

27 March 2025

REF: SHA/26438

**APPEAL AGAINST NORFOLK & WAVENEY ICB DECISION
TO REFUSE AN APPLICATION BY SARRACARE LTD FOR
INCLUSION IN THE PHARMACEUTICAL LIST OFFERING
UNFORESEEN BENEFITS UNDER REGULATION 18 AT
CANNERBY LANE SHOPS, NORWICH NR7 8NG**

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

Tel: 020 3928 2000
Email: nhsr.appeals@nhs.net

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:

Healthcare Plus Consulting Ltd on behalf of Sarracare Ltd
Pharmacy Sales and Consultancy on behalf of Hunt's Pharmacy
Hertfordshire & West Essex ICB on behalf of Norfolk and Waveney ICB

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1 The Application

By application dated 14 March 2024, Sarracare Ltd (“the Applicant”) applied to Norfolk Health and Wellbeing Board for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Cannerby Lane Shops, Norwich NR7 8NG [as shown by a red line marked on the application form.]

1.1 In response to Part 5 of the application form (reference to Regulation 31) the Applicant stated:

1.1.1 “There is no pharmacy currently trading from/adjacent to the proposed site.”

1.2 In support of the application it was stated:

1.2.1 “Sprowston New Contract Supporting Information

1.2.2 This application is in respect of opening a new pharmacy to provide better pharmaceutical access and choice for residents of Sprowston. Specifically, patients requiring access to pharmaceutical services in the Sprowston East Ward, the Sprowston Central Ward, and the surrounding areas. For clarity, the proposed site is situated in the Sprowston East Ward.

1.2.3 We understand that the Boots Pharmacy, Aslake CI, Norwich NR7 8ET is set to close on the 16th March 2024 and will leave a significant gap in pharmaceutical services within Sprowston. Hence this application is offering unforeseen benefits not captured within the PNA.

1.2.4 The best estimate of the proposed site we wish to open a new pharmacy is in a parade of community shops located on Cannerby Ln, Norwich NR7 8NG. This is a different location to the soon to be closed Boots, however we believe that a pharmacy located here would provide better access to the resident population.

1.2.5 Sprowston East Ward has undergone rapid population growth in recent years. The 2021 census population of Sprowston East Ward, estimated at 9,530, represents a 39% increase over the 2011 census. The population of the Sprowston Central Ward was also estimated at 5,344 as of the 2021 census.

1.2.6 With the impending closure of the Boots, this growing population of almost 15,000 will soon only have access to pharmaceutical provision at the Tesco Pharmacy, NR7 8AB.

1.2.7 Using the proposed site, NR7 8NG, as an arbitrary marker to represent these residents; we can see that the next nearest pharmacy (Tesco’s Pharmacy,

NR7 8AB) is 1 mile away. For residents currently residing near the proposed site, alternative pharmacies do not present reasonable choice or access to pharmaceutical provision.

1.2.8 Granting this application would secure better access to pharmaceutical services for the large reliant population. We do not consider a 2-mile round journey to access pharmaceutical provision as representative of reasonable choice or access. The elderly, disabled, and the defined population are likely to find the proposed pharmacy significantly more accessible than alternative choices.

1.2.9 We would like to note that granting this application would not cause significant detriment to access of pharmaceutical services, as this application is seeking to fill a gap vacated by the Boots, NR7 8ET closure; and notwithstanding the fact that the nearest pharmacy to the proposed site is located 1 mile away.

1.2.10 On the evidence outlined above, we believe that a new pharmacy contract should be granted."

1.3 The Applicant intends to provide the following services:

1.3.1 Essential services;

1.3.2 Advanced and Enhanced services:

1.3.2.1 Emergency supply

1.3.2.2 NMSS

1.3.2.3 NHS Health Checks

1.3.2.4 Palliative Care

1.3.2.5 Smoking cessation

1.3.2.6 CPCS

1.3.2.7 Flu vaccination

1.3.2.8 Pharmacy Contraception Service

1.3.2.9 Hypertension

1.3.2.10 New Medicine Service (NMS)

1.3.2.11 Stop Smoking: NRT

1.3.2.12 Healthy Start Vitamins

1.3.2.13 Needle Exchange

1.3.2.14 Supervised consumption

1.3.2.15 Naloxone

1.3.2.16 Pharmacy First

1.4 The Applicant's proposed core opening hours are:

Mon to Fri 9.00 to 13.00
 14:00 to 18:30

Sat 9.00 to 13:00

Sun -

1.5 The Applicant's total opening hours are:

Mon to Fri 9:00 to 18:30

Sat 09:00 to 13:00

2 **Decision**

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

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

Covering letter

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

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

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

Decision report

2.3 **"Decision Wording - CAS-287016-N2R4X9**

2.4 **UB Application for inclusion in a pharmaceutical list: routine application offering to secure unforeseen benefits:** Sarracare Ltd, Cannerby Lane Shops, Norwich NR7 8NG

2.5 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 & 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").

2.6 The Committee considered this routine application offering unforeseen benefits in the area of the Norfolk Borough HWB under Regulation 18 of the Regulations.

- 2.7 The Committee first considered Regulation 31.
- 2.8 The Committee noted that the applicant provided the address of Cannerby Lane Shops, Norwich, NR7 8NG for the location of the proposed pharmacy premises.
- 2.9 The Committee is to note that as the applicant has chosen to give a best estimate for the location of the proposed pharmacy premises it is not possible to determine whether or not the application should be refused by virtue of Regulation 31. The Committee may wish to note however that there are no pharmacies located within the best estimate provided by the applicant.
- 2.10 The Committee noted the nearest pharmacies shared with attendees prior to the meeting.
- 2.11 The Committee noted that in regard to Regulation 31, the applicant stated within their application:
- 2.11.1 *“The Boots Pharmacy, Aslake Close, Norwich, NR7 8ET, was open with no plans for closure at the time of the PNA being written. This application is therefore submitted under Regulation 18 as an unforeseen benefits application. An increase in local pharmacy capacity and improved choice to meet the needs of the local population. Better access and choice to pharmaceutical services given the closure of Boots Pharmacy”.*
- 2.12 The Committee is to note that if the application were 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.
- 2.13 As it is not yet known where the premises would be located there are no grounds for the Committee to refuse the application on the basis of Regulation 31.
- 2.14 **Regulation 32 – Is the application to be deferred?**
- 2.15 The Committee noted this Regulation did not apply as the proposed listed pharmacy premises was not an LPS designated premises.
- 2.16 **Regulation 40 to 44 - Applications in a controlled locality**
- 2.17 The Committee noted that the proposed location was not within a controlled locality or reserved locality, so these Regulations did not apply.
- 2.18 **Regulation 18(1) – does the need on which the applicant based its application satisfy the elements of Regulation 18(1)?**
- 2.19 The Committee considered whether Regulation 18(1)(a) was satisfied in that it is required to determine whether it was 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.
- 2.20 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.

- 2.21 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).
- 2.22 The Committee noted that the applicant stated the following within their application:
- 2.22.1 The Committee noted the current Norfolk PNA 2022- 2025 concludes:
- 2.22.1.1 *“Provision of current pharmaceutical services and locally commissioned services are well distributed, serving all the main population centres. There is excellent access to a range of services commissioned from pharmaceutical service providers. As part of this assessment no gaps have been identified in provision either now or in the next three years for pharmaceutical services deemed necessary by the Norfolk HWB”.*
- 2.23 The Committee noted there have been supplementary statements published since the application was received, most recently September 2024 (accessed via the Norfolk Insight website).
- 2.24 The closure of Boots, Aslake Close, Sprowston, Norwich, NR7 8ET on the 16th March 2024 was referenced in the June 2024 supplementary statement:
- 2.25 Norfolk Pharmaceutical Needs Assessment - Supplementary statement - Jun 2024 - Norfolk Insight
- 2.26 The Committee considered how much weight to place on the reference to the closure of Boots in the supplementary statement. It was unclear as to whether the HWB have referenced the closure because it creates a potential gap in pharmaceutical provision. The Committee agreed to place little weight on it because Norfolk HWB have included changes of ownerships on the supplementary statement suggesting that they might not fully understand the purpose of the published supplementary statements e.g. only those changes that are pertinent to the granting of an application need to be included, not every change in service provision.
- 2.27 The Committee 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.
- 2.28 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 in Regulation 18(2).
- 2.29 **Regulation 18(2)(a)(i) & (ii)**
- 2.30 The Committee considered whether it was satisfied that granting the application would cause significant detriment to—
- 2.30.1 *proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB, or*
- 2.30.2 *the arrangements the [ICB] has in place for the provision of pharmaceutical services in that area;*
- 2.31 The Committee noted that there was no evidence to suggest granting the application would cause significant detriment to proper planning in the area and for any

arrangements the ICB has in place for the provision of pharmaceutical services in the area.

- 2.32 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 should go on to consider Regulation 18(2)(b).

2.33 **Regulation 18(2)(b)(i)**

- 2.34 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Norfolk PNA 2022-2025, it was satisfied that, having regard in particular to the desirability of—

2.34.1 *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 Norfolk HWB that were not foreseen when the PNA was published.*

- 2.35 The Committee noted that the applicant stated within their application:

2.35.1 *"The Boots Pharmacy, Aslake Close, Norwich, NR7 8ET, was open with no plans for closure at the time of the PNA being written. This application is therefore submitted under Regulation 18 as an unforeseen benefits application. An increase in local pharmacy capacity and improved choice to meet the needs of the local population. Better access and choice to pharmaceutical services given the closure of Boots Pharmacy".*

- 2.36 The Committee was advised that the P&O team have reviewed contracting files and could confirm that they have not received patient complaints or concerns relating to the closure of Boots Pharmacy, Aslake Close, Sprowston, Norwich, NR7 8ET as of 16 March 2024 resulting in residents being unable to access pharmaceutical services or obtain their medication.

- 2.37 The P&O Team confirmed that a number of the local pharmacies within close proximity to the proposed post code provide advanced services which include Hypertension Case Finding, Pharmacy First and Contraception Services. Additionally, pharmacies within the wider local area provide the same advanced services and also offer flu vaccinations. Therefore, the Committee agreed there was no evidence to suggest that patients cannot access pharmaceutical services.

- 2.38 The Committee noted the data below (shared prior to the meeting with attendees) shows the top 20 dispensing locations for prescriptions issued by East Norwich Medical Partnership, Aslake Close, Norwich, NR7 8DG which is located approximately 0.5 miles from the proposed best estimate post code of NR7 8NG.

- 2.39 The Committee noted that not everyone would access their GP practice prior to attending a pharmaceutical provider.

- 2.40 The Committee concluded that there was reasonable patient choice available with ten pharmacies located within 1.4 miles of the proposed postcode (*source www.nhs.uk).

- 2.41 The Committee noted that patients were using a wide range of pharmacies for their pharmaceutical needs, and therefore it could be said that patients were exercising their choice.

- 2.42 The Committee agreed that no evidence was provided to demonstrate that those living in Sprowston, Norwich were currently unable to exercise a choice in obtaining pharmaceutical services.
- 2.43 The overall provision of pharmaceutical services was through using those established pharmacies already being utilised by those living in the Sprowston, Norwich area.
- 2.44 The Committee noted that no current or future gaps in provision of pharmaceutical services was identified in the current Norfolk PNA 2022 - 2025 or in the supplementary statements that have been issued since, most recently September 2024.
- 2.45 The Committee noted that the test was whether or not those living in Sprowston, Norwich had reasonable choice with regard to obtaining pharmaceutical services in the area of Norfolk HWB, not just in the area of Sprowston.
- 2.46 The Committee was of the view that there was already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, such that it could not 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 Norfolk PNA 2022 - 2025 was published.
- 2.47 **Regulation 18(2)(b)(ii)**
- 2.48 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Norfolk PNA, 2022 - 2025, it was satisfied that, having regard in particular to the desirability of—
- 2.48.1 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 Norfolk HWB that were not foreseen when the PNA was published.*
- 2.49 Within their application, the applicant stated:
- 2.49.1 *"granting this application would secure better access to pharmaceutical services for the large reliant population. We do not consider a 2-mile round journey to access pharmaceutical provision as representative choice or access. The elderly, disabled and the defined population are likely to find the proposed pharmacy significantly more accessible than alternative choices".*
- 2.50 The Committee noted the applicant provided no evidence to meet the criteria of Regulation 18(2)(b)(ii). Whilst it was accepted that there would be people with protected characteristics living in Sprowston, Norwich and that some may need pharmaceutical services as a result, there was no evidence that any specific groups had any difficulty accessing such services.
- 2.51 The Committee was not satisfied that, having regard to the desirability of people who share a protected characteristic having access to pharmaceutical 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 pharmaceutical needs assessment was published.
- 2.52 **Regulation 18(2)(b)(iii)**

- 2.53 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Norfolk PNA 2022 - 2025, it was satisfied that, having regard in particular to the desirability of—
- 2.53.1 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 Norfolk HWB that were not foreseen when the PNA was published.*
- 2.54 The Committee noted the applicant provided no evidence regarding innovative approaches in the delivery of pharmaceutical services, therefore the Committee was not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the Norfolk PNA, 2022 - 2025 was published.
- 2.55 **Representations**
- 2.56 During the 45-day notification period, representations was received from:
- 2.56.1 Community Pharmacy Norfolk & Suffolk
- 2.56.2 Pharmacy Sales & Consulting Services Ltd (on behalf of C Hunt Pharmacy)
- 2.56.3 Boots Support Office
- 2.56.4 Well Pharmacy
- 2.57 The full representations were shared with the Committee prior to the meeting.
- 2.58 The Committee noted the representations. If the Committee decides to grant the application, appeal rights will be given to Pharmacy Sales & Consulting Services (on behalf of C Hunt Pharmacy) and Well Pharmacy. The Committee noted that Community Pharmacy Norfolk & Suffolk cannot have a third party right of appeal and Boots Support Office are not on the pharmaceutical list. They have also not raised substantial comments and therefore would not be granted appeal rights (if the Committee decides to grant the application).
- 2.59 The Committee noted that the applicant did not provide a response to any of the representations received.
- 2.60 **Regulation 18(2)(b) generally**
- 2.61 The opening hours of those pharmacies that are closest to the proposed postcode were shared with the Committee prior to the meeting. The Committee noted that supplementary hours could be withdrawn at any time in line with the Regulations.
- 2.62 The Committee had in mind 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.
- 2.63 The Committee noted that within their application, the applicant proposed 46.5 core hours and 5 supplementary hours. The Committee noted the proposed 5 supplementary hours could be withdrawn at any time following the required notice period.

- 2.64 The applicant was proposing to provide 4 core hours on Saturday morning from 09.00 – 13.00.
- 2.65 The Committee noted the opening hours of the nearest pharmacies which evidences that patients have a good choice of pharmaceutical services within the local area.
- 2.66 The Committee considered whether there were any other factors that would confer significant benefits including on patients who share protected characteristics based on the information provided by the applicant.
- 2.67 The Committee noted the applicant provided no evidence to satisfy that there were other factors that would confer significant benefits on patients who shared protected characteristics.
- 2.68 **Regulation 50 – Discontinuation of arrangements for the provision of pharmaceutical services by doctors**
- 2.69 The Committee noted the proposed location was not within a controlled locality.
- 2.70 **Regulation 65 – Core opening hours conditions**
- 2.71 The applicant was proposing 46.5 core hours, 6.5 of which would be directed.
- 2.72 The directed hours would be 18.00 – 18.30 Monday to Friday and from 09.00 – 13.00 on Saturday.
- 2.73 **Decision**
- 2.74 The Committee refused the application on the following basis, under Regulation 18(2)(b):
- 2.74.1 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 Norfolk Borough HWB.
- 2.74.2 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
- 2.74.3 There was no evidence showing that innovative approaches would be taken with regard to the delivery of pharmaceutical services.
- 2.75 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 might not 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 (in relation to opening hours) on persons.
- 2.76 For all the above reasons the view of the Committee in accordance with Regulation 18(2)(b), is 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.
- 2.77 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.
- 2.78 The Committee agreed that appeal rights are granted to the applicant, Sarracare Ltd.

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

2.80 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 18 December 2024 addressed to NHS Resolution, Healthcare Plus Consulting Ltd appealed on behalf of the Applicant against the Commissioner’s decision. The grounds of appeal are:

3.1 “Thank you for your letter dated 29th November 2024 to my client. Sarracare Ltd have instructed us (Healthcare Plus Consulting Ltd) to act on their behalf for this appeal, please find an authorisation letter attached.

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

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

3.4 We assert that this application does provide improvements or better access to pharmaceutical provision, as set out in my client’s original application and expanded on below.

3.5 We submit that in their decision, NHS England has misdirected itself on a number of issues:

3.5.1 NHS England failed to consider that since the closure of Boots Pharmacy on March 16th 2024 (NR7 8ET), Tesco Pharmacy (NR7 8AB) is now the sole provider of pharmaceutical services situated in the Sprowston East Ward ;

3.5.2 We reiterate that there are over 9,500 local residents in the Sprowston East Ward per 2021 Census data, with a growing population which has increased significantly by 39% since 2011;

3.5.3 This presents an increased pressure on Tesco Pharmacy, who are struggling to cope with the heightened pharmaceutical demands placed upon them following the Boots closure, as is shown below in Google Reviews within the past year;

3.5.4 The population residing in the area of the proposed site (NR7 8NG) remain at least c. 1-mile away from pharmaceutical services. We submit residents will significantly benefit from access to a pharmacy in this particular area of Sprowston;

3.5.5 We also note the high number of residents living in the area of the proposed site with no car/van, aged 65 and over, and with a high percentage of disabilities, ultimately defining the area as one in greater need of access to pharmaceutical provision;

3.5.6 We especially draw attention to comments from the local MP and Councillors, who wrote a letter addressed to Boots highlighting their concerns surrounding the closure and worries regarding its impact on local pharmacies and the local community.

- 3.6 We note that the Proposed Site is situated in the Broadland Local Authority. At the time the Norfolk PNA was written, it revealed that Broadland had 15.2 pharmacies per 100,000 people. The PNA states that Norfolk has 17.2 pharmacies per 100,000 people, and follows that Norfolk is 'well served with community pharmacies'. Broadland's already low figure of pharmacies per 100,000 people has further decreased since the Boots closure. If the PNA states that Norfolk's figure per 100,000 people is 'well served', we submit that the same cannot be said for Broadland.
- 3.7 We have included a map [provided] to show current pharmaceutical provision in the Sprowston East Ward:
- 3.7.1 Red triangle – depicts best estimate of proposed site, NR7 8NG
- 3.7.2 Blue triangle – depicts only pharmacy in Sprowston East Ward, Tesco Pharmacy, NR7 8AB
- 3.8 **Proposed Location**
- 3.9 The best estimate for pharmaceutical provision for local residents of the Sprowston East Ward is situated among a communal parade of shops on Cannerby Lane, Sprowston, NR7 8NG.
- 3.10 The parade of shops is, centrally-based in the Sprowston area and bordered by main roads. A pharmacy located here would integrate access to pharmaceutical provision with the bustle of the local community.
- 3.11 We submit that opening up a pharmacy at this location will improve residents' access to pharmaceutical services, particularly those who obtain all of their local amenities on Cannerby Lane in their day-to-day lives.
- 3.12 Image [provided] depicting proposed site with parade of shops and Co-op on the right.
- 3.13 Image [provided] showing a close-up of local amenities clearly utilised by residents.
- 3.14 As can be seen in the images above, there are a generous number of amenities situated directly on the parade, which we have listed below:
- 3.14.1 Co-op Supermarket;
- 3.14.2 Hairdresser;
- 3.14.3 Beauty Salon;
- 3.14.4 Newsagent;
- 3.14.5 Butchers;
- 3.14.6 Tattoo Shop;
- 3.14.7 Gift Shop;
- 3.14.8 Pet Groomer;
- 3.14.9 Funeral Services.
- 3.15 The list continues, with numerous adjacent premises such as another Hairdresser's; another Beauty Salon (Body and Skin Care Clinic); and an Electrolysis Hair Removal service. There is also a secondary school nearby. Whether it be shopping at Co-op, a

trip to the Newsagent's, Butchers or Hairdresser's, we submit that patients can merge their daily activities with pharmacy usage.

- 3.16 The parade sits by itself at a safe distance from the road. There are wide walkways with good access especially for those groups with protected characteristics. Further, there is a good amount of free parking available directly outside of the proposed premises (as displayed in the image [provided] with additional parking available outside of the neighbouring Co-op.
- 3.17 We believe that a pharmacy located here instead of the former Boots site is better suited to the needs of the local community in the Sprowston East Ward. Thus, we reiterate that a pharmacy in this location will enable residents to access their daily amenities synonymously with pharmaceutical provision.
- 3.18 **Census Data of Local Population**
- 3.19 According to 2021 Census data, the Sprowston East Ward houses over 9,500 residents. Since 2011, this number of residents has increased by 39%. We assert that this significant population growth must be noted, for it continues to grow.
- 3.20 Additionally, we submit that there has since been housing developments in Woodland Heath, contributing to an additional 332 new homes which reside in the Sprowston East Ward. Assuming an occupancy rate of 2.5 per household, we can see that there may soon be over 800 additional residents that will be reliant on only one pharmaceutical service within the Sprowston East Ward (Tesco Pharmacy). A growing population triggers an increasing pressure on pharmaceutical services. The Norfolk PNA estimates that out of all the districts that comprise Norfolk, the Broadland district will experience the highest number of additional housing (6,814) and the highest associated population increase (16,354). Consequently, it is crucial that pharmaceutical provision is sufficient to meet the needs of this growing Broadland population.
- 3.21 It is prudent take a closer look at the local population to better understand their circumstances and needs. We do this by putting the Lower-Layer Super Output Areas (LSOAs) under scrutiny to uncover the characteristics of residents who are likely to utilise pharmaceutical services in the anticipated location.
- 3.22 The proposed site is located in the Broadland 013A LSOA. When we consider the number of local residents who may access pharmaceutical services at the proposed site, we must also consider the surrounding Broadland 013C and 013D LSOAs.
- 3.23 The no car/van ownership average for the Broadland Local Authority is 11%. When we compare this to the 20.4% figure in the 013A LSOA, we can see that there is nearly double the number of residents without access to a car/van in the LSOA of the proposed site than the local authority average.
- 3.24 It is apparent that access to a car/van is significantly worse for residents living in the LSOA of the proposed location when compared to the local authority average. Such high no car/van ownership statistics in relation to the local authority must be noted, for it follows that driving to access alternative pharmaceutical provision may not be a viable option for most residents in the nearby LSOAs. This application seeks to overcome distance as a barrier to access, especially when we consider that these residents are likely to utilise the proposed site which will be within walking distance for many.
- 3.25 We also submit that there is also a high number of residents aged 65 and over residing in the LSOA of the proposed site (013A) and surrounding LSOAs who are likely to access pharmaceutical services in the vicinity.

- 3.26 In accordance with 2021 Census data, 32.3% of residents at the proposed site (013A LSOA) are aged over 65; 27.6% are in the adjacent 013C LSOA; and 35% are aged 65 or over in the 013D LSOA. These figures are not only far greater than the 18.3% England average, but also significantly higher than the, already large, 25.9% Broadland Local Authority average. We submit that it is apparent that there is a greater localised health need.
- 3.27 We can see that there is a high elderly population residing in the location of the proposed site and its surrounding areas. The Norfolk PNA states that between 2020-2025, it predicts the over-70 group to experience the largest increase. It also forecasts the aged 55-59 and 60-64 groups to have the most people in them in 2025. The Committee will be aware that the elderly have higher health needs, and may need to embark on several journeys to access pharmaceutical services. Therefore, if these elderly residents cannot drive, or perhaps may not even feel comfortable driving, they have to travel the c. 1-mile distance to access pharmaceutical provision by foot or public transport, equating to a c. 2-mile round journey. We submit that this is not representative of reasonable choice or access to pharmaceutical services.
- 3.28 This is especially pertinent when we consider that residents in the Broadland 013A and 013D are particularly limited in mobility. According to the 2021 Census, there are 20.1% of residents in the 013A LSOA and 21.7% of residents in the 013D LSOA who have a disability under the 2010 Equality Act. When we compare these figures to the average 17.3% of residents in England having a disability, we can see that there is a very high number of residents with limited mobility in the proposed site and surrounding LSOA that will most likely access the anticipated location. Again, with this in mind, we submit a high disabled population exhibits a greater need for pharmaceutical services within this area.
- 3.29 We emphasise that in relation to the Broadland Local Authority, the LSOAs which comprise the Sprowston East Ward reveal that residents living in the proposed site and surrounding areas require improved access to pharmaceutical provision. It is indubitable that a significant number of residents near my client's proposed site are without a car/van, elderly, and of poor mobility, and therefore may struggle to access current pharmaceutical provision within the Sprowston East Ward. We submit that there is a need for a pharmacy at the proposed site to serve these local residents, particularly for those groups with protected characteristics.
- 3.30 **Current service provision**
- 3.31 **Tesco Pharmacy**
- 3.32 Given that Tesco Pharmacy is now the sole pharmacy provider located within the Sprowston East Ward, we would like to draw the Committee's attention to the poor service provided by the pharmacy.
- 3.33 According to recent data, Tesco Pharmacy dispensed over 12,000 items in August. Such large dispensing figures paint Tesco Pharmacy as a high volume pharmacy, yet it struggles to cope with this high patient demand. Since the closure of Boots Pharmacy on 16th March 2024, Tesco Pharmacy has been consistently criticised for its inability to endure an increased patient demand, with no sign of improvement. This is evident if one were to take a look at the numerous, negative Google Reviews in the past year.
- 3.34 A local resident highlighted the impact of the Boots closure, stating: *"very busy pharmacy after the Aslake Close boots shut"*.
- 3.35 The same resident noted that: *"whenever you go there 9/10 there is an issue, problem and always the customer fault"*.

- 3.36 Another remarked that: *"the staff here go out of their way to ignore you"*.
- 3.37 Another resident complained that: *"this is not the first time I've left without collecting my prescription, my joints are too painful to stand idly for service"*.
- 3.38 Incredibly poor service, excessive waiting times and increased patient demand denotes the inadequacy and overwhelmed nature of current pharmaceutical provision for residents in Sprowston since the Boots closure.
- 3.39 We submit that such insufficient services are deeply concerning, and thus the need to open a pharmacy for residents in Sprowston who are frequently experiencing this unacceptable service could not be clearer. With regard to 2021 Census data above, which illuminated the considerable figures of local residents without a car, elderly and of poor mobility, it is apparent that the already desperate need for additional pharmaceutical provision is further called for.
- 3.40 We have provided images of Tesco Pharmacy's Google Reviews from as recent as one month ago below. We invite the Committee to read the reviews from the past nine months following the Boots closure.
- 3.41 **Accessibility**
- 3.42 Using the proposed site as an arbitrary marker, we believe it is important to analyse patient journeys to measure access to existing pharmaceutical provision. We highlight that the alternative nearby pharmaceutical provision does not provide reasonable choice or access for residents living near the proposed site. We dispute the claim that there are ten pharmacies within a 1.4-mile distance of the proposed site, for this is only true as the crow flies and does not apply in reality. We submit that there is in fact only three pharmacies within a 1.4-mile distance of the proposed site. Consequently, we do not consider a minimum of nearly 2-mile round journeys as sufficient access, especially for the high number of residents who are elderly or have a disability.
- 3.43 The map [provided] depicts the proposed site in relation to alternative pharmaceutical provision.
- 3.43.1 Red triangle – depicts best estimate of proposed site, NR7 8NG;
- 3.43.2 Blue markers – depicts other pharmaceutical provision;
- 3.43.3 Green triangle – depicts closed Boots Pharmacy, NR7 8ET.
- 3.44 **Tesco Pharmacy, (NR7 8AB)**
- 3.45 As mentioned, the Tesco Pharmacy is the only pharmacy situated in the Sprowston East Ward. The journey to the pharmacy by foot is a minimum 1-mile or 23-minute round journey.
- 3.46 We submit this does not represent reasonable choice to pharmaceutical provision by foot, especially when we consider the elderly and limited mobility of the localised population.
- 3.47 When patients are travelling along the busy main Wroxham Road, parked cars mounting the kerb and bins on pavements could make this journey difficult especially for those in a wheelchair/mobility scooter/visually impaired, who may find themselves dangerously close to oncoming traffic. We propose that groups with protected characteristics do not have sufficient access by foot.

- 3.48 We do not consider a nearly 2-mile round walk sufficient access to pharmaceutical services, especially when the services provided by Tesco Pharmacy are deemed insufficient by local residents.
- 3.49 It is likely that patients could be deterred from accessing pharmaceutical services due to the existing pressure and inadequate service provided by Tesco Pharmacy, as demonstrated by a local resident in a Google Review; *"never use Blue Boar Tesco Pharmacy again"*.
- 3.50 **Dye's Pharmacy, (NR6 7QA)**
- 3.51 The journey by foot is a mile, equating to a 2-mile round journey. For the high number of residents aged 65 and over and disabled, it is very likely that this journey could be significantly longer. Thus, we do not consider a minimum 40-minute round trip as sufficient access to pharmaceutical provision.
- 3.52 There is no direct bus route between the two sites, ultimately leaving residents without access to a car/van with no choice but to travel by foot. As mentioned, there is a much lower car/van ownership in the surrounding LSOAs than the local authority average, which suggests that many residents are forced to travel by foot to Dye's Pharmacy. Furthermore, residents who cannot drive, do not feel comfortable driving or do not own a car/van will have no choice but to walk to access pharmaceutical provision at Dye's Pharmacy. We would consider this as no pharmaceutical choice at all, much less than the threshold of 'reasonable choice'
- 3.53 **Well Pharmacy, (NR7 9RJ)**
- 3.54 This pharmacy is a 2.4-mile or 54-minute round journey by foot. We do not consider this reasonable choice for local residents.
- 3.55 In fact, the journey by public transport is even longer than by foot, totalling a 1-hour round trip.
- 3.56 Most of the journey requires walking by foot, as residents must walk for approximately 20-minutes to reach the Towers bus stop, and could face waiting up to an additional 20-minutes for the 23A network Norwich bus. This bus stop also does not have a shelter, which could leave residents standing exposed to the elements while waiting 20-minutes for the arrival of the service.
- 3.57 For those who do not have access to a car, the travel to Well Pharmacy does not represent reasonable choice.
- 3.58 **Woodside Pharmacy, (NR7 9QL)**
- 3.59 This journey is a 3-mile round journey by foot, equating to a 1-hour and 6-minute walk. We submit this does not represent reasonable choice to pharmaceutical provision by foot, especially when considering the local population who have limited mobility.
- 3.60 The bus journey is hardly an improvement from walking, as it amounts to a minimum of a 1-hour 2-minute round trip. When we consider the elderly and less mobile population, we submit that this does not represent reasonable choice to pharmaceutical provision.
- 3.61 The service provided at Woodside Pharmacy has also been criticised on Google Reviews recently, as can be seen below. [provided] We invite the Committee to read these reviews, which exhibits poor service when patients are accessing alternative pharmaceutical provision which, in turn, further presents the need for adequate pharmaceutical provision in Sprowston.

3.62 Conclusion

- 3.63 In conclusion, granting this application would secure better access and improvements to pharmaceutical services for residents living in the Sprowston East Ward. The proposed site serves the local population central to Sprowston, with amenities that are likely to be encountered during daily pursuits.
- 3.64 It is apparent that the nearest existing pharmaceutical provision is struggling, for it is unable to cope with the increased capacity generated by the Boots closure earlier this year.
- 3.65 We submit that a pharmacy at the proposed location would significantly improve pharmaceutical access as residents are coming by amenities on Cannerby Lane which serve the local population. In particular, the populations who are elderly, disabled and without a car are likely to find the proposed pharmacy site significantly more accessible than their current choices,
- 3.66 We reiterate that there is a need for an additional pharmacy in Sprowston to serve this local elderly population who have higher health needs. We also reinforce the notion that the Boots closure has left a gap in pharmaceutical provision for the residents of Sprowston which this application seeks to fill at the centre of the community.
- 3.67 Hence, we submit that Regulation 18 has been met and we invite NHS Resolution to grant my client's application."

4 Summary of Representations

This is a summary of representations received on the appeal.

Hertfordshire and West Essex ICB

- 4.1 "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. The six ICBs have formed one Pharmaceutical Services Regulation Committee (PSRC) which is also hosted by HWE ICB.
- 4.2 Having reviewed the grounds of appeal made by Healthcare Plus Consulting on behalf of Sarracare Ltd (the Appellant), for premises at Cannerby Lane Shops, Norwich, NR7 8NG (Best Estimate), the HWE ICB remains of the opinion that this application should be refused.
- 4.3 The Appellant appears to be appealing on the following grounds:
- 4.3.1 NHS England failed to properly evaluate Regulation 18 and the fundamental question within the Regulation: does the application provide 'improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area'
- 4.3.2 NHS England failed to consider that since the closure of Boots Pharmacy on 16 March 2024 (NR7 8ET), Tesco Pharmacy (NR7 8AB) is now the sole provider of pharmaceutical services situated in the Sprowston East Ward.
- 4.4 In considering and determining the application and subsequent appeal, the ICB has reviewed the 2022-2025 Norfolk Pharmaceutical Needs Assessment (PNA). The Norfolk PNA can be found at Pharmaceutical Needs Assessment (PNA) updated - Norfolk Insight along with the published supplementary statements.

- 4.5 The 2022-2025 Norfolk PNA does not identify any gaps in the provision of pharmaceutical services, either within normal working hours or outside of them. It does not articulate any current or future needs for, or current or future improvements or better access to, a particular pharmaceutical service or pharmaceutical services in general.
- 4.6 The Appellant refers to the closure of Boots Pharmacy, Aslake Close, Norwich, NR7 8ET, on 16 March 2024 (*pages 1 and 6 of the appeal document*) and goes on to state *"Tesco Pharmacy (NR7 8AB) is now the sole provider of pharmaceutical services situated in the Sprowston East Ward"*. (*page 1 of the appeal document*).
- 4.7 The ICB notes that the closure of one pharmacy does not lead to the granting of an application for another. If the Norfolk Health and Wellbeing Board (HWB), was of the view that the closure of the Boots Pharmacy would affect the granting of an application, it has arrangements in place to initiate a revised assessment of the PNA. The HWB has not initiated a revised assessment and publication of the PNA based on the closure of Boots Pharmacy.
- 4.8 It can be concluded that the HWB were therefore not of the view that this change was detrimental to the provision of pharmaceutical services, otherwise a revised publication would have been initiated. (The ICB is aware that the PNA is being revised – this is not due to a response to a change in the availability of pharmaceutical services but due to the routine 3-yearly publication of the PNA). If the HWB thought a revised assessment of the PNA was disproportionate, it can issue a supplementary statement.
- 4.9 Supplementary statements are statements of fact which show there has been a change to the availability of pharmaceutical services since the PNA was written. They are not a vehicle for updating what the PNA says about the need for pharmaceutical services. Whilst the closure of Boots Pharmacy may be noted on a supplementary statement, it is not enough to say, "there is a gap." The HWB has a duty to articulate specifically what that gap is e.g. what specific service, or services are required, at what specific times etc. The HWB have not done this so it can be concluded that they were not of the opinion that the closure of Boots Pharmacy identified any sort of gap.
- 4.10 On review of the PNA 2022-2025, Sprowston East Ward is included within the Broadland locality. The PNA takes into consideration the population of the Broadland locality as well as future population growth and future housing developments. The PNA concludes after taking these factors into account: *"No gaps have been identified that if provided either now or in the future would secure improvements or better access to Advanced Services across Broadland locality."* (PNA, page 101, 6.2.2.2).
- 4.11 On review of the data held on the Census 2021 website, the map and associated data clearly shows that 86.1% of residents own one or more cars or vans. It also shows that 44.2% of those residing in Sprowston East Ward travel up to 6 miles to get to work. It could therefore be concluded that these residents obtain pharmaceutical services whilst travelling around Norfolk, on route to work, home, school, leisure activities etc. It is also noted that whilst local amenities include a butchers, hairdressers, newsagents, this is not likely to cater for all resident needs and people will travel for work, their weekly food shopping or other reasons.
- 4.12 The Appellant states *'the proposed site is situated in the Broadland Local Authority. At the time the Norfolk PNA was written, it revealed that Broadland had 15.2 pharmacies per 100,000 people. The PNA states that Norfolk has 17.2 pharmacies per 100,000 people, and follows that Norfolk is 'well served with community pharmacies. Broadland's already low figure of pharmacies per 100,000 people has further decreased since the Boots closure. If the PNA states that Norfolk's figure per 100,000 people is 'well served', we submit that the same cannot be said for Broadland'*. (Page 2, appeals document).

- 4.13 The PNA states the following for the Broadland locality: *“There are 20 community pharmacies in this locality and the estimated average number of community pharmacies per 100,000 population is 15.2, lower than Norfolk (17.2) and England (20.6) averages.*
- 4.14 *There are eight dispensing GP practices (and three branch surgeries are dispensing practices). When the dispensing GP practices are added to the community pharmacies, the ratio of pharmaceutical providers per 100,000 population increases to 21.2.”* (PNA 6.2.2.1, page 100).
- 4.15 The Norfolk HWB was therefore aware when assessing pharmaceutical needs that the average number of community pharmacies per 100,000 is lower than the Norfolk average however it accepted that when combined with the dispensing GP practices, there was adequate provision. If this was not the case, then the HWB would have articulated a specific gap.
- 4.16 The Appellant states that they have looked at the local population of Sprowston East Ward *‘by putting the Lower-Layer Super Output Areas (LSOAs) under scrutiny to uncover the characteristics of residents who are likely to utilise pharmaceutical services in the anticipated location’* (Page 4, appeal document).
- 4.17 The Norfolk PNA 2022-2025 looks at the pharmaceutical services provision within the Broadland locality as a whole rather than individual towns and villages. Whilst it might be helpful and convenient to have a pharmacy in every village and town, this is different from there being a need. The test is whether people can access pharmaceutical services within the Norfolk HWB. There is nothing to suggest that people within the Norfolk HWB cannot obtain their medicines and access pharmaceutical services.
- 4.18 There has been development and population growth in Broadland however an increase in population does not automatically lead to the requirement to grant an application.
- 4.19 The Appellant have given a best estimate location as a parade of retail units within a residential area some distance from the Boots pharmacy which closed. The application submitted by the Appellant is based on the closure of the Boots pharmacy and the assumption is that it is their intention to serve the patients who previously used the Boots pharmacy. It is to note that people living close to the best estimate location were able to travel to both Boots pharmacy and the GP Surgery adjoining that pharmacy. This would indicate a mobile population who can freely move around the area and therefore able to access other local pharmacies.
- 4.20 The Appellant states that *‘According to 2021 Census data, the Sprowston East Ward houses over 9,500 residents. Since 2011, this number of residents has increased by 39%. We assert that this significant population growth must be noted, for it continues to grow.’* (Page 4, appeal document).
- 4.21 The Norfolk PNA refers to the population growth since the last PNA in 2018 and the expected population growth for the lifespan of the current PNA (2025) stating the *‘population growth for the lifespan of this PNA (to 2025) is expected to be 3.8% to 136,967, which is similar to the rate of growth for England. New housing developments are planned for the locality during the period of this PNA; approximately 6,800 dwellings to house in excess of 16,000 people. The area of highest development is to the north-east of Norwich, where there is good access to community pharmacies.’* The Norfolk PNA continues *‘generally there is adequate pharmaceutical service provision across the whole locality to ensure continuity of provision of services. Norfolk HWB will continue to monitor pharmaceutical service provision in specific areas within the locality where major housing developments and population growth are planned, to ensure there is capacity to meet potential increases in service demand’.* (PNA 6.2.2.2, page 101).

- 4.22 Taking the above information from the PNA into account and noting the lifespan of the PNA (late 2025), it can be concluded that the HWB were assured that there are sufficient pharmaceutical services available for the population, noting the potential increase in population as residents occupy properties within the new developments.
- 4.23 **Current Service Provision**
- 4.24 PSRC noted that the Appellant is offering to provide 46.5 core hours, 6.5 of which would be directed, and 5 supplementary hours: providing a total of 51.5 hours. The directed hours would be 18:00 – 18:30 Monday to Friday and 09:00 – 13:00 Saturday.
- 4.25 The Appellant makes reference to Tesco Pharmacy being the ‘*sole pharmacy provided within Sprowston East Ward*’ (page 6, appeal document) however it is noted that there are currently 6 pharmacies within 1.7 miles* and a further 4 pharmacies between 1.9 miles* and 2.5 miles* to the proposed best estimate. It is noted that the Boots Pharmacy which closed in March 2024 was a 1 minute walk from the local GP Surgery, Sprowston Primary Care Centre, 1.2 miles* from the proposed best estimate site and a branch of Thorpe Health Centre. The highest dispenser of prescriptions is Thorpe Health Centre Pharmacy which is 2.1 miles* from the proposed best estimate.
- 4.26 The hours covered by these pharmacies include opening hours from 08:00 – 20:00 Monday to Saturday and 10:00 – 16:00 on Sunday. Details can be found in **Appendix 1**. [provided]
- 4.27 Pharmacies within 1.7 miles (2.7km):
- 4.28 Pharmacies within 2.5 miles (4.0km):
- 4.29 Pharmacies and GP practices within 1.7 miles (2.7km): Pharmacies and GP practices within 1.7 miles (2.7km):
- 4.30 Since the Committee were presented with dispensing data during the November 2024 meeting, there have been minor changes to the way in which the residents of Sprowston choose to have their medication dispensed.
- 4.31 From the data above, Thorpe Health Centre Pharmacy remains the top dispenser of prescriptions issued by East Norwich Medical Practice. Overall, the data demonstrates that residents of Sprowston are exercising their right to choose where they have their medications dispensed and how they access wider pharmaceutical services which may be closer to where they live or work or where they are accessing other services. Some people may choose to access pharmaceutical services in a neighbouring HWB.
- 4.32 The data shows that patients are accessing a significant number of different pharmacies including distance selling pharmacies (DSPs). Whilst the ICB recognises that DSPs are not the preference for all patients, some residents will choose to obtain their services from this type of contractor as not all essential services and advances services require face to face contact at the pharmacy premises.
- 4.33 **Accessibility**
- 4.34 The Appellant has ‘*analysed patient journeys to measure access to existing pharmaceutical provision. We highlight that the alternative nearby pharmaceutical provision does not provide reasonable choice or access for residents living near the proposed site.*’ (Page 10, appeal document).
- 4.35 Patients are exercising their choice of where to have their prescriptions dispensed as identified in the dispensing activity within this document. 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.

- 4.36 The ICB is aware that the HWB has noted within the PNA, the time it takes to access the pharmacies on foot, by car and by public transport and was of the opinion that there are no current or future gaps in the provision of pharmaceutical services.
- 4.37 People accessing pharmaceutical services are accustomed to not having a pharmacy in the best estimate location and there is no evidence that they are unable to access alternative pharmaceutical services or are struggling to access pharmaceutical services from local pharmacies. Patients are more likely to access pharmaceutical services either after a visit to their GP Surgery from their home or whilst going about their daily activities.
- 4.38 It is to note that the test is whether there is reasonable choice with regards to pharmaceutical services in the area of the relevant HWB. It is not reasonable choice within one small part of the HWB.
- 4.39 The Appellant states that *'since the closure of Boots pharmacy on 16th March 2024, Tesco Pharmacy has been consistently criticised for its inability to endure an increased patient demand, with no sign of improvement. This is evident if one were to take a look at the numerous, negative Google Reviews in the past year'*. (Page 6, appeal document, screenshots provided).
- 4.40 PSRC noted that there have been 8 comments made on Google Reviews in the past ten months. It is disappointing to read of people's negative experiences, though it is noted there are some positive reviews. It is also noted that two people who made negative comments have *"gone to the pharmacy down the road"* and are therefore exercising their right to choose an alternative pharmacy for their pharmaceutical needs.
- 4.41 The Appellant has also made reference to Woodside Pharmacy and 2 Google reviews *'which exhibits poor service'* (page 11, appeal document, screenshots provided).
- 4.42 Since the closure of Boots Pharmacy on 16 March 2024 the ICB has not received any concerns, reports or complaints about patients being unable to access pharmaceutical services or obtain their medication. The ICB is always concerned to read feedback from patients who have not had a good experience when attending a community pharmacy. Patients are of course able to make a complaint regarding any services provided by a pharmacy and the ICB has arrangements in place to deal with these matters and the solution is not always that a new pharmacy is needed and not a reason within the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended ("the Regulations") to approve a market entry application.
- 4.43 In addition, since early 2021, all pharmacies are required to facilitate remote access to the pharmaceutical services they provide where users wish to access those services in that way. Therefore, for those who are unable to physically access a pharmacy there are alternative ways for them to receive the services they require. The Covid-19 pandemic has changed how many services are provided within the NHS, and accessing services remotely is far more widely accepted and utilised than before the pandemic. Whilst there will always be people who prefer to access services face to face that is their choice to do so.
- 4.44 The Appellant asks that *'We especially draw attention to comments from the local MP and Councillors, who wrote a letter addressed to Boots highlighting their concerns surrounding the closure and worries regarding its impact on local pharmacies and the local community'*. (Page 2, Appeal document)

- 4.45 The ICB is not aware of this letter addressed to Boots and is therefore unable to comment.
- 4.46 The Appellant had made statements such as '*there is a high elderly population residing in the location of the proposed site and its surrounding areas*', '*the Committee will be aware that the elderly have higher health needs*', '*there is a very high number of residents with limited mobility in the proposed site*'. (Page 5, appeal document)
- 4.47 These are general statements. Whilst there will be elderly people and people with limited mobility in the area, no information has been provided to evidence that these cohorts of patients are unable to access or struggling to access pharmaceutical services. No evidence has been provided regarding groups who share a protected characteristic having issues accessing pharmaceutical services in the area of the best estimate proposed site.
- 4.48 The ICB can confirm that Boots Pharmacy has been closed for 10 months now. The ICB has not received any concerns, reports or complaints from patients who are unable to access pharmaceutical services or their medication.
- 4.49 **Regulation 18(1)(a)**
- 4.50 PSRC noted it was required to determine this routine application and 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.
- 4.51 No evidence has been provided that granting the application would secure improvements or better access to services in the area of the relevant HWB.
- 4.52 **Regulation 18(1)(b)**
- 4.53 PSRC agreed that the improvements or better access that the applicant is claiming would be secured by its application, were not included in the relevant PNA in accordance with paragraph 4 of schedule 1.
- 4.54 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).
- 4.55 **Regulation 18 (2)(a) and (ii)**
- 4.56 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 Norfolk HWB.
- 4.57 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.
- 4.58 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).
- 4.59 **Regulation 18(2)(b)(i)**

- 4.60 PSRC noted that even with the closure of the Boots Pharmacy, Aslake Close, Norwich, NR7 8ET on 16 March 2024 there are no reports of people being unable to obtain their medicines or access pharmaceutical services.
- 4.61 PSRC took into account all the information and data presented to it and noted that patients are using a wide range of pharmacies for their pharmaceutical needs, and therefore patients are exercising their choice. The overall provision of pharmaceutical services was through using those established pharmacies already being utilised by those living in the Sprowston, Norwich area.
- 4.62 No evidence had been provided to demonstrate that those living in Sprowston, Norwich are currently unable to exercise a choice in obtaining pharmaceutical services across the HWB.
- 4.63 **Regulation 18(2)(b)(ii)**
- 4.64 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 pharmaceutical needs assessment was published.
- 4.65 Whilst it was accepted that there would be people with protected characteristics living in Sprowston, Norwich and that some may need pharmaceutical services as a result, there was no evidence that any specific groups had any difficulty accessing such services or that services specific to their needs are not being provided by existing pharmacies.
- 4.66 **Regulation 18(2)(b)(iii)**
- 4.67 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 Norfolk PNA, 2022 - 2025 was published.
- 4.68 **Conclusion**
- 4.69 In summary, we remain of the opinion that the application should be refused.
- 4.70 There is no evidence to suggest that the closure of Boots Pharmacy in March 2024 has left a significant gap in pharmaceutical services for Sprowston, Norwich and that patients are having difficulties in accessing pharmaceutical services.
- 4.71 In the very recent publication of the Supplementary Statement the closure of Boots Pharmacy has been noted however it is not enough to say 'there is a gap'. The HWB has a duty to articulate specifically what that gap is e.g. what specific service, or services are required, at what specific times etc. The HWB have not done this so it can be concluded that they were not of the opinion that the closure of Boots Pharmacy identified any sort of gap.
- 4.72 We appreciate there may be some convenience in having a new pharmacy, however this is different to one conferring significant benefit. Our priority is ensuring patients can access pharmaceutical services.

- 4.73 The regulatory requirements to identify an unforeseen benefit not in the 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 PNA was published.”

PSC acting for T&C Hunt Limited (trading as Hunts Pharmacy)

- 4.74 “Our client has passed us a copy of your letter dated 10th January informing it of the above appeal.
- 4.75 On behalf of our client, who provides pharmaceutical services from premises at 205 Plumstead Road, Norwich NR1 4AB, I wish to object to this application and ask the Primary Care Appeals (“PCA”) committee to take the following comments into account.
- 4.76 The appellant’s representative claims, on behalf of the appellant, that NHS England has misdirected itself. Whilst the appellant may take a different view to NHS England in respect of the decision being made, this is not evidence that the ICB misdirected itself in respect of its understanding of the relevant regulations.
- 4.77 The appellant claims that NHS England failed to consider the extensive provision within the Sprowston East Ward. As we discuss later, ward boundaries have no relevance when considering whether patients have reasonable choice in respect of access to pharmaceutical services.
- 4.78 Population growth within the ward does not automatically lead to the conclusion that service provision is inadequate.
- 4.79 The evidence provided by the appellant in respect of service levels at Tesco Pharmacy is limited to say the least. We discuss this further later in this response.
- 4.80 The appellant considers the distance from its proposed location to the nearest existing pharmacy but it disregards the fact that very few people live at that precise location. It would be more helpful if the appellant had provided information about where people who it claims have difficulties accessing pharmaceutical services actually live.
- 4.81 We discuss the demographic data provided later but it is too simplistic to reach the conclusion that the area is “one in greater need of access to pharmaceutical provision”.
- 4.82 The appellant refers to comments from the local MP and councillors but our client has not received copies of this correspondence so cannot comment on it.
- 4.83 The appellant provides information from the Norfolk PNA in respect of the number of pharmacies per 100,000 people within the Broadlands Local Authority area. Whilst these averages are rarely of any help to the PCA committee as an indicator of the adequacy of pharmaceutical services provision, it is also relevant that this local authority area is largely rural in character. It is inevitable in such locations that provision of all amenities, including pharmaceutical services, is spread more thinly. However, it is the provision within the area the appellant wishes to open a pharmacy that is relevant, rather than provision across the whole local authority area.
- 4.84 The appellant then provides a map showing pharmaceutical services provision within the Sprowston East ward. It is not clear why the appellant thinks that ward boundaries are relevant in respect of access to pharmaceutical services. These boundaries are administrative in nature and have absolutely no bearing on how residents go about their lives.

- 4.85 The appellant refers to residents who “obtain all of their local amenities on Cannerby Lane in their day to day lives [sic]”. It appears that the appellant is of the view that there are residents who can access everything they need from this parade of shops.
- 4.86 It is hard to see how a tattoo shop, a gift shop or a funeral director could be said to meet the daily needs of residents. When the appellant then states there are “numerous adjacent premises” these are, in fact, limited to the services they have listed. To suggest these are ‘numerous’ is hyperbolic to say the least.
- 4.87 Census data
- 4.88 The appellant sites population growth in the ward since 2011, but provides no information on where exactly these additional residents live.
- 4.89 The Woodland Heath development mentioned is located 2.6 miles from the proposed location, and is significantly closer to Tesco than the appellant’s site as can be seen below [map provided]
- 4.90 The suggestion that the Tesco pharmacy will be unable to cope with the demand from this growing population is nothing more than speculation.
- 4.91 Further reference to population growth within the Broadland district is not backed up with any information regarding where these additional houses will be built. As discussed earlier this local authority covers a very large area and, as shown on page 64 of the PNA there were 20 pharmacies located in this area in March 2022.
- 4.92 The appellant goes on to discuss, at length, various LSOAs. However, it fails to provide any maps to show where these LSOAs actually are. Without these it is impossible to interpret much of the information provided in any meaningful way.
- 4.93 It refers to car ownership in the Broadlands Local Authority and highlights the lower levels of ownership in LSOA 013A at 20.4%. However, it fails to mention that the national level of households with no car or van is 23.5%, so car ownership in this area is higher than average.
- 4.94 The appellant states “Such high no car/van ownership statistics in relation to the local authority must be noted, for it follows that driving to access alternative nearby LSOAs”.
- 4.95 It is simply false to state that most residents may not have the option to drive to pharmacies when 4 in 5 of households have at least one car or van.
- 4.96 The appellant goes on to discuss the relatively high number of residents over the age of 65 but provides no evidence that these residents have any difficulties accessing pharmaceutical services. For those residents who are unable or unwilling to drive, we discuss public transport options later.
- 4.97 In terms of disability, the appellant again discusses LSOAs without showing what areas these relate to.
- 4.98 Given that the appellant seeks to make a case that there is a shortfall in provision in the Sprowston East ward, we have considered census data for 2021 for this ward in respect of disability. This is shown below:[data provided]
- 4.99 As can be seen from this table, levels of residents whose day to day activities are limited at little or a lot are 17.4% against the national average of 17.3%. In fact levels of residents whose activities are limited a lot are significantly lower than national average, being 6.4% against an average of 7.3%.

- 4.100 It is simply not the case that there is a disproportionately high number of disabled residents within this area. Given that the appellant suggests this is an area with an unusually elderly population, the relatively low levels of residents whose mobility is limited is surprising. This indicates a relatively fit and health older population.
- 4.101 Finally, in respect of the demographic profile, it is noteworthy that, according to the 2019 Index of Multiple Deprivation, the area is ranked 26,635 out of 32,844 areas in England, where 1 is the most deprived i.e. it is 20% **least** deprived areas in England.
- 4.102 **Current service provision**
- 4.103 **Tesco Pharmacy**
- 4.104 Again the appellant highlights the fact that Tesco is the only pharmacy within the Sprowston East ward, without providing any information in respect of barriers to residents accessing different ward areas.
- 4.105 The appellant states that this pharmacy dispensed over 12,000 items in August. By way of updated information, the 3 month average to October 2024 (the latest month available) is 11,211. Whilst this is higher than the national average, it is far from exceptional, not least because the pharmacy opens extended hours so these items are dispensed over a seven-day week.
- 4.106 The appellant goes on to suggest Tesco has been “constantly criticised for its inability to ensure an increased patient demand”. It also refers to “numerous negative Google reviews in the past year”.
- 4.107 Whilst the appellant only provides a very small selection of these reviews, we have reviewed them all, and note that there were a total of 10 reviews posted in the last year and only two within the last 3 months. Given that the appellant claims this is an exceptionally busy pharmacy, it is surprising that more reviews have not been posted expressing dissatisfaction.
- 4.108 Needless to say, the appellant has not provided a copy of the positive review that was posted in this period of time, so we provide this below for balance.
- 4.109 **Accessibility**
- 4.110 The appellant considers distances from the location for its application (which it accepts is an arbitrary marker) without considering where the people it proposes to serve actually live. The distance it discusses may therefore bear little relevance to the journeys patients actually make to access pharmaceutical services.
- 4.111 The appellant goes on to state that “we do not consider a minimum of nearly two mile round journeys as sufficient access, especially for the high number of residents who are elderly or have a disability”.
- 4.112 We would suggest that this view is far too simplistic. As we have discussed previously, not only has the appellant failed to consider where people actually travel from, it is also ignores the high levels of car ownership and the relatively low levels of disability across the ward.
- 4.113 **Tesco Pharmacy (NR7 8AB)**
- 4.114 The appellant shoes a route to Tesco that starts at the proposed location. No information is provided in respect of where the people it states have reduced mobility, or do not own cars, actually travel from.

- 4.115 Given that this Tesco store is the nearest large supermarket to the proposed location, we would suggest that this where many of the residents of the proposed area to their regular supermarket shopping.
- 4.116 The appellant discusses a route for pedestrians, and makes reference to difficult journeys for patients due to “parked cars and bins” but provides no evidence to support this statement. In fact, the only evidence submitted by the appellant is a screenshot on the footpath which is not discussed by the appellant at all.
- 4.117 If the intention of the appellant was to show that there was a footpath with bollards that might form an obstacle, it is failed to show that the alternative route avoiding this footpath benefits from wide pavements are no obstacles, as can be seen below. This alternative route would have add no more than a few metres to the journey, the footpath simply serves to cut this corner.
- 4.118 The appellant also fails to mention that there a direct bus route (11a) which runs along Wroxham Road to the Tesco store with buses every 10 minutes on weekdays, every 15 minutes on Saturdays and every half an hour on Sundays.
- 4.119 For the many residents who drive to this pharmacy, there is free and extensive parking, including for disabled patients.
- 4.120 It is clear that this pharmacy is highly accessible for residents, both physically and in respect of its opening hours.
- 4.121 **Dye’s Pharmacy, (NR6 7QA)**
- 4.122 Whilst it is keen to submit reviews for local pharmacies selectively, the appellant does not point out that the Google reviews for this pharmacy show an average of 4.8 out of 5.
- 4.123 Again, the actual distance for patients to access this pharmacy will depend where they live but the journey on foot from the proposed location is 0.9 miles as can be seen below.
- 4.124 This journey is along level ground and benefits from lighting, wide pavements and pedestrian crossings. There is no evidence that patients who wish to travel on foot could not make this journey. As this pharmacy is located north-west of the proposed location, for residents who live to the north and the west of the residential area the journey will be shorter.
- 4.125 There is free car parking outside this pharmacy so, for the vast majority of patients they will be able to drive here. The journey will take less than 5 minutes.
- 4.126 Whilst it may be the case that there is no direct bus route, as we have described earlier any patient who is reliant on using the bus to access pharmaceutical services is likely to use the direct service to Tesco.
- 4.127 **Well Pharmacy (NR9 9RJ)**
- 4.128 Whilst the journey to this pharmacy might be 1.2 miles from the proposed location, for residents living towards the south of the area the journey will be significantly shorter. For many it will be less than 1 mile.
- 4.129 As with Dye’s Pharmacy, there is free parking outside, so the pharmacy is highly accessible for motorists.

4.130 For the same reasons discussed above, any patient that is reliant on public transport is more likely to use an alternative pharmacy that is easier for them to access.

4.131 **Woodside Pharmacy**

4.132 Given that there are several other pharmacies closer to the appellants proposed site, it is not clear why it suggests this is a pharmacy residents of the proposed area would be likely to choose.

4.133 Clearly if patients are dissatisfied with the service provided by this pharmacy it is highly likely that they would use one of the other pharmacies which have better reviews and which are closer to their home.

4.134 We would suggest that this pharmacy is essentially irrelevant for the purposes of considering this appeal.

4.135 **Conclusion**

4.136 In conclusion we remind the PCA committee that the burden of proof rests with the appellant/applicant. It is clear that no meaningful evidence has been provided to support the appellant's case.

4.137 We note that the appellant has failed to provide any evidence from local residents or their representatives that they have any difficulties whatsoever accessing pharmaceutical services following the closure of the Boots pharmacy.

4.138 As we have shown, the proposed location is within an area with very high car ownership, low levels of deprivation and no more than average levels of disability.

4.139 The 'evidence' provided by the appellant in respect of shortfalls in existing service levels is 'thin' to say the least.

4.140 It is our client's opinion, therefore, that the tests set out in regulation 18 have not been met and the application should be refused.

4.141 We have no further comments to make at this time and look forward to hearing the outcome of this appeal in due course.

4.142 Should NHS Resolution decide to hold an oral hearing I can confirm that our client would wish to attend.

5 **Observations**

Healthcare Plus Consulting on behalf of the Applicant

5.1 Thank you for your letter dated 14th February 2025. We note the responses made by interested parties on our client's appeal and respond accordingly here.

5.2 We reiterate that the reduction in pharmaceutical provision since the Boots Pharmacy closure is not sufficient for the growing population of Sprowston.

5.3 We submit that Tesco Pharmacy (NR7 8AB) is the only pharmacy located in the Sprowston East Ward and continues to deliver an inadequate service.

5.4 We note that Tesco Pharmacy (NR7 8AB) have not provided appeal representation in respect of our client's application. We can only assume this is because they have no objections to our client's application.

5.5 Observations

5.6 Wider Population

5.7 We have used ward boundaries to define the local area and highlight those residents who are likely to utilise pharmaceutical services within the Sprowston East Ward. The Broadland district captures a very large area.

5.8 We note that the Sprowston East Ward has a population density of 1,761.3 per square kilometre on average and the Broadland 013A LSOA, the area of the proposed site, has a population density of 3,583 residents per square kilometre. The Broadland Local Authority has an average population density of 238.6 residents per square kilometre, and England has an average population density of 433.5 residents per square kilometre. Thus, while the local authority area could be labelled as rural, it is clear that the area surrounding the proposed site is urban in character and in need of pharmaceutical provision.

5.9 According to 2021 Census data, there are currently c. 17,000 residents living in Sprowston, and we reiterate that a 39% increase in the Sprowston East Ward's population from 2011-2021 is significant.

5.10 Additional housing developments will contribute to a further increase in population growth, especially in the area located to the north of the Sprowston East Ward, just off Salhouse Road.

5.11 As mentioned in our client's appeal, one of these new housing projects is the Woodland Heath development. Led by Barratt Homes and David Wilson Homes, the construction of 535 new homes are now completed, with approximately 95% sold. The Furlong Heath development led by Tilia Homes is also just off Salhouse Road and features 251 completed new homes, again with approximately 95% sold. Assuming an occupancy rate of 2.5 per household, these developments will see an influx of an additional c. 2,000 residents.

5.12 We do not understand why the Hertfordshire and West Essex ICB place weight on the considerations from the Norfolk PNA but not those extracted from the relevant PNA included in our client's appeal. Thus, we remind the Committee that the Norfolk PNA predicts the over-70 group to experience the largest increase between 2020-2025 and forecasts the aged 55-59 and 60-64 groups to have the most people in them in 2025 (*Norfolk PNA*, pg. 38).

5.13 It is obvious that the Sprowston community is expanding; aging; and densely populated, thus we assert that one pharmacy serving a large ward is not representative of reasonable choice or sufficient access.

5.14 Local Population

5.15 Hunt's Pharmacy commented that there are very few residents living at the proposed location. We disagree with this statement and assert that there are over 5,500 residents living at the location of the proposed site and the surrounding areas, which is by all means not an insignificant number. This includes the 013A; 013C; 013D; and the 013G LSOAs. By examining these LSOAs, we can evaluate the needs and characteristics of the local population who are highly likely to access the proposed site.

5.16 The ICB noted that those residing in the Sprowston East Ward travel various distances by car when commuting to work. Yet, we assert that the same cannot be said for the local population. We highlight that a large proportion of residents living in the area of the proposed site are not economically active and are also retired according to 2021 Census data.

- 5.16.1 - 44.5% of residents in the Broadland 013A LSOA are economically inactive.
- 5.16.2 41.6% of residents in the Broadland 013C LSOA are economically inactive, and 34.2% of residents are retired.
- 5.16.3 - 48.7% of residents in the Broadland 013D LSOA are economically inactive, and 38.5% of residents are retired.
- 5.16.4 48.5% of residents in the Broadland 013G LSOA are economically inactive, and 40.1% of residents are retired.
- 5.17 When we compare these figures to the 41.3% Broadland Local Authority average and the 39.1% England average who are economically inactive, we can see that a higher proportion of residents are economically inactive in the area of the proposed site. We submit this is also the case when comparing these figures to the average retirement statistics in the Broadland Local Authority (29%) and England (21.5%). Thus, it is reasonable to suggest that the above demographics are linked to the high elderly population residing in these LSOAs, which were already highlighted in our client's appeal.
- 5.18 In their representation, Hunt's highlight those residents disabled under the Equality Act 2010 in relation to the Sprowston East Ward. We are unsure as to why Hunt's dismissed the high figures of residents with disabilities within the LSOAs surrounding the proposed site included in our client's appeal. Hunt's also suggested that the ward figures indicate a fit and healthy older population. We disagree with this statement when considering the relevant LSOAs and assert that such a high local elderly population should not go unnoticed as they have greater health needs. In fact, residents living in the Broadland 013D LSOA have bad/very bad health (5.4%), which is much greater than the Broadland Local Authority average (4.6%) and greater than the national average (5.2%). Further, we contend that while these elderly residents may own a car, they may not feel comfortable driving in inclement or adverse conditions.
- 5.19 **Proposed Location**
- 5.20 With regard to the proposed location, we note that both parties omitted mention of the Co-op Daily store neighbouring the communal parade of shops. Thus, claims that residents will not access the proposed site as part of their daily lives are simply inaccurate. We reiterate that the local area is served by a food shopping facility, and is indeed an area where residents will access their weekly food shopping in connection with pharmaceutical provision. This view is also supported by MP Alice Macdonald and local Cllrs, who refer to the proposed location as a central and well-used retail parade.
- 5.21 As mentioned in our client's appeal, we illustrated that there are a number of local schools nearby. The Sprowston Community Academy is also along Cannerby Lane and is attended by 1,737 pupils. The Falcon Junior School (413 pupils) and the Cecil Gowing Infant School (164 pupils) are also situated near the proposed site.
- 5.22 For many residents in Sprowston, the majority of local schools are located in the Sprowston East Ward, and in particular, near the vicinity of the proposed site. Thus, we submit that the areas surrounding the proposed site are utilised by not only the local community, but also parents with young children and guardians during school runs.
- 5.23 **Current Service Provision**
- 5.24 We note that Hunt's also overlooked the average rating for Tesco Pharmacy - which is currently 2.6 stars.

- 5.25 Hunt's are mistaken in their statement that our client did not provide a copy of the positive review when the exact review provided by Hunt's is included in our client's appeal. Nevertheless, the review reveals that the staff appear to be *"working under stress"*, and attributes this *"due to the increasing demand on pharmacies due to the other closures"*. We submit that even positive reviews can reveal the overwhelmed nature of a pharmacy while accrediting its staff, where patients have been accustomed to poor service and therefore view this as the norm.
- 5.26 In fact, we submit that there has been an additional 1-star Google Review provided very recently.
- 5.27 We have included this below.
- 5.28 This patient notes that *"the queues are usually always long"*, which is synonymous with the reviews uploaded previously. Such an observation reveals that lengthy queues and therefore excessive waiting times are a persistent issue at Tesco Pharmacy, and has been an unresolved issue since the Boots closure.
- 5.29 The patient also outlines that the service provided by Tesco Pharmacy *"make it feel like you are an inconvenience asking for your prescription"*. The Committee will be aware that dispensing prescriptions is an essential service. It is therefore concerning to read that a patient feels they are an *"inconvenience"* when seeking this service. This is clearly not demonstrative of sufficient access or reasonable choice to pharmaceutical provision.
- 5.30 In addition, we wish to draw the Committee's attention to a 1-star review uploaded on the NHS website on 19th January 2025. We invite NHS Resolution to read this in its entirety overleaf.
- 5.31 The resident stated they were visiting Tesco Pharmacy *"not wanting to go to the dr's and take up an appointment"*.
- 5.32 This comment reveals that the patient felt they were acting in accordance with NHS advice, particularly when accessing Pharmacy First. The Committee will be aware that Pharmacy First is a service that is specifically designed to reduce pressure on GPs. If patients are not accessing Pharmacy First or feel that they cannot at their local pharmacy, it is likely that this outcome could effectively cause unnecessary strain on GP practices. We can see that this very scenario had occurred, as the patient clearly felt they had no choice but to visit their GP after feeling *"neglected and such an inconvenience"*.
- 5.33 The service provided by Tesco Pharmacy contradicts one of the many purposes and benefits of Pharmacy First, and it is evident that such scenarios stem from a lack of reasonable choice and sufficient access to pharmaceutical services. We note that both recent reviews include feeling like an *"inconvenience"*, and such analogous experiences at a healthcare setting are especially concerning.
- 5.34 The patient also reveals that *"the queue was continuously being added to by people joining"* and therefore felt that their wait *"could be a long time"*. Again, like the recent Google Review above, it is evident that Tesco Pharmacy is still overwhelmed with patient queues and, consequently, struggles to provide a sufficient service.
- 5.35 Ultimately, we do not consider *"hostility"*, *"such sad treatment"* and to be *"left in tears"* as representative of reasonable choice, nor sufficient access to pharmaceutical services. The service provided by Tesco Pharmacy since the Boots closure is clearly inadequate and is **not** improving, which can deter patients from accessing pharmaceutical services at this pharmacy at all. Given the ongoing poor service at this pharmacy, we submit that patients would have sought pharmaceutical services

elsewhere by now. However, this has clearly not been the case, owing to a lack of reasonable pharmaceutical choice. We submit that the need to open a pharmacy for residents in Sprowston who are frequently experiencing this poor service could not be clearer.

- 5.36 Moreover, it is evident that Tesco Pharmacy cannot cope with the existing patient demand placed upon it, and will struggle with an increased patient demand especially from new housing developments. Thus, granting this application would improve access and introduce reasonable choice for local residents.

5.37 **Patient Journeys**

- 5.38 Our client's appeal observed those pharmacies nearest to the proposed site and considered patient journeys and access when travelling to these pharmacies. We submit that it is not practical to outline every patient journey from every household, and therefore an arbitrary marker from the proposed site is a very sensible approach.

- 5.39 Again, we do not consider a minimum 46-minute round trip by foot as representative of sufficient access or reasonable choice to pharmaceutical services.

- 5.40 While there is a bus service to the Tesco Pharmacy, this pharmacy is clearly unable to cope with the pressures placed upon it and thus does not offer reasonable choice to pharmaceutical provision. We are pleased to hear that Hunt's Pharmacy also recognise the difficulties by public transport when patients are accessing pharmaceutical services.

- 5.41 However, Hunt's suggested that Woodside Pharmacy (NR7 9QL) bears no relevance to our client's appeal as it is highly likely that local residents would use a pharmacy closer to their home. We note that Woodside Pharmacy is closer to our client's proposed site than Hunt's Pharmacy. By this logic, it would be highly likely that local residents would also not travel to Hunt's Pharmacy to access pharmaceutical services either. Thus, we submit that the reasons as to why Hunt's are objecting against our client's application are unclear, especially if they consider Woodside Pharmacy irrelevant for the context of this application. This would imply that Hunt's Pharmacy is also not relevant in matters pertaining to our client's application.

- 5.42 We believe that NHS Resolution should place weight upon letters of support from representatives who ultimately provide the residents of Sprowston with a voice:

5.42.1 MP Alice Macdonald

5.42.2 Cllr Martin Booth

5.42.3 Cllr Natasha Harple

5.42.4 Cllr Emma Tovell

5.42.5 Cllr Adrian Tipple

5.42.6 Cllr Bill Couzens, committee member of "Sprowston Dementia Friendly Group" and "Sprowston Senior Citizens Club"

5.42.7 Cllr Sandra Booth

5.42.8 Cllr Martin Callam

5.42.9 Cllr Robin Tovell

5.42.10 Margaret Young, Chairman of "Sprowston Dementia Friendly Community"

- 5.43 The letters of support from the above bodies have also been attached to this document. We emphasise the following insights from the representatives who understand their community best below.
- 5.44 *"the proposed site on Cannerby Lane is in an area which has a large population of older patients".*
- 5.45 (Cllr Martin Booth)
- 5.46 *"many residents are elderly and/or have special needs. Those caring for loved ones living with dementia, for example, find that queuing at the very busy pharmacies is causing them extra anxiety.*
- 5.47 *Others find standing at any length of time difficult."* (Cllr Bill Couzens, committee member of "Sprowston Dementia Friendly Group" and "Sprowston Senior Citizens Club") *"several have commented that the closure of Boots at Aslake Close or at Lawson Road has affected them"* (Margaret Young, Chairman of Sprowston Dementia Friendly Community).
- 5.48 With regard to Dye's Pharmacy, *"there are many times when there is a queue out of the door".* (Margaret Young, Chairman of Sprowston Dementia Friendly Community).
- 5.49 **Conclusion**
- 5.50 We maintain that there is a need for a pharmacy in the Sprowston area. It is clear that Tesco Pharmacy cannot cope with this demand placed upon it since the Boots closure, and is continuing to deliver an inadequate service.
- 5.51 A pharmacy at the proposed site would significantly improve access for the local population and choice to pharmaceutical services for those who cannot access alternative pharmaceutical provision.
- 5.52 Those residents who utilise the local amenities would be able to access pharmaceutical provision in the course of their daily lives, and access services such as Pharmacy First.
- 5.53 We submit that granting this application will secure improvements and better access to pharmaceutical provision, and thus meets the criteria for Regulation 18.
- 5.54 We invite NHS Resolution to grant our client's application."

Letter from Alice Mac Donald MP

- 5.55 "I write in support of the appeal application to reinstate pharmaceutical provision in the Sprowston area of my constituency of North Norwich.
- 5.56 I was disappointed to learn of the closure of the Boots pharmacy in March 2024 leaving Tesco at Blue Boar as the only provider of pharmaceutical services in Sprowston East Ward. I am told that the pharmacy within Tesco has seen a huge increase in foot fall in the past 11 months with hugely increased dispensing rates.
- 5.57 Given the age demographic of the general population in the area access to a second accessible pharmacy would be of great benefit with the proposed site being within an established parade of shops offering a range of goods and services, with safe walking routes and parking.

5.58 I know that my constituents would welcome the addition of a pharmacy on Cannerby Lane and would ask that reconsideration be given by NHS England to this case.

5.59 I look forward to hearing the outcome of this appeal.”

Sandra Booth, Town Councillor for Sprowston South East Ward

5.60 “I write to support the application for a new pharmacy on Cannerby Lane in Sprowston. Since the closure of the Boots Pharmacy in Aslake Close in Sprowston and the closure of the Boots Pharmacy in nearby Lawson Road, there has been a shortage of pharmacies in the area. The position of Cannerby Lane lies in my ward and is nicely central for Sprowston and is in an area of older residents who would find a new pharmacy a definite advantage. I therefore support this application wholeheartedly and feel it would be an asset to the community.”

Robin Tovell, Sprowston Town Councillor Central Ward

5.61 “This is very much needed since the closure of three branches of Boots chemist last year.

5.62 With an ever growing population in Sprowston pharmacies are very much needed especially as they now expected to deal with a lot of the issues people used to go to the Doctor for.”

Martin G Callam MRPharmS

5.63 “I write to give support for the provision of a new pharmacy in Sprowston, probably in Cannerby Lane. Since the closing of the Boots pharmacy in Aslake Close there has been insufficient pharmacies in Sprowston. This has been compounded by the closing of another Boots pharmacy at one of the GP surgeries in Lawson Road, which is near Sprowston. The closing of two local pharmacies led to those remaining being very busy.

5.64 Many of the residents in Sprowston are elderly which means that there is a great need for pharmacies particularly with the NHS initiatives to get patients to use them for minor ailments to reduce the pressure on GP surgeries. The proposed site in Cannerby Lane is in an area which has a large population of older patients and it would be very handy for them to be able to walk to the pharmacy, also reducing some of the traffic on the roads and reducing pressure on public transport. It is also a better site than Aslake Close which was on the edge of the town, whereas Cannerby Lane is much more central.

5.65 Sprowston is a large town with a population of over 17,000 people which makes it the most populated parish in the Broadland District Council area and, as such, it will definitely benefit from another pharmacy. I, therefore, strongly support this application for a new pharmacy as a retired Pharmacist myself and in my role as a member of Sprowston Town Council.”

Cllr Emma Tovell, Broadland District Council Member for Sprowston East Ward

5.66 “I write to give support for a new pharmacy in Sprowston.

5.67 Since the closing of the Boots pharmacy in Aslake Close there have been insufficient pharmacies in Sprowston to effectively serve the area. This has compounded by the closing of another Boots pharmacy at one of the GP surgeries in Lawson Road, which is near Sprowston. The closing of two local pharmacies has led to those remaining being very busy.

5.68 Many of the residents in Sprowston are elderly which means that there is a great need for pharmacies particularly with the NHS initiatives to get patients to use them for minor ailments to reduce the pressure on GP surgeries. The proposed site in Cannerby Lane is in an area which has a large population of older patients, and it would be very handy for them to be able to walk to the pharmacy, also reducing some of the traffic on the roads and reducing pressure on public transport. It is also a better site than Aslake Close which was on the edge of the town, whereas Cannerby Lane is much more central.

5.69 Sprowston is a large town with a population of over 17,000 people which makes it the most populated parish in the Broadland District Council area and, as such, it will definitely benefit from another pharmacy. I therefore, strongly support this application for a new pharmacy in my role as ward councillor."

Cllr Bill Couzens Chair of Sprowston Town Council Elected Councillor for Sprowston Central Ward.

5.70 "I am the Chair of Sprowston Town Council and also a committee member for "Sprowston Dementia Friendly Community" and "Sprowston Senior Citizens Club". I strongly support the provision of another pharmacy in Sprowston and especially one in the Cannerby Lane area.

5.71 Currently there are only two pharmacies to support a population currently of about 18,000 and growing every year as new housing is built. The closure of the pharmacy at Aslake Close was a regrettable decision and means the two remaining pharmacies are much busier. A new pharmacy in the Cannerby Lane area, with its large proportion of bungalows suitable for elderly or those with limited mobility, would be a great asset and be well used.

5.72 Many residents are elderly and/or have special needs. Those caring for loved ones living with dementia, for example, find that queueing at the very busy pharmacies is causing them extra anxiety. Others find standing for any length of time difficult. At the other end of the scale young parents with very young children may also rely on pharmacists to help them identify whether the fever or pain their children are suffering from is serious or not, I know we did when our children were young. We have all been asked to use our local pharmacy for minor ailments by the NHS and government to relieve pressure on overworked doctors surgeries, which are also in short supply in the area. However this is further occupying the pharmacists' time making the situation in the area even worse. A new pharmacy in the Cannerby Lane area would be an ideal place to serve a large population of elderly residents, many of whom have spent their whole lives in the area, and are used to walking to their local shop rather than driving all the way to Tesco or over to North Walsham road, which are both a little too far for many people in the area to walk to. It would be in the very heart of the local community."

Cllr Martin Booth, Broadland District Councillor Sprowston East Ward Portfolio Holder for Economic Development.

5.73 "I write to give support for there to be a new pharmacy in Sprowston, probably in Cannerby Lane. Since the closing of the Boots pharmacy in Aslake Close there has been insufficient pharmacies in Sprowston. This was compounded by the closing of another Boots pharmacy at one of the GP surgeries in Lawson Road, which is near Sprowston. The closing of two local pharmacies led to those remaining being very busy.

5.74 Many of the residents in Sprowston are elderly which means that there is a great need for pharmacies particularly with the NHS initiatives to get patients to use them for minor ailments to reduce the pressure on GP surgeries. The proposed site in Cannerby Lane is in an area which has a large population of older patients and it would be very handy for them to be able to walk to the pharmacy, also reducing some of the traffic on the

roads and reducing pressure on public transport. It is also a better site than Aslake Close which was on the edge of the town, whereas Cannerby Lane is much more central. Sprowston in a large town with a population of over 17,000 people which makes it the most populated parish in the Broadland District Council area and, as such, it will definitely benefit from another pharmacy. I, therefore, strongly support this application for a new pharmacy in my role as ward councillor.

- 5.75 I also support the application in my role as Cabinet Member for Economic Development as new businesses in the area helps to increase economic activity and growth.”

Cllr Adrian Tipple, Chairman of Broadland District Council

Member for Sprowston Central Ward

- 5.76 “I write to give support for there to be a new pharmacy in Sprowston, probably in Cannerby Lane. Since the closing of the Boots pharmacy in Aslake Close there has been insufficient pharmacies in Sprowston. This was compounded by the closing of another Boots pharmacy at one of the GP surgeries in Lawson Road, which is near Sprowston. The closing of two local pharmacies led to those remaining being very busy.
- 5.77 Many of the residents in Sprowston are elderly which means that there is a great need for pharmacies particularly with the NHS initiatives to get patients to use them for minor ailments to reduce the pressure on GP surgeries. The proposed site in Cannerby Lane is in an area which has a large population of older patients and it would be very handy for them to be able to walk to the pharmacy, also reducing some of the traffic on the roads and reducing pressure on public transport. It is also a better site than Aslake Close which was on the edge of the town, whereas Cannerby Lane is much more central.
- 5.78 Sprowston in a large town with a population of over 17,000 people which makes it the most populated parish in the Broadland District Council area and, as such, it will definitely benefit from another pharmacy. I, therefore, strongly support this application for a new pharmacy in my role as ward councillor.
- 5.79 I also support the application in my role as Chairman of Broadland district council and also Chair of the Economic Development panel.”

Margaret S Young, Sprowston Dementia Friendly Community (Chairman)

- 5.80 “I, on behalf of Sprowston Dementia Café, support the provision of another pharmacy in Sprowston and especially one in the Cannerby Lane area.
- 5.81 Sadly our members are older folks and Cannerby Lane is walkable for several and easy parking for those a bit away. Several have commented that the closure of Boots at Aslake Close or at Lawson Road has affected them, also my family. I have transferred to Dye’s on North Walsham Road, where I have found extremely helpful and pleasant pharmacist and serving staff, however there are many times when there is a queue out of the door. I often wonder how they work under such pressure and still be so pleasant.
- 5.82 Another Pharmacy in Sprowston would be an asset to the community”

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").

6.5 Regulation 31

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

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

(2) This paragraph applies where -

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

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

(ii) adjacent premises; and

(b) 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).

- 6.7 The Committee note that in Part 5 of its application form, the Applicant had stated: *"There is no pharmacy currently trading from/adjacent to the proposed site."* The Committee further noted the Commissioner's decision letter states: *"As it is not yet known where the premises would be located there are no grounds for the Committee to refuse the application on the basis of Regulation 31."* The Committee having noted the above and that this had not been disputed on appeal, determined that it was not required to refuse the application under the provisions of Regulation 31.
- 6.8 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

- 6.9 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)."*

- 6.10 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.
- 6.11 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.
- 6.12 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).
- 6.13 The Committee considered the Norfolk PNA prepared by Norfolk County Council, conscious that the document provides an analysis of the situation as it was assessed at the date of publication. The Committee bears in mind that, under Regulation 6(2), the body responsible for the PNA must make a revised assessment as soon as reasonably practicable (after identifying changes that have occurred that are relevant to the granting of applications) unless to do so appears to be a disproportionate response to those changes. Where it appears disproportionate, the responsible body may, but is not obliged to, issue a Supplementary Statement under Regulation 6(3). Such a statement then forms part of the PNA. The Committee noted that the PNA was dated 2022 and that the following supplementary statements had been issued according to the Commissioners' decision letter:
- 6.14 The Committee noted there have been supplementary statements published since the application was received, most recently September 2024 (accessed via the Norfolk Insight website).
- 6.15 The closure of Boots, Aslake Close, Sprowston, Norwich, NR7 8ET on the 16 March 2024 was referenced in the June 2024 supplementary statement:

- 6.15.1 Norfolk Pharmaceutical Needs Assessment - Supplementary statement - Jun 2024 - Norfolk Insight
- 6.16 The Commissioner's decision letter states that no current or future gaps in provision of pharmaceutical services was identified in the current Norfolk PNA 2022 - 2025 or in the supplementary statements that have been issued since, most recently September 2024.
- 6.17 The Committee noted page 9 of the PNA under the heading Executive Summary includes:
- 6.17.1 ***“Pharmaceutical service providers in Norfolk***
- 6.17.1.1 *Norfolk has 157 community pharmacies (as of 10 March 2022), for a population of around 914,039. In addition to the 157 community pharmacies, Norfolk has 55 dispensing GP practices providing pharmaceutical services. Combining these, Norfolk has an average of 23.2 community pharmacies and dispensing GP practices per 100,000 population, compared with 23.3 per 100,000 in England.*
- 6.17.1.2 **Conclusions**
- 6.17.1.3 *Provision of current pharmaceutical services and Locally Commissioned Services are well distributed, serving all the main population centres. There is excellent access to a range of services commissioned from pharmaceutical service providers. As part of this assessment no gaps have been identified in provision either now or in the next three years for pharmaceutical services deemed necessary by the Norfolk HWB.”*
- 6.18 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients of Sprowston, Norwich. The Committee noted that in its application form the Applicant had elaborated:
- 6.18.1 *“This application is in respect of opening a new pharmacy to provide better pharmaceutical access and choice for residents of Sprowston. Specifically, patients requiring access to pharmaceutical services in the Sprowston East Ward, the Sprowston Central Ward, and the surrounding areas. For clarity, the proposed site is situated in the Sprowston East Ward.”*
- 6.19 The Committee noted from the Commissioner's map that Sprowston is a suburb of Norwich. The Committee found no specific references to Sprowston in the PNA.
- 6.20 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.
- 6.21 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)

- 6.22 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*"

- 6.23 The Committee noted the Applicant's supporting information with its application includes: *"We would like to note that granting this application would not cause significant detriment to access of pharmaceutical services, as this application is seeking to fill a gap vacated by the Boots, NR7 8ET closure; and notwithstanding the fact that the nearest pharmacy to the proposed site is located 1 mile away."* The Applicant was however not arguing that the granting of the application would cause significant detriment as referred to in Regulation 18(2)(a)(i). The Committee noted the Commissioner's decision letter states: *"The Committee noted that there was no evidence to suggest granting the application would cause significant detriment to proper planning in the area and for any arrangements the ICB has in place for the provision of pharmaceutical services in the area."* The Committee noted that this had not been disputed by the parties on appeal.
- 6.24 On the basis of the information available, the Committee was 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.
- 6.25 The Committee was therefore satisfied that no significant detriment to the proper planning of pharmaceutical services would result from a grant of the application.

Regulation 18(2)(a)(ii)

- 6.26 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*"
- 6.27 The Committee has already noted the Applicant's comment at point 6.23 above. Similarly, the Committee has also noted the Commissioner's comment that there would be no significant detriment to arrangements for the provision of pharmaceutical services as referred to in Regulation 18(2)(a)(ii).
- 6.28 The Committee was therefore satisfied that no significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of the application.
- 6.29 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)

- 6.30 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)

- 6.31 The Committee noted that the catalyst for the application was the closure of Boots Pharmacy, Aslake Close, Norwich, NR7 8ET on 16 March 2024. The Applicant claimed that the closure of Boots pharmacy had created a significant gap in pharmaceutical service provision in Sprowston, that its proposed pharmacy could fill.
- 6.32 An alternative viewpoint was offered by the Commissioner. Having reviewed its contracting files the Commissioner found that it had not received any references to patients being unable to access pharmaceutical services or obtain their medication following the closure of Boots Pharmacy.
- 6.33 The Committee noted that the application was intended to provide better pharmaceutical access and choice specifically for residents of the Sprowston, Sprowston East Ward and Sprowston Central Ward, and the surrounding areas. The Applicant explained that it has used ward boundaries to define the local area and highlight those residents who are likely to utilise pharmaceutical services within the Sprowston East Ward [where the Applicant's proposed location is situated]. The Applicant further commented that the Broadland District Sprowston is a part of a very large area.
- 6.34 The Committee noted that the application had given a best estimate of the proposed pharmacy location namely, a parade of community shops located on Cannerby Lane, Norwich NR7 8NG. The Applicant admitted that this is a different location to the Boots pharmacy. That said, the Applicant believed that a pharmacy located at its proposed location would provide better access to the resident population.
- 6.35 The Committee noted the demographic information provided to it by the Applicant regarding Sprowston East Ward. The Applicant claimed that the population of the Ward was estimated at 5,344 as of the 2021 census. The Applicant further claimed that there has also been housing developments in Woodland Heath, contributing an additional 332 new homes to Sprowston East Ward. The Applicant assumed an occupancy rate of 2.5 per household before claiming that there may soon be over 800 additional residents. The Committee noted PSC's comment that the Woodland Heath development is located 2.6 miles from the proposed location and is significantly closer to Tesco than the Applicant's proposed location.
- 6.36 The Committee noted the Commissioner's comment that it is noteworthy that, according to the 2019 Index of Multiple Deprivation, the area is ranked 26,635 out of 32,844 areas in England, where 1 is the most deprived i.e. it is in the 20% **least** deprived areas in England.

- 6.37 The Committee noted the Commissioner's comment that the PNA was satisfied that there are sufficient pharmaceutical services available for the population, noting the potential increase in population as residents occupy properties within the new developments. The Committee considered the increased population in the area but was of the view that this of itself was not so significant as to justify the granting of the application.
- 6.38 The Committee next sought to understand from the information provided to it, the nature of the population in the area. The Applicant claimed that there is a high elderly population residing in the area of the proposed location and its surrounding areas. The Committee accepted that an elderly population may be associated with an increased demand for pharmaceutical services. However, the mere presence of an elderly population does not in the Committee's view of itself, justify granting the application. The Committee needed to assess whether the demand for pharmaceutical services is capable of being met by any existing pharmacies. .
- 6.39 The Committee noted the Applicant's claim that the parade of shops where it is proposing to site its proposed pharmacy, is, centrally-based in the Sprowston area. A pharmacy located here would, in the Applicant's view, integrate access to pharmaceutical provision with the bustle of the local community.
- 6.40 The Applicant described the parade of shops as having wide walkways with good access especially for those groups with protected characteristics. Further, there is a good amount of free parking available directly outside of the proposed premises.
- 6.41 The Applicant referred to what it described as a generous number of amenities situated directly on the parade:
- 6.41.1 Co-op Supermarket;
 - 6.41.2 Hairdresser;
 - 6.41.3 Beauty Salon;
 - 6.41.4 Newsagent;
 - 6.41.5 Butchers;
 - 6.41.6 Tattoo Shop;
 - 6.41.7 Gift Shop;
 - 6.41.8 Pet Groomer; and
 - 6.41.9 Funeral Services.
- 6.42 The Committee noted that adjacent premises include another Hairdresser's; another Beauty Salon (Body and Skin Care Clinic); and an Electrolysis Hair Removal service. The Applicant submitted that patients can merge their daily activities with pharmacy usage.
- 6.43 The Committee did not doubt that these services and amenities may be used by persons in the area however the Committee considered these services and amenities are not so extensive that they would not have to travel elsewhere for some of their requirements. In doing so they may also be able to access existing pharmaceutical services including those at the Tesco store which is the nearest large supermarket to the proposed location.

- 6.44 The Committee noted the Commissioner's comment that there are ten pharmacies located within 1.4 miles of the proposed postcode (*source www.nhs.uk). The Applicant disputes this claiming that distance is as the crow flies. That said, the Applicant acknowledges that there are three pharmacies within a 1.4-mile distance of the proposed site.
- 6.45 The Committee noted the Applicant's comment since the closure of Boots Pharmacy (NR7 8ET) on 16 March 2024, Tesco Pharmacy (NR7 8AB) is now the sole provider of pharmaceutical services situated in the Sprowston East Ward. The Committee noted the Commissioner's comment that it has not received any concerns, reports or complaints about patients being unable to access pharmaceutical services or obtain their medication. This may be so, but the Committee was aware of patient experience which it would need to consider further.
- 6.46 The Applicant's claims that according to recent data, Tesco Pharmacy dispensed over 12,000 items in August, making it a high volume pharmacy. According to the Applicant, since Boots' closure, Tesco Pharmacy is consistently criticised for its inability to meet an increased patient demand, with no sign of improvement. The Committee was of the view that it may be expected that a pharmacy in a major supermarket is well used by persons especially where that pharmacy is the nearest to another pharmacy which has closed. Where there has been an increase in demand for pharmaceutical services the pharmacy will have to adapt to this. The Committee has already noted above that the Commissioner has not received any concerns, reports or complaints about patients being unable to access pharmaceutical services or obtain their medication. The Committee had regard to the Google reviews and whilst any negative patient experience is of concern, in totality there was not a robust body of evidence to indicate a sustained difficulty in accessing services in the area. The Committee also noted PSC's comment that Dye's pharmacy has a Google review showing an average of 4.8 out of 5. The Committee further noted that there are by the Applicant's admission three pharmacies within a 1.4 miles radius of its proposed location thereby offering alternative providers of pharmaceutical services.
- 6.47 The Committee considered access to the nearest existing pharmacies on foot. The Committee acknowledged the Commissioner's comment that there are persons who have their medications dispensed closer to where they live or work or where they are accessing other services.
- 6.48 The Committee noted the Applicant's comment that the journey to the Tesco pharmacy by foot is a minimum 1 mile or 23-minute round journey. The Applicant also referred to patients travelling along the busy main Wroxham Road, parked cars mounting the kerb and bins on pavements which "could" make this journey difficult especially for those in a wheelchair/mobility scooter/visually impaired, who may find themselves dangerously close to oncoming traffic. The Committee noted the use of the word "could" as opposed to "does" or "is making" [this journey difficult] and the limited evidence presented which consisted of one photograph of a path. The Committee noted that the Applicant did not deny that persons are accessing the Tesco store on foot. The Committee was not persuaded that the nature of the journey to Tesco's pharmacy is so difficult as to inhibit persons attending the store on foot. The Committee did not regard a 2 mile round trip as excessive for a person who is able and willing to make the journey.
- 6.49 The Committee noted the Applicant's reference to accessing other nearby existing pharmacies in the area. The Committee noted Dye's Pharmacy, (NR6 7QA) is said to be 1 mile away equating to a 2-mile round journey. Well Pharmacy, (NR7 9RJ) is a 2.4-mile or 54-minute round journey by foot. Woodside Pharmacy, (NR7 9QL) is a 3-mile round journey by foot, equating to a 1-hour and 6 minute walk..
- 6.50 The Committee further noted that the actual distance for patients to access Dye's pharmacy will depend where they live but the journey on foot from the proposed

location is 0.9 miles. According to the Commissioner, the journey is along level ground and benefits from lighting, wide pavements and pedestrian crossings.

- 6.51 The Committee noted PSC's comment that the journey to Well pharmacy (NR9 9RJ) might be 1.2 miles from the proposed location, for residents living towards the south of the area the journey will be significantly shorter. For many it will be less than 1 mile.
- 6.52 The Committee noted PSCs comment regarding Woodside Pharmacy that given that there are several other pharmacies closer to the Applicant's proposed site, it is not clear why it suggests this is a pharmacy residents of the proposed area would be likely to choose.
- 6.53 The Committee again considered that there will be persons who are able and willing to access these pharmacies on foot
- 6.54 The Committee noted access to the nearest existing pharmacies for those persons with their own car or van. The Applicant had claimed that there is nearly double the number of residents without access to a car/van in the LSOA of the proposed site than the Broadland Local Authority average. The Committee did not regard the level of car ownership in the area as being so low that for many people a car or van is not their main means of attending an existing pharmacy. The Committee noted PSCs comment that Tesco provides free and extensive parking, including for disabled patients. PSC also noted that there is free car parking outside of Dye's pharmacy so, for the vast majority of patients they will be able to drive there. The journey will take less than 5 minutes.
- 6.55 The Committee noted PSCs comment that there is a direct bus route (11a) which runs along Wroxham Road to the Tesco store with buses every 10 minutes on weekdays, every 15 minutes on Saturdays and every half an hour on Sundays. Whilst it may be the case that there is no direct bus route, to Dye's pharmacy, any patient who is reliant on using the bus to access pharmaceutical services is likely to use the direct service to Tesco. The Committee concluded that there is a regular bus service to assist patients in accessing the nearest existing pharmacy.
- 6.56 The Committee was not satisfied that, having regard to there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits by way of physical access on persons.
- 6.57 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.
- 6.58 In considering Regulation 18(2)(b)(ii) the Committee reminded itself that it was required to address itself to people who share a protected characteristic under the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation) having access to services that meet specific needs for pharmaceutical services that, in the relevant area, are difficult for them to access.
- 6.59 The Committee noted the Applicants comment that a pharmacy at the proposed location would significantly improve pharmaceutical access as residents are coming to amenities on Cannerby Lane which serve the local population. In particular, the population who are elderly, disabled and without a car are likely to find the proposed pharmacy site significantly more accessible than their current choices. The Committee was of the view however that the information provided regarding those who share a protected characteristic and the pharmaceutical services they need was limited. The

Committee was mindful that pharmaceutical services, especially other essential services apart from dispensing, may be difficult to access for people with protected characteristics based on age and disability and whilst the Committee accepted that there were always people in an area who share a protected characteristic, there was no information provided as to why those with a protected characteristic were currently experiencing any difficulties in accessing services. 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.

6.60 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.

6.61 The Committee noted that the Applicant has not claimed that its delivery of pharmaceutical services would be innovative.

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

Regulation 18(2)(b) generally

6.63 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.

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

Pharmacy opening hours: general

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

(a) *for 40 hours each week; ...*

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

6.65 The Committee noted the Applicant's proposed opening hours as stated at point 1.4 above.

6.66 The Committee also noted the Commissioner's comment that opening hours of the nearest pharmacies evidence that patients have a good choice of pharmaceutical services within the local area.

6.67 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.

- 6.68 The Committee was mindful that where it considers there is a need to do so, the Commissioner may bring about changes to the opening hours of existing pharmacies.
- 6.69 The Committee noted the Applicant's proposed services at point 1.3 above.
- 6.70 The Committee noted the Commissioner's comment that its P&O Team confirmed that a number of the local pharmacies within close proximity to the proposed postcode provide advanced services which include Hypertension Case Finding, Pharmacy First and Contraception Services. Additionally, pharmacies within the wider local area provide the same advanced services and also offer flu vaccinations.
- 6.71 The Committee had no information to show that the Applicant's proposed services are needed to fill a gap in services. Nor that existing pharmacies where they are not already doing so, are unable or unwilling to provide those services.
- 6.72 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

- 6.73 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).
- 6.74 No deferral or refusal under Regulation 18(2)(f) was required in this case.
- 6.75 The Committee had regard to Regulation 18(2)(g) and found that it does apply in this instance.
- 6.76 The Committee considered whether there were any further factors to be taken into account and concluded that there were not.
- 6.77 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.
- 6.78 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
 - 6.78.1 confirm the Commissioner's decision;
 - 6.78.2 quash the Commissioner's decision and redetermine the application;
 - 6.78.3 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.
- 6.79 The Committee has determined to refuse the application for different reasons from the Commissioner. The Committee therefore quashed the decision.
- 6.80 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.

- 6.81 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.
- 6.82 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