

24 April 2025

REF: SHA/26458

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB'S DECISION TO REFUSE AN APPLICATION BY JT HEALTH LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 WITHIN 100 METRES OF CO-OP HOULTON, ORCHARD HOUSE, RUGBY, CV23 1AL

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REF: SHA/26462

APPEAL AGAINST COVENTRY AND WARWICKSHIRE ICB'S DECISION TO REFUSE AN APPLICATION BY HOULTON COMMUNITY SERVICES LIMITED FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 WITHIN 200 METRES OF CO-OP HOULTON, ORCHARD HOUSE, RUGBY, CV23 1AL

1 Outcome

- 1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decisions of the Commissioner and redetermines the applications.
- 1.2 The Committee determined that JT Health Ltd application is refused and Houlton Community Services Ltd application is refused.

A copy of this decision is being sent to:
JT Health Ltd (Applicant SHA/26458)
Houlton Community Services Ltd (Applicant SHA/26462)
PCSE on behalf of Coventry and Warwickshire ICB
Community Pharmacy Arden
Rowlands Pharmacy
LP SD Twenty Five Ltd (Represented by Healthcare Plus Consulting Ltd)

REF: SHA/26458

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1 The Applications

By application dated 25 January 2024, JT Health Ltd ("the Applicant") applied to Coventry and Warwickshire ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 within 100 metres of Co-Op Houlton, Orchard House, Rugby, CV23 1AL.

1.1 Details of the application by JT Health Ltd can be found in Annex A below.

By application dated 30 January 2024, Houlton Community Services Ltd ("the Applicant") applied to Coventry and Warwickshire ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 within 200 metres of Co-Op Houlton, Orchard House, Rugby, CV23 1AL.

1.2 Details of the application by Houlton Community Services Ltd can be found in Annex B below.

2 The Decisions

The Commissioner considered the two applications and decided to refuse both.

2.1 The decision letter for JT Health Ltd dated 24 December 2024 can be found in Annex A below.

2.2 The decision letter for Houlton Community Services Ltd dated 24 December 2024 can be found in Annex B below.

3 The Appeals

JT Health Ltd and Houlton Community Services Ltd appealed against the decisions.

3.1 The appeal letter from JT Health Ltd dated 13 January 2025 can be found in Annex A below.

3.2 The appeal letter from Houlton Community Services Ltd dated 15 January 2025 can be found in Annex B below.

4 Summary of Representations

This is a summary of representations received on the appeals.

4.1 COMMUNITY PHARMACY ARDEN

- 4.1.1 “Thank you for your letter of 27th January 2025 regarding the above. The LPC has considered this application and wishes to make the following observations:
- 4.1.2 Relevant regulations:
- 4.1.3 [Quotes Regulation 18 in full]
- 4.1.4 The LPC has no further comments to make, over and above those made in our original responses to the applications in April 2024 (which are reproduced at the end of the response):
 - 4.1.4.1 **ME3007- CAS-263336- D4R6D3**
 - 4.1.4.2 **ME3109 – CAS-263548-H0Q1M1**
- 4.1.5 We request that we are kept informed and that we have the opportunity to attend any oral hearings should any be arranged. We look forward to hearing from you in due course.”
- 4.1.6 “LPC April responses to original application key points:
- 4.1.7 **Attention must be drawn to the Coventry and Warwickshire PNA 2022.** At page 7 of the PNA it states; ‘Currently there is a sufficient provision of pharmacies... Significant new housing developments should also be considered.’ The Warwickshire Health and Wellbeing Board will monitor the development of major housing sites and produce supplementary statements to the PNA if deemed necessary, to ensure that appropriate information is available.
- 4.1.8 Included in the PNA 2022 is Figure 18, below, which maps the housing construction sites in Warwickshire and Coventry with 300 dwellings or more that have planning permission granted, or are to be started, to continue, or to be completed in the next five years. The circles map where these sites are, and the size and colour correlate to the size of the site. The largest site is located to the East of Rugby, Houlton.
- 4.1.9 [See Map – page 1 of Appendix C for Committee]
- 4.1.10 The LPC would also like to refer back to application ME1684, appeal SHA/25828 and the subsequent decision, on 8th March 2023, [copy provided to parties: [PCA Decisions Archive - NHS Resolution – 25828](#)] application by Houlton Community Services Limited for inclusion in the pharmaceutical list offering unforeseen benefits under regulation 18 at Houlton Co-Op, Orchard House, Clifton Upon Dunsmore, Rugby, CV23 1AL or within 200 metres of CV23 1AL. The Committee determined that the application should be refused on the following basis: there is already a reasonable choice with regard to obtaining pharmaceutical services; there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services. The Committee were not satisfied that granting the application would confer significant benefits that would secure improvements or better access to pharmaceutical services. It

must also be noted that two other previous appeals at the same site have also been refused. It would be for NHS England to decide whether anything has materially changed since this decision.”

4.2 ROWLANDS PHARMACY

4.2.1 “Thank-you for the opportunity to comment on the above appeals. If the NHSR decide to convene an oral hearing, we are willing to attend under the provisions of Paragraph 8 of schedule 3 of the regulations.

4.2.2 We have no further comments to make at this stage but include our previous comments which we still believe are relevant.

4.2.3 We respectfully request that NHSR inform us of the outcome in due course.”

Rowlands Representations to the Commissioner

4.2.4 “RE: APPLICATION OFFERING UNFORESEEN BENEFITS AT BEST ESTIMATE CO-OP HOULTON, ORCHARD HOUSE, RUGBY, CV23 1AL WITHIN 100M OF THE AFOREMENTIONED PREMISES HOULTON MAP BY JT HEALTH LTD.

4.2.5 Thank you for informing L Rowland & Co (Retail) Ltd of the above application.

4.2.5.1 We note this is a Routine Unforeseen Benefits application and should one be required we would be willing to attend any oral hearing should the ICB deem it necessary to hold one.

4.2.5.2 By their very nature, unforeseen benefits applications must be responding to a need not detailed in the PNA for the HWB. However, with most PNA being very detailed we respectfully request the ICB to consider whether the ‘unforeseen need’ is relevant. In response to the recent closures in the area, we are aware that other contractors have already been supporting the local population and are willing to pick up any commissioned services that are required. Regulation 18 provides several criteria, which must be considered as part of the determination process, and we trust that those requirements will be applied to this application.

4.2.5.3 We believe that this application is at best premature as the Houlton development is still being built and has many phases and there is no GP Practice currently within this development.

4.2.5.4 The current population will already be travelling to access GP services and using pharmaceutical services outside of the immediate area of the Houlton development. Likely close to where they work or complete other daily tasks. We ask the committee to carefully consider the evidence of people having difficulty in accessing pharmaceutical services put forward by the applicant.

4.2.5.5 The development has good access links to the surrounding areas which is one of the leading attractions as a central location.

4.2.6 We respectfully ask that PCSE keeps us informed of the determination of the above application.”

4.2.7 “RE: APPLICATION OFFERING UNFORESEEN BENEFITS AT HOULTON CO-OP, ORCHARD HOUSE, CLIFTON UPON DUNSMORE, RUGBY, CV23

1AL THE PHARMACY PROPOSED TO BE LOCATED AT EITHER THE ABOVE ADDRESS OR WITHIN 200 METERS OF CV23 1AL BY HOULTON COMMUNITY SERVICES LTD.

4.2.8 Thank you for informing L Rowland & Co (Retail) Ltd of the above application.

4.2.8.1 We note this is a Routine Unforeseen Benefits application and should one be required we would be willing to attend any oral hearing should the ICB deem it necessary to hold one.

4.2.8.2 By their very nature, unforeseen benefits applications must be responding to a need not detailed in the PNA for the HWB. However, with most PNA being very detailed we respectfully request the ICB to consider whether the 'unforeseen need' is relevant. In response to the recent closures in the area, we are aware that other contractors have already been supporting the local population and are willing to pick up any commissioned services that are required. Regulation 18 provides several criteria, which must be considered as part of the determination process, and we trust that those requirements will be applied to this application.

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4.2.8.5 The development has good access links to the surrounding areas which is one of the leading attractions as a central location.

4.2.8.6 The applicant has indicated that a porta cabin would be utilised if no planning permission granted but we wish to be reassured that the regulatory bodies would be satisfied with this arrangement.

4.2.9 We respectfully ask that PCSE keeps us informed of the determination of the above application."

4.3 LP SD TWENTY FIVE LTD REPRESENTED BY HEALTHCARE PLUS CONSULTING LTD

4.3.1 "Dear PCSE, [sic] we act for LP SD TWENTY FIVE LTD (t/a Morton Gardens Pharmacy) and have been instructed by our client to respond to the above appeals.

4.3.2 To reiterate, as the Committee will be aware, the initial applications above were submitted under regulation 18 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (the "Regulations"). Regulation 18 requires the Applicant to prove that granting the application will secure improvements, or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB area; whilst having regard **in particular to the desirability** of

- 4.3.2.1 there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB and
- 4.3.2.2 people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access and
- 4.3.2.3 there being innovative approaches taken with regard to the delivery of pharmaceutical services.
- 4.3.3 The meeting of the above criteria is a high bar, and **NOT** the balance of probabilities as alluded to by an Appellant. We provided significant representation at local level and reattach this prior correspondence for re-consideration by the ICB [sic].
- 4.3.4 **Houlton Community Services - SHA/26462**
- 4.3.5 We would like to take this opportunity to comment on the appeal arguments made by Houlton Community Services. We submit there are numerous inaccurate statements presented in the applicant's letter dated 15th January 2025.
- 4.3.6 Firstly, under section five the applicant states, *"That to the South, North and East of Houlton there are no Pharmaceutical Services within 40 minutes' drive."* This does not appear to be accurate as Knights Long Buckby Pharmacy, NN6 7RR, is located a 14-minute drive away to the South East of the proposed location. Regardless, it appears bizarre to place a geographical barrier to the West in regard to driving. There are a number of pharmacies to the West of the Proposed Site accessible via Crick Road and Houlton Way, with there being no obvious barriers to access by car.
- 4.3.7 Please see the table below for the nearby pharmacies and their respective drive times from the proposed location:

Pharmacy	Drive time from proposed location
Paddox Pharmacy	5 minutes
Morton Gardens Pharmacy	9 minutes
Rowlands Pharmacy	9 minutes
Well Pharmacy	11 minutes
Asda Pharmacy	11 minutes
Tesco Instore Pharmacy	13 minutes

- 4.3.8 It is clear that there are a number of pharmacies easily accessible by car. This was ratified by Committee site visits in both 2018 and 2023 in relation to prior applications SHA/18836, SHA/25828.
- 4.3.9 We note that Houlton is a satellite development to the east of Rugby and is not a destination location for the wider community as it contains limited amenities.

Rugby is the main hub that individuals from surrounding villages and the Houlton Development will travel to for their daily needs.

4.3.10 Importantly, residents of the Houlton Development travel to Rugby to access:

4.3.10.1 Supermarkets where Houlton residents do their weekly shop
– particularly Aldi & Tesco

4.3.10.2 Entertainment

4.3.10.3 Hairdresser

4.3.10.4 Opticians

4.3.10.5 Bookies

4.3.10.6 Work

4.3.10.7 Laundrette

4.3.10.8 Butcher

4.3.10.9 Greggs

4.3.10.10 Burger King

4.3.10.11 Mcdonalds

4.3.10.12 Eyebrow Shops

4.3.10.13 Nail bars

4.3.10.14 Card Shops

4.3.10.15 Phone Shops

4.3.10.16 Post Offices

4.3.10.17 Dentist

4.3.10.18 GP services

4.3.11 We note that the above list is not exhaustive.

4.3.12 We submit that residents of Houlton already travel to Rugby on a regular basis for their routine shopping needs and access pharmaceutical provision in conjunction with these journeys. As highlighted above, there is plenty of choice in pharmaceutical provision for those travelling to Rugby.

4.3.13 Additionally, many residents of Houlton are registered at Whitehall Medical Practice as there is no GP provision in Houlton. Our client's pharmacy is co-located with this medical practice and therefore patients access pharmaceutical provision here.

4.3.14 In section six of the applicant's appeal, the representative commented that *"Many houses share one car and during the day mothers with young children (a protected characteristic cohort) will have difficulty accessing Pharmaceutical Services."*

- 4.3.15 We do not agree with the above statement. We have previously shown that Census data highlights how pretty much 100% of Houlton households have access to a car. Many of these homes are in fact two car households, as can be seen in the table below.

Output Area	% of families with 0 cars	National Average	% of families with 2 cars	National Average
E00186849	0.8%	23.5%	57.4%	26.1%
E00186851	0.0%	23.5%	29.3%	26.1%
E00187023	4.3%	23.5%	57.4%	26.1%

- 4.3.16 Additionally, 40% of Houlton residents work from home which is higher than the national average of 31.5%. Houlton is one of the least deprived areas in the country as reflected by the index of multiple deprivation (IMD) 2019. Houlton is ranked in the 7th decile, 1 being the most deprived areas and 10 being the least deprived areas. The above statistics indicate that residents of Houlton do not suffer from poverty of transportation as suggested by the applicant.
- 4.3.17 Furthermore, the applicant places a great deal of weight on the new developments being built within or around Houlton. These developments and their respective population increases have been accounted for in the Rugby local plan and Warwickshire PNA. We submit this increase of population is not unforeseen. Furthermore, we are unsure where the figure of 21,000 new residents has come from as the Houlton development is expected to deliver 6,200 new homes spread out across various phases. When we consider the average number of people per new home in the UK is 2.4. This would equate to 14,880 new residents by the project completion date. The applicant is presenting these figures as if the population of Houlton will rapidly expand overnight, however this growth in population will and has been spread out over numerous years and anticipated by the PNA.
- 4.3.18 The applicant has placed significant weight on a letter from MP Mark Pawsey. However, the letter is vague and does not express the specific issues being faced by his constituents. Additionally, after analysing the comments from the press conference in Houlton we have found no direct mention of a promise to increase pharmaceutical provision made by the Minister of State.
- 4.3.19 The applicant has suggested that people who share protected characteristics have had difficulty accessing pharmaceutical services, however at this time we are unaware of any evidence of this.
- 4.3.20 **JT Health Ltd - SHA/26458**
- 4.3.21 In response to the appeal made by JT Health Ltd, we would like to take this opportunity to address several points. The appeal above made reference to negative google reviews, however we would like to note that many of these reviews are over a year old, indicating that service issues, if any, have been addressed by contractors in the area. We would like to note that the google reviews of our clients pharmacy, Morton Gardens Pharmacy, are resoundingly positive, sitting at a 4.6 star rating on google reviews. We have attached a screenshot of our clients google review rating below. Our client has also noted

their ability to handle increased capacity in the area and welcomes more patients.

- 4.3.22 My client's siting is especially accessible given its co-location with Whitehall Medical Practice, which serves a number of residents in the Houlton development.
- 4.3.23 We submit that granting new contracts in response to poor online reviews of existing pharmacies would create a problematic precedent and should not be the first point of call, and that performance management measures should be undertaken first. Regardless, my client serves many residents in the Houlton area and has outstanding reviews.
- 4.3.24 [See photograph p 1 – Appendix D for Committee]
- 4.3.25 In addition, the applicant has cited a health watch report survey in their appeal as evidence of poor service provision from pharmacies in the Rugby area. However, after reviewing this survey we can see the results indicate that that over 50% of respondents were satisfied or very satisfied with performance of pharmacies in the area, as demonstrated by the pie chart below. Notably many of the complaints were about stock levels of medicines, which as noted by NHS resolutions [sic] was a national issue at the time of the survey.
- 4.3.26 [See pie chart photograph p 2 – Appendix D]
- 4.3.27 We also note that Distance selling pharmacies (DSPs) with free deliveries provide further choice and patient comments indicate that some are using this option, showing there is plenty of choice for patients in the area. We note Pharmacy First consultations can also be provided through remote means by DSPs.
- 4.3.28 The applicant has mentioned the bus service in the area is infrequent. However, there are two buses that serve the stop near to the applicants proposed location. The D1 and 96 Bus services overlap, resulting in patients being able to catch up to 3 buses an hour. Patients who frequently take the bus are familiar with the schedules and time their departures, accordingly, resulting less waiting time so it would be inaccurate to suggest that a one-way journey would take two hours. We also note that almost all households in the Houlton development have access to a car anyway.
- 4.3.29 When addressing the Indigo adapted bus service, the applicant has suggested that individuals in the area may not be able to afford the service. We would like to highlight that Houlton is a very affluent area and the Indigo bus service is free for persons holding a subsidised bus pass, such as persons with mobility issues or the elderly.
- 4.3.30 The applicant has stated there is a home care service in the Houlton area however the business travels to various areas to provide service to their customers. This does not mean that there is a high number of elderly persons living in the Houlton area. We note that the demographics of the individual output areas that encompass the Houlton area indicate that there are very few individuals over the age of 65 as can be seen from the table below.

Output Area	% of Residents 65+	Local Authority Average	National Average
E00186849	1.6%	18.2%	18.3%

E00186851	1.8%	18.2%	18.3%
E00187023	12.3%	18.2%	18.3%

4.3.31 The applicant has stated that the current ratio of Pharmacies per 10,000 residents in Rugby is below the national average of 2. We understand that the average for the Rugby area is currently 1.9 Pharmacies per 10,000 persons – clearly this difference is negligible and there are a number of accessible pharmacies as given in one of the above tables.

4.3.32 As far as we are aware, no supplementary statement highlighting the need for an additional provider in this locality has been produced. The PNA for Warwickshire has not identified any gap in pharmaceutical provision.

4.3.33 We invite the Committee to uphold the decision of the ICB, and NHS Appeals decisions in 2018 & 2023, to refuse both of these applications.”

LP SD Twenty Five Ltd represented by Healthcare Plus Consulting Representations to the Commissioner

4.3.34 “Re: Application offering unforeseen benefits at best estimate Houlton Co-op, Orchard House, Clifton Upon Dunsmore, Rugby, CV23 1AL, The proposed pharmacy to be located at either the above address or within 200 meters of CV23 1AL by Houlton Community Services Ltd - CAS-263336-D4R6D3

4.3.35 Thank you for your letter dated 9th April 2024. I act for LP SD TWENTY FIVE LTD (t/a Morton Gardens Pharmacy) and have been instructed by my client to object to the above application.

4.3.36 As the ICB will be aware, this application is submitted under regulation 18 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (the “Regulations”).

4.3.37 Regulation 18 requires the Applicant to prove that granting the application will secure improvements, or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB area; whilst having regard in particular to the desirability of

4.3.37.1 there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB and

4.3.37.2 people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access and

4.3.37.3 there being innovative approaches taken with regard to the delivery of pharmaceutical services

4.3.38 As the ICB will note, the Applicant has failed to evidence these key issues in any meaningful way and makes a number of generalised, sweeping statements.

4.3.39 Background

4.3.40 We highlight to the committee that Houlton Community Services have submitted unforeseen benefits applications at the proposed location previously:

4.3.40.1 SHA/18836 (2017/2018)

4.3.40.2 SHA/25828 (2022/2023)

4.3.41 We note that both times the applications were ultimately rejected. It is of particular note that the latest rejected application was considered under the current Pharmaceutical Needs Assessment (PNA). We trust that the committee will take these previous decisions into account when evaluating this unforeseen benefits application.

4.3.42 Response

4.3.43 We provide a response with the aid of the NHS determinations in the previous appeal decisions. Both appeals decisions have been appended to this document.

4.3.44 SHA/18836

4.3.45 Having considered the Houlton development in full (including the proposed construction of a GP practice), prior to its decision, the Appeals Unit deduced that there was not a need for a pharmacy within the Houlton development. We draw the Committee's attention in particular to Point 5.34 on page 11 which states:

4.3.46 *'The Committee accepted that the application was not premature in that the development of Houlton was underway and it was possible to assess the likely growth of the population there and the nature of the other facilities to be provided. Accordingly the Committee did not accept the comments made by NHS England in its decision suggesting that it was "too early to adequately and robustly determine need and how best that need would be met".'*

4.3.47 It is clear that the NHS have previously evaluated the full extent of the Houlton development and determined that there is not a requirement for a pharmacy.

4.3.48 We also note that the Committee highlighted the high mobility of Houlton residents and thus the high capability of accessing current pharmaceutical provision:

4.3.49 *'The Committee concluded that the residents of the houses in Houlton would be highly mobile with all the properties being provided with private parking spaces and many of the residents leaving the development on a daily basis in order to go to work or access other services.....' (Point 5.39. page 11)*

4.3.50 Such a conclusion is supported by 2021 Census data. We note that residents of the Houlton housing development are members of the following Output Area's:

Output Area	No car/van %
E00186849	0.8%
E00186851	0.0%

E00187023	4.3%
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- 4.3.51 From the table above, we can see that almost all Houlton residents have access to a car/van.
- 4.3.52 When we compare these figures to the 21.6% no car/van average for England; we can see that Houlton residents are highly mobile; and thus, able to access current pharmaceutical provision.
- 4.3.53 Despite the E00187023 Output Area demonstrating a 4.3% no car/van ownership level; we submit that this is due to conurbations situated nearer to Clifton-upon-Dunsmore which are part of the same Output Area for statistical purposes. It is likely that these residents of Houlton also have less than single digit no car/van ownership figures.
- 4.3.54 We conclude that Houlton residents are highly mobile and able to access alternative provision at a number of pharmacies, a selection of which are listed below:
- 4.3.54.1 Paddox Pharmacy (1.7 miles)
 - 4.3.54.2 Morton Gardens Pharmacy (2.8 miles)
 - 4.3.54.3 Rowlands Pharmacy (2.8 miles)
 - 4.3.54.4 Well Pharmacy (3.1 miles)
 - 4.3.54.5 Asda Pharmacy (3.3 miles)
 - 4.3.54.6 Tesco Instore Pharmacy (3.5 miles)
- 4.3.55 All the above pharmacies provide reasonable choice for residents of Houlton. The Committee determined that pharmacies as distant as the Tesco Instore Pharmacy provided reasonable choice to pharmaceutical provision:
- 4.3.56 *'...it noted that the 100 hour pharmacy within the Tesco store to the north of Rugby was easily accessible to the residents of Houlton.'* (Point 5.44, page 12).
- 4.3.57 It is of note that there are 9 pharmacies closer to the Houlton development than the Tesco Pharmacy. Clearly there is plenty of accessible pharmaceutical choice.
- 4.3.58 SHA/25828
- 4.3.59 Having already had one application rejected, Houlton Community Services again submitted an unforeseen benefits application for the Houlton development. Again, this application was rejected in 2023, and crucially under the 2022 PNA.
- 4.3.60 Again, the Committee noted that residents had good access to a car/van:
- 4.3.61 *'“The developments are one to five bedroomed with single or double drives” with the inference that there would be high car ownership.'* (Point 6.37, page 23)

- 4.3.62 With the committee concluding:
- 4.3.63 *'The Committee was therefore not persuaded that the Applicant had demonstrated that for those who did choose to access services by private transportation were experiencing any difficulties in accessing the existing pharmaceutical provision.'* (Point 6.37, page 23)
- 4.3.64 To add to the Committee's ruling, my client is unaware of any patients in Houlton having difficulty in accessing pharmaceutical services. My client has a number of patients from the Houlton development who utilise the ample free car parking at my client's site. My client is also unaware of any complaints with the services they provide, or the pharmaceutical choices available.
- 4.3.65 Conclusion
- 4.3.66 From previous decisions and statistical data, it is evident that residents of Houlton have extremely good access to a car/van.
- 4.3.67 As a mobile population these residents are able to access a number of pharmacies in Rugby, and some currently do so at Morton Gardens Pharmacy which has ample parking for these residents.
- 4.3.68 We conclude that residents of Houlton have reasonable choice to pharmaceutical provision and are unaware of any difficulties that patients with protected characteristics have in accessing pharmaceutical provision.
- 4.3.69 We submit that Regulation 18 has not been met and invite the committee to refuse this application.
- 4.3.70 We look forward to hearing from you in due course."
- 4.3.71 "Re: Application offering unforeseen benefits at best estimate Co-op Houlton, Orchard House, Rugby, CV23 1AL within 100m of the aforementioned premises Houlton map by JT Health Ltd - CAS-263548-H0Q1M1
- 4.3.72 Thank you for your letter dated 9th April 2024. I act for LP SD TWENTY FIVE LTD (t/a Morton Gardens Pharmacy) and have been instructed by my client to object to the above application.
- 4.3.73 As the ICB will be aware, this application is submitted under regulation 18 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (the "Regulations").
- 4.3.74 Regulation 18 requires the Applicant to prove that granting the application will secure improvements, or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB area; whilst having regard in particular to the desirability of
- 4.3.74.1 there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB and
- 4.3.74.2 people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access and
- 4.3.74.3 there being innovative approaches taken with regard to the delivery of pharmaceutical services

4.3.75 As the ICB will note, the Applicant has failed to evidence these key issues in any meaningful way and makes a number of generalised, sweeping statements.

4.3.76 Background

4.3.77 We highlight to the committee that previous unforeseen benefits applications have been made at the proposed location:

4.3.77.1 SHA/18836 (2017/2018)

4.3.77.2 SHA/25828 (2022/2023)

4.3.78 We note that both times the applications were ultimately rejected. It is of particular note that the latest rejected application was considered under the current Pharmaceutical Needs Assessment (PNA). We trust that the committee will take these previous decisions into account when evaluating this unforeseen benefits application.

4.3.79 Response

4.3.80 We provide a response with the aid of the NHS determinations in the previous appeal decisions. Both appeals decisions have been appended to this document.

4.3.81 SHA/18836

4.3.82 Having considered the Houlton development in full (including the proposed construction of a GP practice), prior to its decision, the Appeals Unit deduced that there was not a need for a pharmacy within the Houlton development. We draw the Committee's attention in particular to Point 5.34 on page 11 which states:

4.3.83 *'The Committee accepted that the application was not premature in that the development of Houlton was underway and it was possible to assess the likely growth of the population there and the nature of the other facilities to be provided. Accordingly the Committee did not accept the comments made by NHS England in its decision suggesting that it was "too early to adequately and robustly determine need and how best that need would be met".'*

4.3.84 It is clear that the NHS have previously evaluated the full extent of the Houlton development and determined that there is not a requirement for a pharmacy.

4.3.85 We also note that the Committee highlighted the high mobility of Houlton residents and thus the high capability of accessing current pharmaceutical provision:

4.3.86 *'The Committee concluded that the residents of the houses in Houlton would be highly mobile with all the properties being provided with private parking spaces and many of the residents leaving the development on a daily basis in order to go to work or access other services.....' (Point 5.39. page 11)*

4.3.87 Such a conclusion is supported by 2021 Census data. We note that residents of the Houlton housing development are members of the following Output Area's:

Output Area	No car/van %
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E00186849	0.8%
E00186851	0.0%
E00187023	4.3%

4.3.88 From the table above, we can see that almost all Houlton residents have access to a car/van. When we compare these figures to the 21.6% no car/van average for England; we can see that Houlton residents are highly mobile; and thus, able to access current pharmaceutical provision.

4.3.89 Despite the E00187023 Output Area demonstrating a 4.3% no car/van ownership level; we submit that this is due to conurbations situated nearer to Clifton-upon-Dunsmore which are part of the same Output Area for statistical purposes. It is likely that these residents of Houlton also have less than single digit no car/van ownership figures.

4.3.90 We conclude that Houlton residents are highly mobile and able to access alternative provision at a number of pharmacies, a selection of which are listed below:

4.3.90.1 Paddox Pharmacy (1.7 miles)

4.3.90.2 Morton Gardens Pharmacy (2.8 miles)

4.3.90.3 Rowlands Pharmacy (2.8 miles)

4.3.90.4 Well Pharmacy (3.1 miles)

4.3.90.5 Asda Pharmacy (3.3 miles)

4.3.90.6 Tesco Instore Pharmacy (3.5 miles)

4.3.91 All the above pharmacies provide reasonable choice for residents of Houlton. The Committee determined that pharmacies as distant as the Tesco Instore Pharmacy provided reasonable choice to pharmaceutical provision:

4.3.92 *'...it noted that the 100 hour pharmacy within the Tesco store to the north of Rugby was easily accessible to the residents of Houlton.'* (Point 5.44, page 12).

4.3.93 It is of note that there are 9 pharmacies closer to the Houlton development than the Tesco Pharmacy. Clearly there is plenty of accessible pharmaceutical choice.

4.3.94 SHA/25828

4.3.95 Moving onto the second unforeseen benefits application for the Houlton development. Again, this application was rejected in 2023, and crucially under the 2022 PNA.

4.3.96 Again, the Committee noted that residents had good access to a car/van:

4.3.97 *'“The developments are one to five bedroomed with single or double drives” with the inference that there would be high car ownership.'* (Point 6.37, page 23)

4.3.98 With the committee concluding:

4.3.99 *'The Committee was therefore not persuaded that the Applicant had demonstrated that for those who did choose to access services by private transportation were experiencing any difficulties in accessing the existing pharmaceutical provision.'* (Point 6.37, page 23)

4.3.100 To add to the Committee's ruling, my client is unaware of any patients in Houlton having difficulty in accessing pharmaceutical services. My client has a number of patients from the Houlton development who utilise the ample free car parking at my client's site. My client is also unaware of any complaints with the services they provide, or the pharmaceutical choices available.

4.3.101 Conclusion

4.3.102 From previous decisions and statistical data, it is evident that residents of Houlton have extremely good access to a car/van.

4.3.103 As a mobile population these residents are able to access a number of pharmacies in Rugby, and some currently do so at Morton Gardens Pharmacy which has ample parking for these residents.

4.3.104 We conclude that residents of Houlton have reasonable choice to pharmaceutical provision and are unaware of any difficulties that patients with protected characteristics have in accessing pharmaceutical provision.

4.3.105 We submit that Regulation 18 has not been met and invite the committee to refuse this application.

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

4.3.107 [See Appendix D pages 3 to 31 Decision SHA/18836 and pages 32 to 59 Decision SHA/25828]

5 Comments to the Commissioner

On reviewing the paperwork provided by PCSE, it was noted that the comments made by the Applicant in response to the representations on the application, had not been circulated or seen by parties.

In the interests of transparency and fairness, NHS Resolution sought to rely on the discretion afforded in paragraph 7 of Schedule 3 of the Regulations to vary the normal procedures and to circulate these comments to parties for them to make observations on them if they so wished.

5.1 JT HEALTH LTD (APPLICANT SHA/26458) Letter dated 10 June 2024

5.1.1 "We would like to make the following comments with regards to the case referenced:

5.1.2 Houlton Community services have stated:

5.1.3 *"Obviously our application was first and we believe we are reliably informed that this second application was triggered by knowledge of our application."*

5.1.4 Can Mr Ponziani further elaborate or provide further evidence with regard to this statement, if unable to do so could they please retract. This allegation is completely fabricated and unsubstantiated.

- 5.1.5 *“Established precedent is that where are two concurrent applications the first received should be preferred unless there is significant advantage conferred by the second application.”*
- 5.1.6 Current guidelines no longer consider ‘ first past the post ‘ direction with regards to choosing between two concurrent applications. However factors such as services offered, of which we are willing to offer a greater range are. As a result we should be preferred if NHS England feel need to for a pharmacy to be established.
- 5.1.7 *“Houlton Community Services Limited application has adduced significantly greater total proposed opening hours than that of the application by J T Heath Limited. Additionally, unlike the competing application we offer Sunday opening.”*
- 5.1.8 Houlton Community Services Limited offer the same core hours as JT Health Ltd. As you are aware supplementary hours require a five-week notice period to be withdraw so should not hold any extra weight with regard to application. Therefore considering core hours we believe we offer a better range of core hours till 6pm in comparison to Houlton Community Service Limited as patients with acute prescriptions leaving surgery between 5-6 pm would not be able to fulfil prescriptions until the next day with current proposed core hours (Whitehall Medical practice closes at 6pm Monday-Friday, Clifton Road Surgery closes at 6pm, Monday to Friday).”
- 5.2 HOULTON COMMUNITY SERVICES LTD (APPLICANT SHA/26462) Letter dated 4 June 2024
 - 5.2.1 “Re: Application offering unforeseen benefits at best estimate Houlton Co-op, Orchard House, Clifton Upon Dunsmore, Rugby, CV23 1AL, The proposed pharmacy to be located at either the above address or within 200 meters of CV23 1AL by Houlton Community Services Ltd - CAS-263336-D4R6D3
 - 5.2.2 AND
 - 5.2.3 Re: Application offering unforeseen benefits at best estimate Co-op Houlton, Orchard House, Rugby, CV23 1AL within 100m of the aforementioned premises Houlton map by JT Health Ltd - CAS-263548-H0Q1M1
 - 5.2.4 On behalf of the applicant Houlton Community Services Limited of which I am registered as Superintendent Pharmacist Designate with you I would like to make the following observations of responses to the two above applications.
 - 5.2.5 Boots communication of 15th May
 - 5.2.6 The Regulations now make it mandatory for any respondent to the circulation of 45-day consultation into a proposed Market Entry application to make a comment either supporting it or rejecting it.
 - 5.2.7 We would say that Boots by failing to make this basic observation have de facto lost any further rights in correspondence regarding this application in general and in particular at the appeal stage.
 - 5.2.8 Re: Healthcare Plus Consulting Limited on behalf of Morton Gardens Pharmacy Dated 18th May.
 - 5.2.9 a) We would say that we have addressed two of the three criteria addressed by the respondent namely:

- 5.2.9.1 i) There being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB and
- 5.2.9.2 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.
- 5.2.10 b) The Committee is not bound by previous decisions regarding past applications by any applicant at Houlton. The application must be considered de novo under the current circumstances.
- 5.2.11 c) Since the last application there has been overwhelming support from local politicians including the MP and the County Councillor and local residents. All have stated that improvements for better access to Pharmaceutical Services is needed in Houlton.
- 5.2.12 d) The Pharmacy First initiative cannot be delivered in Houlton adequately without an incumbent Community Pharmacy.
- 5.2.13 e) Houlton continues to grow in both numbers of houses and infrastructure. Rugby town centre pharmacies cannot adequately service Houlton.
- 5.2.14 f) The lack of current medical services is not an encumbrance to a grant of Pharmaceutical Services consent. In fact, the lack of Medical Services in Houlton makes an application grant even more essential.
- 5.2.15 Rowlands Pharmacy response dated 23rd May 2024
- 5.2.16 a) We would dispute that the application is premature as Houlton has now reached a critical size and lacks both Pharmaceutical and Medical Services. The fact that there are two competing applications gives weight to our argument.
- 5.2.17 b) We would dispute that all the residents are able to access easily and successfully Pharmaceutical Services from Rugby. This is reinforced by the local politicians and residents.
- 5.2.18 Letter from LPC dated 10th April 2024
- 5.2.19 We would repeat the following:
- 5.2.20 The Committee is not bound by previous decisions regarding past applications by any applicant at Houlton. The application must be considered de novo under the current circumstances.
- 5.2.21 Since the last application there has been overwhelming support from local politicians including the MP and the County Councillor and local residents. All have stated that improvements for better access to Pharmaceutical Services is needed in Houlton.
- 5.2.22 Houlton continues to grow in both numbers of houses and infrastructure. Rugby town centre pharmacies cannot adequately service Houlton.
- 5.2.23 Summary
- 5.2.24 None of the respondents have addressed the current situation of local politicians and residents desiring Pharmaceutical Services in Houlton. Most of the respondents rely on past decisions rather than the current scenario

especially given the pressures on GP surgeries and the Governments Pharmacy First Initiative.

5.2.25 Conclusion

5.2.26 We would say at on least the balance of probabilities a grant of consent to join the Pharmaceutical List should be granted in Houlton to secure better access to Pharmaceutical Services. Only one application needs to be granted to secure such unforeseen benefits.

5.2.27 We would respectfully ask the Committee to grant our application rather than the competing application by JT Health Limited as ours is the superior application in general and offering better opening hours in particular.

5.2.28 We confirm our willingness to attend a local Oral Hearing and bring local residents and politicians in support if the Committee believe this is the best way to proceed as there are two competing applications.”

5.3 HOULTON COMMUNITY SERVICES LIMITED (APPLICANT SHA/26462) Letter dated 17 June 2024

5.3.1 “Re: Application offering unforeseen benefits at best estimate Houlton Co-op, Orchard House, Clifton Upon Dunsmore, Rugby, CV23 1AL, The proposed pharmacy to be located at either the above address or within 200 meters of CV23 1AL by Houlton Community Services Ltd - CAS-263336-D4R6D3

5.3.2 AND

5.3.3 Re: Application offering unforeseen benefits at best estimate Co-op Houlton, Orchard House, Rugby, CV23 1AL within 100m of the aforementioned premises Houlton map by JT Health Ltd - CAS-263548-H0Q1M1

5.3.4 On behalf of the applicant Houlton Community Services Limited of which I am registered as Superintendent Pharmacist Designate with you I would like to make the following observations of responses to the two above applications following your letter of 10th June. All the responses to the second circulation appear to be identical to those received to which we replied on 8th June with the exception of the letter below.

Rowlands Pharmacy communication of 23rd May

5.3.5 Most of the comments in our previous response to their first response are still relevant.

5.3.6 We would disagree that the development has good access links.

5.3.7 We did not say, ‘that a porta cabin would be utilised if no planning permission granted’.

5.3.8 We indicated that a porta cabin would be utilised if no premises were immediately available. I am aware from personal experience that the GPhC have registered many pharmacy premises with a porta cabin footprint.

5.3.9 Summary

5.3.10 None of the respondents have addressed the current situation of local politicians and residents desiring Pharmaceutical Services in Houlton. Most of the respondents rely on past decisions rather than the current scenario

especially given the pressures on GP surgeries and the Governments Pharmacy First Initiative.

5.3.11 Conclusion

5.3.12 We would continue to say at on least the balance of probabilities a grant of consent to join the Pharmaceutical List should be granted in Houlton to secure better access to Pharmaceutical Services. Only one application needs to be granted to secure such unforeseen benefits.

5.3.13 We would respectfully ask the Committee to grant our application rather than the competing application by JT Health as ours is the superior application in general and offering better opening hours in particular.

5.3.14 We confirm our willingness to attend a local Oral Hearing and bring local residents and politicians in support if the Committee believe this is the best way to proceed as there are two competing applications.”

6 Observations

6.1 HOULTON COMMUNITY SERVICES LIMITED (APPLICANT SHA/26462)

6.1.1 “Thank you for sending me the responses to the two appeals and the 10-day notice.

6.1.2 I write in my formal capacity as Superintendent Pharmacist Designate of Houlton Community Services Limited.

6.1.3 Summary

6.1.4 The only observation we would in refutation of the response is as follows:

6.1.5 Our total hours are in fact superior to the competing applicants. We are very confident in our ability to maintain the total hours as we have sourced a very competent pharmacist who lives in the Houlton development and wishes to manage the shop and take over as Superintendent Pharmacist. We can therefore robustly state that we have no intention of reducing the supplementary hours.

6.1.6 When as is planned, a GP practice is established in the Houlton development we will at least mirror the surgery hours plus half an hour after they close.

6.1.7 Conclusion

6.1.8 We would state that there is nothing in the responses to dissuade NHS Resolution to grant a consent for a pharmacy to join the Pharmaceutical List in Houlton. We would robustly state that our application is both superior and is significantly to be preferred.

6.1.9 Therefore, we respectfully ask the NHS Resolution Primary Care Appeals Committee to grant our application on at least the balance of probabilities.

6.1.10 Two consents are not required as per the precedent set by a past Judicial Review (Bidford).”

7 Consideration

- 7.1 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.
- 7.2 It also had before it the responses to NHS Resolution’s own statutory consultations.
- 7.3 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 7.4 The Committee was mindful of previous decisions which parties had made reference to; SHA/18836, determined by way of an oral hearing, application refused 10 May 2018 and SHA/25828, determined on the papers, application refused 8 March 2023. The Committee noted that copies of the previous decisions had been included in Healthcare Consulting Plus Ltd’s representations and had been circulated to all parties. The Committee is mindful that the instant applications will be considered on their own merits.
- 7.5 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”).

Regulation 31

- 7.6 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).*
- 7.7 The Committee noted that both Applicants had not provided any information in their application form on this point but the Committee noted that the wording of the application form only required an applicant to include information in the relevant section if the proposed premises were adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises. The Committee considered it reasonable to determine that the lack of information in their application forms on this point when read with the wording of the application form allowed it to be reasonably satisfied that the Applicants considered that their proposed premises were not adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises. The Committee noted that no party had sought to argue that Regulation 31 required both applications to be refused. The Committee therefore determined that it was not required to refuse either application under the provisions of Regulation 31.
- 7.8 The Committee noted that, if either 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.

- 7.9 With regard to Houlton Community Services Ltd indication that if it were successful “a porta cabin would be utilised if no premises were immediately available.”, this would be a matter for the Commissioner to consider if the application were granted and the successful applicant submitted documentation with the precise location of its premises (in accordance with paragraph 31 of Schedule 2).

Regulation 18

- 7.10 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)."*

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

7.12 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 either 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.

- 7.13 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).
- 7.14 The Committee considered the PNA prepared by Coventry and Warwickshire Health and Wellbeing Board, 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 1 October 2022 and that a supplementary statement had been issued on 3 June 2024.
- 7.15 Both Applicants had referred to page 39 of the PNA which shows a table showing the type and numbers of households across the six localities within Coventry and Warwickshire. The Commissioner, in its decision and the LPC, in its representations refer to page 7 of the PNA, which states:
- 7.16 “Currently there is a sufficient provision of pharmacies. Supplementary statements will be produced by the Community Pharmacy Steering Group on behalf of both the Coventry and Warwickshire Health and Wellbeing Boards should there be a significant change across Coventry and Warwickshire or within localities. Significant new housing developments should also be considered.”
- 7.17 The Commissioner also references pages 83 and 89 of the PNA. Both Rowlands Pharmacy and Health Care Consulting Ltd state that there is no reference to gaps in pharmaceutical service provision.
- 7.18 The Committee noted the Conclusions drawn in the PNA:
- 7.19 Page 83 - “Conclusion on Access to Pharmacies.
- 7.20 Pharmacies within Coventry and Warwickshire are well geographically distributed by population density and levels of deprivation. Opening hours indicate a good level of access during usual working hours, and on weekends and evenings across the Coventry and Warwickshire. Cross border availability of pharmaceutical services is also significant across Coventry and Warwickshire.”
- 7.21 Page 89 - “Conclusion on Essential Services.
- 7.22 Essential Services are provided by all Coventry and Warwickshire pharmacy contractors. This includes dispensing of NHS prescriptions which is a fundamental service that is commissioned nationally by the NHS. As discussed with regard to pharmacy access, essential services appear to be accessible for the majority of Coventry and Warwickshire’s population both geographically and at different times of day. Therefore, there are no gaps in the provision of essential services for Coventry and Warwickshire.”
- 7.23 The Committee is mindful that the supplementary statement was issued on 3 June 2024 listing closures and consolidations across the six localities.
- 7.24 Page 5 states:

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

- 7.25 The Committee noted that the Applicants seek to provide unforeseen benefits to the residents of Houlton. The Committee noted that the improvements or better access that both Applicants were claiming would be secured by its application were not included in the relevant PNA in accordance with paragraph 4 of Schedule 1.
- 7.26 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)

- 7.27 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”*
- 7.28 The Committee noted the Commissioner's decision under the heading “18 2 a i and ii *Granting the application would cause significant detriment to the proper planning and provision of services*” stated in both decisions that “*Houlton is not mentioned in the PNA or supplementary statement as either a gap in pharmaceutical services or an area where an additional pharmacy would secure better access, improvements or unforeseen benefits.*” The Committee was unclear as to how this statement links to proper planning. The Committee considered that no information had been provided to demonstrate that granting either application would cause significant detriment to the proper planning and provision of services and parties had not made this claim in representations on the appeals.
- 7.29 On the basis of the information available, the Committee was not satisfied that, if either application were to be granted and a pharmacy to open, the ability of the Commissioner thereafter to plan for the provision of services would be affected in a significant way.
- 7.30 The Committee was therefore not satisfied that significant detriment to the proper planning of pharmaceutical services would result from a grant of either application.

Regulation 18(2)(a)(ii)

- 7.31 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”*
- 7.32 The Committee noted the Commissioner's decision under the heading “18 2 a i and ii *Granting the application would cause significant detriment to the proper planning and provision of services*” stated in both decisions that “*Houlton is not mentioned in the PNA or supplementary statement as either a gap in pharmaceutical services or an area where an additional pharmacy would secure better access, improvements or*

unforeseen benefits." The Committee was unclear as to how this statement links to the arrangements for the provision of pharmaceutical services. The Committee considered that no information had been provided to demonstrate that granting either application would cause significant detriment to the arrangements the Commissioner has in place for the provision of pharmaceutical services in that area and parties had not made this claim in representations on the appeals.

- 7.33 The Committee was therefore not satisfied that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of either application.
- 7.34 In the absence of any significant detriment as described in Regulation 18(2)(a), the Committee was not obliged to refuse the applications and went on to consider Regulation 18(2)(b).

Regulation 18(2)(b)

- 7.35 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)

- 7.36 The Committee had regard to the location of the existing pharmacies and GP Surgeries as provided on the maps by the Commissioner, which had not been disputed by any party.
- 7.37 JT Health Ltd in its application stated *"intends to offer all Essential Services as well as Advanced services."* Houlton Community Services Ltd stated *"we will provide all Essential Services," "We will also supply the Pharmacy First Initiative Service," "We plan to ensure that Advanced Services will be made available to any patients who are housebound," "We will also be able to provide support to patients on opioid substitution Treatment." "We will also be able to provide support to patients on opioid substitution Treatment." "We will work towards 'Healthy Living Pharmacy'."* The Committee proceeded to consider how patients currently access pharmaceutical services.

- 7.38 The Commissioner, in its decisions, made reference to “12 pharmacies within 5 miles of the proposed location including.... Tesco’s 78 hours and Asda 72 hours. The 2 nearest GP practices are located within 3 miles of the proposed location. They are adjacent or close to the nearest pharmacies.” The Committee noted neither Applicant had specifically disputed this information although JT Health Ltd noted the three nearest pharmacies were at least 1.7 miles away, between a 6 and 10 minute drive or 49 minute to 1 hour 17 minute walk away from the proposed location. Healthcare Consulting Ltd on behalf of its client stated the three nearest pharmacies were between a 5 and 9 minute drive. The Committee was of the view that distance alone does not of itself indicate that there is difficulty in respect of there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB although the distance was likely to be prohibitive even if their starting point was closer. The Committee considered that for those who choose to walk to the nearest pharmacy no information had been provided to demonstrate that they were unable to do so due to physical barriers. The Committee also considered that difficulties of access on foot did not of itself indicate that there was not reasonable choice in obtaining pharmaceutical services. The Committee went on to consider the ease of access to the nearest pharmacies by private and public transport.
- 7.39 With regard to private transport, the Committee noted there is no dispute that car ownership is high. In its decisions, the Commissioner states 85.8% own more than 1 car. Houlton Community Services Ltd state in its appeal that “*many houses share one car and during the day mothers with young children will have difficulty accessing Pharmaceutical Services.*” This is at odds with information provided by Healthcare Consulting Plus Ltd from the Census which supports the Commissioner’s finding regarding car ownership and further shows that less than 1% of the population do not have access to a private vehicle. Houlton Community Services Ltd states that “*The nearest pharmacy to the West is 1.7 miles with very limited parking and difficult disabled access.*” and “*All the Rugby pharmacies are based in Rugby town centre with problems of access and parking, in any case they are situated three miles away.*” The Committee agreed that if a car was being used by one householder then that car would not be at home but treated this statement with caution given circumstances affect households differently. The Committee further noted that there was no evidence provided by Houlton Community Service Ltd to demonstrate that those who do have access to their own transport are currently having difficulties in accessing the existing pharmacies by way of no or limited car parking.
- 7.40 The Committee was of the view therefore that for those who had their own transport there was nothing provided to demonstrate that they were experiencing any difficulties in access the existing pharmaceutical provision or that they did not have reasonable choice with regard to obtaining pharmaceutical services.
- 7.41 The Committee noted JT Health Ltd stated in its application that “*The village’s bus service is limited, running infrequently, approximately once per hour.*” JT Health Ltd also comment on appeal regarding the Indigo bus service stating “*Patients will need to register for the service and may be required to pay, which not all individuals can afford. Additionally, all bookings are subject to availability, meaning there is no guarantee that patients can access the service when urgently needed. Furthermore, the service is only available until 3 p.m.*” The Commissioner in its decisions states “*There are 2 buses, numbers 1 and 96, which travel to and from Rugby Town Centre every 1-2 hours travelling past the nearest two pharmacies and GP practices. The bus stops are located on the A426 with flat and wide pavements from the proposed location.*” It also refers to “*Rugby council has a specific demand led adapted bus service run by Indigo Limited. This service is available for Monday to Friday between 9am and 3pm, travelling to and from Rugby town centre.*” Healthcare Consulting Plus Ltd in its representations state that “*the D1 and 96 Bus services overlap, resulting in patients being able to catch up to 3 buses an hour.*” And “*the Indigo bus service is free for persons holding a subsidised*

bus pass, such as persons with mobility issues or the elderly.” This had not been disputed by the Applicants.

- 7.42 The Committee noted that neither Applicant had provided any information that those who currently use public transport were experiencing difficulties in accessing the existing pharmaceutical provision in the area. Given the limited information before it, as well as taking into account the information with regard to car ownership in the area, the Committee was of the view that there was nothing provided which demonstrated that those who did use public transport were currently experiencing any difficulties in accessing the existing pharmaceutical provision.
- 7.43 The Committee concluded that no information had been provided to demonstrate that it was necessary to grant the new application to provide a reasonable choice of pharmacy provision to those who access pharmaceutical services on foot or by private or public transportation.
- 7.44 The Committee noted that in their applications, both Applicants had referenced the development in Houlton which had commenced in 2016 with circa 3000 homes constructed and increase in population. JT Health stated *“the secondary school, primary school, nursery at the Dolman Farm Centre, a supermarket, a David Lloyd gym, and other facilities.”* were available. Houlton Community Services Ltd stated *“One primary school (St. Gabriels Academy) plus a nursery school, one secondary school, Houlton School. One local centre (Dollman Farm) has already been built including a Supermarket, coop, two restaurants, a second nursery(Old Station Nursery) and a Community Centre. The David Lloyd Leisure Centre is up and running. A hot desk co-working centre has also been established.”* The Committee accepted there were facilities available to the residents to meet some needs. The Committee was also conscious that this development was progressing but that increases in population did not make it automatic that an application should be granted. The Committee next considered the information provided by the Applicants to enable it to support a finding that existing pharmaceutical services are not able to cope with the demand placed upon them.
- 7.45 The Committee noted the Applicants had referenced public complaints regarding pharmaceutical services. JT Health Ltd quoted several one star reviews and customer experiences in its application. Houlton Community Services Ltd states that it *“has received several confirmatory emails from local residents complaining of lack of Pharmaceutical Services in Houlton.”* There are also representations from Healthcare Consulting Plus Ltd showing their client rating at 4.6 for its service provision. The Commissioner in its decisions states *“Coventry and Warwickshire ICB and the Office of the West Midlands have received no complaints during Q1 of 2024 regarding the lack of pharmaceutical provision, access or parking in and around the pharmacies in Rugby.”* The Committee noted that JT Health Ltd quotes in its application and on appeal stating *“Some of the reviews as per NHS website for the local pharmacies include.”* The Committee was left in some difficulty because the quotes in JT Health Ltd’s application, some of which were dated, others not, were all from June 2022, August 2022 and one in August 2023. The quotes in JT Health Ltd’s appeal were all one star reviews from February, April and August 2023 and then June and July 2024. In the Committee’s view, it was unclear if JT Health Ltd selected only one star reviews, or if there were only one star reviews, or how many reviews were available and the overall star rating for each pharmacy. The Committee had been provided with a photograph of one pharmacy overall rating which was 4.6 for Morton Gardens Pharmacy. The Committee, whilst in no doubt there has been some dissatisfaction with some pharmaceutical services, was not persuaded that this is the general consensus without being provided full information rather than a selected version of the information. Likewise the Committee was of the view that Houlton Community Services Ltd has not provided any tangible information regarding complaints it says it has

received such as, how it came to be in receipt of the complaints, over what period the complaints were collected or the content of the complaints.

- 7.46 JT Health Ltd had also provided a link to the Warwickshire Healthwatch survey from August 2024 entitled "Rugby Pharmacy Report". This was based on 352 pieces of feedback about prescriptions and pharmacies throughout Warwickshire collected between December 2022 and March 2023.

- 7.47 The Committee noted the report stated:

- 7.48 *"We had 267 responses from Rugby Borough residents."*

- 7.49 JT Health Ltd had selected some quotes from this report. The Committee noted the summary and recommendations which stated:

- 7.50 *"The majority of people we spoke to prefer to use the same pharmacy each visit, are loyal and use pharmacies at least once per month.*

People understand the pressures locally on pharmacies and pharmacists. Generally, their comments and satisfaction levels take this into account.

Much of the frustration, about both community and hospital pharmacies, was specifically around time taken to dispense medications.

People who do not use technology, wither by choice or circumstances prevent them, to communicate with pharmacies and GPs need to be factored into new initiatives and processes so that they are not left out or forgotten.

People who experience delays in their medication want to be kept informed about lack of stock and solutions to these delays.

Pharmacy First is not yet fully understood, or trusted. Those who have experience have found it to be a good service on the whole, although there is variability between different pharmacies as to how successfully it is being used."

- 7.51 The Committee considered the information in the survey report to be too broad to be able to identify difficulties in access for the residents of Houlton. The Committee was also of the view that neither Applicant had demonstrated by way of a robust body of evidence that the existing providers of pharmaceutical services are not meeting any rise in demand for their services as a result of an increase in the population or the new housing development.

- 7.52 Houlton Community Services Ltd had provided a letter of support from the former MP for Rugby in support of a new pharmacy which stated *"Since these closures, I have received a number of representations from local residents to raise their concern about the pressure on pharmacies in Rugby" and "a pharmacy would provide a significant benefit to local residents."* The Committee acknowledged this letter of support from October 2023 but is mindful of its findings with regard to access to existing pharmaceutical services above.

- 7.53 Houlton Community Services Ltd has referred to plans regarding a branch surgery in Houlton. The Commissioner, in its decisions stated *"There is no temporary or permanent GP surgery in Houlton and no planning application."* The Committee is unable to place any bearing on potential plans if there is no planning application.

- 7.54 Based on the information provided, 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 either application would confer significant benefits on persons.

- 7.55 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.
- 7.56 JT Health Ltd had made reference to *"The groups of people with protected characteristics include families with young children and the elderly."* and *"including the elderly, disabled individuals, mothers with young children"*. JT Health Ltd also provided a link to an NHS website which listed the services and specialisms of a care home in Rugby. JT Health Ltd stated *"This would suggest there are patients with protected characteristics who would benefit with pharmacy services within their vicinity."* Houlton Community Services Ltd had made reference to *"We have defined sub groups of people with protected characteristics as families with young children as well as the elderly."* Houlton Community Services Ltd had also made reference to Asylum seekers residing at the Ibis Hotel. Houlton Community Services Ltd further stated that *"the Ibis Hotel is actually situated within in the parliamentary constituency of Daventry and the parish of Crick."* and *"The majority of the Asylum Seekers are families with young children and have significant pharmaceutical and medical needs. The numbers are a substantial cohort of persons with Protected Characteristics."* 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. The Committee was of the view that the Applicants had not demonstrated that people with these protected characteristics were currently experiencing any difficulties in accessing existing pharmaceutical services.
- 7.57 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 either application would confer significant benefits on persons.
- 7.58 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.
- 7.59 The Commissioner in both of its decisions stated that each Applicant *".... is proposing to provide the same essential, additional and locally commissioned services as the other pharmacies in Rugby. The applicant is proposing no innovative services."*
- 7.60 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 either application would confer significant benefits on persons.

Regulation 18(2)(b) generally

- 7.61 The Committee noted that JT Health Ltd was offering 40 core hours Monday to Friday 9am to 1pm and 2pm to 6pm with no core hours over the weekend. The Committee noted that Houlton Community Services Ltd was offering 40 core hours Monday to Friday 8.30am to 1pm and 1.30pm to 5pm with no core hours over the weekend.

- 7.62 Each Applicant considered its spread of hours to be better than the other but neither had explained why their hours were indeed more advantageous compared to others in the area. The Committee was of the view that there was no information provided to support a finding that pharmaceutical services are not currently provided at the existing pharmacies in the area or that they are 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 either application would confer significant benefits (in relation to opening hours or pharmaceutical services) on persons.
- 7.63 The Committee was of the view that in accordance with Regulation 18(2)(b) the granting of either 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

- 7.64 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).
- 7.65 No deferral or refusal under Regulation 18(2)(f) was required in this case.
- 7.66 The Committee had regard to Regulation 18(2)(g) and found that it was not applicable.
- 7.67 The Committee considered whether there were any further factors to be taken into account and concluded that there were not.
- 7.68 The Committee was not satisfied that the information provided demonstrates that there is difficulty in accessing current pharmaceutical services such that a pharmacy at either proposed best estimate site would provide better access to pharmaceutical services.
- 7.69 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 7.69.1 confirm the Commissioner's decisions;
 - 7.69.2 quash the Commissioner's decisions and redetermine the applications;
 - 7.69.3 quash the Commissioner's decisions and, if it considers that there should be a further notification to the parties to make representations, remit the matter to the Commissioner.
- 7.70 Even though the Committee reached the same overall decision as the Commissioner, the Commissioner had not fully considered Regulation 18(1)(a)(i) and Regulation 18(1)(a)(ii). Therefore the Committee determined that the decisions of the Commissioner must be quashed.
- 7.71 The Committee went on to consider whether there should be a further notification to the parties detailed at paragraph 19 of Schedule 2 of the Regulations to allow them to make representations if they so wished (in which case it would be appropriate to remit the matter to the Commissioner) or whether it was preferable for the Committee to redetermine the applications.
- 7.72 The Committee noted that representations on Regulation 18 had been sought from parties by the Commissioner and representations had already been made by parties to the Commissioner in response. These had been circulated and seen by all parties as part of the processing of the applications by the Commissioner. The Committee further noted that when the appeals were circulated representations had been sought from parties on Regulation 18. Further the 14 days comments made to the Commissioner had also been circulated to all parties during the appeals process.

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

8 DECISION

- 8.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decisions of the Commissioner, for the reasons given above, and redetermines the applications.
- 8.2 The Committee concluded that it was not required to refuse the applications under the provisions of Regulation 31.
- 8.3 The Committee has considered whether the granting of either 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;
- 8.4 The Committee determined that JT Health Ltd application should be refused and Houlton Community Services Ltd application should be refused.
- 8.4.1 In considering whether the granting of either application would confer significant benefits, the Committee determined that –
- 8.4.1.1 there is already a reasonable choice with regard to obtaining pharmaceutical services;
 - 8.4.1.2 there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and
 - 8.4.1.3 there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services;
- 8.4.2 Having taken these matters into account, the Committee is not satisfied that granting either application would confer significant benefits as outlined above that would secure improvements or better access to pharmaceutical services.

Case Manager
Primary Care Appeals

ANNEX A**REF: SHA/26458**

**APPEAL AGAINST COVENTRY AND WARWICKSHIRE
ICB DECISION TO REFUSE AN APPLICATION BY JT
HEALTH LTD FOR INCLUSION IN THE
PHARMACEUTICAL LIST OFFERING UNFORESEEN
BENEFITS UNDER REGULATION 18 WITHIN 100
METRES OF CO-OP HOULTON, ORCHARD HOUSE,
RUGBY, CV23 1AL**

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1 The Application

By application dated 25 January 2024, JT Health Ltd (“the Applicant”) applied to Coventry and Warwickshire ICB (“the Commissioner”) for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 within 100 metres of Co-Op Houlton, Orchard House, Rugby, CV23 1AL. In support of the application it was stated:

- 1.1 In my/our view this application should not be refused pursuant to Regulation 31 for the following reasons:
- 1.2 [This section was left blank].
- 1.3 Information in support of the application:
- 1.4 “This application has been submitted for a pharmacy to be located within the new residential development in Houlton near Rugby.
- 1.5 Houlton, spanning 1,200 acres, is expected to encompass 6,200 new homes, three primary schools, a secondary school, a GP health centre, 31 hectares of employment space, and 299 hectares of open space. Approximately half of the homes, as well as the secondary school, primary school, nursery at the Dolman Farm Centre, a supermarket, a David Lloyd gym, and other facilities, have already been constructed.
- 1.6 The existing amenities within the area encompass:
 - 1.6.1 A district centre, along with 3 local centres.
 - 1.6.2 The presence of a David Lloyd Leisure Centre.
 - 1.6.3 The availability of one primary school, St. Gabriel's Academy, and a secondary school named Houlton School.
 - 1.6.4 Notably, one of the local centers [sic], Dollman Farm, has already been constructed and other facilities include a Coop Supermarket, a restaurant, and a Community Centre.
- 1.7 The initial phase of development began in 2016, resulting in the completion of approximately 3,000 homes.
- 1.8 Notably, there are no pharmaceutical providers in close proximity capable of serving both the new residents and the villages surrounding Houlton.
- 1.9 The groups of people with protected characteristics include families with young children and the elderly.
- 1.10 As for accessibility:

- 1.11 We have made the best possible estimation for the proposed location of the premises, which will be situated near or in close proximity to the existing Coop store, should the application be approved.
- 1.12 We are committed to ensuring accessibility for all patients with mobility challenges in compliance with the Equality Act.
- 1.13 Approving the establishment of a pharmacy would facilitate the following individuals in accessing pharmaceutical services:
- 1.13.1 Workers and transport drivers accessing the major logistical parks surrounding Houlton, including DIRFT one to four and DIRFT East.
 - 1.13.2 residents within the newly constructed housing in Houlton.
 - 1.13.3 Residents from villages situated in the neighbouring areas.
- 1.14 A pharmacy within the new development would offer easier and more convenient access, particularly once the proposed medical centre becomes operational. The demographic makeup of the new development predominantly consists of young and established families. This is further supported by the justification for the construction of four new schools.
- 1.15 Regarding PNA points:
- 1.16 Houlton stands as the largest development in Warwickshire.
- 1.17 In section 1.9 on page 39, it is indicated that Warwickshire, with its growing and aging population, is expected to witness a significant rise in the number of individuals with long-term health conditions. These individuals are more likely to require medical attention, hospitalization, extended hospital stays, and additional assistance in selfcare compared to those without such conditions. Enhancing the health outcomes of individuals with long-term conditions could contribute to reducing premature mortality in Warwickshire.
- 1.18 In accordance with Regulation 11 [paragraph 9(c)(ii) of Schedule 2] of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, the Applicant intends to offer all Essential Services as well as Advanced services.
- 1.19 The village's bus service is limited, running infrequently, approximately once per hour. Midland Heart, a Housing Association, has proposed the construction of 158 affordable two to three-bedroom houses, with some already completed in this development. Given the substantial population in this major development, there is currently a lack of reasonable pharmacy services.
- 1.20 Many residents in Houlton, including the elderly, disabled individuals, mothers with young children, and those without access to a car during the day, would greatly benefit from having a local community pharmacy within walking distance.
- 1.21 The nearest pharmacy is located 1.7 miles away at Paddox Pharmacy. This pharmacy currently dispenses prescriptions at a rate above the national average. There have been numerous complaints on the NHS website and in Google reviews regarding patients experiencing long wait times for their prescriptions and difficulties obtaining prescriptions during certain hours, such as lunchtime. Given that this is the only pharmacy in the vicinity of Houlton, it suggests that patients in the area are facing challenges in accessing pharmaceutical services.
- 1.22 Some of the reviews as per NHS website for the local pharmacies include:

1.22.1 "Posted on 04 August 2023

After waiting 20 minutes I was told they could not do my prescription until next Wednesday "we are far too busy". To say they are rude would be an understatement.

Never again will I take a prescription there.

Visited August 2023"

1.22.2 "Posted on 10 August 2022

They provide very bad service. I get my regular medicine every month from them.

Whenever I get my monthly medicine, always tell them "Please repeat the same medicine for next month". When I come next month, every time I get surprises like "You didn't say to repeat". Also, if there is any problem with GP, I don't get any communication from them. Last moment they will say "sorry, your medicine is not ready, please talk to your GP". Last month, because of this behavior [sic] I didn't eat 3 days of medicine. So, I would say, they need to learn how to take care of customers and patients.

Visited July 2022"

1.22.3 "Posted on 28 June 2022.

The ladies in the chemist were friendly & helpful but unfortunately the pharmacist was not !! I also tried ringing the pharmacy 7 times on the 23 June but there was no answer Just what you need when unsure about your prescription

Visited June 2022"

1.22.4 "Absolutely useless. The pharmacist goes on lunch at 1pm got in before 1, he was looking at me and 3 minutes later whilst serving the person before me, he logged off and I was advised to come back in an hour! No one can release the medication if the pharmacist is not logged on."

1.22.5 "Terrible pharmacy!!"

1.22.6 "Prescriptions are NEVER ready, always have to return. No option to wait for it! Staff are rude and unhelpful! Told to go to another pharmacy to get my very simple prescription of Desogestrol or go without until after the bank holiday! Disgrace!!"

1.22.7 "A very poor service. Directed my continuous prescription to this pharmacy as close to my residence but they are either short of medication or staff. Right now have closed doors n not picking up the phone during business hours for lack of staff n not ready to listen, speak or confirm when the medication will be ready."

1.22.8 "This chemist is awful. My wife took an 88 year old lady to this chemist for her flu jab on Thursday 30th of September 2021 to be swiftly told that there had been a change and the gentleman that does this procedure wasn't in that day and to come back tomorrow.

Please bear in mind this lady use a walking frame to get about. On Friday morning my wife rang this chemist to enquire if it was still ok to come and let this 88 year old get her flu jab. She was told yes, and she had until 6pm to arrive. Well she arrived there about 3pm. One lady was just leaving after having her flu jab and so my wife spoke to one of the assistants, who swiftly told her, no more flu jabs were being done as he was busy, and doing no more today. This 88 year old had struggled to get there 2 days running to be simply told, sorry no more today. They should be shut up and not allowed to operate, they disgust me."

- 1.23 Many reviews also suggesting patients having difficulty picking up prescriptions at lunch time as pharmacist is on lunch break although pharmacy is open.
- 1.24 The closure of the Lloyds pharmacy within Sainsburys' in Rugby will further increase the pressures on existing pharmacies and affect overall quality of pharmaceutical services within Rugby.
- 1.25 The Applicant contends that granting consent for a pharmaceutical application in the vicinity of the Co-op Houlton is necessary for the benefit of individuals with protected characteristics, specifically families with young children and senior citizens relocating to Houlton.
- 1.26 The proposed site is expected to alleviate the current burdens on the NHS within the vicinity and to help ease the pressure on medical practices and other local pharmacies.
- 1.27 The extra pressures from providing new services such as the Pharmacy First service, Contraceptive service and Hypertension Case finding service will also have an impact.
- 1.28 The proposed pharmacy will proposes [sic] to provide all current and future essential and advanced services where commissioned."

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

- 1.29 "Being at a location which will be easily and conveniently accessible for the local population and in close proximity to other shops and services.
- 1.30 Increasing the total capacity of pharmaceutical service provision to meet the needs of the growing residential population.
- 1.31 Offering a full range of pharmaceutical services to meet local health needs."

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 24 December 2024 states:

- 2.1 "Coventry and Warwickshire ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.
- 2.2 You have a right of appeal to the Secretary of State against Coventry and Warwickshire ICB's decision. Should you choose to appeal then you should either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:
- 2.3 Primary Care Appeals, NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU"

Decision report

- 2.4 "Actions from the Pharmacy Services Regulations Committee 09 December 2024.
- 2.5 Meeting date 09.12.24
- 2.6 Unforeseen Benefit Application
- 2.7 J T Health Ltd
- 2.8 Co-op Houlton, Orchard House, Rugby, CV23 1AL within 100m of the aforementioned premises
- 2.9 ME3109 - CAS-263548-H0Q1M1
- 2.10 The application is refused as;

18 1 a and b Must secure improvements, better access or demonstrate unforeseen benefits.

- 2.11 Improvements, better access or unforeseen benefits have not been demonstrated.
- 2.12 The Warwickshire PNA 2022-2025 states;
- 2.13 Page 7 There is sufficient provision of pharmacies across Warwickshire including Houlton.
- 2.14 Page 83 Pharmacies within Warwickshire are well geographically distributed. Opening hours indicate a good level of access during usual working hours, evenings and across weekends.
- 2.15 A supplementary statement was produced in June 2024. This statement can identify areas where there is a gap in services or that an additional pharmacy would improve access and provide unforeseen benefits. The statement did not identify any gaps in any part of Warwickshire including Rugby. This statement was despite the closure of several pharmacies across Warwickshire.
- 2.16 Page 89 states that regarding essential services there are "no gaps in the provision of essential services for Warwickshire"

18 2 a i and ii Granting the application would cause significant detriment to the proper planning and provision of services

- 2.17 The PNA is Warwickshire's plan for the provision of pharmaceutical services and is based on significant analysis and patient consultation. Houlton is not mentioned in the PNA or supplementary statement as either a gap in pharmaceutical services or an area where an additional pharmacy would secure better access, improvements or unforeseen benefits.

18 2 b i [sic] Is there reasonable choice in obtaining pharmacy services

- 2.18 There are 12 pharmacies within 5 miles of the proposed location including 2 former 100 pharmacies -Tesco's 78 hours and Asda 72 hours. There is no GP surgery in Houlton and patients have to travel out of the area. The 2 nearest GP practices are located within 3 miles of the proposed location. They are adjacent or close to the nearest pharmacies.

- 2.19 Coventry and Warwickshire ICB and the Office of the West Midlands have received no complaints during Q1 of 2024 regarding the lack of pharmaceutical provision, access or parking in and around the pharmacies in Rugby including [sic]
- 2.20 The ONS Census data 2021 identifies that Houlton is within the Hill Morton ward. The key indicators are;
 - 2.20.1 75.6 % own their own house with or without a mortgage
 - 2.20.2 85.8% own more than 1 car or van
 - 2.20.3 1.4% use public transport
 - 2.20.4 77% stated that they were not disabled under the Equality Act.
- 2.21 The lay members report noted that the majority of the houses were 1-5 bedroomed properties with single or double garages with space for additional cars.
- 2.22 There is no temporary or permanent GP surgery in Houlton and no planning application.
- 2.23 There are no residential or nursing homes or financial /commercial services in Houlton. Residents have to travel out of the area and to Rugby Town Centre to access these services.
- 2.24 There are 2 buses, numbers 1 and 96, which travel to and from Rugby Town Centre every 1-2 hours travelling past the nearest two pharmacies and GP practices. The bus stops are located on the A426 with flat and wide pavements from the proposed location
- 2.25 The applicant does not propose any core hours into the evenings or weekends. Residents have to travel to the nearest pharmacy and the town centre where Asda is open into the evening and across weekends.

18 2 b iii [sic] People who share a protected characteristic have difficulty in accessing pharmaceutical services.

- 2.26 The applicant has provided no evidence that people with a protected characteristic have difficulty in accessing pharmaceutical services.
- 2.27 The ONS Census data demonstrates that the Houlton population is highly mobile.
- 2.28 For residents with protected characteristics ie people with mobility difficulties, wheelchair users or mothers with buggies or prams; Rugby Council has a specific demand led adapted bus service run by Indigo Limited.
- 2.29 This service is available for Monday to Friday between 9am and 3pm, travelling to and from Rugby town centre. Any person with protected characteristics in the Rugby area can telephone Indigo and be collected at the number 1/96 bus stop close to the proposed location.

18 2 b iii Innovative services

- 2.30 The applicant is proposing to provide the same essential, additional and locally commissioned services as the other pharmacies in Rugby. The applicant is proposing no innovative services.
- 2.31 **Applicant has the appeal rights”**

3 The Appeal

In a letter dated 13 January 2025 addressed to NHS Resolution, the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

- 3.1 "JT Health Ltd wishes to formally appeal the decision made by Coventry and Warwickshire ICB regarding the rejection of application ME3109.
- 3.2 We wish to address certain findings made by the ICB:
- 3.3 *"Pharmacies within Warwickshire are well geographically distributed."*
- 3.4 The nearest pharmacy to our location (CV23 1AL) is Paddox Pharmacy, located at CV22 5BP, which is 2.2 miles away (a 6-minute drive or a 49-minute walk). The second closest pharmacy is Morton Gardens Pharmacy, at CV21 3AQ, situated 3.7 miles away (a 10-minute drive or a 1-hour 17-minute walk). The third closest pharmacy is Rowlands Pharmacy, located at CV21 3QF, also 3.7 miles away (a 10-minute drive or a 1-hour 17-minute walk). Local residents would argue that the nearest pharmacy being 2.2 miles away being well geographically distributed.
- 3.5 *"Coventry and Warwickshire ICB and the Office of the West Midlands have received no complaints during Q1 of 2024 regarding the lack of pharmaceutical provision, access or parking in and around the pharmacies in Rugby including"*
- 3.6 It is not uncommon for residents to refrain from complaining to NHS England about the lack of pharmaceutical services. Many people are unaware that they can complain or do not know how to go about it. In fact, it is rare for patients to file formal complaints even when there is a shortage of pharmaceutical services in an area. Healthwatch Warwickshire has conducted a survey to better understand the challenges patients are currently facing across Rugby. This initiative is in response to the ongoing concern regarding patients receiving inadequate pharmaceutical services in the area. Pharmacies in Rugby are currently overstretched, and this strain is being further exacerbated by the closure of established pharmacies. We strongly encourage you to take the results of this survey into account when reviewing this appeal.
- 3.7 <https://nds.healthwatch.co.uk/reports-library/rugby-pharmacy-report> [Appendix A for Committee]
- 3.8 Below are some comments from the survey:
 - 3.8.1 "You just have to go back, time and time again and hope it's ready. Sometimes I've had to make 3 visits for 1 prescription -I don't have time for this!"
 - 3.8.2 "I think it is great the Pharmacists are now being allowed to do more e.g. take blood pressure, prescribe medication, etc. sometimes I think they are more helpful than GPs."
 - 3.8.3 "Even though my prescription gets sent electronically from the GP, you have to go to the pharmacy twice. The first time is to tell them you have ordered items and the second time to pick them up. There's always a queue and it takes a long time to see each person. I am an ambulant wheelchair user and if I go without my wheelchair I always have at least 30/40 minutes to wait in a queue which is too long for me to stand up. I went in my wheelchair recently and spoke to the lady at the counter about getting my medication. She went to look for my items but there was a problem with it. When she returned to tell me about the problem, she chose to speak to my husband about my prescription rather than me." Very dissatisfied.

- 3.8.4 "There is a sign up in the pharmacy that tells you there is staff shortage and there will be delays."
- 3.8.5 "I can't get to the pharmacy myself now, so I had my medication arranged to be delivered (planned two weeks previously). They don't answer the phone, and I called and called and there was no one to deliver my medication. It was early Friday afternoon, and it is shut on Saturday so a member of staff, where I live, had to go and pick it up for me. It is busy in there so no one answers the phone so you can't sort things out without going in person -which I can't do." Resident at over 55s extra care property.
- 3.8.6 "Since covid, there have been constant problems with pharmacies. First there was a lack of delivery drivers as they were getting older and stopped working. Secondly lots of pharmacies have shut. Then they told us that prescriptions weren't arriving, saying that the doctor had not sent them. We would have to go back and forth for our residents and would find out that the pharmacy actually did have the prescription. I was sent information from an online pharmacy called Pill Time and that has solved the problems. Previously I was going out almost once a day having to chase medications, now I can only think of one time I had to go out and get medication and that was emergency antibiotics. We encourage all our residents that we provide care for to sign up for Pill Time as we are not paid to chase medications. It is our only barrier to being able to deliver good care in Rugby when we need to report it to the CQC. Three Lloyds have gone and the pharmacies that are still open are completely overwhelmed. Pill Time has been our saviour. Residents who do not receive care from us have been told about Pill Time, but it is up to them if they use this service. I know of a 90yr old who had to get a taxi into town to get tablets sorted. No pharmacy answers the phone so there is no option but to go in person. People can be queuing outside for an hour, elderly people, and when they get to the front of the queue, they are told their prescription is not ready and they must wait longer -their script could have been there 4 or 5 days already. Our biggest barrier is the medications arriving in time as we don't want to have to record people missing medication on our charts." Manager at over 55s extra care property
- 3.8.7 "Extremely concerned that with the introduction of Pharmacy First and the currently already underperforming pharmacies in Rugby will be unable to cope even further and patients are at risk of harm due to this."
- 3.8.8 "There is not enough pharmacies within Rugby. It's sad that 3 have closed and limiting where you can get your medication from as housing is growing. There is constantly a queue in any pharmacy."
- 3.9 Reviews from NHS Services website:
- 3.9.1 **Lack of empathy, urgency or basic customer service**
- 3.9.1.1 ★
- 3.9.1.2 Rated 1 star out of 5
- 3.9.1.3 by Anonymous - Posted on 10 June 2024
- 3.9.1.4 I've had reason to go to the pharmacy several times over the last year and each time has left me feeling that they just don't care. The accuracy of other negative reviews are true. They generally run prescriptions two days behind receiving them and if you go earlier are made to feel like you are being unreasonable, rather than any apology

given. So I left it two days this time, only to be told to return later that day and it should be ready, and as if its part of process no apology. I urge the pharmacy to consider requesting permission to get the prescriptions down to same day be that overtime or additional staff, they seem able to work them with a 2 day lead almost like clock work so if they got them to that state they could just maintain the same effort while supporting the unwell individuals who need the medicine. Also I'd like to see them be more customer facing and less customer hating which is generally how this pharmacy feels. Sadly I won't see if they take my advice as I won't be returning and I hope others vote with there feet. Although sadly for some that need these services that simply isn't possible.

3.9.1.5 Visited June 2024

3.9.2 **If you need medication. Don't go there**

3.9.2.1 ★

3.9.2.2 Rated 1 star out of 5

3.9.2.3 by Anonymous - Posted on 04 August 2023

3.9.2.4 After waiting 20 minutes I was told they could not do my prescription until next Wednesday "we are far too busy". To say they are rude would be an understatement. Never again will I take a prescription there.

3.9.2.5 Visited August 2023

3.9.3 **Horrendous**

3.9.3.1 ★

3.9.3.2 Rated 1 star out of 5

3.9.3.3 by Anonymous - Posted on 26 April 2023

3.9.3.4 I went to collect a prescription yesterday which had been sent over from my Drs yesterday afternoon to be told it wasn't ready. I explained I was in a lot of pain & asked if I could wait for it to be told no (it was close to them closing). I explained I would be back this morning to collect. I returned this morning to be told it still wasn't done so I asked if I could wait for it as I really did need it urgently & was told no it will be a while before it is done. I then asked what was the difference in me walking in with the prescription & handing over, to one that they had already got & asked if I'd have got it yesterday if I had done this to be told no because the person was on their own!! Surely if someone walked in with an emergency prescription they should / could do it. They then gave me my prescription back to take elsewhere (I should've been clever & walked to the back of the queue to then be served to see if that worked). The staff are rude, unhelpful & never happy. Needless to say I went to a different pharmacy (Lloyds) & the staff couldn't be more helpful & really pleasant & even smiled (it isn't difficult). I asked if I could have them as my nominated pharmacy they confirmed I could & within 5-mins it was set up with my Drs. I would discourage anybody to use this pharmacy.

3.9.3.5 Visited April 2023

3.9.4 Awful Pharmacy

3.9.4.1 ★

3.9.4.2 Rated 1 star out of 5

3.9.4.3 by Anonymous - Posted on 24 February 2023

3.9.4.4 The service is poor, they either say they haven't received the request for a prescription, or cannot find it. Most of the staff are rude, they appear to not care at all. I changed my repeat prescriptions to a different pharmacy, courtesy and diplomacy cost nothing.

3.9.4.5 Visited February 2023

3.9.5 Hopeless

3.9.5.1 ★

3.9.5.2 Rated 1 star out of 5

3.9.5.3 by [redacted] - Posted on 15 July 2024

3.9.5.4 Same problem every month, sit on the phone trying to order a repeat only to have the phone put down as soon as you actually make it to the front of the queue. Today I have been connected and 'number 1 in the queue' on three occasions, only to be cut off after 5 minutes of waiting. Report a phone issue to staff and they treat it as an inconvenience and make out it hasn't happened to anyone else. Load of rubbish.

3.9.5.5 Visited July 2024

3.10 Most patients are not aware of how to complain directly to Coventry and Warwickshire ICB. There are however plenty of Google reviews of patients complaining of poor access and service:

3.10.1 10 reviews

3.10.2 9 months ago

3.10.3 I like to support local businesses, so I use Paddox Pharmacy whenever possible. I urgently needed my mother's antibiotics which were prescribed last Friday afternoon, and went to PP to get them, but there was a long queue and only one person serving, so I did another task and then went back half an hour later. There was still a long queue and still only one person serving despite there being at least five members of staff in the shop. When I eventually got served, I was told it would be an hour wait (and this is for 'off the shelf' medicines), so I decided to go back the following morning to get them; which was Saturday. I made yet another special trip on Saturday morning, only to find them closed for the weekend, and having already given them the prescription, this precluded me from getting another from someone else. They used to open on Saturday and this represents a downgrade in customer service and I blame the management, not the people serving. It's sad to say, but in future I will have to get prescriptions online or at a different pharmacy if this is the way customers are to be treated.

3.11 **Schools**

- 3.12 There are two schools in Houlton, Rugby. These schools have resulted in many people travelling into Houlton for their children to attend both the primary and secondary schools (1500 + students).
- 3.13 These children would significantly benefit from immediate access to the Pharmacy First service, particularly for conditions such as impetigo, acute sore throat, otitis media, and other conditions covered by the service. Additionally, a large number of adult residents would benefit from the hypertension case-finding service.
- 3.14 *"There are 2 buses, numbers 1 and 96, which travel to and from Rugby Town Centre every 1-2 hours travelling past the nearest two pharmacies and GP practices."*
- 3.15 Residents within Houlton, particularly those with specific needs such as the elderly, parents with children (potentially over 1500 individuals), wheelchair users, or patients with mobility issues, are struggling to access OTC advice, Pharmacy First services, essential services, and Advanced Pharmacy services. This difficulty is exacerbated by the fact that a bus journey could take up to two hours each way, plus additional waiting time to be seen.
- 3.16 *"Rugby council has a specific demand led adapted bus service run by Indigo Limited. This service is available for Monday to Friday between 9am and 3pm, travelling to and from Rugby town centre. Any person with protected characteristics in the Rugby area can telephone Indigo and be collected at the number 1/96 bus stop close to the proposed location."*
- 3.17 Patients will need to register for the service and may be required to pay, which not all individuals can afford. Additionally, all bookings are subject to availability, meaning there is no guarantee that patients can access the service when urgently needed. Furthermore, the service is only available until 3 p.m., and patients requiring assistance after this time will have no access to pharmaceutical services until the following day at the earliest, subject to availability.
- 3.18 The current ratio of pharmacies per 10000 is below the average of 2.
- 3.19 https://lginform.local.gov.uk/reports/lgastandard?mod-metric=3707&mod-area=E07000220&mod-group=AllDistrictInRegion_WestMidlands&mod-type=namedComparisonGroup&mod-period=1 [Appendix B for Committee]
- 3.20 There is currently a home care service provided from within the area.
- 3.21 <https://www.nhs.uk/services/care-provider/rugby/X172870/care-provided>
- 3.22 The services and specialisms listed are:
- 3.23 Care services for people with dementia, caring for adults over 65, Caring for adults under 65, Sensory impairments.
- 3.24 This would suggest there are patients with protected characteristics who would benefit with pharmacy services within their vicinity.
- 3.25 In conclusion, we feel we have demonstrated the need for a pharmacy to be established at our proposed site. The proposed site is expected to alleviate the current burdens on the NHS within the vicinity and to help ease the pressure on other local pharmacies."

ANNEX B**REF: SHA/26462**

**APPEAL AGAINST COVENTRY AND WARWICKSHIRE
ICB DECISION TO REFUSE AN APPLICATION BY
HOULTON COMMUNITY SERVICES LIMITED FOR
INCLUSION IN THE PHARMACEUTICAL LIST
OFFERING UNFORESEEN BENEFITS UNDER
REGULATION 18 WITHIN 200 METRES OF CO-OP
HOULTON, ORCHARD HOUSE, RUGBY, CV23 1AL**

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1 The Application

By application dated 30 January 2024, Houlton Community Services Ltd ("the Applicant") applied to Coventry and Warwickshire ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 within 200 metres of Co-Op Houlton, Orchard House, Rugby, CV23 1AL. In support of the application it was stated:

- 1.1 In my/our view this application should not be refused pursuant to Regulation 31 for the following reasons:
- 1.2 [This section was left blank].
- 1.3 Information in support of the application:
- 1.4 "Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area.
- 1.5 This application is being made for a pharmacy to be located within a 1200 acre development known as Houlton located on the site of the former Radio Station near Rugby between the villages of Clifton upon Dunsmore and Hillmorton.
- 1.6 As regards to Pharmaceutical Services Provision the nearest pharmacies are 3 miles to the West in Central Rugby of which two pharmacies have recently closed. The nearest pharmacies to the South are in Daventry and Southam 13-15 miles away. The nearest pharmacies to the North are in Lutterworth nine miles to the North. To the East the nearest Pharmacies are at Long Buckby and Guilsborough 9 to 10 miles away respectively. There are a multitude of villages to the North, East and South of Houlton whose first port of call when accessing Rugby would pass on arterial roads on the North East or South of Houlton borders. A pharmacy established at Houlton would be of significant benefit to these villages as well as the residents of Houlton. Within two or three miles of the Houlton Development to the East is one of the greatest concentrations of Logistical Hubs including one of the largest railway freight hubs in Europe DRIFT [sic]. Immediately to the South of Houlton, the other side of the A428 will be established a new railway station to be called Rugby Parkway station. This will obviously encourage an uptake of house purchases by residents able to commute to Northampton, Coventry and London.
- 1.7 There are currently no Pharmaceutical or Medical Providers within the Houlton Development. A new community pharmacy built on the current development can take advantage of the Pharmacy First Initiative and supply walk in pharmaceutical and medical services as outlined in the Pharmacy First portfolio in general, and contraceptive services in particular. This will be of significant benefit to the residents and providing unforeseen benefits anticipated by the PNA's.

- 1.8 The project developers are Urban & Civic and their partners Aviva. 11 house builders are currently or have been involved in the project which will deliver the following facilities:
 - 1.8.1 Circa 7000 homes across 473 hectares
 - 1.8.2 A population of circa 17000
 - 1.8.3 Three new primary schools and one secondary school
 - 1.8.4 A medical centre for 8 GPs
 - 1.8.5 Employment opportunities including a co working centre
 - 1.8.6 A district centre plus 3 local centres
 - 1.8.7 A David Lloyd Leisure Centre
 - 1.8.8 Several restaurants and shops
- 1.9 One primary school (St. Gabriels Academy) plus a nursery school, one secondary school, Houlton School. One local centre (Dollman Farm) has already been built including a Supermarket, coop, two restaurants, a second nursery(Old Station Nursery) and a Community Centre. The David Lloyd Leisure Centre is up and running. A hot desk co-working centre has also been established.
- 1.10 Phase 1 of the development commenced in 2016 which delivered circa 500 homes and the first of 3 new primary schools. The first of the house building companies on site (Davidsons Homes, Morris Homes and Crest Nicholson) saw the first residents moving into their new homes in the Summer of 2017.
- 1.11 Phase 3 of the development has commenced and many more houses are being built now that there are more builders on site.
- 1.12 Additional builders include William Davis, Civic Living, David Wilson, Midland Heart, and Redrow making a total of 8 building developers currently on site. Almost all of the infrastructure has now been completed.
- 1.13 The Pharmaceutical Needs Assessment published in 2018 and 2021 despite the fact that Houlton was well under way by 2017 were silent about Houlton and its relevance to the need for Pharmaceutical Services.
- 1.14 Notwithstanding the above comment we will draw the attention of the committee to the following pages of the 2018 PNA:
- 1.15 Page 38 '*whilst the PNA is silent about the Houlton development Figure 8: Housing development schemes in Warwickshire and Coventry clearly shows that Houlton is the biggest development in Warwickshire*'
- 1.16 Page 39 states '*with a growing and ageing population, Warwickshire is predicted to see a significant increase in numbers of long-term conditions. People with long term conditions are more likely to see their GP, be admitted to hospital, stay in hospital longer, and need more help to look after themselves than people without long term conditions. Improving the health outcomes of people with these conditions would help reduce premature mortality in Warwickshire.*
- 1.17 *As well as meeting HWB strategy objectives around enabling people to manage and maintain their physical and mental wellbeing.*' This is significant as the population is

aging and as stated on Page 33 of the PNA, often much of the time spent in old age is in relatively poor health. This will be as relevant to healthcare provision in Houlton as anywhere else.

- 1.18 Page 79 of the 2018 PNA states. *'The PNA concludes that there is adequate provision of pharmaceutical services in Warwickshire to serve the needs of the population. There are however differences in pharmaceutical services available across the county.'* Furthermore, the Executive Summary on Page 6 states:
- 1.19 *'During the period of 2018-2021 an estimated 13,600 houses will be built in Warwickshire. In areas of significant development and population growth, additional future pharmacy provision will need to be considered.'* With the development at Houlton expected to expand to 7000 new homes, we would say that this is an area of significant development which fully justifies additional pharmacy provision.
- 1.20 There has been significant agitation by local residents, councillors and the local MP regarding the lack of and need for both pharmaceutical and medical services in the Houlton development. The applicant has received circa 12 direct communications from residents supporting the need for a community pharmacy as well as support in face to face meetings with the local councillor and MP.
- 1.21 Access
- 1.22 The [former] MP for Rugby Mark Pawsey is a firm supporter of Houlton and its infrastructure. Sadly, he states that he has received several complaints from his Houlton constituents regarding the lack of health care both pharmaceutical and medical in Houlton and the need to bring it forward. He has raised this matter in the House of Commons and to the Minister for Housing and Planning The Right Honourable Lucy Frazier KC MP. He has corresponded in support of our application for pharmaceutical consent at Houlton.
- 1.23 [Copy of letter from Mark Pawsey [former MP of Rugby] dated 19 October 2023 embedded into application:]
- 1.24 "To whom it may concern
- 1.25 Re Application for a pharmacy in Houlton
- 1.26 I would like to support the application from Houlton Community Services Limited for a licence to open a pharmacy in Houlton, Rugby.
- 1.27 Rugby has recently seen the closure of two pharmacies, which has put significant pressure on existing pharmacies. Since these closures, I have received a number of representations from local residents to raise their concern about the pressure on pharmacies in Rugby, particularly at a time when pharmacies are being asked to do more to relieve pressure on General Practice.
- 1.28 As Rugby's newest community, it is important that Houlton residents are able to access the services they need. Although the link road and schools in Houlton were brought in ahead of schedule, health infrastructure has lagged behind and a pharmacy would provide a significant benefit to local residents."
- 1.29 We have provided our best estimate for the location of our proposed premises in 2 above which will be towards the south-east of the development in Local Centre 3, at or close to the established Coop store.
- 1.30 Homes at Houlton have increasingly become occupied since 2017. We would say that a community pharmacy should be available to these residents during the maturing

development. However, we do recognise that as the development continues to grow, the hub of the community may change. We will therefore endeavour in our negotiations to work with the developers so that we are sufficiently flexible to relocate the pharmacy at some future point to ensure that the pharmacy is accessible for all residents as the Houlton development nears final completion.

- 1.31 The proposed location will provide the following facilities:
 - 1.31.1 Pharmaceutical services to all patients accessing the locality
 - 1.31.2 Safe and sufficient car parking facilities
 - 1.31.3 We will facilitate access for all patients with mobility issues in line with the Equality Act
 - 1.31.4 A minimum of one private fully equipped consultation room
 - 1.31.5 Pharmaceutical services closely integrated with clinical services
- 1.32 We have stated our proposed opening hours At the time of preparing this application, there is no indication of the likely opening times of the medical facility. We will commit to those core hours stated ... as our minimum opening hours and will further commit to extending these beyond the published surgery hours so that pharmaceutical services remain available for any overrun of GP appointments.
- 1.33 We plan to ensure that Advanced Services will be made available to any patients who are housebound. To date, there are eight advanced services within the NHS Community Pharmacy Contractual Framework (CPCF). We do meet the requirements set out in the Secretary of State Directions to provide the following:
- 1.34 Community Pharmacy Consultation Service (CPCS), Flu Vaccination Service, Pharmacy Contraception Service (PCS), Hypertension case-finding Service, New Medicine Service (NMS), Smoking Cessation Service
- 1.35 In accordance with Regulation 11 [paragraph 9(c)(ii) of Schedule 2] NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, we will provide all Essential Services:
 - 1.35.1 Dispensing
 - 1.35.2 Repeat dispensing
 - 1.35.3 Disposal of unwanted medicines
 - 1.35.4 Promotion of healthy lifestyles
 - 1.35.5 Signposting and support for self-care
 - 1.35.6 Home delivery of stoma and incontinence supplies – including the provision of Appliance Use Reviews (AURs)
- 1.36 We will also supply the Pharmacy First Initiative Service (launch date January 2024) which will be a new advanced service that will include 7 new clinical pathways and will replace the CPCS. The clinical pathways element of Pharmacy First will enable the designated pharmacist to offer advice to patients and supply NHS medicines, where appropriate to treat 7 common conditions: sinusitis, sore throat, earache, infected insect bite, impetigo, shingles, uncomplicated urinary tract infections in women. Pharmacy First will be delivered remotely where it safe to do so, and with suitable

safeguards to ensure a face-to-face clinical assessment is provided in person. The above will be available from the initial opening of the pharmacy. Services will be targeted towards compliance, reduction in medicine waste (resulting from noncompliance), and health promotion will be promoted vigorously as part of our strategy to ensure that young families as well as the over 65's are comprehensively catered for.

- 1.37 In accordance with Regulation 11 [paragraph 9(d) of Schedule 2], we will provide Directed Services identified in 4 above, and as per service specifications determined by NHS England, Warwickshire Health & Wellbeing Board and Public Health England. The essential services we will provide in compliance with the NHS Community Pharmacy Contractual Framework are:
- 1.37.1 New Discharge Medicine Service
 - 1.37.2 Dispensing Medicines
 - 1.37.3 Disposal of unwanted medicines
 - 1.37.4 Healthy Living Services
 - 1.37.5 Public Health Promotion
 - 1.37.6 Repeat Dispensing
- 1.38 The advanced services we provide are quoted in paragraph [Paragraph 1.34 above]
- 1.39 We will also be able to provide support to patients on opioid substitution Treatment (OST) by offering the following services:
- 1.39.1 Needle exchange
 - 1.39.2 Supervised administration of OST (i.e. Methadone, Buprenorphine)
- 1.40 We will respond positively and participate in new initiatives. We recognise that Primary Care and specifically pharmacy can, through well targeted advice reduce pressure in terms of resources and costs which impact on other parts of the NHS.
- 1.41 The permanent Responsible Pharmacist will be qualified as a Pharmacist Prescriber to facilitate a wider range of services within their sphere of expertise available without the need to wait for an appointment to see a GP and thereby streamlining patient pathways where a pharmacist is clinically trained. We have identified a prospective registered pharmacist who is a pharmacist prescriber with extensive clinical experience who is actually living in Houlton. In principle she is prepared to manage the community pharmacy.
- 1.42 We will work closely with clinicians and commissioners to ensure a high-quality medicine optimisation service is available with a particular focus on elderly patients. The objective will be to improve patients experience with regard to their medication regime, reduce referrals and reduce A&E admissions – particularly as a result of falls. This will involve regular and close monitoring of patients and carers – providing support in instances where patients experience compliance difficulties.
- 1.43 We will work towards 'Healthy Living Pharmacy' status which will enable our pharmacy to project those services intended to provide support and advice in relation to lifestyle behaviours; healthy eating, exercise, smoking cessation.

- 1.44 The pharmacy will support the best interests of patients while at the same time seeking to reduce the demand on clinical services. We will comply with all current contractual requirements including Healthy Living Pharmacy and Pharmacy First.
- 1.45 The Houlton development at the former Radio Station site is providing new homes on the outskirts of Rugby on a significant scale with over 7000 homes and a population of circa 17000. A community with its own dedicated facilities including schools and a medical centre. We believe there is full justification for these facilities to include a community pharmacy to meet the specific needs of Houlton residents. There have been several press releases by the developers and the local MP strongly supporting the establishment of pharmaceutical medical services in Houlton. This was strongly outlined in SHA/25828 the last NHS Resolution appeal.
- 1.46 This development was not foreseen in the 2015 PNA although other existing pressures on established services were acknowledged together with the anticipated 'natural' future population growth due to both a higher birth rate and people living longer. The proposed pharmacy will offer the Houlton community easier and more convenient access as well as choice of pharmaceutical services. More particularly it was not foreseen in the 2018 PNA, the PNA Update dated 7th July 2021 and October 2022 PNA.
- 1.47 The pharmacy will seek to work closely with clinicians to ensure pharmaceutical services are effectively targeted to benefit the needs of the community. We recognise that in this particular development it is not unusual for the demographic profile to be biased towards young and growing families, and we will direct our services accordingly. The Pharmacy First Initiative will be of significant benefit to this cohort.
- 1.48 This development can easily support a pharmacy and therefore a pharmacy in Houlton will not cause significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of the Warwickshire Health and Wellbeing Board in general or within the locality of Rugby in particular [NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 Regulation 18 (2a)]
- 1.49 It is the company's intention that we will see this application through to opening and establishment. This process we accept is a long-term commitment. No other party has any financial interest in this project. The project is independent of the developers Urban and Civic and any medical practice.
- 1.50 It is not in dispute that the locality is urban (uncontrolled) and although the number of residents is already significant the extensive house building will dramatically and quickly increase the demand for both Medical and Pharmaceutical Services in Houlton.
- 1.51 It is not in dispute that there are no Pharmaceutical Providers close enough to be able to provide Pharmaceutical Services to both the new residents and the villages to the North, South and East of Houlton. The nearest pharmacy to the West is 1.7 miles with very limited parking and difficult disabled access.
- 1.52 It is necessary for the benefit of persons with protected characteristics and for access to Pharmaceutical Services for a grant to be given in the locality of Houlton. We have defined sub groups of people with protected characteristics as families with young children as well as the elderly. These sub groups may be resident in Houlton, visiting St. Gabriel's Academy or the Houlton secondary school and the David Lloyd Leisure Centre or the Coop supermarket or resident in the catchment areas to the North, South and East of Houlton visiting Houlton to access the comprehensive facilities. It is likely that Houlton will become a hub for the villages in close proximity such as Barby,
- 1.53 Because of the large numbers of new houses being built in the locality complete with infrastructure including, four schools and eight G.P partnered surgery, a pharmacy in

Houlton will be viable and successful. There are also significant building developments in Barby, Kilsby and West Haddon the North entrance of Houlton there is also a significant housing development nearby at the St. Mowden site. Hence our application.

- 1.54 We see the Pharmaceutical Services provided by our pharmacy being taken up by three cohorts of patients:
- 1.54.1 Existing residents of the villages in the catchment areas to the North, South and East which are all rural without the benefit of a medical or pharmaceutical provider.
 - 1.54.2 Patients within the development at Houlton. With particular emphasis on the particular sub groups with protected characteristics, young families with children and the elderly.
 - 1.54.3 Workers and transport drivers accessing the major and significant logistical parks to the North, South and East in Houlton and DRIFT [sic] one to four and DRIFT [sic] East. Whilst it is uncertain because of the continued expansion of the various parks how many are or will be employed across the various sites, but clearly, the working community commuting into the area when combined with those who live within the new development will be the equivalent of a small town. The logistics site will have occupational health professionals who in turn will have need of a full range of pharmaceutical services including basic and advanced first aid products.
 - 1.54.4 The Tuning Fork restaurant in Houlton is a very obvious example of a service which almost from the outset has proved to attract users from both the immediate area and further afield. We believe an effectively marketed pharmacy would enjoy a similar growth pattern.
- 1.55 We have participated in confidential discussions with a Rugby Surgery whom are anxious to establish a four G.P partnered branch surgery in Houlton for the benefit of their patients to the North East, East and South-east of Rugby. All the Rugby surgeries are struggling with access and capacity. The plan is to open a temporary surgery for four partners on the first local site and then as the population numbers grow to relocate to an eight partnered G.P surgery on the main infrastructure site.
- 1.56 It is for similar reasons of capacity and access that St. Gabriel's Academy was built well in advance of the population of Houlton to serve the deficiencies in educational services provision in the East of Rugby.
- 1.57 We of course have at least 12 months and possibly 15 months with the discretionary extension before the consent (if granted) expires which will allow for further development and marketing by ourselves to the commercial developments and villages in the catchment areas of Houlton.
- 1.58 We have been in constructive discussions with the principals of Urban and Civic Houlton development team. They have a mandatory obligation to all the builders to provide prompt and specified infrastructure, including Medical and Pharmaceutical Providers. Urban and Civic only receive payments for the plots once the houses are sold and receive a percentage of the sales price. Urban and Civic therefore have a strong incentive to maximise the speed of development of Houlton. Urban and Civic envisage the following scenario:
- 1.58.1 That we start in a bespoke pharmacy porta-cabin on a temporary accessible convenient site if the CoOp site is unavailable. There is precedent for this with two of the builders Davidsons and Crest Nicolson who before their show homes were built resided in porta-cabins. We would be rent free for this period.

- 1.58.2 We then move the pharmacy to a retail unit in the first local centre adjacent to the four partnered G.P Branch Surgery. Planning permission has been granted for this. We would pay a concessionary rent to Urban and Civic.
- 1.58.3 When the main infrastructure hub is built both the medical practice and ourselves would relocate and collocate to it. We would then pay a market rent to Urban and Civic.
- 1.59 The first homes were built in 2017 together with the first of three primary schools plus other community facilities. Taking account of the time and the necessary due diligence involved in processing market entry applications, we would suggest that now is an appropriate time to consider the clinical and pharmaceutical needs of this new community. We understand approaching 3000 houses have now been completed. In a press release of 25th January 2023 the local M.P and the Chief Executive of Urban and Civic (the developers) both stated the need to bring forward primary care provision at Houlton to help support the growing population there.
- 1.60 Houlton will be a distinct community bordered by the A5 and the A423 with its own district centre and 3 further local centres. The nearest established pharmacy outside of the Houlton community is just under two miles distant on Hillmorton Road (as measured from the Houlton CoOp Convenience store) while other providers will be in excess of 3 miles away to the west of the development. The established providers are dispensing above the national average number of prescription items per month to their existing communities. A pharmacy located within the new development will be easier and more convenient to access – especially once the medical centre is operational.
- 1.61 The demographic profile of the new development is weighted towards young and established families, rather than those who have reached retirement age. This is further supported by the fact that the development justifies 4 new schools. While the proposed pharmacy will cater for all needs within the community, our business and marketing plan will recognise the needs of families and young children as a distinct group who will require access to high quality pharmacy services.
- 1.62 Just one mile to the East of Houlton is a Ibis hotel close to Junction 18 of the M1. This large hotel is now a Home Office designated residence for Asylum Seekers.
- 1.63 The majority of the Asylum Seekers are families with young children and have significant pharmaceutical and medical needs. The numbers are a substantial cohort of persons with Protected Characteristics. A pharmacy at Houlton in such close proximity will be a vital benefit to them.
- 1.64 The Ibis Hotel is actually situated within the parliamentary constituency of Daventry and the parish of Crick. We understand from local politicians that there have been complaints regarding pharmaceutical and medical service to the asylum seekers. We believe we are reliably informed they like their Rugby counterparts will be adducing written support of a pharmacy at Houlton to address needs.

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

- 1.65 Summary
- 1.66 In considering whether the granting of the application would offer significant benefits we would say that currently there is not a reasonable choice with regard to obtaining pharmaceutical services. There is evidence of people (living in Houlton and the surrounding villages) sharing a protected characteristic having difficulty in accessing pharmaceutical services.

- 1.67 We would say it is necessary for the benefit of persons with protected characteristics namely families with young children and senior citizens downsizing relocating to Houlton for access of Pharmaceutical Services for a grant of consent for a pharmaceutical application to be given in the locality of the CoOp convenience store at Houlton.
- 1.68 Additional demand for medical and pharmaceutical services is also expected from employees of large-scale businesses which have and continue to be established nearby – specifically those involved in the logistics sector.
- 1.69 There is clear need for the provision of access of Pharmaceutical Services to the very large numbers of asylum seekers situated at the Ibis hotel only one mile outside of Houlton.
- 1.70 Conclusion
- 1.71 We therefore respectfully request that on at least the balance of probabilities the committee in their report to NHS England should recommend that NHS England should state that they grant the pharmaceutical application before them by Houlton Community Services Ltd. We invite them to do so.”

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 24 December 2024 states:

- 2.1 “Coventry and Warwickshire ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.
- 2.2 You have a right of appeal to the Secretary of State against Coventry and Warwickshire ICB’s decision. Should you choose to appeal then you should either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:
- 2.3 Primary Care Appeals, NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU”

Decision report

- 2.4 “Actions from the Pharmacy Services Regulations Committee 09 December 2024.
- 2.5 Meeting date 09.12.24
- 2.6 Unforeseen Benefit Application
- 2.7 Houlton Co-op, Orchard House, Clifton Upon Dunsmore, Rugby, CV23 1AL
- 2.8 The pharmacy proposed to be located at either the above address or within 200 metres of CV23 1AL
- 2.9 CAS-263336-D4R6D3
- 2.10 The application is refused as;

18 1 a and b Must secure improvements, better access or demonstrate unforeseen benefits

- 2.11 Improvements, better access or unforeseen benefits have not been demonstrated.
- 2.12 The Warwickshire PNA 2022-2025 states;
- 2.13 Page 7 There is sufficient provision of pharmacies across Warwickshire including Houlton.
- 2.14 Page 83 Pharmacies within Warwickshire are well geographically distributed. Opening hours indicate a good level of access during usual working hours, evenings and across weekends.
- 2.15 A supplementary statement was produced in June 2024. This statement can identify areas where there is a gap in services or that an additional pharmacy would improve access and provide unforeseen benefits. The statement did not identify any gaps in any part of Warwickshire including Rugby. This statement was despite the closure of several pharmacies across Warwickshire.
- 2.16 Page 89 states that regarding essential services there are “no gaps in the provision of essential services for Warwickshire”

18 2 a i and ii Granting the application would cause significant detriment to the proper planning and provision of services

- 2.17 The PNA is Warwickshire’s plan for the provision of pharmaceutical services and is based on significant analysis and patient consultation. Houlton is not mentioned in the PNA or supplementary statement as either a gap in pharmaceutical services or an area where an additional pharmacy would secure better access, improvements or unforeseen benefits.

18 2 b i [sic] Is there reasonable choice in obtaining pharmacy services

- 2.18 There are 12 pharmacies within 5 miles of the proposed location including 2 former 100 pharmacies -Tesco’s 78 hours and Asda 72 hours. There is no GP surgery in Houlton and patients have to travel out of the area. The 2 nearest GP practices are located within 3 miles of the proposed location. They are adjacent or close to the nearest pharmacies.
- 2.19 Coventry and Warwickshire ICB and the Office of the West Midlands have received no complaints during Q1 of 2024 regarding the lack of pharmaceutical provision, access or parking in and around the pharmacies in Rugby including [sic]
- 2.20 The ONS Census data 2021 identifies that Houlton is within the Hill Morton ward. The key indicators are;
 - 2.20.1 75.6 % own their own house with or without a mortgage
 - 2.20.2 85.8% own more than 1 car or van
 - 2.20.3 1.4% use public transport
 - 2.20.4 77% stated that they were not disabled under the Equality Act.
 - 2.20.5 The lay members report noted that the majority of the houses were 1-5 bedroomed properties with single or double garages with space for additional cars.
 - 2.20.6 There is no temporary or permanent GP surgery in Houlton and no planning application.

- 2.20.7 There are no residential or nursing homes or financial /commercial services in Houlton. Residents have to travel out of the area and to Rugby Town Centre to access these services.
- 2.20.8 There are 2 buses, numbers 1 and 96, which travel to and from Rugby Town Centre every 1-2 hours travelling past the nearest two pharmacies and GP practices. The bus stops are located on the A426 with flat and wide pavements from the proposed location.
- 2.20.9 The applicant does not propose any core hours into the evenings or weekends. Residents have to travel to the nearest pharmacy and the town centre where Asda is open into the evening and across weekends.

18 2 b iii [sic] People who share a protected characteristic have difficulty in accessing pharmaceutical services.

- 2.21 The applicant has provided no evidence that people with a protected characteristic have difficulty in accessing pharmaceutical services.
- 2.22 The ONS Census data demonstrates that the Houlton population is highly mobile.
- 2.23 For residents with protected characteristics ie people with mobility difficulties, wheelchair users or mothers with buggies or prams; Rugby council has a specific demand led adapted bus service run by Indigo Limited.
- 2.24 This service is available for Monday to Friday between 9am and 3pm, travelling to and from Rugby town centre. Any person with protected characteristics in the Rugby area can telephone Indigo and be collected at the number 1/96 bus stop close to the proposed location.

18 2 b iii Innovative services

- 2.25 The applicant is proposing to provide the same essential, additional and locally commissioned services as the other pharmacies in Rugby. The applicant is proposing no innovative services.
- 2.26 **Applicant has the appeal rights”**

3 The Appeal

In a letter dated 15 January 2025 addressed to NHS Resolution, the Applicant appealed against the Commissioner’s decision. The grounds of appeal are:

- 3.1 “I write in my formal capacity as Superintendent Pharmacist Designate of Houlton Community Services Limited. On 24th December 2024 NHS England corresponded with us informing us that the above application had been refused. They also refused a competing concurrent application by J T Health Limited.
- 3.2 On behalf of the applicant, Houlton Community Services Limited, we would like to appeal the above decision.
- 3.3 We would say that PCSE on behalf of the ICB and NHS England misdirected themselves in refusing our application. For the following reasons:
 - 3.3.1 Whilst the determining body must have regard to the PNA, that is not the applicable test. They have to decide whether our application meets the parameters of unforeseen benefit (Regulation 18) not included in the current PNA.

- 3.3.2 That too much weight was placed on the PNA rather than the evidence submitted by various parties in general and the reality of this major housing development in particular.
- 3.3.3 That too much weight was placed on lack of Medical Services in the Houlton Development rather than the lack of Pharmaceutical Services and the need for a Pharmacy First Service in Houlton.
- 3.3.4 That Houlton is devoid of Pharmaceutical and Medical Services.
- 3.3.5 That to the South, North and East of Houlton there are no Pharmaceutical Services within 40 minute's drive. All the Rugby pharmacies are based in Rugby town centre with problems of access and parking, in any case they are situated three miles away.
- 3.3.6 The poverty of transport links between Houlton and the existing contractors in Rugby town centre. Many residents of Houlton commute to London, Northampton, Coventry and Birmingham. Many houses share one car and during the day mothers with young children (a protected characteristic cohort) will have difficulty accessing Pharmaceutical Services.
- 3.3.7 Insufficient weight was placed on the current size of Houlton and the on-going building programme by several major National Builders. The Development will top out at 21,000 population.
- 3.3.8 Insufficient weight was placed on the communication from the local MP Mark Pawsey and other local County Councillors as amplified by a letter adduced by us in our application. Also, there was a press conference in Houlton by Mark Pawsley supported by the relevant Minister of State promising Pharmaceutical and Medical Services in Houlton.
- 3.3.9 That the applicant has received several confirmatory emails from local residents complaining of lack of Pharmaceutical Services in Houlton. The lack of complaints by the ICB is no indicator of dissatisfaction rather that residents of Houlton, other than complaining to their current MP and County Councillors, were unaware of the existence of the ICB.
- 3.3.10 That with the pressure on GP Medical Services and the stated aim of the NHS to support the Pharmacy First Initiative that a Pharmaceutical Provider in Houlton is necessary.
- 3.4 Summary
- 3.5 For the above reasons we do not recognise that we have not demonstrated that our application would secure better access or demonstrate unforeseen benefits.
- 3.6 We do not agree that granting our application will cause significant detriment to the proper planning and provision of services as our application is outside of the PNA parameters.
- 3.7 For the above reasons we do not believe that there is a reasonable choice in obtaining Pharmacy Services.
- 3.8 We believe that we have shown people who share protected characteristics have difficulty in accessing Pharmaceutical Services.
- 3.9 Conclusion

- 3.10 We would say that a Pharmaceutical Listing and entry into NHS England's Pharmaceutical List should be granted on at least the balance of probabilities.
- 3.11 There is only a need for one contractor and that the grant should be made to Houlton Community Services Limited as our application is demonstratively superior to that of J T Health Limited.
- 3.12 That an Oral Hearing should be constituted by the Authority to see for themselves the magnitude of the Houlton Community and Development.
- 3.13 I look forward to hearing from you when you have accessed the papers. Please acknowledge this appeal."
