

21 March 2025

REF: SHA/26418

**APPEAL AGAINST CAMBRIDGESHIRE AND
PETERBOROUGH ICB DECISION TO REFUSE AN
APPLICATION BY 1514 PHARMA LTD FOR INCLUSION
IN THE PHARMACEUTICAL LIST OFFERING
UNFORESEEN BENEFITS UNDER REGULATION 18 AT
PARNWELL CENTRE, SALTERSGATE, PARNWELL,
PETERBOROUGH (BEST ESTIMATE)**

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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:

Rushport Advisory on behalf of 1514 Pharma Ltd
PCSE on behalf of Cambridgeshire and Peterborough ICB
Alichem Limited on behalf of Millfield Pharmacy, Granville Pharmacy and Thomas Walker Pharmacy
Brabners on behalf of Eye Chemist
Community Pharmacy Cambridge and Peterborough
Gordons Solicitors on behalf of LNS Healthcare Ltd t/a Dogsthorpe Pharmacy
Boots

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1 The Application

By application dated 28 November 2023, 1514 Pharma Ltd, ("the Applicant") applied to Cambridgeshire and Peterborough ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Parnwell Centre, Saltersgate, Parnwell, Peterborough (Best Estimate). In support of the application it was stated:

1.1 Opening Hours

1.2 Proposed Core Opening Hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9am to 5pm	9am to 5pm	9am to 5pm	9am to 5pm	9am to 5pm			40

1.3 Total proposed opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
9am to 1pm- 2pm to 6pm	9am to 1pm – 2pm to 6pm	9am to 1pm – 2pm to 6pm	9am to 1pm – 2pm to 6pm	9am to 1pm – 2pm to 6pm	9am to 1pm		44

In the Applicant's view, this application should not be refused pursuant to Regulation 31 for the following reasons:

1.4 "No other pharmacy in the 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:

1.5 "Parnwell is located just to the east of Dogsthorpe in Peterborough and is adjacent to the old Newark Village. For electoral purposes it forms part of Peterborough East Ward.

1.6 Development in Parnwell began in the early 1990s, mostly built as council housing and flats.

1.7 Parnwell County Primary School is located the [sic] rear of the Community Centre with the One Stop shop next to the Centre.

- 1.8 The area containing Parnwell Local Centre, Saltersgate, Parnwell, Peterborough contains a higher-than-average level of social housing - 56% of household spaces. This contrasts with the national average of just over 17%.
- 1.9 The area around PE1 4YL has a very large concentration of children that are under 15 (at 25% of the resident population). This is commonly seen in suburban neighbourhoods, and sometimes in areas of high social housing.
- 1.10 Parnwell is amongst the 30% most deprived neighbourhoods in the country.
- 1.11 As the ICB will be aware, Parnwell used to have its own GP surgery and there is a campaign by local residents to have the surgery opened again. What is very clear from local resident feedback is that the Parnwell area now has no reasonable access to pharmaceutical or medical services that this is unacceptable in an area with such high levels of deprivation and health needs.
- 1.12 Until recently, residents had to travel to Lloyds within Sainsburys on Oxney Road to access a pharmacy, but the Lloyds has now closed. This is not the only pharmacy closure in Peterborough as several others have closed, namely:
- 1.12.1 Pharmacy First ,51 Lincoln Road, Peterborough, PE1 2RR
- 1.12.2 City Pharmacy, 50 Lincoln Road, Peterborough
- 1.12.3 Lloyds pharmacy- Flaxland, Peterborough PE3 8DA
- 1.12.4 Lloyds pharmacy -112 Oxney Road, Parnwell, Peterborough, PE1 5NG
- 1.13 The nearest pharmacy is now Dogsthorpe Pharmacy, but this is a 1.4 mile walk in a completely different part of Peterborough. Other pharmacies are even further away.
- 1.14 We therefore ask the ICB to approve this application and allow access to pharmaceutical services for those resident in and visiting Parnwell."

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 29 November 2024 states:

- 2.1 "Cambridgeshire and Peterborough 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."

DECISION REPORT

- 2.2 "The Pharmaceutical Services Regulations Committee (hereafter referred to as "the Committee") considers all pharmaceutical services applications for the 6 Integrated Care Boards (ICB) within the East of England footprint. NHS Hertfordshire and West Essex ICB (HWE ICB) hosts the meeting on behalf of the 6 ICBs, in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as "the Regulations").
- 2.3 The Committee considered this routine application offering unforeseen benefits in the area of the Peterborough Health and Wellbeing Board (HWB) under Regulation 18 of the Regulations.
- 2.4 The Committee first considered Regulation 31.

- 2.5 The Committee noted that as the Applicant has chosen to give a best estimate for the location of the proposed pharmacy premises it was not possible to determine whether or not the application should be refused by virtue of Regulation 31.
- 2.6 The Committee noted that the Applicant provided the following statement in relation to Regulation 31:
- 2.7 “In my/our view this application should not be refused pursuant to Regulation 31 for the following reasons: No other pharmacy in same or adjacent premises so not applicable”.
- 2.8 The Committee noted that the Applicant provided a map highlighting the area covered by the best estimate. This map was shared with the Committee prior to the meeting.
- 2.9 The Committee noted that if the application was granted, the successful Applicant must - in due course - notify the ICB of the precise location of its premises (in accordance with paragraph 31 of Schedule 2). Such a notification would be invalid (and the Applicant 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.
- 2.10 The Committee agreed, as it was not yet known where the premises would be located, there were no grounds for it to refuse the application on the basis of Regulation 31.
- 2.11 Regulation 32 – Is the application to be deferred?
- 2.12 The Committee noted this Regulation did not apply as there are no LPS designations in the area covered by the best estimate.
- 2.13 Regulations 40 to 44– New Pharmacy Premises in Controlled Localities.
- 2.14 The Committee noted that these Regulations did not apply as the best estimate is not within a controlled locality.
- 2.15 The Committee considered the 40-page supporting documentation entitled ‘Final Parnwell Report’ when making its considerations. This document is referred to as “the supporting information” throughout this letter.
- 2.16 Regulation 18(1) – does the need on which the applicant based its application satisfy the elements of Regulation 18(1)?
- 2.17 The Committee considered whether Regulation 18(1)(a) was satisfied in that it is required to determine whether it is satisfied that granting the application or granting it in respect of some 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.
- 2.18 The Committee also considered 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 not included in the relevant pharmaceutical needs assessment (PNA) in accordance with paragraph 4 of Schedule 1.
- 2.19 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).

- 2.20 The Committee noted the statements in section “4.0 The Statutory Tests”, page 11 within the supporting information, which stated:
- 2.20.1 *The first test is whether an application for the improvements for people living in Parnwell has been considered under the Pharmaceutical Needs Assessment for Cambridgeshire and Peterborough 2022 (the “PNA”).*
- 2.20.2 *As shown below the PNA and its Supplementary Statement does not foresee the improvements that the proposal could deliver to the Parnwell area particularly given the changing circumstances of the closure and potential reopening of the Parnwell Medical Centre. As such this application is an ‘unforeseen’ application and Regulation 18 applies to its assessment.*
- 2.21 The Committee noted the statements in section “5.0 Review of the PNA”, page 13, within the supporting information:
- 2.21.1 *Peterborough is one of the most relatively deprived areas in the East of England and has relatively poor health outcomes in comparison to national averages.*
- 2.21.2 *The PNA page 25 notes that the population across the Cambridgeshire and Peterborough area is forecast to increase substantially in the coming years, with the biggest proportionate increases expected in the 65 years and over age group. It also notes that there is a significant programme of house building planned with over 60,000 net dwelling completions forecast between 2021 and 2031.*
- 2.21.3 *The PNA notes at page 27 that the area has significant populations of travellers and migrant workers.*
- 2.21.4 *A Supplementary Statement has been issued in January 2024 given the significant number of closures and reduction in opening hours in the HWB area.*
- 2.21.5 *The Supplementary Statement notes that the PNA had found there was no current or future gaps identified in the provision of necessary and other services across Peterborough. It based this finding on the fact that there were 18.7 pharmacies per 100,000 residents in Peterborough, the distance people had to drive was mostly less than 20 minutes, and that coverage of pharmaceutical services was adequate.*
- 2.21.6 *The Supplementary Statement notes that since October 2022 10 pharmacies have been removed from the pharmaceutical list (with 9 closures and 1 consolidation). The PNA also notes that there are some pockets in the Peterborough area where it is necessary to drive more than 20 minutes by car to access a pharmacy or dispensing surgery. It suggests that these areas are unpopulated or can access services in other HWB areas. It does concede that not everyone has a car and those that are more vulnerable in society may be those that do not have access to a car.*
- 2.21.7 *The Supplementary Statement notes that since 2022 of the 15 pharmacies contracted to operate 100 hours, only 1 pharmacy still provides this. 10 have reduced their hours and 4 have closed.*
- 2.21.8 *The Supplementary Statement shows that 5 of the 10 closures are in Peterborough City.*

- 2.21.9 *The population is predicted to grow to 948,400 by 2026 [sic]. With the closure of 10 pharmacies to date, there will be a ratio of 1 pharmacy per 6,872 people in the HWB area. This would suggest the HWB has about 14.5 pharmacies per 100,000 people.*
- 2.21.10 *Neither the PNA nor the Supplementary Statement assesses the impact of the closure of Lloyds on the Parnwell community, particularly given the closure of the Medical Centre. The closure of pharmacies in the north east of Peterborough at Lincoln Road where 2 pharmacies have closed in conjunction with the closure of Lloyds is a concentrated impact on local services in the north east of the City. No assessment is made of the impact these closures will have on the densely populated and deprived area of the City Centre and the vulnerable groups living in the Parnwell area including children, elderly people and travellers as well as workers in the area.*
- 2.21.11 *It is clear that the PNA and the Supplementary Statement have not foreseen this proposal."*
- 2.22 The Committee noted that section 4, entitled "Current Provision of NHS Pharmaceutical Services", on page 35 of the 2022 Cambridgeshire and Peterborough PNA, stated:
- 2.23 **"Key findings**
- Key message: There is currently sufficient pharmaceutical service provision across Cambridgeshire and Peterborough. However there has been a reduction in the opening hours of many pharmacies, in addition the pharmacy consultation has raised concerns with staffing and recruitment, which may impact the ability of pharmacies to deliver a consistent service [sic]. No current or future gaps have been identified in the provision of necessary and other relevant service across Cambridgeshire and Peterborough."*
- 2.24 *"...the average number of community pharmacies in Cambridgeshire and Peterborough CCG area is 18.7 per 100,000 residents which is similar to the East of England average (19.4) and the England Average."*
- 2.25 *"The distribution of pharmacies and dispensing GP practices appears to cover the Health and Wellbeing Board area well with few gaps and some concentrations. Some geographical gaps appear to exist in some of the less populated areas of the Health and Wellbeing Area, but these localities are served by suppliers from outside the Health and Wellbeing Board area."*
- 2.26 *In terms of access to pharmaceutical services there are no areas that are located more than 20 minutes away by car from a pharmacy or dispensing surgery in Cambridgeshire. The majority of areas in Peterborough are accessible within 20 minutes by car, with a small number of exceptions towards the outer areas of the city, particularly in the east, but these localities may get their pharmacy services from outside the Health and Wellbeing Board area i.e. from pharmacies located in the Norfolk Health and Wellbeing Board area."*
- 2.27 The Committee also noted a supplementary statement had been published in January 2024, and included the changes made to pharmaceutical services since October 2022:
- 2.28 *"Since the PNA was published in October 2022 the Health and Wellbeing Board has been notified by Hertfordshire and West Essex ICB (who host the Pharmaceutical Services Regulations Committee (PSRC) on behalf of Cambridgeshire and Peterborough ICB) that 10 community pharmacies have been removed from the pharmaceutical list and have ceased to provide pharmaceutical services (9 closures and 1 consolidation (resulting in 1 closure))."*

- 2.29 *“Cambridgeshire and Peterborough still has adequate geographic provision of essential services to meet the needs of the population by providing a service for the majority of the residents within 20 minutes of their home. There are some pockets in Cambridgeshire and Peterborough where it is necessary to drive more than 20 minutes by car to access a pharmacy or dispensing surgery.*
- 2.30 *However, these areas are to a large extent uninhabited and/or may be served by pharmaceutical services in a neighbouring Health and Wellbeing Board Area. However, it is recognised that not everyone has access to a car, and that those unable to access a car may be among the more vulnerable in society.”*
- 2.31 The supplementary statement, page 19 also stated:
- 2.32 *“Site 3
The conclusion of this analysis is that the closure of the **Lloyds Pharmacy (Sainsbury’s Superstore, Peterborough)** site does not lead to a gap in provision during normal working hours or on Saturday’s. It does not lead to a gap in service in the Peterborough area for late weekday and Saturday evening services or on Sundays.”*
- 2.33 The Committee agreed it was of the view 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.
- 2.34 The Committee noted that in order to be satisfied in accordance with Regulation 18(1), regard was to be had to those matters set out at Regulation 18(2).
- 2.35 The Committee noted that the applicant stated within section 6 of the application form:
[see paragraphs 1.5 – 1.14 above.]
- 2.36 The Committee noted that the closure dates for the above-mentioned pharmacies were:
1. Pharmacy First (100 hr), 51 Lincoln Road, Peterborough closed 30th April 2023 – 2.5 miles from best estimate, car 10 mins, walk 54 mins.
 2. City Pharmacy, 50 Lincoln Road, Peterborough closed 2nd April 2023 (consolidation) – 2.4 miles from best estimate, car 10 mins, walk 54 mins.
 3. Lloyds Pharmacy (100 hr), Sainsburys, Flaxland, Bretton closed 11th September 2020 – 4.4 miles from best estimate, car 11 mins, walk 97 mins.
 4. Lloyds Pharmacy, Sainsburys, Oxney Road, Peterborough closed 13th June 2023 – 0.7 miles from best estimate, car 4 mins, walk 15 mins.
- The above distances and travel times were taken from Google Maps.
- 2.37 The pharmacies mentioned closed approximately 1.5 years ago. Upon investigation, the pharmacy team received only one letter from the City Ward Councillors expressing their concerns. No patient complaints or concerns have been reported to either the pharmacy contracting team or the Cambridge and Peterborough ICB regarding difficulties in accessing pharmaceutical services due to these closures.
- 2.38 The Committee noted in section 6 of the application form, where asked, “Please explain how you intend to secure the unforeseen benefit(s).”, the applicant has stated:

2.39 “BY OPENING A PHARMACY AT THE PROPOSED LOCATION”

Regulation 18(2)(a)(i) & (ii)

- 2.40 The Committee considered whether it was 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 the [ICB] has in place for the provision of pharmaceutical services in that area;

- 2.41 The Committee noted that the Applicant has stated the following with regard to this regulation within the supporting information:

- 2.42 *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. It will not cause significant detriment to the closest pharmacy which is located over a mile away in Dogsthorpe. This pharmacy has traded continuously with above the England average dispensing levels and has seen an increase in dispensing in recent months following the closure of other pharmacies in the City. As such the opening of the proposal, which will only partially redress the balance of pharmacies in the City will not affect the proper planning of pharmaceutical services.*

- 2.43 The Committee noted that there was no known plan for the provision of pharmaceutical services in the area. Granting the application would therefore not cause significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of Peterborough HWB.

- 2.44 The Committee also noted there was no evidence to suggest granting this application would cause significant detriment to the arrangements the ICB has in place for the provision of pharmaceutical services in that area.

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

Regulation 18(2)(b)(i)

- 2.46 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Cambridgeshire and Peterborough PNA, it was 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 the [ICB'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))

granting the application would confer significant benefits on persons in the area of Peterborough HWB that were not foreseen when the PNA was published.

- 2.47 The Committee noted the assertions made by the applicant within the supporting information, page 23 stated:

- 2.48 *“7.2 - Until it closed Lloyds was providing a vital service to the Parnwell community. Peterborough has a reduced number of pharmacies compared to the England average, and some of the pharmacies that are located in the city are prescribing well over the*

national average of items per month, particularly the Dogsthorpe Pharmacy which is closest to the Parnwell area.

7.3 - Following the closure of Lloyds and indeed 4 other pharmacies in Peterborough there is a reduced choice of pharmacies in the area. The fact that the number of pharmacies in the HWB area is below the England average is illustrative of the reduced choice.

7.4 - With no pharmacy in Parnwell or the areas east of the Fank Perkins Parkway means there is no choice whatsoever other than to leave the area.

7.6 - Moreover, there has been recent housing developments (at Newark Road) which increases the population which increases the need for additional choice in the area. There is also a vulnerable group of residents with traveller's sites in the area which supports the need of pharmaceutical services.[sic]"

- 2.49 The Committee noted that in the current PNA, there was no mention of additional need in the area of Parnwell, or the immediate area. A summary of findings was noted as set out below:

1. Section 4: Current Provision of NHS Pharmaceutical Services

- This section discusses the overall provision of pharmaceutical services across Cambridgeshire and Peterborough. It mentions that there is currently sufficient pharmaceutical service provision across the region, with no current or future gaps identified in the provision of necessary services.

2. Section 6: Future Population Changes and Housing Growth

- This section highlights the expected population growth and housing developments in various areas, including Peterborough. It notes that several large-scale housing developments are in progress, which could potentially impact the need for pharmaceutical services. However, it does not specifically mention Parnwell.

3. Appendix 2: Lists of Pharmacies & Dispensing Practices in Cambridgeshire and Peterborough

- This appendix provides a detailed list of existing pharmacies and dispensing practices in the region. It does not specifically address the need for additional services in Parnwell.

4. General Observations

- The document emphasises continuous monitoring of housing developments and population changes to assess future needs for pharmaceutical services. It suggests that supplementary statements may be issued if significant changes in pharmaceutical needs are identified.

- 2.50 The Committee noted that whilst the PNA document provided a comprehensive overview of pharmaceutical services and future growth considerations, it did not specifically mention an additional need for pharmaceutical services in Parnwell, Peterborough. The focus was on ensuring adequate coverage and monitoring future developments to address any emerging needs.

- 2.51 The residential area of Parnwell is not situated within a controlled locality, but it is within 1.6km of a controlled locality. A patient count was provided by Primary Care Support England (PCSE), and it identified a total of 11 patients registered with 10 different practices, one of those practices is situated in Devon, which suggests some data cleansing was required.

- 2.52 The Parnwell Medical Centre was located at Parnwell Local Centre, Saltersgate, Peterborough, Cambridgeshire, PE1 4YL. However, it closed August 2023 due to necessary building works and as a result, its 1,700 patients had to seek alternatives.

- 2.53 The residents of Parnwell therefore currently receive medical services from various local GP practices in the surrounding area. Dispensing activity (February 2024) from the nearest pharmacy (Dogsthorpe Pharmacy) suggests patients are being prescribed medicines from Nightingale Medical Centre, Boroughbury Medical Centre, Thomas Walker & Westgate Surgeries and Thistlemoor Medical Centre to name just the top 4. As people are travelling to these GP practices for medical services, they are likely to be able to access pharmaceutical services on route to or from their medical practice or anywhere else they may be travelling to/from.
- 2.54 The data within the maps, shared with the Committee prior to the meeting, showed that the majority of patients who were dispensed medicines from the nearest pharmacy (Dogsthorpe Pharmacy) attended the Nightingale Medical Centre, also in Dogsthorpe. February 2024 data suggested, Dogsthorpe dispensed 12,434 prescriptions for 42 GP practices, where 3,817 prescriptions were prescribed from Nightingale Medical Centre.
- 2.55 The data also showed that the Nightingale Medical Centre prescribed 9,235 prescriptions which were dispensed by 72 pharmacies. The Committee agreed that patients were using a wide range of pharmacies for their pharmaceutical needs, and therefore agreed patients are exercising their choice.
- 2.56 The Committee noted there were several pharmacies available to patients residing in Parnwell. Dogsthorpe Pharmacy being the nearest and is 1.3 miles on foot from the proposed site. Patient choice was facilitated by twenty other pharmacies that were located within a 5km radius (3.2 miles) in a straight line, and 15 of those nearest were within 5km (3.2 miles) actual route measurement. This information was shared with the Committee prior to the meeting.
- 2.57 The Committee noted that the overall provision of pharmaceutical services was through using those established pharmacies. All those pharmacies are providing similar opening hours to those proposed by the applicant, and 10 are open on Saturdays. All are 40 core hour pharmacies except for Asda Pharmacy (2.9 miles away, 11 minutes by car) that is open 72 core hours including at the weekends. The Committee agreed the level of choice available to patients is considered as reasonable.
- 2.58 The Committee noted that no current or future gaps in the provision of pharmaceutical services have been identified in the current PNA.
- 2.59 The Committee noted that the test was whether or not those living in Parnwell have reasonable choice with regard to obtaining pharmaceutical services in the area of Peterborough HWB, not just in the area of Parnwell. The Committee noted that no evidence was provided to demonstrate that those living in Parnwell were currently unable to exercise a choice in obtaining pharmaceutical services.
- 2.60 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 cannot be 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 in the area of the relevant HWB which were not foreseen when the Cambridgeshire & Peterborough PNA was published.

Regulation 18(2)(b)(ii)

- 2.61 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Cambridgeshire & Peterborough PNA, it was satisfied that, having regard in particular to the desirability of—

- (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 the NHSCB's duties under section 13G of the 2006 Act (duty as to reducing inequalities))*

granting the application would confer significant benefits on persons in the area of Peterborough HWB that were not foreseen when the PNA was published.

- 2.62 The Committee noted the assertions made by the applicant within the supporting information, page 35, this stated:

7.43 - The proposal will cater for people of protected characteristics. Children and elderly people living in the Parnwell area would be groups with shared protected characteristics. These protected groups have lost access to their local pharmacy (and their surgery at present). 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 shopping centre as the surgery and where the school and community centre is located will address this matter and will ensure that a full pharmacy service is provided to these protected groups.

7.44 - The travelling community are also a group with protected characteristics. These people struggle to access health care because they tend not to be registered with a GP. The provision of a pharmacy where they can access immediate and free advice would be a vital service for this community.

- 2.63 The Committee noted the extensive comments made by the applicant within the supporting information, which explains under this part of the regulations the following:

2.63.1 "Walking distances (7.11)

2.63.1.1 The preferred maximum walking distance would be 0.75 miles according to official guidance. There are no pharmacies within this maximum.

2.63.2 Bus Routes (7.12)

2.63.2.1 In terms of bus services, the closest pharmacies are not on the bus routes serving Parnwell. Three bus routes service Parnwell. A map of the bus routes in Peterborough is at **Appendix 3** [Appendix E].

2.63.3 Access to a car (7.14-7.17)

2.63.3.1 It is unsurprising that an area of relative deprivation such as Parnwell has a relatively low car ownership rate. It can be seen that 25% (over a quarter) of all households in Parnwell have no car or van. The area has above average single car ownership. However, much fewer than average households have 2 or more cars.

2.63.4 Hours of opening (7.18)

2.63.4.1 The proposal will open 6 days a week and will provide for those patients that need access to a pharmacy on a Saturday morning. Given the reducing number of 100 hour contracted 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.

2.63.5 Parnwell Local Centre as a Hub (7.19-7.20)

2.63.5.1 It is clear that being designated as a Local Centre, Parnwell enjoys the same status and provides the same broad range of services as other similar sized local centres in the area. It is well located in the heart of the community providing shopping and leisure activities, services in health care, education and sporting activity. It is within easy walking distance of all residents of Parnwell including the mobile homes at Keys Park.

2.63.6 Demand at the Proposal Site (7.21)

2.63.6.1 The demand in Parnwell is clear, given Lloyds had previously been dispensing in the region of 7,000 items per month and the local surgery had a patient list of 1,700. The demands of the 4,700 people that live in the area and the 10,000 workers that resort to Parnwell area is a significant source of demand. The local children that attend schools in the area is a further source of demand. These children will have health care needs which had been being met by Parnwell Surgery and Lloyds and are currently not able to be met in the area.

2.63.7 Travelling Community (7.22)

2.63.7.1 The travelling community have a permanent location at Oxney Road. This community are not often registered with GP services and it is important that they have quick and easy access to a health care provider. A pharmacist is a vital service for this community as they can be provided advice on some health issues without being required to be registered or have an appointment.

2.63.8 General Characteristics of the Area (7.23-7.31)

2.63.8.1 Details of population, Economic Status, Unemployment & Health Demand

2.63.9 Evidence of Deprivation (7.32-7.36)

2.63.9.1 Evidence of deprivation submitted. The evidence demonstrates that the area around the proposal site has a significant population, with 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 Lloyds that provides the full panoply of pharmaceutical services will provide improvements to health care outcomes.

2.63.10 Workers in the Area (7.37)

2.63.10.1 This area has over 12,000 workers. Above 2,000 of these workers are from the Parnwell area. This means that about 10,000 workers are travelling into the Parnwell area daily for work. Many of these workers will not have the opportunity to access a pharmacy during their working day and the proposal would be an enhancement for these workers.

2.63.11 Secure Improvements (7.38-7.40)

2.63.11.1 It is shown above that closure of Lloyds and replacement by this proposal will secure the existing much needed and much used pharmaceutical services in Parnwell. Indeed with the temporary closure of the Parnwell Surgery it improves access to health services for the entire population. This is a significant enhancement in an area where there is no other pharmacy opening late on a Saturday. There was significant demand at the former Lloyds within the region of 7,000 items dispensed per month in recent years and a population of 4,700 residents in the area, 30,000 shoppers in the area and 10,000 workers. This is significant demand and clearly warrants renewed provision of all pharmaceutical services in the area.

2.63.12 Better Access (7.41-7.42)

2.63.12.1 The proposal site is located in the hub of Parnwell, where patterns of movement are well established to ensure that access to pharmaceutical services are adequate. Closure of Lloyds will place many local people at severe disadvantage given the low car ownership rates and low affluence. 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."

2.64 The Committee noted, whilst it was accepted that there would be people with protected characteristics living in Parnwell and that some might need pharmaceutical services as a result, there was no evidence that any specific groups had any difficulty accessing such services.

2.65 The Committee were 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 were difficult for them to access, 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)(iii)

2.66 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Cambridgeshire & Peterborough PNA, it was satisfied that, having regard in particular to the desirability of—

(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also the NHSCB'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 Peterborough HWB that were not foreseen when the PNA was published.

2.67 The Committee noted the applicant provided no innovative approaches in the delivery of pharmaceutical services, therefore it was 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 in the area of the relevant HWB which were not foreseen when the Cambridgeshire & Peterborough PNA was published.

Representations

2.68 The Committee noted that representations were made from:

- 2.69 **Health and Wellbeing Board for Cambridgeshire & Peterborough** – see Appendix 1.
- 2.70 The Committee noted that the HWB support the application for a pharmacy however issued a supplementary statement which asserts that the closure of Lloyds Pharmacy has not created any sort of gap in pharmaceutical provision.
- 2.71 **Boots UK Limited**; who stated:
- 2.71.1 *“As the ICB will be aware, the closure(s) of a pharmacy within an area does not automatically create a gap and should a gap have arisen as a consequence of the closures in this locality, we would have expected to see this documented in the supplementary statement.”*
- 2.72 **Brabners LLP on behalf of Hampton Vale Health Limited, T/A Eye Chemist**, who stated:
- 2.72.1 *“The Application appears to have been submitted pursuant to the closure of the following two local primary care providers in Parnwell:*
- 2.72.1.1 *Parnwell’s GP surgery, a medical services provider, which closed in August 2022; and*
- 2.72.1.2 *Lloyds pharmacy within Sainsburys on Oxney Road, a pharmaceutical services provider, which closed in May 2023.*
- 2.73 *The Applicant asserts at para 6 of the Application that there is “a campaign by local residents to have the surgery reopened again” and that such campaigners assert that “the Parnwell area has no reasonable access to pharmaceutical or medical services”. We are unable to comment on the size, progress or likelihood of success of such campaign but note that, in the absence of contrary comment from the Applicant, it can be reasonably assumed that a positive outcome of such campaign is currently far from certain.*
- 2.74 *We can also reasonably assume that at the time there were justifiable reasons for such closures and that, in the interim, Parnwell’s residents have now reregistered with alternative surgeries and, in the absence of a large number of complaints having been made by such residents (which the ICB should be easily able to establish), are now satisfactorily receiving pharmaceutical services from the current established network of pharmacy contractors in the surrounding area. The Application appears to be based on the following chain of events and assumptions: Parnwell used to have a doctor’s surgery and a pharmacy. The Applicant asserts at para 2.2 of the Supporting Information that Parnwell’s surgery was closed down due to issues with the premises. The Applicant asserts at para 2.3 of the Supporting Information that the Lloydspharmacy closed down for company restructuring reasons. The closure and winding up of the Lloydspharmacy group is well documented, as has been the onward sale of its more financially viable pharmacies to third party purchasers. However, the Application is silent on whether or not other material factors, such as financial viability or lack of demand for services, played any part in such local decisions. The Application appears to assume that if it can be established that the reason for closure of Parnwell’s surgery is now no longer applicable and suitable grounds for re-granting a medical services contract could now be established, neither of which the Application successfully achieves, and a replacement doctor’s surgery was then to reopen, then such re-opening would support the need for a pharmacy in the Parnwell area, especially since the Lloydspharmacy, that was situated in a large supermarket which serves a large catchment area extending beyond Parnwell, has closed down. We assert that such assumptions are unfounded.*

- 2.75 We can also reasonably assume that customers of Sainsburys supermarket on Oxney Road were not solely restricted to those who reside in Parnwell and that, as asserted by the Applicant, with it being “a large superstore of about 6,000 sqm with over 400 car parking spaces”, its customer catchment area extended well beyond the boundaries of Parnwell and PE1 4YL. That being the case, we can reasonably assume that those supermarket customers who availed themselves of the pharmaceutical services which were provided by the Lloydspharmacy within Sainsburys supermarket prior to the pharmacy’s closure were also not solely restricted to residents of Parnwell. At para 6.3 of the Supporting Information, the Applicant asserts that “Sainsburys... would comfortably attract 30,000 customers per week” and “before its closure Lloyds was dispensing on average 7,000 items per month”. Given the supermarket’s large catchment area, we submit that such monthly prescription figure overstates and does not accurately reflect the indication of demand for pharmaceutical services by the residents of Parnwell and is more accurately indicative of the wider catchment area attributable to the supermarket’s broad customer base.
- 2.76 The Applicant states at para 3.2 of the Supporting Information that the population of Parnwell was (in 2021) about 4,700, and (at para 6 of the Application) that 25% of which are children, and (at para 5.11 of the Supporting Information) whose remaining adult population (calculated at circa 3,525) has “below average car ownership levels”. It is clear therefore that such a large supermarket, and the pharmacy that was located within it, which has such large car parking capacity, was designed to attract, and in fact serves, customers from much further afield than Parnwell.
- 2.77 Further, by way of a rough and admittedly unscientific calculation, if each adult in Parnwell visits Sainsburys once a week as a customer, such Parnwell residents would account for approximately one tenth of the supermarket’s overall weekly customers. Extrapolating that percentage to the Lloydspharmacy monthly dispensing items prior to its closure, as cited by the Applicant, it would indicate that Parnwell’s residents accounted for one tenth (i.e. 700) of the closed pharmacy’s 7,000 per month prescription items. At para 2.4 of the Supporting Information, the Applicant asserts that recent pharmacy closures in the wider Peterborough area have increased demand on the remaining pharmacy network (which the Applicant considers consists of Pharmacy First at 51 Lincoln Road, City Pharmacy at 50 Lincoln Road and Lloyds at Sainsburys Flaxland) and further asserts at para 2.5 that such closures leave a gap in service provision. We disagree with such assertion and the Applicant’s artificially narrow definition of the “remaining pharmacy network”, which we consider, as stated below, to be much wider.
- 2.78 Our client’s pharmacy, which the Applicant has omitted from its loose definition of the “remaining pharmacy network” at para 2.4 of the Supporting Information, is 1.7 miles away from the proposed premises and is currently dispensing below national average prescription levels (which the Applicant cites as 7,399 at part 6.9 of the Supporting Information). Our client’s pharmacy has capacity to provide more pharmaceutical services from its premises, including to those nearby residents in Parnwell, who may wish to avail themselves of such services. If the Application is granted, we assert that, contrary to the Applicant’s assertions at para 4.5 of the Supporting Information (which appears to be artificially restricted to consideration only of the potential impact of such grant on Dogsthorpe Pharmacy), such grant would cause significant financial detriment to our client’s pharmacy, and if as a consequence its prescription figures fell even lower than its current below-average levels, it is conceivable that its economic viability and existence may well be called into question, which would also then potentially cause significant detriment to proper planning in respect of the provision of pharmaceutical services in Parnwell and the surrounding area.
- 2.79 We assert that the following pharmacies in fact constitute the “remaining pharmacy network” insofar as such network provides pharmaceutical services to Parnwell and the surrounding area: (the representative lists 14 pharmacies (see Page 30 of the

committee report, 'Representations received' for full list) We therefore assert, by reference to the 14 existing local pharmacies listed above that are each within 3.1 miles of the proposed premises, that there is currently a reasonable choice with regard to obtaining pharmaceutical services in Parnwell and the surrounding area and, as such, there is no need to grant the Application.

- 2.80 The Applicant asserts at para 3.22 of the Supporting Information that it will provide "all commissioned services", the advanced and enhanced ones of which it also lists at para 4 of the Application.
- 2.81 Our client asserts that, contrary to the Applicant's assertion, the remaining pharmacy network, as defined at para 4.15 of this letter, currently satisfactorily provides all such services with no gap in pharmaceutical service provision for Parnwell and the surrounding area.
- 2.82 At para 4.7 of the Supporting Information, the Applicant asserts that "there are a variety of groups that live in this area that would be groups that share protected characteristics, which have been significantly disadvantaged by the closure of the Lloyds Pharmacy at Sainsbury's and the closure of the Parnwell Medical Centre" but has adduced no evidence to support such assertion or the extent to which such groups have experienced significant disadvantage as a result of such closure.
- 2.83 We disagree with the Applicant's assertion at para 4.9 of the Supporting Information that:
- 2.84 "Better access and reasonable choice are clearly evident in this case where there is an evidential context that shows that the closure of Lloyds has significantly disadvantaged a large densely populated suburban area, leaving a gap in the geographical spread in the pharmacy network of Peterborough and the access to the full panoply of pharmaceutical services in the City." We consider that the Application does not sufficiently establish that the closure of Lloyds pharmacy has significantly disadvantaged the residents of Parnwell or that such closure has in fact left a gap in pharmaceutical services provision in Parnwell and the surrounding area.
- 2.85 As a general point, which the Applicant acknowledges at para 5.1 of the Supporting Information, the Cambridgeshire and Peterborough PNA does not provide detailed analysis by locality and, as such, inferences cannot be reasonably made that general statements which are made within the PNA in respect of the area in its totality have any specific relevance to Parnwell and the surrounding area. We therefore request that paras 5.1 to 5.18 of the Supporting Information are considered in such light.
- 2.86 For completeness and as a final point, the Application does not set out any innovative approaches which the Applicant would propose to take with regard to the delivery of pharmaceutical services."
- 2.87 **Gordons Partnership Solicitors on behalf of LNS Healthcare Limited trading as Dogsthorpe Pharmacy**; whose main points were:
- 2.88 "The applicant makes it clear that the application is made in the context of pharmacy closures and the application itself is in a location with limited population so the viability of any new pharmacy must be questioned.
 - 2.88.1 If the application is granted, it risks destabilising the provision of essential services in the Peterborough HWB area and specifically threatens the viability of **Dogsthorpe Pharmacy**. Therefore, the ICB can properly conclude that the application could cause detriment to the current arrangements for pharmaceutical services in the HWB area.

- 2.88.2 *Patients in the Parnwell area already have access to pharmaceutical services provided by our client at Dogsthorpe Pharmacy. This pharmacy is open for 44 hours a week, from 9am to 6pm every weekday, with a one-hour break at 1pm and open on Saturday from 9am to 1pm. 1514 Pharm Ltd will not offer any additional hours to those already provided by Dogsthorpe Pharmacy, as they have proposed the same 44 hours. This application will therefore not provide access to patients outside of the hours already provided by Dogsthorpe Pharmacy.*
- 2.88.3 *For extended hours provision, a 100-hour pharmacy is located in the Asda superstore 2.3 miles away which has plentiful parking.*
- 2.88.4 *The vast majority of households in Parnwell own a car or van (from the 2021 census) so this population has access to a range of pharmacies by car. Our client's pharmacy has approximately 30 parking spaces immediately adjacent to the pharmacy.*
- 2.88.5 *Prescription data for the closed pharmacy located in Sainsburys indicates that the source of the prescriptions dispensed was from a wide range of GPs across Peterborough and suggests a population used to travelling to access services.*
- 2.88.6 *In addition, the proposed location is well served by public transport with a number of Stagecoach East bus services leaving from the Parnwell local centre or adjacent to it. In particular the journey from Parnwell Saltergate to MI Pharmacy on Eastfield Road is 15 minutes and departs every 30 minutes.*
- 2.88.7 *There are community transport options available in Peterborough; Community Link particularly relevant. It is an urban door-to-door service offered by Peterborough City Council. It is wheelchair accessible and it offered for anyone who experiences difficulty using standard public transport or who has no access to public transport.*
- 2.88.8 *Although the residents of Parnwell do have access to shops with a full range of GSL medicines they will have to travel out of the immediate vicinity to see a GP. The local GP surgeries in general have pharmacies located with them or very close by so the many of the population are likely to access pharmaceutical services at this point.*
- 2.88.9 *When the provision of pharmaceutical services was considered in the January 2024 Supplementary Statement to the 2022 Cambridgeshire and Peterborough Pharmaceutical Needs Assessment (PNA), it was concluded that the closure of pharmacies in Peterborough does not lead to a gap in provision.*
- 2.88.10 *The applicant does not provide evidence that any residents with protected characteristics are unable to access pharmaceutical services. In fact, the census information shows that 94.5% of the population report fair to very good health.*
- 2.88.11 *Many of the population of Parnwell already receive pharmaceutical service from our client who, as well as providing face to face services, offers a comprehensive free delivery service. The delivery service operates on a regular basis on Monday to Friday for routine and repeat prescriptions and is on demand every day of the week, including Saturdays. Patients find the ondemand service particularly useful for urgent prescriptions. The majority of other pharmacies in the area also provide free delivery services.*

2.88.12 *Our client provides all the local, enhanced and advanced services commissioned by the ICB and local council, including needle exchange, methadone supervision, Pharmacy First, NMS, emergency contraception, smoking cessation and also the new NHS Contraception service. Our client is unaware of any of the population of Parnwell being unable to access services that they need.*

2.88.13 *The applicant relies on a petition and an analysis of number of pharmacies per head of population in support of the application. In relation to the petition, this should be given little weight for a number of reasons:*

2.88.14 *Most importantly, no disclosure has been given of the responses and therefore no detail about why an individual might support the proposal.*

2.88.15 *There can be many reasons and not all will be relevant from a regulatory perspective.*

2.88.15.1 *The information in support is clearly partisan.*

2.88.15.2 *If the questions, which have not been disclosed, are as leading as the petition in support of the surgery the responses have been heavily influenced by phrasing of the questions.*

2.88.15.3 *The date of the petition has not been given (it would be relevant to know the proximity to the general election).*

2.88.16 *In relation to the analysis of the figures, not only is this irrelevant to the provision of pharmacy services in the location as a ratio provides no information about where the pharmacies are located or the services they provide, but no detail is given of the source of the figures and the geographical area from which they are taken.*

2.88.16.1 *In all the circumstances, our client's case is that the application should be refused."*

2.89 **Community Pharmacy Cambridgeshire & Peterborough**; who stated:

2.89.1 *The LPC asks that you ensure this application meets the requirements of regulation 18."*

2.90 The Committee noted that an unsolicited representation was also made from Andrew Pakes MP for Peterborough – see Appendix 2.

2.91 **Response to Representations**

2.92 The Committee noted that responses to representations were made from the applicant and Alichem Limited, who trade as Granville Pharmacy, Thomas Walker Pharmacy and Millfield Pharmacy.

2.93 The applicant stated:

2.93.1 *"Comments from the LPC and Boots re opening hours have already been dealt with.*

Dogsthorpe Pharmacy

Regulation 18

- 2.93.2 It is incorrect for Dogsthorpe Pharmacy to imply that the application is made solely due to pharmacy closures. These closures are of great importance, but are part of a menu of reasons for why this application should be approved. The attached report goes into detail about all the reasons why this application should be approved.
The objection letter then states;
- 2.93.3 If the application is granted, it risks destabilising the provision of essential services in the Peterborough HWB area and specifically threatens the viability of Dogsthorpe Pharmacy which is an important provider of services in the location adjacent to Parnwell.
- 2.93.4 The attached report shows why this is clearly an incorrect statement. Dogsthorpe Pharmacy serves its own community and has benefitted from the closure of other pharmacies and is dispensing circa 12,000 items per month which is significantly more items than an average pharmacy. Further, the claim is contradictory. From December 2022 to December 2023 Dogsthorpe Pharmacy has seen prescription numbers increase by 53% which is an extremely large increase for a 12 month period.
- 2.93.5 In their letter Dogsthorpe Pharmacy claims that the viability of my clients pharmacy should be questioned and later they claim that the population of Parnwell is very small with only 1,549 residents. Clearly it is contradictory to on one hand claim that granting the application would threaten the existence of Dogsthorpe Pharmacy whilst at the same time claiming that few people would use it.
- 2.93.6 We cannot comment on why Dogsthorpe Pharmacy is not able to run at a profit and we note that the accounts referred to are not provided.
- 2.93.7 Reasonable Choice
- 2.93.8 The issue of reasonable choice is inextricably linked to access. If patients cannot reasonably access pharmacies then those pharmacies do not provide reasonable choice. So much is common sense.
- 2.93.9 Dogsthorpe Pharmacy is located 1.2 miles walk from the application site and not 0.9 miles as claimed in the objection letter (see page 18 of attached report) with all other pharmacies located significantly further away than this. As highlighted on page 25 of the attached report, the closest pharmacies are not served by bus routes from Parnwell – hence the letter of objection can only refer to Mi Pharmacy on Eastfield Road when they discuss access using public transport. Further, Dogsthorpe Pharmacy incorrectly claim that the journey by bus “from Parnwell Saltergate to MI Pharmacy on Eastfield Road is 15 minutes and departs every 30 minutes”. This is incorrect as the typical journey takes between 20 and 25 minutes including walking nearly a third of a mile from the Durham Road bus stop to Mi Pharmacy which is located almost 2 miles from the application site.
- 2.93.10 Further, those who live in Parnwell would have no reason to visit the site where Mi Pharmacy is located. As shown below [photo removed], the pharmacy is small and has 2 betting shops for company along a residential road.
- 2.93.11 Dogsthorpe Pharmacy then highlight the Community Link service as an alternative to bus travel. However, what is not explained is that;
- 2.93.11.11. This is a membership service at £5 per year

- 2.93.11.22. A fare is payable on top of membership costs.
- 2.93.11.33. Booking as subject to availability and must be booked two days in advance – in other words a patient must be able to plan their sickness and a car may not be available.
- 2.93.11.44. The service goes to either the City Centre (4 days per week) or supermarket (once per week), so does not go to the nearest pharmacies.
- 2.93.11.55. After drop-off a patient would have to wait two and a half hours before being collected again.
- 2.93.12*To claim that this provides a reasonable choice for patients in fact shows just how poor access is to community pharmacies in this area.*
- 2.93.13*Dogsthorpe Pharmacy then correctly states that patients must currently travel outside of their area to visit a GP, however, as the closure of the Parnwell Surgery is temporary and the NHS has confirmed (see attachments) that the surgery will re-open, it is unclear what point is being made as an objection.*
- 2.93.14*What is clear, either now or when the surgery re-opens, is that pharmacies do much more than dispense prescriptions to people who have just visited their GP. In a deprived area such as Parnwell, the provision of accessible healthcare should be a priority for the NHS.*
- 2.93.15*Whilst Dogsthorpe Pharmacy refers to “27 other pharmacies within 4.3 miles / 6.7 km of the proposed location” these pharmacies are all but irrelevant to those who live in Parnwell. The distance measurement used by Dogsthorpe Pharmacy is a straight line distance and travelling to some of these pharmacies would take over well over an hour by public transport or 2 hours to walk. Again, the claim that such pharmacies provide “reasonable choice” is not one that can be taken seriously and it appears at odds with everything that community pharmacy and the NHS stands for to suggest that it is “reasonable” for patients to travel these distances and times.*
- 2.93.16People With Protected Characteristics**
- 2.93.17*The data and analysis provided by Dogsthorpe Pharmacy is clearly flawed and it is unclear why such unreliable data has been provided to the Committee. We refer the Committee specifically to pages 26, and 28 to 33 of the attached report that properly shows the level of deprivation, low car ownership and poor health in the Parnwell area as well as other relevant information that can all be verified by the Committee.*
- 2.93.18*Whilst it is acknowledged that Dogsthorpe Pharmacy provides enhanced and advanced services, this is of limited benefit for patients who live in Parnwell and are forced to leave Parnwell to access those services by either walking 1.2 miles or hopefully being one of the households who own a car and it not being used by someone who is commuting to work.*
- 2.93.19*Public transport does not help and the Community Link service does not travel to Dogsthorpe Pharmacy.*
- 2.93.20*In addition to the attached report we also attach a letter from Councillor Dr Shabina Asad Qayyum and Councillor Samantha Jane Hemraj. Dr Qayyum is also a GP at Bretton Park Healthcare. We trust this letter further highlights the*

feelings of local people and the steps that are being taken to support new healthcare provision in Parnwell.

2.93.21 *Against this background it is clear that granting this application would secure better access to pharmaceutical services and the application should be approved.*

2.93.22 Hampton Vale Health

2.93.23 *The first 3 pages of the letter from Brabners simply repeat the legal test and claim that my client's application would not meet the legal test. Brabners then comment on the campaign from local residents to have a GP surgery re-open in their community. Respectfully, Brabners has completed missed the point that my client is making. The campaign and the comments from the local MP and HWB are evidence that patients require access to primary care services in the Parnwell area and that there is a desperate need for such services. The commissioning of a new GP surgery may or may not happen and is outwith the control of my client and the Committee that will decide my client's application. The ICB can however grant permission for a pharmacy to open in Parnwell and provide access to a full range of NHS pharmaceutical services.*

2.93.24 *Pharmaceutical services are not just about dispensing prescriptions. Increasingly having access to new services such as Pharmacy First means that patients do not need to access their GP in order to receive primary care services.*

2.93.25 *Brabners incorrectly refers to my client's application as an application for "new medical services". As the Committee will be aware, this is not an application to open a GP surgery and is instead an application to open an NHS community pharmacy.*

2.93.26 *Similarly Brabners appear to be unaware that Lloyds closed their Sainsburys pharmacies en masse not because of financial viability reasons but because they were unable to sell these pharmacies due to their location inside Sainsburys stores and the requirement for the pharmacies to be relocated out of Sainsburys stores once sold. A small number of sales occurred at the start of the process, but Rushport was involved in a number of potential sales where Lloyds simply cancelled the sale process despite having agreed terms to sell these pharmacies. Brabners has solicitors who deal with pharmacy sales and will also be aware of this fact.*

2.93.27 *Brabners then focusses on Sainsburys customers and again appears to miss the point that this application is to serve the Parnwell area where there is considerable need for a pharmacy and where evidence to support this need has been provided.*

2.93.28 *Brabners is correct that we have largely omitted consideration of their client's pharmacy. This is because it is 1.7 miles from the Parnwell Local Centre and would take 35 minutes to walk. It is in an area that people from Parnwell have no reason to visit during their daily lives. Brabners claims (without any evidence to support its claim) that granting my client's application "would cause significant financial detriment to our client's pharmacy, and if as a consequence its prescription figures fell even lower than its current below average levels, it is conceivable that its economic viability and existence may well be called into question, which would also then potentially cause significant detriment to proper planning in respect of the provision of pharmaceutical services in Parnwell and the surrounding area."*

2.93.29 *Brabners are essentially making the same contradictory argument as Dogsthorpe Pharmacy. On one hand they claim that there is little or no need for a pharmacy that serves Parnwell whilst at the same time claiming that if such a pharmacy were to open it would have such an impact on their own client's pharmacy that they would close. The contradiction of such self-serving statements is clear. We submit that the ICB should consider the needs of patients rather than the profit of other pharmacies.*

2.93.30 *I also direct the Committee's attention to the letters of support which are attached with this letter. As the Committee will note, the letters do not even mention the pharmacy owned by Hampton Vale Health Limited. It is clear that patients do not generally consider this pharmacy as a viable option for them to use.*

2.93.31 *Brabners then lists pharmacies within a 3 mile walking distance and suggests that these would be reasonable for Parnwell residents to access. We hope it is clear that such a suggestion simply ignores patient need and access issues that patients face and as is already demonstrated above, these pharmacies are not considered to provide reasonable choice by patients.*

2.93.32 *Andrew Parkes MP and the Health and Wellbeing Board*

2.93.33 *We submit that it should be of considerable help to the ICB to see independent and local analysis of the current need for a pharmacy in Parnwell from both the local MP and the Health and Wellbeing Board.*

2.93.34 *Andrew Parkes MP has engaged with local residents (in fact local residents have also approached him about their concerns) and has direct knowledge of the problems that patients face trying to access pharmaceutical services.*

2.93.35 *Dr Shabina Asad Qayyum is a local councillor, local doctor, Cabinet Member Public Health and Adult Social Care for Peterborough City Council and Co-Chair of the Health and Wellbeing Board. It is difficult to imagine a person with better knowledge of the issues facing patients living in Parnwell who can provide independent evidence of local need.*

2.93.36 *We do not intend to repeat the content of Dr Quayyum's letter here and instead urge the Committee to consider it in detail along with the attached report that supports the submission we have made for approving our client's application.*

2.93.37 *Patient Support*

2.93.38 *My client has engaged with the local community in Parnwell and we attached letters of support that have been received from patients. We ask that the Committee takes the time to read these letters. Not only do they provide direct evidence of patients who share protected characteristics having difficulty accessing existing pharmacies they also show why the comments from objectors are incorrect. It is perfectly clear that local residents are campaigning for better provision of primary care services in their community and that there are complaints about accessing existing pharmacies."*

2.93.39 *Alichem Limited stated:*

2.93.40 *"We have noted that the applicant will be closed during the core hours and also that the applicant has submitted additional evidence after event."*

2.94 Regulation 18(2)(b) generally

- 2.95 The Committee noted the applicant's proposed 40 core opening hours and five supplementary opening hours.

Proposed									40:00		5:00	
	S1		C1		S2		C2		S3		C3	
Monday			09:00	13:00			13:00	17:00	17:00	18:00		
Tuesday			09:00	13:00			13:00	17:00	17:00	18:00		
Wednesday			09:00	13:00			13:00	17:00	17:00	18:00		
Thursday			09:00	13:00			13:00	17:00	17:00	18:00		
Friday			09:00	13:00			13:00	17:00	17:00	18:00		
Saturday												
Sunday												

- 2.96 It was noted that the opening hours declared on the application form (Annex 1), were not completed correctly. Core hours were proposed to run from 9am – 5pm, Monday to Friday, making a total of 40 core hours. However, the total opening hours suggest a lunch break between 1pm and 2pm.

- 2.97 The Committee noted that clarification was sought from the applicant and the following response was received:

2.97.1 *"Apologies for that error. I can confirm that core hours will be 9am-5pm, with supplementary hours from 5pm-6pm, therefore being open all day without a break from 9am-6pm, totalling 45 hours (and not 44 as on attached Annex 1)."*

- 2.98 The opening hours of those pharmacies that were closest to the best estimate location provided were shared with the Committee prior to the meeting. The Committee noted that supplementary hours can be withdrawn at any time in line with the Regulations.

- 2.99 The Committee noted that no information had been provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore it was unlikely 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.

2.100 Regulation 65 – core opening hours conditions

- 2.101 The applicant was not offering more than 40 core opening hours and therefore regulation 65(4) did not apply.

- 2.102 The Committee also noted the following from Shape Atlas:

2.102.1 Parnwell whilst a deprived area, is not the most deprived locality in Peterborough.

2.102.2 50.5% of the Parnwell population have access to one car which is higher than the average for Peterborough, which was 43.5%.

2.103 The Committee was made aware from a member of the NHS Cambridgeshire & Peterborough ICB who were present at the meeting, that Parnwell Medical Centre closed in 2022, not 2023. The ICB are working with the contractor to reopen the practice, but there are still outstanding repairs.

2.104 **Decision**

2.105 The Committee refused the application on the following basis, under Regulation 18(2)(b):

2.105.1(i) There was no evidence provided to suggest that there was not already a reasonable choice with regard to obtaining pharmaceutical services in the area of Peterborough HWB.

(ii) There was no evidence provided of people sharing a protected characteristic having difficulty in accessing pharmaceutical services that meet their specific needs for such services; and

(iii) There was no evidence showing that innovative approaches would be taken with regard to the delivery of pharmaceutical services.

2.106 The Committee, as part of their rationale to refuse the application, noted the HWB had issued a supplementary statement confirming there was no gap created when the Lloyds Pharmacy in Parnwell closed. This contradicts the support from the HWB Chair in the letter received.

2.107 The Committee agreed there was no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore the Committee 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.

2.108 For all the above reasons the view of the Committee in accordance with Regulation 18(2)(b), was that 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.

2.109 The Committee was not satisfied that granting the application would confer significant benefits as outlined above or would secure improvements or better access to pharmaceutical services.

2.110 The Committee agreed that appeal rights are granted to the applicant, 1514 Pharm Ltd.

2.111 **Regulation 50 - Discontinuation of arrangements for the provision of pharmaceutical services by doctors**

2.112 The Committee agreed that as the application was refused, it was not to consider Regulation 50, discontinuation of arrangements for the provision of pharmaceutical services by doctors.

2.113 **Regulation 66 – conditions relating to providing directed services.**

2.114 The Committee agreed that as the application has been refused, it is not required to consider this regulation.”

3 **The Appeal**

In a letter dated 12 December 2024 addressed to NHS Resolution, Rushport Advisory on behalf of the Applicant appealed against the decision of the Commissioner. The grounds of appeal are:

- 3.1 "I act for 1514 Pharma Ltd and have been instructed by my client to submit this appeal against the decision of the Commissioner to refuse the above application. The decision was communicated to us by letter dated 29 November 2024.
- 3.2 As the Committee will note, the Commissioner's decision letter runs to 25 pages, however most of this simply repeats the comments made by either my client or interested parties, or quotes from the current PNA.
- 3.3 Proper consideration of the legal test commences at page 8 of the decision letter. The ICB has made broad assumptions that are not only unsupported by evidence, but the evidence available shows these assumptions to be incorrect.
- 3.4 Examples of this include the following statements made by the Commissioner in the decision report;
 - 3.4.1 *The residents of Parnwell therefore currently receive medical services from various local GP practices in the surrounding area. Dispensing activity (February 2024) from the nearest pharmacy (Dogsthorpe Pharmacy) suggests patients are being prescribed medicines from Nightingale Medical Centre, Boroughbury Medical Centre, Thomas Walker & Westgate Surgeries and Thistle Moor Medical Centre to name just the top 4. As people are travelling to these GP practices for medical services, they are likely to be able to access pharmaceutical services on route to or from their medical practice or anywhere else they may be travelling to/from.*
- 3.5 As a starting point, the Commissioner makes a number of incorrect assumptions to arrive at their incorrect conclusion.
- 3.6 Firstly, the majority of patients do not have to travel to their GP practice in order to collect a prescription. 80% of medicines are for repeat items, with nearly 100% being issued electronically. The Commissioner has simply ignored this fact.
- 3.7 Secondly, dispensing is only one service offered by NHS pharmacies and there is an increasing emphasis on reducing the demand on GP practices by offering additional services from community pharmacies. Examples of this are Pharmacy First, flu vaccination, blood pressure checks and locally commissioned services. The Commissioner's analysis is based on a single service and incorrectly assumes that patients will travel to their GP prior to accessing this service.
- 3.8 Any conclusion reached on such a basis is clearly flawed and must be disregarded. The Commissioner then states;
 - 3.8.1 *The data within the maps, shared with the Committee prior to the meeting, showed that the majority of patients who were dispensed medicines from the nearest pharmacy (Dogsthorpe Pharmacy) attended the Nightingale Medical Centre, also in Dogsthorpe. February 2024 data suggested, Dogsthorpe dispensed 12,434 prescriptions for 42 GP practices, where 3,817 prescriptions were prescribed from Nightingale Medical Centre.*
 - 3.8.2 *The data also showed that the Nightingale Medical Centre prescribed 9,235 prescriptions which were dispensed by 72 pharmacies. The Committee agreed that patients were using a wide range of pharmacies for their pharmaceutical needs, and therefore agreed patients are exercising their choice.*

- 3.9 The conclusion reached by the Commissioner appears to avoid any attempt to properly consider the needs of patients or the evidence that was in front of them.
- 3.10 Clearly it is the case that if there is no pharmacy in Parnwell then patients have no choice other than to go to pharmacies located elsewhere. In many cases people would literally die if they did not do this. To then conclude that the requirement to make journeys elsewhere in some way proves that there is reasonable choice is absurd.
- 3.11 Further, extensive evidence was provided to the Commissioner in the form of letters from patients, local councillors and the HWB that demonstrates the challenges that patients face in accessing pharmacies. Despite this evidence the Commissioner states;
- 3.11.1 *The Committee noted that no evidence was provided to demonstrate that those living in Parnwell were currently unable to exercise a choice in obtaining pharmaceutical services.*
- And;
- 3.11.2 *The Committee noted, whilst it was accepted that there would be people with protected characteristics living in Parnwell and that some might need pharmaceutical services as a result, there was no evidence that any specific groups had any difficulty accessing such services.*
- 3.12 These findings could only have been reached by ignoring or dismissing the evidence that was provided to the Commissioner.
- 3.13 It is further notable that that the Decision Report shows that the decision to refuse the application was made prior to considering the totality of evidence provided, as much of the discussion of the application is found after the Commissioner has determined that there is no case for a new pharmacy in Parnwell.
- 3.14 We further note that on page 24 the Commissioner states;
- 3.14.1 *The Committee, as part of their rationale to refuse the application, noted the HWB had issued a supplementary statement confirming there was no gap created when the Lloyds Pharmacy in Parnwell closed. This contradicts the support from the HWB Chair in the letter received.*
- 3.15 My client has engaged with the HWB and it has confirmed that consideration of the Lloyds closure did not involve any specific consideration of the affect that closure would have on patients who live in Parnwell.
- 3.16 Not only does the HWB support my client's application, but it has now determined that, having properly reviewed the situation, it will issue a Supplementary Statement to the PNA to identify a need for a pharmacy in Parnwell in the event that this appeal is not successful. The HWB had intended to issue this statement but does not wish to prejudice my client's appeal by doing so at this time. This is confirmed in the attached letter from Doctor Councillor Shabina Quayyum [see Appendix A].
- 3.17 We ask the Committee to note that Dr Quayyum is not only a local GP and ward councillor, but also co-chair of the HWB.
- 3.18 **Patient Support**
- 3.19 My client has engaged with the local community in Parnwell and we attached letters of support that have been received from patients [Appendix B]. We ask that the Committee takes the time to read these letters. Not only do they provide direct evidence

of patients who share protected characteristics having difficulty accessing existing pharmacies they also show why the comments from objectors are incorrect. It is perfectly clear that local residents are campaigning for better provision of primary care services in their community and that there are complaints about accessing existing pharmacies.

3.20 We look forward to hearing from you in due course.”

3.21 Also included in the Applicants appeal was a report:

3.22 **“1.0 INTRODUCTION**

3.22.1 1514 Pharm Ltd have submitted an application for inclusion in the pharmaceutical list for the Cambridgeshire and Peterborough Health and Well Being Board. The location of the proposed premises is at Saltersgate, in the Parnwell area of Peterborough.

3.22.2 This report has been prepared for the applicant, 1514 Pharm Ltd.

3.22.3 **Structure of Report**

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

3.22.4.1 **Section 2** discusses a preliminary matter;

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

3.22.4.3 **Section 4** comments on the statutory tests;

3.22.4.4 **Section 5** reviews the Cambridgeshire and Peterborough PNA;

3.22.4.5 **Section 6** sets out the details of health care provision in Parnwell;

3.22.4.6 **Section 7** provides an assessment against the key regulation 18 tests; and

3.22.4.7 **Section 8** sets out the conclusion.

3.22.4.8 **Appendices**

3.22.4.9 The following appendices are included:

3.22.4.10 **Appendix 1** Map of Parnwell [Appendix C]

3.22.4.11 **Appendix 2** News Articles and Petitions [Appendix D]

3.22.4.12 **Appendix 3** Bus Routes in Peterborough [Appendix E]

3.22.5 **PRELIMINARY MATTERS**

3.22.6 This is an application by 1514 Pharm Ltd which seeks to provide a new pharmacy in the Parnwell area of Peterborough. This is a positive intervention proposal which seeks to redress the significant depletion of pharmaceutical and health care services that have taken place in Peterborough and particularly the Parnwell area in recent years.

3.22.7 Parnwell had a health centre located at Saltergate for many years but has recently closed. The reason for its closure has been to be due to issues with the premises.

3.22.8 While there is a strong demand for the health centre to re-open which itself will reinforce the need for a pharmacy, the absence of the health centre (at present) means there is no health services in the area at present.

3.22.9 Moreover, the closest pharmacy to Parnwell was the Lloyds at Sainsbury's which closed in May 2023. This was a company restructuring decision with Lloyds streamlining its portfolio. It is not a decision based on the health and wellbeing needs of the local people.

3.22.10A number of other pharmacies have closed in the wider Peterborough area in recent times which increases the demand on the remain pharmacy network (including Pharmacy First at 51 Lincoln Road, City Pharmacy 50 Lincoln Road and Lloyds at Sainsburys Flaxland). Four pharmacy closures is a significant decline in an area which has experienced significant population growth in recent years.

3.22.11These closures leave a gap in service provision. There is a clear gap in health care services in the east of the City and east of the A1139 Frank Perkins Parkway. This is reinforced by the scale of population living in the area which is a lower affluence area, the significant population of people resorting to the area and the high demands placed on pharmacies across the city and under provided for in pharmaceutical services terms.

3.22.12It is important that urgent action is taken to remedy the deficit in services arising from the recent closures in both the pharmacy and the GP surgery network.

3.22.13THE SITE AND SURROUNDING AREA

3.22.14General Location

3.22.15A map of Parnwell is at **Appendix 1** [Appendix C]. Parnwell is located in Peterborough, about 3 miles (mls) northwest the City Centre. It is located east of the A1139 Frank Perkins Parkway which is a busy dual carriageway that runs along the east of the City. This dual carriage way limits access to Parnwell with the main vehicle accesses located at the Eastfield Road off slip to the southwest and the Eye Roundabout to the north. There is a single pedestrian link provide underneath the dual carriageway along Redmile Walk which provides access to Dogsthorpe, however this is an unattractive walk as it is exposed to the weather and has no natural surveillance.

3.22.16The area of Parnwell east of the dual carriageway had a population in 2021 of about 4,700. It is relatively new housing area developed in the 1990s and comprise a mixture of housing tenures including static caravan homes, bungalows and semi detached and detached homes. Many of the homes are social rented accommodation.

3.22.17Parnwell is a distinguishable community of northeast of Peterborough and the area would be generally defined as being bordered by the A1139 dual carriageway to the west, industrial development to the south and open countryside to the north and east.

3.22.18The Proposal Site

- 3.22.19The proposal site is in Parnwell's Local Centre located at Saltersgate.
- 3.22.20Planning permission was granted for application 23/00947FUL for a change of use from residential to commercial use at Fleming House, Parnwell. This building was previously approved planning permission to function as a pharmacy when first built, but in more recent times has been a dwelling. Permission to revert the use of the premises back to a pharmacy was granted in September 2023.
- 3.22.21Whilst this premises is ideal for a pharmacy, there are others in the local centre that could also be utilised.
- 3.22.22The important point is that the proposal will be within the Parnwell Local Centre to provide pharmaceutical services to the local population where patients have historically visited their GP in the past. It is also a location where people visit daily and means patients could use the proposed service using the same transport modes and movement patterns that they already take daily.
- 3.22.23Parnwell Local Centre**
- 3.22.24Peterborough City Council designated Parnwell Shops as a Local Centre which reflects the particular needs of the Parnwell local community. It contains a range of shops and services that supports and provides for the daily needs of the local community.
- 3.22.25The shops are a purpose built development set in spacious grounds with car parking.
- 3.22.26The Local Centre has the following retailers and services:-
- 3.22.26.1One Stop Convenience Shop;
 - 3.22.26.2D'Agnano's Hair Saloon;
 - 3.22.26.3Peony Oriental Express Take Away;
 - 3.22.26.4Kingsgate Conference Centre;
 - 3.22.26.5Parnwell Community Centre providing;-
 - 3.22.26.5.1Stars Pre-School;
 - 3.22.26.5.2Potter's House Church;
 - 3.22.26.6Under the Eagle / Club Caliente Bar Restaurant; and
 - 3.22.26.7Parnwell Medical Centre (currently closed).
- 3.22.27The One Stop supermarket is open 7am to 10pm 7 days a week and provides an ATM machine, national lottery, parcel collection point, pay point and provides a mix of daily food and non food goods.
- 3.22.28The Local Centre has about 35 surface level car parking spaces available in front of the shops. The Medical Centre also has car parking for about 20 cars.
- 3.22.29The Local Centre sits centrally within the Parnwell neighbourhood and is accessible on foot with a variety of footpaths linking it to the various housing

areas in Parnwell. It is also easily accessed by car and a bus stop is located to the rear of the Centre.

3.22.30 Beside the Centre is a local children's playground. Also beside the Centre is Lime Academy Primary School. This school has about 340 children aged 4-11 years old.

3.22.31 **The Surrounding Area**

3.22.32 The area surrounding the Local Centre is in mixed use, consistent of a large and vibrant community. To the north are housing areas of Whittington and Finchfield. Keys Park is between these two housing areas is a residential park providing accommodation of people aged over 50. These are static caravans converted into permanent homes. A large area of housing at St Michael's Gate and Martins Bridge is located east of the local centre bounded by Parnwell Way. East of Parnwell Way is a large industrial area including a large Tesco distribution warehouse and a large Kings Gate Community Church.

3.22.33 South of the Centre is further housing areas around Whitacre, Henshaw, Lavington Grange, Lyvelly Gardens and Franklin Crescent. South of Oxney Road is housing at Meadenvale, Herron Park and Newark Road. New housing has been built in recent years at Wolf Square and Vixen Close.

3.22.34 Also at Newark Road is another residential park of converted static caravans. The area east of Peterborough also has traveller sites in Oxney Lane.

3.22.35 South of Oxney Lane is a large Sainsbury's superstore of about 6,000 sq m with over 400 car parking spaces and providing main food and non food shopping. Other services provided are a shoe repairs business, Argos, Starbucks Café, Sainsbury's bank and petrol filling station.

3.22.36 The area also has large industrial estates at Oxney Lane and around Fengate. The industrial area is dominated by the massive Perkins Engines factory which has about 4,000 employees on site. The 2021 Census estimates that the area around Parnwell has a workplace population of over 12,600 of which just under 10,000 travelled into this area daily for work.

3.22.37 **The Proposal**

3.22.38 The proposal is for a new pharmacy contract to be located at Parnwell Local Centre.

3.22.39 There is planning permission granted for a new pharmacy in a building which previously had planning permission as a pharmacy. Whether or not these premises are used, the proposal will be located in the heart of the Parnwell community.

3.22.40 The proposal will operate 40 core hours between 9:00am to 5:00pm Monday to Friday. It will open 44 hours from 9am to 6pm Monday to Friday (with lunch between 1pm and 2pm) and from 9am to 1pm on Saturday.

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

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

3.22.43 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.

3.22.44 The premises will have a consultation area to provide services including NMS, CPCS and GP CPCS, EHC, Smoking Cessation, Chlamydia Screening, Flu Vaccinations, Pharmacy First, Hypertension Case Finding, Palliative Care, Needle and Syringe Exchange, Supervised Self Administration, Services under PGDs and the Supply of Gluten Free Foods.

3.22.45 THE STATUTORY TESTS

3.22.46 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.

3.22.47 The first test is whether an application for the improvements for people living in Parnwell has been considered under the Pharmaceutical Needs Assessment for Cambridgeshire and Peterborough 2022 (the "PNA").

3.22.48 As shown below the PNA and its Supplementary Statement does not foresee the improvements that the proposal could deliver to the Parnwell area particularly given the changing circumstances of the closure and potential re-opening of the Parnwell Medical Centre. As such this application is an 'unforeseen' application and Regulation 18 applies to its assessment.

3.22.49 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.

3.22.50 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. It will not cause significant detriment to the closest pharmacy which is located over a mile away in Dogsthorpe. This pharmacy has traded continuously with above the England average dispensing levels and has seen an increase in dispensing in recent months following the closure of other pharmacies in the City. As such the opening of the proposal, which will only partially redress the balance of pharmacies in the City will not affect the proper planning of pharmaceutical services.

3.22.51 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.

3.22.52 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 Lloyds Pharmacy at Sainsbury's and the closure of the Parnwell Medical Centre.

3.22.53 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.

3.22.54 Better access and reasonable choice are clearly evident in this case where there is an evidential context that shows that the closure of Lloyds has significantly disadvantaged a large densely populated suburban area, leaving a gap in the geographical spread in the pharmacy network of Peterborough and the access to the full panoply of pharmaceutical services in the City.

3.22.55 REVIEW OF THE PNA

3.22.56 The proposal site is in the Cambridgeshire and Peterborough Health and Wellbeing Board area and the Cambridgeshire and Peterborough PNA (2022) applies in this case.

3.22.57 The PNA's role is to describe the needs of the population, current pharmaceutical service provision, and any gaps in that provision. The PNA is only capable of making a judgement about the provision of services at the time of its publication and then relies on the publication of supplementary statements thereafter. Unlike most PNAs the Cambridgeshire and Peterborough PNA does not provide detailed analysis by locality to allow a more in-depth analysis of the needs of the different parts of the HWB area.

3.22.58 The PNA does note that Peterborough is one of the most relatively deprived areas in the East of England.

3.22.58.1 **“3.5 Characteristics of the population in Cambridgeshire.** *Cambridgeshire is a predominantly rural county with few urban settlements, which can create challenges for local transport and access to services. Peterborough is one of the most relatively deprived areas in the East of England and has relatively poor health outcomes in comparison to national averages, with statistically significantly low life expectancy at birth for both males and females and significantly high rates of mortality from a number of causes considered preventable. Deprivation and poor health outcomes are most prominent in Peterborough's densely-populated urban centre, with less deprivation and better health outcomes observed in rural areas towards the outer areas of Peterborough.”*

3.22.59 The PNA page 25 notes that the population across the Cambridgeshire and Peterborough area is forecast to increase substantially in the coming years, with the biggest proportionate increases expected in the 65 years and over age group. It also notes that there is a significant programme of house building planned with over 60,000 net dwelling completions forecast between 2021 and 2031.

3.22.60 The PNA notes at page 27 that the area has significant populations of travellers and migrant workers.

3.22.61 The PNA also noted that Peterborough has more widespread health and wellbeing issues, where health determinants and outcomes are often more adverse than the Cambridgeshire and the national averages.

3.22.61.1 *“wellbeing determinants and outcomes. However, independently, the residents of Cambridgeshire and Peterborough experience differing health experiences overall; Cambridgeshire tends to compare generally well with national health and wellbeing determinants and outcomes, whilst Peterborough appears to have more widespread health and wellbeing issues, where health determinants and outcomes are often more adverse than the Cambridgeshire, Cambridgeshire and Peterborough and national averages.”*

3.22.62 It also notes that life expectancy for Peterborough is below the rate for England and overall death rates are higher.

3.22.62.1 *“Life expectancy in Cambridgeshire in men and women is above national averages and premature and overall death rates are low. However, life expectancy for Peterborough is below the rate for England, and overall death rates are higher. There are also important differences in life expectancy and mortality in deprived areas of Cambridgeshire compared with more affluent areas. This pattern is generally maintained for the principal causes of death.”*

3.22.63 It also notes that levels of disability in Peterborough are higher than in Cambridgeshire.

3.22.64 The PNA also notes the higher levels of deprivation in Peterborough as shown below [Appendix F, page 1].

3.22.65 A Supplementary Statement has been issued in January 2024 given the significant number of closures and reduction in opening hours in the HWB area.

3.22.66 The Supplementary Statement notes that the PNA had found there was no current or future gaps identified in the provision of necessary and other services across Peterborough. It based this finding on the fact that there were 18.7 pharmacies per 100,000 residents in Peterborough, the distance people had to drive was mostly less than 20 minutes, and that coverage of pharmaceutical services was adequate.

3.22.67 The Supplementary Statement notes that since October 2022 10 pharmacies have been removed from the pharmaceutical list (with 9 closures and 1 consolidation). The PNA also notes that there are some pockets in the Peterborough area where it is necessary to drive more than 20 minutes by car to access a pharmacy or dispensing surgery. It suggests that these areas are unpopulated or can access services in other HWB areas. It does concede that not everyone has a car and those that are more vulnerable in society may be those that do not have access to a car. A [sic] shown later the Parnwell area has below average car ownership levels.

3.22.68 The Supplementary Statement notes that since 2022 of the 15 pharmacies contracted to operate 100 hours, only 1 pharmacy still provides this. 10 have reduced their hours and 4 have closed.

3.22.69 The Supplementary Statement shows that 5 of the 10 closures are in Peterborough City.

3.22.70 The Supplementary Statement states that the closure of the pharmacies changes the ratio to 17.5 pharmacies per 100,000 but does not set this out in tabular form or state the population this relates to. Our analysis is below and finds a different ratio.

3.22.71 The PNA Tables 20 to 22 indicates that Cambridge and Peterborough has a population in 2021 of 883,050. With 140 pharmacies this equates to 1 pharmacy per 5,966.5 residents. This would equate to 16.7 pharmacies per 100,000.

3.22.72 The population is predicted to grow to 948,400 by 2026. With the closure of 10 pharmacies to date, there will be a ratio of 1 pharmacy per 6,872 people in the HWB area. This would suggest the HWB has about 14.5 pharmacies per 100,000 people.

3.22.73 Neither the PNA nor the Supplementary Statement assesses the impact of the closure of Lloyds on the Parnwell community, particularly given the closure of the Medical Centre. The closure of pharmacies in the north east of Peterborough at Lincoln Road where 2 pharmacies have closed in conjunction with the closure of Lloyds is a concentrated impact on local services in the north east of the City. No assessment is made of the impact these closures will have on the densely populated and deprived area of the City Centre and the vulnerable groups living in the Parnwell area including children, elderly people and travellers as well as workers in the area.

3.22.74 It is clear that the PNA and the Supplementary Statement have not foreseen this proposal.

3.22.75 **HEALTHCARE IN PARNWELL**

3.22.76 A Map of Parnwell is at **Appendix 1** [Appendix C].

3.22.77 At present there is no pharmacy in Parnwell despite the existence of a large community which has significant health care needs.

3.22.78 **Previous Healthcare in Parnwell**

3.22.79 The most recent pharmacy in this area was **Lloyds, Sainsbury's Oxney Road**. This pharmacy was south of the Parnwell housing. It formed part of a Sainsbury's which would comfortably attract 30,000 customers per week. Before its closure Lloyds was dispensing on average 7,000 items per month. Lloyds provided dispensing services to patients presenting from a broad variety of medical centres and surgeries. The closure of Lloyds has left the large area east of the Frank Perkins Parkway A1139 dual carriageway without a pharmacy.

3.22.80 **Parnwell Medical Centre** has about 1700 patients registered with it. It has been closed for a year and patients have been disadvantaged without their local surgery. This was a popular surgery when it was opened and there is demand to have the surgery reopened. The Parnwell Surgery website confirms that the closure was based on physical issues of subsidence with the building. It was not closed due to a lack of demand.

3.22.81 Given both the local pharmacy and surgery have closed for non patient demand reasons, there remains a high demand for pharmaceutical services in the Parnwell area. At present patients in Parnwell seeking pharmaceutical services must look outside the area.

3.22.82 **Other Relevant Closures**

3.22.83 **Welland Medical Practice** was previously located at 144 Eye Road and was access [sic] from the Local Centre via the underpass. This closed around 2019

when the Nightingale Surgery opened. It moved a mile further west and away from the Parnwell Community.

3.22.84 **Nearest Pharmacy and Healthcare**

3.22.85 **Dogsthorpe Pharmacy, 54 Central Avenue** is located about 1.2 miles walk from the proposal site, well beyond walking distance. The walk would take patients along exposed pathways where there is no surveillance. It would not be an attractive walk. It is a 2.1 mile drive. There is no direct bus route to this pharmacy from Parnwell. [Appendix F, page 2].

3.22.86 This Pharmacy has seen an increasing trend of dispensing with it current [sic] dispensing over 12,000 items per month. About a third of its items are prescribed in the Nightingale Medical Centre and about 22% are prescribed in the Boroughbury Medical Centre.

3.22.87 The average monthly dispensing in England is 7,399. This pharmacy is dispensing about 63% above the England average. [Appendix F, page 3].

3.22.88 This pharmacy forms part of a Local Centre and is located and designed to meet the day to day needs of the Dogsthorpe community. It is in a similarly designated retail area as Parnwell. The two serve their own populations. It is unreasonable to expect Parnwell residents to look to Dogsthorpe for their needs and it is equally unreasonable to expect Dogsthorpe businesses to cater for the Parnwell community.

3.22.89 As mentioned above, the **Nightingale Medical Centre**, Damson Drive is the nearest alternative medical centre for Parnwell residents. This is a 1.3 mile walk or a 2.1 mile drive from the proposal site. [Appendix F, page 4].

3.22.90 **Elsewhere**

3.22.91 The next nearest pharmacy is Boots located at Eye. This is a different settlement entirely and it would not be reasonable for residents of Parnwell to travel to a separate village for their pharmaceutical needs. There is no direct bus route to this pharmacy from Parnwell.

3.22.92 The nearest pharmacy in Peterborough is MI Pharmacy, 127 Eastfield Road. This is located 1.7 miles southwest of the proposal site and well beyond walking distance. This pharmacy is dispensing an increasing amount of items following closures of two pharmacies close by. It is dispensing on average 8,300 items per month. The vast majority of items dispensed at this pharmacy are from Park Medical Centre which is an inner city medical centre. This confirms there is no existing interaction between Parnwell residents and this pharmacy as few people in Parnwell are likely to be registered with Park Medical Centre.

3.22.93 This pharmacy has limited car parking and would not be attractive to people who need to drive. There is no direct bus route to this pharmacy from Parnwell.

3.22.94 **Summary**

3.22.95 The former Lloyds pharmacy was the only pharmacy in Parnwell before it closed. It was popular and well used pharmacy. The area of Parnwell has also seen closure of the medical centre (albeit this appears to be a temporary matter). Other medical centres have relocated further away from Parnwell. All pharmaceutical services are beyond walking distance and a long drive for people in Parnwell. There is no physical interaction between the Dogsthorpe

Pharmacy and the large Nightingale Medical Centre meaning patients have to go significantly out of their normal travel patterns to make a trip between the two. The nearest pharmacy is in its own Local Centre serving a distinct and different population from Parnwell. [Appendix F, page 5].

3.22.96The other pharmacies in the wider area cannot be expected to make up for the closure and loss of Lloyds. Such a situation has clearly disadvantaged many patients.

3.22.97ASSESSMENT AGAINST THE REGULATION 18 TESTS

3.22.98Regulation 18 (20)(b) [sic] (i-iii) is well known and sets out the following:

3.22.99(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; (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; and (iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services, granting the application would confer significant benefits on persons in the area which were not foreseen when it published its pharmaceutical needs assessment.

3.22.100Reasonable Choice

3.22.101The first consideration is whether there is a reasonable choice with regard to obtaining pharmaceutical services in this area. Until it closed Lloyds was providing a vital service to the Parnwell community. Peterborough has a reduced number of pharmacies compared to the England average, and some of the pharmacies that are located in the city are prescribing well over the national average of items per month, particularly the Dogsthorpe Pharmacy which is closest to the Parnwell area.

3.22.102Following the closure of Lloyds and indeed 4 other pharmacies in Peterborough there is a reduced choice of pharmacies in the area. The fact that the number of pharmacies per population levels in the HWB area is below the England average is illustrative of the reduced choice.

3.22.103With no pharmacy in Parnwell or the areas east of the Fank Perkins Parkway means there is no choice whatsoever other than to leave the area.

3.22.104The resident population of Parnwell area at circa 4,700, would comfortably support a pharmacy. The resorting population of shoppers to Sainsbury's of over 30,000 would support a pharmacy. The 10,000 employees coming into the area would further support a pharmacy in the area.

3.22.105Moreover, there has been recent housing developments (at Newark Road) which increases the population which increases the need for additional choice in the area.

3.22.106There is also a vulnerable group of residents with traveller's sites in the area which supports the need of pharmaceutical services.

3.22.107The closure of Lloyds has resulted in a community petition to have a new pharmacy opened in Parnwell. A copy of the petition is at **Appendix 2**

[Appendix D]. Local Councillors are encouraging people to support the case for a new pharmacy. They have stated:

3.22.108 *"We now need the NHS to approve the new pharmacy. This is an essential service for the area - with population growth of close to a thousand residents over the last year and a significant retired population in Parnwell North".*

3.22.109 There is deep concern among local representatives that the closure of Parnwell Surgery has removed all health care in the area. A number of news articles are at **Appendix 2** [Appendix D] showing the concern in the press. One of the local Councillor has described Parnwell as a "GP desert" and stated:

3.22.110 *"Patients are being re-directed to either Newborough surgery or Ailsworth surgery. However, they are more than eight miles away and have got limited options for public transport".*

3.22.111 Two petitions have been started to have the surgery re-opened. This proposal by 1514 Pharm Ltd will undoubtedly be welcomed by the local community.

3.22.112 **Walking Distances**

3.22.113 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 (0.6 miles). 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 Peterborough would be 800m, though 400m would be desirable and the preferred maximum would be 1200m. There are no other pharmacies within 400m or 800m from Parnwell Local Centre. The nearest shops are all located beyond the maximum limit of urban walking distances from the shops. Of course, for many patients the walk will be further because they live east, north and south of the Parnwell Local Centre. On this basis the alternative pharmacies in this case are not accessible.

3.22.114 **Bus Routes**

3.22.115 In terms of bus services, the closest pharmacies are not on the bus routes serving Parnwell. Three bus routes service Parnwell. Route 4 runs every 30 minutes but goes to the town centre and does not pass either of the nearest Peterborough pharmacies. Route 61 travels through the industrial area to the south around Fengate where there are no pharmacies. Route 63 travels a significant distance through Dogsthorpe but does not pass the Dogsthorpe Pharmacy. It runs very infrequently (i.e. less than every hour). It takes patients to the town centre via Lincoln Road. The pharmacies at Lincoln Road have seen a reduction where two pharmacies closed in the last year. As such patients using this bus route would be required to visit a pharmacy that forms part of a different health centre at Boroughbury Medical Centre. This is not a realistic or reasonable choice especially for patients that normally use the Parnwell Surgery or indeed those that have to walk a mile to the Nightingale Medical Centre.

3.22.116 A map of the bus routes in Peterborough is at **Appendix 3**. [Appendix C]

3.22.117 **Access to a Car**

3.22.118 It is unsurprising that an area of relative deprivation such as Parnwell has a relatively low car ownership rate. This is shown below. [Appendix F, page 6].

3.22.119 It can be seen that 25% (over a quarter) of all households in Parnwell 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 local shopping centres such as Parnwell Local Centre is a vital community service, particularly where the local GP surgery has historically provided health care services to this local area and where the previous pharmacy has now closed at Sainsbury's.

3.22.120 Given the significant levels of dispensing at the former Lloyds, its closure will have displaced a substantial number of Parnwell patients with many of them having no access to a private car.

3.22.121 Continuing the provision of a pharmacy in Parnwell 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.

3.22.122 Hours of Opening

3.22.123 The proposal will open 6 days a week and will provide for those patients that need access to a pharmacy on a Saturday morning. Given the reducing number of 100 hour contracted 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.

3.22.124 Parnwell Local Centre as a Hub

3.22.125 It is clear that being designated as a Local Centre, Parnwell enjoys the same status and provides the same broad range of services as other similar sized local centres in the area. It is well located in the heart of the community providing shopping and leisure activities, services in health care, education and sporting activity. It is within easy walking distance of all residents of Parnwell including the mobile homes at Keys Park.

3.22.126 A pharmacy within the Parnwell Local Centre is a vital service which provide urgent local care to all patients in the absence of the Parnwell Surgery and when the surgery re-opens will clearly complement the local surgery and can offer advice and access to a variety of medications and treatments without the patient needing to see their GP.

3.22.127 Demand at the Proposal Site

3.22.128 The demand in Parnwell is clear, given Lloyds had previously been dispensing in the region of 7,000 items per month and the local surgery had a patient list of 1,700. The demands of the 4,700 people that live in the area and the 10,000 workers that resort to Parnwell area is a significant source of demand. The local children that attend schools in the area is a further source of demand. These children will have health care needs which had been being met by Parnwell Surgery and Lloyds and are currently not able to be met in the area.

3.22.129 Travelling Community

3.22.130 The travelling community have a permanent location at Oxney Road. This community are not often registered with GP services and it is important that they have quick and easy access to a health care provider. A pharmacist is a vital service for this community as they can be provided advice on some health issues without being required to be registered or have an appointment.

3.22.131 **General Characteristics of the Area**

3.22.132 The area has significant health needs as shown below.

3.22.133 *Population*

3.22.134 The population of Parnwell is 4,700 [Appendix F, page 7]

3.22.135 *Economic Status*

3.22.136 The economic status of the area is illustrated below. The area is dominated by private rented or rent free sector with 29.3% of people living in this accommodation. There are 22.7% of people living in social rented accommodation compared to the England average of 17.1%. Fewer people than the England average own their home (23.3% compared to 32.5%) and fewer have a mortgage (24.7% compared to 29.8%).

3.22.137 The area also has an above average level of unemployment with 4.9% of people unemployed compared to the England average of 3.5%. Fewer people are in employment with 53.2% compared to the England average of 57.4%. A higher than average percentage of the population are economically inactive with 41.9% inactive compared to the England average of 39.1%.

3.22.138 It is also noted that almost 10% of people in the area live in a caravan or temporary/mobile home. Fewer than the England average live in a whole house or bungalow or flat or apartment. This reflects the transient travellers and deprived nature of this area.[Appendix F, page 8].

3.22.139 *Unemployment*

3.22.140 In terms of economic activity it can be seen below that despite there being above average number of employed people in the area, it still has above average unemployment levels.[Appendix F, page 8]

3.22.141 *Health Demand*

3.22.142 The health characteristics of the population is illustrated below. It can be seen that fewer people in the area consider themselves to be in very good compared to the England average. 45.9% of people consider themselves to be in very good health (compared to England average of 48.5%) and 35.8% consider themselves to be in good health (compared to England average of 33.7%). [Appendix F, page 9]

3.22.143 Average levels of the population in the area consider themselves to be in fair or bad health compared to England.

3.22.144 Just under the England average of people in the are disabled with 15.8% of people defined as disabled under the Equality Act (compared to the England average of 17.3%).

3.22.145 **Evidence of Deprivation**

3.22.146 Consistent with the evidence above, the diagram below shows that the Parnwell area has high levels of deprivation. [Appendix F, page 10].

3.22.147 It can be seen that more households in Parnwell than the England average are deprived. Parnwell is more deprived in one dimension of deprivation compared to the England average (36.2% compared to 33.5%). It is more deprived in 2 dimensions compared to the England average (16% compared to 14.2%) and it is more deprived than the England average in 3 dimensions (i.e. 5.5% compared to 3.7%). On this basis, fewer households in Parnwell are classed as not deprived than the England average, with only 42% of households classed as not deprived compared to the England average of 48.4%.

3.22.148 The map below illustrates the scale of deprivation in the Parnwell area. [Appendix F, page 11].

3.22.149 This map shows that the area around Parnwell Local Centre to the northwest (coloured orange) are among the fourth highest levels of deprivation in England. The area around Dogsthorpe which is where patients would have to visit in the absence of a pharmacy in Parnwell is also an area of high deprivation. This reinforces the case that a pharmacy in Parnwell Local Centre is a vital service for the local community.

3.22.150 The evidence demonstrates that the area around the proposal site has a significant population, with 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 Lloyds that provides the full panoply of pharmaceutical services will provide improvements to health care outcomes.

3.22.151 **Workers in the Area**

3.22.152 It has been indicated above that the area south of Parnwell is a massive employment area. This area has over 12,000 workers. Above 2,000 of these workers are from the Parnwell area. This means that about 10,000 workers are travelling into the Parnwell area daily for work. Many of these workers will not have the opportunity to access a pharmacy during their working day and the proposal would be an enhancement for these workers.

3.22.153 **Secure Improvements**

3.22.154 It is shown above that closure of Lloyds and replacement by this proposal will secure the existing much needed and much used pharmaceutical services in Parnwell. Indeed with the temporary closure of the Parnwell Surgery it improves access to health services for the entire population. This is a significant enhancement in an area where there is no other pharmacy opening late on a Saturday.

3.22.155 There was significant demand at the former Lloyds within the region of 7,000 items dispensed per month in recent years and a population of 4,700 residents in the area, 30,000 shoppers in the area and 10,000 workers.

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

3.22.157 **Better Access**

3.22.158 The access issues for the people in the Parnwell area are set out above. The proposal site is located in the hub of Parnwell, where patterns of movement are well established to ensure that access to pharmaceutical services are

adequate. Closure of Lloyds will place many local people at severe disadvantage given the low car ownership rates and low affluence. 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.

3.22.159 Replacing Lloyds with the proposal will improve access to services as it will prevent the need for local patients to travel away from their local shops into another area to access pharmaceutical services.

3.22.160 **Protected Characteristics**

3.22.161 The proposal will cater for people of protected characteristics. Children and elderly people living in the Parnwell area would be groups with shared protected characteristics. These protected groups have lost access to their local pharmacy (and their surgery at present). 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 shopping centre as the surgery and where the school and community centre is located will address this matter and will ensure that a full pharmacy service is provided to these protected groups.

3.22.162 The travelling community are also a group with protected characteristics. These people struggle to access health care because they tend not to be registered with a GP. The provision of a pharmacy where they can access immediate and free advice would be a vital service for this community.

3.22.163 **Summary**

3.22.164 Overall, having considered the requirements of Regulation 18 the proposal should be granted as there is not reasonable choice of pharmacy services in the Parnwell area and the Cambridgeshire and Peterborough HWB area specifically bearing in mind the localised issues of the recent significant closure of pharmacies in Peterborough generally and specifically in Parnwell, current high demands at the former pharmacy, the below average number of pharmacies for the scale of population involved, the scale of deprivation in the 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 Parnwell population, and these benefits are wholly unforeseen.

3.22.165 **CONCLUSION**

3.22.166 Parnwell 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 Parnwell the applicant contends that the application is an unforeseen proposal that will satisfy the requirements of Regulation 18."

4 **Summary of Representations**

This is a summary of representations received on the appeal.

4.1 Millfield Pharmacy, Granville Pharmacy and Thomas Walker Pharmacy

4.1.1 "We write on behalf of Millfield Pharmacy, Granville Pharmacy and Thomas Walker Pharmacy. We would like the committee to note why had the HWB not

issued a statement that a pharmacy was needed in the area and why only at the point of appeal have they “properly reviewed the situation” and not at the point of the initial application or in the PNA. There is no new evidence supplied by the applicant to support their application. We would like to be kept notified of the progress and are willing to attend an appeal hearing if one is granted.”

4.2 Brabners on behalf of Eye Chemist

- 4.2.1 “We act for Hampton Vale Health Limited, the proprietor of Eye Chemist, 21 High Street, Eye, Peterborough PE6 7UP (“**our client**”).
- 4.2.2 Our client has been notified that the decision of the Commissioner to refuse the above application (“**the Application**”) has been appealed to NHS Resolution (“**the Appeal**”).
- 4.2.3 Our client has previously submitted its written representations in response to the Application, which the Commissioner has considered along with other parties’ submitted representations in reaching its decision to refuse the Application.
- 4.2.4 Our client has now been invited to provide written representations in respect of the Appeal.
- 4.2.5 For the reasons that have been articulated in our client’s previously submitted written representations, and to which we refer NHS Resolution, our client submits that:
 - 4.2.5.1 (i) the Application failed to meet the requirements of Regulation 18(1); and
 - 4.2.5.2 (ii) the Commissioner was correct to determine on all the information that was submitted to it that it was not 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 Health and Wellbeing Board, in whose pharmaceutical needs assessment the improvements or better access have not been included.
- 4.2.6 Our client submits that the Appeal raises no new substantive or meritorious points which would be necessary to support quashing the Commissioner’s decision and granting the Application.
- 4.2.7 The appellant has stated that the grounds of the Appeal are that, in reaching its decision to refuse the Application, “*the ICB has made broad assumptions that are not only unsupported by evidence, but the evidence available shows these assumptions to be incorrect.*” Having reviewed the decision letter, our client disagrees with such assertion and submits that the examples that have been cited by the appellant of such purported “broad” and “incorrect” assumptions on the part of the ICB are materially incorrect and, when analysed in the context of the entirety of the submitted representations, do not in fact support such assertion.
- 4.2.8 For the reasons stated above, we submit that:
 - 4.2.8.1 (i) the appellant has raised no valid grounds to support the Appeal; and

4.2.8.2 (ii) the Appeal is therefore baseless and meritless.

4.2.9 We respectfully request that the Appeal is denied and that NHS Resolution confirms the decision of the Commissioner to refuse the Application.

4.2.10 If you require any further information in relation to this matter, please do not hesitate to contact Richard Hough at these offices.”

4.3 The Commissioner

4.3.1 “Please note that from the 1 April 2023, community pharmacy contracting and commissioning has been delegated to Integrated Care Boards (ICBs). Hertfordshire and West Essex (HWE) ICB are hosting the function on behalf of the six East of England ICBs.

4.3.2 As requested in your letter, the Cambridgeshire and Peterborough (C&P) Pharmaceutical Needs Assessment (PNA) can be found at Pharmaceutical Needs Assessment (PNA) Final along with the published supplementary statement. This PNA was reviewed when assessing and determining this application.

4.3.3 The 2022-2025 C&P PNA does not identify any gaps in the provision of pharmaceutical services. It does not articulate any current or future gaps in the provision of necessary and other relevant services across Cambridgeshire and Peterborough and this is further reinforced within the supplementary statement that was published in January 2024.

4.3.4 The appeal has been submitted by Rushport Advisory LLP, advisor on behalf of 1514 Pharm Ltd and shall be referred to as the Appellant within this document.

4.3.5 The grounds for appeal as set out by the Appellant appear to be that the ICB has made assumptions, and that evidence supplied was not considered.

4.3.6 The Appellant states that “*As a starting point, the Commissioner makes a number of incorrect assumptions to arrive at their incorrect conclusion,*” (page, 2 appeal document) and then refers to the conclusion that the Pharmaceutical Services Regulation Committee (PSRC) came to regarding residents of Parnwell accessing both GP and pharmaceutical services. The Appellant then states “*Firstly, the majority of patients do not have to travel to their GP practice in order to collect a prescription. 80% of medicines are for repeat items, with nearly 100% being issued electronically. The Commissioner has simply ignored this fact.*

4.3.7 *Secondly, dispensing is only one service offered by NHS pharmacies and there is an increasing emphasis on reducing the demand on GP practices by offering additional services from community pharmacies. Examples of this are Pharmacy First, flu vaccination, blood pressure checks and locally commissioned services. The Commissioner’s analysis is based on a single service and incorrectly assumes that patients will travel to their GP prior to accessing this service,”* (page 2, appeal document).

4.3.8 The Appellant has misinterpreted the conclusion reached by PSRC. It was not concluded that all patients travel to a GP practice prior to collecting medicine, it concluded that for those residents of Parnwell that do attend a GP appointment at one of the 4 nearest GP practices, they may travel by car, on

foot or by public/private transport and therefore would be able to access pharmaceutical services on their onward journey.

- 4.3.9 The NHS website shows there are 4 GP practices within a 3-mile radius of the best estimate location, which are [see Appendix G, page 1].
- 4.3.10 The 4 nearest GP practices to the best estimate location can be visualised by the map below [Appendix G, page 2].
- 4.3.11 PSRC do not determine market entry applications based solely on an assumption that residents of a geographical area will always travel to a GP practice prior to accessing pharmaceutical services.
- 4.3.12 On page 2 of the appeal document, the Appellant states *“The conclusion reached by the Commissioner appears to avoid any attempt to properly consider the needs of patients or the evidence that was in front of them.”*
- 4.3.13 On review of the application, where information was provided on how the Appellant intended to secure the unforeseen benefit that was not included within the 2022-2025 C&P PNA, the Appellant declared *“BY OPENING A PHARMACY AT THE PROPOSED LOCATION”*, (page 6 of Annex 1, Application Form). Due to the lack of any information, PSRC were unable to satisfy itself on how the Appellant would secure the unforeseen benefit.
- 4.3.14 The Appellant goes on to state *“Clearly it is the case that if there is no pharmacy in Parnwell then patients have no choice other than to go to pharmacies located elsewhere. In many cases people would literally die if they did not do this. To then conclude that the requirement to make journeys elsewhere in some way proves that there is reasonable choice is absurd”* (page 3, appeals document).
- 4.3.15 The conclusion drawn by the Appellant that there is no choice because there is not a pharmacy in Parnwell is incorrect. If this were the case, there would be a pharmacy in every village across the country. Residents of the Parnwell area do have a choice on how they access pharmaceutical services including using any of the 7 pharmacies that are within 2 miles of the best estimate location (taken from NHS website and as the crow flies), any other community pharmacy of their choice or a distance selling pharmacy (DSP). When considering choice, the ways people travel to a pharmacy, the ability of people to travel and the distances involved need to be considered. Within the 2022-2025 C&P PNA, pages 46 to 49 demonstrate by way of maps the travel times to pharmacies within Cambridgeshire and Peterborough. It concludes that:
- 4.3.15.1 By car – *“Although a relatively rural area in some parts of Cambridgeshire and Peterborough, the vast majority of Cambridgeshire and Peterborough are accessible by car within 20 minutes and travel times to the nearest pharmacy are within 5-20 minutes for many residents within urban parts of the county”* (PNA, page 46)
- 4.3.15.2 By cycling – *“Reaching a pharmacy by cycling within 20 minutes is possible within most areas of central Cambridge, Peterborough and some parts of Wisbech, whereas other areas are less accessible via cycling”* (PNA, page 47).
- 4.3.15.3 By walking – *“Few pharmacies within Cambridgeshire and Peterborough are easily accessible by walking for most residents, although there are areas of central Cambridge, Peterborough,*

Wisbech and Huntingdon where pharmacies can be reached within 15 minutes on foot” (PNA, page 48).

4.3.15.4 By public transport – *“Major urban centres within Cambridgeshire and Peterborough tend to be accessible within 30 minutes by public transport, but there are large areas of the county that are inaccessible within this timescale via this method of transportation” (PNA, page 49 and 50).*

4.3.16 The Health and Wellbeing Board (HWB) were therefore of the opinion that these travel times were acceptable. If this was not the case, the specific gap/need identified by the HWB would be detailed in the 2022-2025 C&P PNA or supplementary statement.

4.3.17 As detailed by the Appellant in their appeal, 80% of medicines are repeat medicines. The data below shows that patients are collecting their medicines from a range of different pharmacies. Patients may be choosing to access these pharmacies because it is near their work, where their children go to school, where they do their shopping or for any reason that a patient might choose a pharmacy. Whilst accessing these pharmacies for their medication, they can access any pharmaceutical services as of course the ICB recognises that pharmaceutical services span wider than dispensing medication [see Appendix G, page 3].

4.3.18 The data shows that people attending a GP practice are accessing a range of different pharmacies. For example, prescriptions issued from Thomas Walker & Westgate Surgeries are being dispensed at 103 different pharmacies. These pharmacies are not always the nearest to where the patient lives or nearest to the GP practice. People can choose to access pharmaceutical services from any pharmacy, and it is evident people are exercising their right to choose.

4.3.19 The Appellant states that *“extensive evidence was provided to the Commissioner in the form of letters from patients, local councillors and the HWB that demonstrates the challenges that patients face in accessing pharmacies,” (page 3, appeal document).*

4.3.20 Although the views of patients and residents are vital, these patients and residents have not approached the ICB with their comments, they have clearly responded to a question that was posed to them by the Appellant which appears to be “would you like a pharmacy within Parnwell.” Any resident anywhere if asked “would you like a new pharmacy,” would respond positively.

4.3.21 It is noted that the majority of emails from residents are dated May, June and July 2024, collected after the application was submitted in January 2024. This suggests that the applicant was not responding to a need and therefore applying in response to feedback from local people, but proactively seeking views to support an application which is different.

4.3.22 The ICB is not clear on how many questions were asked, what questions were asked, how many people were asked, how many people responded, if any responses were discarded etc. It is also unclear if those submitting emails were aware of how they were going to be used. As no information has been provided on this, NHS Resolution should consider what weight to place on this information.

4.3.23 The ICB notes the concerns from the HWB. As NHS Resolution will be aware, it is the role and statutory duty of the HWB to assess the need for

pharmaceutical services in its area and to publish a statement of its assessment. The NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended (the Regulations) require the HWB to review current needs, the geographical area including where pharmacy premises are located, travel times for residents, possible improvements, a future need, or better access etc. The HWB are required to identify any specific gaps in pharmaceutical and how any identified need will be met.

- 4.3.24 In the 2022-2025 C&P PNA, the HWB does not identify any gaps.
- 4.3.25 Following publication of the 2022-2025 C&P PNA, the HWB has a duty to ensure arrangements are in place to produce a new PNA if it identifies changes to the need for pharmaceutical services, or where this would be deemed disproportionate, the HWB can publish a supplementary statement to explain changes to the availability of pharmaceutical services where the changes are relevant to the granting of an application.
- 4.3.26 The HWB have published a supplementary statement (link enclosed with these representations). The 22-page supplementary statement from the HWB, reviews provision, details changes, provides maps and travel times, opening hours etc. The HWB concludes that services are adequate and sufficient.
- 4.3.27 The Appellant highlights within the decision letter that PSRC concluded *“part of their rationale to refuse the application, noted the HWB had issued a supplementary statement confirming there was no gap created when the Lloyds Pharmacy in Parnwell closed. This contradicts the support from the HWB Chair in the letter received,”* (page 3, appeal document).
- 4.3.28 The ICB maintains that the support from the HWB Chair is contradictory to the supplementary statement published by the HWB. There does appear to be a disconnect between the Chair and the HWB. Respectfully, the HWB appear confused about their role in assessing the need for pharmaceutical services in their area. This is highlighted further by comments made by the Appellant:
- 4.3.29 *“Not only does the HWB support my client’s application, but it has now determined that, having properly reviewed the situation, it will issue a supplementary statement to the PNA to identify a need for a pharmacy in Parnwell....”* (page 4, appeal document).
- 4.3.30 As detailed previously, it is a responsibility of the HWB to have in place a system whereby if changes to the need for pharmaceutical services are identified, that these changes are reviewed and acted upon. The PSRC must make decisions based on the information available at the time and works on the basis that the HWB are “properly reviewing the situation.” It cannot make decisions based on what might happen in the future or on an anticipated supplementary statement.
- 4.3.31 The ICB notes the letters from the Co-Chair of the Peterborough HWB (pages 88 – 91, appeals document), provided by the Appellant. To date, the Peterborough HWB have not issued a supplementary statement identifying any current or future needs for, or current or future improvements or better access to, a particular pharmaceutical service or pharmaceutical services in general.
- 4.3.32 The HWB are notified of changes that could affect the availability of pharmaceutical services and the HWB need to have a system for reviewing those changes and identifying whether it needs to issue a supplementary statement. With this case, the HWB were notified and provided with an

opportunity to make representations as part of the 45-day notification period. No representation was received from Peterborough HWB.

- 4.3.33 In the absence of a supplementary statement, it must be concluded that the HWB did not think the closure of Lloyds was relevant to the granting of an application. If it was relevant, the HWB should have published a further statement articulating any current or future needs for, or current or future improvements or better access to, a particular pharmaceutical service or pharmaceutical services in general.
- 4.3.34 The Appellant states: *"My client has engaged with the local community in Parnwell, and we attached letters of support that have been received from patients. We ask that the Committee takes the time to read these letters. Not only do they provide direct evidence of patients who share protected characteristics having difficulty accessing existing pharmacies they also show why the comments from objectors are incorrect. It is perfectly clear that local residents are campaigning for better provision of primary care services in their community and that there are complaints about accessing existing pharmacies," (page 4, appeal letter).*
- 4.3.35 Whilst local residents may be campaigning for better provision of primary care services, this representation will only address the provision of pharmaceutical services, and the test is whether people can access pharmaceutical services within the Peterborough HWB. People can, and are, accessing pharmaceutical services.
- 4.3.36 Out of the 37 patient emails that the Appellant has included (*pages 93 - 129, appeals document*), none have confirmed that they cannot access pharmaceutical services, only that to have a pharmacy in Parnwell would be more beneficial. One patient has declared that they have chosen to access pharmaceutical services from an Asda Pharmacy which is further than the nearest pharmacies to the best estimate address.
- 4.3.37 Whilst it may be preferable for everyone to have a community pharmacy close to where they live, this is not the same as identifying a legitimate health need and it would be inappropriate to grant an application for a new pharmacy on that basis. Applications must be granted only when they meet the regulatory requirements and cannot be granted based on campaigns and petitions from patients alone.
- 4.3.38 From pages 33 to 73 of the appeals document, the Appellant has duplicated the supporting information that was submitted with the application form:
- 4.3.38.1 *"A number of other pharmacies have closed in the wider Peterborough area in recent times which increases the demand on the remain pharmacy network (including Pharmacy First at 51 Lincoln Road, City Pharmacy 50 Lincoln Road and Lloyds at Sainsburys Flaxland). Four pharmacy closures is a significant decline in an area which has experienced significant population growth in recent years" (appeals document, 2.4, page 36).*
- 4.3.39 To reiterate, the HWB have not determined that there is a gap in the provision of pharmaceutical services in Peterborough via supplementary statements or by initiating a new PNA before the end of the 3-year life span of the 2022-2025 C&P PNA. (The ICB is aware that the process for reviewing the C&P PNA may have started. This is not in response to a change in availability of pharmaceutical services but due to the routine 3-yearly publication of the C&P PNA).

- 4.3.40 The Appellant refers to the location of the best estimate site and states that the local centre where planning permission has been given for a pharmacy also consists of One Stop Convenience Shop, a hairdressers, Peony Oriental Express Take Away, Kingsgate Conference Centre, a bar/restaurant as well as the Parnwell Community Centre (3.4-3.9, page 39, *appeals document*).
- 4.3.41 These local amenities whilst beneficial, are not likely to cater for the entirety of residents' needs and therefore people will be travelling further afield for their shopping, leisure, education and work purposes. People are therefore able to travel to access pharmaceutical services.
- 4.3.42 With regards to the proposed opening hours (3.20, page 41, *appeals document*), the hours included are incorrect. This discrepancy was resolved at the application stage and the applicant confirmed the pharmacy will not be opening on a Saturday. The references made by the Appellant on page 59 in reference to service provision 6 times a week can be disregarded. Residents of the Parnwell residential area will still have to seek pharmaceutical services elsewhere on a Saturday and Sunday.
- 4.3.43 The proposed opening hours were confirmed as the following [see Appendix G, page 4].
- 4.3.44 The hours proposed by the applicant are very similar to those opening hours of the nearest pharmacies to the best estimate site.
- 4.3.45 The Appellant states *"The Supplementary Statement notes that since 2022 of the 15 pharmacies contracted to operate 100 hours, only 1 pharmacy still provides this. 10 have reduced their hours and 4 have closed"* (5.12, page 47, *appeals document*). The ICB recognises that the introduction of 100-hour pharmacies was not assessed on need. The changes in reductions to 100-hour pharmacies are likely attributed to over provision of pharmaceutical services in areas. It suggests that there is not the need for this many 100-hour pharmacies as those pharmacies have taken the decision to close.
- 4.3.46 The Appellant refers to those residents within the Parnwell residential area that have been disadvantaged by the closure of the Lloyds Pharmacy within Sainsburys which took place on the 13th June 2023 (4.7, page 44, *appeals document*). The ICB notes the closure is over 18 months ago and as part of the application process, the applicant sought the views of local people, asking that they "campaign" for a new pharmacy. Prior to this, the ICB has not received any complaints or reports from people unable to obtain their medication or access pharmaceutical services generally.
- 4.3.47 The Appellant states *"Neither the PNA nor the Supplementary Statement assesses the impact of the closure of Lloyds on the Parnwell community, particularly given the closure of the Medical Centre. The closure of pharmacies in the north east of Peterborough at Lincoln Road where 2 pharmacies have closed in conjunction with the closure of Lloyds is a concentrated impact on local services in the north east of the City. No assessment is made of the impact these closures will have on the densely populated and deprived area of the City Centre....."* (5.17, page 48, *appeals document*).
- 4.3.48 This is incorrect, the supplementary statement published in January 2024, lists the closures and reduction in hours for all pharmacies within the HWB area (page 8, *supplementary statement*). Furthermore, it recognises the closures of Lloyds at Oxney Road and Pharmacy First at Lincoln Road and still does not articulate that there is a 'gap' in the provision of pharmaceutical services. The

HWB assessed whether the closures were material to the granting of an application and were satisfied that they were not. Indeed, the HWB concluded the following:

- 4.3.49 *“Site 3 The conclusion of this analysis is that the closure of the Lloyds Pharmacy (Sainsbury’s Superstore, Peterborough) site does not lead to a gap in provision during normal working hours or on Saturday’s. It does not lead to a gap in service in the Peterborough area for late weekday and Saturday evening services or on Sundays” (page 19, supplementary statement).*
- 4.3.50 Whilst it is accepted that there would be people with protected characteristics living with the Parnwell residential area and that some may need pharmaceutical services as a result, the Appellant has detailed in general terms groups of people e.g. “the elderly” and “children”. No evidence has been provided to demonstrate the specific pharmaceutical services that this cohort of patients cannot access. Similarly, the travelling community are referenced however again, general assumptions are made by the Appellant:
- 4.3.51 *“This community are not often registered with GP services and it is important that they have access to a healthcare provider.”*
- 4.3.52 This is an assumption. Some members of the travelling community may be registered with a GP practice, all of them may be registered. The ICB agrees that it is important that all communities have access to a healthcare provider, but no detail has been provided to show that this cohort or members of this cohort do not have access to a healthcare provider and have had difficulty in accessing pharmaceutical services. The Appellant references “protected characteristics” generally rather than specifically.
- 4.3.53 The Appellant refers to a review of the 2022-2025 C&P PNA and the deprivation within the best estimate postcode given (pages 45-48 appeal document). Whilst the 2022-2025 C&P PNA does highlight the deprivation within Peterborough, the HWB has still concluded in the 2022-2025 C&P PNA and the January 2024 supplementary statement that there is sufficient pharmaceutical service provision:
- 4.3.54 *“There is currently sufficient pharmaceutical service provision across Cambridgeshire and Peterborough. however there has been a reduction in the opening hours of many pharmacies, in addition the pharmacy consultation has raised concerns with staffing and recruitment, which may impact the ability of pharmacies to deliver a consistent service. No current or future gaps have been identified in the provision of necessary and other relevant service across Cambridgeshire and Peterborough” (page 35, PNA).*
- 4.3.55 In section 6.0 of the appeals document (page 49-54), the Appellant looks at healthcare provision within the Parnwell area. The Appellant states in relation to pharmaceutical services at Dogsthorpe Pharmacy, 54 Central Avenue, PE1 4LH *“Dogsthorpe Pharmacy, 54 Central Avenue is located about 1.2 miles walk from the proposal site, well beyond walking distance. The walk would take patients along exposed pathways where there is no surveillance. It would not be an attractive walk. It is a 2.1 mile drive. There is no direct bus route to this pharmacy from Parnwell” (6.7, page 50, appeals document).*
- 4.3.56 Whilst there may not be a bus stop directly outside the best estimate postcode and Dogsthorpe pharmacy, there is a bus service that runs every 30 minutes and hourly depending on the bus number that is taken as shown below. It is for the residents of Parnwell to make the choice of how they travel to a pharmacy, and some may well choose to walk regardless of the distance.

Having a longer journey on foot does not equate to the conclusion the Appellant has made that a 1.2 mile walk means there is not reasonable choice. Those people who do not or cannot travel by foot have the choice to access pharmaceutical services via private transport (e.g. car) or by public transport (e.g. bus) or a mixture of both [see Appendix G, page 5].

- 4.3.57 The Appellant refers to the travel time taken from the each of the 3 nearest pharmacies to the best estimate postcode given within the unforeseen benefits application. For ease, the distance and time taken by type of travel is shown below [Appendix G, page 5].
- 4.3.58 Within the C&P PNA, it is recognised that *“Cambridgeshire and Peterborough still has adequate geographic provision of essential services to meet the needs of the population by providing a service for the majority of the residents within 20 minutes of their home. There are some pockets in Cambridgeshire and Peterborough where it is necessary to drive more than 20 minutes by car to access a pharmacy or dispensing surgery. However, these areas are to a large extent uninhabited and/or may be served by pharmaceutical services in a neighbouring Health and Wellbeing Board Area. However, it is recognised that not everyone has access to a car, and that those unable to access a car may be among the more vulnerable in society”* (page 2, C&P PNA Supplementary statement January 2024).
- 4.3.59 Therefore, the HWB were and are still aware that some patients would have to make a journey which could take more than 20 minutes in order to access pharmaceutical services and still deem pharmaceutical provision adequate.
- 4.3.60 From pages 55 to 66, Assessment against the Regulation 18 tests, the Appellant has provided information as to how it believes it has demonstrated the unforeseen benefit which was not included within the 2022-2025 C&P PNA. On review, the ICB notes that most information is not “unforeseen” and already contained within the 2022-2025 C&P PNA. The 2022-2025 C&P PNA recognises that Peterborough has:
- 4.3.60.1 high deprivation (section 3, page 7, C&P PNA),
 - 4.3.60.2 poor health outcomes in comparisons to national averages, (section 3, page 7, C&P PNA)
 - 4.3.60.3 planned growth of new developments across Cambridgeshire (Section 2, page 6, C&P PNA),
 - 4.3.60.4 population growth (section 3, page 7, C&P PNA)
- 4.3.61 Furthermore, a supplementary statement has been published in January 2024. This did not articulate any ‘gap.’ If the HWB were concerned about any change in the availability of pharmaceutical services, it would have issued a further statement detailing any specific gaps or needs and identifying how those needs could be met. The HWB did not do this. Instead, it drew the following conclusion:
- 4.3.62 *“In conclusion, over the coming years, the population in Cambridgeshire is expected to both age and grow substantially in numbers. Several large-scale housing developments are in progress. The Cambridgeshire HWB will monitor the development of major housing sites and produce supplementary statements to the PNA if deemed necessary, to ensure that appropriate information is available to determine whether additional pharmaceutical services provision might be required”* (page 99, PNA).

4.3.63 **GP Surgery Closure**

4.3.64 The Appellant has provided a range of documentation in relation to the closure of the GP surgery, Parnwell Medical Centre. The documentation included does not reference pharmaceutical services at all and it is unclear why it has been included. The ICB assumes it has been included to demonstrate that there is a perceived lack of health services in the area. The ICB notes the Appellant has explained that there is the potential for the medical practice to re-open. It is understood the closure has occurred whilst repair work is undertaken.

4.3.65 The PSRC must consider applications based on the Regulations and it cannot grant applications based on a closure, relocation of a GP practice or as an "interim measure."

4.3.66 In summary:

4.3.67 **The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013**

4.3.68 **Regulation 31**

4.3.69 PSRC noted that the applicant had provided the best estimate address of Parnwell Centre, Saltergate, Parnwell, Peterborough. The Committee noted that there are three nearest pharmacies within 2 miles.

4.3.70 **Paragraph 31, Schedule 2 – conditional grant of applications where the address of the premises is unknown**

4.3.71 The Committee noted that the application gave a best estimate for the location of the best estimate location of the pharmacy premises and therefore it was unable to determine if the application should be refused by virtue of Regulation 31.

4.3.72 **Regulation 18**

4.3.73 As the best estimate postcode is within Peterborough, it was assessed against the 2022-2025 C&P PNA. The assessment concluded with the following statement:

4.3.74 *"There is currently sufficient pharmaceutical service provision across Cambridgeshire and Peterborough. however there has been a reduction in the opening hours of many pharmacies, in addition the pharmacy consultation has raised concerns with staffing and recruitment, which may impact the ability of pharmacies to deliver a consistent service. No current or future gaps have been identified in the provision of necessary and other relevant service across Cambridgeshire and Peterborough" (page 10, PNA).*

4.3.75 **Regulation 18(1)(a)**

4.3.76 PSRC were satisfied in that it is required to determine whether it is satisfied that granting the application or granting it in respect of some 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.

4.3.77 **Regulation 18(1)(b)**

- 4.3.78 PSRC noted the evidence within the 2022-2025 C&P PNA and took into consideration the supplementary statement. PSRC noted that Peterborough HWB had not detailed any gaps.
- 4.3.79 PSRC further agreed that in order to be satisfied in accordance with Regulation 18(1), regard is to be had to those matters set out at Regulation 18(2).
- 4.3.80 **Regulation 18(2)(a)(i) & (ii)**
- 4.3.81 PSRC noted that there is no plan for the provision of pharmaceutical services in the area. Granting the application would therefore not cause significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of Peterborough HWB.
- 4.3.82 PSRC noted there was no evidence to suggest granting this application would cause significant detriment to the arrangements the ICB has in place for the provision of pharmaceutical services in that area.
- 4.3.83 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).
- 4.3.84 **Regulation 18(2)(b)(i)**
- 4.3.85 PSRC noted that the 2022-2025 C&P PNA made no mention of any additional needs in the area of Parnwell. It noted that the residential area of Parnwell was not situated within a controlled locality, but it was within 1.6km of a controlled locality.
- 4.3.86 PSRC noted that patients are using a wide range of established pharmacies for their pharmaceutical needs, and therefore it can be said that patients are exercising their choice and the level of choice available to patients was considered reasonable.
- 4.3.87 **Regulation 18(2)(b)(ii)**
- 4.3.88 PSRC noted that whilst it accepted there would be people with protected characteristics living in the residential area of Parnwell and that some may need pharmaceutical services as a result, there is no evidence that they have any difficulty accessing such services.
- 4.3.89 PSRC were 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 in the area of the relevant HWB which were not foreseen when the relevant PNA was published.
- 4.3.90 **Regulation 18(2)(b)(iii)**
- 4.3.91 PSRC noted the applicant provided no evidence regarding innovative approaches in the delivery of pharmaceutical services, therefore were 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 in the area of the relevant HWB which were not foreseen when the 2022-2025 C&P PNA was published.

4.3.92 **Conclusion**

4.3.93 The ICB remains of the opinion that the application should be refused.

4.3.94 In the publication of the 2022-2025 C&P PNA, the HWB has remained of the opinion that there is no gap in the provision of pharmaceutical services in this part of its area, or indeed any part of Cambridgeshire and Peterborough, that would require needs, improvements or better access to be identified.

4.3.95 We appreciate there may be some convenience in having a new pharmacy, however this is different to one conferring significant benefits. Our priority is ensuring patients can access pharmaceutical services.

4.3.96 The regulatory requirements to identify an unforeseen benefit not in the 2022-2025 C&P PNA accompanied by the significant benefit considerations is a high threshold. We respectfully suggest that this appeal is without any substantive new or compelling evidence. We petition NHS Resolution to refuse the application as granting it will not confer significant benefits that were not foreseen when the 2022-2025 C&P PNA was published."

4.4 Community Pharmacy Cambridgeshire and Peterborough

4.4.1 "Thank you for your letter of 2nd January 2025 giving details of the above appeal.

4.4.2 The application has been reviewed by the committee and appropriate declarations of interest have been made. The LPC has nothing further to our original representations, which are attached for reference. The LPC does note that the applicant has clarified there was a mistake with the opening hours listed on the original application form and that core hours will be Monday – Friday 9am – 5pm, totalling 40 hours.

4.4.3 We would like to be kept informed of the progress of this appeal and would be willing to attend an Oral Hearing if required."

4.5 Gordons Partnership Solicitors on behalf of Dogsthorpe Pharmacy

4.5.1 "We act for LNS Healthcare Ltd t/a Dogsthorpe Pharmacy. We are instructed by our client to make representations on the appeal against the refusal of the application made by 1514 Pharma Ltd for inclusion in the pharmaceutical list at Parnwell Centre, Saltergate, Parnwell., Peterborough.

4.5.2 Our client's position is that the ICB carried out a detailed analysis of the current position and were correct to refuse the application. We ask that the appeal is not allowed.

4.5.3 **Response to the Appeal**

4.5.4 We will deal with our response to the appeal under the specific regulatory matters to which NHS Resolution is required to have specific regard.

4.5.5 We make no further submissions on our client's viability. Our client's reputation has meant the number of patients visiting the pharmacy has increased and it is noted that patients from Parnwell appear to visit pharmacies across Peterborough. However, a concern remains as the population in Parnwell is too small to support a viable pharmacy and any grant of new application for

inclusion in the pharmaceutical list risks reducing funding to existing providers with a consequential diminution in the level of service provision.

4.5.6 Regulation 18(2)(b)i of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”)

4.5.7 There being reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB

4.5.8 The location

4.5.9 The appellant has submitted a detailed report describing the local area but it contains inaccuracies. The location of the area is described as Parnwell. However the map produced by the appellant, and presumably the data on which the appellant relies, covers Fengate to the south. This is relevant as not only does a discussion of Fengate increase the very small population of Parnwell but by eliding the two locations, the appellant is suggesting the concerns raised also apply to the population of Fengate which is not correct. As set on in our letter to PCSE, the population of Fengate is much closer to MI Pharmacy at 1.5 miles away for its most southerly residents than they would be to a pharmacy in the best estimate location given by the applicant. The distance selling pharmacy Pharmadose is located in Fengate and while they, of course, will not provide face to face pharmacy services, the pharmacy dispensed 4,728 items from prescriptions from local GP surgeries in the last month of available data.

4.5.10 A map of the lower-layer SOA which covers Parnwell is below:- according to census data there are 1,549 residents in the area [Appendix H, page 1].

4.5.11 Location and number of the neighbouring pharmacies

4.5.12 As an initial general point, it should be noted that the appellant uses the ratio of pharmacies per head of population to justify the need for a pharmacy in Parnwell. However, an assessment of any benefits that would be offered by this application should not be made by reference to ratios. In this case they are particularly misleading. The area around Peterborough has dense coverage of pharmacies in what is a relatively urban area. Scrutiny of the distribution of pharmacies across the Cambridgeshire and Peterborough HWB area will show that there are rural areas with a low density of population where there are fewer pharmacies and this skews the data, leading to a misleading representation of the density of pharmacies across the Peterborough area.

4.5.13 In the previous submission we indicated that there are currently 27 other pharmacies within 4.3 miles / 6.7 km of the proposed location and this number has not been challenged.

4.5.14 The second general point is that although the appellant’s report lists the services in Parnwell, there are no key services such as dentist, doctor, library, bank, garage or post office. The population will be travelling outside Parnwell for many of their essential needs.

4.5.15 Our client’s pharmacy is the closest pharmacy to the proposed location. Our client has made many changes to the pharmacy since the company took ownership in 2022. There were some management and service issues prior to our client’s ownership but since 2022, Dogsthorpe Pharmacy has built a very good reputation for service and patient care.

4.5.16 Our client provides all the local, enhanced and advanced services commissioned by the ICB and local council, including needle exchange, methadone supervision, Pharmacy First, NMS, emergency contraception, smoking cessation and also the new NHS Contraception Service. In addition, the comprehensive free delivery service is particularly appreciated by patients.

4.5.17 **Opening times of neighbouring pharmacies**

4.5.18 The appellant does not offer opening times that are in excess of those offered throughout the local area and in particular for extended hours provision, a 100-hour pharmacy is located in the Asda superstore 2.3 miles away which has plentiful parking and is on the direct bus route from Parnwell (number 4 bus).

4.5.19 **GP surgeries**

4.5.20 It should be noted that the application is made under Regulation 18 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013("the Regulations"). It is not an application for future needs. The appellant suggests that a relevant consideration may be the fact that there was GP surgery in Parnwell. This surgery closed in 2022. It was a branch surgery of the Nightingale Medical Centre. Although it is accepted there should be a degree of futurity in the consideration of applications, given there is no indication that a surgery in Parnwell will reopen in the near future the consideration of it in the appeal is not relevant. It is our client's case that it should not have been included on the map that will go to the primary care appeals committee as this gives an impression that the medical centre is, or will be shortly, providing services.

4.5.21 For the foreseeable future the population of Parnwell will be visiting a GP surgery which is outside Parnwell. Although the appellant correctly states that not all prescriptions are acute prescriptions which result from a visit to the GP, many are and the person in receipt of that prescription will be able to access pharmaceutical services near the GP surgery. For the remaining repeat prescriptions, it is artificial to suggest that once a prescription has been issued for the first time, there are then no visits to the GP. The GP will be responsible for ensuring the prescription remains clinically appropriate and will have to review the patient to do that.

4.5.22 The closest GP surgeries to the location are on the map produced by NHS Resolution at locations B and C

4.5.22.1 Nightingale Medical Centre, Damson Drive, Peterborough, Cambridgeshire, PE1 4FS

4.5.22.2 Eye Surgery, High Street, Eye, Peterborough, Cambridgeshire, PE6 7UX

4.5.23 There is a further GP surgery which is close to Fengate and Parnwell and close to MI Pharmacy (Eastfield Road Branch) (number 3 on the map). This is Park Medical Centre, 164 Park Rd, Peterborough PE1 2UF. This is located just off the bottom left corner of the map provided.

4.5.24 Each of these surgeries has a pharmacy that is conveniently accessible for the patient population that visits it, including patients living in Parnwell.

4.5.25 **Accessibility**

- 4.5.26 In relation to accessibility for those attempting to gain access to pharmacy services by foot or bicycle, there is a route between Parnwell and our client's pharmacy which incorporates a tarmac foot/cycle path. The journey is flat and well lit.
- 4.5.27 Public transport options are available, as mentioned above. The number 3 bus serves the route between Parnwell and the town centre. The journey from Parnwell to the town centre bus station which is adjacent to the Asda Pharmacy and supermarket takes 16 minutes. It should be noted that the population will be travelling out of Parnwell for other essential needs in any event as there are limited facilities in Parnwell itself. There are buses that also go from the Parnwell area to Dogsthorpe including the number 63 (route below). The journey time is 8 minutes and the bus stop for this route is on a road that is parallel to our clients pharmacy and a short walk away [Appendix H, page 2].
- 4.5.28 Our client's pharmacy is also served by the 5A bus.
- 4.5.29 We have also previously mentioned the wheelchair accessible Community Link service which will go to the city centre where there is a further choice of pharmacies.
- 4.5.30 For people accessing pharmaceutical services by car, the majority of households have access to a motor vehicle. This is illustrated by the comments on parking in the letters of support that the appellant has produced. My client maintains that there is good parking at the Central Avenue outside his pharmacy with at least 30 car parking spaces. All the side roads around the pharmacy have no parking restrictions. We attach photographs which were taken at pickup time for the local school on two occasions in January 2025. [Appendix H, page 3].
- 4.5.31 **Pressure on local services**
- 4.5.32 The existing local pharmacies are able to manage the additional work from the closed Lloyds pharmacy and there is no suggestion in this case that there will be a surge in population arising from housing developments that will put pressure on pharmaceutical services.
- 4.5.33 For all the reasons above, there is reasonable choice of pharmaceutical services in the area.
- 4.5.34 **Reg 18(2)(b)(ii) of the Regulations – 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.**
- 4.5.35 The application does not emphasis groups that may have specific needs for pharmacy services save a reference to the usual make up of a population and highlighting traveller communities on Oxney Road. However the community has been established at a location which is actually just outside Parnwell for over a decade. It is suggested that because they are not registered with a GP they may have a particular need for pharmaceutical services. There is no evidence to suggest that such an established community has particular need for pharmaceutical services and our client's director's experience is that the members of the community that he is in contact with are registered with medical professionals.

4.5.36 The applicant does not provide evidence that any residents with protected characteristics are unable to access pharmaceutical services. The census information for the Parnwell lower-layer SOA shows that 94.5% of the population report fair to very good health.

4.5.37 Evidence in support of the application and appeal

4.5.38 Position of the Joint Cambridgeshire and Peterborough Health and Wellbeing Board (“HWB”)

4.5.39 The appellant’s representative suggests that the appellant has “engaged with the HWB” and there is likely to be a supplementary statement identifying a gap in pharmaceutical service at the relevant location. In fact, the documentation show that the views reported have been the individual partisan view of one member (out of 20) of the HWB.

4.5.40 As the ICB committee noted *“The Committee, as part of their rationale to refuse the application, noted the HWB had issued a supplementary statement confirming there was no gap created when the Lloyds Pharmacy in Parnwell closed. This contradicts the support from the HWB Chair in the letter received.”*

4.5.41 This firm has checked recent minutes of the HWB and can confirm that for the meetings throughout 2024 there was no discussion or decision to issue a supplementary statement to the PNA to identify a need for a pharmacy in Parnwell if the current application fails.

4.5.42 Letters in support

4.5.43 The letters in support should be given very little weight as there is no information about how the writers were invited to give letters of support, what information they were given and where they live. For many of the respondents it is not clear that they live in Parnwell. We are also not told if the selection produced is a complete set of all responses received. It should also be noted that the number of supportive responses is low (37 emails and 6 letters) given the appellant’s estimate of the number of people who are affected by the provision of pharmaceutical services in Parnwell.

4.5.44 In summary, we ask NHS Resolution to refuse the appeal and confirm the decision of NHS England. If an oral hearing is arranged our client would want to attend and be represented.”

5 Observations

The following observations were received by NHS Resolution in response to the representations received on appeal.

5.1 Rushport Advisory LLP on behalf of 1514 Pharma Ltd

5.1.1 “I act for 1514 Pharma Ltd and have been instructed by my client to submit these final comments in response to comments received on my client’s appeal from Interested Parties.

5.1.2 We have not addressed all comments made as some simply disagree with the evidence submitted in the appeal.

5.1.3 Millfield Pharmacy, Granville Pharmacy and Thomas Walker Pharmacy

- 5.1.4 This comment states that no new evidence has been supplied. This simply chooses to ignore the evidence that has been supplied rather than attempt to address it or respond in any meaningful way.
- 5.1.5 **Brabners**
- 5.1.6 As with the comment above, Brabners has chosen to ignore the evidence submitted rather than attempt to respond to it.
- 5.1.7 **DMB**
- 5.1.8 The DMB response is an excellent example of ex post facto rationalisation of what was clearly a flawed decision making process and incorrect interpretation of the relevant Regulations. In attempting to explain the reasoning used, the DMB goes further into error. For example, it now assumes that patients who visit their GP have an “onward journey” and that during such a hypothetical journey there will be a pharmacy available to them. There is no evidence provided to support such an assumption other than listing GP practices located within a 3 mile radius of the application site.
- 5.1.9 The DMB now also claims that it could not “*satisfy itself on how the Appellant would secure the unforeseen benefit*” and this is despite the fact that the opening of a pharmacy at the proposed location would do just that.
- 5.1.10 The DMB states that “*The conclusion drawn by the Appellant that there is no choice because there is not a pharmacy in Parnwell is incorrect.*”. No such conclusion was made. It is simply a fact that if there is no pharmacy in Parnwell then patients have no choice other than to go elsewhere. Evidence from patients clearly demonstrates that having to travel elsewhere causes significant difficulties.
- 5.1.11 The DMB comments on the PNA are not credible. The DMB assumes that the HWB considered in detail access by various forms of transport was like for patients subsequent to the closure of Lloyds. There is literally no evidence whatsoever of any such analysis having taken place.
- 5.1.12 The DMB repeats their claim of patients exercising their “right to choose” whilst failing to acknowledge that unless patients wish to go without essential medication and services they have no option other than to use pharmacies located in other areas than Parnwell. The DMB fails to consider whether this is “reasonable choice” or simply forced on patients (which it is).
- 5.1.13 The DMB claims that the Applicant posed a question to patients of “*would you like a pharmacy within Parnwell?*”. It is disappointing to see a body that is responsible for ensuring proper care for its patients simply dismiss evidence and then make up reasons for doing so that are false. My client engaged with the local community to discuss access to pharmaceutical services. Detailed comments describing difficulties accessing pharmaceutical services have been received not only from patients, but from local doctors and the HWB, but this is dismissed by the ICB. When presented with such evidence, an independent decision making body, especially one tasked with caring for and providing services to patients, should want to investigate the matters raised rather than dismiss the concerns of the community. The DMB also ignores the fact that it was not only my client who sought support for a new pharmacy but also another completely independent campaign.
- 5.1.14 **Gordons Partnership Letter**

5.1.15 Using the same headings as Gordons Partnership's letter.

5.1.16 The location

5.1.17 It is no doubt clear to the Committee that a pharmacy in Parnwell would not only serve those who live in the small area highlighted by Gordons, which for unexplained reasons seeks to include those who live in one house, but exclude those who live in the neighbouring house(s).

5.1.18 Location and number of the neighbouring pharmacies

5.1.19 The ratio of patients to pharmacies is a helpful indicator, but is never determinative as this is clear from the appeal. It is notable that after focussing on a tiny area around the application site, Gordons now suggests that pharmacies located within a quite random 4.3 mile radius are relevant when assessing the availability of services. This is clearly a flawed argument.

5.1.20 Similarly it is unclear why Gordons suggests that an area should have dentist, doctor, library, bank, garage or post office before they should have a pharmacy. People tend to visit a dentist every 6 months at best, a garage when a car service is due (once a year for many). Most people do not visit libraries and banking is largely done online with post office counters closing across the country. The lack of a GP surgery means that patients cannot access any health services in the area and supports the opening of a pharmacy.

5.1.21 Comments on GP Surgeries and Opening Times do not require a response other than to say that they misstate the content of the appeal.

5.1.22 Accessibility

5.1.23 Gordons provides no details on the route on foot that would be used by persons from Parnwell who wished to access Dogsthorpe Pharmacy other than to say that it "*incorporates a tarmac foot/cycle path. The journey is flat and well lit.*"

5.1.24 We assume Gordons are referring to Woodfield Park and Millenium Green (entrance shown below) [Appendix I] which is open parkland and would not be suitable or safe for many persons.

5.1.25 This would be a 1.3 miles / 28 minute walk.

5.1.26 The Appeal Report provides a detailed analysis of journeys by various forms of transport and we stand by the content of that report.

5.1.27 Evidence in support of the application and appeal

5.1.28 The support from the HWB is not from "*the individual partisan view of one member*" and has been discussed with other HWB members. We have made the HWB aware that, should they issue a supplementary statement now identifying need, then the application under regulation 18 would likely be refused (as the need had been identified). The HWB is therefore awaiting the outcome of this application with interest and their support is clear.

5.1.29 Letters in support

5.1.30 In a similar manner to the ICB, Gordons dismisses the concerns raised by local patients, doctors and the HWB. Gordons then states;

- 5.1.31 *It should also be noted that the number of supportive responses is low (37 emails and 6 letters) given the appellant's estimate of the number of people who are affected by the provision of pharmaceutical services in Parnwell.*
- 5.1.32 From experience it is very rare for patients and other to write letters and emails of support even when they do in fact fully support a proposition.
- 5.1.33 According to research by Esteban Kolsky, only about 4% of unhappy customers (or 1 in 26) actually complain. A Parliamentary and Health Service Ombudsman survey states that although most people believe you should complain if you are unhappy about a service (90%), just over one third (36%) of people who are unhappy after using a public service actually make a complaint.
- 5.1.34 However, these statistics relate to persons **who have used** a service or business and then complain about or to that service or business. It is incredibly rare for those who have difficulty accessing a service to even know who to complain to. Put simply, if there were no travel agent in a town the local population would not write to ABTA to complain. Or if there were no supermarket they would not write to ASDA. Most patients would not even consider the idea of complaining to the ICB because of the lack of a pharmacy and most would not know what an ICB even was or what it was supposed to do. Unfortunately, the ICB then chooses to interpret this as patients being happy and exercising their right to choose to travel away from where they live in order to access services that they require when ill.
- 5.1.35 To receive support for this application from such a broad group is indicative of a much wider problem with accessing pharmaceutical services and this is a case where the Committee should visit the site and see the issues for themselves and hold a hearing to determine the outcome of this application.
- 5.1.36 We look forward to hearing from you in due course."

6 Consideration

- 6.1 The Pharmacy Appeals Committee ("the Committee"), appointed by NHS Resolution, 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.
- 6.2 It also had before it the responses to NHS Resolution's own statutory consultations.
- 6.3 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 that the Applicant had stated in the application form that *"In my/our view this application should not be refused pursuant to Regulation 31 for the following reasons: No other pharmacy in same or adjacent premises so not applicable."* The Commissioner determined that Regulation 31 is not engaged as there are no other pharmacies in the immediate vicinity. In the absence of dispute from other parties on this matter, the Committee was satisfied that it was not required to refuse the application under the provisions of Regulation 31.

6.7 The Committee noted that, if the application were granted, the successful applicant 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 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

6.8 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)."*
- 6.9 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.
- 6.10 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.
- 6.11 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).
- 6.12 The Committee considered the PNA prepared by Cambridgeshire County Council and Peterborough 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 October 2022 and that a supplementary statement had been issued in January 2024.
- 6.13 The Committee had regard to the PNA and noted the key findings under section 4:
- 6.13.1 *"There is currently sufficient pharmaceutical service provision across Cambridgeshire and Peterborough, however there has been a reduction in the opening hours of many pharmacies, in addition the pharmacy consultation has raised concerns with staffing and recruitment, which may impact the ability of pharmacies to deliver a consistent service. No current or future gaps have been identified in the provision of necessary and other relevant service across Cambridgeshire and Peterborough."*
- 6.14 The Committee noted that the supplementary statement issued in January 2024 covered changes to the pharmaceutical list including closures of existing pharmacies.
- 6.15 The Committee noted that the closure of the Lloyd's pharmacy within Sainsbury's supermarket on Oxney Road, Peterborough has been mentioned in the supplementary statement:
- 6.15.1 *"The conclusion of this analysis is that the closure of the Lloyds Pharmacy (Sainsbury's Superstore, Peterborough) site does not lead to a gap in provision during normal working hours or on Saturday's. It does not lead to a gap in service in the Peterborough area for late weekday and Saturday evening services or on Sundays".*

- 6.16 The Committee noted the comments from the Applicant that *"the consideration of the Lloyds closure did not involve any specific consideration of the affect that closure would have on patients who live in Parnwell."* The Committee also noted the support from the HWB however the Committee could only consider what evidence they did have available to them and that no need has been identified in the PNA or the supplementary statement.
- 6.17 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients of Parnwell. 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.
- 6.18 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)

- 6.19 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"

- 6.20 The Committee noted the Commissioner had stated:

6.20.1 *"The Committee noted that there was no known plan for the provision of pharmaceutical services in the area. Granting the application would therefore not cause significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of Peterborough HWB.*

6.20.2 *The Committee also noted there was no evidence to suggest granting this application would cause significant detriment to the arrangements the ICB has in place for the provision of pharmaceutical services in that area."*

- 6.21 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.
- 6.22 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)

- 6.23 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"

- 6.24 The Commissioner considered in the decision report that the issues it considered regarding Regulation 18(2)(a)(i) above applied equally to this Regulation, but that it was not satisfied that significant detriment would result. The Committee noted the

comments from Brabners on behalf of Eye Chemist that *“such grant would cause significant financial detriment to our client’s pharmacy, and if as a consequence its prescription figures fell even lower than its current below-average levels, it is conceivable that its economic viability and existence may well be called into question, which would also then potentially cause significant detriment to proper planning in respect of the provision of pharmaceutical services in Parnwell and the surrounding area.”* The Committee also noted the comments from Gordons Solicitors on behalf of Dogsthorpe Pharmacy who state, *“a concern remains as the population in Parnwell is too small to support a viable pharmacy and any grant of new application for inclusion in the pharmaceutical list risks reducing funding to existing providers with a consequential diminution in the level of service provision.”* The Committee also noted the argument raised by the Applicant on proper planning that, *“It will not cause significant detriment to the closest pharmacy which is located over a mile away in Dogsthorpe. This pharmacy has traded continuously with above the England average dispensing levels and has seen an increase in dispensing in recent months following the closure of other pharmacies in the City. As such the opening of the proposal, which will only partially redress the balance of pharmacies in the City will not affect the proper planning of pharmaceutical services.”* Whilst the Committee recognised the comments from parties that there is a possibility of significant detriment should an additional pharmacy be granted in the area of the proposed location, the Committee recognised that, even if significant detriment occurred it might be argued that any such detriment could be reversed or compensated for by granting the application. In any event, neither objector had provided information to support the claims that a grant would affect the financial viability of their pharmacy. The Committee therefore went on to consider the merits of the application itself to see whether it in fact provided significant benefits and if those benefits outweighed the potential detriment it has identified above.

- 6.25 On balance, the Committee was 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.
- 6.26 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)

- 6.27 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)

- 6.28 The Committee noted the location of the proposed premises in Parnwell, a residential area, 3 miles to the northwest of Peterborough city centre. The Committee had regard to the map supplied by the Commissioner which indicates the location of the best estimate together with existing pharmacies and GP surgeries, which had not been disputed.
- 6.29 The Committee noted the location of the proposed pharmacy is in the Local Centre of Parnwell, Saltersgate. The Committee noted that the application had been prompted by the closure of Parnwell Medical Centre, Saltersgate in June 2022 and the closure of Lloyds Pharmacy within the Sainsbury's supermarket on Oxney Road in May 2023. This has, according to the Applicant, resulted in the subsequent *"significant depletion of pharmaceutical and health care services"* in the local area. However, the Committee was mindful that the closure of one pharmacy does not automatically mean that there is a need for a pharmacy to open in its place.
- 6.30 Although the supplementary statement to the PNA issued in January 2024 had not identified a gap in service provision following the pharmacy closure in the Sainsbury's on Oxney Road, the Committee noted that the Co-Chair of Health and Wellbeing Board for Cambridgeshire and Peterborough supported the appeal, highlighting their backing for a pharmacy in Parnwell. Further to this, the Committee noted the letter of support from the Peterborough MP, Mr Andrew Pakes, in which he describes the closure of the GP surgery and the Lloyds Pharmacy as having a *"disproportionate impact on vulnerable residents, particularly the elderly and those with chronic health conditions."* The Committee also noted the contents of the news articles and petition to reopen the Medical Centre in Parnwell that had been provided by the Applicant. Dr Councillor Shabina Asad Qayyum, the Co-Chair of the HWB, provided a letter of support for the opening of a new pharmacy in Parnwell, and in which, describes the need for a pharmacy in the area as *"essential"* due to the *"rapidly growing [...] aging population"* within the area of Parnwell. The Committee noted the comment that the *"elderly and frail"* are having difficulty accessing pharmacy services in nearby Dogsthorpe due to a *"two stop Bus Stop change"*. The Committee would consider these issues as part of its assessment of access.
- 6.31 The Committee sought to understand the nature of the population in the area of the proposed pharmacy. The Applicant suggests that this is made up of *"the resident population of Parnwell area at circa 4,700"*, a *"population of shoppers to Sainsbury's of over 30,000"*, and those working in the area such as at the Perkins Engine factory: *"The 2021 Census estimates that the area around Parnwell has a workplace population of over 12,600 of which just under 10,000 travelled into this area daily for work."* The Committee noted the Applicant's comments that the location of the proposed premises was within Parnwell's local centre, where the local population go to meet their everyday needs. *"The shops are a purpose built development set in spacious grounds with car parking. The Local Centre has the following retailers and services:-"*
- 6.31.1 *One Stop Convenience Shop;*
 - 6.31.2 *D'Agnano's Hair Saloon;*
 - 6.31.3 *Peony Oriental Express Take Away;*
 - 6.31.4 *Kingsgate Conference Centre;*

6.31.5 *Parnwell Community Centre providing;-*

6.31.5.1*Stars Pre-School;*

6.31.5.2*Potter's House Church;*

6.31.6 *Under the Eagle / Club Caliente Bar Restaurant; and*

6.31.7 *Parnwell Medical Centre (currently closed).*

- 6.32 The Committee noted the various facilities available within the centre of Parnwell, however considered that the Local Centre is not self-sufficient and that the facilities available were not large or various enough to sustain the population on a daily basis without the need for them to leave the area to supplement the facilities that were available to them. In doing so, they may be able to access existing pharmaceutical services at the same time.
- 6.33 The Committee noted the Applicant's comments that "[t]he area containing Parnwell Local Centre, Saltersgate, Parnwell, Peterborough contains a higher-than-average level of social housing - 56% of household spaces. This contrasts with the national average of just over 17%. The area around PE1 4YL has a very large concentration of children that are under 15 (at 25% of the resident population). This is commonly seen in suburban neighbourhoods, and sometimes in areas of high social housing. Parnwell is amongst the 30% most deprived neighbourhoods in the country." The Committee considered that the level of deprivation would need to be taken into account when considering access to existing pharmacies in the area.
- 6.34 The Committee also noted the contents of the emails from Parnwell residents and healthcare professionals, many of whom reflected support for the application. Whilst not wishing to devalue the patient voice, the volume was low despite the Applicant's data on the resident population and those working in it. While some comments mentioned convenience, many emphasised the desire to have a pharmacy within walking distance, particularly for individuals without cars. The Committee noted that a number of residents described their difficulties in accessing pharmaceutical services including parking at Dogsthorpe Pharmacy and some had resulted in them using an online pharmacy. Numerous letters of support highlight the difficulty that elderly or frail relatives face when accessing pharmaceutical services; one person said that their family members "rely on the goodwill of friends and neighbours to get them to the doctors or pharmacy".
- 6.35 The Committee noted that the nearest pharmacies are said to be located approximately 1.2 miles and 1.7 miles away from the proposed site. The Committee noted the Applicant's comments that "Dogsthorpe Pharmacy, 54 Central Avenue is located about 1.2 miles walk from the proposal site, well beyond walking distance. The walk would take patients along exposed pathways where there is no surveillance. It would not be an attractive walk." The Committee noted the Applicant's comment that "for many patients the walk will be further because they live east, north and south of the Parnwell Local Centre. On this basis the alternative pharmacies in this case are not accessible." The Committee noted the response from Dogsthorpe Pharmacy in their representations that states "there is a route between Parnwell and our client's pharmacy which incorporates a tarmac foot/cycle path. The journey is flat and well lit." The Committee also noted the emails and letters from members of the public included in the appeal that walking to Dogsthorpe Pharmacy was not a viable option for those with reduced mobility or who are elderly. The Committee noted the comments on page 48 of the PNA that states that within the county, it is not uncommon for pharmacies in more rural areas to be located farther than walking distance: "Few pharmacies within Cambridgeshire and Peterborough are easily accessible by walking for most residents, although there are areas of central Cambridge, Peterborough, Wisbech and Huntingdon where

pharmacies can be reached within 15 minutes on foot". The Committee was of the view that difficulties of access on foot did not of itself indicate that there was not reasonable choice in obtaining pharmaceutical services. For those who chose not to access services on foot, or who are unable to access services on foot, for whatever reason, the Committee went on to consider the ease and level of access to pharmacies by private and public transport.

- 6.36 The Committee noted that three bus routes service Parnwell. The Committee noted the comment from Gordons Solicitors on behalf of Dogsthorpe Pharmacy that *"the number 3 bus serves the route between Parnwell and the town centre"* with the journey time being around 16 minutes and taking residents to the town centre bus station, *"adjacent to the Asda Pharmacy and supermarket"*. The Committee noted the comments made by the Applicant that whilst three bus routes service the area of Parnwell, *"the closest pharmacies are not on the bus routes serving Parnwell"*. The Committee also noted the comments made by Dogsthorpe Pharmacy that whilst the bus route does not stop directly outside the pharmacy in Dogsthorpe, bus route 63 does connect Parnwell to Dogsthorpe *"The journey time is 8 minutes and the bus stop for this route is on a road that is parallel to our clients pharmacy and a short walk away"*. Whilst the Committee understood that for some residents, access to pharmaceutical services using public transport would not be a preferred option, the Committee noted that a service was available and there was no evidence to suggest that residents were struggling to access existing pharmaceutical services by public transport.
- 6.37 In terms of access by private transport, the Committee noted that the Applicant provided data on car ownership in Parnwell, *"25% (over a quarter) of all households in Parnwell have no car or van."* The Committee also noted the comments regarding the difficulty in parking at the Pharmacy in Dogsthorpe, particularly at certain times of the day, namely *"during school hours"*. The Committee did however have regard to the photographs provided by Dogsthorpe Pharmacy which shows the car parking spaces outside the Pharmacy at school pickup times with spaces available. The Committee noted that despite the lower-than-average levels of car ownership, for those with access to their own vehicle, the Committee had not been provided with any substantive evidence to show that parking is a barrier for patients accessing the existing pharmaceutical service provision either at Dogsthorpe Pharmacy or other providers. The Committee was therefore not persuaded that those with access to private transport as a whole are experiencing any difficulties.
- 6.38 The Committee noted that the ability to dispense an average of 7000 items per month from the Lloyds pharmacy in Sainsbury's had been lost following its closure. The Committee noted the comments from residents that they faced some issues with accessing pharmaceutical services at the Dogsthorpe Pharmacy with statements describing Dogsthorpe Pharmacy as *"extremely busy"* and *"overrun with patients and queries from the local Dogsthorpe community"* and *"poorly organised"*. However, there was not a robust body of evidence available to the Committee to suggest that the current pharmacies are not coping with the increased level of demand. The Committee noted the Applicant's comment that the nearest pharmacy in Dogsthorpe saw a 53% increase in prescription numbers from December 2022 to December 2023, following the closure of Parnwell Medical Centre and the Lloyds pharmacy. The Committee noted the Commissioner's comments in its report that Dogsthorpe Pharmacy *"dispensed 12,434 prescriptions for 42 GP practices, where 3,817 prescriptions were prescribed from Nightingale Medical Centre"* according to February 2024 data. The Committee noted the comments from the Commissioner that *"The data also showed that the Nightingale Medical Centre prescribed 9,235 prescriptions which were dispensed by 72 pharmacies. The Committee agreed that patients were using a wide range of pharmacies for their pharmaceutical needs, and therefore agreed patients are exercising their choice."*

- 6.39 The Committee had before it the suggestion that should patients wish to access pharmaceutical services online, a distance selling pharmacy service, "Pharmadose is located in Fengate". The Committee considered that a distance selling pharmacy is required to provide pharmaceutical services to patients on a non-face to face basis. A distance selling pharmacy therefore provides a type of access to pharmaceutical services and cannot be discounted when considering access to pharmaceutical services. The Committee felt that, on one hand, it was reasonable to consider that some people are likely to view a distance selling pharmacy as less accessible than a traditional "walk in" pharmacy because patients cannot simply walk in and have a prescription dispensed or obtain advice immediately. The Committee also acknowledged that, on the other hand, it could be considered that distance selling pharmacies are more accessible due to patients being able to access services by post, phone or electronic communication without having to physically make the journey to a "walk in" pharmacy. While the type of access to pharmaceutical services provided by distance selling pharmacies will benefit some persons, the Committee also felt it was reasonable to consider that some persons do not access pharmaceutical services via distance selling pharmacies because they prefer face to face contact.
- 6.40 Taking all of the above into account, 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.
- 6.41 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. The Committee noted the comments from the Applicant that "children and elderly people" and "[t]he travelling community" would be groups with protected characteristics in the Parnwell area. However, the Committee considered that the information regarding those who share a protected characteristic and the pharmaceutical services they needed was limited. There was little or no evidence of specific pharmaceutical needs beyond the general presumption that older and younger people need more services. The issue of access and choice as might apply to these persons was dealt with in the assessment of reasonable access discussed above and the Committee was mindful that there are always people in an area who share a protected characteristic. 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 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 that no information had been provided to suggest that any innovative approaches would be taken with regard to the delivery of pharmaceutical services.
- 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 core opening hours which are 9am – 5pm Monday to Friday. The total proposed hours including supplementary hours are 9am – 6pm Monday to Friday. The Committee noted the comments from parties with regard to the existing provision of pharmaceutical services and that two of the pharmacies, located within 1.7 miles of the proposed site, provide similar opening hours to that of the proposed pharmacy. 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.
- 6.46 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.
- 6.47 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

- 6.48 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).
- 6.49 No deferral or refusal under Regulation 18(2)(f) was required in this case.
- 6.50 The Committee had regard to Regulation 18(2)(g) and found no reason that required it to refuse the application under this regulation.
- 6.51 The Committee considered whether there were any further factors to be taken into account and concluded that there were not.
- 6.52 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.
- 6.53 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 6.53.1 confirm the Commissioner's decision;
 - 6.53.2 quash the Commissioner's decision and redetermine the application;
 - 6.53.3 quash the Commissioner's decision and, if it considers that there should be a further notification to the parties to make representations, remit the matter to the Commissioner.
- 6.54 Given that the Committee's findings are different from those of the Commissioner, , the Committee determined that the decision must be quashed.
- 6.55 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.

- 6.56 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.
- 6.57 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