain committed to working with NHS England to ensure that the health and wellbeing of the local population are prioritized.

4.1.18 Thank you for considering our application. We look forward to the opportunity to contribute further to the healthcare services in Jardine Crescent."

4.2 Rushport Advisory LLP on behalf of Chalice Services Ltd

4.2.1 "I act for Chalice Services Limited and provide these final comments in respect of the above appeals.

4.2.2 We note that the LPC does not appear to object to the applications and comments on the lack of availability of a pharmacy in this specific area.

4.2.3 In relation to the comments from JT Health Ltd we note that they now claim to have 3 core hours on a Saturday. We say that these should be ignored for the following reasons;

4.2.3.1 The new hours were not notified to my client who therefore did not have an opportunity to comment on them or amend their own application. The notification of the JT Health Ltd application to my client was made on 19 February 2024 (see attached) [appendix J] and the JT Health Ltd amendment was only made after they had seen my client's application.

4.2.3.2 The 3 new core hours on a Saturday do not have any time specified for them and were therefore not notified in a valid way. The email from the ICB specifically states that the specific time for the core hours and not just the number of core hours.

4.2.3.3 The new core hours appears to have been notified in March 2024 as that is the date on the emails from PHARMARY-WESTMIDLANDS (despite the application being dated November 2023).

4.2.4 However, even if the Committee were to accept these hours then my client's application should still be preferred as my client has a lease over premises and offers 49 total hours versus 48 for JT Health Limited."

4.3 JT Health Limited

4.3.1 "Further to our last communication we would like to update you with regards to the property we have been looking to acquire.

4.3.2 We have submitted a offer to Coventry city council vi Holt Commercial for the lease for a period of 10 years for a unit at 116-120 Jardine Crescent.

4.3.3 We are currently awaiting confirmation from the council if they are happy to proceed."

4.4 Bannerbrook Pharmacy

4.4.1 "Reply to Rushport

4.4.2 **Lack of Direct Relevance to the Applicant's Service Capability:**

4.4.3 The letter from the MP addresses the community's reaction to the closure of a Boots pharmacy, focusing on emotional and practical impacts. However, it does not provide evidence that any particular applicant (such as Chalice Services Ltd, JT Health Ltd, etc.) is equipped to meet these specific needs better than another. The applicant should demonstrate direct advantages in service provision, accessibility, or patient experience - elements the letter does not address.

4.4.4 **Focus on the Past Closure, Not Future Benefits:**

4.4.5 The letter's focus is on community responses to the closure of the Boots pharmacy rather than an objective analysis of how any new applicant could fill this gap with innovative or improved service. This indirect evidence does not prove that the particular application offers an "unforeseen benefit," which requires a clear link to a superior service outcome from the applicant, not simply any new pharmacy.

4.4.6 **No Comparative Analysis with Other Applicants:**

4.4.7 The MP's letter fails to address why Chalice Services Ltd (or any specific applicant) would be uniquely beneficial. For an "unforeseen benefit" application to be successful, it should clearly indicate why the applicant provides specific, measurable improvements over the competition, something that the MP's le.er does not address. Other applicants have not been considered within the context of the letter, and therefore it cannot be used to differentiate any one application.

4.4.8 **Unforeseen Benefit Requirement Misinterpreted:**

4.4.9 The relevant legal standard for an "unforeseen benefit" application emphasises the need for a measurable improvement in service options, access, or service innovation. The letter focuses on general community sentiment but does not provide objective criteria to show that any specific applicant's service would improve pharmaceutical provision in a quantifiable way.

4.4.10 **Potential Bias or Advocacy Not Grounded in Evidence:**

4.4.11 While the MP's concerns reflect community sentiment, they are not grounded in an assessment of the proposed services or capabilities of each applicant. Therefore, this letter could be argued as an advocacy piece rather than substantive evidence for the objective merits required for an "unforeseen benefit" application.

4.4.12 **No Evidence of Improved Access or Innovation:**

4.4.13 The MP's letter does not outline how any applicant plans to innovate or uniquely address the community's needs in a manner not already available. The legal test for "unforeseen benefits" requires concrete examples of how an

applicant would improve patient access or introduce service innovations that distinguish them from existing services or other applicants.

4.4.14 To summarise:

4.4.15 Based on the above points, this le.er should be dismissed as irrelevant to the legal criteria for “unforeseen benefits.” It fails to substantiate that any specific application fulfils the requirement of providing improved or innovative service access that is otherwise unavailable, which is essential to meet the regulatory standard. This letter, therefore, does not provide objective evidence relevant to the core considerations of the appeal process and should be disregarded in assessing the merits of each application.

4.4.16 **Reply to PNA supplement:**

4.4.17 Our Objection and Arguments to the Jardine Crescent applications based on the provided data in PNA supplementary Statement:

4.4.18 **No Proven Gap in Pharmaceutical Services**

4.4.19 The PNA Supplementary Statement dated June 2024 reports the closure of several pharmacies across Coventry and Warwickshire but explicitly states, “It is not anticipated that these closures will result in a significant or detrimental impact on access to pharmaceutical services for our population.” Additionally, maps reflecting pharmacy distribution, drive time, and public transport accessibility suggest that the existing provision of pharmaceutical services is adequate, with no specific gaps in Jardine Crescent or adjacent areas.

4.4.20 This foundational point challenges the need for a new pharmacy in Jardine Crescent, as no unmet demand or “gap in service” has been identified. Introducing additional services in this area could lead to redundancy, divert resources away from areas with higher needs, and potentially disrupt the balance of pharmaceutical provision established by the HWB.

4.4.21 **No Clear Evidence of Enhanced or Unforeseen Benefit**

4.4.22 Under the 2013 NHS Regulations, applications must meet stringent criteria, including the potential to address a specific, demonstrable need or to secure “unforeseen benefits” (Regulation 17 [sic]). However, the PNA and Supplementary Statement do not indicate any unique local need in Jardine Crescent that would be specifically addressed by a new applicant. The applicants have not provided evidence of measurable improvements or service innovations that are not already accessible. Without a compelling case for a unique service or “unforeseen benefit,” granting these applications may not comply with the strict requirements of the PNA process.

4.4.23 **Alignment with the HWB’s Regulatory Duties on Consolidation:**

4.4.24 The Supplementary Statement includes a focus on the HWB’s duty to manage consolidations and prevent service redundancy under Regula)on 26A. Notably, recent consolidations in Coventry were approved with the understanding that they “would not create a gap in the provision of pharmaceutical services.” This precedent supports maintaining service distribution without encouraging over-concentration. Adding a new provider in Jardine Crescent, after ONE plus year on an area not identified as underserved, could violate this principle by creating redundancy rather than addressing new or emerging needs. The HWB is statutorily obligated to avoid approving applications that would upset the strategic balance established through consolidations, ensuring that services meet demand efficiently without excess.

4.4.25 **Impact of Population Projections and Housing Assessments:**

4.4.26 The Housing and Economic Development Needs Assessment (HEDNA) in the Supplementary Statement highlights that the population projections for Coventry have historically been overestimated. Corrected estimates from the 2021 Census indicate slower-than-anticipated growth in the city, further calling into question the necessity for additional pharmaceutical services. The HEDNA's recalibrated data confirms that the growth in housing and population density may not substantiate new pharmacy openings in Jardine Crescent, aligning with the HWB's assessment that current provision is sufficient. Consequently, this demographic insight undermines the rationale for expanding pharmacy services in this area.

4.4.27 **No Support for Expansion into Low-Need Areas:**

4.4.28 The Supplementary Statement and the 2022 PNA categorise pharmaceutical provision by population density and map pharmacy access by drive time and public transport time. These analyses indicate that Jardine Crescent, within the larger Coventry area, is adequately served in terms of pharmacy accessibility. The applicants have not demonstrated that Jardine Crescent experiences higher barriers to pharmaceutical access than other areas, nor that the population density or demand in the area justifies an additional pharmacy. Authorising new services in such areas would set a problematic precedent, diluting resources where higher-need regions could be prioritised, contrary to the HWB's strategic goals.

4.4.29 **Absence of Any Essen8al Service Provision Requirement:**

4.4.30 The Supplementary Statement lists essential services provided by existing pharmacies, such as the Hypertension Case Finding Service (BP), Smoking Cessation Service (SSS), and Community Pharmacist Consultation Service (CPCS), Pharmacy first services. Jardine Crescent residents currently have access to these critical services, with no identified shortfall requiring remedy. The applicants have not evidenced a gap in any essential services that would justify a new pharmacy, nor do they propose unique services not already covered by existing providers. Without a compelling reason for expanding these services, the HWB's regulatory duty to manage efficient, non-redundant service provision counsels against approving the applications.

4.4.31 **Conclusion**

4.4.32 Based on the HWB's PNA, Supplementary Statement, and relevant legal criteria, it is clear that there is no justified need for new pharmacy applications in Jardine Crescent. The HWB's strategic assessment, backed by recent consolidations, population corrections, and service accessibility data, demonstrates that current provision meets local needs without significant gaps. Granting these applications would create redundancy, potentially destabilising the HWB's efforts to balance service provision effectively across Coventry and Warwickshire.

4.4.33 We respectfully submit that the applications should be rejected on these grounds, supporting the HWB's goal of a balanced, demand-responsive pharmaceutical network without unnecessary expansion in areas adequately served.

4.4.34 **Objection letter to JT Health Ltd's appeal:**

4.4.35 We write to formally object to JT Health Ltd's appeal (dated 16 October 2024) for inclusion in the Pharmaceutical list to provide unforeseen benefits within 100 metres of 116-120 Jardine Crescent, Coventry, CV4 9PP.

4.4.36 **Absence of Evidenced Need for Additional Pharmacy Provision:**

4.4.37 The current Pharmaceutical Needs Assessment (PNA) and its Supplementary Statement, updated on 3rd June 2024, do not identify Jardine Crescent or the surrounding area as an underserved region. The PNA found no significant gaps in pharmaceutical services, nor any unmet demand that would warrant new service provision at this location. JT Health's application fails to demonstrate a compelling public need or essential service that is presently unavailable to residents.

4.4.38 **Insufficient Justification of "Unforeseen Benefits":**

4.4.39 Under the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, applications relying on "unforeseen benefits" must show a specific and unique benefit to local patients. JT Health has not provided robust evidence of distinct services or innovations that would significantly enhance patient outcomes beyond what existing providers already offer. Their proposed opening hours, even with the minor extension to 43 hours per week, do not constitute a sufficient unforeseen benefit under the Regulations.

4.4.40 **Over-Saturation and Redundancy Risk:**

4.4.41 Jardine Crescent is currently after BOOTS CLOSED FOR ONE year plus served by a pharmacy network that adequately meets local demand, as confirmed in the PNA. Introducing a new pharmacy in such close proximity to existing providers risks service redundancy and could destabilise the balanced provision across Coventry. The Health and Wellbeing Board's duty includes avoiding unnecessary duplication that diverts resources from areas of genuine need. Adding JT Health would contravene this objective.

4.4.42 **Premature and Speculative Application:**

4.4.43 JT Health indicates only preliminary discussions with estate agents and has yet to secure a confirmed property at Jardine Crescent. This speculative basis for their application raises serious concerns regarding the readiness and commitment required for establishing a stable, long-term service.

4.4.44 **Conclusion:**

4.4.45 For the reasons outlined above, we respectfully urge the Appeals Committee to reject JT Health Ltd's appeal. The application does not align with the strategic objectives of the PNA or the statutory criteria for "unforeseen benefits" and lacks substantive evidence of need, readiness, or unique community value.

4.4.46 **REPLY TO LPC LETTER CPA**

4.4.47 We respectfully submit our objections in response to the letter dated 21 October 2024 from Community Pharmacy Arden, (LPC) addressing applications SHA/26288, SHA/26291, SHA/26313, and SHA/26316 for inclusion in the pharmaceutical list.

4.4.48 **Lack of Adequate Presentation and Justification in Applications:**

4.4.49 Contrary to the LPC's position, we find these appeal applications insufficiently substantiated and inadequately presented to justify inclusion in the

pharmaceutical list under the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. The applications provide limited evidence of true "unforeseen benefits" as required by Regulation 18. There is no compelling demonstration that these applicants would secure genuine improvements or significant new access to pharmaceutical services in Coventry's designated area.

4.4.50 **Counterpoint to Argument at Page 117 of the Coventry and Warwickshire PNA**

4.4.51 While the LPC references Page 117 of the 2022–2025 Pharmaceutical Needs Assessment (PNA) to underscore the role of community pharmacies in deprived areas, it is essential to highlight that the PNA does not identify any specific need or gap in pharmaceutical services for this area of Coventry. The cited page generally describes the importance of pharmacies for patients' ad-hoc health needs but does not imply that an increase in pharmacies in this area is necessary or would meaningfully improve service access.

4.4.52 Moreover, as stated in the NHS Act 2006 and reinforced by the 2013 Regulations, applications citing "unforeseen benefits" must substantiate a unique benefit that significantly enhances current services. None of these applicants has sufficiently demonstrated this requirement in a way that would add value beyond what existing providers offer.

4.4.53 **Absence of Justification for Proximity-Based Inclusion:**

4.4.54 The LPC's assertion that "there is not another pharmacy in the immediate vicinity" is misleading and insufficient grounds for granting new applications.

4.4.55 The 2013 Regulations and the NHS's duty to avoid redundancy (s.129 of the NHS Act 2006) prioritise balanced, strategic provision over proximity alone. Introducing new providers within such a short radius would over-saturate the local network, threatening the viability of existing providers and failing to meet the criteria for promoting "better access."

4.4.56 Additionally, existing pharmacies in Coventry have readily adapted to patient needs via telephone and virtual consultations, satisfying ad-hoc patient enquiries and providing remote healthcare advice. This flexibility in delivery renders proximity less critical, especially given that patients are already within walking distance of multiple pharmacies (previously mapped routes confirm access to over three nearby pharmacies). Approving new providers based solely on limited geographic reach would, therefore, be contrary to principles of sound healthcare planning as outlined in section 13P of the 2006 Act (duty as respects variation in provision of health services).

4.4.57 **Risk of Redundancy and Detriment to Planned Provision:**

4.4.58 Allowing these applications would risk undermining the NHSCB's established pharmaceutical planning. As per Regulation 18(2)(a)(i) and (ii), the NHSCB must consider whether new entries would cause detriment to both local service planning and the stability of existing arrangements. Each of the current providers operates with capacity to meet local demand, making additional providers unnecessary and potentially harmful to service balance in the area.

4.4.59 **Conclusion:**

4.4.60 We therefore urge the Appeals Committee to reject these applications as they do not meet the statutory threshold for unforeseen benefits or improvements under the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. Approval would not only contravene the intentions of the

Coventry PNA but also jeopardise the continuity of coordinated pharmaceutical services in the area.

4.4.61 We respectfully request that the Appeals Committee maintains oversight to ensure a balanced, non-redundant pharmaceutical service network in Coventry.

4.4.62 **Reply to blue cross letter:**

4.4.63 We write to formally object to the appeal submitted by Bluecross Health Ltd dated 17th September 2024, regarding their application to be included in the pharmaceutical list on the basis of offering unforeseen benefits in the Tile Hill area.

4.4.64 **Failure to Address Relevant Regulatory Requirements:**

4.4.65 Bluecross Health Ltd's appeal overlooks the essential requirements under Regulation 18. The legal test requires that an applicant must demonstrate a clear, unforeseen improvement in pharmaceutical services that significantly benefits the Health and Wellbeing Board's (HWB) area. The submission lacks substantive evidence to support this and instead relies on broad assertions without specifics on how their services differ or improve on existing provisions in a way that meets the regulatory threshold.

4.4.66 **Lack of Transparency in Appeal Basis:**

4.4.67 Bluecross Health Ltd claims they were not privy to meeting minutes and thus base their appeal on "very limited information." This admission weakens the foundation of their appeal, as it appears speculative rather than grounded in a full understanding of NHS England's reasoning. A valid appeal should be based on an informed critique of the original decision, rather than assumptions.

4.4.68 **Unsubstantiated Claims of Service Improvement:**

4.4.69 Bluecross Health Ltd's appeal reiterates their original application statements without providing any additional evidence or documentation that their services will indeed meet the unforeseen benefit criterion. Reasserting prior claims without addressing specific deficiencies noted by the NHS only underscores the lack of novel or exceptional benefits their application offers.

4.4.70 **Failure to Differen4ate from Other Applicants:**

4.4.71 In a competitive application setting, it is crucial that Bluecross Health Ltd demonstrate how their proposed services uniquely satisfy the criteria over and above other applicants. The appeal does not provide any comparative analysis or substantiation to suggest that their application should be prioritised over others that might offer more robust improvements or access within the HWB's area.

4.4.72 In light of the above points, we respectfully request that this appeal be dismissed. NHS Resolution must uphold a rigorous standard for what constitutes unforeseen benefits, ensuring that only applications that truly meet the regulatory requirements and demonstrate clear, measurable benefits to the community are approved.

4.4.73 We are writing to formally object to the appeal lodged by Wellbeing United Kingdom Ltd (reference CAS-247534-X7X2G2) regarding the refusal of their application to establish a new pharmacy at 72A Jobs Lane, Coventry, CV4 9EE. We respectfully request that you uphold the initial decision made as the applicant's appeal does not sufficiently demonstrate that the proposed

pharmacy meets the criteria required under NHS regulations for unforeseen benefits, improved access, or enhanced patient choice. We submit the following legal and regulatory points for your consideration in reviewing this appeal.

4.4.74 **Insufficient Evidence of Unforeseen Benefits Under Regulation 18 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013**

4.4.75 Failure to Meet the Requirement of Regulation 18(2)(b): The appeal argues that the closure of Boots Pharmacy at 116-120 Jardine Crescent constitutes an “unforeseen” gap in services. However, Coventry’s Health and Wellbeing Pharmaceutical Needs Assessment (PNA) published in 2022 did not identify a service gap in this locality, suggesting that the area’s pharmaceutical needs remain adequately met even after the Boots closure.

4.4.76 PNA’s Validity and Relevance: The PNA remains the primary reference for assessing local service gaps. The appeal does not provide compelling evidence that this assessment has become outdated or inaccurate, nor does it demonstrate that the Boots closure has created a gap significant enough to justify a new pharmacy. Thus, the appeal fails to meet the criteria for “unforeseen benefits” that would warrant approval.

4.4.77 **Limited Access Improvement and Questionable Choice Enhancement**

4.4.78 Proximity to Existing Pharmacies and Accessibility Considerations: The appeal argues that the closest pharmacy is over 0.5 miles from the proposed site, yet in urban settings, this distance is well within the acceptable threshold of accessibility. NHS guidelines generally regard pharmacies within a 1-mile radius as providing reasonable access, and alternative providers are available nearby.

4.4.79 Public Transport and Accessibility Needs: Although the appeal references public transportation as a barrier, local residents in this area, including vulnerable populations, already rely on public transport to access nearby pharmacies without significant issues. The availability of bus routes every 15 minutes does not substantiate the claim that a new pharmacy is essential for accessibility.

4.4.80 **Existing Reasonable Choice of Pharmaceutical Service Providers**

4.4.81 Reasonable Choice Already Established: The applicant’s argument that patients from the Tile Hill Primary Care Centre face an unreasonable burden is unfounded. Existing pharmacies within a 1-mile radius provide a range of pharmaceutical services, meeting the NHS’s reasonable choice threshold. The availability of these providers ensures that residents have access to necessary pharmaceutical services without undue inconvenience. They have now done this for more than a year without any complaints.

4.4.82 No Evidence of Reduced Choice or Need for New Provider: The appeal suggests that residents lack a “reasonable choice” of providers, but the existing pharmacy network offers adequate access. The absence of a pharmacy directly adjacent to every health centre does not inherently indicate a lack of choice or accessibility, especially in an area with multiple pharmacies in close proximity. We now have EPS service as well as virtual and messaging service available from most Pharmacies.

4.4.83 **No Clear Demonstration of Innovative Service Provision**

4.4.84 Failure to Address Innovation or Unique Services: The appeal does not propose any innovative approaches to service provision that would differentiate

it from existing pharmacies. The general promise of “full and comprehensive pharmaceutical services” is vague and does not indicate any distinct or enhanced service offering. The appeal lacks evidence of unique measures that would add value or improve service quality for residents in a meaningful way.

4.4.85 Lack of Specific Provision for Protected Characteristics Groups: Although the appeal references protected characteristics groups, it fails to outline specific services or accommodations that would address these groups’ unique needs. Existing pharmacies also cater to these populations, and the appeal lacks evidence of targeted measures that would materially improve accessibility or reduce inequalities.

4.4.86 **Conditional Lease Agreement Undermines Application Viability**

4.4.87 Contingent Lease Arrangement with HOLT Company: The applicant’s lease with the HOLT company for the previous Boots location is contingent upon appeal approval, raising concerns about the viability and reliability of their plan. This conditional agreement does not guarantee the consistent and reliable availability of pharmaceutical services, as required by NHS standards, and it weakens the applicant’s commitment to establishing a stable pharmacy presence at the proposed location.

4.4.88 **Conclusion:**

4.4.89 In summary, we believe this appeal does not meet the criteria for unforeseen benefits, improved accessibility, or reasonable choice as defined under Regulation 18 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. The appeal provides speculative claims without substantial evidence that the local area has an unmet need for a new pharmacy. The current network of pharmacies within the area continues to offer adequate access, meeting the needs of the local community effectively.

4.4.90 We respectfully request that the initial decision to refuse this application be upheld and that the appeal be denied. Thank you for your attention to these points, and we welcome the opportunity to attend any oral hearing regarding this matter to provide further clarifica4on if needed.

4.4.91 We are writing to formally object to the appeal application submitted by Wellbeing United Kingdom Ltd (reference CAS-247534-X7X2G2) to open a new pharmacy at 72A Jobs Lane, Coventry, CV4 9EE, on grounds that the proposed pharmacy does not satisfy regulatory requirements for unforeseen benefits, access improvement, or patient choice enhancement in a manner sufficient to warrant approval. We request that you consider the following legal and regulatory points in assessing this objection.

4.4.92 **Failure to Demonstrate Unforeseen Benefits Under Regulation 18 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013**

4.4.93 Regulation 18(2)(b) Requirement Not Met: The applicant has not demonstrated that a significant unforeseen benefit exists that justifies the new pharmacy. While they cite the closure of Boots Pharmacy at 116-120 Jardine Crescent, it is questionable whether this qualifies as an “unforeseen” gap. The Coventry Health and Wellbeing Pharmaceutical Needs Assessment (PNA) in 2022 did not identify any service gap in this area, indicating that the ICB (Integrated Care Board) likely assessed the region’s pharmacy needs thoroughly.

4.4.94 PNA’s Coverage of Current Needs: The applicant argues that a gap now exists solely due to the Boots closure. However, given other pharmacies available within a reasonable distance, this does not sufficiently prove a lack of access

or coverage. The PNA remains valid, suggesting that the ICB's planning does not align with the applicant's interpretation of an "unforeseen" gap.

4.4.95 **Limited Accessibility Improvement and Questionable Choice Enhancement**

4.4.96 Proximity to Other Pharmacies: The applicant claims that the nearest pharmacy is over 0.5 miles from the proposed location. However, according to NHS England's general guidelines, this distance is not unreasonable in urban areas where multiple pharmacies are available within a short travel radius. The PNA would consider a 0.5mile radius to provide adequate access to pharmaceutical services in many similar cases.

4.4.97 Public Transport and Accessibility: The applicant references public transport as a barrier, yet local residents, including vulnerable groups, currently access other pharmacies using similar transport options. A 15-minute bus frequency does not constitute a significant barrier to access, especially in urban settings where pharmacies within a mile are considered reasonably accessible.

4.4.98 **Existing Reasonable Choice and Adequate Pharmaceutical Provision in the Area**

4.4.99 Choice and Accessibility Already Addressed by Nearby Pharmacies for more than one year since the closure of Boots: The applicant's assertion that there is no "reasonable choice" is unsubstantiated. With other pharmacies within 1 mile, residents already have a choice of providers. This meets NHS England's threshold for "reasonable choice" under section 13I of the Natonal Health Service Act 2006, considering that alternative pharmacies provide equivalent services.

4.4.100 Misrepresentation of "Reasonable Choice" Criteria: The applicant's argument that patients from Tile Hill Primary Care Centre would face unreasonable burdens is speculative. The mere inconvenience of walking or taking public transport does not inherently justify an additional pharmacy. NHS policy does not mandate every healthcare centre be paired with an immediately adjacent pharmacy, especially when alternatives are available within walking or short travel distance.

4.4.101 **Questionable Innovation and No Clear Plan to Address Specific Needs**

4.4.102 No Evidence of Unique Service Offering: The application does not propose innovative approaches to service provision, nor does it offer a compelling enhancement in pharmaceutical services. The applicant's commitment to "full and comprehensive pharmaceutical services" is vague and mirrors services already provided by existing pharmacies. Innovation in service delivery would require clear proposals to differentiate the new pharmacy from existing options.

4.4.103 Failure to Address Specific Protected Characteristics: Although the applicant references patients with protected characteristics, their argument lacks specific provisions or targeted services that would benefit these groups uniquely at this new location. The existing pharmacies in the area also serve these populations, and the application fails to show unique measures addressing accessibility, reducing inequalities, or supporting elderly and disabled individuals beyond general statements.

4.4.104 **Conditional Lease Agreement Raises Validity Concerns**

4.4.105 Contingent Lease Arrangement: The applicant's email correspondence indicates that their lease with the HOLT company for the previous Boots location is conditional upon appeal approval. This undermines the reliability of

their business plan and the likelihood of consistent pharmacy services at the proposed location, should approval be granted. The arrangement is tentative and contingent, raising concerns about the applicant's commitment and readiness to provide stable, long-term services.

4.4.106 **Conclusion**

4.4.107 In summary, we believe this application does not meet the criteria for unforeseen benefits or significant improvement in access as per Regulation 18 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. The area remains adequately served, and granting this application would be redundant in light of existing facilities and access options. The application presents speculative and general claims that lack concrete evidence or substantial improvement in pa4ent choice and accessibility.

4.4.108 We respectfully urge you to deny this application, as it does not demonstrate an unforeseen benefit nor does it meaningfully enhance access or choice in pharmaceutical services for the local community.

4.4.109 We appreciate your consideration of these points and request to amend any oral hearing regarding this matter to provide further clarification if necessary."

5 **Further observations**

5.1 Healthcare Plus Ltd on behalf of Bluecross Health Ltd

5.1.1 "Please find attached Heads of Terms for premises [appendix K] that have just been agreed by Bluecross Health in relation to the above applications.

5.1.2 We apologize for the last-minute nature of this documentation; however, the Council were slow to issue Heads of Terms given multiple bids had been received for this property.

5.1.3 We believe that the new documentation may materially change any decision made, and hope the Committee take the attached documentation into consideration.

5.1.4 I understand that the above cases are to be heard tomorrow, so it is of utmost importance that this email is looked as soon as possible."

Letter of 3 December 2024

5.1.5 *"We make the below additional observations on behalf of our client, Bluecross Health Ltd, as additional information has been forthcoming, which we believe will be material to any decision made by the Committee.*

5.1.6 *My client has just received confirmation of premises at 116-120 Jardine Crescent, Coventry,CV4 9PP. We attach these redacted Heads of Terms. We note that the tenant is listed as Shiraz & Sons Limited (05527717). This is a sister pharmacy company to Bluecross Health Ltd. Both companies are controlled by the P family, with Mr AS P being director of both companies and holding significant shareholdings in both companies. Both Limited entities operate under the Crest Pharmacy banner.*

5.1.7 *We highlight that this unit is triple-fronted and the location of the recently closed Boots Pharmacy, so residents are accustomed to accessing this premises for their pharmaceutical needs. The unit is 1685 sq ft in size, enabling my client to furnish it with three consultation rooms to enable better and more efficient uptake of services such as Pharmacy First and Hypertension.*

5.1.8 *The unit is also directly opposite and visible from Tile Hill Primary Care Centre, providing good sign posting for those seeking pharmaceutical services after a visit to the GP. We also note that the Bus Stop is located directly outside this unit, again allowing residents better visibility and accessibility to pharmaceutical services.*

5.1.9 *Addressing the premises stance for the other applicants:*

5.1.10 *Wellbeing United Kingdom Ltd have previously claimed they have secured the premises which my client has agreed Heads of Terms on. Thus, Wellbeing do not have premises to operate out of.*

5.1.11 *JT Health have also previously claimed to be utilising the unit which my client has agreed Heads of Terms on. Thus, JT Health also do not have premises to operate out of.*

5.1.12 *Chalice Pharmacies claim to have secured the unit: 42, Jardine Crescent, Tile Hill, Coventry, CV4 9PQ. We note that they have presented an exclusivity agreement for the sale of the property, however, would point the Committee to Clause 16 in their agreement which states:*

5.1.13 *"Nothing in this Agreement shall of itself give rise to a contract for the transaction nor shall it commit the Sellers or the Buyer to proceed with the Transaction."*

5.1.14 *It is clear that the agreement is non-binding and thus the property is not yet secured. Given, there is currently a business operating out of this unit, Saint Pound Plus, the Committee cannot be confident that a Pharmacy will ever open at this unit given that the current seller may change their mind and back out of any preliminary agreement. By way of contrast, the unit proposed by my client is empty and thus we submit that there is a greater likelihood that this transaction will proceed to completion.*

5.1.15 *We also note that the site proposed by Chalice is located approximately 120 metres away from the old Boots site, the Bus Stop, and Tile Hill Primary Care Centre. Thus, patients may not be inclined to utilise additional pharmaceutical services such as Pharmacy First due to the psychological barrier that this distance may create. Especially when we consider that the location proposed by Chalice is a single-fronted unit nestled away amongst the parade and not easily visible from the Bus Stop and Primary Care Centre. We also note that those groups who share protected characteristics may struggle with the additional 240 metre walk to access pharmacy provision.*

5.1.16 *We submit that my client is in the best position to secure property to open a Pharmacy on the parade. The location, visibility, and unit size ultimately render 116-120 Jardine Crescent the best place to secure pharmaceutical provision for residents of Jardine Crescent, should the Committee decide to grant any application."*

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Annex B

REF: SHA/ 26288

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY WELLBEING PHARMACY FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT 72 JOBS LANE, COVENTRY CV4 9EE

8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU

Tel: 0203 928 2000
Email: nhsr.appeals@nhs.net

1 **The Application**

By application dated 23 August 2023, Wellbeing Pharmacy ("the Applicant") applied to Coventry and Warwickshire ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at 72A Jobs Lane, Coventry CV4 9EE. In support of the application it was stated:

In response to "Please provide the address or best estimate of the proposed premises", the Applicant stated:

1.1 *"72 A Jobs Lane, Coventry CV4 9EE."*

In response to "in my/our view this application should not be refused pursuant to Regulation 31 for the following reasons" the Applicant stated:

1.2 *"N/A."*

In response to "please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area" the Applicant stated:

1.3 *"Please see the attached supporting information."*

In response to "please explain how you intend to secure the unforeseen benefit(s)" the Applicant stated:

1.4 "*"Please see the attached supporting information."*

Supporting information document

1.5 "**Background: {CLOSURE OF BOOTS PHARMACY 116-120 Jardine Crescent CV4 9PP}**

1.6 The proposed site for the application is a house very close to the current shopping parade by the name of Jardine crescent Coventry. The site is very close from Tile Hill Primary Care Centre (Jardine Crescent, Tile Hill, CV4 9PQ). This centre combines three GP practices with additional health and community services.

1.7 One of the surgeries have a patient size list of more than 10,000 patients.

1.8 The other has patient size list of nearly 3000 patients.

1.9 The reason for a fresh pharmacy application is due to the closure of existing Boots Pharmacy in the area which is 250-500 yards away from the health Centre.

1.10 **Existing Pharmacy and Medical Provision:**

1.11 As you can see in the picture attached [Appendix A, page 1 & 2] the closest pharmacy is more than 0.5 miles away from the proposed site. As the area is a council state and the population of this area would be mainly using public transport or walk. Keeping in mind the timing of the buses are 15 minutes apart to the either side of the site. It will be a hassle of the patients to come out of the health centre and travel to these pharmacies to get their provisional pharmaceutical services.

1.12 **Unforeseen Benefits**

1.13 In the current (2022) Coventry Health and Wellbeing Pharmaceutical Needs Assessment there is no specific mention of a gap in pharmaceutical services within the proposed area. However, this PNA does not mention the sudden closure of Boots pharmacy in that locality. To our knowledge, there has not been a relevant supplementary statement issued so we must assume that the authors of the PNA were not aware of plans of this closure when the document was drafted. Therefore, this application is properly made to provide 'unforeseen benefits 'to the local community in accordance with Regulation 18.

1.14 **Information in support of the application**

1.15 We are required by NHS England to address two specific questions in this supporting information:

1.15.1 "Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB area".

1.15.2 "Please explain how you intend to secure the unforeseen benefit(s)."

1.16 When considering these questions, it is worth noting the provisions of Regulation 18(2)(b) as highlighted below: [Applicant quoted 18(2)(b) in full].

1.17 The implication is NHS England does not have to find evidence in respect of all three of these matters. These are simply matters it is required to consider when deciding the application.

1.18 In fact, even if it does not find that any of the three matters discussed in (18)(2)(b) apply, the overarching test is whether granting the application would secure improvements, or better access, to pharmaceutical services in the area of the HWB. In our opinion there is clear evidence that it would.

1.19 We have addressed both questions above by setting out in further details below:

1.20 **Securing better access**

1.21 The most significant factor to take into account when considering this application is the closure of the boots pharmacy. The Health Centre opposite to the proposed site is a substantial busy health centre (number of patient size list mentioned above) which, given the fact will cater for the entire population of Jardine Crescent area and the surrounding postcodes.

1.22 In our opinion, the scale and location of the health centre are such that it is essential to provide a pharmacy on site to ensure that visitors to the medical centre have easy and immediate access to pharmaceutical services following a visit to their GP. For patients who are not visiting the medical centre, it is also important to bear in mind that the

residential area near the proposed site, is the most deprived part of the town as it is council state, so there will be significant benefits for these residents in being able to access a pharmacy without travelling to other pharmacies.

1.23 When considering access to existing pharmacies it is important to take into account the mode of transportation for the public of the area.

1.24 For people who live in this area walking to a pharmacy at present is not a realistic prospect for most. The distance from the proposed site to the nearest pharmacy by the shortest route is more than 0.5 miles. Considering the demographics of the area being a council state not all the residents in the area will be having a car and they would have to use a public transport.

1.25 In contrast the proposed site will be easy to access by car. Furthermore, residents living in the area will be able to access the new site on foot without having to contend with the public transport or car. It is clear that this site will be significantly more accessible for many people.

1.26 The proposed pharmacy will therefore be well situated to ensure that the overall access to pharmaceutical services for residents and visitors is enhanced.

1.27 **Choice of pharmaceutical service provider**

1.28 In considering this application NHS England should have regard to the following question:

1.29 *"Is there reasonable choice with regard to obtaining pharmaceutical services in the area?"*

1.30 Whilst we accept that there is a choice of pharmacy providers in the radius of 1 mile, we believe that a patient visiting the Health Centre who requires pharmaceutical services will not find a journey of more than a half mile to access one is reasonable. That being the case they will not consider that they have a reasonable choice.

1.31 In our view granting this application is necessary to secure a reasonable choice for the residents of and visitors to the area identified.

1.32 By approving this application, it is clear that local residents will benefit by having the choice to access a pharmacy within close proximity to their home and the health centre. At the present time the residents living in this area have the benefit of access to amenities they require during their daily lives but no easy means of then having their medication dispensed or enjoying the health benefits and services a community pharmacy offers once the **boots pharmacy is closed.**

1.33 If this application is approved we will offer the local residents a full and comprehensive pharmaceutical service six days a week ensuring they can access pharmaceutical services when they need them.

1.34 **Patient groups sharing protected characteristics**

1.35 For those people who are elderly, less abled or families with very young children (all of which can be classified as having protected characteristics) access to the existing pharmacies is likely to be more difficult than for those who are more able. This would particularly apply if these people were unable to drive or don't have access to a motor vehicle.

1.36 Granting the application will significantly improve the accessibility of pharmaceutical services for these people.

1.37 **Summary**

1.38 In our view it can be clearly seen that the residents of Jardine crescent and surrounding areas, patients attending the health centre, and those visiting the nearby amenities would benefit greatly from having a modern community pharmacy at this site. This application clearly demonstrates benefits which were unforeseen and not identified when the PNA was published.

1.39 If this application is not granted, the resident population will not have a reasonable choice of provider or enjoy easy access to any existing pharmacy contractors, especially for those who are on foot, are reliant on public transport, elderly, infirm or disabled. There will clearly be a gap in pharmaceutical services in this part of Coventry.

1.40 Finally, we would wish to attend any oral hearing convened by NHS England to consider this application."

Opening hours

1.41 Proposed core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 14:00 15:00 – 18:00	09:00 – 14:00 15:00 – 18:00	09:00 – 14:00 15:00 – 18:00	09:00 – 14:00 15:00 – 18:00	09:00 – 14:00 15:00 – 18:00	Closed	Closed	40

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 18:00	09:00 – 18:00	09:00 – 18:00	09:00 – 18:00	09:00 – 18:00	09:00 – 16:00	Closed	52

1.42 Total proposed opening hours

2 **The Decision**

The Commissioner considered and decided to refuse the application. The decision letter dated 20 August 2024 states:

2.1 "Coventry and Warwickshire ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.

2.2 You have a right of appeal to the Secretary of State against Coventry and Warwickshire ICB's decision. Should you choose to appeal then you should either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:

2.3 Primary Care Appeals
NHS Resolution
8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU."

PSRC Report

2.4 "Wellbeing United Kingdom Ltd.

2.5 Proposed Site: 72A Jobs Lane, Coventry, CV5 9EE.

2.6 Application submitted by Wellbeing United Kingdom Ltd in respect of an Unforeseen Benefit within a HWB area: Coventry and Warwickshire Area.

2.7 The application is refused.

2.8 Regulation 18 (1)a not Satisfied

2.9 The applicant has not demonstrated or set out how their application will secure improvements or better access to pharmaceutical services.

2.10 Regulation 18 (1) not Satisfied

2.11 The Coventry and Warwickshire Pharmaceutical Needs Assessment (PNA) 2022-2025 did not include a need for better access or improvement to pharmaceutical services than those that already exist. No services were identified that are not already provided by that would secure better access or services. The PNA stated that there is sufficient community pharmacy provision across the Coventry area.

2.12 Regulation 18 (2) (a) (i)(ii) not satisfied

2.13 Granting the application would cause significant detriment to the proper planning and provision of pharmaceutical services in the HWB area for the reasons set out in 18(1)(2).

2.14 Regulation 18 (2) b(i) not Satisfied

2.15 The PNA states there is sufficient provision of pharmaceutical services, and no Supplementary Statement has been issued following the closure of Boots in October 2023.

2.16 Regulation18 2 (b) (ii) not Satisfied

2.17 The applicant identified people who share a protected characteristic, i.e. elderly people, people with a disability, parent with young children, prams and buggies who would have to use public transport or walk to the nearest pharmacy. There are excellent bus services and pharmacies within one mile that are open later in the evening and during the weekend than the hour the applicant is proposing. Specifically, Wellbeing Pharmacy, an ex 100-hour pharmacy, open until 09:00 weekdays, Saturday 13:00-16:00 and Sundays 08:00-09:45. Pharmacies within a mile offer collection and delivery services.

2.18 Regulation18 2 (b) (iii) not Satisfied

2.19 The applicant is not proposing to offer any innovative services or services that the existing pharmacies do not already provide.

2.20 The ICB have received no complaints regarding the existing provision of pharmacies and access to them.

2.21 Regulation 19

2.22 In total four applications were received for this Unforeseen Benefit, - Jardine Crescent. Delegated authority was granted under paragraph 22 (3), Schedule 2 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 for them to be considered together.

2.23 Regulation 31: Not applicable

2.24 Regulations 40 to 44: Not applicable

2.25 Regulation 65: Not applicable as refused

2.26 Regulation 66: Not applicable.

2.27 Applicant has the appeal rights.”

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Annex C

REF: SHA/ 26291

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY JT HEALTH LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 WITHIN 100 METRES OF 116-120 JARDINE CRESCENT, COVENTRY, CV4 9PP

NHS Resolution

8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU

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Email: nhsr.appeals@nhs.net

1 **The Application**

By application dated 13 August 2023, JT Health Ltd ("the Applicant") applied to Coventry and Warwickshire ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 within 100 metres of 116-120 Jardine Crescent, Coventry, CV4 9PP. In support of the application it was stated:

In response to "in my/our view this application should not be refused pursuant to Regulation 31 for the following reasons" the Applicant left this box blank.

In response to "please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area" the Applicant stated:

1.1 "In accordance with the NHS (Pharmaceutical Services) Regulations 2013 JT Health Ltd (JTHL) would ask NHS England & NHS Improvement ("NHS England") to take into account the following information when considering this application for inclusion in the pharmaceutical list.

1.2 JTHL believe that, should NHS England grant this application, it will secure improvements in terms of access to pharmaceutical services for the local population and the wider area.

1.3 Background

1.4 This application has been prompted by the announcement of the closure of a Boots pharmacy branch located at 116-120 Jardine Crescent, Tile Hill, Coventry, CV4 9PP.

1.5 Until 03, 2023, Boots Pharmacy operated a pharmacy from the aforementioned premises. This was a well-used pharmacy, dispensing approximately 9000 prescriptions a month to the local population, significantly more than the average pharmacy in England which dispenses approximately 6,600 items per month (source:General Pharmaceutical Services in England 2015/16 - 2020/21 I NHSBSA).

1.6 The Area

1.7 The proposed location for this pharmacy is within a predominantly residential area.

1.8 The Boots pharmacy branch that recently closed was the only pharmacy within the immediate area of Woodside medical centre, Jardine Crescent, Coventry, West Midlands, CV4 9PL and Limbrick wood surgery, Tile Hill Health Centre, Jardine Crescent, Coventry, West Midlands, CV4 9PN.

1.9 There is clear evidence of the extent to which there is a demand for pharmaceutical services in the area based on the dispensing numbers of the pharmacy that closed.

1.10 The average number of prescriptions dispensed per pharmacy per month in England was 6,565, so the pharmacy that closed, which was dispensing 9000 items per month, was significantly busier than the average pharmacy in the country.

1.11 It is relevant that, when considering whether there are any gaps in the provision of pharmaceutical services, that patients will feel this much more acutely when they have had access to a pharmacy which has subsequently closed than if they have never had a pharmacy at all.

1.12 Within the Coventry and Warwickshire Pharmaceutical Needs Assessment, published in 2022, there is no specific mention of a gap in pharmaceutical services within the proposed area. To JTHL's knowledge, no supplementary statement has been published since the anticipated closure of the Boots pharmacy, so JTHL must assume that the authors of the PNA were not aware of plans to close this pharmacy when the document, and any subsequent supplementary statements, were drafted. Therefore this application is made to provide 'unforeseen benefits' to the local community in accordance with Regulation 18.

In response to “please explain how you intend to secure the unforeseen benefit(s)” the Applicant stated:

1.13 “JTHL are required by NHS England to address two specific questions in this supporting information:

1.13.1 "Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB area".

1.13.2 Please explain how you intend to secure the unforeseen benefit(s).

1.14 JTHL have addressed both of the questions above by setting out in further details below:

1.15 Securing better access and choice

1.16 Those without a car will be reliant on either walking a significant distance to a pharmacy or incurring costs to travel by public transport. Patients who are elderly or less mobile, particularly when suffering from acute illness, may find this journey challenging regardless of how they travel.

1.17 The journey from the surgery to the nearest pharmacy would take 16 mins for a fit and able bodied person to walk to with the distance being 0.8 miles. For the elderly this journey would take significantly longer. By car the journey is also 0.8 miles away.

1.18 Clearly the residents of the area where the Applicant proposes to open the pharmacy do not have any choice of provider as there will no longer be any pharmacy contractor here.

1.19 Patients currently will have to travel out of the area to access existing services.

1.20 If this application is approved, the Applicant intends to offer the local residents a full and comprehensive pharmaceutical service six days a week ensuring that local residents can, once more, access pharmaceutical services when they need them.

1.21 Patient groups sharing protected characteristics

1.22 For those people who are elderly, less abled or families with very young children (all of which can be classified as having protected characteristics) access to the existing pharmacies is likely to be more difficult than for those who are more able. This would particularly apply if these people are unable to drive or don't have access to a motor vehicle.

1.23 Granting the application will significantly improve the accessibility of pharmaceutical services for these people.

1.24 The demographics of the area suggest there is an urgent need for pharmaceutical services in the area:

1.24.1 27.4% of the area are registered as disabled compared to 17.3% nationally. This is significantly higher than the national average.

1.24.2 35.2% of households in the area is deprived in at least one dimension.

1.24.3 20% of residents are aged under 15.

1.24.4 15.5% of residents are over 65.

1.24.5 40.8% of households are flats, maisonettes or apartments.

1.24.6 41.1 % of residents are economically inactive.

1.24.7 11.8% of people aged 16 and over have never worked or are long term unemployed.

1.25 The above data would be suggestive of the fact the residents in the area would suffer in their health outcomes should a pharmacy in the area close.

1.26 Summary

1.27 In the Applicant's view it can be clearly seen that the residents of the area and patients attending the medical centre would benefit greatly from having a community pharmacy reinstated at this site. This application clearly demonstrates benefits which were unforeseen and not identified when the PNA was published.

1.28 The resident population would not have a reasonable choice of provider or enjoy easy access to any existing pharmacy contractors, especially for those who are on foot, are reliant on public transport, elderly, infirm or disabled. As mentioned the proportion of the population with these shared characteristics is significantly higher than the general population.

1.29 The Applicant firmly believes if this application is approved it will secure improvements in choice and better access to pharmaceutical services and thus provide significant benefits for the resident population.

1.30 Finally, the Applicant would wish to attend any oral hearing convened by NHS England to consider this application."

Opening hours

1.31 Proposed core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 13:00	09:00 – 13:00	09:00 – 13:00	09:00 – 13:00	09:00 – 13:00	0	Closed	40

14:00 – 18:00	14:00 – 18:00	14:00 – 18:00	14:00 – 18:00	14:00 – 18:00			

1.32 Total proposed opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 13:00 13:00 – 14:00 14:00 – 18:00	09:00 – 13:00 13:00 – 14:00 14:00 – 18:00	09:00 – 13:00 13:00 – 14:00 14:00 – 18:00	09:00 – 13:00 13:00 – 14:00 14:00 – 18:00	09:00 – 13:00 13:00 – 14:00 14:00 – 18:00	09:00 – 12:00	Closed	48

2 **The Decision**

The Commissioner considered and decided to refuse the application. The decision letter dated 17 August 2024 states:

2.1 "Coventry and Warwickshire ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.

2.2 You have a right of appeal to the Secretary of State against Coventry and Warwickshire ICB's decision. Should you choose to appeal then you should either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:

2.3 Primary Care Appeals
NHS Resolution
8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU."

PSRC Report

2.4 "JT Health Ltd

2.5 Proposed Site: Within 100 metres of 116-120 Jardine Cresent, Coventry, CV4 9PP.

2.6 Application submitted by JT Health Ltd in respect of an Unforeseen Benefit within a HWB area: Coventry and Warwickshire Area.

2.7 The application is refused.

2.8 Regulation 18 (1)a not satisfied

2.9 The applicant has not demonstrated or set out how their application will secure improvements or better access to pharmaceutical services.

2.10 Regulation 18 (1)b not satisfied

2.11 The Coventry and Warwickshire Pharmaceutical Needs Assessment (PNA) 2022-2025 did not include a need or a gap that would provide better access to pharmaceutical services. The PNA stated that there is sufficient community pharmacy provision across the Coventry area. No services were identified by the applicant that are not already provided by other pharmacies and would therefore provide better access to services.

2.12 Regulation 18 (2) (a) (i)(ii) not satisfied

2.13 Granting the application would cause significant detriment to the proper planning and provision of pharmaceutical services.

2.14 Regulation18 2 (b) (ii) not satisfied

2.15 The applicant identified people with a protected characteristic who will have to use public transport or walk. There are excellent bus links to the nearest pharmacies. Several pharmacies open later in the evening and weekend that the opening hours the applicant is proposing. The applicant's core hours do not include opening at weekends. All the pharmacies within a mile offer collection and delivery services.

2.16 Regulation18 2 (b) (iii) not satisfied

2.17 The applicant is not proposing to offer any innovative services or services that the existing pharmacies do not already provide.

2.18 The ICB have received no complaints regarding the existing provision of pharmacies and access to them.

2.19 Regulation 19

2.20 In total four applications were received for this Unforeseen Benefit, - Jardine Crescent. Delegated authority was granted under paragraph 22 (3), Schedule 2 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 for them to be considered together.

2.21 Regulation 31: Not applicable.

2.22 Regulations 31, Schedule 2 Not applicable as the application has not been granted.

2.23 Regulations 40 to 44: Not applicable.

2.24 Regulation 65: Not applicable as refused.

2.25 Regulation 66: Not applicable.

2.26 Regulations 40 to 44: Not applicable.

2.27 Regulation 65: Not applicable as refused.

2.28 Regulation 66: Not applicable.

2.29 Applicant has the appeal rights."

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Annex D

REF: SHA/ 26313

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY CHALICE SERVICES LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT JARDINE CRESCENT, SHOPPING PARADE, TILE HILL, COVENTRY, CV4

NHS Resolution

8th Floor
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Tel: 0203 928 2000
Email: nhsr.appeals@nhs.net

1 The Application

By application received 31 October 2023, Chalice Services Ltd ("the Applicant") applied to Coventry and Warwickshire ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Jardine Crescent, Shopping Parade, Tile Hill, Coventry, CV4. In support of the application it was stated:

In response to "in my/our view this application should not be refused pursuant to Regulation 31 for the following reasons" the Applicant stated:

1.1 *"No other pharmacy in same or adjacent premises so not applicable."*

In response to "please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area" the Applicant stated:

1.2 "As the ICB will note, we have made applications for two different locations and we recognise that the ICB is unlikely to grant both, but we believe that one should be granted as it would secure improvements and better access to pharmaceutical services.

1.3 The closure of Boots in Jardine Crescent, in the Tile Hill area of Coventry, has highlighted the very large area that has poor access to pharmaceutical services.

1.4 <u>Specifically in relation to this location we say as follows:</u>

1.5 The area around the proposal site (known as Tile Hill) has seen the planned urban expansion of Bodicote and Banbury over the last 10 years.

1.6 The community infrastructure includes a school, nursery, shops, and community hall.

1.7 The PNA is silent on any need for a pharmacy but was written prior to the closure of Boots Pharmacy and did not foresee the difficulties in access that are present today.

1.8 While there are pharmacies in Coventry, these are a substantial distance away from the local community of the area around the proposal site, who will have difficulties accessing them. They are beyond walking distance, most have limited car parking and public transport services are limited.

1.9 The closest pharmacy to Tile Hill is Tile Hill Lane Pharmacy which is 0.6 miles away and on a busy main road with limited parking which will lead to difficulty in accessing pharmaceutical services from the closest pharmacy.

1.10 There is now a large population that has poor access to pharmaceutical services and we ask that this application is approved."

In response to "please explain how you intend to secure the unforeseen benefit(s)" the Applicant stated:

1.11 "*BY OPENING A PHARMACY AT THE PROPOSED LOCATION*".

Opening hours

1.12 Proposed core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	9:00 – 12:00		43

1.13 Total proposed opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 18:00	09:00 – 18:00	09:00 – 18:00	09:00 – 18:00	09:00 – 18:00	09:00 – 13:00		49

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 22 August 2024 states:

2.1 "Coventry and Warwickshire ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.

2.2 You have a right of appeal to the Secretary of State against Coventry and Warwickshire ICB's decision. Should you choose to appeal then you should either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:

2.3 Primary Care Appeals
NHS Resolution
8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU."

PSRC Report

2.4 "Chalice Services Ltd

2.5 Proposed Site: Jardine Crescent, Shopping Parade, Tile Hill, CV4 9PP.

2.6 Application submitted by Chalice Service Ltd in respect of an Unforeseen Benefit within a HWB area: Coventry Warwickshire Area.

2.7 The application is refused.

2.8 Regulation 18 (1)a not satisfied

2.9 The applicant has not demonstrated or set out how their application will secure improvements or better access and choice to pharmaceutical services in the area.

2.10 Regulation 18 (1)b not satisfied

2.11 The Coventry and Warwickshire Pharmacy Nees Assessment (PNA) 2022-2025 did not include a need for improvement or better access and stated that Coventry was well served by the existing community pharmacies. No services has been identified by the applicant that is not provided by existing pharmacies and or would provide better access or service update.

2.12 Regulation 18 (2) (a) (i)(ii) Not satisfied

2.13 Granting the application would cause significant detriment to the proper planning and provision development of pharmaceutical services in the HWB area.

2.14 Regulation 18 2 (b) (i) not satisfied

2.15 The PNA states there is sufficient provision of pharmaceutical services, and no Supplementary Statement has been issued following the closure of Boots in October 2023.

2.16 Regulation18 2 (b) (ii) not satisfied

2.17 The applicant identified people who share a protected characteristic, who would have to use public transport or walk to the nearest pharmacy. There are excellent bus links to the nearest pharmacies and several pharmacies within one mile are open later in the evening and during the weekend than the applicant is proposing. The applicant applicant's core hours do not include weekends proposes. Pharmacies within a mile offer collection and delivery services.

2.18 Regulation18 2 (b) (iii) not Satisfied

2.19 The applicant is not proposing to offer any innovative services that the existing pharmacies do not already provide.

2.20 The ICB have received no complaints regarding the existing provision of pharmacies and access to them.

2.21 Regulation 19

2.22 In total four applications were received for this Unforeseen Benefit, - Jardine Crescent. Delegated authority was granted under paragraph 22 (3), Schedule 2 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 for them to be considered together.

2.23 Regulation 31: Not applicable.

2.24 Regulations 31, Schedule 2 Not applicable as the application has not been granted.

2.25 Regulations 40 to 44: Not applicable.

2.26 Regulation 65: Not applicable as refused.

2.27 Regulation 66: Not applicable.

2.28 Applicant has the appeal rights."

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Annex E

REF: SHA/ 26316

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB DECISION TO REFUSE AN APPLICATION BY BLUECROSS HEALTH LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 IN THE VICINITY OF JARDINE CRESCENT PARADE OF SHOPS, TILE HILL, COVENTRY, WEST MIDLANDS, CV4 9PP

NHS Resolution

8th Floor
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Canary Wharf
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Email: nhsr.appeals@nhs.net

1 The Application

By application dated 1 August 2023, Healthcare Plus Consulting Ltd, on behalf of Bluecross Health Ltd ("the Applicant") applied to Coventry and Warwickshire ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 in the vicinity of Jardine Crescent Parade Of Shops, Tile Hill, Coventry, West Midlands, CV4 9PP. In support of the application it was stated:

In response to "in my/our view this application should not be refused pursuant to Regulation 31 for the following reasons" the Applicant stated:

1.1 *"N/A."*

In response to "please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area" the Applicant stated:

1.2 "This application is in respect of opening up a new pharmacy in order to provide improved access to services for patients residing in the Coventry 029E Lower-Layer SOA (LSOA/Lower-Layer Super Output Area), within the Coventry Local Authority and Coventry HWB. We intend to commence trading only immediately after the closure of Boots Pharmacy, should this application be granted. This avoids any potential gap in pharmaceutical services arising in this area/LSOA.

1.3 For clarity, we chose to use the Coventry 029E LSOA as our reference for statistics in support of this application instead of the Woodlands ward. This follows the recommendation from ReStore National Centre for Research Methods which is paraphrased and linked below:

1.4 'Lower Layer Super Output Area provides a more concise statistical report as the LSOAs provide a consistently-sized statistical unit, unlike wards, whose population sizes vary widely.'

1.5 Source:https://www.restore.ac.uk/geo-refer/35235denws00y20010000.php#:~:text=Each%20of%20these%20original%20LSOAs,a%20consistently%2Dsized%20statistical%20unit

1.6 We understand that there is only one pharmacy operating within this LSOA, located at: Boots Pharmacy, 116-120 Jardine Crescent, Tile Hill, Coventry, CV4 9PP and this pharmacy is set to close in October 2023 leaving a significant gap in pharmaceutical services for this area and hence this application is offering unforeseen benefits not captured within the PNA.

1.7 The best estimate of the proposed site we wish to open up a new pharmacy is located centrally in the Coventry 029E LSOA along the parade of shops on Jardine Crescent, CV4 9PP. We have chosen this location for a multitude of reasons, most notably including the accessibility by car, public transport and on foot for patients of all ages residing in the surrounding neighbourhood and for patients who are also patients of Limbrick Wood Surgery and Woodside Medical Centre (both GP practices are located in Tile Hill Primary Care Centre).

1.8 Given the current lack of pharmaceutical services available in the surrounding areas, at present, residents of the Coventry 029E LSOA are most likely to be travelling to the pharmacy at Boots Pharmacy, 116-120 Jardine Crescent, Tile Hill, Coventry, CV4 9PP. We have identified that the closure of this pharmacy in October 2023 will have significant implications for patients residing in the Coventry 029E LSOA as the next nearest pharmacy for these patients is Tile Hill Pharmacy, located in a different LSOA as identified by the Office for National Statistics (see the map below [appendix B, page 9] and a further 0.6 miles (absolute distance as stated by NHSE) away from the Boots Pharmacy at 116-120 Jardine Crescent, Tile Hill, Coventry, CV4 9PP.

1.9 As can be seen from the map, the proposed site offers very similar, if not improved accessibility to pharmaceutical services for residents of the Coventry 029E LSOA, given the Boots Pharmacy is closing down. We believe that this new location is particularly important given that 46% of households within the Coventry 029E LSOA have no car or van (source: https://www.nomisweb.co.uk/reports/localarea?compare=E01009702), and the new location is situated relatively centrally within the LSOA, meaning access on foot is viable (and safe given the limited number of busy/main roads in this LSOA and the built up residential area) for the group of patients who do not have access to a car or van.

1.10 It is also worth noting that there is a bus stop which facilitates the bus services 6, 6A, 53, 54, 55 approximately 10 metres outside the proposed site, further improving the accessibility for the group of patients who do not have access to a car or van. We believe the above argument is important to consider given that only 32.2% of households in the Coventry Local Authority have no access to a car or van, i.e. a greater proportion of people residing in this LSOA have no access to a car or van compared to the local authority, which is significant as the next nearest pharmacy (Tile Hill Pharmacy) is a further 0.6 miles (absolute distance according to NHSE) away from the Boots Pharmacy which is set to close- this increase in distance makes accessibility to pharmaceutical services for this patient group unviable.

1.11 It is thus a fair assumption that all residents of the Coventry 029E LSOA require easy access to a pharmacy and given the imminent closure of the only pharmacy within this LSOA we stress the importance for this ease of access to pharmaceutical services be maintained through the opening of a new pharmacy within this LSOA.

1.12 We have particularly chosen the proposed site for the ease of accessibility on foot and by bus as outlined above, however, it is also worth noting that there is ample roadside parking available on the parade of shops. We believe that the proposed location is the best location possible within the Coventry 029E LSOA in order to uphold access to pharmaceutical services for local residents. The nearest pharmacy from the proposed location is Tile Hill Pharmacy which is a 0.8 mile drive away. Thus, should this application be rejected, residents within the Coventry 029E LSOA will have a significant distance to travel to access pharmaceutical services, which we believe is not viable to be completed given the key factors stated in the paragraph above.

1.13 For patients of Limbrick Wood Surgery and Woodside Medical Centre, the proposed location provides no significant detriment to their access of pharmaceutical services. Limbrick Wood Surgery and Woodside Medical Centre are the only GP surgeries within this LSOA and they have a patient list size of 2931 and 10350 respectively (as of April 1 2023). This makes Tile Hill Primary Care Centre one of the largest health centres in the region and thus we believe there is a substantial requirement for a pharmacy in this

area. c79% of items dispensed by the Boots Pharmacy originate from both of these GP surgeries (source: Pharmdata), indicating that many patients of this GP surgery access pharmaceutical services from within this LSOA meaning they will continue to benefit from ease of access to pharmaceutical services from the newly proposed location, should this application be approved. Patients of both GP surgeries would be able to access the newly proposed location via foot given the short distance, however patients who parked elsewhere to access the GP can drive and park in one of the many spaces outside the proposed premises (see source A) [appendix B, page 10]. The absolute distance between Tile Hill Primary Care Centre (where both Limbrick Wood Surgery and Woodside Medical Centre are located) and the newly proposed site is stated on the NHSE website as 0.1 miles.

1.14 Given the short distance it is fair to assume that the majority of patients would walk from the GP surgery to the newly proposed site, this is a pleasant short walk along a wide, well-lit pavement and crosses 1 minor road (see source B) [appendix B, page 11]. As can be seen by source B, the terrain is flat and the parade of shops is well-covered thus accessibility via wheelchair to the proposed site is upheld and the proposed site is not any less significantly accessible for any patient group.

1.15 We strongly believe that the imminent closure of the Boots Pharmacy will leave a significant gap in pharmaceutical services for the Coventry 029E LSOA and surrounding areas and lead to various issues, namely patients struggling to access pharmaceutical services (especially the elderly and patients who do not have access to a car or van). Henceforth, we submit this unforeseen benefits new contract application in the best interests of the local population and aim to uphold and best serve the pharmaceutical services currently available in the area, given the only pharmacy in this LSOA will be closing in October 2023.

1.16 Source A: showing the ample roadside parking (and bus stop) available outside the proposed premises.

1.17 Source B: showing the singular road patients from Limbrick Wood Surgery and Woodside Medical Centre would need to cross to access pharmaceutical services at the proposed site."

In response to "please explain how you intend to secure the unforeseen benefit(s)" the Applicant stated:

1.18 "An increase in local pharmacy capacity and improved choice to meet the needs of the local population.

1.19 Improved physical access to pharmaceutical services given the planned closure of Boots Pharmacy.

1.20 We intend to commence trading only immediately after the closure of Boots Pharmacy, should this application be granted. This avoids any potential gap in pharmaceutical services arising in this area/LSOA."

Opening hours

1.21 Proposed core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00			40

1.22 Total proposed opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	9:00 – 12:00		43

2 **The Decision**

The Commissioner considered and decided to refuse the application. The decision letter dated 20 August 2024 states:

2.1 "Coventry and Warwickshire ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.

2.2 You have a right of appeal to the Secretary of State against Coventry and Warwickshire ICB's decision. Should you choose to appeal then you should either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:

2.3 Primary Care Appeals
NHS Resolution
8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU."

PSRC Report

2.4 "Bluecross Health Limited

2.5 Proposed Site: In the vicinity of Jardine Crescent parade of shops, Tile Hill, Coventry, West Midlands, CV4 9PP.

2.6 Application submitted by Bluecross Health Ltd in respect of an Unforeseen Benefit within a HWB area: Coventry Area.

2.7 The application is refused.

2.8 Regulation 18 (1)a not satisfied

2.9 The applicant has not demonstrated or set out how their application will secure improvements or better access to pharmaceutical services.

2.10 Regulation (1)b [sic] not satisfied

2.11 The Coventry and Warwickshire Pharmaceutical Needs Assessment (PNA) 2022-2025 did not include any statement for the need for improvement or better access and there has been no Supplementary Statement. The PNA stated that there is sufficient community pharmacy provision across the Coventry area and that patients could access by foot, car or public transport pharmacies within a very short period.

2.12 Regulation 18 (2) (a) (i)(ii) not satisfied

2.13 Granting the application would cause significant detriment to the proper planning and provision of pharmaceutical services.

2.14 Regulation 18 2 (b) (i) not Satisfied

2.15 The PNA states there is sufficient provision of pharmaceutical services, and no Supplementary Statement has been issued following the closure of Boots in October 2023.

2.16 Regulation18 2 (b) (ii) not Satisfied

2.17 The applicant identified people who share a protected characteristic, ie elderly people, people with a disability, parent with young children, prams and buggies who would have to use public transport or walk to the nearest pharmacy. There are excellent bus services and pharmacies within one mile that are open later in the evening and during the weekend than the hour the applicant is proposing. Specifically, Wellbeing Pharmacy, an ex 100-hour pharmacy, open until 09:00 weekdays, Saturday 13:00-16:00 and Sundays 08:00-09:45. Pharmacies within a mile offer collection and delivery services.

2.18 Regulation18 2 (b) (iii) not Satisfied

2.19 The applicant is not proposing to offer any innovative services or services that the existing pharmacies do not already provide.

2.20 The ICB have received no complaints regarding the existing provision of pharmacies and access to them.

2.21 Regulation 19

2.22 In total four applications were received for this Unforeseen Benefit, - Jardine Crescent. Delegated authority was granted under paragraph 22 (3), Schedule 2 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 for them to be considered together.

2.23 Regulation 31: Not applicable.

2.24 Regulations 31, Schedule 2 Not applicable as the application has not been granted.

2.25 Regulations 40 to 44: Not applicable.

2.26 Regulation 65: Not applicable as refused.

2.27 Regulation 66: Not applicable.

2.28 Applicant has appeal rights."

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