

22 May 2025

FILE REF:

SHA/26501

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

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

COMMISSIONER:

**CAMBRIDGESHIRE
PETERBOROUGH ICB
("the Commissioner")**

&

PHARMACIST:

**ALCHEMY PHARMACEUTICALS LTD
("the Applicant")**

PREMISES:

**ST GEORGE'S PHARMACY (FFV95)
ST GEORGE'S MEDICAL CENTRE,
PARSONS LANE,
LITTLEPORT,
CAMBRIDGESHIRE,
CB6 1JU**

**THE NATIONAL HEALTH SERVICE (PHARMACEUTICAL AND LOCAL PHARMACEUTICAL
SERVICES) REGULATIONS 2013 ["THE REGULATIONS"]**

**SCHEDULE 4 [Terms of Service of NHS Pharmacists]
PART 3 [Hours of Opening]**

Outcome

- 1.1 Based on the information provided, I am not satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours would maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises. I am satisfied that maintaining the current level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b).
- 1.2 The action taken by the Commissioner to refuse the application is confirmed.

A copy of this decision is being sent to:

Alchemy Pharmaceuticals Ltd
Hertfordshire and West Essex ICB

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**SCHEDULE 4 [Terms of Service of NHS Pharmacists]
PART 3 [Hours of Opening]**

1 Introduction

- 1.1 The Applicant has applied to the Commissioner to change the days and times at which it is obliged to provide pharmaceutical services at the above premises. The Applicant seeks to keep the total number of core opening hours the same while offering a different distribution of these hours during the week.
- 1.2 The Commissioner has refused the application. The Applicant seeks to appeal to NHS Resolution.

Rights of appeal

- 1.3 Where the Commissioner has determined an application under paragraph 26 of Schedule 4 of the Regulations and has granted it in part only or has taken an action that has the effect of refusing it, paragraph 26(9) provides a right of appeal to the Secretary of State for Health and Social Care ("the Secretary of State").
- 1.4 The Secretary of State has directed NHS Resolution to determine such appeals. As an authorised officer of NHS Resolution, I have considered the appeal and have determined it, in accordance with my delegated powers.

Opening hours

- 1.5 A pharmacy's opening hours may be categorised as:
- 1.5.1 "core opening hours" (at the hours during which the pharmacy must be open by virtue of paragraph 23(1) of Schedule 4 of the Regulations), which may incorporate a direction of the Commissioner requiring fewer or greater than 40 hours and at set times and days; or
 - 1.5.2 "supplementary" opening hours (other hours during which the pharmacy premises are open which are in addition to the core hours), pursuant to paragraph 23(3) of Schedule 4 of the Regulations.

Alteration of core opening hours

- 1.6 In accordance with paragraphs 1(7)(c) and 1(7)(d) of Schedule 2 of the Regulations, the pharmacy must provide, as part of an application for entry in the pharmaceutical list:
- 1.6.1 the proposed core opening hours in respect of the premises; and
 - 1.6.2 the total proposed opening hours for the premises (having regard to both the proposed core opening hours and any supplementary opening hours).
- 1.7 The Commissioner maintains pharmaceutical lists that include the days on which and times at which, at those premises, the listed person is to provide those services during the core opening hours and any supplementary opening hours of the premises.
- 1.8 The days on which or times at which a pharmacy is obliged to provide pharmaceutical services at the premises may only be altered by the pharmacy on application under paragraph 26(1) of Schedule 4 of the Regulations, so long as the effect of that application is to reduce the total number of hours for which a pharmacy is obliged to provide, or keep the total number of hours the same.

Alteration of supplementary opening hours

- 1.9 Supplementary opening hours may be altered by the pharmacy giving notice to the Commissioner, in accordance with paragraph 23(6)(a) of Schedule 4 of the Regulations, without the need to make an application to the Commissioner.
- 1.10 There is no specific right of appeal to NHS Resolution in respect of notices given under paragraph 23(6)(a).

The Applicant's proposals

- 1.11 The Applicant in its letter of appeal indicates that it currently has core opening hours totalling 40 hours per week.
- 1.12 The Applicant wishes to:
- 1.12.1 No longer offer any core opening hours on a Saturday.
 - 1.12.2 Redistribute the 5 core openings hours that are currently offered on a Saturday and instead reduce the lunch time closure on weekdays from the current 12pm – 2pm to 12pm – 1pm.

2. Application

In this case, the Applicant provided the following information in its application form and supporting information dated 12 July 2024:

2.1 “This is an application to permanently change core opening hours.

2.2 Current opening hours for these premises:

Monday	9am – 12pm 2pm – 6pm
Tuesday	9am – 12pm 2pm – 6pm
Wednesday	9am – 12pm 2pm – 6pm
Thursday	9am – 12pm 2pm – 6pm
Friday	9am – 12pm 2pm – 6pm
Saturday	9am – 12pm 3pm – 5pm
Sunday	Closed

2.3 Proposed core opening hours for these premises:

Monday	9am – 12pm 1pm – 6pm
Tuesday	9am – 12pm 1pm – 6pm
Wednesday	9am – 12pm 1pm – 6pm
Thursday	9am – 12pm 1pm – 6pm
Friday	9am – 12pm 1pm – 6pm
Saturday	Closed
Sunday	Closed

2.4 If this is a permanent change, please state below the date from which you would like the change to take effect:

2.4.1 2 September 2024

2.5 “I am writing to formally request the approval of closing St Georges Pharmacy at 2a Parsons Lane, Littleport, CB6 1JU, every Saturday. This request is made in consideration of several factors that demonstrate maintaining a sustainable level of adequate service provision for the people in the area.

2.6 Current Service Provision:

2.7 St Georges Pharmacy currently operates Monday to Friday from 9am to 6pm and Saturday from 9am to 5pm. The pharmacy is dedicated to providing essential pharmaceutical services to the community of Littleport.

2.8 Proposed Change:

- 2.9 We propose to close the pharmacy every Saturday. This decision has been carefully considered, taking into account the needs of the local population and the availability of alternative pharmaceutical services in the area. We are keen to increase our core opening hour from Monday to Friday, from originally 9am to 12pm; 2pm to 6pm and now proposed to increase to 9am to 12pm; 1pm to 6pm, to maintain 40 as weekly core opening hours.
- 2.10 Alternative Service Provision:
- 2.11 Wellbeing Pharmacy, located at 2 Parsons Lane, Littleport, CB6 1JU, is situated adjacent to St Georges Pharmacy. Wellbeing Pharmacy operates 7 days a week, Monday to Saturday from 9 am to 9 pm (close between 1pm to 2pm for lunchbreak), Sunday 8am to 9pm, ensuring comprehensive access to pharmaceutical services throughout the week, including weekends.
- 2.12 Justification for Proposed Change:
- 2.13 Adequate Service Coverage:
- 2.14 Wellbeing Pharmacy's extensive opening hours, including weekends, ensures that the local community will continue to have access to necessary pharmaceutical services without interruption. The proximity of Wellbeing Pharmacy (2 minute's walk from St Georges Pharmacy) provides a seamless transition for patients needing services on Saturdays.
- 2.15 Sustainable Service Provision:
- 2.16 The proposed closure on Saturdays will allow St Georges Pharmacy to focus on maintaining high-quality services during the weekdays, ensuring better allocation of resources and staff efficiency. This will contribute to the long-term sustainability of the pharmacy, allowing us to continue serving the community effectively.
- 2.17 Community Needs:
- 2.18 An analysis of patient footfall and service utilisation indicates that the demand for pharmaceutical services on Saturdays can be adequately met by Wellbeing Pharmacy. This will ensure that there is no disruption to the service provision for the community.
- 2.19 Operational Efficiency:
- 2.20 Closing on Saturdays will enable St Georges Pharmacy to allocate resources more efficiently, allowing us to better serve our patients during peak hours on weekdays. This change will enhance our operational capacity and service delivery during the times when demand is highest.
- 2.21 We are committed to ensuring that the needs of our community are met and that there is no compromise on the quality of service provision. The proposed Saturday closure of St Georges Pharmacy, given the extensive service hours of Wellbeing Pharmacy, will maintain an adequate level of service for the local population while supporting the sustainable operation of our pharmacy.
- 2.22 We kindly request NHS England's consideration and approval of this proposed change in opening hours. Please do not hesitate to contact us for any further information or clarification.
- 2.23 Thank you for your understanding and support."

3. The Decision

In a letter to the Applicant dated 16 January 2025 the Commissioner decided to refuse the application. The Commissioner stated:

3.1 “The Pharmaceutical Services Regulations Committee (hereafter referred to as “the Committee”) considers all pharmaceutical services applications on behalf of NHS Hertfordshire & West Essex ICB on behalf of all six ICBs in the East of England region, in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as “the Regulations”).

3.2 The Committee considered this application under Schedule 4, Part 3, Paragraph 24 and 26 of the Regulations 2013.

3.3 The application was considered under 26(1).

3.4 The current core hours are:

Current							40:00	13:00
	S1		C1		S2		C2	
Monday			09:00	12:00	12:00	14:00	14:00	18:00
Tuesday			09:00	12:00	12:00	14:00	14:00	18:00
Wednesday			09:00	12:00	12:00	14:00	14:00	18:00
Thursday			09:00	12:00	12:00	14:00	14:00	18:00
Friday			09:00	12:00	12:00	14:00	14:00	18:00
Saturday			09:00	12:00	12:00	15:00	15:00	17:00
Sunday								

3.5 Total 40 core hours per week.

3.6 The applicant proposed core hours of:

Current							40:00	5:00
	S1		C1		S2		C2	
Monday			09:00	12:00	12:00	13:00	13:00	18:00
Tuesday			09:00	12:00	12:00	13:00	13:00	18:00
Wednesday			09:00	12:00	12:00	13:00	13:00	18:00

Thursday			09:00	12:00	12:00	13:00	13:00	18:00
Friday			09:00	12:00	12:00	13:00	13:00	18:00
Saturday								
Sunday								

- 3.7 Total 40 core hours per week.
- 3.8 The applicant currently provides no enhanced services and the following advanced services:
- 3.8.1 Hypertension Case-Finding
 - 3.8.2 Smoking Cessation Service
 - 3.8.3 Lat Flow Device
 - 3.8.4 Pharmacy First
 - 3.8.5 Contraception Service
- 3.9 The applicant proposed to leave the total number of core hours unchanged, however the core hours that were removed from Saturday were to be included in the additional core hours on Monday to Friday from 13:00 – 18:00.
- 3.10 The Committee noted that whilst the regulations state that it might take supplementary opening hours into consideration, it was to be mindful that these could be changed by the giving of notice. It was therefore recommended that the Committee placed no weight on the provision of pharmaceutical services during supplementary opening hours.
- 3.11 The applicant noted references to “analysis of patient footfall and service utilisation”. Whilst this was referenced, the Committee noted that no analysis was provided for review.
- 3.12 The Committee were informed that during a Community Pharmacy Assurance Framework (CPAF) visit the pharmacy had been closed for many Saturdays. The Committee noted that any analysis would only cover a short period as the contractor did not start opening on a Saturday until July 2024.
- 3.13 The Committee noted the provision of advanced and enhanced services by the nearest pharmacy. There were no enhanced services offered by the applicant or by the nearest pharmacy. The full range of advanced services offered by the applicant were also offered by the nearest pharmacy.
- 3.14 Considering the provision of pharmaceutical services during core opening hours by the other pharmacy in the area, the Committee determined whether patients would be able to access the same services from the alternative pharmacy if the application was granted, and therefore if the existing level of service provision would be maintained by the other pharmacy.

3.15 The Committee noted that the applicant did reference that Wellbeing Pharmacy is 2 minutes away. No further information or evidence on how people travel to pharmacy premises at the times the pharmacy would be closed if the application was granted was provided.

3.16 Paragraph 24(1)(b), Schedule 4 – are the proposed core opening hours such as to maintain a sustainable level of adequate service provision for the people in the area of the pharmacy or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome?

3.17 It was noted that the applicant did not provide any evidence to support the rationale that maintaining the existing levels of service provision would not be realistically achievable were the current provision, in terms of core hours, to remain in place.

3.18 **Decision:**

3.19 The Committee agreed that that the application is refused as the applicant had not provided an assurance that the days and times at which the pharmacy premises are open for the provision of pharmaceutical services in the area in which the premises that are the subject of the direction are located are such as

3.20 (a) to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises; or

3.21 (b) to maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.

3.22 The rationale for the decision is as follows:

3.23 Lack of evidence: The applicant did not provide any information regarding travel times for patients accessing the pharmacy during the proposed removal of services from 09:00 – 12:00, 15:00 – 17:00 on a Saturday. Previous Similar Refusal: A similar application had been refused in February 2024. The contractor had detailed changes in that application that were not implemented resulting in the same issues being present in the current application.

3.24 As the application is refused, the contractor has the right of appeal.

3.25 You have the right of appeal to the Secretary of State against our decision. Should you choose to appeal, then you should send in writing a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to:

3.26 nhsr.appeals@nhs.net or

3.27 NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU

4. **The Appeal**

In a letter to NHS Resolution dated 6 February 2025 the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

4.1 "I am writing to formally appeal the refusal of our proposed new opening hours for St Georges Pharmacy, located at 2a Parsons Lane, Littleport, CB6 1JU. We respectfully

request a reconsideration of this decision based on the following key factors supporting the need for an adjustment in our operational hours.

4.2 Proximity to Wellbeing Pharmacy

4.3 As evidenced in the attached map (titled 'Screenshot 2025-02-05 124537'), Wellbeing Pharmacy, located at 2 Parsons Lane, Littleport, is merely a one minute walk from St Georges Pharmacy. This demonstrated that pharmaceutical services remain readily accessible within the village, ensuring continuity of care for patients.

4.4 Provision of Advanced Pharmacy Services

4.5 Both St Georges Pharmacy and Wellbeing Pharmacy actively provide essential NHS advanced services, including:

4.5.1 Hypertension Case-Finding

4.5.2 Smoking Cessation Service

4.5.3 Lateral Flow Device Distribution

4.5.4 Pharmacy First

4.5.5 Contraception Service

4.6 Given that both pharmacies are committed to delivering these crucial healthcare services, the accessibility and availability of pharmaceutical care in the village are maintained regardless of minor adjustments to opening hours.

4.7 Lunchtime Closure Considerations

4.8 Wellbeing Pharmacy has been closing from 1:00PM to 2:00PM (Monday to Saturday) for staff lunch breaks, whereas St Georges Pharmacy operates continuously from 9:00AM to 6:00PM without a lunch break. This ensures uninterrupted pharmaceutical services within the village, addressing concerns regarding service availability.

4.9 Analysis of Patient Footfall and Service Utilisation

4.10 Data from our pharmacy dispensing records (as shown in 'Screenshot 2025-02-05 111010') indicate that from 7th January 2025 to 5th February 2025, there were zero items received and handed out during specific timeframes. [see table 4.18] This data supports our analysis that certain hours experience minimal to no patient footfall, highlighting the need for a flexible approach to opening hours that reflects actual service demand.

4.11 Financial Pressures on Community Pharmacies

4.12 The community pharmacy sector is under severe financial strain due to increasing operational costs and the unjustifiably high locum pharmacist rates during weekends. Additionally, the closure of multiple large pharmacy chains like Lloyds Pharmacy has placed added pressure on independent pharmacies. In order to sustain operations and ensure continued service to the public from Monday to Friday, the closure of St Georges Pharmacy on Saturdays is crucial. This measure allows us to efficiently allocate staff costs during the weekdays, ensuring the long term viability of our services.

4.13 Patient Testimonials

4.14 Below are statements from local patients demonstrating their confidence in the current pharmacy arrangements:

4.14.1 "I have never had any issue collecting my medication from either pharmacy. The two pharmacies work together seamlessly." – J.S.

4.14.2 "We are aware that both pharmacies coordinate their services, ensuring patient needs are met at all times." – M.R.

4.14.3 "Even when one pharmacy is closed, the other is always available, making access to medications convenient for us villagers." – K.T.

4.14.4 "I appreciate the flexibility of being able to use either pharmacy without concerns about service gaps." – Anonymous

4.14.5 "The arrangements between the two pharmacies is well-known in the community, and we fully support it." – P.L.

4.15 Support from the Medical Community

4.16 Dr Mukesh Bolina, a senior practitioner at St Georges Medical Centre, has expressed support for our proposal. He confirms the strong working relationship between St Georges Pharmacy, Wellbeing Pharmacy and the local surgery. He also acknowledges that the Saturday closure of St Georges Pharmacy is unlikely to compromise public access to essential medications and pharmaceutical services.

4.17 Given the above points, we respectfully request that our appeal be reconsidered. We remain committed to serving the community effectively and believe that the proposed change will allow us to continue delivering high quality pharmaceutical care while ensuring long term sustainability."

4.18 Analysis of Patient Footfall and Service Utilisation

Dispensing volume		
Date	Arrived item count	Handed out count
07/01	227	218
08/01	367	517
09/01	175	353
10/01	268	344
11/01	0	0
12/01	0	0
13/01	467	165
14/01	423	283
15/01	191	245

16/01	165	245
17/01	307	273
18/01	0	0
19/01	0	0
20/01	385	243
21/01	190	200
22/01	326	278
23/01	215	154
24/01	439	257
25/01	0	0
26/01	0	0
27/01	193	280
28/01	388	317
29/01	316	273
30/01	271	273
31/01	230	557
01/02	0	0
02/02	0	0
03/02	432	243
04/02	69	37
05/02	68	51

5. Representations

In a letter to NHS Resolution dated 27 February 2025 the Commissioner stated:

- 5.1 “Please note that from the 1 April 2023, community pharmacy contracting and commissioning has been delegated to Integrated Care Boards (ICBs). Hertfordshire and West Essex (HWE) ICB are hosting the function on behalf of the six East of England ICBs. The six ICBs have formed one Pharmaceutical Services Regulations Committee (PSRC) which is also hosted by HWE ICB.

- 5.2 The ICB would like to bring to your attention an error on page 3 of the decision letter (enclosed with this correspondence) where it states that ‘a similar application had been refused in February 2024’. This should read ‘a similar application had been refused in April 2023’.
- 5.3 Having reviewed the grounds of the appeal and the information provided by Yun Teng Pay, Director, on behalf of Alchemy Pharmaceuticals Limited t/a St George’s Pharmacy (the Appellant), we remain of the opinion that this application should be refused.
- 5.4 The grounds for the appeal appear to be based on the following:
- 5.4.1 Proximity to Wellbeing Pharmacy
 - 5.4.2 Provision of Advanced Services
 - 5.4.3 Lunchtime Closure Considerations
 - 5.4.4 Analysis of Patient Footfall and Service Utilisation
 - 5.4.5 Financial Pressures on Community Pharmacies
 - 5.4.6 Patient Testimonials
 - 5.4.7 Support from the Medical Community
- 5.5 Having reviewed the notice of appeal, HWE ICB would like to make the following representations on behalf of Cambridgeshire & Peterborough ICB.
- 5.6 As the Appellant submitted an application to make a permanent change to core hours, the PSRC considered this application under paragraphs 24 and 26, Schedule 4 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended (the Regulations).

26. – (1) An NHS pharmacist (P) may apply to the NHSCB for it to change the days on which or times at which P is obliged to provide pharmaceutical services during core opening hours at P’s pharmacy premises in a way that –

(a) reduces the total number of hours for which P is obliged to provide pharmaceutical services at those premises each week; or

(b) keeps that total number of hours the same.

(2) Except where sub-paragraph (2A) applies, where P makes an application under sub-paragraph (1), as part of that application P must provide the NHSCB with such information as the NSCB may reasonably request in respect of the matters that NHS England must seek to ensure pursuant to paragraph 24(1).

24. – (1) Subject to paragraph 26(2A), where NHS England issues a direction for setting any days or times for opening hours under this Part, or determines them without issuing a direction, it must in doing so seek to ensure that the days and times at which pharmacy premises are open for the provision of pharmaceutical services in the area in which the premises that are the subject of the direction are located are such as–

(a) to maintain as necessary the existing level of service provision for the people in that area or any other likely users of the pharmacy premises; or

(b) to maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.

5.7 The current and proposed core hours are set out below:

5.8 Current

Current							40:00	13:00
	S1		C1		S2		C2	
Monday			09:00	12:00	12:00	14:00	14:00	18:00
Tuesday			09:00	12:00	12:00	14:00	14:00	18:00
Wednesday			09:00	12:00	12:00	14:00	14:00	18:00
Thursday			09:00	12:00	12:00	14:00	14:00	18:00
Friday			09:00	12:00	12:00	14:00	14:00	18:00
Saturday			09:00	12:00	12:00	15:00	15:00	17:00
Sunday								

5.9 Proposed

Current							40:00	5:00
	S1		C1		S2		C2	
Monday			09:00	12:00	12:00	13:00	13:00	18:00
Tuesday			09:00	12:00	12:00	13:00	13:00	18:00
Wednesday			09:00	12:00	12:00	13:00	13:00	18:00
Thursday			09:00	12:00	12:00	13:00	13:00	18:00
Friday			09:00	12:00	12:00	13:00	13:00	18:00
Saturday								
Sunday								

- 5.10 The overall effect of the application is that the Appellant is seeking to redistribute their core hours Monday to Friday resulting in the removal of core hours on the Saturday.
- 5.11 NHS England's template application form asks that the applicant provide such information so as to demonstrate that the proposed core opening hours will either:
- 5.11.1 Maintain as necessary the existing level of service provision for people in the area of the pharmacy, or other likely users of the pharmacy premises; or
- 5.11.2 Maintain a sustainable level of adequate service provision for the people in the area of the pharmacy, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.
- 5.12 In response, the Appellant stated the following:
- 5.13 *"I am writing to formally request the approval of closing St Georges Pharmacy at 2a Parsons Lane, Littleport, CB6 1JU every Saturday. This request is made in consideration of several factors that demonstrate maintaining a sustainable level of adequate service provision for the people in the area.*
- 5.14 *Current service provision:*
- 5.15 *St Georges Pharmacy currently operates Monday to Friday from 9am to 6pm and Saturday from 9am to 5pm. The pharmacy is dedicated to providing essential pharmaceutical services to the community of Littleport.*
- 5.16 *Proposed Change:*
- 5.17 *We propose to close the pharmacy every Saturday. This decision has been carefully considered, taking into account the needs of the local population and the available of alternative pharmaceutical services in the area. We are keen to increase our opening hours from Monday to Friday, from originally 9am to 12pm; 2pm to 6pm and now proposed to increase to 9am to 12pm; 1pm to 6pm to maintain 40 as weekly core opening hours.*
- 5.18 *Alternative Service Provision:*
- 5.19 *Wellbeing Pharmacy, located at 2 Parsons Lane, Littleport, CB6 1JU is situated adjacent to St Georges Pharmacy. Wellbeing Pharmacy operates 7 days a week Monday to Saturday from 9am to 9pm (close between 1pm to 2pm for lunchbreak), Sunday 8am to 9pm, ensuring comprehensive access to pharmaceutical services throughout the week, including weekends.*
- 5.20 *Justification for proposed change:*
- 5.21 *Adequate Service Provision*
- 5.21.1 *Wellbeing Pharmacy's extensive opening hours, including weekends, ensures that the local community will continue to have access to necessary pharmaceutical services without interruption. The proximity of Wellbeing Pharmacy (2 minutes walk from St George Pharmacy) provides a seamless transition for patients needing services on Saturdays.*
- 5.22 *Sustainable Service Provision:*

5.22.1 *The proposed closure on Saturdays will allow St Georges Pharmacy to focus on maintaining high quality services during the weekdays, ensuring better allocation of resources and staff efficiency. This will contribute to the long term sustainability of the pharmacy, allowing us to continue servicing the community effectively.*

5.23 **Community Needs:**

5.23.1 *An analysis of patient footfall and service utilisation indicates that the demand for pharmaceutical services on Saturdays can be adequately met by Wellbeing Pharmacy. This will ensure that there is no disruption to the service provision for the community.*

5.24 **Operational Efficiency:**

5.24.1 *Closing on Saturdays will enable St Georges Pharmacy to allocate resources more efficiently, allowing us to better serve our patients during peak hours on weekdays. This change will enhance our operational capacity and service delivery during the times when demand is highest.”*

5.25 On appeal the Appellant has expanded upon this, and this information can be found in Appendix 1.

5.26 The PSRC has reviewed this additional information and maintains that the decision to refuse the application was correct.

Paragraph 24(1)(a), Schedule 4

5.27 It is first necessary to identify the existing level of service provision for people in the area of St Georges Pharmacy or other likely users of the pharmacy.

5.28 The Appellant is proposing to redistribute the 40 core hours by removing core hours on a Saturday and increasing the current hours 14:00 – 18:00 Monday to Friday to 13:00 – 18:00. There would also be changes to the supplementary hours. A notification has been received to change the supplementary hours from 12:00 – 14:00 to 12:00 – 13:00 if the change to core hours is granted. The existing level of service provision would therefore not be maintained because the proposed change will see the pharmacy remove the core and supplementary hours 09:00 – 17:00 on a Saturday.

5.29 It is therefore necessary to identify whether there are other providers of pharmaceutical services in the area, when they are open and whether when considered, they would maintain the existing level of service provision.

5.30 When accessing the existing level of service provision by these other pharmacies, the PSRC has only considered core opening hours Monday to Friday.

5.31 There is 1 other pharmacy within 0.1 mile* providing pharmaceutical services. Wellbeing Pharmacy is open Monday – Saturday 10:00 – 13:00, 14:00 – 21:00 and Sunday – 08:00 – 21:00.

5.32 * Distances taken from Google maps.

Current				73:00	6:00
	S1	C1	S2	C2	

Monday	09:00	10:00	10:00	13:00			14:00	21:00
Tuesday	09:00	10:00	10:00	13:00			14:00	21:00
Wednesday	09:00	10:00	10:00	13:00			14:00	21:00
Thursday	09:00	10:00	10:00	13:00			14:00	21:00
Friday	09:00	10:00	10:00	13:00			14:00	21:00
Saturday	09:00	10:00	10:00	13:00			14:00	21:00
Sunday			08:00	13:00			13:00	21:00

- 5.33 Wellbeing Pharmacy provides the same advanced services as the Appellant.
- 5.34 It is noted that there are no core hours provided by Wellbeing Pharmacy between 09:00 – 10:00 therefore the existing level of service provision provided by St Georges Pharmacy on a Saturday would not be maintained.
- 5.35 On appeal the Appellant states that “*Wellbeing Pharmacy has been closing from 1:00PM to 2:00PM (Monday to Saturday) for staff lunch breaks, whereas St Georges Pharmacy operates continuously from 09:00AM to 6:00PM without a lunch break. This ensures uninterrupted pharmaceutical services within the village, addressing concerns regarding service availability*”. (Point 3, Appeal letter.) The ICB notes that the current hours between 12:00 – 14:00 provided by the Appellant are supplementary hours. The Appellant is proposing to reduce these supplementary hours to 12:00 – 13:00.
- 5.36 The Appellant has also provided an analysis of patient footfall and service utilisation and a screenshot for the period 7 January 2025 to 5 February 2025 and states ‘*there were zero items received and handed out during specific timeframes. This data supports our analysis that certain hours experience minimal to no patient footfall, highlighting the demand for a flexible approach to opening hours that reflects actual service demand*’. (point 4, Appeal letter)
- 5.37 PSRC notes that in their original application dated 12 July 2024 the Appellant states that ‘*an analysis of patient footfall and service utilisation indicates that the demand for pharmaceutical services on Saturdays can be adequately met by Wellbeing Pharmacy.*’ (point 3 on page 4 of this document). No evidence was provided nor was the period that the analysis was carried out identified.
- 5.38 The patient analysis provided by the Appellant on appeal is over a four week period i.e. 7 January – 5 Feb 2025. The dispensing volume data indicates that no prescriptions were handed out however pharmaceutical provision is more than just dispensing. It encompasses a range of essential services in line with the Terms of Service, advice and advanced services as well as over-the-counter sales. Evidence was not provided to demonstrate whether people attended for these services e.g. essential and advanced services.
- 5.39 On appeal the Appellant has provided 5 testimonials from local patients ‘*demonstrating their confidence in the current pharmacy arrangements*’ (Point 6, Appeal letter). Whilst these 5 people appear satisfied with the current arrangements, it is unclear what “current arrangements” encompasses, exactly what question people were asked, how

many people were asked, whether there were any people not happy, or any responses excluded. It is also not clear whether people were aware of how their comments would be used and the possible implications. It is respectfully suggested that NHS Resolution places little weight on these statements.

- 5.40 PSRC noted that the Appellant references that Wellbeing Pharmacy is 2 minutes away however no further information or evidence was provided on how people travel to the pharmacy premises, and how they would travel to other pharmacies, at the time the pharmacy would be closed if the application was granted.
- 5.41 Consequently, it is the view of the PSRC that the proposed core opening hours do not satisfy paragraph 24(1)(a), Schedule 4.

Paragraph 24(1)(b), Schedule 4

- 5.42 As the PSRC remains of the opinion that:
- 5.42.1 It is necessary to maintain the existing level of service provision,
- 5.42.2 The Appellant's proposed opening hours would not achieve that, and
- 5.42.3 There is no evidence that other providers of pharmaceutical services would maintain the existing level of service provision,
- 5.43 the PSRC now considers paragraph 24(1)(b), Schedule 4 with regard to the Appellant's representations.
- 5.44 PSRC notes that the Appellant has referenced support from *'Dr Mulesh Bolina, a senior practitioner at St Georges Medical Centre who has expressed support for our proposal. He confirms the strong working relationship between St George Pharmacy, Wellbeing Pharmacy and the local surgery. He also acknowledges that the Saturday closure of St Georges Pharmacy is unlikely to comprise public access to essential medication and pharmaceutical services.'* (point 7, Appeal letter).
- 5.45 The strong working relationship between the Appellant and the GP practice is evident. However, this is not a basis for the PSRC to grant or refuse an application. All applications must be determined based on the Regulations. The Appellant has not provided any evidence to demonstrate that the current users of St Georges Pharmacy who can access services from 09:00 – 17:00 on a Saturday would not be affected should the change in hours be granted. In light of this, it has to be considered that the service is necessary.
- 5.46 The PSRC is not persuaded by the Appellant's representations that there are any circumstances where maintaining a sustainable level of adequate service provision for people in the area or other likely users of the pharmacy is either unnecessary or not a realistically achievable outcome. The Appellant in their application provided general statements about sector-wide issues including severe financial strain due to increasing operational costs, high locum rates during weekends and the closure of large pharmacy chains putting added pressures on independent pharmacies. (Point 5, Appeal letter)
- 5.47 The Appellant then notes, *'in order to sustain operations and ensure continued service to the public from Monday to Friday, the closure of St Georges Pharmacy on Saturdays is crucial'*. (Point 5, Appeal letter). Whilst PSRC can empathise with the challenges and cost pressures facing community pharmacy, the Appellant has made generic statements and not provided any evidence specifically relevant to St Georges Pharmacy.

5.48 Consequently, the PSRC is of the view that the proposed core opening hours do not satisfy paragraph 24(1)(b), Schedule 4 and remains of the opinion that the application should be refused.”

6. Observations

No observations were received.

7. Consideration

7.1 I note the following:

7.1.1 The Applicant's core opening hours total 40 hours and the Applicant proposes to redistribute those 40 core opening hours pursuant to paragraph 26 of Schedule 4.

7.2 The Regulations, which came into force on 1 April 2013, have been amended a number of times. Certain amendments, relating to pharmacy premises opening hours, came into force with effect from 25 May 2023.

7.3 Paragraph 26(1) states:

“26.— (1) An NHS pharmacist (P) may apply to NHS England for it to change the days on which or times at which P is obliged to provide pharmaceutical services during core opening hours at P's pharmacy premises in a way that—

(a) reduces the total number of hours for which P is obliged to provide pharmaceutical services at those premises each week ...; or

(b) keeps that total number of hours the same.”

7.4 I have first considered paragraph 26(2) of Schedule 4 of the Regulations, which reads as follows:

“Except where sub-paragraph (2A) applies, where P makes an application under sub-paragraph (1), as part of that application P must provide NHS England with such information as NHS England may reasonably request in respect of the matters that NHS England must seek to ensure pursuant to paragraph 24(1).”

7.5 Paragraph 24(1) reads as follows:

“24 (1) Subject to paragraph 26(2A), where NHS England issues a direction for setting any days or times for opening hours under this Part, or determines them without issuing a direction, it must in doing so seek to ensure that the days and times at which pharmacy premises are open for the provision of pharmaceutical services in the area in which the premises that are the subject of the direction are located are such as –

(a) to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises; or

(b) to maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.”

7.6 Paragraph 24(2) states:

(2) In considering the matters mentioned in sub-paragraph (1), NHS England –

(a) must treat any local pharmaceutical services being provided in its area as if they were pharmaceutical services being so provided, and

(b) may have regard to any pharmaceutical services that are being provided in its area during supplementary opening hours.

- 7.7 I will start by considering the application of paragraph 24(1)(a) and whether the proposed hours are such as to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises. I will then consider the application of 24(1)(b) if that is required.
- 7.8 To properly assess the application against paragraph 24(1)(a), I need to determine the existing level of service provision. I then need to consider whether it is necessary to maintain the existing level of service provision. If it is necessary to maintain the existing level of service provision, I need to consider whether, despite the proposed change of hours, the existing level of service provision to people in the area or other likely users would be maintained, e.g. by nearby pharmacies being open and providing the same level of service provision.
- 7.9 If I consider it unnecessary to maintain the existing level of service provision or that it is necessary to maintain the existing level of service provision but doing so is not a realistically achievable outcome, then I need to consider paragraph 24(1)(b) and determine whether the proposed change of hours are such that a sustainable level of adequate service provision would be maintained.
- 7.10 I therefore need to be provided with sufficient information to understand a range of matters, starting with the existing level of service provision. The references to days and times in paragraph 24(1) leads me to consider that the reference to "level" of service provision in paragraph 24(1)(a) is mainly focused on the days and times services are provided. I would point out that "level" of service provision could also refer to other characteristics of the service, such as types and range of services provided, geographical access to services provided, other aspects of physical access aside from location, and the quality of services provided.
- 7.11 The existing level of service provision has been outlined by the Applicant, in its own core hours provision, and by an indication of the hours that pharmacies in the local area are open.
- 7.12 I have next considered whether it is necessary to maintain the existing level of service provision. It could be argued that as the Applicant is not looking to reduce the number of hours each week that services are provided, then from a pure "number of hours of service provision each week" perspective, the existing level of service provision is maintained such that consideration of whether it is necessary to maintain the level of service provision is not needed.
- 7.13 However, the Applicant is applying to change the days and times that services are provided. Taking the weekend as an example, the level of service provision at the Applicant's premises on a Saturday is not being maintained. I consider it appropriate to determine if it is necessary to maintain the existing level of service provision and then, if deemed necessary, consider if the opening hours of other pharmacies mean that level is maintained.
- 7.14 To determine whether it is necessary to maintain the existing level of service provision, I have had regard to the comments by the Applicant of those using the pharmacy. If I am satisfied that there is reliable evidence indicating no users of the pharmacy on/at

the relevant days/times that the pharmacy wishes to close, this might support an argument that maintaining the existing level of service provision is not necessary.

- 7.15 I note the Applicant's comment that *"The proximity of Wellbeing Pharmacy (2 minute's walk from St Georges Pharmacy) provides a seamless transition for patients needing services on Saturdays"* which I infer to mean there are patients accessing the pharmacy on a Saturday.
- 7.16 The Applicant, in its appeal, has provided data to demonstrate the dispensing volume experienced by the pharmacy during the period 7 January to 5 February 2025.
- 7.17 There is no dispute that from the information provided, that the pharmacy did not receive any prescriptions or dispense any medication as part of the Saturday opening during the period in question.
- 7.18 I note the Applicant's comments that it has undertaken analysis of the patient footfall and utilisation of pharmaceutical services on a Saturday and the statement that the nearby Wellbeing Pharmacy will adequately meet the community needs for services. Aside from the dispensing volume data provided with the appeal, I have not been provided with any further information in relation to footfall or utilisation of other essential pharmaceutical services or any advanced services utilised by patients at the Applicant's pharmacy, especially given pharmaceutical services is not just limited to dispensing of medication.
- 7.19 Without this information or confirmation, it is difficult to assess whether it is necessary to maintain the existing level of service provision and this in turn makes it difficult to apply paragraph 24(1)(a). I consider it reasonable to take the position that unless I am provided with evidence to the contrary, I should consider that it is necessary to maintain the existing level of service provision.
- 7.20 It is unclear to me if people are using the pharmacy at the times that the Applicant wishes to close, therefore I consider that it is necessary to maintain the existing level of service provision.
- 7.21 Having determined that it is reasonable to assume that maintaining the existing level of service provision is necessary, I now need to consider if, despite the changes to hours, there is maintenance of the existing level of service provision. The Applicant cannot maintain this as it is changing its hours but I note the undisputed information from the Applicant regarding other pharmacies in the area that, between them, have opening hours during the times that the Applicant is proposing to close, namely Wellbeing Pharmacy.
- 7.22 If I consider that the characteristics of other pharmacies, e.g. where they are located, their access, the services provided and the times they are open, means that the level of service provision is maintained for people in the local area or other likely users of the pharmacy, then I am able to grant the application under paragraph 24(1)(a).
- 7.23 The Applicant has provided some information regarding access to Wellbeing Pharmacy for those who currently access its own pharmacy and how they might travel to find alternative pharmaceutical services. The Applicant has only considered those who will walk to the Applicant's pharmacy and the route that these people will need to take in order to access the nearest alternative pharmacy.
- 7.24 It is worth noting that characteristics of the persons using the pharmacy might be relevant here as well as from where they start their journey to the pharmacy. If they live close by, walk a few minutes to the pharmacy and walk back home, then even an additional walk to the next nearest pharmacy might be considered as not maintaining

the level of service provision to users of the pharmacy. I do not consider that every single individual need should be considered at length in this regard but it would be helpful to have this information to be certain that the existing level of service provision would be maintained via local pharmacies.

7.25 It is undisputed between parties that the following pharmacy is open on Saturday:

7.25.1 Wellbeing Pharmacy (0.1 mile – 2 minute walk)

7.26 I have not been provided with any details of pharmaceutical services available to patients further afield than Wellbeing Pharmacy.

7.27 I have been provided with a screenshot from Google Maps to detail the route that patients would need to undertake in order to access Wellbeing Pharmacy from the Applicant's premises. This appears to indicate that the route is flat and a very short walk as demonstrated from the addresses of the two pharmacies (i.e. the Applicant's pharmacy at 2a Parsons Lane and Wellbeing Pharmacy at 2 Parsons Lane). I have not been provided with any information relating to patients accessing the Applicant's pharmacy via car or public transport and how easy it is to instead go to Wellbeing Pharmacy.

7.28 I have been provided with details on the distribution of core opening hours at Wellbeing Pharmacy (that being 10:00 – 13:00 and 14:00 – 21:00). Although I have been informed that Wellbeing Pharmacy currently offer supplementary opening hours of 09:00 – 10:00 on a Saturday, I have not taken these in to consideration mindful that these may be altered by the pharmacy giving notice to the Commissioner. I note that if the Applicant was successful in its application, then pharmaceutical services may no longer be provided during the hours of 09:00 – 10:00 on Saturday, due to the lack of information provided on pharmacies other than the nearby Wellbeing Pharmacy.

7.29 I have decided that it is necessary to maintain the current service provision but, due to the cumulative effect of:

7.29.1 the data analysis not assuring me that it is representative of the use of the pharmacy; and

7.29.2 the lack of information regarding access to alternative pharmacies and their core hours,

I am not satisfied that there will be maintenance of the existing level of service provision, whether by virtue of other pharmacies in the area.

7.30 I therefore next consider if I need to have regard to paragraph 24(1)(b) which states that I must seek to ensure that the changed hours are such as to:

“maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome”.

7.31 The Applicant has stated that *“The community pharmacy sector is under severe financial strain due to increasing operational costs and the unjustifiably high locum pharmacist rates during weekends. Additionally, the closure of multiple large pharmacy chains like Lloyds Pharmacy has placed added pressure on independent pharmacies. In order to sustain operations and ensure continued service to the public from Monday to Friday, the closure of St Georges Pharmacy on Saturdays is crucial. This measure*

allows us to efficiently allocate staff costs during the weekdays, ensuring the long term viability of our services”.

- 7.32 On the point of whether maintaining the existing level of service provision is not a realistically achievable outcome, I consider that no evidence has been put forward in respect of this criteria. The Applicant's comments are broad and lack detail.
- 7.33 The wording of paragraph 24(1)(b) is such that maintaining existing service levels must not be realistically achievable before considering a sustainable level of adequate provision. I consider that this sets a fairly high bar as to the level of difficulty that the Applicant must find themselves in. I do not consider that sufficient evidence has been provided to indicate that the economic and practical viability of the current opening hours has been compromised. I therefore consider that maintaining the existing level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b).
- 7.34 I am mindful that the provision of pharmaceutical services is greater than the dispensing of prescriptions and that maintaining a level of service provision includes all services that the pharmacy may offer, including additional enhanced and advanced services that may be commissioned. I am of the view that I have not been provided with sufficient information to demonstrate how the proposed change of hours would maintain, as necessary, the existing levels of service provision.

8. **Determination**

- 8.1 Based on the information provided, I am not satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours would maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises. I am satisfied that maintaining the current level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b).
- 8.2 The action taken by the Commissioner to refuse the application is confirmed.

**Head of Appeals
NHS Resolution**