19 February 2025

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REF: SHA/26381

APPEAL AGAINST WEST YORKSHIRE ICB'S DECISION TO REFUSE AN APPLICATION BY LEEDS DEVELOPERS LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT 1 MOSELEY PLACE, LEEDS, LS6 2RY

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 should be refused.

A copy of this decision is being sent to:
Leeds Developers Ltd
PCSE on behalf of West Yorkshire ICB
Community Pharmacy West Yorkshire
Boots UK Ltd

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1 The Application

By application dated 21 February 2024, Leeds Developers Ltd ("the Applicant") applied to the West Yorkshire ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at 1 Moseley Place, Leeds LS6 2RY. In support of the application it was stated:

1.1 In part 5 of the Application form (reference to Regulation 31) the Applicant stated:

1.1.1 "Our proposed site is not in close proximity to another pharmacy or dispensing appliance contractor premises."

Information in support of the application

1.2 "This application is made for inclusion in the pharmaceutical list for premises at 1 Moseley Place, Leeds, LS6 2RY. The proposed premises are located to the north of Leeds city centre in the Woodhouse area of Leeds.

1.3 The proposed location contains a mixed population of students attending the nearby Leeds University and High School and lower income households living in social housing, rented accommodation and lower cost privately-owned houses. In fact, the area has the highest levels of deprivation in Leeds and the second lowest incomes in the city.

1.4 In light of the relatively high levels of deprivation and high student population, the local area has specific health needs and relatively high demand for healthcare services. It also has lower levels of mobility compared to other areas of Leeds; for example low levels of car ownership and lower incomes meaning that residents are less likely to be able to afford public transport (buses and taxis).

1.5 In relation to the premises specified in this application, until recently the premises were operated as a pharmacy by Boots. However, Boots recently closed the pharmacy, leaving a gap in service provision.

1.6 The premises are located adjacent to a student halls of residents on one side and the Craven Road Medical Practice on the other. The Craven Road Medical Practice prescribes an average of around 22,500 items per month over its 3 sites making it a significant focus for demand for pharmaceutical services in the area.

1.7 As stated above, the closure of the Boots pharmacy at the proposed site has left a gap in the provision of pharmaceutical services in relation to both physical access and the provision of pharmaceutical services.

1.8 The nearest pharmacy (Pharmacy Plus Health on Woodhouse Lane) is located approximately half a mile from the proposed location and is across the busy A660 to the south of Woodhouse.

1.9 Pharmacy Plus Health pharmacy also has very limited opening hours, being open only from 9am to 5pm Monday to Friday. These limited opening hours mean that there is no service provision in the early evenings or at weekends. This is particularly significant because the Craven Road Medical Practice (at its location adjacent to our proposed site) is open from 8am to 7pm Monday to Friday. There are therefore 3 hours each day from Monday to Friday when the Medical Practice is open but the nearest pharmacy is closed. Any patients who access the Medical Practice between approximately 4.45pm and 7pm each evening from Monday to Friday would not be able to access pharmaceutical services from the Pharmacy Plus Health Pharmacy on Woodhouse Lane until the next day (or a Monday if their appointment was on a Friday).

1.10 A similar issue arises in relation to the next-nearest pharmacy – Pharmacy Plus Health Oatland. This pharmacy is located 1.2km away from the proposed location but only opens from 9am to 6pm Monday to Friday and, again, is closed on Saturday.

1.11 In fact, the nearest pharmacy that is open later in the evenings and on weekends is Shifa Pharmacy, which is over a mile from the proposed site and across the A61, a main dual carriageway with few crossing points which represents a significant barrier to access.

1.12 Having regard to the above, granting our application would secure the following unforeseen benefits.

1.12.1 **Improved Access for Patients**: By situating the new pharmacy next to the GP surgery, patients can conveniently access pharmaceutical services immediately after their medical appointments. This proximity reduces barriers to obtaining prescriptions and medical advice, especially for patients with mobility issues or those needing urgent medication.

1.12.2 **Enhanced Healthcare Services**: The proposed pharmacy aims to provide a range of services similar to the Boots pharmacy that has now closed down, including the Community Pharmacist Consultation Service (CPCS) and New Medicine Service (NMS). Additionally, the commitment to engage in locally commissioned advanced and enhanced services indicates a proactive approach to address specific healthcare needs within the community, potentially leading to improved health outcomes. If we were successful in obtaining an NHS contract, we would work with the local health board to provide ALL locally commissioned NHS services.

1.12.3 **Benefit to Local School and Community**: The proximity of the pharmacy to West Oaks High School, combined with its central location in Woodhouse Estate, ensures that essential pharmaceutical services are easily accessible to students, families, and other residents. This is particularly crucial in an area characterized by high levels of deprivation and poor health, where access to healthcare resources can significantly impact overall well-being.

1.12.4 **Mitigation of Accessibility Challenges**: With the closure of the Boots pharmacy, residents would face significant challenges accessing pharmaceutical services, particularly those reliant on public transportation or with limited mobility. The proposed pharmacy's extended opening hours, coupled with its strategic location, mitigate these challenges by providing a nearby alternative that is easily reachable on foot for a significant portion of the community.

1.12.5 **Addressing Deprivation and Health Inequality**: Woodhouse Estate's designation as one of the top five most deprived areas in Leeds underscores the importance of maintaining accessible healthcare services. The proposed pharmacy contributes to addressing health inequality by ensuring that essential pharmaceutical resources are available within the community, regardless of socio-economic status or access to private transportation.

1.12.6 **Community Profile:** Woodhouse Estate is emblematic of a community facing economic challenges, characterized by low car ownership (35%) and ranking among the 11 poorest areas in Leeds. With the third lowest average household income in the city, residents grapple with significant socio-economic barriers.

1.12.7 **Comparison with Closest Pharmacy:** The existing alternative, Woodhouse Lane Pharmacy, operates within limited hours from Monday to Friday, 9 am to 5 pm, offering no weekend services. This restricts accessibility for residents, particularly those employed during typical pharmacy hours.

1.12.8 **Extended Opening Hours:** Recognizing this gap, the proposed pharmacy pledges extended hours, aligning with the medical practice's schedule. Operating Monday to Friday from 8 am to 7 pm, and Saturdays from 9 am to 12 pm, totalling 58 hours per week, these hours are enshrined as core opening hours, emphasizing our unwavering commitment to consistent accessibility and service provision for the community.

1.12.9 **Property Ownership and Familiarity:** The proposed pharmacy will be housed within a property already under our ownership, ensuring stability and familiarity for residents. Given the community's existing association with the location as a pharmacy, transitioning services will be seamless.

1.12.10 **Proximity and Accessibility:** Situated adjacent to student accommodations and the Craven Road Medical Centre, the pharmacy enjoys strategic proximity. This facilitates ease of access for both residents and patients seeking pharmaceutical services. The attached image underscores the advantageous location of the proposed pharmacy in relation to the medical practice.

1.12.11 **Impact of Boots Closure:** The closure of Boots the Chemist on February 17, 2024, compounds existing accessibility challenges. Residents will be left with few alternatives, each presenting significant hurdles, including navigating busy road junctions and unlit pathways, posing safety risks, especially for vulnerable groups.

1.12.12 **Addressing Accessibility Concerns:** Recognizing these challenges, the proposed pharmacy emerges as a beacon of accessible healthcare. By providing extended hours and a safe, familiar location, it ensures residents can access essential pharmaceutical services without compromise.

1.13 In essence, the proposed pharmacy embodies a holistic response to the evolving healthcare needs of Woodhouse Estate, ensuring equitable access, continuity of service, and a steadfast commitment to community well-being. In summary, the establishment of this pharmacy adjacent to Craven Road Medical Centre offers unforeseen benefits that not only secure improvements in pharmaceutical access but also address broader healthcare needs within Woodhouse Estate. Through strategic location, extended hours, and commitment to enhanced services, the initiative aims to mitigate the impact of the closure of the existing Boots pharmacy and ensure equitable access to vital healthcare resources for all residents.

1.14 The Applicant intends to provide the following services:

1.14.1 Essential services

1.14.2 Advanced and Enhanced services:

1.14.2.1 NMS;

1.14.2.2 Community Pharmacy Seasonal Influenza Vaccination;

1.14.2.3 CPCS;

1.14.2.4 Hypertension Case Finding Service;

1.14.2.5 Smoking Cessation;

1.14.2.6 Care Home Service;

1.14.2.7 Disease specific medicines management service;

1.14.2.8 Gluten free food supply service;

1.14.2.9 Independent prescribing;

1.14.2.10 Home delivery service;

1.14.2.11 Language access service;

1.14.2.12 Medicines assessment and compliance support service;

1.14.2.13 Minor ailment scheme;

1.14.2.14 On demand availability of special drugs service;

1.14.2.15 Patient group direction service.

1.14.2.16 Supervised administration service

1.14.2.17 NHS pharmacy contraception service

1.14.2.18 Pharmacy first service.

1.15 The Applicant's proposed core opening hours are:

1.15.1 Mon to Fri – 09.00 to 17.00

1.15.2 Sat -

1.15.3 Sun -

1.16 Additional core Hours:

1.17 Please note that core hours are 40. But will also open for additional core hours Monday to Friday 8:00am – 9:00am and 17:00pm – 19:00pm, and Saturday 9am – 12noon. The core and additional core hours add up to 58hrs.

1.18 The Applicant proposed total opening hours are:

1.18.1 Mon to Fri - 08.00 to 19.00

1.18.2 Sat- 09.00 to 12.00

1.18.3 Sun -“

2 **The Decision**

The Commissioner considered and decided to refuse the application. The decision letter dated 11 October 2024 states:

Covering letter

2.1 “West Yorkshire 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 West Yorkshire 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:

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

Decision report

[Any reference to ‘Committee’ in this section is not to be confused with the Pharmacy Appeals Committee of NHS Resolution]

2.3 **“RE: Application for inclusion in the pharmaceutical list – Unforeseen Benefits – Leeds Developers Ltd for premises at 1 Moseley Place, Leeds, LS6 2RY**

2.4 The Pharmaceutical Services Regulations Committee (hereafter referred to as “the Committee”) considers all pharmaceutical services applications on behalf of NHS England & NHS Improvement (West Yorkshire ICB (Integrated Care Board)) in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as “the Regulations”).

2.5 The Committee considered the above application, and I am writing to confirm that it has been refused.

2.6 The Committee noted that the area to which the application relates is a non-controlled locality and that the applicant proposes to open a pharmacy at 1 Moseley Place, Leeds, LS6 2RY stating that it will secure improvements in terms of both access to pharmacy services for the local population and the range of services following the closure of Boots Pharmacy on 17th of February 2024.

2.7 The Committee noted that the applicant was offering 40 core hours plus additional 18 core hours, and that if the application was granted, a direction would need to be issued for the ‘additional core’ hours, as per Regulation 65.

2.8 They also noted all the detail and reasoning provided within the application form – that the proposed location contains a mixed population of students, lower income

households living in social housing, rented accommodation and lower cost privately-owned houses – with the highest levels of deprivation in the Leeds and the second lowest incomes in the city. That this application was to premises that were previously operated by a Boots pharmacy and the applicant felt it left a gap in the provision of pharmaceutical services in both physical access and the provision of pharmaceutical services.

2.9 Regulation 31 does not apply as there is no pharmacy at the same or adjacent premises.

2.10 The Committee had regard to the nearest pharmacies with details of opening times and services offered at each pharmacy. The Committee were asked to consider the impact of the Boots closure in terms of remaining choice, and it was agreed there remains adequate choice within the area – with 10 pharmacies listed within 1 mile of the proposed premises, with the nearest pharmacy with weekend hours as Shifa Pharmacy – which is 0.6miles from the proposed location (according to NHS.UK) It was noted however that Google Maps shows this journey, on foot, to be 21mins walk/0.9miles. Consideration [sic] to the local GP practices were also noted.

2.11 The Committee noted the 2022-2025 Leeds PNA was published on 1st October 2022 and noted the specific information relating to this particular locality. Members were clear that the HWB had not issued any supplementary statements and that the current PNA details on pages 247-249 that there are,

2.11.1 no current gaps in the provision of essential services during normal working hours have been identified in any of the localities.

2.11.2 no current gaps in the provision of essential services outside normal working hours have been identified in any of the localities.

2.11.3 no current gaps in the provision of advanced services have been identified in any of the localities.

2.11.4 no gaps in the need for the necessary services in specified future circumstances have been identified in any of the localities.

2.11.5 no gaps in the current provision of other relevant services (defined as Appliance Use Reviews, Stoma Appliance Customisation, the Community Pharmacy Hepatitis C antibody testing service and enhanced services) or in specified future circumstances have been identified in any of the localities.

2.11.6 no gaps have been identified in essential services, advanced services, or enhanced services that if provided either now or in the future would secure improvements, or better access, to essential services in any of the localities.

2.12 Representations from Allied Pharmacies, Boots, CPWY (Community Pharmacy West Yorkshire) and Well Pharmacy were considered, and it was noted that there was no support for this application. Counter-comments from the applicant were also noted.

2.13 It was agreed that the applicant has not provided any innovative approaches or alternative ways of delivering services other than those already offered by nearby pharmacies, nor had the applicant included evidence to determine how they would improve pharmaceutical provision for those with protected characteristics.

2.14 Whilst the applicant is offering additional hours, there is existing provision on weekends nearby, and it has not been demonstrated that there is any shortfall of any provision.

2.15 The Committee refused the application for an unforeseen benefit in accordance that it does not meet the criteria of Regulation 18.

2.16 **Appeal rights** are granted to the applicant only."

3 The Appeal

In a letter dated 4 November 2024 addressed to NHS Resolution, the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

3.1 "I am writing on behalf of Leeds Developers Limited to formally appeal the recent decision by West Yorkshire ICB to reject our application to open a pharmacy at 1 Moseley Place, Leeds. This letter presents a structured response addressing the grounds for refusal, the unmet healthcare needs of the local population, and the limitations of the Pharmaceutical Needs Assessment (PNA) used in the decision-making process. Given the significant local demand for a pharmacy, I believe the decision was misguided and request a reconsideration or an in-person hearing to allow the community's voice to be heard directly.

3.2 **Analysis of Refusal Grounds**

3.3 The Committee's primary reason for refusal-that there is "adequate choice" of pharmacies within the area-overlooks the real-world accessibility challenges faced by patients. While it is noted that the nearest pharmacy is approximately 0.9 miles away, this distance presents a substantial barrier for patients who are elderly, immobile, or in immediate need of medication. The scenario below illustrates the practical hardship this poses.

3.4 Imagine a patient visiting Craven Road Medical Practice and receiving an urgent prescription for antibiotics, pain relief, or a change in essential medication. After being advised by their doctor to start the medication immediately, this patient- potentially elderly, a single parent, or simply someone without a car-must now undertake a round-trip journey of nearly an hour. For someone ill, this trip includes approximately 20-21 minutes each way by foot, with additional time waiting to have the prescription filled. The physical burden and delays involved in accessing medication under these circumstances compromise patient care and convenience.

3.5 Expecting patients to navigate these obstacles, especially when unwell, is neither practical nor compassionate. The absence of a pharmacy adjacent to Craven Road Medical Practice imposes undue hardship on the very population this decision should aim to serve.

3.6 **Limitations of the 2022 Pharmaceutical Needs Assessment (PNA)**

3.7 The Committee's reliance on the 2022 PNA, which concluded no gaps in pharmaceutical services, raises concerns. The document fails to reflect current circumstances, such as the closure of a local Boots pharmacy in February 2024 and the increased reliance on pharmacy services due to new programs like Pharmacy First. Relying on an outdated PNA without direct engagement with the local community disregards the immediate healthcare needs of the residents. Has there been any assessment post-Boots closure, or was the community engaged to reassess their pharmacy needs following this change?

3.8 Further, when making the decision on 11 October 2024, I question whether the Committee gathered any direct input from local residents, elected officials, or healthcare providers. I suspect not, and I urge that this be remedied, as it is the responsibility of NHS England to ensure decisions align with the current needs of the population, not just historical data.

3.9 **Stakeholder Endorsements and Community Support**

3.10 Support for this application is evidenced by extensive community feedback and endorsements from key stakeholders. In a recent survey, 293 responses (a notable 73% response rate) from local residents indicated strong support for a pharmacy at this location. Of those respondents, 98% expressed a clear need for this service, citing personal challenges in accessing existing pharmacies due to distance, mobility limitations, and inconvenience.

3.11 Furthermore, we have secured letters of support from local leaders and institutions, including:

3.11.1 Councillor [redacted], who notes the detrimental impact of the pharmacy gap on elderly residents.

3.11.2 Craven Medical Practice**, which advocates for the convenience and necessity of an adjacent pharmacy.

3.11.3 The Director of the Local Mosque**, who emphasizes the health benefits of providing convenient access to medications for the community.

3.12 Copies of these letters have been attached for your reference.

3.13 **Responses to Committee Comments on Local Contractor Support and Innovative Approaches**

3.14 The Committee noted that local pharmacy contractors have not supported this application. As a pharmacist with over 26 years of experience, I can confidently say that such resistance is typical in the industry; existing contractors rarely, if ever, support new pharmacy applications due to the competitive implications. Expecting local contractors to welcome a new provider into their service area is unrealistic and should not factor into the evaluation of unmet needs within the community.

3.15 The Committee further concluded that this application does not demonstrate any "innovative approaches" to delivering services. My intent is not to propose novel or experimental services but to address an urgent and concrete need within the community. The primary objective of this application is to meet the fundamental pharmaceutical needs of the local population by providing essential, accessible services, particularly for vulnerable groups who face substantial challenges in accessing distant pharmacies.

3.16 This pharmacy, while traditional in its service offerings, would play a critical role in ensuring comprehensive and convenient pharmaceutical care for residents, especially benefiting elderly patients who often face the greatest difficulties in traveling long distances for essential medications and healthcare services.

3.17 **Evidence of Community Hardship Due to lack of local Pharmacy Access**

3.18 To gauge the community's need for a local pharmacy, we conducted an extensive survey, sending 400 letters to residents in the area. Of these, 293 responses were received - a 73% response rate, which is exceptionally high given that response rates typically range from 5% to 30% for similar surveys. Out of the 293 respondents, 287 expressed a clear need for a pharmacy at this location, with only 6 respondents giving neutral feedback. This overwhelming support translates to 97.9% of respondents advocating for the reopening of a local pharmacy to meet their healthcare needs.

3.19 To illustrate the genuine impact and urgency felt by residents, I am attaching 293 responses. Below are key excerpts from some of these testimonials, underscoring the daily challenges faced by individuals due to the lack of convenient pharmacy access.

3.19.1 Ms. ##: "I find it very difficult to get my medication and have to rely on family and friends to collect my medication."

3.19.2 Mr. ## "Yes, I need a pharmacy in my locality because of my age and ongoing medical issues; I find it difficult to travel to get the medications I need.'"

3.19.3 Mr. ##: "It's not just me and my family who need a chemist, but a lot of elderly customers."

3.19.4 Ms. ##: "My legs hurt to walk to a pharmacy. I need a pharmacy near Craven Road Medical Practice."

3.19.5 Ms. ##: "All GP surgeries should have a pharmacy within walking distance. If you are ill, you don't need to be waiting for buses to go for your prescription."

3.19.6 Mr. ##: "I really hope that the pharmacy reopens. It will benefit the community."

3.19.7 ##: "Yes, there is a demand for all ages. especially the old and infirm. We need a chemist in this area."

3.19.8 ##: "The pharmacy next to Craven Road Medical Practice was really useful and helpful. I will be delighted with a new one."

3.19.9 ##: "Please reopen the pharmacy soon."

3.19.10 ##: "The pharmacy next to Craven Road is crucial for the Woodhouse residents, particularly the elderly."

3.19.11 ##: "I think the pharmacy was important for me and my family, but vital for many of my elderly neighbors [sic]. I was very disappointed to see it closed."

3.19.12 ##: "It was close to the GP and the only handy pharmacy for us and others in this area, many of whom do not have cars.

3.19.13 Mr.##: "Very beneficial to the community."

3.19.14 ##: "This area requires a local pharmacy, especially when considering the elderly and disabled."

3.19.15 ##:" I get my medication monthly, but if you have to go to the doctor. you then have to go out and look for a chemist."

3.19.16 ##: "Please reopen, we need it back 100%."

3.19.17 ##: "In urgent need of a local pharmacy."

3.19.18 ##: "There is no pharmacy in the local area. and it is greatly missed, especially for the elderly and those with mobility problems."

3.19.19 ##: "This area needs a pharmacy as there are a lot of older people who live around here."

3.19.20 ##: "It would be very helpful for older people as they wouldn't need to travel, and it would save me from going all the way into town for my medication."

3.20 These testimonials, along with the additional responses, clearly demonstrate the community's strong support and highlight the substantial challenges residents face without a nearby pharmacy. The responses overwhelmingly indicate a critical need for accessible pharmaceutical services, particularly for elderly residents who are most affected by the lack of local options. This population, often limited in mobility, requires a nearby pharmacy to meet their essential healthcare needs, making the case for a pharmacy at this location both urgent and compelling.

3.21 **Requests and Recommendations**

3.22 It is my firm belief that decisions impacting local healthcare should be grounded in current conditions and direct community engagement rather than outdated assessments. Accordingly, I respectfully request that the Committee either:

3.22.1 Reconsider this application based on the overwhelming evidence of community need and support, or

3.22.2 Convene a local hearing to allow community members, local leaders, and healthcare providers the opportunity to communicate the need for a pharmacy in this area directly.

3.23 In conclusion, granting a pharmacy contract at this location would provide essential services to the community particularly for vulnerable groups such as elderly residents who rely on accessible healthcare resources. The high level of community support, coupled with endorsements from respected local stakeholders, underscores the urgent need for immediate pharmaceutical access adjacent to Craven Road Medical Practice. Elderly residents, who often experience mobility challenges and rely heavily on nearby healthcare services, would especially benefit from a local pharmacy, as they are disproportionately affected by the lack of accessible options.

3.24 A pharmacy at this location, open 58 hours a week to mirror the surgery's hours with additional Saturday opening hours would be a vital resource for the community, ensuring that patients have convenient access to medications when they need them. The letters of support from local residents clearly identify specific patient groups, particularly the elderly, who face significant challenges in accessing pharmacy services further away. Establishing this pharmacy would address these documented difficulties, filling a critical gap in local healthcare access and significantly enhancing the well-being of this community.

3.25 Thank you for your time and consideration of this appeal."

4 Summary of Representations

This is a summary of representations received on the appeal.

4.1 The Commissioner

4.1.1 "Thank you for sharing representations received in response to this appeal. We would like to take this opportunity to make observations on the grounds for this appeal.

4.1.2 West Yorkshire ICB refused the application offering an unforeseen benefit on the grounds that the applicant had not met the requirements set out in Regulation 18 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.

4.1.3 As per the minutes of the PSRC held 25 September 2024, the committee considered the application in full, alongside all representations before its determination (refusal) - as outlined in the decision letter.

4.1.4 Having noted the information provided within this appeal, I shall continue to respond in relation to each point made by the appellant.

4.1.5 The appellant suggests the primary reason for refusal was made on the basis that there is 'adequate choice'. There were several factors that led the Committee to its' determination to refuse this application, including a review of the 'perceived' gap following the closure of the Boots Pharmacy at this site, in October 2023, a review of the PNA, representations from parties consulted and overall, the Committee assessed all areas and in addition felt there were no innovative approaches or alternative ways of delivering services other than those already on offer. The application also lacked detail of how they would improve pharmaceutical provision for those with protected characteristics. This is all detailed within the Committee report, the minutes, and the decision letter.

4.1.6 The appellant is incorrect when stating, within his letter of appeal, that the nearest pharmacy is 0.9miles away from Craven Road Medical Practice. Google maps records the distance as 0.5miles on foot (approximately an 11-minute walk) from the Craven Road Medical Practice. This is almost half the distance as noted in the letter of appeal. Existing local pharmaceutical services were given due consideration by the Committee, and these can be noted from the paperwork provided – specifically Annexes E-H and was up-to-date and accurate at the time of the PSRC Meeting, in September 2024.

4.1.7 The PNA was considered as part of the decision-making process also. When referring to direct input from local residents and community support, the consultation process included the Leeds HWB, Leeds Healthwatch and also the Leeds LMC (See Appendix B in the PSRC Committee report papers). None of whom provided representations.

4.1.8 The decision on this application was made Wednesday 25th September 2024, not 11th October 2024.

4.1.9 In response to local contractor support, and amongst other things, the committee does consider these responses to also gauge if there is any need for support identified. None of the local contractors reported that the closure of the Boots Pharmacy on 18th October 2023, almost one year since, had caused any implications or concerns on their services. Nor had there been any known patient complaints about the lack of pharmaceutical provision in the area, before or after the Boots closure.

4.1.10 It is noted that Craven Road Medical Practice's letter provided within this appeal, dated 11th November 2024, refers to the closure of a further pharmacy in January 2025. For clarity, the closure notification for that pharmacy was not received by PCSE, and therefore the ICB, until 8th October 2024.

4.1.11 Based on the original application and information provided at the time West Yorkshire ICB is still satisfied that the correct decision was reached in relation to this application and would therefore ask that the appeal be dismissed."

4.2 **Community Pharmacy West Yorkshire**

4.2.1 "Thank you for your letter dated 21st November 2024 concerning the above application.

4.2.2 Community Pharmacy West Yorkshire members still feel that their comments made in their letter to [PCSE] on 30th April 2024 are valid. These were as follows.

4.2.3 *Members noted that this was an application for "unforeseen benefits" and fell to be considered under the provisions of Regulation 18 of the National Health Service (Pharmaceutical Services) Regulation 2013.*

4.2.4 ***CPWY members made the following observations:***

4.2.5 *Leeds PNA (2022-2025) states, when making conclusions the PNA "there is appropriate provision of pharmaceutical services in Leeds." And "Throughout this PNA the provision of pharmaceutical services across Leeds has been considered in conjunction with the demography whether the current provision meets the needs of the Leeds population, both as a whole and at a locality level, and whether there are any potential gaps in pharmaceutical service provision either now or within the lifetime of the document."*

4.2.6 *Leeds Health and Wellbeing Boards substantial work when developing the 2022 PNA did not identify that opening a new pharmacy in this area would secure improvements, or better access, to pharmaceutical services.*

4.2.7 *There is no evidence that the needs of the population in the area have significantly changed since the PNA was published and the Leeds HWB have also not judged it necessary to update the PNA due to significant changes in need.*

4.2.8 *The Boots pharmacy closing close to this application site has not triggered a supplementary statement to be added to the Leeds Observer page where the PNA is published.*

4.2.9 Members wish these comments to be taken into consideration by the Authority and wish to be notified of the decision."

4.3 **Boots UK Ltd**

4.3.1 "Thank you for your letter dated 21st November 2024 informing us of the above appeal.

4.3.2 Boots UK Ltd agree with the decision of the committee of the West Yorkshire ICB and the refusal of the application. The application and subsequent appeal appear to be based on the closure of the Boots pharmacy earlier this year. The closure of any pharmacy does not automatically create a gap in pharmacy provision. We are not aware of any complaints made by patients since the closure of the pharmacy and to our knowledge there has been no amendment to the existing Pharmaceutical Needs Assessment recognising any gaps in service to patients. There are many existing (9 according to NHS.UK) pharmacies under a mile from the proposed location offering patients choice in services and opening hours to those within the locality.

4.3.3 The appellant has submitted response to questionnaires in support of a new pharmacy, but we question how this survey was carried out. How were the 400 households/residents selected and the evidence provided does not appear to show any of the page 1 responses or what these questions were? If any patient were to be asked if they would like a pharmacy to open nearby, they would likely answer "yes" and could be deemed a leading question.

4.3.4 There are established delivery services in the area for patients who wish to access them and as mentioned in the letter from the Craven Road Medical Practice, many of their patients are on repeat medication and therefore we suggest that they do not need to access the medical centre so could choose an alternative pharmacy, maybe one closer to home or their workplace? With the switch to electronic prescriptions and online/telephone appointments being more convenient, pharmacies close to a medical practice are now utilised differently. Students will be travelling to lectures at their university or college and often register with doctors affiliated to the place of study. This means that this patient group is likely to be transient and accessing pharmacies at different locations. Of course, university students are often only around term time, which is approximately 8 months of the year, not including holidays within that.

4.3.5 Boots UK Ltd believe that this application is not offering to secure an unforeseen benefit and should be refused. We will attend an oral hearing of deemed necessary to hold one we respectfully ask that NHS Resolution inform us of the decision in due course."

5 Observations

5.1 The Applicant

5.1.1 "Thank you for your letter dated 15th January 2025. I have had the opportunity to review the comments made by the relevant parties, and I would like to take this opportunity to offer further comments regarding the appeal for a new pharmacy in this area.

5.1.2 Firstly, NHS England has often referenced the Pharmaceutical Needs Assessment (PNA) as the key document to measure the need for pharmacy services in this area. These PNAs were created in 2022, and it raises the question of how NHS England has gauged the effects of one pharmacy closure in the area that occurred in 2024. In addition, another pharmacy in the area is set to close in January 2025. I would argue that predicting future needs through such documents is inherently challenging, and given the significant recent changes in local pharmacy provision, the PNA may no longer accurately reflect the current situation. In my view, PNAs are outdated and not fit for purpose. Rather than relying on obsolete documents, I would suggest that NHS England conduct a local survey to better understand the urgent and increasing need for pharmacy services in the community.

5.1.3 It is crucial to recognize that NHS pharmacy services are not a luxury—they are a necessity, especially for those patients who are poorly and in need of vital services. The primary responsibility of NHS representatives should be to ensure that the pharmaceutical needs of patients are adequately addressed, and this must be prioritized above all else.

5.1.4 I would also like to pose a question: How many residents have been consulted by CPWY, Boots the Chemist, and the NHS Integrated Care Board since the closure of Boots the Chemist in February 2024? Furthermore, how many local leaders and GP surgeries' views have been taken into account when the decision was made to refuse the establishment of a new pharmacy? In my opinion, it is of utmost importance that a local hearing be held, where the voice of local residents can be heard and considered as part of the decision making process.

5.1.5 As the applicant, I believe that the views of NHS England, Boots the Chemist, CPWY, and myself are secondary to the views and real pharmaceutical needs of the local community. The residents' needs should take precedence in this

case. To this end, I would like to reiterate that Boots the Chemist's assertion that there is adequate delivery service in the area is not an acceptable substitute for a local pharmacy. Since when has a delivery service run by non-qualified pharmacy staff been considered a legitimate substitute for the full range of pharmacy services? A local pharmacy is much more than a place that dispenses medication—it provides essential services such as the Pharmacy First service, NHS hypertension finding service, the New Medication Service, and locally commissioned services like the Minor Ailments Scheme and sexual health services, which cannot be delivered by a delivery driver.

5.1.6 Lastly, I would like to emphasize that the views of the 293 residents who have expressed concern about the lack of local pharmacy provision should take precedence over the views of myself or any other party involved in this process. The community's voice is paramount in this matter.

5.1.7 I sincerely hope that for the sake of the local residents, this appeal will be upheld, and that a pharmacy contract will be granted to serve the needs of the community.

5.1.8 Thank you for your time and consideration."

6 Consideration

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

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

6.3 The Committee noted the Applicant's request for an oral hearing. On the basis of this information, the Committee considered it was not necessary to hold an oral hearing.

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

Regulation 31

6.5 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).

6.6 The Committee noted Part 5 of the application form where the Applicant had stated*: "Our proposed site is not in close proximity to another pharmacy or dispensing appliance contractor premises."* The Committee further noted the Commissioner's decision letter states*: "Regulation 31 does not apply as there is no pharmacy at the same or adjacent premises".* The Committee, having regard to the above and noting that Regulation 31 had not been raised as an issue on appeal, determined that it was not required to refuse the application under the provisions of Regulation 31.

Regulation 18

6.7 The Committee noted that this was an application 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)."

6.8 The Committee considered that Regulation 18(1)(a) was satisfied in that it was required to determine whether it was 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.

6.9 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 application was granted were or was included in the Pharmaceutical Needs Assessment ("the PNA") in accordance with paragraph 4 of Schedule 1 of the Regulations.

6.10 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).

6.11 The Committee considered the PNA prepared by Leeds City 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 no supplementary statements had been issued.

6.12 The Committee noted that the PNA lists pharmacies and their opening hours in the Leeds LS6 area. This is known as Woodhouse. The Committee noted no significant mention in the PNA of Woodhouse.

6.13 The Committee noted the Commissioner's comment that its members were clear that the HWB had not issued any supplementary statements and that pages 247-249 of the PNA are that there are:

6.13.1 no current gaps in the provision of essential services during normal working hours have been identified in any of the localities;

6.13.2 no current gaps in the provision of essential services outside normal working hours have been identified in any of the localities;

6.13.3 no current gaps in the provision of advanced services have been identified in any of the localities;

6.13.4 no gaps in the need for the necessary services in specified future circumstances have been identified in any of the localities;

6.13.5 no gaps in the current provision of other relevant services (defined as Appliance Use Reviews, Stoma Appliance Customisation, the Community Pharmacy Hepatitis C antibody testing service and enhanced services) or in specified future circumstances have been identified in any of the localities; and

6.13.6 no gaps have been identified in essential services, advanced services, or enhanced services that if provided either now or in the future would secure improvements, or better access, to essential services in any of the localities.

6.14 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients of Woodhouse, Leeds. The Committee noted that the improvements or better access that the Applicant was claiming would be secured by its application were not included in the relevant PNA in accordance with paragraph 4 of Schedule 1.

6.15 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)

6.16 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"

6.17 The Committee noted that the Commissioner's decision letter makes no reference to Regulation 18(2)(a)(i). The Committee further noted that Regulation 18(2)(a)(i) had not been raised as an issue on appeal.

6.18 On the basis of the information available, the Committee was not satisfied that, if the application were 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.

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

Regulation 18(2)(a)(ii)

6.20 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"

6.21 The Committee noted that the Commissioner's decision letter makes no reference to Regulation 18(2)(a)(ii). The Committee further noted that Regulation 18(2)(a)(ii) had not been raised as an issue on appeal.

6.22 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 the application.

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

Regulation 18(2)(b)

6.24 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)

6.25 By way of background, the Committee noted that the application was being made for inclusion in the pharmaceutical list for premises at 1 Moseley Place, Leeds, LS6 2RY. The proposed premises are located to the north of Leeds city centre in the Woodhouse area of Leeds.

6.26 The Committee noted that the catalyst for the application appeared to be the closure of Boots pharmacy at the same location as the Applicant is now applying to open its pharmacy. The Committee had no knowledge of the reasons for the closure of the Boots pharmacy but it was not relevant to its consideration. The Committee was mindful that closure of a pharmacy does not necessarily mean that a gap in services is created.

6.27 According to the Applicant, the proposed location contains a mixed population of students attending the nearby Leeds University and High School and lower income households living in social housing, rented accommodation and lower cost privately-owned houses.

6.28 The Woodhouse area was said by the Applicant to be one of the top five most deprived areas in Leeds and as a result has specific health needs and high demand for healthcare services. The Committee appreciated that factors such as deprivation and low income can be associated with a greater need for pharmaceutical services. However the Applicant had not indicated any specific health needs locally or high demand that might support the need for a proposed pharmacy.

6.29 The Committee noted the Applicant had secured letters of support for its application from a Local councillor, Craven Medical Practice and the Director of the local mosque. The Applicant also conducted a survey of local people which it described as extensive, sending 400 letters to residents in the area. Of these, 293 responses were received. Out of the 293 respondents, 287 expressed a clear need for a pharmacy at this location, with only 6 respondents giving neutral feedback. The Applicant claimed that this was overwhelming support translating to 97.9% of respondents advocating for the reopening of a local pharmacy to meet their healthcare needs. On reviewing the survey, the Committee was unable to understand how the context to the survey had been provided to patients nor why page 1 of each completed survey, consisting of responses to questions 1 to 9, had been omitted from the appeal. The Committee considered that whilst the Applicant had referred to the number of residents to whom the survey was sent, the number of replies received and an analysis of those replies, the methodology of the survey was not explained by the Applicant. In particular the Committee was provided with no information regarding the time period over which the survey was conducted nor how recipients were selected to complete the survey. Also the questions that residents were invited to complete on the survey form, could be said to be leading albeit each response could be weighted. The Committee was mindful that the possibility of an additional pharmacy in the area is usually popular with the general public. The Committee appreciated that there will be some patients who have lost a pharmacy that was conveniently located to them.

6.30 The Committee appreciated that car ownership in the area might be lower than in some more affluent areas. The Committee was not provided with specific data on this point. However, the Applicant did not deny that there are some people with access to a

vehicle. The Committee was provided with no information to show that these people cannot reasonably access the nearest existing pharmacies or some other location more convenient to themselves.

6.31 The Committee noted that the Applicant made little comment regarding the availability of bus services in the area. This Committee considered that large cities such as Leeds are likely to have frequent bus services and possibly subsidised fares. The Committee had no information to show that persons in Woodhouse cannot use the bus to access the nearest existing pharmacies or others at another location.

6.32 The Committee noted that the Applicant had focused on the nearest existing pharmacies in the area not being accessible on foot due to distance. The Committee considered the information provided by the parties.

6.33 The Committee noted the Commissioner had stated that there are 10 pharmacies within 1 mile of the proposed premises but was of the view that this may not be an entirely accurate measurement.

6.34 According to the Applicant, the nearest pharmacy (Pharmacy Plus Health on Woodhouse Lane) is located approximately half a mile from the proposed location and is across the busy A660 to the south of Woodhouse. The Committee received confirmation from the Commissioner that this pharmacy closed on 7 January 2025.

6.35 The Committee noted the nearest pharmacy with weekend hours is Shifa Pharmacy which is 0.6miles from the proposed location (according to NHS.UK). The Commissioner added that Google Maps shows this journey, on foot, to be 21 minutes walk/0.9miles. The Committee noted that, according to the Applicant, Shifa Pharmacy is located across the A61, a main dual carriageway with few crossing points which represents a significant barrier to access. The Committee did not regard the distance to Shifa Pharmacy as excessive for those willing and able to make the journey on foot. Further, it noted that the Applicant had indicated that there are crossing points over the A61 rather than none at all.

6.36 The Committee noted that none of the local providers reported that since the closure of the Boots Pharmacy on 18th October 2023, there had been any reports of any adverse implications or concerns on their services. In addition, nor had there been any known patient complaints about the lack of pharmaceutical provision in the area, after the Boots closure.

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

6.38 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.

6.39 The Committee noted the Applicant's comment that granting a pharmacy contract at this location would provide essential services to the community, particularly for vulnerable groups such as elderly residents who rely on accessible healthcare resources. According to the Applicant, the high level of community support, coupled with endorsements from respected local stakeholders, underscores the urgent need for immediate pharmaceutical access adjacent to Craven Road Medical Practice. Elderly

residents, who often experience mobility challenges and rely heavily on nearby healthcare services, would especially benefit from a local pharmacy, as they are disproportionately affected by the lack of accessible options.

6.40 The Committee had regard to these comments but noted that there was little reference to services that meet specific needs. The comments on access were general in nature and might apply to any persons. The Committee considered that there was not a robust body of evidence that enabled it to be satisfied that a pharmacy at the proposed site would convey significant benefits pursuant to Regulation 18(2)(b)(ii).

6.41 Therefore the Committee was 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 the application would confer significant benefits on persons.

6.42 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.

6.43 The Committee noted the Applicant's comment that its intent is not to propose novel or experimental services but to address an urgent and concrete need within the community. The primary objective of this application is to meet the fundamental pharmaceutical needs of the local population by providing essential, accessible services, particularly for vulnerable groups who face substantia challenges in accessing distant pharmacies.

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

Regulation 18(2)(b) generally

6.45 The Committee noted the Applicant's proposed services as indicated above. The Applicant commented that the proposed pharmacy aims to provide a range of services similar to the Boots pharmacy that has now closed down, including the Community Pharmacist Consultation Service (CPCS) and New Medicine Service (NMS). Additionally, the commitment to engage in locally commissioned advanced and enhanced services indicates a proactive approach to address specific healthcare needs within the community, potentially leading to improved health outcomes.

6.46 The Committee had no reason to believe that where they are not already doing so, the nearest existing pharmacies are not able or not willing to provide the services being offered by the Applicant.

6.47 The Committee noted the Applicant's comment that its proposed opening hours are particularly significant because the Craven Road Medical Practice (at its location adjacent to our proposed site) is open from 8am to 7pm Monday to Friday. There are therefore 3 hours each day from Monday to Friday when the Medical Practice is open but the nearest pharmacy is closed. Any patients who access the Medical Practice between approximately 4.45pm and 7pm each evening from Monday to Friday would not be able to access pharmaceutical services from the Pharmacy Plus Health Pharmacy on Woodhouse Lane until the next day (or a Monday if their appointment was on a Friday). The Committee noted the opening hours of other pharmacies in the area, including Shifa Pharmacy which has opening hours until 9pm Monday to Saturday, and 11pm on Sunday.

6.48 The Committee noted the Commissioner's comment that the Applicant was offering 40 core hours plus additional 18 core hours, and that if the application was granted, a direction would need to be issued for the 'additional core' hours, as per Regulation 6.

6.49 The Committee was of the view that there was no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore it was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits (in relation to opening hours) on persons.

6.50 The Committee was mindful that where it considers that there is a need to do so, the Commissioner already has the power to bring about changes to the opening hours of existing pharmacies.

6.51 The Committee has considered whether there are any other factors that would confer significant benefits including on patients who share protected characteristics. The Committee had regard to the need to eliminate discrimination and advance equality of opportunity and foster good relations between these patients and those who do not share their protected characteristics.

6.52 The Committee was of the view that in accordance with Regulation 18(2)(b) the granting of this application would not confer significant benefits on persons in the area of the HWB which were not foreseen when the PNA was published.

Other considerations

6.53 Having determined that Regulation 18(2)(b) had not been satisfied, the Committee did not need to have regard to Regulation 18(2)(c) to (e).

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

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

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

6.57 The Committee was not satisfied that the information provided demonstrates that there is difficulty in accessing current pharmaceutical services such that a pharmacy at the proposed site would provide better access to pharmaceutical services.

6.58 Pursuant to paragraph 9(4)(a) of Schedule 3 to the Regulations, the Committee may:

6.58.1 confirm the Commissioner's decision;

6.58.2 substitute for that decision, any decision that the Commissioner could have taken when it took that decision;

6.58.3 quash the Commissioner's decision and remit the matter to the Commissioner for it to redetermine the decision, subject to such directions as the Secretary of State considers appropriate.

6.59 Even though the Committee reached the same decision as the Commissioner, the Commissioner had not addressed some of the regulatory matters in its determination, and therefore it determined that the decision of the Commissioner must be quashed.

6.60 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 application.

6.61 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 application by the Commissioner. The Committee further noted that when the appeal was circulated representations had been sought from parties on Regulation 18.

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

7 DECISION

7.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decision of the Commissioner, for the reasons given above, and redetermines the application.

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

7.3 The Committee has considered whether the granting of the 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;

7.4 The Committee determined that the application should be refused on the following basis:

7.4.1 In considering whether the granting of the application would confer significant benefits, the Committee determined that –

7.4.1.1 There is already a reasonable choice with regard to obtaining pharmaceutical services;

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

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

7.4.2 Having taken these matters into account, the Committee is not satisfied that granting the application would confer significant benefits as outlined above that would secure improvements or better access to pharmaceutical services.

Case Manager
Primary Care Appeals