

9 May 2025

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**REF: SHA/26491**

**APPEAL AGAINST SOUTH EAST LONDON ICB DECISION TO GRANT A COMBINED APPLICATION FOR A CHANGE OF OWNERSHIP AND RELOCATION WITHIN A HWB AREA THAT DOES NOT RESULT IN SIGNIFICANT CHANGE TO PHARMACEUTICAL SERVICES PROVISION, IN RESPECT OF MEDISHARE HS LTD FROM BOOTS UK LTD, AT 196 – 198 TRAFALGAR ROAD, LONDON, SE10 9ER TO 3 – 5 WOOLWICH ROAD, LONDON, SE10 0RA**

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**1 Outcome**

- 1.1 The Pharmacy Appeals Committee (“Committee”), appointed by NHS Resolution, quashes the decision of the Commissioner and redetermines the application.
- 1.2 The Committee determined that the application should be granted.

A copy of this decision is being sent to:

PSC on behalf of Medishare HS Ltd  
Veale Wasbrough Vizards LLP on behalf of PE Logan Ltd  
PCSE on behalf of South East London ICB

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**1 The Application**

By application dated 18 July 2025, Medishare HS Ltd (“the Applicant”) applied to the South East London ICB (“the Commissioner”) with a combined application for a change of ownership and relocation within a HWB area that does not result in significant change to pharmaceutical services provision, in respect of Boots pharmacy at 196 – 198 Trafalgar Road, London, SE10 9ER to 3 – 5 Woolwich Road, London, SE10 0RA. In support of the application it was stated:

1.1 In response to why this application should not be refused pursuant to Regulation 31, the Applicant stated:

1.1.1 “There is no pharmacy in the same or adjacent premises.”

1.2 The Applicant provided an undertaking to provide the same services as those that the current owner is providing by ticking “yes” in answer to question 7.1 on the application form.

1.3 The Applicant provided an undertaking that there would be no interruption to service provision by ticking “no” in answer to question 7.2 on the application form.

“Background

1.4 Our client has recently reached agreement to acquire a pharmacy which is located at 196 – 198 Trafalgar Road and is owned by Boots UK Limited. A requirement of the sale that the buyer finds alternative premises for the ‘NHS contract’ as the lease for the existing premises is close to an end and the Landlord does not wish to renew.

1.5 Our client has now identified suitable premises located a short distance away and has therefore instructed PSC to submit this application for a combined change of ownership and no significant change relocation.

Local Area

1.6 The current location for the pharmacy is on Trafalgar Road in East Greenwich, south-east London.

1.7 The pharmacy is currently located within a typical London suburban shopping area with supporting businesses in the immediate locality largely comprising convenience stores

/ supermarkets, cafes, takeaways, restaurants and a range of independent retailers and other businesses.

- 1.8 Most of the buildings nearby are three or four storey properties and many have offices or flats above the commercial premises on the ground floor.
- 1.9 In common with London generally, this is not a location patients typically visit by car as parking in the area is very limited. The majority of people visiting the area do so because they live, work or shop nearby and those that travel here from further afield do so by public transport on the whole. The existing and proposed sites are not close to a tube or train station (with Maize Hill being the nearest train station 500m away) but the area is well served by buses and there is a bus stop outside the existing premises.
- 1.10 We discuss public transport in more detail later.
- 1.11 The proposed site is located approximately 180m to the north-east of the existing site, on Woolwich Road. Given the proximity of the two sites, the character of the area around the proposed location is very similar to the existing location as the supporting trade is essentially the same.
- 1.12 The only notable difference is that the proposed premises are opposite The Greenwich Centre, a modern building which houses a leisure centre, a library and a medical centre as well as a large number of apartments.
- 1.13 As with the existing location, parking nearby is limited, so residents and visitors typically travel here on foot or by public transport. There is a bus stop within 60m of the proposed premises. As with the existing site there are no tube or train stations nearby.
- 1.14 The topography of the area is flat, as can be seen from the map [see Appendix A] where the current site is marked with a blue star and the proposed site is marked with a red star. It is clear that there are no barriers to movement for pedestrians by way of any hills or inclines.
- 1.15 There are dropped kerbs, wide pavements and street lighting throughout the area and all major roads benefit from light-controlled pedestrian crossings. Movement for pedestrians is very straightforward around the whole area.
- 1.16 The nature of the area can be seen in the aerial image [see Appendix A] where again the current site is marked with a blue star and the proposed site is marked with a red star.
- 1.17 The image [see Appendix A] shows the journey between the existing and proposed sites and provides an estimated walk-time of 3 minutes.
- 1.18 The journey would take no more than 1 minute by car and 2 minutes by bus depending on the traffic conditions at any given time.
- 1.19 Whilst this journey is neither lengthy nor difficult, it is important to remember that Regulation 24 does not require the decision-making body to consider the distance or the journey between the sites. The accessibility test is whether the proposed site is significantly less accessible for the patient groups that are accustomed to accessing the existing site.

Part 8 of the application form

- 1.20 Regulation 24(1)(a) requires the ICB to consider whether:

*“for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible”*

- 1.21 We are required, therefore, to consider the patient groups who use the existing pharmacy and the impact of the relocation on each of them to ensure that the proposed location is not significantly less accessible.
- 1.22 NHS Resolution has produced a guidance note for use by its committees in respect of applications made under Regulation 24. This note gives specific consideration to the matter of patient groups and accessibility. In a recent judicial review of an application made under this regulation, Mr Justice Langstaff stated that he was broadly in agreement with the approach set out in this guidance note. Furthermore, he stated that patient groups should be defined in such a way that the decision maker can assess the impact of the proposed relocation on accessibility for those patient groups. For that reason, patient groups should not be defined arbitrarily but according to how and why people access pharmaceutical services.
- 1.23 Whilst the guidance note is not prescriptive in respect of patient groups, the following are provided as illustrations of matters that may be taken into account when defining them:
  - 1.23.1 local GP practices;
  - 1.23.2 methods of travel (on foot, by car, or public transport);
  - 1.23.3 types of pharmaceutical services accessed (dispensing/collection and delivery);
  - 1.23.4 the location of the patient group's geographic starting point of the journey to the pharmacy;
  - 1.23.5 demography;
  - 1.23.6 care homes; and/or
  - 1.23.7 areas of deprivation
- 1.24 Taking these factors into account our client's proposed patient groups are as follows:
  - 1.24.1 Patients who use the existing pharmacy location because it is close to home.
  - 1.24.2 Patients shopping or working in East Greenwich or using other nearby amenities.
  - 1.24.3 Patients registered with local surgeries.
  - 1.24.4 Patients who share protected characteristics.
- 1.25 The existing pharmacy has a relatively limited dispensing business. The pharmacy dispensed an average of 3,332 items per month for the 3 months to February 2024 (source: Pharmdata). This is less than half the item numbers dispensed by the average pharmacy in England. It is clear, therefore, that relatively few patients bring prescriptions to the pharmacy. Equally levels of provision for other pharmaceutical services are very low, with this business ranking amongst the lowest in the area for the provision of 'flu vaccinations.

- 1.26 It is clear, therefore that all patient groups are relatively small. However we are required to consider all relevant patient groups, regardless of their size. For each of these patient groups we have considered the implications of the proposed relocation. These comments apply whether people from these patient groups are attending a pharmacy to receive a prescription, access another pharmaceutical service or to purchase 'over the counter' medicines.

Patients who use the existing pharmacy location because it is close to home.

- 1.27 There is no delivery service provided so the NHS prescription business at the current premises originates from 'walk-in' patients.
- 1.28 Those patients who reside locally and wish to access the new premises will find that the journey is very straightforward. Some patients may find the proposed location is slightly closer to home and others slightly further away.
- 1.29 Regardless of their means of travel, patients accustomed to accessing the existing premises will not find the proposed location significantly less accessible due to the short distance between the two locations. Even for those who have further to travel, (an additional 180 metres at the very most), in our opinion this maximum incremental distance does not make the new premises significantly less accessible given the ease with which residents can move throughout the area, and do so as part of their daily lives.
- 1.30 For those local residents who travel around the area on foot, as discussed earlier the area is flat and benefits from wide pavements, controlled crossings and extensive street lighting.
- 1.31 Residents of all major cities, and those of London in particular, are accustomed to accessing many of the local amenities on foot so will not be troubled by the distance to the proposed location.
- 1.32 Typically people who live near the existing location are required to travel away from their home to go to work, college or to access most of the amenities they need. That being the case, they will not be troubled by the distance they would have to travel to the proposed location as they move freely throughout the city during their daily lives.
- 1.33 For any patients accustomed to accessing the existing premises by public transport, the proposed site is served by the same bus routes as the existing site. Patients will simply alight the bus one stop earlier or later depending on their direction of travel. The distance from the bus stop to the pharmacy is not material at either location and the cost of their journey will be no different.
- 1.34 Any patient who does travel by car can access the proposed site in less than 1 minute from the existing site. Neither site has dedicated car parking, so motorists will typically park on side roads where there is 'pay and display' parking or free parking for permit holders. The distance from where they park their car to the pharmacy will depend very much on where they are able to find parking spaces, but in any event it will not be materially different. Even if they parked their car then walked past the current premises on the way to the proposed premises, the additional journey on foot would only be 3 minutes.
- 1.35 So, in summary for this patient group, whilst the proposed location may be slightly further from home for some patients, it will be closer for others. It is in a highly accessible location, close to a range of amenities and even for those whose journey takes them past the existing location on the way to the proposed location, the journey is straightforward and will take no more than a few minutes on foot for most people.

This modest incremental distance does not render the proposed location significantly less accessible for any patients, and it is clearly not significantly less accessible for this patient group for the reasons provided.

Patients shopping or working in East Greenwich or using other nearby amenities

- 1.36 This patient group includes patients who attend the current location because they are visiting the shops, cafes or restaurants or other businesses nearby.
- 1.37 As discussed earlier, this area is the same as most parts of London in that there is a wide range of shops and other amenities spread throughout the area.
- 1.38 Some of these amenities are closer to the existing site and some are closer to the proposed site. However, it is clear that visitors to the area move freely throughout East Greenwich to access these amenities. It is noteworthy that the leisure centre and library, a focal point for the area, are opposite the proposed site.
- 1.39 For the reasons discussed above, it is straightforward for residents, workers and visitors to move around the area whether they are on foot, travelling by public transport or by car.
- 1.40 They will find that the proposed location is equally as accessible as the existing location whatever their means of travel.
- 1.41 Given that people may have travelled a significant distance to the area to access these amenities or to go to work, it is clear that an additional 180m journey at most to access the proposed location will not be material.
- 1.42 The regulatory test is whether this patient group finds the proposed location significantly less accessible and it is clear that it will not for the reasons we have provided.

Patients registered with local surgeries.

- 1.43 As we have explained previously, there is relatively little demand for NHS pharmaceutical services at the current location. Dispensing levels are low.
- 1.44 The two nearest GP surgeries to the existing location are shown on the map [see Appendix A]. These are the two surgeries that are the source for the greatest number of items dispensed by Boots. No other surgery accounts for more than 6.5% of the items dispensed.
- 1.45 As can be seen, one of these surgeries (Woodland Surgery) is closer to the existing site (blue star) and the other (Vanbrugh Group Practice) is closer to the proposed site (red star).
- 1.46 In February 2024 (the latest data available), items dispensed from these practices by the Boots pharmacy were as follows:

| Medical Centre          | Items dispensed by Boots | Percentage of all items dispensed by Boots |
|-------------------------|--------------------------|--------------------------------------------|
| Vanbrugh Group Practice | 1,416                    | 42.4%                                      |
| Woodland Surgery        | 998                      | 30.1%                                      |
| Others                  | 902                      | 27.5%                                      |

- 1.47 It is noteworthy that all surgeries listed as 'other' are more than half a mile away from the Boots pharmacy.
- 1.48 For patients travelling from these two medical centres to the proposed site, patients from Vanbrugh Group Practice will have a slightly shorter journey (75m instead of 250m) and those from Woodland Surgery will have a slightly longer journey (280m instead of 100m). In neither case will the difference in distance have any material effect on the accessibility of pharmaceutical services for patients who have attended an appointment at the medical centre.
- 1.49 Other surgeries are significantly further away in all directions so the distance from these surgeries to the existing and proposed sites is not materially different in the context of the overall journey.
- 1.50 For these reasons, and for those provided earlier in terms of the general accessibility of the proposed location, it is clear that for this patient group the proposed location cannot be considered to be significantly less accessible.

Patients who share protected characteristics

- 1.51 Every person shares at least one protected characteristic, i.e. they belong to a group that distinguishes them by age, race or any other characteristic. More commonly, however, in the context of Regulation 24, this relates to those who may be elderly, infirm or disabled i.e. matters that affect their mobility.
- 1.52 Given the proximity of the two locations, the level terrain, the wide pavements, tactile crossings for sight impaired patients and controlled crossings the area is easy to move around, even for those in wheelchairs or using mobility scooters.
- 1.53 Bearing in mind the proximity to the local amenities such as the library, many patients with reduced mobility will find the proposed location to be more convenient as they can access pharmaceutical services here when using the other amenities nearby.
- 1.54 As we have described earlier, the proposed location is highly accessible for users of public transport, being located a very short distance from a bus stop.
- 1.55 Patients who share protected characteristics will therefore find the proposed premises at least as accessible as the existing premises.
- 1.56 In summary, therefore, on Regulation 24(1)(a), there is no patient group that would find the proposed location significantly less accessible.
- 1.57 Regulation 24(1)(b) requires the ICB to consider whether:

*"in the opinion of the NHSCB, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list—*

*(i) in any part of the area of HWB1, or*

*(ii) in a controlled locality in the area of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;"*

- 1.58 In our opinion it is clear that granting this application will not result in a significant change to the arrangements currently in place. The proposed relocation is such a short

distance that it is unlikely to have a material effect on the provision of pharmaceutical services by other contractors on the area.

- 1.59 The existing and proposed premises are within a short distance of each other, and the existing services and opening hours will be maintained.
- 1.60 As the distance between the sites is short there is no reason to believe that dispensing patterns in the area will be affected in any significant way as a result of this relocation.
- 1.61 Patient groups accessing pharmaceutical services in the area will still be able to access them in the same way so there is no reason to suggest that this relocation it will result in a significant change to the arrangements in place.
- 1.62 Regulation 24(1)(c) requires the ICB to consider whether:
- “the NHSCB is satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB”.*
- 1.63 We have been unable to find any plans relating to future pharmaceutical services in the area, whether belonging to the local authority, the ICB or any other commissioner of pharmaceutical services, that would be affected in any way by granting this application.

#### Conclusion

- 1.64 In conclusion, for the reasons we have provided above, none of the patient groups accustomed to accessing pharmaceutical services at the current pharmacy premises will find the proposed location significantly less accessible.
- 1.65 We therefore urge the ICB to grant this application accordingly and we, and our clients, would wish to attend an oral hearing should one be convened.”
- 1.66 In respect of information in support of the change of ownership application, the Applicant confirmed that the services it is undertaking to provide are the same as those that the current owner is providing by ticking “yes” on the application form.
- 1.67 The Applicant confirmed that there will be no interruption in services by ticking “No” on the application form.

## 2 The Decision

The Commissioner considered and decided to grant the application. The decision letter dated 31 December 2024 states:

- 2.1 “South East London ICB has considered the above application and I am writing to confirm that it has been granted. Please see the enclosed report for the full reasoning.”

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

Extract from the London Pharmaceutical Services Regulations Committee minutes of 27 November 2024

- 2.2 “Name of Applicant: Medishare HS Limited
- 2.3 Address of current premise: 196 – 198 Trafalgar Road, London, SE10 9ER

- 2.4 Address of proposed premises: 3 – 5 Woolwich Road, London, SE10 ORA
- 2.5 Status of location: Non-controlled locality
- 2.6 Relevant regulations and guidance:
- 2.6.1 Regulations 26(2) – combined change of ownership and relocations that do not result in significant change to pharmaceutical services provision.
  - 2.6.2 Regulation 31 – refusal: same or adjacent premises.
  - 2.6.3 Regulation 65 – core opening hours conditions.
  - 2.6.4 DH market entry guidance chapter 13.
- 2.7 Additional information
- 2.8 Applicant's information [see section 1 above paragraphs 1.4 to 1.65 and Appendix A].
- 2.9 Boots Comments
- 2.9.1 Boots UK Ltd support this application. We believe that it meets the criteria required and respectfully ask that it be approved.
- 2.10 PE Logan Comments
- 2.10.1 We believe this application should NOT be granted for the following reasons:
    - Legal entity of applicant
  - 2.10.2 This application has been made in the name of Medishare HS Limited. This company does not appear to be a current pharmaceutical service provider for Greenwich. The applicant is referencing Village Pharmacy in Charlton in the application form (1.3. Provision of fitness information required by part 1, Schedule 2 of the Regulations). Village Pharmacy is currently shown on the GPhC website as being owned by Village HS Ltd. It is therefore unclear how the applicant is meeting the stated requirements if they are not currently included on the Greenwich pharmaceutical list. It also raises the question of which legal entity is to operate the proposed pharmacy.
    - Decrease in accessibility for patient groups using current premises
  - 2.10.3 We have attached the SHAPE Atlas data showing the number of patients (as of September 24) registered with Woodland Surgery and their address by LSOA (Lower layer Super Output Area) for the following areas:
  - 2.10.4 E01001668: Greenwich 036C – 796 patients
  - 2.10.5 E01001664: Greenwich 037B – 525 patients
  - 2.10.6 E01001587: Greenwich 016B – 158 patients
  - 2.10.7 The data shows that the proposed location of the pharmacy is both further away and more difficult to reach than the current site of Boots Pharmacy for the majority of patients, who live to the south and west of Woodland Surgery (as shown by the darker colour zones on the map). [map not provided with decision letter].

- 2.10.8 This proposed relocation would strongly impact 525 patients and 158 patients (living in LSOA's south of the practice) and 796 patients (living in LSOA west of the practice).
- 2.10.9 For these patients the proposed relocation site for this pharmacy is significantly less accessible than the current site of Boots Pharmacy. This is particularly the case for patients who need to visit their GP surgery prior to attending the pharmacy.
- 2.10.10 These groups have already been disadvantaged by the consolidation of Day Lewis Pharmacy in 2018 and by the consolidation of Meridian Pharmacy with Duncans Pharmacy in 2019.

Detriment to the future of current pharmaceutical services to the locality

- 2.10.11 There is considerable risk that the granting of this application will result in either a reduction in the number of pharmacies in the locality or a significant impact on their ability to offer the current services and hours offered. The number of pharmacies on Trafalgar Road has already decreased from three to two when Day Lewis Pharmacy and Boots Pharmacy consolidated in 2018.
- 2.10.12 In summary there are significant issues with the process in which this application has been made and the legal entities involved. It is very apparent that this change of ownership and relocation application is not being made due to the applicant attempting to better serve the current users of Boots Pharmacy. The objective is to fundamentally change the groups of patients it serves by moving away from Woodlands Surgery and directly opposite the building hosting Vanbrugh Group Practice. Essentially this is not in the benefit of current patients of the pharmacy and will also be destabilising and damaging to the only other pharmacy left in this locale.
- 2.10.13 Should this matter need to be decided by an oral hearing we wish to have the opportunity to attend in person so that we are able provide further context on the reasons it should not be granted.
- 2.10.14 We believe that this application is not justified for the reasons above. If this application be granted by South East London ICB we wish to be included in the list of organisations with "third party rights" as we have made clear our objection to the application and given clear reasons why it should not be granted.
- 2.11 Mangal Pharmacy comments
  - 2.11.1 Have no comments to make
- 2.12 CPSEL Comments
  - 2.12.1 CPSEL has no comments to make on the application but would like to be kept informed of all subsequent correspondence, appeals process and the LPC would like to attend any hearings.
- 2.13 Applicant's response
  - 2.13.1 Thank you for your letter dated 7th October 2024 enclosing third party comments in respect of the above application.

- 2.13.2 We continue to act for the applicant, Medishare HS Limited, and wish to make the following brief comments in response:

Boots UK Limited – letter dated 28th August

- 2.13.3 We note that Boots support this application, so we have no additional comments to make in response.

Community Pharmacy South East London (LPC) – letter dated 3rd October

- 2.13.4 We note that the LPC does not object to the application, and merely asks to be kept informed of progress. We therefore have no additional comments to make at this time.

PE Logan Limited – letter dated 20th September

- 2.13.5 We note that this respondent has provided three grounds for objection, and we respond to each in turn.

Legal entity of applicant

- 2.13.6 The respondent is incorrect when it states that Medishare HS Limited is not included in the pharmaceutical list for the Greenwich Health and Wellbeing Board. Medishare HS is the contractor at Village Pharmacy, 9 The Village Charlton, SE7 8UG.

- 2.13.7 Whilst it is the case that those premises are registered with the GPhC as Village HS Limited, this is permitted as there is a management agreement between the two companies (which are under the same ownership). This arrangement is in place pending approval for the change of ownership of this pharmacy from Medishare HS Limited to Village HS Limited, which was submitted earlier this year.

- 2.13.8 In any event, the application was accepted by NHS England, who were satisfied that the fitness information provided was complete at that time.

- 2.13.9 There is no ambiguity over which legal entity will operate the pharmacy if this application is approved. The application has been made by Medishare HS Limited and that company will be entered onto the pharmaceutical list at the proposed premises.

- 2.13.10 Medishare HS Limited will also be the GPhC registered entity.

Decrease in accessibility for patient groups using current premises

- 2.13.11 As a preliminary point, PE Logan make the mistake of focussing on the number of patients registered with Woodland Surgery, rather than the number of patients that currently attend the pharmacy premises at 196-198 Trafalgar Road.

- 2.13.12 The relevant test in Regulation 24 is in respect of patient groups “that are accustomed to accessing pharmaceutical services at the existing premises”. It is not patient groups that are registered with any given medical practice.

- 2.13.13 Clearly not all patients who are registered with Woodland Surgery attend the Boots pharmacy at the Trafalgar Road premises. Only those patients who are willing and able to attend Boots will do so.

2.13.14 As our client has described in its application, the distance between the existing premises and the proposed premises is only 180m. For the reasons set out in our client's application, this distance cannot be described as significant in the context of Regulation 24. It is clear therefore, that those patients who are registered with Woodland Surgery and who are also accustomed to accessing the current premises will not find the proposed location to be significantly less accessible.

2.13.15 The objector has provided no evidence to support its assertion that the proposed premises are difficult to reach for any patient.

2.13.16 The previous consolidations referred to by the objector have no relevance to the legal tests in respect of an application made for a 'no significant change relocation.'

Detriment to the future of current pharmaceutical services to the locality

2.13.17 With respect to the objector, the Regulations do not discuss any requirement to consider "the future of current pharmaceutical services to the locality".

2.13.18 Regulation 24 (c) [sic] requires the decision maker to be "satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1".

2.13.19 PE Logan Limited have provided no evidence that suggests granting this application would result in significant detriment to proper planning. As we have discussed previously, the distance for the relocation is very short (only 180m) so whether the proposed location is on Trafalgar Road or Woolwich Road, it will serve the same patient groups for the reasons we have explained previously.

2.13.20 It is unclear why the objector seeks to make a case that relocating an existing pharmacy will result in a reduction in the number of pharmacies in the locality.

2.13.21 We have no additional comments to make at this time, but should the ICB wish to convene an oral hearing to determine this application, our client would wish to attend.

2.14 Regulation 31

2.15 The proposed pharmacy is not on the same site or adjacent to any other pharmacy, therefore this regulation is not engaged.

2.16 Regulation 26(2) [quoted in full]

2.17 If this application had only been a change of ownership, then the criteria for that have been met and this would have been granted.

2.18 Regulation 26(2) (d) & (e)

2.19 In order to consider this regulation, the regulations for a no significant change (Regulation 24(1)) are used. Please see below

2.20 Regulation 24(1) criteria

*a) for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible;*

- 2.21 The application and the comments have been reviewed.
- 2.22 There are comments both in favour of the relocation and an objection to this.
- 2.23 The applicant has provided information regarding how patients access the pharmacy, it is also noted that the distance between the two sites is 180m, as demonstrated by the above maps.
- 2.24 The distance would be considered as a small distance and is straightforward. Patients should not find this difficult to navigate. We have noted the comments made by PE Logan Ltd and the applicant. The information provided by the applicant stated that they only dispense around 30% of prescriptions from Woodlands Surgery, however, neither the applicant or PE Logan have determined where these patients have originated, so we must assume that this is a mixture of patients from nearby and further afield. However, we do not feel that the distance of 180m is of significance. For those who travel by car this would not pose an issue. For those that are walking or using public transport, whilst this may be slightly further afield, this should not be an issue.
- 2.25 We have noted PE Logan's comments re FTP, this has been reviewed and the FTP is in order.
- 2.26 The London Region PSRC have determined that patients would not find this new site significantly less accessible.

*b) in the opinion of the NHSCB, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list—*

*(i) in any part of the area of HWB1, or*

*(ii) in a controlled locality in the area of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;*

- 2.27 The London Region PSRC have determined that the move would not result in a change to the arrangements that are in place for the provision of local pharmaceutical services or pharmaceutical services.

*(c) the NHSCB is satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1;*

- 2.28 The London Region PSRC have determined that granting this application would not cause detriment to proper planning.

*(d) the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises (whether or not, in the case of enhanced services, the NHSCB chooses to commission them); and*

- 2.29 The applicant will provide the same services at the new location as at the existing location. The hours of the pharmacy will also be the same for the new premises as for the current one.

*(e) the provision of pharmaceutical services will not be interrupted (except for such period as the NHSCB may for good cause allow).*

2.30 There will be no interruption of services except for any period that the ICB Agrees.

Regulation 24(3) criteria

2.31 If any of the below criteria apply, details are below:

2.32 A - Was the pharmacy listed as a result of an application 13(1)(a) of the 2005 regulations – Approved Retail Area? ~~Yes~~ / No

2.33 B - Was the pharmacy listed as a result of an application 13(1)(c) of the 2005 regulations – One Stop Primary Care Centre? ~~Yes~~ / No

2.34 C - Has the pharmacy relocated in the last 12 months? ~~Yes~~ / No

2.35 D - Is the pharmacy a Distance Selling Pharmacy? ~~Yes~~ / No

2.36 A – is the relocation within the approved area? If not must be refused.

2.37 B – are other services moving with the pharmacy? If not must be refused.

2.38 C – relocated within the last 12 months and is unable to satisfy the ICB that the relocation is necessary. If unable to satisfy must be refused.

2.39 D – is a DSP. this should comply with regulation 25(2). If not should be refused.

Regulation 26(3)

2.40 This is not a distance selling pharmacy; therefore, the application is not required to be considered under this regulation.

Regulation 26(4)

2.41 This is not a distance selling pharmacy; therefore, the application is not required to be considered under this regulation.

Consider impact of decision on those with protected characteristics under the Equalities Act 2010 and is this in accordance with NHS England's Public Sector Equality Duty  
Consider impact of decision on NHS England's duty on health inequality

2.42 No issues identified.

Decision

2.43 The London Region PSRC have determined that there is enough information within the papers to decide the application without an oral hearing.

2.44 There are no pharmacies within close proximity of the proposed site, therefore regulation 31 does not apply.

Regulation 26(2)

2.45 Regulation 26(2) (a), (b) & (c) – this part of the regulation has been met, if this was just a change of ownership this would have been granted.

- 2.46 Regulation 26(2) (d) – this part of the regulation has been met, if this was a no significant relocation it would have been granted.
- 2.47 Regulation 26(2) (e) – there will be no interruption of services
- 2.48 Regulation 26(3) – this is not a distance selling pharmacy, so this regulation is not relevant.
- 2.49 Regulation 26(4) – this is not a distance selling pharmacy, so this regulation is not relevant.
- 2.50 The London Region PSRC have determined that the application fits the criteria for regulation 26(2) and should be granted.
- 2.51 Determination made by London Region PSRC on behalf of NHS South East London ICB.”

### 3 The Appeal

In a letter dated 29 January 2025 addressed to NHS Resolution and including a copy of the online appeal form, Veale Wasbrough Vizards LLP (“VWV”) on behalf of PE Logan Ltd (“the Appellant”) appealed against the Commissioner’s decision. The grounds of appeal are:

- 3.1 “An application for minor relocation [sic] may be granted if the criteria in regulation 24(1) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2023 (Regulations) are met, which are as follows:

*a) for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible;*

*b) in the opinion of [NHS England], granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list—*

*i. in any part of the area of HWB1, or*

*ii. in a controlled locality in the area of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;*

*c) [NHS England] [is not of the opinion that granting the application would cause] significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1;*

*d) the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises (whether or not, in the case of enhanced services, [NHS England] chooses to commission them); and*

*e) the provision of pharmaceutical services will not be interrupted (except for such period as [NHS England] may for good cause allow).*

- 3.2 P.E. Logan Limited (PE Logan)'s grounds of appeal relate to accessibility and impact on the provision of pharmaceutical services in the area.

#### Accessibility

- 3.3 PE Logan confirms that the location of the new premises is significantly less accessible than the current premises for patient groups that are accustomed to accessing pharmaceutical services at the existing premises.
- 3.4 Patient groups accustomed to accessing pharmaceutical services at the existing premises include:
- 3.4.1 Patients attending the Woodland Surgery GP practice prior to accessing pharmaceutical services.
  - 3.4.2 Patients attending whilst shopping or working in East Greenwich or using other nearby amenities.
  - 3.4.3 Patients attending from home specifically to the west of Woodland Surgery, whether that be by public transport or otherwise.
  - 3.4.4 Patients who share protected characteristics.
- 3.5 The existing premises are 107 meters [sic] away from Woodland Surgery. The proposed premises are 322 meters [sic] away from Woodland Surgery. Access to the proposed premises from Woodland Surgery involves travelling up a major road as well as crossing major junctions (if travelling on foot). The road is extremely busy with constant traffic and is subject to recently introduced LTNs which has restricted access to several local roads therefore increasing the traffic on the main road between the existing premises and the proposed premises.
- 3.6 If travelling on foot, we accept that the junction to cross is wide and traffic lighted. However, once crossed there are frequently obstructions on the pathway from surrounding commercial premises, narrowing the space available on the pavement. The proposed premises are therefore significantly less accessible to disabled patients with reduced mobility attending the Woodland Surgery prior to accessing pharmaceutical services as well as parents with pushchairs.
- 3.7 The bus stop is immediately outside the existing premises, meaning that disabled patients with reduced mobility who are travelling from home to the existing premises can easily access the premises. The new proposed premises are 60 meters away from the bus stop.
- 3.8 This difference will significantly decrease accessibility given that the proposed premises are located across a main road.
- 3.9 The applicant states within its application that "there are no barriers to movement for pedestrians by way of any hills or inclines" however, if you review the attached screen shot of Google Maps taken on 28 January 2025 at 10.15am [see page 56 of Appendix B], you will note the significant number of obstructions in accessing the proposed new premises including but not limited to the crossing of significantly busy road and the limited width of the pathway when rubbish has been left out by the surrounding commercial premises.
- 3.10 The application states that it is a three-minute walk to the new proposed premises from the existing premises, and slightly longer from Woodland surgery and/or for residents

who live beyond the GP surgery. However, the actual time spent walking by those less able will be significantly greater given the number of busy roads that are to be crossed.

- 3.11 In relation to patients attending whilst shopping or working in East Greenwich or using other nearby amenities, the proposed location is a considerable distance away from other retailers which are commonly used by this patient group, being more than 180m from the existing premises.
- 3.12 Sections 149 to 157 of the Equality Act 2010 apply to the ICB and set out its Public Sector Equality Duty. The key extracts are available at Section 149(1); (3); (4) and (7). The ICB had a duty to actively consider how its decision would affect individuals with disability. An equality impact assessment should have taken place and should have specifically considered the impact of the proposed relocation on disabled patients and the public. No such equality impact assessment has taken place.
- 3.13 Section 14Z45 of the NHS Act 2006 references the public involvement and consultation in decisions. The ICB had a duty to consult with the public before deciding whether to grant an application for relocation. This would have allowed for consideration as to accessibility but also the economic impact on the relocation of the pharmacy. No such consultation took place.
- 3.14 It is P.E. Logan's position that the ICB has erred in relation to its decision to grant the change of ownership and minor relocation of Boots UK Limited, 196-198 Trafalgar Road (Boots) to Medishare HS Limited, 3-5 Woolwich Road. That the decision is irrational by not having due consideration to the public, to whom this relocation will ultimately impact therefore not in compliance or consideration of Regulation 24(1)(a) which deals specifically with "patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises if not significantly less accessible".

Significant detriment to the proper planning of pharmaceutical services

- 3.15 The NHS Resolution Guidance Notice on Regulation 24(1) of the NHS Regulations 2013 states:

*"In case SHA/18458 (22 March 2017), the Committee set out two questions to be answered in respect of this test:*

*Question 1: is the Committee satisfied on the balance of probabilities that granting the application would not result in the closure of the [third party] pharmacy?*

*If the Committee is satisfied then the appeal fails and there is no need to consider the second question. If the Committee is not satisfied then it moves to consider the second question.*

*Question 2: is the Committee satisfied on balance of probabilities that the closure of [the third party] pharmacy does not amount to a significant change to current arrangements?*

*If the Committee is satisfied then again the appeal fails. If the Committee is not satisfied then the appeal succeeds."*

- 3.16 The proposed location is opposite the Greenwich Health Centre, which houses a GP practice (Vanbrugh Group Practice). At present, PE Logan is the closest pharmacy. The applicant has confirmed that it currently dispenses a low number of items. If the application is granted, the applicant will be the closest pharmacy to Vanbrugh Group

Practice. This is likely to result in a significant increase in the number of prescriptions dispensed by the applicant, and a significant reduction in the number of prescriptions dispensed by PE Logan.

- 3.17 In addition, there is a genuine concern Vanbrugh Group Practice will significantly reduce the number of patients referred to PE Logan's pharmacy for vaccinations as well as under the Pharmacy First service, and instead refer to the applicant which will be closer, therefore affecting the amount of NHS funding that the pharmacy receives. The NHS funding is paramount to PE Logan's ability to meet the overheads of the business.
- 3.18 The ICB has not given due consideration to Regulation 24(1)(c) which states that NHS England is not of the opinion that granting the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1. The ICB have completely disregarded the proper planning of pharmaceutical services across the local area.
- 3.19 PE Logan anticipates a reduction in prescriptions by 40%. It also, as mentioned above, anticipates a significant reduction in referrals from Vanbrugh Group Practice. The combined impact of both will have a significant financial impact on the business. In order to ensure the business remains financially viable, it will be required to reduce its service hours from:
- 3.19.1 Monday to Friday: 9am - 7pm to Monday to Friday 9.30am - 5.30pm with a 30 minute lunch. Which would equate to a 25% reduction of hours each day.
- 3.19.2 Saturday: 9am - 5pm to 10am - 12.20pm. Which would be a 43.75% reduction of hours on Saturdays.
- 3.20 The ICB should have asked an amended version of question 1 as set out above from case SHA/18458 (22 March 2017). Although PE Logan does not anticipate that its pharmacy will need to completely close, it is clear that there will need to be a significant reduction in opening hours (i.e. closure for specific hours). Therefore question 2 (as stated above) should be considered - whether this reduction in opening hours would result in a significant change to the current arrangements.
- 3.21 PE Logan submits that a 25% reduction in hours on weekdays and a 43.75% reduction in hours on Saturdays would amount to a significant change. This reduction should be considered in the context of the area having seen two pharmacies close in recent years, further to Boots taking over the Day Lewis Pharmacy in 2018 and the merger of Meridian Pharmacy with Duncan's Pharmacy in 2019.
- 3.22 PE Logan would also like to take this opportunity to note the inconsistency between the applicant's statement that its landlord does not wish to renew its lease at the existing premises and PE Logan's understanding that the existing premises remain available to rent.
- 3.23 Taking all of the above into consideration and PE Logan's objection letter of 20 September 2024, the decision should be overturned so that the matter may be reconsidered.
- 3.24 PE Logan reserves its right to expand upon its grounds for challenge if further information is disclosed by the ICB regarding the basis for its decision and the process that was followed."

#### 4 Summary of Representations

This is a summary of representations received on the appeal.

#### 4.1 THE COMMISSIONER

4.1.1 “This is a response to the above appeal on behalf of London PSRC.

##### Accessibility

4.1.2 The distance between the two premises is 180 metres, approx. 3 minutes walk for anyone able bodied. It is acknowledged that someone who is not able bodied may take longer but is not something that can be quantified, however, as this is a short distance this should not be an issue. The route between the two premises is along the main road and there are buses that serve this road even if the bus stops are not outside the premises. Whilst the road may be busy it does have traffic lights to enable those on foot to cross. The junction that is quite wide is either side of the main shops, so pedestrians will be using this to cross to frequent the shops on either side.

4.1.3 The obstructions that have been noted appear to be rubbish bags and unfortunately this will be visible on many roads at times. It is unlikely that these would be there permanently.

4.1.4 The required notifications under the regulations have been made, for this application no issues in relation to the equalities act were identified, as noted on the decision report.

##### Significant detriment to the proper planning of pharmaceutical services

4.1.5 The appeal states that “the applicant has confirmed that it currently dispenses a low number of items”. However, this appears to be 42% of the prescriptions dispensed, more than those dispensed for Woodlands Surgery.

4.1.6 It has also been suggested that PE Logan’s pharmacy would see a reduction in prescriptions by 40% and that they anticipate that the Vanbrugh Group Practice will reduce the number of patients referred for vaccinations and pharmacy first.

4.1.7 This statement is not a fact, but an assumption which is not substantiated.

4.1.8 Patients are free to choose which pharmacy they use and for most do not attend the surgery for repeat prescriptions, so if patients use a pharmacy there is no reason why they would not continue to use that pharmacy. In regard to referrals from the practice, they should be taking into account patient’s preferences and only making the referrals to a pharmacy that the patient is happy to access.

4.1.9 London PSRC has determined that the application fits the criteria and therefore granted this application and believes that the appeal should be dismissed.”

#### 4.2 PHARMACY SALES & CONSULTANCY ON BEHALF OF THE APPLICANT

4.2.1 “Thank you for your letter dated 13th February 2025 enclosing the above appeal.

4.2.2 We continue to act for the applicant, Medishare HS Limited, and wish to make representations on our client’s behalf in response.

4.2.3 Our client submitted the above application in July 2024, pursuant to Regulations 26 & 24(1) of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("The Regulations"). The application was approved by the London Pharmaceutical Services Regulations Committee ("PSRC"), acting on behalf of the ICB in November 2024, and our client was notified of that decision on 31st December 2024.

4.2.4 For the reasons set out below, we invite the Primary Care Appeals Committee ("The Committee") to reach the same conclusion as the PSRC and grant this application.

The ICB Decision

4.2.5 The Committee has been provided with a copy of the PSRC report in respect of its meeting of 27th November 2024.

4.2.6 We wish to point out the following extracts from this report.

*"Regulation 31*

*The proposed pharmacy is not on the same site or adjacent to any other pharmacy, therefore this regulation is not engaged.*

*Regulation 26(2)(a)*

*If this application had only been a change of ownership, then the criteria for that have been met and this would have been granted."*

4.2.7 In respect of these two matters, we believe they are uncontentious. It is clear that Regulation 31 is not engaged and the requirements for a change of ownership application have been met (as can be seen from the application form). We therefore have nothing further to add on these two matters.

Regulation 24

4.2.8 *"It is also noted that the distance between the two sites is 180m, as demonstrated by the above maps. The distance would be considered as a small distance and is straightforward. Patient's [sic] should not find this difficult to navigate.*

4.2.9 *However, we do not feel that the distance of 180m is of significance. For those who travel by car this would not pose an issue. For those that are walking or using public transport, whilst this may be slightly further afield, this should not be an issue.*

4.2.10 *The London Region PSRC have determined that patients would not find this new site significantly less accessible.*

4.2.11 *The London Region PSRC have determined that the move would not result in a change to the arrangements that are in place for the provision of local pharmaceutical services or pharmaceutical services.*

4.2.12 *The London Region PSRC have determined that granting this application would not cause detriment to proper planning.*

- 4.2.13 *The applicant will provide the same services at the new location as at the existing location. The hours of the pharmacy will also be the same for the new premises as for the current one.*
- 4.2.14 *There will be no interruption of services except for any period that the ICB agrees.”*
- 4.2.15 It is clear that the PSRC considered all the matters it was required to take into account and found that the regulatory tests had been met.
- 4.2.16 We submit, therefore, that this appeal is without merit for the reasons provided below.

#### The Appeal

- 4.2.17 We now wish to address the comments made by Veale Wasbrough Vizards LLP (“VWV”) on behalf of the appellant that form the basis for the appeal. We address these in the same order they are raised in the appellant’s online appeal form.
- 4.2.18 The appellant starts by setting out the wording of Regulation 24(1), although errs by referring to a ‘minor relocation’. This wording has not formed part of the regulatory tests since 2012. The use of this phrase suggests a fundamental misunderstanding on the part of the appellant in respect of the key matters the decision maker is required to consider.
- 4.2.19 We also note that the appellant limits its comments to Regulation 24, which appears to confirm the assertion made earlier that Regulation 26 is not contentious.
- 4.2.20 The matters raised by VWV specifically deal with “accessibility and impact on the provision of pharmaceutical services in the area”. We therefore limit our response to those two matters.

#### Accessibility

- 4.2.21 On behalf of our client we dispute to the assertion made by the appellant that the “location of the new premises is significant [sic] less accessible than the current premises”.
- 4.2.22 Our client defined the relevant patient groups, for the purpose of its application, as follows:
- 4.2.22.1 Patients who use the existing pharmacy location because it is close to home.
- 4.2.22.2 Patients shopping or working in East Greenwich or using other nearby amenities.
- 4.2.22.3 Patients registered with local surgeries.
- 4.2.22.4 Patients who share protected characteristics
- 4.2.23 Within our client’s application we provided significant evidence in respect of the accessibility of the proposed premises for these patient groups.

- 4.2.24 We note that the appellant appears to have defined two additional patient groups as follows:
- 4.2.24.1 Patients attending the Woodland Surgery GP practice prior to accessing pharmaceutical services.
- 4.2.24.2 Patients attending from home specifically to the west of Woodland Surgery, whether that be by public transport or otherwise.
- 4.2.25 It is accepted that, whilst it is usually for the applicant to define the relevant patient groups (given that it is the applicant who currently provides pharmaceutical services to these patients), other parties are permitted to define patient groups if they feel these are appropriate.
- 4.2.26 We are also cognisant of the judicial guidance (the “Community Pharmacies Judgement”) in respect of Regulation 24 which states
- “So long as the NHSCB, or on appeal the FHSAU, bears in mind that the purpose of identifying the groups is to make a broad assessment of the question of accessibility, and that therefore to identify too many groups which are too small in number to assist with that process would risk over-focussing and losing sight of the whole broad picture, and provided the Board or Committee takes a practical and pragmatic view of the groupings that might assist it to a conclusion, by reference to which it may analyse the available evidence, it will not go far wrong”.*
- 4.2.27 We therefore address these additional two patient groups with this guidance in mind.
- 4.2.28 Looking at the second of these additional patient groups, namely “Patients attending from home specifically to the west of Woodland Surgery, whether that be by public transport or otherwise”, it is our view that this patient group has been defined with the specific purpose of identifying those people who will have furthest to travel to the proposed location. This does not follow the principle of allowing broad assessment of the question of accessibility.
- 4.2.29 With any pharmacy relocation some individual patients will have further to travel to the pharmacy after it relocates and others will have a shorter journey. The patients who visit the pharmacy in its current location travel from all directions, so it is clear that this principle will apply.
- 4.2.30 In seeking to define, as a distinct patient group, only those people who will have further to travel to the proposed location, the appellant’s argument is at odds with the judicial guidance. We ask the Committee, therefore, to consider whether this is a meaningful group in the context of regulation 24.
- 4.2.31 In any event, even if the Committee does accept this patient group, given the proximity of the proposed location to the current location, we submit that the proposed location will not be significantly less accessible anyway.
- 4.2.32 In respect of the first additional patient group it defines, these patients were included in our client’s ‘patient group 3’, but, for the avoidance of doubt, we can confirm that there are absolutely no barriers to movement between The Woodland Surgery the proposed location for the reasons we have set out in our client’s application and within this appeal. The distance is short, the terrain is level, pavements are wide, street lighting is provided throughout and light controlled pedestrian crossings are provided at all major junctions.

- 4.2.33 The appellant goes on to discuss the distances between the existing premises, Woodland Surgery and the proposed premises. These distances are not disputed although we maintain our position that they are not significant either.
- 4.2.34 The apparent [sic] refers to a major/busy road but does not provide any meaningful evidence to support its assertions. When the appellant refers to “crossing major junctions (if travelling on foot)” it does not explain why this is problematic for pedestrians given that each of these junctions benefits from light controlled pedestrian crossings. One of these is shown in the images provided by the appellant.
- 4.2.35 The “busy” nature of the road might mean that traffic is busy at times for those people travelling by car or public transport. However, given that the distance between the existing site and the proposed site is only 180m, even if the traffic is busy, any delays to the journey will be no more than a few seconds if travelling by road.
- 4.2.36 We note the comments made about frequent “obstructions on the pathway from surrounding commercial premises, narrowing the space available on the pavement”. The image provided by the appellant shows rubbish bags on the pavement awaiting collection, as is common practice in London. However this is not evidence that patients, whether disabled or not, are unable to use these pavements.
- 4.2.37 The image supplied by the appellant showing the ‘narrow’ pavement is taken from Google Maps.
- 4.2.38 To be clear, this image is date-stamped September 2024 on Google Maps (as can be seen on the image provided). The letter states that the screenshot was taken on 28 January at 10.15am but that date is entirely irrelevant as clearly these are not live images.
- 4.2.39 If the same location is viewed is viewed [sic] from a different angle (as seen in an image from Google maps in October 2024 - as the correct angle is not visible in the September 2024 images[see Appendix C]), it is clear that there is more than adequate space for wheelchairs and buggies to pass. The pavement is very wide at this point leaving plenty of space for pedestrians to pass any rubbish bags as indicated by the arrow.
- 4.2.40 Furthermore, our client visited the area on Saturday 15th February and spoke to the owner of the shop outside which the waste was left. The owner confirmed that waste is left between the lamppost and the kerb so it does not obstruct the pavement. Our client took a video of the area around the proposed premises. We are conscious that the Committee may not be in a position to view a video, but we have provided a still below [see Appendix C] which shows where the bin and rubbish were positioned on the day our client visited.
- 4.2.41 It is clear that the appellant’s claims about the proposed premises being significantly less accessible due to obstructions on the pavement are baseless.
- 4.2.42 VVW then state that there is a bus stop immediately outside the existing premises compared to the proposed premises where the bus stop is 60m away. They claim that this significantly reduces the accessibility of the proposed premises for patients with reduced mobility. Of course this argument is flawed unless those same patients also have a bus stop immediately outside their home.

- 4.2.43 As the vast majority of people would need to travel from their home to a bus stop in the first instance we would suggest it is highly unlikely that the distance of 60m from the bus stop to the proposed premises would cause them any difficulties. Any patient who is unable to travel a distance of 60m is essentially housebound and therefore likely to receive their pharmaceutical services through a delivery service, or with the support of friends and family.
- 4.2.44 The appellant then goes on to suggest that, for some people the walk between the existing and the proposed premises might be more than 3 minutes given that it requires crossing a “number of busy roads”.
- 4.2.45 To be clear, this journey only requires crossing two significant junctions, both of which benefit from light-controlled crossings. Even in the very worst case, if a pedestrian had to wait for 2 minutes at each crossing, the total journey time would still be no more than 7 minutes. This cannot be said to be significant.
- 4.2.46 In respect of the comments made regarding patients shopping or working in East Greenwich we dispute the suggestion that the proposed premises is a “considerable” distance away. We would suggest that none of the existing patients, who are accustomed to accessing a range of amenities in the area on foot, would consider 180m to be a considerable distance. Furthermore, the proposed premises are still located within the commercial area in amongst the local amenities.
- 4.2.47 The appellant then goes on to discuss the Equality Act and the duties of the ICB. We maintain that it is clear from the decision report that the ICB considered the implication of this relocation and all parties, including those discussed within the Equality Act. In any event the Committee will consider this application afresh rather than by reference to the ICB decision-making process and, for the reasons we have provided, we do not believe it will find that the proposed premises is significantly less accessible for these patients.
- 4.2.48 VWV go on to claim that the ICB has a duty to consult with the public in respect of pharmacy relocation application, but no such obligation is included within the 2013 NHS (Pharmaceutical Services and Local Pharmaceutical Services) Regulations (as amended).
- 4.2.49 We disagree, therefore, with the appellant’s assertion that the ICB erred in relation to its decision.

#### Significant detriment to the proper planning of pharmaceutical services

- 4.2.50 The appellant has provided an extract from the NHS Resolution Guidance note in respect of detriment. This example refers to a two-step decision-making process for the Committee, where it was required to consider whether granting an application would result in another pharmacy closing and, if it did, whether that would amount to a significant change to the current arrangements.
- 4.2.51 It is a well-established principle that it is for any party claiming detriment to provide evidence to support its case. It is not for the applicant to provide evidence that there would not be significant detriment. Our client has no knowledge of the appellant’s business and how this might be adversely affected if this application is granted.
- 4.2.52 However, we would make the general point that, in the very rare cases that detriment to planning is found to be a reason to refuse an application, this is generally where there has been an application for inclusion in the

pharmaceutical list. In that case, the introduction of a new provider may be more likely to have some sort of adverse effect on existing pharmacy contractors.

- 4.2.53 In our view, detriment is much less likely to occur in the case of a relocation application, particularly when such short distances are involved. As we have previously set out, the proximity of the two locations is such that the same population will be served. There is no evidence that there will be any significant changes to how and where patients access pharmaceutical services.
- 4.2.54 It may or may not be the case that closer proximity to the Vanbrugh Group Practice might result in more patients who use that medical centre accessing our client's pharmacy. However, there are two other important considerations as well:
- 4.2.55 The vast majority of prescriptions are repeat items that are not dispensed immediately after a visit to the medical centre. It is only the relatively small proportion of patients receiving acute prescriptions who will walk out of the surgery looking for a pharmacy.
- 4.2.56 Following the relocation, PE Logan Pharmacy, will become the closest pharmacy to the Woodland Surgery, so it may be that patients attending that surgery will choose to attend PE Logan instead if the appellant's logic is followed.
- 4.2.57 There is therefore no evidence to support the assertion that this relocation will result in a significant increase in the number of prescriptions dispensed by our client's and a significant reduction in the number dispensed by PE Logan.
- 4.2.58 We note that the appellant refers to the practice 'referring patients to PE Logan' for other services. We would remind the Committee that GP practices are not permitted to direct patients to specific pharmacies to receive pharmaceutical services. Patients must have a free choice. In any event, we do not accept the assumption that patient behaviour will change significantly in respect of how other pharmaceutical services are accessed. The two pharmacies will only be 60m apart, so we would suggest that proximity is unlikely to be the biggest driver of patient behaviour in this case.
- 4.2.59 It is also contradictory for the appellant to claim that granting this application will result in a massive switch of patients from its pharmacy to our client's pharmacy when it has previously tried to argue that our client's pharmacy will be difficult to access. The appellant cannot have it both ways.
- 4.2.60 The appellant states that it anticipates a reduction of prescriptions by 40% yet provides absolutely no evidence to support this assertion. The claims it makes, therefore, in respect of the need to reduce opening hours are simply not based on evidence.
- 4.2.61 Even if there were to be any reduction in opening hours, given the proximity of our client's pharmacy, this would not amount to significant detriment in proper planning.

#### Conclusion

- 4.2.62 In summary it is clear that the appellant's case is built on its position that it would rather this application was refused rather than being based on any genuine challenges in respect of the relevant regulations.

- 4.2.63 Given the proximity of the two sites, it is clear that the proposed location will not be significantly less accessible for any patient group regardless of how that group is comprised and how its patients move around the area.
- 4.2.64 It is also clear that the applicant has not provided any meaningful evidence that supports its assertion that granting the application would result in significant detriment to the proper planning of pharmaceutical services.
- 4.2.65 We therefore urge Primary Care Appeals to reach the same conclusion as the ICB and grant this application accordingly.
- 4.2.66 Our clients would wish to attend an oral hearing should the committee decide to convene one."

## 5 Observations

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

### 5.1 VEALE WASBROUGH VIZARDS LLP ON BEHALF OF THE APPELLANT

- 5.1.1 "We write further to your letter of 20 March 2025, to confirm that our client does not agree with the representations enclosed with your letter. Our client invites NHS Resolution to further consider our client's appeal whilst also taking into consideration the below supporting evidence/information.

#### Patient Locality

- 5.1.2 There is a suggestion that "Patients attending from home specifically to the west of Woodland Surgery, whether that be by public transport or otherwise" is designed to identify those with the furthest to travel. We have previously supplied maps showing the locations of local GP practices, which shows it is reasonable to consider patients travelling from home to Woodlands Surgery.

#### Accessibility

- 5.1.3 As already submitted, the proposed premises is 322 meters [sic] away from Woodlands Surgery and would involve any patient travelling from that surgery to the new premises to travel along a major busy road as well as crossing major junctions (if travelling on foot). Our client walked the route on 27 March 2025 and it took five minutes, not three minutes as suggested by the applicant.
- 5.1.4 Our client, as a regular user of the road by transport and on foot, confirms that the pathway is frequently obstructed therefore making the proposed premises significantly less accessible to disabled patients with reduced mobility as well as patients with pushchairs.
- 5.1.5 Locally, it is well known that the area around both the current and proposed premises is difficult for pedestrians to navigate. A local resident, [KM], has highlighted this over a prolonged period of time and our client reports that there have been a number of accidents involving cars, bikes and pedestrians at the junction involving Trafalgar Road, Blackwall Lane, Vanbrugh Hill and Woolwich Road.
- 5.1.6 Local residents have expressed their concerns regarding the current crossing options due to the confusing layout and time involved to cross. Since the introduction of LTNs preventing movement of traffic up and down Vanbrugh

Hill in rush hours, there has been an increase in traffic on Woolwich Road and Trafalgar Road further restricting movement.

- 5.1.7 The following article gives some context: Plans to change traffic routes at sides of Greenwich Park | News Shopper. [hyperlink not working] We also enclose a copy [see Appendix D].

#### Prescriptions

- 5.1.8 We take the opportunity to reiterate NHS Resolution Guidance Notice on Regulation 24(1) of the NHS Regulations 2013 which states:

*"In case SHA/18458 (22 March 2017), the Committee set out two questions to be answered in respect of this test:*

*Question 1: is the Committee satisfied on the balance of probabilities that granting the application would not result in the closure of the [third party] pharmacy?*

*If the Committee is satisfied then the appeal fails and there is no need to consider the second question. If the Committee is not satisfied then it moves to consider the second question.*

*Question 2: is the Committee satisfied on balance of probabilities that the closure of [the third party] pharmacy does not amount to a significant change to current arrangements?*

*If the Committee is satisfied then again the appeal fails. If the Committee is not satisfied then the appeal succeeds."*

- 5.1.9 Our client has already noted the changes to pharmacy provision in the area in recent years, specifically that Books UK Limited took over Day Lewis Pharmacy in 2018 and then Meridian Pharmacy and Duncan's Pharmacy merged in 2019.
- 5.1.10 Patients to the west of the current location have had incremental increases in the travel time to access pharmaceutical services (i.e. from Day Lewis to Boots and now to Medishare). This, combined with the merger of Duncan's Pharmacy and Meridian Pharmacy is decreasing patient choice and accessibility.
- 5.1.11 We have previously confirmed that our client anticipated a reduction in prescriptions by 40% and that this impact will result in a reduction in service hours as follows:
- 5.1.11.1 Monday to Friday: 9am - 7pm to Monday to Friday 9.30am - 5.30pm with a 30 minute lunch. Which would equate to a 25% reduction of hours each day.
- 5.1.11.2 Saturday: 9am - 5pm to 10am - 12.20pm. Which would be a 43.75% reduction of hours on Saturdays.
- 5.1.12 These changes, as set out in the appeal form will result in a 25% reduction in hours on weekdays and a 43.75% reduction in hours on Saturdays. This amounts to a significant change.
- 5.1.13 In relation to Station Pharmacy, our client's pharmacy located in New Cross, our client has previous experience of a third party pharmacy relocating to

premises closer to a neighbouring GP practice than our client (sometimes referred to as "leapfrogging"). Our client's dispensing income at Station Pharmacy halved (from a healthy dispensing position of 5,000 - 6,000 items per month to 2,500 - 3,000 items per month), severely impacting its financial viability. Our client's suggestion of a 40% reduction in prescriptions is therefore a conservative estimate, based on previous experience.

- 5.1.14 To put our client's comments in context, we refer you to the long awaited 'Economic Analysis of the pharmacy sector', published on 28 March 2025 (copy enclosed [see Appendix E]). This shows the problematic state of pharmacy finances in England. The report shows that three quarters of pharmacies in England are financially unviable at present and our client believes its pharmacy will be pushed into this group should this relocation be permitted.

#### Pharmacy First referrals / vaccination services

- 5.1.15 Our client firmly refutes the suggestion by the applicant that patients have been inappropriately directed to use our client's pharmacy for Pharmacy First referrals / vaccinations or that it would support or encourage any GP practice to do so.
- 5.1.16 The point that our client wished to highlight is that there will only ever be a limited number of patients requiring such services each month. Our client's pharmacy is currently the closest pharmacy to Vanbrugh Group Practice and receives a number of referrals each month. Naturally, our client will receive fewer referrals from Vanbrugh Group Practice should another pharmacy relocate closer to the practice.
- 5.1.17 In relation to Pharmacy First, in order for a pharmacy to achieve the payment of £1,000 per month the NHS has put in place a number of increasing thresholds for activity per month. It is our client's position that the Pharmacy First referrals are likely to reduce and therefore our client is unlikely to meet the thresholds attached to the service. Our client has been meeting the thresholds in recent months, but only by a very small margin. The threshold in February 2025 was 25 and our client reached 27. You can see from these figures that only a very small drop in referrals would lead to our client losing out on £1,000 each month.

#### Availability of the current premises

- 5.1.18 In our submission of 29 January 2025, we noted the inconsistency between the applicant's statement that its landlord did not wish to renew its lease at the existing premises and our client's understanding that the existing premises remained available to rent. We note that none of the responses address this issue.

#### Conclusion

- 5.1.19 Our client disagrees with the contents of Pharmacy Advice & Consultancy Service Limited's submission on behalf of the applicant.
- 5.1.20 Our client believes that the ICB has erred in relation to its decision.
- 5.1.21 Our client requests that the matter be considered at an oral hearing, which our client would wish to attend.

5.1.22 In terms of availability for attendance at an oral hearing, we can confirm that our client has good availability in the coming months, save for 17 – 23 April 2025.

5.1.23 We look forward to hearing from you with details of the oral hearing.”

## 6 Consideration

6.1 The Pharmacy Appeals Committee (“Committee”) appointed by NHS Resolution, had before it the papers considered by the Commissioner.

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

6.3 The Committee noted the comments from the Appellant with regard to an Oral Hearing and its availability. However the Committee considered that to determine the application by way of an Oral Hearing, there needs to be conflicting evidence provided by parties that it cannot resolve on the papers. The Committee did not consider that to be the case here. Therefore, on the basis of the information before it, the Committee considered it was not necessary to hold an Oral Hearing.

6.4 The Committee first considered Regulation 31 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 which states:

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

*(2) This paragraph applies where -*

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

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

*(ii) adjacent premises; and*

*(b) NHS England is satisfied that it is reasonable to treat the services that the applicant proposes to provide as part of the same service as the existing services (and so the premises to which the application relates and the existing listed chemist premises should be treated as the same site).*

6.5 The Committee noted that in response to Regulation 31 on the application form the Applicant had stated “*There is no pharmacy in the same or adjacent premises.*” The Committee noted that the Commissioner had also concluded that “*the proposed pharmacy is not on the same site or adjacent to any other pharmacy, therefore this regulation is not engaged.*” The Committee noted that this had not been disputed either on appeal or in subsequent correspondence. Based on the information before it, the Committee was of the view that it was not required to refuse the application under the provisions of Regulation 31.

6.6 The Committee noted the following Regulation in respect of Regulation 26(2) (Change of ownership and no significant change relocation of premises applications).

Regulation 26(2)

*Section 129(2A) of the 2006 Act does not apply to an application from a person who is not included in a pharmaceutical list for the area of a HWB (HWB1) for inclusion in that*

*list, or from a person included in a pharmaceutical list for inclusion in that list also in respect of other premises than those already listed in relation to that person, if -*

- (a) the applicant (X) is undertaking to provide the pharmaceutical services that another person (Y) -
  - (i) is providing at listed chemist premises ("Y's premises"), whether in the area of HWB 1 or a neighbouring HWB, or*
  - (ii) has provided at Y's premises but Y is no longer able to provide pharmaceutical services at those premises for reasons that NHS England accepts are good cause;**
- (b) X is proposing to carry on, in place of Y, the business in the course of which Y is providing, or has provided, pharmaceutical services at Y's premises;*
- (c) X is undertaking to provide the same pharmaceutical services as Y is providing or has provided at Y's premises, but at different premises ("X's premises");*
- (d) had Y applied to move to X's premises, that application would have been granted under regulation 24; and*
- (e) in a case where pharmaceutical services-
  - (i) are being provided at Y's premises, the provision of pharmaceutical services will not be interrupted (except for such period as NHS England may for good cause allow) by the move of the business from Y's premises to X's premises, or*
  - (ii) are not being provided at Y's premises, the provision of pharmaceutical services will commence at X's premises within the period that NHS England considers is an acceptable period for the interruption of the provision of pharmaceutical services by the business that X is taking over.**

#### **Regulation 26(3)**

*An application pursuant to paragraph (1) must be refused if it relates to distance selling premises, unless the application, if made pursuant to regulation 25(1), would not be refused pursuant to regulation 25(2).*

#### **Regulation 26(4)**

*An application pursuant to paragraph (2) must be refused if the existing pharmacy premises from which the applicant is seeking to relocate are distance selling premises, unless the premises to which the applicant is seeking to relocate are also distance selling premises (and this is in addition to the requirement that arises by virtue of paragraph (2)(d) that the application if made to regulation 25(1), would not be refused pursuant to regulation 25(2)).*

- 6.7 The Committee considered the position in relation to each criterion.
- 6.8 The Committee noted that the above Regulations are specific in the criteria the applicant must satisfy, if their proposed change of ownership and no significant change relocation of premises is to succeed.

- 6.9 The Committee noted that the existing pharmacy premises are not distance selling premises and therefore is of the view that the application of Regulation 26(3) and (4) did not require it to refuse the application.
- 6.10 The Committee considered the position in relation to each paragraph noting that there was no dispute that paragraphs 26(2)(a), (b) (c) and (e) were satisfied and applied to the circumstances of this application.
- 6.11 The focus of the appeal and subsequent submissions made by parties was on paragraphs 26(2)(d) i.e. whether, if the Applicant had applied to move to the new premises, that application would have been granted pursuant to Regulation 24.
- 6.12 The Committee went on to consider Regulation 26(2)(d) as part of their consideration of Regulation 24.
- 6.13 The Committee considered if the Applicant's proposal to move the existing pharmacy premises at 196 – 198 Trafalgar Road, London, SE10 9ER to 3 – 5 Woolwich Road, London, SE10 0AR should be granted under Regulation 24.
- 6.14 The Committee had regard to Regulation 24(1) which requires consideration of the following five criteria:
- (a) *for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible;*
  - (b) *in the opinion of NHS England, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list—*
    - (i) *in any part of the area of HWB1, or*
    - (ii) *in a controlled locality of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;*
  - (c) *NHS England is not of the opinion that granting the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1;*
  - (d) *the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises (whether or not, in the case of enhanced services, NHS England chooses to commission them); and*
  - (e) *the provision of pharmaceutical services will not be interrupted (except for such period as NHS England may for good cause allow).*
- 6.15 In relation to criterion (a) of Regulation 24 above, the Committee considered the map submitted by the Commissioner, which clearly shows the locations of the existing pharmacies as well as the proposed site and medical practices within the area.
- 6.16 The Committee considered the information before it with regard to the patient groups who are accustomed to accessing pharmaceutical services at the existing premises. The Committee considers that it must seek to identify the patient groups who would potentially be affected by the relocation based upon the information provided by the

parties. This information is most commonly going to be provided by the Applicant but others may also be able to contribute to the information on which the Committee will proceed to determination.

- 6.17 In this case, the Applicant has identified the patient groups as:
- 6.17.1 Patients who use the existing pharmacy location because it is close to home.
  - 6.17.2 Patients shopping or working in East Greenwich or using other nearby amenities.
  - 6.17.3 Patients registered with local surgeries.
  - 6.17.4 Patients who share protected characteristics.
- 6.18 The Committee noted the additional two patient groups identified by the Appellant on appeal namely “patients attending the Woodlands Surgery GP practice prior to accessing pharmaceutical services” and “patients attending from home specifically to the west of the Woodland Surgery whether that be by public transport or otherwise”. The Committee noted that the Applicant had commented on the inclusion of these in their representations. The Committee was of the view that, whilst it is open to parties to identify patient groups it is usual for these to be identified by the Applicant given the information that they will hold as to who currently uses its pharmacy at the current location. In considering the additional groups, the Committee was of the view that there is an overlap between these groups and the patient groups identified by the Applicant. The Committee concluded that the patient groups who are accustomed to accessing pharmaceutical services from the existing premises are those set-out below.
- 6.19 The Committee noted the comments from the Appellant with regard to the decision of the Commissioner and its view that an equality impact assessment had not taken place and had not specifically considered the impact of the proposed location on disabled patients and the public.
- 6.20 The Committee also noted the comments from the Appellant with regard to public involvement in the consultation and decision. The Committee was mindful that, as part of the consultation process, the Commissioner had sought representations from both Tower Hamlets Healthwatch and Greenwich Healthwatch as well as the Health and Wellbeing Boards for both Tower Hamlets and Greenwich however no responses had been received from any of these organisations.
- 6.21 The Committee noted, in its decision, that the Commissioner had considered the “*impact of decision on those with protected characteristics under the Equalities Act 2010*” and that the Commissioner had concluded that there were “no issues identified.”
- 6.22 The Committee noted that the Applicant had identified “Patients who share protected characteristics” as a separate patient group and therefore went on to consider these patients specifically.

*Patients who use the existing pharmacy location because it is close to home*

- 6.23 The Committee noted that, from the information provided by the Applicant as well as the Appellant and the Commissioner in the various maps and photographs, that the location of both the existing and proposed site was within a “typical London suburban shopping centre” in that there are offices and flats above with the commercial properties below.

- 6.24 The Committee noted the comments from the Appellant with regard to the patients who are “attending from home specifically to the west of the Woodland Surgery whether that be by public transport or otherwise”. The Committee was of the view that these patients would fall into this patient group as they would be accessing the existing pharmacy due to its current location.
- 6.25 The Committee considered that for all of these patients there will be different starting points for their journey. The Committee was of the view, from the information provided, that there was no specific place or area from which these patients may start their journey. As such, the Committee felt that it was appropriate to assess accessibility for these patients by their method of transport.
- 6.26 Whilst the Committee noted the undisputed statement that the distance between the existing site and the proposed site was 180 metres, the Committee was of the view that, as always, in assessing accessibility for a patient group that comprises people starting their journeys to the pharmacy from different locations, for some of them within this group the distance to the proposed site would be shorter whilst for others it would be longer. For those who access the existing pharmacy on foot, irrespective of their starting point, the Committee noted the comments from the Applicant that the pavements in the area were flat, well-lit and well maintained. The Committee noted the comments from the Appellant with regard to barriers and obstacles between the current and proposed site in the form of rubbish and further noted that photographs had been provided by both the Appellant and Applicant to support their positions. The Committee accepted that the rubbish on the pavements could create obstacles for those on foot, but was also mindful that this was not a permanent fixture and that it would only be there until such time as it was collected by the council. The Committee further noted that it was placed between the lampposts and the pavement edge leaving the main part of the pavement free of obstacles for those on foot.
- 6.27 The Committee noted the comments from parties with regard to general access in the area due to the busy roads which needed to be crossed. The Committee, again noting the photographs provided by both the Applicant and the Appellant, was of the view that whilst it appeared to be a busy road, there were light controlled crossing points for pedestrians.
- 6.28 The Committee considered that it was reasonable to be satisfied that for those who were fit and able enough to access the existing site on foot because it is close to home, the proposed premises were not significantly less accessible.
- 6.29 The Committee was mindful that, given the location of the pharmacy, there were various methods of public transport that patients may use. The Committee noted however that neither the existing site or the proposed site were in the vicinity of a tube stop and that the nearest train station was 500 metres away.
- 6.30 The Committee considered access by bus and noted the undisputed comments from the Applicant that both the proposed and existing sites were served by the same bus routes so it would mean that any patient accessing services by bus would either alight one stop earlier or stay on for an extra stop depending on the direction of travel. The Committee noted that the bus stop for the existing site was located directly outside however the nearest bus stop to the proposed site was 60 metres away. The Committee was mindful that whilst using a bus would now require a short walk, the test was whether the proposed premises would be significantly less accessible. The Committee, whilst accepting that the bus stop would now require a short walk, was mindful that, as it was unaware of where these patients may have started their journey this may have included a walk to their initial bus stop. The Committee was of the view that for those who did use public transport, they would be aware of the stops and routes in the area. Given that the Committee’s conclusions above regarding access on foot,

the general topography and terrain of the area and the fact that both locations were served by the same bus route, the Committee was satisfied that for those who did access the existing pharmacy by public transport the proposed premises were not significantly less accessible.

- 6.31 The Committee noted that there was no information provided with regard to car ownership as the Applicant had stated that very few, if any, patients access the existing services by car due to the very limited parking in the vicinity of the existing site. The Committee noted the undisputed comments from the Applicant that if anyone did access by car then they would have to park in the adjacent side streets and, if they were not permit parking, parking charges would apply. The Committee noted that this was the same for the proposed site in that there was very limited parking by the pharmacy and anyone accessing would have to park in a side street.
- 6.32 The Committee was satisfied that for this patient group who accessed pharmaceutical services at the existing pharmacy because it is close to home the proposed site was not significantly less accessible.

*Patients shopping or working in East Greenwich or using other nearby amenities*

- 6.33 The Committee noted the likelihood was that this patient group were already in the area as they had travelled to the area for work or to visit the various shops and amenities in the area, which could include accessing the existing pharmacy provision in the area.
- 6.34 The Committee was of the view that it was likely that this patient group was fairly mobile and that it had already arrived in the area by either foot, public transport or private transport and would then continue to move around the area by foot.
- 6.35 The Committee noted the general topography and terrain of the area including any perceived obstacles and barriers, the flat, well-lit wide pavements as well as the distance between the existing and proposed sites. The Committee remained of the view that the area did not have any permanent barriers and had wide well-lit pavements as well as light controlled crossings at the main junctions. The Committee was of the view that for this patient group, who were willing and able to walk and chose to do so, the proposed premises were not significantly less accessible.
- 6.36 The Committee noted the lack of information regarding car ownership, however, was again of the view that those who had arrived in the area by car would be aware of the parking restrictions in London in general and in particular with regard to this area. Anyone accessing the existing pharmacy by car would be aware of the lack of parking at the existing site. The Committee noted that there is no provision for parking at the proposed site, so anyone accessing pharmaceutical services by car would have to park on the side streets in the vicinity and then walk to the pharmacy. The Committee noted that there was no information provided to demonstrate that there were any barriers to accessing the proposed site by car.
- 6.37 The Committee considered the information before it with regard to those who use public transport to access pharmaceutical services. The Committee noted that both the existing and proposed sites were on the same bus routes, which had not been disputed. The Committee noted that the bus stop for the proposed site was approximately 60 metres away and would therefore involve a short walk to the pharmacy, however the Committee was mindful of its view on the terrain and topography of the area as set out above.
- 6.38 The Committee was satisfied that for those that accessed pharmaceutical services whilst they were shopping or working in East Greenwich or using other nearby

amenities and did so by either car or public transport, the proposed site was not significantly less accessible.

*Patients registered with local surgeries*

- 6.39 The Committee noted that the Applicant currently dispenses specifically to both the Woodlands Surgery and the Vanbrugh Group Practice, which are the two medical practices nearest to the existing and proposed sites. The Committee considered access for those patients who were registered with the Vanbrugh Group Practice and the Woodlands Surgery.
- 6.40 The Committee noted the comments from the Appellant with regard to a patient group that specifically refers to the patients of the Woodlands Surgery, but was of the view that they could be considered as part of the initial patient group as identified by the Applicant.
- 6.41 The Committee noted the undisputed comments from parties that the existing site is currently located 100 metres from the Woodlands Surgery however following the relocation the proposed site would be located 280 metres from the Woodlands Surgery.
- 6.42 The Committee noted that whilst the Woodlands Surgery may be the closest medical practice to the existing site, only 30% of prescriptions originate from the Woodlands Surgery, which has not been disputed by parties.
- 6.43 Given the nature of the area, the Committee was of the view that those accessing the pharmacy after a visit to the Woodland Surgery would do so either on foot, by car or by public transport.
- 6.44 For those who access on foot, the Committee noted that the distance between the current and proposed site was approximately 180 metres. The pavements were flat, well-lit and well maintained and the route was straightforward. The Committee noted the comments from the Appellant with regard to the busy roads, however the Committee also noted the undisputed comments regarding the light controlled crossing facilities in the area. The Committee was of the view that for this patient group, those that were willing and able to walk and chose to do so, the proposed premises were not significantly less accessible.
- 6.45 The Committee noted that the Applicant had provided no information with regard to car ownership in the area, however the Applicant had confirmed that there was no parking at the existing site and that those who did choose to access services by private transport parked on side roads in the vicinity and that this would still be the same for those who travelled by car to access the proposed site. The Committee noted that there was no information provided to demonstrate that there were any barriers to accessing the proposed site by car.
- 6.46 For those who choose to access pharmaceutical services by public transport, the Committee noted that the existing and proposed sites were served by the same bus route and this would therefore involve either alighting earlier or staying on the bus a bit longer, depending on the direction of travel. The Committee noted that there is a bus stop directly outside the existing site however the bus stop at the proposed site would involve a walk of 60 metres. The Committee was of the view that using public transport would always require some degree of walking and given the relatively short distance from the bus stop to the proposed site along well-lit and well-maintained pavements, the Committee was of the view that this would not make it significantly less accessible.
- 6.47 The Committee noted that approximately 42% of the prescriptions dispensed originated from the Vanbrugh Group Practice. The existing site is 250 metres from the medical

practice, however following the relocation the proposed site will be 75 metres away. The Committee was of the view that those that accessed pharmaceutical services following a visit to the Vanbrugh Medical Practice, who did so on foot, would not find the location of the new premises significantly less accessible for the reasons given above.

- 6.48 For those that accessed services by private transport, the Committee was of the view that they would have parked in the area and would again, due to the topography and nature of the area, not find the new premises significantly less accessible.
- 6.49 Whilst there was limited information regarding accessing pharmaceutical services by bus following a visit to the Vanbrugh Group Practice, the Committee noted that the existing and proposed sites were on the same bus route and whilst this may involve a walk, given the Committee's view on the topography of the area it was of the view that this would not make the new premises significantly less accessible.
- 6.50 The Committee noted the other surgeries which the pharmacy dispenses to, which make up 27.5% of prescriptions however these had not been referred to specifically by the Applicant. The Committee noted, from the map provided by the Commissioner, that it was unlikely that those accessing pharmaceutical services after a visit to their GP, except for those registered with the Vanbrugh Group Practice or Woodlands Surgery, would access services by foot and would access either via car or public transport.
- 6.51 For those who might access on foot, the Committee was of the view, given the topography of the area as well as the distance between the existing and proposed site that, irrespective of which medical practice they start their journey at, the proposed premises were not significantly less accessible.
- 6.52 The Committee was of the view that the majority of those who accessed services following a visit to their GP would be accessing the pharmacy by either car or public transport. For those accessing by car, the Committee noted the comments with regard to the lack of car parking at both the existing and proposed sites and the undisputed comments that patients would have to find parking on side streets. The Committee was of the view that anyone who did drive in the area would be aware of the restrictions surrounding driving in London in general and specifically in this area. The Committee considered that it was reasonable to be satisfied that for patients accessing the existing site by private transport after a visit to their GP, the proposed premises were not significantly less accessible.
- 6.53 The location of the bus stops and confirmation that both the existing pharmacy and the proposed site are on the same bus route, has already been noted by the Committee. The Committee was mindful that any journey using the bus to access pharmaceutical provision at the existing site would already have required a walk and therefore was of the view that the walk from the bus stop near the proposed site along well-lit and well maintained pavements would not render the proposed location significantly less accessible.
- 6.54 The Committee was satisfied that for patients accessing the existing site by public transport after a visit to another medical practice, the proposed site was not significantly less accessible.

#### *Patients who share protected characteristics*

- 6.55 The Committee considered that it must have regard to how this patient group access the existing site and the accessibility of the proposed site. The Committee considered that this patient group will access the new premises on foot, by car or by public transport

and that it was necessary to consider the accessibility of the proposed site in light of each method of transport for this patient group.

- 6.56 The Committee noted the comments from the Applicant that they did not provide a collection and delivery service therefore every patient using the pharmacy attended the pharmacy as a “walk-in” and was therefore able to access the existing pharmacy by whatever means, whether this be by foot, car or public transport.
- 6.57 The Committee was of the view that if they accessed the existing site by car then the proposed site would not be significantly less accessible because there would be parking, albeit very limited in the area. If they accessed the existing site by public transport then the proposed site would not be significantly less accessible for the reasons given above.
- 6.58 The Committee noted the comments made earlier in this determination about the terrain, maintained and well-lit pavements and whilst there were some potential obstacles with regard to the rubbish, the Committee was mindful of the general nature of the area and the lack of barriers to access. The Committee was of the view that there were no particular difficulties for those who access pharmaceutical services on foot or by wheelchair.
- 6.59 For the reasons stated earlier the Committee was of the view that for this patient group the proposed premises would not be significantly less accessible.

#### *Overall assessment*

- 6.60 In the circumstances, the Committee was able to be satisfied that, for patient groups who are accustomed to accessing the present site, the proposed site is not significantly less accessible. The Committee was therefore of the view that condition (a) is met.

#### *Regulation 24(1)(b)*

- 6.61 The Committee noted the decision of the Commissioner in respect of condition (b), that the granting of this application would not lead to significant changes to the arrangements that are in place. The Committee noted that this had not been disputed on appeal. On the information provided the Committee was of the opinion that the granting of the application would not result in a significant change to the arrangements in place for the provision of local pharmaceutical services or of pharmaceutical services in any part of the HWB. The Committee concluded that condition (b) is met.

#### *Regulation 24(1)(c)*

- 6.62 The Committee noted the decision of the Commissioner in respect of condition (c) that the granting of the relocation would not lead to significant detriment to proper planning in respect of the provision of pharmaceutical services.
- 6.63 The Committee noted that this had been disputed by the Appellant on appeal.
- 6.64 The Committee noted the comments from the Appellant with regard to the supposition that they would lose business and would have to reduce their hours. The Committee was mindful of the Regulations in this regard and that any application to change hours, whether this was for “core” or “supplementary hours” would have to be submitted in accordance with the Regulations and considered by the Commissioner, if appropriate. The Committee was of the view that this was not a relevant consideration in respect of the instant application which was before it.

- 6.65 The Committee noted that whilst the Appellant had made statements regarding the potential reduction in hours, no information had been provided to demonstrate that granting this application would lead to a significant detriment to any plans that are in place and need to be implemented by the Commissioner.
- 6.66 The Committee noted the comments with regard to prescription directing and referrals to the Applicant's pharmacy which could lead to the reduction of dispensing and other services which the Appellant offered. Notwithstanding the prohibition on directing prescriptions, the Committee again was of the view that these claims were supposition and that no information had been provided to demonstrate that the granting of this application would lead to significant detriment.
- 6.67 The Committee noted the comments from the Appellant with regard to the decreasing patient choice and accessibility of pharmacies in the area, but was mindful that this is for a relocation of an existing contract and therefore there would be no reduction in patient choice if this application was to be granted. With regard to accessibility, the Committee was mindful of the Regulations and was of the view that it had consider the application before it based on the relevant criteria for a no significant change relocation, which took into account a broad view of accessibility.
- 6.68 On the information provided the Committee was of the opinion that the granting of the application would not cause a significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of HWB1 and therefore concluded that condition (c) is met.

*Regulation 24(1)(d) and Regulation 26(2)(c)*

- 6.69 The Committee noted that the Applicant had given an undertaking, in their original application form, that the same services will be provided at the proposed site. On the information provided, the Committee determined that condition (d) is met.

*Regulation 24(1)(e)*

- 6.70 In relation to condition (e), the Committee noted the Applicant had confirmed in their application, and subsequent representations, that there will be no interruption to service provision. On the information provided the Committee determined that condition (e) is met.

*Regulation 26(2)(d)*

- 6.71 The Committee, taking into account its consideration above, was satisfied that in accordance with 26(2)(d) that if the Applicant had applied to move from 196 – 198 Trafalgar Road, London, SE10 9ER to 3 – 5 Woolwich Road, London, SE10 0AR, that application would have been granted under 24(1)(a).

*Other*

- 6.72 The Committee noted the comments from the Appellant, reiterated in further correspondence, regarding the inconsistency as to why the Applicant wished to relocate. The Committee was of the view that the reasons for a relocation were a matter for the Applicant and were not a relevant consideration for it on appeal. The Committee therefore took no view on the reasons proposed by the Applicant or disputed by the Appellant and considered the application before it based on the criteria as set out in the Regulations.
- 6.73 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:

- 6.73.1 confirm the Commissioner's decision;
- 6.73.2 quash the Commissioner's decision and redetermine the application;
- 6.73.3 if it considers that there should be a further notification to the parties to make representations, quash the Commissioner's decision and remit the matter to the Commissioner.

#### *Overall*

- 6.74 Although the Committee has come to the same conclusions as the Commissioner, it has done so for different reasons. As such, the Committee determined that the decision of the Commissioner must be quashed.
- 6.75 The Committee went on to consider whether there should be a further notification to the parties detailed at paragraph 19 of Schedule 2 of the Regulations to allow them to make representations if they so wished (in which case it would be appropriate to remit the matter to the Commissioner) or whether it was preferable for the Committee to redetermine the application.
- 6.76 The Committee noted that representations on Regulation 24 had already been made by parties to the Commissioner, and these had been circulated and seen by all parties who made representations on the application, as part of the processing of the application by the Commissioner. The Committee further noted that when the appeal was circulated representations had been sought from parties on Regulation 26.
- 6.77 The Committee concluded that further notification under paragraph 19 of Schedule 2 would not be helpful in this case.

## **7 Decision**

- 7.1 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 7.2 The Committee has determined that it should be granted on the following basis:
  - 7.2.1 the Applicant is proposing to continue in place of the existing contractor, the business in the course of which that contractor is providing pharmaceutical services but at different premises.
  - 7.2.2 the Committee was satisfied they can provide the same pharmaceutical services as those that the existing contractor is providing;
  - 7.2.3 the Committee was satisfied in accordance with 26(2)(d) that if the Applicant had applied to move to 3 – 5 Woolwich Road, London, SE10 0AR, that application would have been granted under Regulation 24(1).
  - 7.2.4 that the provision of pharmaceutical services will not be interrupted (except for such period as NHS England may for good cause allow).
- 7.3 The application is granted.

**Case Manager  
Primary Care Appeals**