

9 May 2025

REF: SHA/26502

**APPEAL AGAINST MID AND SOUTH ESSEX ICB
DECISION TO REFUSE AN APPLICATION BY TEEREM
LIMITED FOR INCLUSION IN THE PHARMACEUTICAL
LIST OFFERING UNFORESEEN BENEFITS UNDER
REGULATION 18 AT THIRD AVENUE HEALTH CENTRE,
THIRD AVENUE, CANVEY ISLAND, SS8 9SU**

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

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

1 Outcome

- 1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of Mid and South Essex ICB, therefore the application is refused.

A copy of this decision is being sent to:

Teerem Limited
Mid and South Essex ICB
Britannia Pharmacy – Head Office
Britannia Pharmacy (FGN22)
Britannia Pharmacy (FWW06)
Bestway National Chemist T/A Well
Mid and South Essex LPC
North and South Essex LMCs

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THIRD AVENUE, CANVEY ISLAND, SS8 9SU**

1 The Application

By application dated 23 June 2024, Teerem Limited ("the Applicant") applied to Mid and South Essex ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Third Avenue Health Centre, Third Avenue, Canvey Island, SS8 9SU. In support of the application it was stated:

- 1.1 "In my/our view this application should not be refused pursuant to Regulation 31 for the following reasons:
- 1.2 [Left blank]
- 1.3 Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area:
- 1.4 Since the last Pharmaceutical Needs Assessment was carried out in 2022 in which no gaps were identified in the provision of necessary pharmaceutical services, two Boots pharmacies in Canvey Island, jointly dispensing about 18,000 items every month, have closed down.
- 1.5 Coupled with the increase in the services now being provided by pharmacies, like Pharmacy First and Contraception Service, I believe that there is a case to be made that there is now a gap in the provision of pharmaceutical services in the Castleford [sic] locality and, in particular, Canvey Island.
- 1.6 Opening a pharmacy in Canvey Island helps achieve a few very important things:
- 1.7 Increased access to pharmaceutical services for Canvey Island.
- 1.8 Opening a pharmacy at one of the closed-down sites improves access to pharmaceutical care for the local population. Third Avenue Health Centre has about 8,000 patients and prescribes about 13,000 items monthly. Having a pharmacy at this site allows for access to a healthcare professional for its many patients, reduces pressure on GPs by reducing the need for unnecessary appointments for conditions that can be dealt with by a pharmacist, and frees up GP time for more serious conditions.
- 1.9 Alleviating pressure on existing pharmacies.
- 1.10 Pharmacies in Canvey have not only had to take on the prescription workload from the closure of two pharmacies, but have also dealt with the increase in the number of

services being asked of pharmacies, like Pharmacy First, Contraception Service, Hypertension Case-finding Service, CPCS among others.

- 1.11 Having another pharmacy reduces the workload, thus ensuring that quality of services provided by pharmacies are of a high standard, provision of pharmaceutical care does not become a burden, and there is less pressure on pharmacy colleagues leading to stress, burnout and disillusionment.
- 1.12 Increased access for elderly demographic.
- 1.13 Canvey island has a higher percentage of the elderly (over 65) population (25.4%) compared with the national percentage for England (18.6%). This demographic tends to have increased medical and pharmaceutical needs. Some are unable to walk to or drive to other pharmacies on the island.
- 1.14 Closure of two pharmacies without replacement runs the risk of putting this particular demographic at increased risk of neglect and greatly reduces their access to healthcare. This proposed pharmacy at Third Avenue HC will look to cater for all demographics, but especially the elderly demographic that need it most by aiming to deliver medication, and also providing convenience and ease of access, especially to the many patients registered at the Health Centre but also the community at large.
- 1.15 Potential to offer services not already offered by existing pharmacies.
- 1.16 The proposed pharmacy will be willing to offer services like Anticoagulation Clinic or other services deemed beneficial by CCG.
- 1.17 Improved access to medication.
- 1.18 It is no secret that stock availability has been an issue over the last few years in an unprecedented manner. Many of pharmacy chains are hamstrung by Head Office business models limiting them to a choice of 2 to 3 suppliers which reduces the ease with which stock can be obtained and the range of stock obtainable.
- 1.19 The proposed new pharmacy will have an account with a wider range of suppliers thus increasing the chance of procuring medication and consequently reducing delay in start or continuation of therapy.
- 1.20 Please explain how you intend to secure the unforeseen benefit(s).
- 1.21 My proposal is to open a pharmacy at Third Avenue Health Centre, which is a site that was already occupied as a pharmacy, is familiar to the local population and is directly attached to a health centre which services about 8,000 patients.
- 1.22 I have been in negotiation with the NHS Property Services, the landlord for Third Avenue Health Centre, and I have agreed a lease with them which is now with the solicitors and is in the final stages of conclusion. An application has been made to the GPhC for a pharmacy licence for premises. I do not anticipate any issues as premises was previously occupied by a pharmacy and most of its features are still intact.
- 1.23 Opening this pharmacy will, I believe, be of great benefit to the patients and area at large, and will go some ways in alleviating the lack of pharmaceutical access undoubtedly caused by the closure of two high dispensing-volume pharmacies on Canvey Island."

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 7 January 2025 states:

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

Decision Report

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

- 2.3 “The Pharmaceutical Services Regulations Committee (hereafter referred to as “the Committee”) considers all pharmaceutical services applications for the 6 Integrated Care Boards (ICB) within the East of England footprint. NHS Hertfordshire and West Essex ICB (HWE ICB) hosts the meeting on behalf of the 6 ICBs, in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as “the Regulations”).
- 2.4 The Committee considered the application for inclusion in a pharmaceutical list: routine application offering to secure unforeseen benefits from Teerem Limited, Third Avenue Health Centre, Third Avenue, Canvey Island, SS8 9SU.
- 2.5 The Committee first considered Regulation 31.
- 2.6 Regulation 31 – Must the application be refused?
- 2.7 The Committee noted that the applicant provided the address of Third Avenue Health Centre, Third Avenue, Canvey Island, Essex, SS8 9SU as the location of the proposed pharmacy premises.
- 2.8 The Committee noted the nearest pharmacies in the information that was circulated to the Committee prior to the meeting.
- 2.9 The Committee noted that in regard to Regulation 31, the applicant stated within their application: “My proposal is to open a pharmacy at Third Avenue Health Centre, which is a site that was already occupied as a pharmacy, is familiar to the local population and is directly attached to a health centre which serves around 8,000 patients”.
- 2.10 The Committee noted the closure of Boots Pharmacy, The Health Centre, Third Avenue, Canvey Island, Essex, SS8 9SU on 9th March 2024.
- 2.11 The Committee agreed it was not required to refuse the application under the provisions of Regulation 31.
- 2.12 Paragraph 31, Schedule 2 – conditional grant of applications where the address of the premises is unknown.
- 2.13 The Committee noted that this Regulation does not apply as the applicant has provided the address of the proposed premises.

- 2.14 Regulation 32 – Is the application to be deferred?
- 2.15 The Committee noted this Regulation does not apply as the proposed listed pharmacy premises is not an LPS designated premises.
- 2.16 Regulation 40 to 44 - Applications in a controlled locality.
- 2.17 The Committee noted that the proposed location is not within a controlled locality or reserved locality, so these Regulations do not apply.
- 2.18 Regulation 18(1) – does the need on which the applicant based its application satisfy the elements of Regulation 18(1)?
- 2.19 The Committee considered whether Regulation 18(1)(a) was satisfied in that it is required to determine whether it is satisfied that granting the application or granting it in respect of some of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB.
- 2.20 The Committee considered whether Regulation 18(1)(b) is satisfied i.e. whether the improvements or better access that would be secured if the application was granted were or was not included in the relevant pharmaceutical needs assessment (PNA) in accordance with Paragraph 4 of Schedule 1.
- 2.21 Paragraph 4 of Schedule 1 requires the PNA to include: “a statement of the pharmaceutical services that the HWB had identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied (a) would if they were provided....secure improvements or better access, to pharmaceutical services... (b) would if in specified future circumstances they were provided...secure future improvements or better access to pharmaceutical services...” (emphasis added).
- 2.22 The Committee noted that the applicant has stated the following within their application:
- 2.23 [Quotes paragraphs 1.4 to 1.23 as above].
- 2.24 The Essex PNA 2022-2025 states:
- 2.25 *“No gaps in the provision of necessary pharmaceutical services have been identified in the Castle Point locality. No gaps have been identified that if provided now or in the future would secure improvements or better access to relevant services across the Castle Point locality”.*
- 2.26 The Committee noted that the April 2023 supplementary statement to PNA 2022-2025 states:
- 2.27 *“no gaps in pharmaceutical services have been identified that it provided either now or in the future would secure improvements or better access to necessary pharmaceutical services across the locality”.*
- 2.28 The Committee noted that changes in each locality are detailed in those specific supplementary statements published. None have been issued specifically for the Castle Point locality.
- 2.29 The Committee agreed that they were of the view that the improvements or better access that the applicant is claiming would be secured by its application, were not included in the relevant PNA in accordance with Paragraph 4 of schedule 1.

- 2.30 The Committee noted that in order to be satisfied in accordance with Regulation 18(1), regard is to be had to those matters set out in Regulation 18(2).

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

- 2.31 The Committee considered whether it is satisfied that granting the application would cause significant detriment to—
- 2.31.1 proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB, or
 - 2.31.2 the arrangements the [ICB] has in place for the provision of pharmaceutical services in that area;
- 2.32 The Committee noted that there was no evidence to suggest granting the application would cause significant detriment to proper planning in the area and for any arrangements the ICB has in place for the provision of pharmaceutical services in the area.
- 2.33 In the absence of any significant detriment as described in Regulation 18(2)(a), the Committee was not obliged to refuse the application and went on to consider Regulation 18(2)(b).

Regulation 18(2)(b)(i)

- 2.34 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Essex PNA 2022-2025, it is satisfied that, having regard in particular to the desirability of—
- 2.34.1 there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also the [ICB's] duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)) granting the application would confer significant benefits on persons in the area of Essex HWB that were not foreseen when the PNA was published.
- 2.35 The Committee noted that the applicant has stated within their application “since the last Pharmaceutical Needs Assessment was carried out in 2022 in which no gaps were identified in the provision of necessary pharmaceutical services, two Boots pharmacies in Canvey Island, jointly dispensing about 18,000 items every month, have closed down”.
- 2.36 The Committee noted that the applicant refers to the closure of two Boots pharmacies within the local area:
- 2.36.1 Boots Pharmacy, Central Canvey PCC, Long Road, Canvey Island, Essex, SS8 0JA which closed on 13 October 2023 and Boots Pharmacy, Third Avenue, Canvey Island, Essex, SS8 9SU which closed on 9 March 2024.
- 2.37 The Committee noted that the Pharmacy and Optometry Contracting Team (P&O Team) reviewed contracting files and confirmed that they have not received patient complaints or concerns relating to these closures, resulting in residents being unable to access pharmaceutical services or obtain their medication.
- 2.38 The P&O Team confirmed that a number of the local pharmacies within close proximity to the proposed post code provide advanced services which include Hypertension Case Finding, Pharmacy First, Smoking Cessation and Contraception Services. A number of these also provide prescription delivery services to the patient home.

Additionally, pharmacies within the wider local area provide the same advanced services and also offer flu vaccinations.

- 2.39 The Committee agreed that there is no evidence to suggest that patients cannot access pharmaceutical services.
- 2.40 The Committee noted the data supplied to the Committee prior to the meeting shows the top 20 dispensing locations for prescriptions issued by Third Avenue Health Centre, Canvey Island, SS8 9SU which shares the same postcode and the proposed address provided by the applicant.
- 2.41 The Committee noted that not everyone will access their GP practice prior to attending a pharmaceutical provider.
- 2.42 The Committee noted that it can be concluded that there is reasonable patient choice available with six pharmacies located within 1.6 miles of the proposed postcode (*source www.nhs.uk).
- 2.43 The Committee noted that the data demonstrates that patients use a variety of pharmacies within the wider area, which may be nearer to their home or work for example and are therefore able to access pharmaceutical services within the area of Essex HWB. It is evident that some patients are choosing to access Distance Selling Pharmacies (online services).
- 2.44 The Committee noted that patients are using a wide range of pharmacies for their pharmaceutical needs and agreed that patients are exercising their choice.
- 2.45 The Committee noted that no evidence has been provided to demonstrate that those living in Canvey Island are currently unable to exercise a choice in obtaining pharmaceutical services. The overall provision of pharmaceutical services is through using those established pharmacies already being utilised by those living in the Canvey Island area.
- 2.46 The Committee noted that no current or future gaps in provision of pharmaceutical services have been identified in the current Essex PNA 2022 - 2025 and that no supplementary statements that have been issued since, that specifically relate to the Castle Point locality.
- 2.47 The Committee noted that the test is whether or not those living in Canvey Island have reasonable choice with regard to obtaining pharmaceutical services in the area of Essex HWB, not just in the area of Canvey Island.
- 2.48 The Committee noted that no evidence has been provided to demonstrate that those living in Canvey Island, are currently unable to exercise a choice in obtaining pharmaceutical services.
- 2.49 Based on the information presented, the Committee were of the view that there is already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, such that it cannot be satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the Essex PNA 2022 - 2025 was published.

Regulation 18(2)(b)(ii)

- 2.50 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Essex PNA, 2022 - 2025, it is satisfied that, having regard in particular to the desirability of—
- 2.50.1 people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also the NHSCB's duties under section 13G of the 2006 Act (duty as to reducing inequalities)) granting the application would confer significant benefits on persons in the area of Essex HWB that were not foreseen when the PNA was published.
- 2.51 Within their application, the applicant stated:
- 2.52 [Quotes paragraphs 1.13 to 1.14 as above.]
- 2.53 The Committee noted the patient age profile for registered patients at Third Avenue Health Centre. From the data provided to the Committee prior to the meeting, it is evident that of the 7,765 registered patients, there are higher numbers within the 10-14, 15-19, 35-39 and 55-59 year old groups than the over 65 population.
- 2.54 The Committee noted the applicant provided no evidence to meet the criteria of Regulation 18(2)(b)(ii). Whilst it is accepted that there would be people with protected characteristics living in Canvey Island, and that some may need pharmaceutical services as a result, there was no evidence that any specific groups had any difficulty accessing such services.
- 2.55 The Committee agreed it was not satisfied that, having regard to the desirability of people who share a protected characteristic having access to pharmaceutical services that meet specific needs for pharmaceutical services that are difficult for them to access, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published.

Regulation 18(2)(b)(iii)

- 2.56 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Essex PNA 2022 - 2025, it is satisfied that, having regard in particular to the desirability of—
- 2.56.1 there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also the NHSCB's duties under section 13K of the 2006 Act (duty to promote innovation)), granting the application would confer significant benefits on persons in the area of Essex HWB that were not foreseen when the PNA was published.
- 2.57 The Committee noted the applicant provided no evidence or comments regarding innovative approaches in the delivery of pharmaceutical services, therefore was not satisfied that Regulation 18(2)(b)(iii) was met.

Representations

- 2.58 During the 45-day notification period, representations were received from:
- 2.58.1 Well Pharmacy
- 2.58.2 Britannia Pharmacy Head Office, Deputy Superintendent Pharmacist
- 2.58.3 Britannia Pharmacy, 236 Furtherwick Road, Canvey Island

- 2.58.4 Britannia Pharmacy, 363 Long Road, Canvey Island
- 2.58.5 Boots Support Office
- 2.58.6 Third Avenue Doctors Surgery
- 2.58.7 Community Pharmacy Essex
- 2.58.8 North & South Essex Local Medical Committees
- 2.59 The Committee noted that all those who made representations, raised substantial comments and therefore all except Boots Support Office, Community Pharmacy Essex, North & South Essex Local Medical Committees and Third Avenue Doctors Surgery may be granted appeal rights, if the Committee decides to grant the application.
- 2.60 Well comments, 19 August 2024. Well Pharmacy state:
 - 2.60.1 “Thank you for informing Well of the above application and for inviting written representations.
 - 2.60.2 The applicant refers to the closure of the Boots pharmacies on Canvey Island.
 - 2.60.3 The closure of a pharmacy does not automatically mean that a gap has been created.
 - 2.60.4 There are 6 pharmacies located on Canvey Island.
 - 2.60.5 A full range of opening hours across 7 days is provided by these pharmacies.
 - 2.60.6 Our pharmacy located on Furtherwick Road, SS8 7AY is 1.5 miles away from the proposed location and is easily accessible by car which is only a 5-minute drive. Access is also available via a direct bus service which takes just 18 minutes.
 - 2.60.7 The applicant has not referred to or identified any specific patient groups that may wish to access a pharmacy at the proposed location that have expresses difficulty in accessing services in the area.
 - 2.60.8 This application does not provide greater choice. Services proposed to be offered are already available to patients via the existing pharmacies in the area.
 - 2.60.9 To conclude, there is no evidence to support the need for an additional pharmacy contract in this locality.
 - 2.60.10 Please keep us informed of the outcome of this application and if there is to be an oral hearing where we may wish to be represented.”
- 2.61 Britannia Pharmacy Head Office, 20 August 2024. Deputy Superintendent Pharmacist state:
 - 2.61.1 “We write further to your letter of 10th July 2024 and in order to submit representations to NHS England on the above application.
 - 2.61.2 As NHS England will be aware, this application is submitted pursuant to regulation 18 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. It may only be granted if NHS England is satisfied that to do so would secure improvements in and better

access to pharmaceutical service provision in the HWB's area which are not contained within the relevant PNA.

- 2.61.3 When determining this application, NHS England must have particular regard to the matters contained within regulation 18(2)(b) and must consider whether granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published. To the extent that there is a burden of proof in respect of applications submitted pursuant to regulation 18, this rests with the applicant.
- 2.61.4 In terms of the matters contained within the applicant's application form, I respond as follows.
- 2.61.5 This application is submitted in reliance upon the closure of pharmacies operated by Boots in Canvey Island. However, as NHS England will be aware, the pharmacy market entry regulations in England are not based on a "one in, one out" system. That is, simply because a Boots pharmacy has closed does not mean that an application must be granted in order to replace that closed pharmacy.
- 2.61.6 Instead, the applicant must demonstrate why its application meets the relevant regulatory test and provide evidence to support any such assertion. We believe that the applicant has failed to provide any, or any sufficient, evidence in support of its application.
- 2.61.7 In relation to the five specific matters raised by the applicant in support of its application, we respond as follows.
- 2.61.8 **Increased access to pharmaceutical services**
- 2.61.9 As a starting point, the regulatory test contained within regulation 18 does not require (or permit) NHS England to consider whether granting an application would provide "increased" access to pharmaceutical services. Instead, regulation 18(2)(b)(ii) requires NHS England to consider whether people in the HWB's area who share a protected characteristic and who require access to pharmaceutical services currently find access difficult. NHS England must then consider whether granting this application would confer significant benefits in terms of that part of the regulatory test.
- 2.61.10 It is of note that the applicant fails to provide any evidence of patients who share a protected characteristic and who require access to pharmaceutical services finding access difficult.
- 2.61.11 The applicant refers to patients of the Third Avenue Health Centre and states that "Having a pharmacy at this site allows for access to a healthcare professional for its many patients, reduces pressure on GPs by reducing the need for unnecessary appointments for conditions that can be dealt with by a pharmacist, and frees up GP time for more serious conditions."
- 2.61.12 However, existing pharmacies are not difficult to access for patients of the Third Avenue Health Centre, particularly having regard to the fact that prescriptions are now sent electronically so that many patients of the Health Centre will not need to visit the GP surgery before requiring access to pharmaceutical services.
- 2.61.13 The nearest pharmacy to the Third Avenue Health Centre is Britannia Pharmacy at 363 Long Road, Canvey Island, SS8 0JQ. Britannia Pharmacy is

located only 550m, or an 8-minute walk, from the Third Avenue Health Centre as shown in the google maps image below. [Page 1 Appendix A for Committee]

- 2.61.14 The route between the proposed location and Britannia Pharmacy is easy and straightforward, being a walk south along Link Road/New Road before turning left into Long Road. There are no barriers between the Health Centre and Britannia Pharmacy which would restrict access: the terrain is level and pavements are in good order with adequate street lighting.
- 2.61.15 For those travelling by car (car ownership in Castle Point is higher than the national average, with 85% of households having a least one car or van compared to 76.5% nationally), there is a dedicated car park for the parade of shops in which Britannia Pharmacy is located, as well as free, on-street parking on local side roads. Other pharmacies in Canvey Island, including the Boots and Well pharmacies in the main shopping centre, also have ample nearby parking.
- 2.61.16 Whilst it is unlikely that patients would need to use public transport to access pharmaceutical services, local bus routes serve the proposed location and existing pharmacies, including Britannia Pharmacy and the pharmacies in Canvey Island town centre, meaning that pharmacies are also easily accessibly [sic] by public transport.
- 2.61.17 Britannia Pharmacy at 363 Long Road is open from 9am to 6pm Monday to Friday and is therefore open at times which match the core hours of the pharmacy proposed by the applicant. The next nearest pharmacy (Boots at 171 Long Road) is also open from 9am to 6pm Monday to Friday and 9am to 5pm on Saturday.
- 2.61.18 Additionally, all 6 pharmacies and the dispensing contractor on the island provide a delivery service. At Long Road pharmacy, we provide a free delivery service, Monday to Friday, 9AM to 6PM.
- 2.61.19 **Alleviating pressure on existing pharmacies**
- 2.61.20 Whilst this is not part of the relevant regulatory test, in any event it is denied that existing pharmacies are under pressure following the closure of the Boots pharmacies and the applicant provides no evidence to support this assertion.
- 2.61.21 In terms of the local pharmacy network, it is of note that there are 6 pharmacies on Canvey Island, serving a population of around 40,000. This equates to approximately one pharmacy per 6,500 residents and is in addition to pharmacies in surrounding towns which will be accessed by Canvey Island residents to shop and work (such as Southend on Sea). This is broadly in line with national averages, and existing pharmacies have sufficient spare capacity to easily meet any increased demand for pharmaceutical services.
- 2.61.22 In relation to the Pharmacy First service, all of the pharmacies on Canvey Island provide this service and, together, have provided 363 Pharmacy First consultations in the first three months of the service being commissioned.
- 2.61.23 Other services that we offer from all three Britannia Pharmacy branches include the New Medicine Service (NMS), Discharge Medicines Service (DMS) Flu Vaccination Service, Covid Vaccination Service, Hypertension Case Finding Service, Contraceptive Service amongst others.
- 2.61.24 We are also aware that the closure of the two Boots branches have not created a gap in the provision of pharmaceutical services as noted by the PNA.

2.61.25 Further, we are not aware of any complaints in the provision of pharmaceutical services in the area.

2.61.26 Increased access for elderly demographic

2.61.27 Whilst it is correct that Canvey Island has a higher proportion of older residents than the national average, this does not necessarily equate to poorer health or reduced mobility and the applicant provides no evidence to support the assertions made in the application form.

2.61.28 As stated above, the existing pharmacy network is not difficult to access, with the nearest pharmacy to the proposed location being only 500m by the shortest practical route. Existing pharmacies are therefore easily accessible by foot, car and public transport. It is of note, of course, that residents of pension age have access to free public transport, meaning that they can use local buses to access pharmacies throughout Canvey Island and beyond for free.

2.61.29 Potential to offer services not already offered by existing pharmacies

2.61.30 As NHS England will be aware, it may only have regard to commissioned NHS pharmaceutical services when determining this application. The applicant refers to an “anticoagulant clinic”, but since this is not a commissioned NHS pharmaceutical service it is irrelevant to the determination of this application. Pharmacies on Canvey Island provide a full range of commissioned pharmacy services, with no gaps in service provision.

2.61.31 Improved access to medication

2.61.32 NHS England will be aware of nationwide medicine stock shortages that have occurred over recent years. These are not directly linked to the ownership of pharmacy businesses but are due to a variety of factors which are beyond the control of pharmacy contractors. In any event, the 6 pharmacies on Canvey Island are owned by 3 different, and very distinct, companies (two national chains – Boots and Well, and an independent multiple – Laville Ltd which operates as Britannia Pharmacy). This choice of service provider means that any “Head Office” procurement policies referred to by the applicant (but not evidenced) are mitigated by the choice of service provider.

2.61.33 Conclusion

2.61.34 In conclusion, we invite NHS England to conclude that the applicant has failed to discharge the burden of proving that this application would meet the regulatory test contained within regulation 18 and to refuse it.

2.61.35 Should NHS England consider it necessary to hold an oral hearing prior to its determination of this application, we would wish to have the opportunity to attend the hearing and to make oral representations.

2.61.36 We look forward to hearing from you.”

2.62 Britannia Pharmacy, 236 Furtherwick Road, Canvey Island state:

2.62.1 “Thank you for your email and enclosures of 10th July in relation to the above, and we are writing to register our objection to the grant of this application as we believe that that this application ought to be refused.

2.62.2 This application is on the basis of unforeseen benefits and I hope this reply addresses that there is no unforeseen benefit in this application.

- 2.62.3 In support of the application, the Applicant has submitted 5 points under Section 6 of the Application Form, the crux being that the application needs to be approved to better meet the pharmaceutical needs of the population in the area.
- 2.62.4 However, this application is simply on the basis that the proposed application site had a pharmacy, Boots, which closed down and the Applicant wishes to commence a new pharmacy from these premises.
- 2.62.5 The Applicant's assertion that, ".....there is now a gap in the provision of pharmaceutical services in the Castleford locality, and in particular, Canvey Island.", is incorrect. Within the Canvey Island area, there are 6 NHS dispensing pharmacies and one NHS Appliance Dispensing Contractor. Of the 6 Pharmacies, 2 of these are Boots branches. All the 6 pharmacies and Dispensing Contractor are adequately serving the patients who frequented the closed Boots branches, a process that has been assisted naturally by the roll out of ETP, Electronic Transfer of Prescriptions, and also, following on from the post Covid-19 pandemic, the development/uptake of GP consultations taking place remotely, rather than face to face.
- 2.62.6 In relation to the 5 points put forward by the applicant, we briefly respond as follows, following the same numbering sequence.
- 2.62.6.1 The area of Canvey Island is well served in relation to the provision of pharmaceutical services. The proposed site is in a health centre building and in the main will be accessed by the patients who either live very close to the centre or must visit the doctor's surgery. This is because, ETP now accounts for nearly 96.5% of the prescriptions dispensed nationally, and the new procedures developed in all walks of life, post-pandemic, including a huge increase in the number of GP consultations that are now conducted on the phone or by email/text exchanges. The preference for patients now is to have their prescriptions sent by ETP to a pharmacy of their choice either being near to their home, place of work or close to other shopping amenities that they visit frequently. There has been a noticeable increase in the number of health centre pharmacy closures simply because the greatly reduced footfall associated with a visit to the doctor's surgery and then walking to the co-located pharmacy is no longer the operative factor. There is thus no lack or difficulties in accessing the present services.
- 2.62.6.2 The Applicant asserts that the approval of this application will alleviate pressure on existing pharmacies. This of course is not the case and has simply been added to credit the application. However, in reality, whilst it is acknowledged that pharmacies are undertaking additional services, we also must bear in mind that these are National and Enhanced services, which are adequately managed in pharmacy branches. The present six pharmacies are well placed and fully operating to undertake all the pharmaceutical services needed by the residents of Canvey Island and there are no complaints of any shortages or lack of easy access.
- 2.62.6.3 In relation to the "Increased access for the elderly demographic", that the Applicant refers to, this group of patients, or their carers would find it much easier to access pharmaceutical services from a location which will also allow them to alleviate themselves of other goods and services when they visit a pharmacy in a community setting rather than to visit a standalone, co-located pharmacy in a health centre with no other related retail sales or other services. We attach photographs of

the existing six community pharmacies in the area, and it is to be noted that three of these are located in the main shopping hubs of the Island, two have adjoining convenience stores/mini supermarkets, and one has a number of other secondary retail/services outlets.

2.62.6.4 All the existing 6 pharmacies in Canvey Island provide all the services that are currently commissioned by the ICB and NHS England under various arrangements. In the event that new additional services are required, we are sure that all the 6 pharmacies will be able to provide these. We can confirm that our three pharmacies will certainly fulfil any requirements requested of us by NHS England, or by any local/regional/central commissioning authority. We would like to point out that should the provision of Anticoagulation Clinics become available, we as pharmacy providers will participate in this service provision.

2.62.6.5 The Applicant's thoughts that pharmacy chains are unable to secure stock lines, where stock availability is an issue are completely unfounded. An independent pharmacy operator needs to attend to a vast range of duties, such as dispensing prescriptions, delivering services, sourcing stock, recruiting and training staff, all IT and administration matters, and such like. In contrast, pharmacy chains have dedicated buying departments, to ensure adequate procurement of all lines as and when needed. They are not restricted to the 2 to 3 suppliers as mentioned by the Applicant, and instead the buying departments are well known to, familiar with and in regular contact with an exceptionally large number of suppliers.

2.62.6.6 It is also to be noted that for stock lines where the availability is an issue, the wholesaling industry has certain guidelines according to which they ensure that stocks are available on a fair basis nationally and that no individual organisation is given preference over the others.

2.62.7 To secure the unforeseen benefits, the Applicant proposes to open a pharmacy at Third Avenue Health Centre, and further advises that there already was a pharmacy at the proposed site, which is familiar to the local population, and that currently the matter is with solicitors. The operative word here is that the Applicant proposes to re-open the closed Boots pharmacy at this location. As such, this application will not meet the criteria of unforeseen benefits simply because the patients who were served at this location prior to the closure are being well served by the six pharmacy providers and 1 appliance dispensing contractor in Canvey Island and as such there is no unforeseen benefit for this application.

2.62.8 In summary, we hope that our submission will be of assistance in dismissing this application.

2.62.9 Please let us know if you require any further information."

2.62.10 [Supporting photographs pages 2 to 7 Appendix A for Committee]

2.63 Britannia Pharmacy, 363 Long Road, Canvey Island (20 August 2024) state:

2.63.1 "Thank you for allowing us the opportunity to write to you in response to the proposed application.

2.63.2 I do hope after reading the below, you will come to understand and agree that the population of Canvey Island is already adequately served by the existing

Pharmacy providers, thus deeming the proposed application inconsequential to the needs of the island and its patients.

2.63.3 The locality of Castle Point encompasses 3 distinct areas;

2.63.3.1 Canvey Island

2.63.3.2 South Benfleet

2.63.3.3 Thundersley

2.63.4 However, for the purposes of this response, in regards to the proposed application, I will forthwith concentrate on the provision of pharmaceutical services within Canvey Island only, as you can see that it is very distinct from the two other areas that also make up Castle Point.

2.63.5 **There is no benefit or further need for a proposed site located in the vicinity of where the old Boots contractor site was located.**

2.63.6 At the proposed site location of the applicant, previously there was a Boots Pharmacy at this site, however due to this site being no longer financially viable, the site was closed down in March of this year.

2.63.7 As a consequence of this, the existing providers on the island and in particular the two closest providers to the proposed site, have adequately met the pharmaceutical needs and care of the patients and have successfully absorbed all associated work that was left due to the closure of this Boots Pharmacy - without any issues or risk to patient care.

2.63.8 Speaking on behalf of my pharmacy, there has been no extended wait to receive prescription and any other pharmacy service, in relation to this increased workload, with average waiting times remaining static at 5 minutes per walk in prescription which is the same prior to the closing of the Boots branch. This has been achieved through having trained and accredited staff performing all duties.

2.63.9 The applicant additionally has made reference to a previous other Boots branch (The Paddocks) closing, however please note, the local pharmacies to this site have also successfully absorbed any extra workload.

2.63.10 **The applicant's proposed site is at a location where there are already sufficient pharmacy contractors.**

2.63.11 On Canvey Island itself, there are six pharmacy contractors as well as an Appliance dispenser – Rocialle Direct, who are a dedicated Prescription Home Delivery Service, supporting the needs of people living with a stoma, continence, and/or wound care needs.

2.63.12 Following on from the closure of the Boots branch on Third Avenue, we are unaware of any decrease in provision of Pharmacy services, as four of the pharmacies on the island open longer than the proposed hours of the applicant and therefore, we see no further benefit of access to the proposed hours outlined by the applicant.

2.63.13 All pharmaceutical service provisions are available from 8.30am to 7:00pm daily Monday to Friday, Saturdays 8:30am to 6:00pm and Sundays 10:00am to 4:00pm.

- 2.63.14 This provides sufficient access to Pharmacy services for all patient groups as identified in the latest Pharmaceutical Needs Assessment (2022) for Castle Point.
- 2.63.15 Please see attachment for existing Pharmacy site addresses as well as opening times compared to proposed applicant.
- 2.63.16 Please additionally see attachment *map 2*, indicating applicants proposed location (H) as well as location of existing providers (A – G) on the island, cross referenced to the opening times as above.
- 2.63.17 This highlights that there is an even distribution of pharmacies across the Island.
- 2.63.18 Of particular note, the proposed site is in very close proximity to Britannia Pharmacy Long Road, 2-minute car journey (0.4 miles) or 8-minute walk from proposed location and Boots Pharmacy Long Road, 3-minute car journey (0.9 miles) and 18-minute walk – figures obtained from Google Maps.
- 2.63.19 Thus, the proposed applicant's justification on point 6.1 of "increased pharmaceutical services for Canvey island" is neither necessary or desirable.
- 2.63.20 In the current climate, where the majority of prescriptions are sent electronically to the nearest pharmacy of convenience for the patient, as well as the majority of doctors' appointments being carried out digitally, there is no additional convenience or benefit to a patient of having a pharmacy co-located next to or within a GP surgery.
- 2.63.21 A Pharmacy would be better utilised by the community if it is located in the hub of activity or residence – this of which is already being catered for by the existing providers on the island, please do refer to Map 2 in regards to this.
- 2.63.22 All existing six contractors on the island, offer all the NHS services quoted by that in the applicants' proposal on page 4.
- 2.63.23 We are thus not aware of any deficiencies in Pharmacy service provision on the island.
- 2.63.24 In addition, we are aware that three of the contractors in particular, also provide Covid-19 Vaccination services and are in the process of being commissioned by the ICB to provide the newly launched Respiratory Syncytial Virus (RSV) Vaccination programme.
- 2.63.25 All Pharmacies on the island are compliant with the Equality Act 2010, both in regards to staff and premises.
- 2.63.26 All Pharmacies thus cater to all patient groups including all patients with protected characteristics; e.g. elderly, disabled etc.
- 2.63.27 Each pharmacy has additionally sufficient parking space as well as providing a comprehensive delivery service.
- 2.63.28 We in particular offer a free prescription delivery service 5 days a week from 9:00am to 6:00pm and have an excellent longstanding relationship with all the GP surgeries on the island.
- 2.63.29 At my particular Pharmacy, patient parking is available directly outside the Pharmacy, free of charge.

- 2.63.30 I am additionally aware that for two of the Pharmacy sites located in and around Knightswick Shopping centre, there is sufficient patient parking available on site.
- 2.63.31 Our branch on Furtherwick Road also has parking in the front of the Pharmacy and our branch on High Street has sufficient parking available too.
- 2.63.32 **The applicant has assumed that the medicines shortage has affected patients on Canvey Island**
- 2.63.33 The Pharmacies on the Island include Boots Pharmacy, Well Pharmacy and Britannia Pharmacy, are all well-established national and local pharmacy chains.
- 2.63.34 The national pharmacy chains have strategic plans in place to deal with drug shortages.
- 2.63.35 Britannia Pharmacy itself has an extensive pool of suppliers in excess of 100 suppliers who are able to obtain and source all medicines to fulfil the directions of its prescribers.
- 2.63.36 We are not aware of a situation where we have been unable to source a product or medicine.
- 2.63.37 In conclusion, I hope I have demonstrated that the existing pharmacies on the Island provide and exceed pharmaceutical care for its population and there is no benefit of granting a new application to a provider at the proposed site.
- 2.63.38 I am firmly of the opinion, that should a pharmacy be granted a license at this location, this will have a severe detrimental effect on existing pharmacy contractors who are placed currently in the hub of its communities on the Island, potentially leading to future closures already well documented in the current media.”
- 2.63.39 Maps [Pages 8 to 9 Appendix A for Committee]
- 2.64 Boots Support Office state:
- 2.64.1 “We note from www.nhs.uk that there are six pharmacies in Canvey Island, all of which are within a 2-mile radius of the proposed site. We do not have any further comments to make but would be grateful if you would keep us informed of the progress of this application”.
- 2.65 Third Avenue Doctors Surgery state:
- 2.65.1 “In my opinion, the opening of a new independent pharmacy would enhance not only patient care for my registered patients, but for the whole 54,000 patients on Canvey Island. Having two pharmacies close on this Island within 6 months of each other, has forced the remaining pharmacies to take on an ever increasing workload, which could culminate in affecting patient care because they do not have the staffing capacity as well as the a lot of stock control. As a Practice we have previously built good relationships with Pharmacists within the Health Centre and we look forward to having that opportunity again”.
- 2.66 Community Pharmacy Essex state:

- 2.66.1 “Thank you for inviting the committee’s comments in respect of the above application. The committee notes that the deadline for submission for comments is 24th August 2024 and trust that you will confirm safe receipt of this submission within the above deadline.
- 2.66.2 This application has been considered outside of a formal committee meeting due to timelines, and we would like to make the following comments:
- 2.66.3 Applicant information
- 2.66.4 The applicant has not provided a correspondence address or the GPhC registration number of the superintendent pharmacist. Although we have been able to obtain both of these from Companies House and GPhC websites respectively, the application form does specify that these should be provided.
- 2.66.5 Proposed core opening hours
- 2.66.6 The applicant has proposed 40 core opening hours per week, and a further eleven and a half supplementary hours including Saturday mornings 9am to 1pm. There is no proposal to include hours that would improve access to services in the evenings, and there are currently three pharmacies providing services on Saturday afternoon and one pharmacy providing services 10am to 4pm on Sundays on Canvey Island.
- 2.66.7 Proposed services to be provided at the premises
- 2.66.8 The section regarding provision of appliances has been left blank, therefore it is not clear whether the applicant is intending to provide appliances or not, the commissioner may wish to seek clarity on this.
- 2.66.9 The applicant has stated that they will provide the Community Pharmacist Consultation Service, however this was replaced with the Pharmacy First service in January 2024. Although the application is not dated, and may have been submitted before this date, there is reference later in in application to Pharmacy First which suggests this is not the case.
- 2.66.10 The applicant states they will provide a Minor Ailment scheme and a Patient Group Direction service, neither of which are commissioned as advanced or enhanced services on Canvey Island.
- 2.66.11 Unforeseen benefits
- 2.66.12 The applicant refers to the closure of two former Boots branches on Canvey Island since the Essex Health and Wellbeing Board Pharmaceutical Needs Assessment (PNA) was published in 2022.
- 2.66.13 The Essex Health and Wellbeing board PNA steering group met on in November 2023 and April 2024 to review changes since the PNA was published and has issued a supplementary statement with regard to the closure of Boots pharmacies on Canvey Island, and the steering group concluded that:
- 2.66.14 “No gaps in pharmaceutical services have been identified that if provided either now or in the future would secure improvements or better access to necessary pharmaceutical services across the locality”
- 2.66.15 Further, a meeting took place between the Canvey PCN clinical director, the Mid and South Essex Integrated Care Board Director of Pharmacy and

Medicines Optimisation and the Chief Officer of Community Pharmacy Essex at the time the Boots branches closed. The clinical director was reassured that there remained sufficient provision of pharmaceutical services on Canvey Island, and that regular reviews were undertaken by the PNA steering group.

- 2.66.16 The applicant states that they believe there is now a gap in provision of pharmaceutical services in Castleford. Castleford is a town within the City of Wakefield district, West Yorkshire, therefore we assume this to be a typographical error and should state Castle Point.
- 2.66.17 There are currently six pharmacies on Canvey Island serving a population of approximately 38,000 residents which is in line with national and regional norms.
- 2.66.18 The applicant refers to the additional pressure on the remaining six pharmacies, however it should be noted that the closure of the Boots branch at Third Avenue Primary Care Centre was a managed exit in order to consolidate services in the remaining branches and for branches to remain viable. Other pharmacies on Canvey Island offer a broad range of national Advanced services.
- 2.66.19 The applicant also states that they would be willing to offer services not already offered by the existing pharmacies, however these services are not provided because they are not commissioned by the ICB.
- 2.66.20 The applicant refers to access to medication, and highlights that some pharmacies' purchasing options may be limited by their company arrangements. Pharmaceutical services on Canvey Island are provided by three different pharmacy companies, and there is no evidence that medicines availability is any different to regional or national availability.
- 2.66.21 18(2)(a) Detriment to proper planning or arrangements for provision of pharmaceutical services.
- 2.66.22 We have no comments with regard to this.
- 2.66.23 18(2)(b)(i) Reasonable Choice
- 2.66.24 The applicant has not made any comment with regard to reasonable choice.
- 2.66.25 18(2)(b)(ii) People Sharing a Protected Characteristic
- 2.66.26 The applicant has described the population of Canvey Island but has not evidenced any difficulties accessing services specific to those sharing protected characteristics.
- 2.66.27 18(2)(b)(iii) Innovative Approaches with regard to the delivery of pharmaceutical services.
- 2.66.28 The applicant has not proposed any innovative approaches in the delivery of pharmaceutical services.
- 2.66.29 Conclusion
- 2.66.30 There are some factual errors and missing pieces of information in the application.

2.66.31 This application proposes unforeseen benefits, however these appear to be limited to the closure of the Boots pharmacies on Canvey Island.

2.66.32 Since those closures the Essex Health and Wellbeing board have issued supplementary statements to the PNA and not identified any gap in provision in the locality.

2.66.33 There are six pharmacies across Canvey Island which offer choice and reasonable access to services.

2.66.34 We therefore feel that the requirements for an unforeseen benefits application have not been met, and this application should be refused.

2.66.35 The committee looks forward to receiving your deliberations on this application.”

2.67 North & South Essex Local Medical Committees state:

2.68 “The LMC understands that there have been two recent pharmacy closures on Canvey Island which will have impacted the remaining pharmacies, significantly increasing their workload. Furthermore, it is noted that there was previously a pharmacy located at the proposed site and that the proximity to the adjacent GP surgery was a benefit appreciated by patients. The LMC would therefore support the application.”

2.69 The Committee noted the applicant has not provided a response to any of the representations received.

2.70 Regulation 18(2)(b) generally

2.71 The opening hours of those pharmacies that are closest to the postcode were circulated to the Committee prior to the meeting.

2.72 The Committee noted the applicant has proposed 40 core hours and 11.5 supplementary hours as noted below:

Proposed											40:00	11:30
											[C]	[S]
	S1		C1		S2		C2		S3		C3	
Monday			09:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Tuesday			09:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Wednesday			09:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Thursday			09:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Friday			09:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Saturday	09:00	13:00										
Sunday												

- 2.73 The Committee noted the proposed 11.5 supplementary hours can be withdrawn at any time following the required notice period.
- 2.74 The Committee noted that of the six pharmacies located within proximity to the postcode, three have Saturday opening hours that cover the hours of 08.30 – 18.00. One pharmacy has Sunday opening hours from 10.00 – 16.00.
- 2.75 The six pharmacies collectively provide opening hours between 08.30 – 19.00.
- 2.76 The Committee noted the applicant provided no evidence to satisfy that there are other factors that would confer significant benefits on patients who shared protected characteristics.
- 2.77 Regulation 50 – Discontinuation of arrangements for the provision of pharmaceutical services by doctors
- 2.78 The Committee noted the location is not within a controlled locality.
- 2.79 Regulation 65 – core opening hours conditions
- 2.80 The Committee noted that this Regulation does not apply as the applicant is proposing to provide no more than 40 core hours.
- 2.81 Decision
- 2.82 The Committee refused the application on the following basis, under Regulation 18 (2)(b):
- 2.82.1 There is no evidence that there is not already a reasonable choice with regard to obtaining pharmaceutical services in the area of Essex HWB.
- 2.82.2 There is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services that meet their specific needs for such services in the area of Essex HWB.
- 2.82.3 There is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services in the area of Essex HWB. The granting of this application would not offer significant benefits to people within the area of Essex HWB.
- 2.83 There is no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore the Committee may not be satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits (in relation to opening hours) on persons.
- 2.84 For all the above reasons the view in accordance with Regulation 18(2)(b), the Committee agreed that the granting of this application would not confer significant benefits on persons in the area of the Essex HWB which were not foreseen when the Essex PNA 2022 - 2025 was published.
- 2.85 The Committee agreed it was not satisfied that granting the application would confer significant benefits as outlined above or would secure improvements or better access to pharmaceutical services.

- 2.86 The Committee agreed that as the application has been refused, appeal rights are given to the applicant, Teerem Limited.
- 2.87 Regulation 66 – conditions relating to providing directed services.
- 2.88 The Committee agreed that as the application has been refused, it is not required to consider this regulation.”

3 The Appeal

In a letter dated 5 February 2025 addressed to NHS Resolution, the Applicant appealed against the Commissioner’s decision. The grounds of appeal are:

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

- 3.1 “I am writing to appeal the decision made by Mid and South Essex ICB to refuse my application to open a pharmacy at Third Avenue Health Centre, which was communicated to me by Primary Care Support England on 7th January 2025.
- 3.2 I thank the deciding Committee for taking the time to consider my application and I note that the Committee, in reaching their decision, considered the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulation 2013, in particular Regulation 31; Paragraph 31, Schedule 2; Regulation 32; Regulations 40 to 44; and Regulation 18.
- 3.3 The Committee was of the opinion that based on Regulation 18 (2)(b), the application should be refused. I disagree with this conclusion.
- 3.4 *Decision*
- 3.5 *The Committee refused the application on the following basis, under Regulation 18 (2)(b):*
- 3.5.1 *There is no evidence that there is not already a reasonable choice with regard to obtaining pharmaceutical services in the area of Essex HWB.*
- 3.5.2 *There is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services that meet their specific needs for such services in the area of Essex HWB.*
- 3.5.3 *There is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services in the area of Essex HWB. The granting of this application would not offer significant benefits to people within the area of Essex HWB.*
- 3.6 **Submissions**
- 3.7 I shall address the grounds for refusal accordingly:
- 3.8 REASONABLE CHOICE
- 3.9 *The Committee noted that the Pharmacy and Optometry Contracting Team (P&O Team) reviewed contracting files and confirmed that they have not received patient complaints or concerns relating to these closures, resulting in residents being unable to access pharmaceutical services or obtain their medication.*

- 3.10 *The P&O Team confirmed that a number of the local pharmacies within close proximity to the proposed post code provide advanced services which include Hypertension Case Finding, Pharmacy First, Smoking Cessation and Contraception Services. A number of these also provide prescription delivery services to the patient home. Additionally, pharmacies within the wider local area provide the same advanced services and also offer flu vaccinations.*
- 3.11 *The Committee agreed that there is no evidence to suggest that patients cannot access pharmaceutical services.*
- 3.12 The lack of complaints to the P&O Team does not equate to patient satisfaction with the pharmacy closures and neither should it be misconstrued as such. The opposite is quite the case. Many patients are very dissatisfied with the decision and lack of correspondence with the ICB cannot be the only metric by which approval or satisfaction is measured.
- 3.13 It would be enlightening to know if the views of patient groups were sought by the ICB or Essex HWB when these closures happened and if the depth of community feelings towards this decision were noted. I have worked in Canvey many times and spoken with many residents who are directly impacted by these closures, especially at Third Avenue Health Centre.
- 3.14 The depth of displeasure with the closure should not be underestimated.
- 3.15 Many were, and are, still not aware that they are able to complain to the ICB. Canvey, as a community tends to communicate majorly via Facebook, and a scroll through the Canvey Island Community Facebook page paints a different picture compared to the one the ICB paints. [See page 1 to 3 Appendix B for Committee.]
- 3.16 At a time when private companies are making business decisions to streamline their operations but which come at a detriment to the local population, it is incumbent on the relevant government authorities to make a determination on the impact of these decisions on the community.
- 3.17 The last PNA conducted by Essex HWB was in 2022 to cover the 2022-2025 period. A Supplementary Statement was issued in April 2023 for Essex Council, which predates the closure of the two pharmacies in Canvey.
- 3.18 It is also worth noting that many other localities which had pharmacy closures after the PNA have had a Supplementary Statement detailing the impact of the closures on the locality.
- 3.19 For example, Basildon locality has had two Supplementary Statements since the last PNA was issued. See latest one below. [See page 4 Appendix B for Committee.]
- 3.20 Curiously, no such Supplementary Statement exists for Castle Point locality despite the closures of a QUARTER of pharmacies in Canvey Island – one in Oct 2023, and one in March 2024.
- 3.21 One can only conclude that a review of the impact on the community has not been made and the ICB relied only on a lack of complaints to itself as the barometer to measure patient satisfaction.
- 3.22 I have taken the liberty of approaching the Canvey Island Primary Care Network Lead, Dr Yomi Adegbite, who regularly hosts meetings with Canvey Island Patient Participation Groups on the impact of these closure on the residents of Castle Point locality. Please see below his response.

- 3.22.1 *Dear Mr Adebisi,*
- 3.22.2 *Thank you for your email and your interest in offering this much needed service to the good people of Canvey Island.*
- 3.22.3 *First of all, I must say I am very disappointed that this service and the application was turned down but I am even more upset that it was said that there have not been complaints by patients when in my capacity as a partner in Third Avenue surgery and the Clinical Director of the Canvey PCN, have on several occasions written and verbally informed the ICB that patients are unhappy with loosing 2 pharmacy stores on the island which has led to undue hardship for patients getting their medication in a timely manner. and many patients that are mobile now go to Benfleet and Hadleigh to get their acute medications whilst many are now forced to use online pharmacies.*
- 3.22.4 *Our greatest worry of course is with the elderly patients who are unable to leave the island to get their medications or those that have no family to get it for them. There has been instances that patients have been days without antibiotics, and some have had to end up in hospital due to this. Unfortunately, some of the chemists on the Island like Boots and Wells have to send prescriptions to their bigger branches/ hubs outside of this area and that takes 7 days before patients are able to get their medication. This is not only stressful for the patients but also creates more work for the GP surgeries as patients keep coming back to change their chemist after scripts have been sent, so that they can pick it up elsewhere sooner rather than later.*
- 3.22.5 *The PPG of Third Avenue surgery as well as the Canvey Island PPG have on numerous occasions complained of the hardship they have to endure due to the closure of the 2 Boots chemists on the Island making the other chemists on the Island overwhelmed and unable to cope.*
- 3.22.6 *Initially, the other chemists promised that they will get in more staff, but not only has that not happened because of cost but they do not actually have the physical space to do so, so we are 2 chemists down on the Island. Unfortunately, the 2 chemists that were shut down are attached to practices, the one at the primary care centre was serving the 3 practices above it, whilst the one in Third Avenue was mainly serving the Third Avenue Doctors surgery as well as a few other patients from the neighbouring practices.*
- 3.22.7 *The population in Canvey is increasing with new builds and influx of Jews, hence there is going to be even more pressure on the 6 small chemists that we have on the Island. In the next few weeks to months, the 58-bed luxury care home will be completed on Canvey, with its attendant increase in demand for the few chemists on the Island. Care homes usually have greater demand due to the cohort of their residents. Already most of the 4 Care homes we currently have use chemist outside the Island due to the delay in getting their medications from the over stretched chemists on the Island.*
- 3.22.8 *I have raised these issues with Paul Wilkinson and other senior members of the ICB several times since November 2023 and I understand a new Pharmacy Needs Assessment is underway, but this will not be published till October 2025 by which time another winter pressure will be upon us.*
- 3.22.9 *In my opinion and from anecdotal evidence, 2 less pharmacies (now only 6 pharmacies left) on Canvey Island has created more challenges for patients and patient care on Canvey particularly as the patient population has increased since the last (PNA) Pharmacy Needs Assessment was done.*

3.22.10 Thank you.

3.22.11 Dr Godwin 'Yomi Adegbite MBBS, MRCP

GP Trainer & Partner- Oaklands Surgery & Third Avenue

Clinical Director - Canvey Island PCN

CCPCC, Long Road Canvey Island

SS8 0JA

- 3.23 Also find attached a Google review by a Canvey patient online. This is an example of the impact this closure has had on patients.
- 3.24 *As the pharmacy at the doctors is closed I had to wait in the cue [sic] for half hour to ask for my prescription then to wait another hour to get my medication*
- 3.25 The Committee also noted that other pharmacies provide advanced services, but these services are overrun. The committee fails to take into the account the amount of time each of these consultations take, coupled with the increase in prescription items owing to these closures. It is no wonder that “92% of pharmacy staff members report they are not coping well because of the workload” (Source: cpe.org.uk). Opening a pharmacy at Third Avenue Health Centre helps to alleviate this burden and crucially offers patients more choice.
- 3.26 *The Committee noted the data supplied to the Committee prior to the meeting shows the top 20 dispensing locations for prescriptions issued by Third Avenue Health Centre, Canvey Island, SS8 9SU which shares the same postcode and the proposed address provided by the applicant.*
- 3.27 *The Committee noted that not everyone will access their GP practice prior to attending a pharmaceutical provider.*
- 3.28 *The Committee noted that it can be concluded that there is reasonable patient choice available with six pharmacies located within 1.6 miles of the proposed postcode (*source www.nhs.uk).*
- 3.29 *The Committee noted that the data demonstrates that patients use a variety of pharmacies within the wider area, which may be nearer to their home or work for example and are therefore able to access pharmaceutical services within the area of Essex HWB. It is evident that some patients are choosing to access Distance Selling Pharmacies (online services).*
- 3.30 *The Committee noted that patients are using a wide range of pharmacies for their pharmaceutical needs and agreed that patients are exercising their choice.*
- 3.31 *The Committee noted that no evidence has been provided to demonstrate that those living in Canvey Island, are currently unable to exercise a choice in obtaining pharmaceutical services.*
- 3.32 *Based on the information presented, the Committee were of the view that there is already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, such that it cannot be satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the Essex PNA 2022 - 2025 was published.*

- 3.33 It would be interesting to know the source of the data showing the Committee the top 20 dispensing locations for prescriptions issued by Third Avenue Health Centre and how this 'demonstrates' that the patients are exercising their choice.
- 3.34 It would also be of interest to know when this data was produced whether it was before the pharmacy was closed or after it was closed.
- 3.35 I have done an analysis of the top 10 dispensing locations for Third Avenue Health Centre from April 2023 to Sept 2023. I have chosen April 2023 to September 2023 because the pharmacy at Third Avenue Health Centre closed on the 8th of March 2024, and patients were notified of the closure about 6 months prior and were forced to find different pharmacies. (Source: Pharmdata.co.uk).
- 3.35.1 Almost half of the items prescribed by Third Avenue Health Centre (48.05%) were dispensed by the previous pharmacy at proposed site over this 6-month period.
- 3.35.2 The top 10 dispensing locations accounted for 95.36% of the total items prescribed the surgery, and online pharmacies only accounted for 1.86% of this.
- 3.36 It is very clear from the data above that a very significant percentage of Third Avenue Health Centre patients prefer to use the pharmacy attached to the Health Centre. Also the proportion of Third Avenue Health Centre patients that use Online Pharmacies is miniscule.
- 3.37 The assertion therefore by the Committee that 'patients are using a wide range of pharmacies for their pharmaceutical needs and patients are exercising their choice' is unfounded and baseless. If patients now use a wider range of pharmacies, it is borne more out of compulsion, helplessness, acceptance of fate and comes with great difficulty, rather than choice. The data above clearly shows that if patients had the CHOICE, one in two patients would choose to use the pharmacy operating from same location as the Health Centre. If the application is granted, the 'choices' that patients had would still remain, and one can argue even enhanced.
- 3.38 Please see below pictorial evidence of percentage of patients from Third Avenue Health Centre utilising the pharmacy attached to surgery from April 2023 until Sept 2023. Please note FD403 represents the previous pharmacy at proposed location. (Source: Pharmdata). [See page 5 -7 Appendix B for Committee.]
- 3.39 If Third Avenue Health Centre has close to 8,000 patients registered, and 1 in 2 prescriptions issued by the surgery are dispensed from the pharmacy attached to the Surgery, it stands to reason that a significant proportion of patients are being deprived of what would be their choice of pharmacy.
- 3.40 With regards to access to online pharmacies, it is worth mentioning that not all items issued by the surgery are repeat prescriptions, there are many acute items issued by the surgery, for example antibiotics, that need to be collected straightaway in order not to delay therapy and in turn exacerbate medical condition. These will need to be dispensed in a local pharmacy.
- 3.41 Denying patients access to this proposed pharmacy, by refusing this application offers less choice
- 3.42 PROTECTED CHARACTERISTICS
- 3.43 *The Committee agreed it was not satisfied that, having regard to the desirability of people who share a protected characteristic having access to pharmaceutical services*

that meet specific needs for pharmaceutical services that are difficult for them to access, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published.

- 3.44 It is my submission that in coming to this conclusion, the Committee has not adequately considered the impact of the closures of these pharmacies on elderly residents of Canvey Island. This is perhaps not helped by the lack of a Supplementary Statement to the impact of these closures.
- 3.45 *The Committee noted the patient age profile for registered patients at Third Avenue Health Centre. From the data provided to the Committee prior to the meeting, it is evident that of the 7,765 registered patients, there are higher numbers within the 10-14, 15-19, 35-39 and 55-59 year old groups than the over 65 population.*
- 3.46 I am in agreement with above observation as this is true of the general population. However, what the Committee fails to take into consideration is the higher percentage of elderly in the Canvey and Castleford [sic] locality in comparison to the general population.
- 3.47 The assertion was made in my original application that Canvey Island has higher percentage of the elderly (25.4%) compared with the overall percentage for England (18.6%) (Sources: ONS.gov.uk, Citypopulation.de). This still rings true and is based on the last government census conducted in 2021.
- 3.48 It is also true that the elderly have greater pharmaceutical needs compared to the rest of the population. The BNF notes that ‘Elderly patients often receive multiple drugs for their multiple diseases’
- 3.49 This percentage differential between the elderly population in Canvey compared with the rest of the country is not insignificant and should rather be mitigated for and not worsened as this is what the refusal to approve this application does.
- 3.50 Sweetbriar Lodge is a retirement home not too far from Third Avenue Health Centre with its residents registered to the Surgery and its residents used to collect their medication from the Pharmacy attached to the surgery which was just a short walk to the home. These residents now have to walk a greater distance to get advice from their pharmacists or to collect their medications.
- 3.51 It is also worth noting that a third of the pharmacies in Canvey Island charge for prescription delivery, which puts the elderly out of pocket and at risk of going without medication if unaffordable. A new care home is also due to be opened imminently which will further increase pharmaceutical need in Canvey.
- 3.52 Elderly people in general tend to have increased pharmaceutical needs, but also reduced mobility, which simply means that the people with the greatest needs have the least access.
- 3.53 Many are unable or reluctant to use online services, a choice championed by the Committee and many prefer to be able to speak to their pharmacist in bricks-and-mortar stores or on the phone. It is no secret that majority of online pharmacies do not have an easily accessible pharmacist for consultation.
- 3.54 My proposal is also to offer free delivery to all patients with special preference for the elderly. A third of the pharmacy on the island charge for prescription delivery. Offering free delivery to this protected group offers them more choice and increased accessibility and improved patient care.

- 3.55 What refusing this application does is in effect put the people within this protected group of the elderly at a disadvantage and does nothing to reduce inequalities as per NHSCB's duties under Section 13G of the National Health Service Act 2006.
- 3.56 It is against the law to discriminate against anyone because of age, and people with protected characteristics should be protected from discrimination when using public services. (Source:gov.uk). I believe the decision to refuse this application sails dangerously close to this.
- 3.57 INNOVATIVE APPROACHES
- 3.58 *The Committee considered whether, notwithstanding that the improvements or better access were not included in the Essex PNA 2022 - 2025, it is satisfied that, having regard in particular to the desirability of—*
- 3.58.1 *there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also the NHSCB's duties under section 13K of the 2006 Act (duty to promote innovation)), granting the application would confer significant benefits on persons in the area of Essex HWB that were not foreseen when the PNA was published.*
- 3.59 *The Committee noted the applicant provided no evidence or comments regarding innovative approaches in the delivery of pharmaceutical services, therefore was not satisfied that Regulation 18(2)(b)(iii) was met.*
- 3.60 In my original submission it was my sincere hope that I would be able to work with the ICB to determine what would be of most benefit to the Canvey Island locality and Castle Point locality at large.
- 3.61 *'The proposed pharmacy will be willing to offer services like Anticoagulation clinic or other services deemed beneficial by CCG.'*
- 3.62 I believe this was misunderstood and gave the impression of a lack of innovation. I still remain committed to working with the ICB if application is granted and I believe in working in partnership for the benefit of the patients.
- 3.63 Here is what I am willing to offer:
- 3.63.1 According to last PNA for Castle Point Locality, 73.7% of 18+ adults are overweight/obese, and 21.5% of adults are physically inactive. Being overweight and obese predisposes to other long term conditions like diabetes. I would be willing to work with the ICB to run a weight loss support clinic. (source: Essex.gov.uk).
- 3.63.2 There are no pharmacies offering Palliative Care Service within the Castle Point locality. As explained earlier, Canvey Island has an above national average elderly population. It can be quite distressing for the patient and their families if there is no access to medicines at the end of life. I would be willing to offer this service.
- 3.63.3 If deemed necessary, I would be willing to offer the Minor Ailment Service. This is a service that I have run in other areas of the country and I believe can be beneficial in Canvey Island, and would indeed free up GP time to focus on more serious conditions.
- 3.63.4 No pharmacies offer NHS Health Check in Canvey Island. (Source:nhs.net). This is a service that I think will be of benefit to Canvey locality.

- 3.63.5 I would also be willing to engage with the ICB to successfully implement other services like RSV Vaccination Clinic, Covid Vaccination Clinic, Sexual Health Clinic, Needle Exchange Service and any new services that the ICB would like to commission.
- 3.63.6 With time, and in discussion with my landlord, I would hope to install Medicine Collection Point, which would be the first of its kind in Castlepoint. This would undoubtedly improve patient access to medication.
- 3.64 I note the ICB's concern with regards to proposed pharmacy opening hours. The hours were originally put out as 0900 to 1830 to mirror the hours the previous pharmacy that occupied premises opened. I also note from the ICB's response that pharmacies in Canvey cover the hours 0830 to 1900 hours.
- 3.65 In response to this, I am willing to start my core opening hours from 0800 hours. This would be the earliest opening pharmacy in the whole of Castle Point locality and would offer its residents greater choice.
- 3.66 CONCLUSION
- 3.67 I have worked in Canvey Island locality for a few years now and had many interactions with its residents. I know first hand that losing the pharmacy at Third Avenue Health Centre was a big blow to the community and the supposed lack of complaints can be put down to a lack of awareness of which authorities to air their grievances with, and should not be judged as satisfaction with decision.
- 3.68 I believe the community desperately needs this new pharmacy. Within the space of 6 months, the community lost a quarter of its pharmacies. This has without doubt had a negative impact on patient care.
- 3.69 I also wish to bring to your attention again representations by Third Avenue Health Centre and the Local Medical Committee respectively as to the impact of the closures and benefit of having a pharmacy at proposed site.
- 3.70 *"In my opinion, the opening of a new independent pharmacy would enhance not only patient care for my registered patients, but for the whole 54,000 patients on Canvey Island. Having two pharmacies close on this Island within 6 months of each other, has forced the remaining pharmacies to take on an ever increasing workload, which could culminate in affecting patient care because they do not have the staffing capacity as well as the a lot of stock control. As a Practice we have previously built good relationships with Pharmacists within the Health Centre and we look forward to having that opportunity again".*
- 3.71 *"The LMC understands that there have been two recent pharmacy closures on Canvey Island which will have impacted the remaining pharmacies, significantly increasing their workload. Furthermore, it is noted that there was previously a pharmacy located at the proposed site and that the proximity to the adjacent GP surgery was a benefit appreciated by patients. The LMC would therefore support the application."*
- 3.72 It is no surprise that the other pharmacies oppose the opening of this new pharmacy. I fully understand that they have businesses to protect and they have done what they believe is right by their businesses.
- 3.73 But this is not necessarily what is right by the patients and the community.
- 3.74 The original application was refused under Regulation 18(2)(b), and I believe I have satisfied the requirements of this regulation by the contents of this appeal letter.

- 3.75 I kindly urge you to consider this appeal favourably and reverse the original decision by the ICB to refuse the application.”

4 Summary of Representations

This is a summary of representations received on the appeal.

4.1 THE COMMISSIONER

- 4.1.1 “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 in the East of England. The Pharmaceutical Services Regulations Committee (PSRC) is also hosted by HWE ICB.
- 4.1.2 As requested in your letter, the Essex Pharmaceutical Needs Assessment (PNA) and Supplementary Statements can be found at [Pharmaceutical Needs Assessment \(PNA\) 2022-2025| Essex Open Data](#). This PNA was reviewed when assessing and determining this application.
- 4.1.3 The 2022-2025 Essex PNA does not identify any gaps in the provision of pharmaceutical services.
- 4.1.4 It does not articulate any current or future gaps in the provision of necessary and other relevant services across the Castle Point locality and this is further reinforced by the supplementary statement that was published in April 2023.
- 4.1.5 The appeal has been submitted by Teerem Ltd who shall be referred to as the Appellant within this document.
- 4.1.6 The grounds for appeal as set out by the Appellant are that the ICB failed to evaluate the evidence supplied within the application with regards to Regulation 18(2)(b).
- 4.1.7 Reasonable choice
- 4.1.8 The Appellant is concerned with the lack of patient engagement and consideration to those residents who it is felt have been impacted by the closures of Boots, Long Road, Canvey Island and Boots, Third Avenue, Canvey Island.
- 4.1.9 From page 2 to page 4 of the appeal document, the Appellant refers to the Pharmacy and Optometry Contracting Team (P&O Team) who work within the ICB, noting that no patient complaints had been received. The Appellant’s opinion outlines that this “does not equate to patient satisfaction with the pharmacy closures and neither should it be misconstrued as such.” (page 2, appeals document).
- 4.1.10 The PSRC made its decision based on the information it had before it and made its decision in line with the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended (the Regulations). This of course encompasses more than patient complaints.
- 4.1.11 The Appellant queries in relation to the pharmacy closures whether the ICB sought patient views on the closures of the pharmacies. As NHS Resolution will be aware, agreement or approval does not need to be sought on the closure of a pharmacy from the ICB, and a contractor can close following the giving of the required notice period.

- 4.1.12 It is then the statutory responsibility of the relevant Health and Wellbeing Board (HWB) to ensure an assessment of pharmaceutical need has taken place after identifying changes that have occurred that are relevant to the granting of an application. The Appellant notes in relation to the PNA and publishing of supplementary statements:
- 4.1.13 “One can only conclude that a review of the impact on the community has not been made the ICB relied only on a lack of complaints.....” (page 4, appeals document).
- 4.1.14 The ICB reaches a different conclusion. The HWB, as the body responsible for assessing pharmaceutical needs, has arrangements in place to review changes that could affect the granting of an application. The HWB were advised of the closures and did not think the closures would affect the granting of an application otherwise they would have published a revised PNA or a supplementary statement, detailing the specific gaps in pharmaceutical provision as a result of the closures.
- 4.1.15 It can therefore be concluded that the HWB did not think the closures were relevant to the granting of an application otherwise they would have published a further statement articulating any current or future needs for, or current or future improvements or better access to, a particular pharmaceutical service or pharmaceutical services in general.
- 4.1.16 In order to ascertain if there is reasonable choice within the Canvey Island, the current pharmaceutical provision was reviewed. There are a total of 6 pharmacies within 2 miles of the proposed location of Third Avenue Health Centre, Third Avenue, Canvey Island, SS8 9SU. For ease, the distance and time taken by type of travel is shown in the table below along with a map for illustration purposes in Appendix 1: [Page 1 of Appendix C for Committee.]

4.1.17 Table 1

Pharmacy	Distance from proposed location (miles)	Travel time on foot (minutes approx.)	Travel time by car (minutes)	Travel time by public transport (minutes)
Britannia Pharmacy 363 Long Road, Canvey Island, Essex, SS8 0JQ	0.4	8	2	5
Boots Pharmacy 171 Long Road, Canvey Island, Essex, SS8 0JD	0.9	18	3	6/7
Well Pharmacy 97-99 Furtherwick Road, Canvey Island, Essex, SS8 7AY	1.4	30	5	9/10
Boots Pharmacy 33-37 Furtherwick Road, Canvey Island, Essex, SS8 7AG	1.5	30	5	12
Britannia Pharmacy 236 Furtherwick Road, Canvey Island, Essex, SS8 7BY	1.8	34	6	15
Britannia Pharmacy 193 High Street, Canvey Island, Essex, SS8 7RN	1.9	38	7	13

(Pharmacy taken from NHS website. Distance and travel times take from Google Map data ©2025)

- 4.1.18 For any Unforeseen Benefits application which is considered by the ICB, the test is choice within the relevant HWB and there is extensive choice across the locality of Castle Point. Within the Castle Point locality, there are a total of sixteen community pharmacies with six being within a two mile radius of the proposed location as demonstrated in Table 1. It can be concluded that there is a reasonable choice of pharmaceutical provision within the town of Canvey Island.
- 4.1.19 The Appellant has provided data to demonstrate the number of items dispensed at Boots Pharmacy (FD403) from April 2023 through to September 2023 (before it closed in March 2024) to demonstrate “a very significant percentage of Third Avenue Health Centre patients prefer to use the pharmacy attached to the Health Centre.” (Page 7, appeals document).
- 4.1.20 The Appellant’s data is based on a period when the Boots Pharmacy was operational and actively serving the community, however this data does not reflect the current situation. Using the most up to date data demonstrates that the population continues to have access to pharmaceutical services, ensuring their needs are met effectively. This current data provides an accurate representation of the accessibility and availability of pharmaceutical services.
- 4.1.21 The Appellant notes that when the Boots Pharmacy, situated next to the Health Centre was open, patients preferred to access this pharmacy. The ICB notes that this would of course be some people’s preference and would have been convenient however convenience is different to need and choice. The “choice” argument presented by the Appellant outlining that the closure of a pharmacy, means patients can no longer access it therefore reducing choice, is not grounds for granting an unforeseen benefits application. If this was the case, a new pharmacy would open following the closure of every pharmacy.
- 4.1.22 Table 2 highlights the dispensing activity for the top 5 pharmacies, indicating that the residents of Canvey Island are accessing a range of pharmacies. When reviewing the dispensing data for the 6 nearest GP practices, it is evident that residents of Canvey Island are choosing the nearest pharmacies shown in Table 1 to obtain pharmaceutical services. For the avoidance of doubt, this dispensing data has been extracted from the Local Authority Shape Tool and the most recent up to date information has been provided from November 2024.
- 4.1.23 The data shows that 12,671 prescriptions issued by the Third Avenue Health Centre in November 2024 were dispensed across 89 pharmacies. This demonstrates that patients have a choice of pharmacy and are exercising their right to choose one of 89 pharmacies.

4.1.24 Table 2

GP Practice	Total number of scripts	Top 5 dispenses pharmacies (5)
Third Avenue Health Centre	25,671	1. FFF58 Boots: 24.7 2. FWW06 Britannia: 22.8 3. FGN22 Britannia: 14.8 4. FNA55 Boots: 10.6

		5. FJT74 Britannia: 10.
The Canvey Village Surgery	6,712	1. FWW06 Britannia: 36.3 2. FGN22 Britannia: 17.3 3. FFF58 Boots: 13.6 4. FJT74 Britannia: 9.4 5. FNA55 Boots: 5.6
Ghuri Practice	9,662	1. FWW06 Britannia: 28.8 2. FGN22 Britannia: 20.4 3. FFF58 Boots: 17. 4. FJT74 Britannia: 9.7 5. FNA55 Boots: 6.69
Oaklands Surgery	23,795	1. FGN22 Britannia: 21.4 2. FEA83 Well: 16.3 3. FJT74 Britannia: 16.2 4. FNA55 Boots: 14.5 5. FFF58 Boots: 13.9
The Community Practice	13,775	1. FGN22 Britannia: 32.7 2. FNA55 Boots: 14.4 3. FJT74 Britannia: 13.1 4. FEA83 Well: 8.5
The Island Surgery	16,755	1. FGN22 Britannia 27.9 2. FJT74 Britannia: 22.9 3. FFF58 Boots: 12.2 4. FNA55 Boots: 11.8 5. FEA83 Well: 8.9

4.1.25 The Appellant makes several references to those patients who choose to use a distance selling pharmacy (DSP) within its appeal:

4.1.26 “The proportion of Third Avenue Health Centre patients that use Online Pharmacies is miniscule,” appeal document, page 7).

- 4.1.27 “Many are unable or reluctant to use online services, a choice championed by the Committee, and many prefer to be able to speak to their pharmacist in bricks-and-mortar stores or on the phone. It is no secret that majority of online pharmacies do not have an easily accessible pharmacist for consultation” (appeals document, page 11).
- 4.1.28 When reviewing the top 20 dispensing contractors (NHSBSA, dispensing contractors data November 2024), the data shows that 2.9% of residents in Canvey Island do choose to have their medication dispensed by a DSP. Although this percentage may appear miniscule to the Appellant, it does demonstrate that for some people, their preference is to use a DSP.
- 4.1.29 The ICB recognises that DSPs are not the preference for all patients however some residents will choose to obtain their services from this type of contractor as not all essential and advanced services require face to face contact at the pharmacy premises.
- 4.1.30 In addition, the top 20 dispensing contractors' data also shows there is 5% of patients who choose to access pharmaceutical services outside of Canvey Island including from another HWB area.
- 4.1.31 The ICB recognises that people can choose to access pharmaceutical services from any pharmacy which may not always be the nearest to where the patient lives. This data clearly evidences that people are exercising their right to choose a pharmacy that caters for their needs - whether that pharmacy is near to where they live, work, in a neighbouring town and as shown by the data, on occasion, in a neighbouring HWB.
- 4.1.32 Throughout the appeal, the Appellant refers to the closure of two pharmacies in Canvey Island noting it has impacted ‘reasonable choice’ for residents when accessing pharmaceutical services.
- 4.1.33 When the Essex PNA was published in October 2022, it stated there were a total of 18 community pharmacies within the Castle Point locality (page 137, Essex PNA). In October 2023, Boots at Long Road, Canvey Island closed and in March 2024 Boots at Third Avenue, Canvey Island closed. To date, on review of the Essex HWB Pharmaceutical List, there are a total of 16 community pharmacies within the Castle Point locality.
- 4.1.34 The Essex HWB did not issue a supplementary statement detailing these closures and therefore Essex HWB did not believe the closures created a gap in pharmaceutical services that would either now or in the future secure improvements or better access to necessary pharmaceutical services within the Castle Point locality. Despite the two closures, there are still two pharmacies located on Long Road, Canvey Island. It should also be noted that the Britannia Pharmacy on Long Road is 0.4 miles away from the Boots premises on Third Avenue.
- 4.1.35 The Appellant has included new information by means of correspondence from Dr Yomi Adegbite, Canvey Island Primary Care Network Lead (page 4, appeals letter) which has been provided on appeal and was not available to PSRC at the point the decision was made.
- 4.1.36 The ICB notes the comments from Dr Yomi Adegbite particularly that he had written and verbally informed the ICB about dissatisfaction following the closure of two pharmacies. The hosted contracting team unfortunately have not been passed this information and we note copies of documents were not enclosed as part of the appeal. As referenced above, the PSRC is required to

make decisions based on the information it has before it. The PSRC did not have this information and were unable to grant the application as the closure of one pharmacy does not lead to the granting of another. It is disappointing when any pharmacy permanently closes however this does not mean that patients cannot access pharmaceutical services.

4.1.37 The Appellant has highlighted one review for an unidentified pharmacy “Also find attached a Google review by a Canvey patient online. This is an example of the impact this closure has had on patients: “As the pharmacy at the doctors is closed, I had to wait in the cue [sic] for half hour to ask for my prescription then to wait another hour to get my medication.” (Appeals document, page 5).

4.1.38 It is concerning to read this negative review and as such the ICB has assessed the Google reviews of the six nearest pharmacies which are identified in Table 1:

4.1.39 Table 3

Name of Pharmacy	Google review information
Britannia Pharmacy, 363 Long Road	20 reviews dated between 2018 and 2025 Overall rating 4.7*
Boots, 171 Long Road	41 reviews dated between 2017 and 2025 Overall rating 4*
Well Pharmacy, Furtherwick Road	13 reviews dated between 2019 and 2025 Overall rating 3.3*
Boots Pharmacy, Furtherwick Road	Unable to source Google reviews
Britannia Pharmacy Furtherwick Road	29 reviews dated between 2017 and 2025 Overall rating 4.1*
Britannia Pharmacy, High Street	25 reviews dated between 2019 and 2025 Overall rating 4.4*

4.1.40 The ICB recognises that with any service, there is likely to be a negative comment or negative feedback at some point. On occasion, people will express dissatisfaction. On a positive note, the information within Table 3 demonstrates many people accessing services over a prolonged period have reported positive experiences.

4.1.41 Protected Characteristics

4.1.42 From page 10 to 11 of the appeals document, the Appellant refers to the elderly population of Canvey Island as those who share a protected characteristic.

Whilst the Appellant is in agreement with the ICB that the age profile of registered patients at the Third Avenue Health Centre is lower for those who are over 65 years of age, the Appellant states “the committee fails to take into consideration is the higher percentage of elderly in the Canvey and Castleford [sic] locality in comparison to the general population”, (appeals document, page 10).

- 4.1.43 The ICB notes that it is common to observe a higher than national average percentage of elderly population in coastal areas, as illustrated in the diagram below:
- 4.1.44 [Page 2 of Appendix C for Committee]
- 4.1.45 (Source: [Our Ageing Population | The State of Ageing 2023-24 | Centre for Ageing Better](#))
- 4.1.46 The ICB also acknowledges that there are elderly patients in the Canvey and Castleford [sic] locality and/or that these residents may have age-related or other protected characteristics. However, specific information has not been included about them and the pharmaceutical services they need that they cannot access or are having difficulty in accessing. The appeal appears based on a generalisation that there are elderly people and they will therefore struggle to access pharmaceutical services.
- 4.1.47 The Appellant states that “Sweetbriar Lodge is a retirement home not too far from Third Avenue Health Centre with its residents registered to the Surgery and its residents used to collect their medication from the Pharmacy attached to the surgery which was just a short walk to the home.
- 4.1.48 These residents now have to walk a greater distance to get advice from their pharmacists or to collect their medications.” (Appeals document, page 10).
- 4.1.49 The Appellant has made this statement but has not provided any evidence demonstrating which residents or how the residents of Sweetbriar Lodge are having difficulty in accessing pharmaceutical services. The onus is on the Appellant to provide specific evidence regarding access difficulties rather than an assumption that as the route is longer, people can no longer access pharmaceutical services.
- 4.1.50 The ICB notes that there may be residents of Canvey Island and Sweetbriar Lodge who are on repeat prescriptions and as a result may not need to access the GP Surgery first. According to the EPS and eRD prescribing dashboard, a total of 7,678 items were issued as repeat prescriptions during the month of December 2024 across the six nearest GP practices ([EPS and eRD Prescribing Dashboard December 2024](#)). (Filter on “Practice Data” and select relevant ODS code).
- 4.1.51 The Appellant states that “a third of the pharmacies in Canvey Island charge for prescription delivery, which puts the elderly out of pocket and at risk of going without medication if Unaffordable,” (appeals document, page 11). No evidence has been submitted to show that this cohort or any other patient is going without their medication because they cannot afford the delivery charge.
- 4.1.52 The Appellant also proposes to offer a “free delivery service to all patients with special preference for the elderly.” (Appeals document, page 11).

- 4.1.53 The nearest pharmacies to the Appellant's proposed location were contacted and it was confirmed that five out of the six do provide a delivery service, with at least 3 offering this service free of charge.
- 4.1.54 Population Growth
- 4.1.55 The letter enclosed by the Appellant from Dr Yomi Adegbite references the "population in Canvey is increasing with new builds...." (page 5, appeals document).
- 4.1.56 The Essex 2022-2025 PNA took into consideration local housing development plans on the provision of pharmaceutical services and drew the conclusion that this did not identify "any gaps in pharmaceutical services provision in the area during the lifetime of this PNA" (page 142, Essex PNA).
- 4.1.57 The Essex HWB took into account during the lifespan of the Essex PNA projected population growth and those with protected characteristics. The ICB is mindful that an increase in population does not automatically lead to the requirement to grant an application. The PNA states "Whilst data on some of these protected characteristics is available and presented in this PNA, not all areas have good quality local coverage. However, for those groups not explored in detail, no specific pharmaceutical needs have been identified and all available and planned services are deemed accessible to these groups and their needs can be met by provision of necessary services," (Essex PNA, page 46, 5.1.4.3).
- 4.1.58 Innovative Approaches
- 4.1.59 The Appellant details the innovative approaches it is willing to offer which includes:
- 4.1.59.1 Weight Loss Support Clinic
 - 4.1.59.2 Palliative Care Service
 - 4.1.59.3 Minor Aliment Service
 - 4.1.59.4 NHS Health Checks
 - 4.1.59.5 RSV Vaccination Clinic
 - 4.1.59.6 Covid Vaccination Clinic
 - 4.1.59.7 Sexual Health Clinic
 - 4.1.59.8 Needle Exchange Service
 - 4.1.59.9 Any other services that the ICB would like to commission
 - 4.1.59.10 Medicines Collection Point
- 4.1.60 The ICB remains of the view that whilst the services listed above are beneficial, they are not innovative as they are happening in many pharmacies across the country.
- 4.1.61 Hours and Services

4.1.62 The Appellant states that “I note the ICB’s concern with regards to proposed pharmacy opening hours. The hours were originally put out as 0900 to 1830 to mirror the hours the previous pharmacy that occupied premises opened. I also note from the ICB’s response that pharmacies in Canvey cover the hours 0830 to 1900 hours.

4.1.63 In response to this, I am willing to start my core opening hours from 0800 hours. This would be the earliest opening pharmacy in the whole of Castle Point locality and would offer its residents greater choice,” (appeal document, page 12).

4.1.64 Within the application submitted by the Appellant, the core and supplementary hours were:

Proposed											40:00 [C]	11:30 [S]
	S1		C1		S2		C2		S3		C3	
Monday			09:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Tuesday			09:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Wednesday			09:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Thursday			09:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Friday			09:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Saturday	09:00	13:00										
Sunday												

4.1.65 The Appellant is proposing to offer the following core and supplementary hours should the decision by the ICB be overturned and the application granted on appeal:

Proposed											45:00 [C]	11:30 [S]
	S1		C1		S2		C2		S3		C3	
Monday			08:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Tuesday			08:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Wednesday			08:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		

Thursday			08:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Friday			08:00	13:00	13:00	14:00	14:00	18:00	18:00	18:30		
Saturday	09:00	13:00										
Sunday												

4.1.66 If this application is granted on appeal, the ICB will need to issue a direction as the total number of core hours will be 45 hours.

4.1.67 Whilst the proposal of longer hours is welcomed, we note the PNA does not identify the need for additional opening hours and there is no evidence to suggest that residents of the Castle Point locality are in need of pharmaceutical services at the new timings proposed. It may be more beneficial for residents to have the core hours on a Saturday as the Saturday hours are currently supplementary hours which can be removed at any time providing the required notice is given.

4.1.68 For information, the Essex PNA states the following in relation to opening hours:

4.1.69 “Castle Point opening hours

4.1.69.1 Weekday opening hours were taken from Friday as a standard.

4.1.69.2 Monday to Friday, all 18 community pharmacies are open between the hours of 9:00 to 17:00.

4.1.69.3 Earliest opening time is 7.45 and latest closing time is 23.00.

4.1.69.4 On Saturdays 15 pharmacies are open in the morning and 11 of the pharmacies remain open in the afternoon. The latest closing time is 23.00.

4.1.69.5 On Sundays two pharmacies are open, earliest opening is 10.00 and latest closing is 23.00” (Essex PNA page 141)

4.1.70 On page 5 of the appeal document, the appellant refers to “other pharmacies provide advanced services, but these services are overrun. The committee fails to take into the account the amount of time each of these consultations take, coupled with the increase in prescription items owing to these closures.”

4.1.71 The Appellant has not provided any evidence to demonstrate how these advanced services are overrun.

4.1.72 The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

4.1.73 Regulation 31.

4.1.74 PSRC noted that the applicant had provided the address of Third Avenue Health Centre, Third Avenue, Canvey Island, Essex, SS8 9SU. The Committee agreed it was not required to refuse the application under the provisions of Regulation 31.

- 4.1.75 Paragraph 31, Schedule 2 – conditional grant of applications where the address of the premises is unknown.
- 4.1.76 The Committee noted that this Regulation does not apply as the applicant has provided the address of the proposed premises.
- 4.1.77 Regulation 18.
- 4.1.78 As the proposed address is within Canvey Island, it was assessed against the 2022-2025 Essex PNA. The assessment concluded with the following statement:
- 4.1.79 “No gaps in the provision of necessary pharmaceutical services have been identified in the Castle Point locality.
- 4.1.80 No gaps in pharmaceutical services have been identified that if provided either now or in the future would secure improvements or better access to relevant services across the Castle Point locality” (Essex PNA, page 142).
- 4.1.81 PSRC noted that the April 2023 supplementary statement to PNA 2022-2025 states “no gaps in pharmaceutical services have been identified that it provided either now or in the future would secure improvements or better access to necessary pharmaceutical services across the locality”.
- 4.1.82 Regulation 18(1)(a).
- 4.1.83 PSRC were satisfied in that it is required to determine whether it is satisfied that granting the application or granting it in respect of some of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB.
- 4.1.84 Regulation 18(1)(b).
- 4.1.85 PSRC noted the evidence within the 2022-2025 Essex PNA and took into consideration the supplementary statement. PSRC noted that the Essex HWB had not detailed any gaps despite the closure of 5 pharmacies within the Essex HWB area.
- 4.1.86 PSRC further agreed that in order to be satisfied in accordance with Regulation 18(1), regard is to be had to those matters set out at Regulation 18(2).
- 4.1.87 Regulation 18(2)(a)(i) & (ii).
- 4.1.88 PSRC noted that there is no plan for the provision of pharmaceutical services in the area.
- 4.1.89 Granting the application would therefore not cause significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of Essex HWB.
- 4.1.90 PSRC noted there was no evidence to suggest granting this application would cause significant detriment to the arrangements the ICB has in place for the provision of pharmaceutical services in that area.
- 4.1.91 In the absence of any significant detriment as described in Regulation 18(2)(a), the Committee was not obliged to refuse the application and went on to consider Regulation 18(2)(b).

- 4.1.92 Regulation 18(2)(b)(i).
- 4.1.93 PSRC noted the closure of two Boots pharmacies within Canvey Island and that the 2022-2025 Essex made no mention of any unmet needs in Canvey Island or the Castle Point locality. It was of the view that there is reasonable choice with regards to obtaining pharmaceutical services.
- 4.1.94 PSRC noted that patients are using a wide range of established pharmacies for their pharmaceutical needs, and therefore it can be said that patients are exercising their choice and the level of choice available to patients was considered reasonable.
- 4.1.95 Regulation 18(2)(b)(ii).
- 4.1.96 PSRC were not satisfied that, having regard to the desirability of people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.
- 4.1.97 Regulation 18(2)(b)(iii).
- 4.1.98 PSRC noted the applicant provided no evidence regarding innovative approaches in the delivery of pharmaceutical services, therefore were not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the 2022-2025 Essex PNA was published.
- 4.1.99 Conclusion.
- 4.1.100 The ICB remains of the opinion that the application should be refused.
- 4.1.101 In the publication of the 2022-2025 Essex PNA, the HWB has remained of the opinion that there is no gap in the provision of pharmaceutical services in this part of its area, or indeed any part of Essex, that would require needs, improvements or better access to be identified.
- 4.1.102 We appreciate there may be some convenience in having a new pharmacy, however this is different to one conferring significant benefits. Our priority is ensuring patients can access pharmaceutical services.
- 4.1.103 The regulatory requirements to identify an unforeseen benefit not in the 2022-2025 Essex PNA accompanied by the significant benefit considerations is a high threshold. We respectfully suggest that this appeal is without any substantive new or compelling evidence. The ICB does not believe granting the application will confer significant benefits that were not foreseen when the 2022-2025 Essex PNA was published."

4.2 BRITANNIA PHARMACY (HEAD OFFICE)

- 4.2.1 "We write further to your letter of 18th February 2025 and submit our representations on the appeal by Teerem Limited against the decision of NHS England to refuse its application for inclusion in the pharmaceutical list for premises at the Third Avenue Health Centre, Third Avenue, Canvey Island, SS8 9SU.

- 4.2.2 As stated in your letter of 18th February 2025, this is an application to which regulation 18 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 applies. It may therefore only be granted if it would secure improvements or better access to pharmaceutical services which were not foreseen in the relevant PNA.
- 4.2.3 When determining this application, NHS Resolution must have regard, in particular, to whether the application would confer significant benefits in terms of:
- 4.2.3.1 *"(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the Health and Wellbeing Board;*
- 4.2.3.2 *(ii) people who share a protected characteristic (as listed in section 149(7) of the Equality Act 2010 - age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, and pregnancy and maternity) having access to services that meet specific needs for pharmaceutical services that, in the area of the Health and Wellbeing Board, are difficult for them to access, or*
- 4.2.3.3 *(iii) there being innovative approaches taken with regard to delivery of pharmaceutical services."*
- 4.2.4 To the extent that there is a burden of proof in respect of an application for inclusion in the pharmaceutical list, this falls on the applicant (see, for example, the judgment of HHJ Hickinbottom in R (on the application of Assura Pharmacy Limited) v NHS Litigation Authority [2007] EWHC 289 (Admin) at paragraph 15). We submit that the applicant has failed to discharge this burden of proof.
- 4.2.5 By way of factual background, this application is made for inclusion in the pharmaceutical list for premises at the Third Avenue Health Centre, Canvey Island, SS8 9SU. Canvey Island is a town in Essex located to the south of Benfleet as shown in the google maps image below. The proposed location is shown with the red marker ("the Health Centre"). [Map – page 1 Appendix D for Committee]
- 4.2.6 According to 2024 estimates, the population of Canvey Island was approximately 38,000 in 2024.
- 4.2.7 Whilst the applicant correctly notes that two pharmacies closed last year on the Island, Canvey Island still has 6 pharmacies: 2 Boots Pharmacies, 1 Well Pharmacy and 3 Britannia Pharmacies. This equates to an average of one pharmacy per 6,300 residents. This is broadly in line with English averages.
- 4.2.8 The current pharmacy network is well spread out across the Island as shown in the google maps image below: [Map – page 2 Appendix D for Committee]
- 4.2.9 Existing pharmacies are not difficult to access, whether for residents of Canvey Island generally or for patients of the Third Avenue Health Centre in particular.
- 4.2.10 We operate the nearest pharmacy to the Health Centre at 363 Long Road, Canvey Island, SS8 OJQ. This pharmacy is located only 550m away, or an 8-minute walk (google map walking route shown below) and a 2-minute car journey.
- 4.2.11 There is free car parking near all our three branches. [Map – page 3 Appendix D for Committee]

- 4.2.12 There are no barriers between the proposed location and our pharmacy at 363 Long Road (or, indeed, from any point in Canvey Island to any of the Island's pharmacies) which would make access to pharmaceutical services difficult.
- 4.2.13 In relation to the route from the Third Avenue Health Centre to our pharmacy at 363 Long Road:
- 4.2.13.1 The distance is short, at only 550 metres.
- 4.2.13.2 The terrain is flat.
- 4.2.13.3 The route is straightforward, being due south along Third Avenue/Link Road/New Road.
- 4.2.13.4 Whilst access is easy by foot, there are direct bus services that link the proposed location to Long Road and to other pharmacies in the town centre.
- 4.2.13.5 Our pharmacy is located on Long Road, which is the main east/west road through Canvey Island towards the town centre (where Boots and Well Pharmacies are located).
- 4.2.13.6 Most residents would be accustomed to travelling to, and along, Long Road as part of their daily lives and would pass close to our pharmacy and other pharmacies.
- 4.2.14 In relation to the matters raised by the applicant in support of its appeal, we comment as follows.
- 4.2.15 **Letter from GP surgery**
- 4.2.16 The applicant appears to accept that there is no direct evidence of any patient complaints in relation to the provision of pharmaceutical services in the local area. The applicant refers to anecdotal evidence, but no further information is provided to support this.
- 4.2.17 In relation to the "letter" from Dr Yomi Adegbite, Dr Adegbite is a GP at the applicant's proposed location. It is unclear whether Dr Adegbite has a financial interest in the application being granted, for example as a landlord of the applicant's proposed location. In any event, the comments from Dr Adegbite do not appear to stand up to any real scrutiny.
- 4.2.18 Firstly, Dr Adegbite refers to patients being "unhappy" with "loosing [sic] 2 pharmacy stores on the island". As NHS Resolution will be aware, the regulatory test is not based on a "one in, one out" test. The mere fact that 2 pharmacies have closed on the Island does not automatically mean that a new pharmacy application must be granted.
- 4.2.19 In relation to mobile patients going to "Benfleet and Hadleigh to get their acute medications whilst many are now forced to use online pharmacies", this statement does not seem to reflect the reality of the situation.
- 4.2.20 As stated above, the nearest pharmacy to the proposed location is our pharmacy on Long Road, only 550m from the Third Avenue Health Centre, and is easily accessible for the reasons given above. There are 5 other pharmacies on Canvey Island which are also easily accessible, including by public transport.

- 4.2.21 At our local Long Road pharmacy, we adequately meet the pharmaceutical needs of our patients and have the capacity to provide additional services.
- 4.2.22 In relation to surgery patients being "forced to use online pharmacies", the largest distance selling pharmacy which provides dispensing services to patients of the Third Avenue Health Centre is Pharmacy2U, which dispenses only 2.27% of the Health Centre's prescriptions. The next largest DSP is LloydsDirect, which dispenses only 0.6% of the Health Centre's prescriptions. The dispensing figures do not, therefore, suggest that a large number of patients (or, indeed, any patients) are being "forced" to use online pharmacies.
- 4.2.23 In fact, dispensing data for the Third Avenue Health Centre for the last month available (November 2024) shows that items are well distributed amongst local pharmacies. Of the 12,671 items prescribed by the Health Centre:
- 4.2.23.1 Boots at 171 Long Road dispensed 25%.
- 4.2.23.2 Britannia Pharmacy at 363 Long Road dispensed 23%.
- 4.2.23.3 Britannia Pharmacy at 236 Furtherwick Road dispensed 15%.
- 4.2.23.4 Boots at 33-37 Furtherwick Road dispensed 11 %.
- 4.2.23.5 Britannia Pharmacy at 193 High Street dispensed 10%.
- 4.2.23.6 Well Pharmacy at 97-99 Furtherwick Road dispensed 6%.
- 4.2.24 In relation to the reference by the applicant to Benfleet, Hadleigh and internet pharmacies, this must be viewed as some patients wishing to collect their prescription medication from near where they live or work or simply prefer on line pharmacy providers. A detailed analysis of the dispensing shows such other providers to be providing dispensing in less than single digit (other than two suppliers) percentages.
- 4.2.25 Dr Adegbite refers to Boots and Well pharmacies having to "send prescriptions to their bigger branches/hubs outside of this area". We have no direct knowledge of these arrangements, but anticipate that the two companies operate a hub and spoke dispensing service for patients who are receiving regular repeat medicines. In any event, as stated above, Boots and Well, between them, only operate 3 out of the 6 pharmacies on the Island, so that patients have the choice to use our pharmacies instead of a large multiple should they wish.
- 4.2.26 In relation to the "58-bed luxury care home" being built, this will not significantly increase the reliant population. In any event, that care home is located on the western edge of the town, being 0.8 miles from our pharmacy and one mile from the applicant's proposed pharmacy. The proposed pharmacy would therefore not offer any geographic advantage for people who may be moving into the new care home.
- 4.2.27 **Google reviews**
- 4.2.28 In relation to Google reviews, for the avoidance of doubt our pharmacy at 363 Long Road scores 4.7 stars out of 5, our pharmacy at 236 Furtherwick Road scores 4.1 stars and our pharmacy at 193 High Street scores 4.4 stars.
- 4.2.29 **Advanced services**

4.2.30 We do not accept that advanced services from pharmacies on the Island are "overrun". No evidence is provided to support this assertion, and the CPE survey referred to is for England as a whole and is not specific to pharmacies on Canvey Island.

4.2.31 Dispensing figures

4.2.32 It is not surprising that a pharmacy located within a GP surgery would dispense prescriptions issued by that surgery. The fact that the pharmacy that was previously located at the Third Avenue Health Centre dispensed an average of around 48% of the Health Centre's prescriptions is therefore unremarkable.

4.2.33 We have set out, above, how those prescription items are now distributed across the pharmacies on Canvey Island, demonstrating that patients have a reasonable choice of service provision.

4.2.34 The fact that the pharmacy at the Health Centre has closed does not mean that patients are now "deprived" of their choice of pharmacy but, in any event, the regulatory test is whether patients have a reasonable choice of service provision. With 6 pharmacies located on Canvey Island operated by 3 different companies, we believe that there is a reasonable choice of service provision.

4.2.35 Protected characteristics

4.2.36 Whilst age is a relevant protected characteristic, the proportion of patients who are over a particular age is not directly relevant to the regulatory test unless the applicant can show that patients require access to pharmaceutical services as a result of a protected characteristic and currently find access difficult. There is no evidence of particular access difficulties and, as summarised above, access to existing pharmacies is, in fact easy.

4.2.37 The applicant refers to residents of Sweetbriar Lodge; whilst it is correct that our pharmacy is further away compared to the proposed site, the additional distance does not present any significant difficulty for the reasons given above.

4.2.38 In relation to charges for delivery, our pharmacies do not charge for delivery, so patients have a choice to access delivery services for free should they wish to do so.

4.2.39 Innovative approaches

4.2.40 As NHS Resolution will be aware, it may only determine this application by reference to commissioned NHS pharmaceutical services. Any services that an applicant proposes to provide which are not commissioned NHS pharmaceutical services are therefore irrelevant.

4.2.41 In relation to the "innovative approaches" referred to in the applicant's appeal, we comment specifically as follows:

4.2.41.1 A weight loss clinic is not a commissioned NHS pharmaceutical service and is therefore not relevant to this application.

4.2.41.2 Palliative care services tend to be commissioned from pharmacies which offer extended hours. It is therefore unlikely that the service would be commissioned from the proposed pharmacy.

4.2.41.3 In relation to the "minor ailments service", all pharmacies on Canvey Island already provide the Pharmacy First service.

- 4.2.41.4 The NHS Health Check is not an NHS commissioned pharmaceutical service.
- 4.2.41.5 In relation to vaccination services, all three Britannia pharmacies already provide flu, Covid and RSV vaccinations. Needle exchange services are commissioned locally. No pharmacies are commissioned to provide this service on Canvey Island.
- 4.2.41.6 A medicine collection point is not a commissioned NHS pharmaceutical service.
- 4.2.42 In relation to core hours, whilst the applicant refers to opening at 8am in its appeal, this was not proposed as part of its application. There is no evidence of any unmet need for pharmaceutical services between 8am and 8.30 (when Well pharmacy opens).
- 4.2.43 In conclusion, therefore, we believe that the applicant has failed to evidence that granting its application would secure improvements and better access to pharmaceutical services in the HWB's area. We assert that patients already have a reasonable choice of pharmaceutical services from pharmacies which are not difficult to access, as detailed above.
- 4.2.44 We therefore invite NHS Resolution to conclude that granting this application would not confer significant benefits on patients in respect of the matters contained within regulation 18 and to refuse the application.
- 4.2.45 We look forward to hearing from you."
- 4.3 BRITANNIA PHARMACY (FGN22)
- 4.3.1 "Thank you for your letter of 18th February in relation to the above.
- 4.3.2 The Members of The Pharmaceutical Services Regulation Committee, 'The Committee', addressed this matter and specifically took into account not only The Essex PNA 2022-2025 but also the supplementary statement in April 2023, and determined that the PNA did not have any gaps that the new Application will fulfil, and concluded that there is no need to grant this Application.
- 4.3.3 We note that the Appeal submitted by Mr Adetomiwa Adebisi, Director of Teerem Limited has a total of 13 A4 sheets. However, it is important that we address the crux of this Appeal and not be drawn into details that are not essential. With the above in mind, our representation is brief, and to the point, and follows the numbering sequence of the Submissions by Applicant.
- 4.3.4 **Reasonable Choice.**
- 4.3.5 With all the data that is publicly available, there is no evidence to support that the residents of Canvey Island do not have a reasonable choice of pharmaceutical services providers either on the Island itself or from nearby pharmacies.
- 4.3.6 If there was a genuine lack of choice for the patients of the Third Avenue to secure pharmaceutical services with ease, a large number of these patients would have written to their local councillors or members of Parliament or elsewhere, and there is a complete lack of this evidence.

- 4.3.7 In relation to the letter from Dr Godwin, Clinical Director of Canvey Island PCN, it must be noted that Dr Godwin is a partner at Third Avenue surgery and as such would prefer to have a pharmacy on site, for the **convenience** of the patients.
- 4.3.8 This must not be confused with **"to be a preference"** rather than **"to be a need"**. Dr Godwin will naturally support this Appeal; however, the Appeal needs to be determined on the facts of the case. The facts conclude that the patients of Canvey Island currently have a reasonable choice for pharmaceutical services provision.
- 4.3.9 The co-located Boots pharmacy ceased dispensing as from March 2024. We have analysed the prescribing and the dispensing items/data for the Third Avenue surgery, for 4 months. We have undertaken this for June 2023, prior to the closure, and compared with June 2024, post closure (first spreadsheet) and then for November 2023, prior to closure, and compared with November 2024, post closure (second spreadsheet). The top two thirds part of the spreadsheet provides the details of dispensing patterns and the lower part provides the summary.
- 4.3.10 The main salient points to observe from the two spreadsheets are as follows:
- 4.3.10.1 Despite being co-located, the Boots pharmacy dispensed less than half the prescriptions for the two months. 48% in June 2023 and 46% in November 2023.
- 4.3.10.2 The other 6 main pharmacies on the Island dispensed the remaining bulk of the prescriptions. 44% in June 2023 and 46% in November 2023.
- 4.3.10.3 After the closure of the Boots pharmacy at Third Avenue, the 6 main pharmacies on the Island dispensed the bulk of the prescriptions which were previously dispensed by the Boots pharmacy. 89% in June 2024 and 89% again in November 2024.
- 4.3.10.4 The top part of our spreadsheets provides the details of the 6 contractors dispensing and it is to be noted that this is quite evenly spread in a very similar way to the spread before the closure.
- 4.3.10.5 The remaining 10% dispensing, as detailed on our spreadsheets, is by internet pharmacies and other contractors out of the area, which would be due to the patients not living or working on the Island and using ETP to collect their prescriptions from pharmacies based elsewhere.
- 4.3.11 In view of all the above, we have clear evidence to show that there is more than adequate and reasonable choice of pharmacies all over the Island and from locations which are easy and convenient for the residents and patients on the Island.
- 4.3.12 **Protected Characteristics.**
- 4.3.13 The publicly available data shows that of the 7,765 registered patients at Third Avenue, there are high number within the age range up to 59, than over 65. Other than Boots, no other pharmacies on the Island charge for a delivery service and we certainly do not raise any such charges.

4.3.14 For the elderly, it should also be borne in mind, that it is not only that they require medicines for the day-to-day needs, they also have other needs such as household requirements, toiletries, groceries, visits to friends and family, visits to local parks or clubs and social outings and suchlike.

4.3.15 The elderly population who do not have easy access for the above requirements have arrangements for such needs and these also include pharmaceutical needs. It is therefore unfair to single out the pharmaceutical needs whereas they have a lot more of their needs catered for. With this in mind, it is safe to conclude that the residents of Canvey Island are able to secure adequate pharmaceutical services with ease.

4.3.16 **Innovative Approaches.**

4.3.17 It is to be noted that in the initial Application for inclusion on to the Pharmaceutical List, other than making a fleeting reference to innovative approaches, the Applicant did not include any details or examples of what these would be.

4.3.18 It is only now that, on response to The Committee's observations, the Applicant has 6 points on this subject. It should be noted that the existing pharmacies on the Island provide some of the services listed by the Applicant and additionally where others are required, the existing pharmaceutical contractors will be able to include these in the service provision. We will not comment on these points individually and we are sure that if a medicines collection point was needed on the Island, anyone or a number of the existing contractors will be able to do so. Please note that this innovative approach is only conditionally offered by the Applicant.

4.3.19 **Conclusion.**

4.3.20 In the conclusion section, the Applicant refers to his work in Canvey Island, the loss of two pharmacies, the representations by the Third Avenue Health Centre, the LMC, and refers to the other pharmacies opposing the Application as "they have the business to protect".

4.3.21 However, it is important to consider whether the Appeal meets its Application criteria and on all counts it does not, and as such in our opinion this Appeal ought to be refused.

4.3.22 We hope our response will be taken into account when determining this Appeal."

4.3.23 [Third Avenue Health Centre. Canvey Island. Contractors' Prescription Dispensing Data for November 2024, after the adjoining Boots Pharmacy closed down, compared to November 2023, whilst the Boots Pharmacy was operating. – Appendix E for Committee]

4.4 **BRITANNIA PHARMACY (FWW06)**

4.4.1 "Thank you for your correspondence and associated attachments dated the 18th of February 2025 in regards to the appeal reference SHA/26502.

4.4.2 I would like to start by saying that having read the appeal document, I have concerns in regards to the manner in which Teerem Limited have formulated an argument, with a substantial number of claims made without supporting evidence and it seems that the response submitted to the appeal, draws upon

assumptions and misrepresentations made by Teerem Limited, rather than substantiated facts.

- 4.4.3 Please see below for further information on why the original decision to reject the first application should be upheld.
- 4.4.4 The appeal document states;
- 4.4.5 *"Many were, and are, still not aware that they are able to complain to the ICB. Canvey, as a community tends to communicate majorly via Facebook, and a scroll through the Canvey Island Community Facebook page paints a different picture compared to the one the ICB paints."*
- 4.4.6 *"As the pharmacy at the doctors is closed I had to wait in the cue [sic] for half hour to ask for my prescription then to wait another hour to get my medication"*
- 4.4.7 As healthcare providers, we must not assume that patients and residents of Canvey Island are not familiar with complaints procedures in any aspect of healthcare provision.
- 4.4.8 Complaint processes are made even simpler as they can be recorded online as well as in writing .
- 4.4.9 Patients and the public can contact;
 - 4.4.9.1 The local ICB.
 - 4.4.9.2 The NHS, directly through their own complaints' procedure.
 - 4.4.9.3 Local Pharmacies - who are mandated to report to the local ICBs as well as provide any complainant the NHS ombudsman contact details.
- 4.4.10 Whilst I acknowledge that there may be complaints on the communities Facebook group or on Google review, these are **highly unregulated** with anyone able to make a negative review without further context or fact checking.
- 4.4.11 This is therefore in essence, the wild west of posting, where anybody can post a review of any sort.
- 4.4.12 For example, a peruse of numerous negative reviews written by patients in regards to Third Ave Health Centre can be perceived incorrectly.
- 4.4.13 In cases where there is a true complaint, it will be brought to the attention of the regulators and referred to the ICB if needed, therefore I believe the majority of these complaints and negative reviews are unsubstantiated and as a result of personal venting on an online platform for "Likes".
- 4.4.14 Additionally, please see below positive quotes posted on the Canvey Facebook community group;
- 4.4.15 *"Want to praise the carers who look after my husband, Britannia Pharmacy Long Rd with our medication and the receptionist at Village Surgery who are always helpful to me so lets all remember the good people in our community"*
- 4.4.16 Responding to "What's the best pharmacy on the Island please?"
- 4.4.17 *"Britannia near BP has always been great for us XX"*

4.4.18 *"My mums medicine was delivered this morning by that lovely gentleman who works for britannia pharmacy he had a brilliant yellow mask lovely sunny yellow really cheered my day up ... thank you"*

4.4.19 *"Britannia very good".*

4.4.20 ***"At a time when private companies are making business decisions to streamline their operations but which come at a detriment to the local population, it is incumbent on the relevant government authorities to make a determination on the impact of these decisions on the community."***

4.4.21 This is a generalised statement without any substantiated fact.

4.4.22 Following the closure of the two Boots branches on the island, Britannia Pharmacy has invested in each one of our branches, recruiting more staff to improve the service and experience of our customers;

4.4.23 Table below shows the additional employed staff at Britannia Pharmacy branches on Canvey Island since the closure of the Boots branches on the island.

Branch Location	Recruited (Full Time Equivalent)
Britannia Pharmacy, Long Road	1.5
Britannia Pharmacy, High Street	1.5
Britannia Pharmacy, Furtherwick Road	3.5

4.4.24 By investing in our branches, we have improved the skill mix within each branch, releasing the Pharmacist to provide additional services such as the Pharmacy First Service, Hypertension Case Finding service, Contraception service, Discharge Medicines Service and Covid, Flu and RSV Vaccination service.

4.4.25 Since 2017 we have been providing a free same day delivery service from each of our three branches. We now have 2 designated fulltime delivery drivers and 2 delivery vans operating 5 days a week full time.

4.4.26 Although Palliative Care is not provided as part of a local enhanced service, all three Britannia Pharmacy branches hold stock of the most commonly prescribed Palliative care drugs - which in addition can be delivered to the patient, same day, free of charge, if requested.

4.4.27 The appeal document has included a statement by Dr Yomi Adegbite.

4.4.28 Dr Adegbite however is a partner of Third Avenue surgery and thus biased in his support for this application. Dr Adegbite makes several unsubstantiated claims in his representation without substance or proof.

4.4.29 With his views, one would expect an NHS pharmacy attached to every Health Centre across England. However, with the digital world that we live in today, the convenience of the patients to have a Highstreet pharmacy overrides that of being located at a health centre.

- 4.4.30 Of Dr Adegbites statement;
- 4.4.31 ***"many patients that are mobile now go to Benfleet and Hadleigh to get their acute medications whilst many are now forced to use online pharmacies"***
- 4.4.32 No substantiated evidence to support this misleading statement has been provided.
- 4.4.33 From the latest Pharmdata figures for November 2024, the Health Centre dispensed 12,671 items, of which:
- 4.4.33.1 5 pharmacies in Benfleet dispensed 1.91 %, i.e. 242 items.
- 4.4.33.2 1 pharmacy in Hadleigh dispensed 2.1 %, i.e. 266 items.
- 4.4.33.3 5 internet pharmacies dispensed 3.34%, i.e. 422 items
- 4.4.34 This simply indicates that the patients of the health centre have a choice from where they can collect their prescription medication, and the very low numbers above substantiate the fact that there is ample, reasonable and easily accessible choice of pharmacies on Canvey Island.
- 4.4.35 Logic dictates that in situations where an acute medication is required, patients will attend to a pharmacy convenient to them, rather than travel longer distances.
- 4.4.36 Our pharmacies have an average waiting time of 5- 10 minutes.
- 4.4.37 Additionally, online Pharmacies are not generally used for acute medication due to the delivery times which can range from 48 hours to 96 hours.
- 4.4.38 ***"Our greatest worry of course is with the elderly patients who are unable to leave the island to get their medications or those that have no family to get it for them"***
- 4.4.39 Our three Britannia Pharmacy branches provide a free same day, patient delivery service to all patients available on the island.
- 4.4.40 ***"There has been instances that patients have been days without antibiotics, and some have had to end up in hospital due to this."***
- 4.4.41 Again, another unsubstantiated claim, please see my last point as this will not cause any undue delay in patients receiving their medication.
- 4.4.42 ***"Unfortunately, some of the chemists on the Island like Boots and Wells have to send prescriptions to their bigger branches/ hubs outside of this area and that takes 7 days before patients are able to get their medication"***
- 4.4.43 This is a prime example of innovation, where some pharmacy companies like Boots and Well, send regular, managed, long term repeat prescriptions, in advance of the collection due date, to a hub for dispensing, whilst freeing up their local onsite pharmacy team for acute dispensing and pharmacy services.
- 4.4.44 ***"The PPG of Third Avenue surgery as well as the Canvey Island PPG have on numerous occasions complained of the hardship they have to endure"***

due to the closure of the 2 Boots chemists on the Island making the other chemists on the Island overwhelmed and unable to cope."

- 4.4.45 I believe this to be a generalised misrepresentation of fact to suit the needs of the appeal.
- 4.4.46 At Britannia Pharmacy, we have managed to deal efficiently and professionally with patients from closure of the two pharmacies on the island.
- 4.4.47 As previously highlighted, we have recruited more staff which has resulted in an improved skill mix to deal with the workload.
- 4.4.48 ***"Initially, the other chemists promised that they will get in more staff, but not only has that not happened because of cost but they do not actually have the physical space to do so"***
- 4.4.49 Yet again another *off the cuff* remark without any knowledge of staffing levels, skill mix or services offered in the local pharmacies.
- 4.4.50 Please see table as above in reference to recruitment across all Britannia Pharmacy branches.
- 4.4.51 ***"The population in Canvey is increasing with new builds and influx of Jews"***
- 4.4.52 As Health Care Professionals we treat the healthcare needs of all patients the same regardless of their ethnicity, race or sexual orientation.
- 4.4.53 I do not therefore see the relevance of naming a specific ethnicity, as by an attempt to make this point, there is a risk of reinforcing discriminatory terms.
- 4.4.54 As the population on the island increases, our Healthcare provision will adapt to any additional requirements.
- 4.4.55 ***"Already most of the 4 Care homes we currently have use chemist outside the Island due to the delay in getting their medications from the over stretched chemists on the Island"***
- 4.4.56 This statement is misleading as it infers that the four Care homes were once served by the Pharmacies on the Island.
- 4.4.57 We note that several Care homes have a national agreement in place with specific pharmacy companies to provide their pharmaceutical services, thus maintaining set protocols and procedures in all their care home locations.
- 4.4.58 At Britannia Pharmacy however, we also have a history of specialising in care home services from our pharmacies, we are already in discussions with representatives of the new care home due to be open on Northwick Road, to provide their pharmaceutical needs from one of our local pharmacies.
- 4.4.59 ***"The committee also noted that other pharmacies provide advanced services, but these services are overrun"***
- 4.4.60 We are at a total loss to comprehend how this ill-conceived conclusion has been reached by Teerem Ltd.
- 4.4.61 Britannia Pharmacy provides all the Advanced services and local services commissioned by the local authority to the satisfaction of our commissioners.

- 4.4.62 ***"It is no wonder that "92% of pharmacy staff members report they are not coping well because of the workload" (Source: cpe.org.uk)"***
- 4.4.63 This is a **national** statement and not one solely relevant to the pharmacy staff members on Canvey Island.
- 4.4.64 Thus, by definition, this will also apply to staff employed at the proposed site too.
- 4.4.65 ***"Also the proportion of Third A venue Health Centre patients that use Online Pharmacies is miniscule"***
- 4.4.66 Statement contradicts that of what is stated by Dr Adegbites in his statement - ***"whilst many are now forced to use online pharmacies"***
- 4.4.67 ***"The data above clearly shows that if patients had the CHOICE, one in two patients would choose to use the pharmacy operating from same location as the Health Centre."***
- 4.4.68 This data is no longer applicable as the patients who were being served at the Boots branch prior to closure are now being served successfully by another local Pharmacy.
- 4.4.69 From Pharmdata in June 2016, Boots Pharmacy at Third Ave, dispensed 70% of generated prescription items from Third Avenue surgery.
- 4.4.70 With digitalisation of the prescription service and changing consumer habits, this initial activity has eroded to 45% in November 2023 - a significant 25% loss.
- 4.4.71 This highlights the evolving behaviour of patients collecting prescriptions from a convenient location rather than a co-located pharmacy.
- 4.4.72 The appeal infers that should the application be granted, patients will prefer to choose to use the pharmacy attached to the health centre, however this statement is factually incorrect.
- 4.4.73 With digitalisation of not only prescription services but other pharmacy services, it makes it more convenient for patients to choose pharmacies located to where they live, work or frequent.
- 4.4.74 Having a pharmacy attached to the health centre confers minimal benefit to the general public as convenience is more important.
- 4.4.75 Additionally, from the latest data available from November 2024;
- 4.4.76 Britannia Pharmacy Long Road is the nearest Pharmacy to Third Ave Health Centre; however, it is only the second highest dispenser of prescriptions from Third Ave Health Centre and;
- 4.4.77 Britannia Pharmacy Highstreet is the fifth highest Pharmacy which dispensed prescriptions generated by Third Ave Health Centre, however it is also the **furthest** Pharmacy away on the island from Third Ave Health Centre.
- 4.4.78 This in essence again proves that *convenience* rather than *location* is the overwhelming factor as to why a patient chooses the pharmacy.

- 4.4.79 ***"With regards to access to online pharmacies, it is worth mentioning that not all items issued by the surgery are repeat prescriptions, there are many acute items issued by the surgery, for example antibiotics, that need to be collected straightaway in order not to delay therapy and in turn exacerbate medical condition. These will need to be dispensed in a local pharmacy"***
- 4.4.80 There is only a small proportion of items generated by Third Avenue Health Centre that are dispensed via online pharmacies and regardless to this, there are a sufficient number of local bricks and mortar pharmacies on the island available for immediate dispensing and collection.
- 4.4.81 ***"However, what the committee fails to take into consideration is the higher percentage of elderly in the Canvey and Castleford locality in comparison to the general population"***
- 4.4.82 Statement is irrelevant as the committee is making a decision on the patients who belong to Third Avenue Health Centre which as the appellant has stated, will be the customers who access the proposed location the most.
- 4.4.83 The higher percentage of elderly in Canvey and Castleford locality thus has no relevance to the application as there are six other Pharmacies on the island who can cater for them.
- 4.4.84 ***"Sweetbriar Lodge is a retirement home not too far from Third A venue Health Centre with its residents registered to the Surgery and its residents used to collect their medication from the Pharmacy attached to the surgery which was just a short walk to the home. These residents now have to walk a greater distance to get advice from their pharmacists or to collect their medications"***
- 4.4.85 Our Britannia Pharmacy branch at Long Road already deliver to several patients at Sweet Briar Lodge, additionally we are more than happy to take on additional delivery patients at this location as and when they request.
- 4.4.86 ***"It is also worth noting that a third of the pharmacies in Canvey Island charge for prescription delivery, which puts the elderly out of pocket and at risk of going without medication if unaffordable"***
- 4.4.87 ***"My proposal is also to offer free delivery to all patients with special preference for the elderly"***
- 4.4.88 In response to Teerem Limited, by default of his above statement, two thirds of the pharmacies offer a free delivery service which shows excellent delivery engagement with the patients.
- 4.4.89 However, his statement is irrelevant, as patient deliveries are not part of the NHS Community Pharmacy contract.
- 4.4.90 It is worth additionally noting that many elderly patients refuse a patient delivery as they prefer to come into the pharmacy to collect their own medicines as well as interact with our staff and the general public as a whole, as this is their opportunity to do so.
- 4.4.91 ***"What refusing this application does is in effect put the people within this protected group of the elderly at a disadvantage and does nothing to reduce inequalities as per NHSCB's duties under Section 13G of the National Health Service Act 2006. It is against the law to discriminate"***

against anyone because of age, and people with protected characteristics should be protected from discrimination when using public services. (Source:gov.uk). I believe the decision to refuse this application sails dangerously close to this"

- 4.4.92 The Pharmaceutical services regulations committee in its deliberations have already made the observation that patients, of all protected characteristics and otherwise, have all their pharmaceutical needs met without any shortfalls.
- 4.4.93 The applicant shows disregards to members of the committee to advance an irrelevant point.
- 4.4.94 The needs of the Elderly population are thus already being met on the island.
- 4.4.95 ***"I would be willing to offer the Minor Ailment Service"***
- 4.4.96 There is no locally or nationally commissioned Minor Ailment service of note, except for the Pharmacy First Service which is already being provided by all Pharmacies on the island.
- 4.4.97 The existing contractors on the island are not short on innovation and in addition to this, all contractors will be able to offer other innovations as and when then ICB identifies a need.
- 4.4.98 ***"In response to this, I am willing to start my core opening hours from 0800 hours. This would be the earliest opening pharmacy in the whole of Castle Point locality and would offer its residents greater choice."***
- 4.4.99 The current PNA does not show a need for a pharmacy to be open from 8am in the morning, however if there was an identified need for this once of the current contractors would be able to oblige.
- 4.4.100 As quoted by Third Ave Health Centre in the appellant document;
- 4.4.101 ***"has forced the remaining pharmacies to take on an ever increasing workload, which could culminate in affecting patient care because they do not have the staffing capacity as well as the a lot of stock control"***
- 4.4.102 Another false and misleading statement, please see above on staff recruitment at Britannia Pharmacy.
- 4.4.103 At Britannia Pharmacy we have a wide-ranging network of wholesalers who can meet the demands of prescription medication at our pharmacies.
- 4.4.104 In conclusion, I hope my above responses has shown the appeal is unfounded and based upon misrepresentation and assumption rather than fact and for this reason, the original decision by the ICB should be upheld in its entirety."

4.5 BESTWAY NATIONAL CHEMISTS LTD T/A WELL PHARMACY

- 4.5.1 "Thank you for your letter dated 17th February 2025 informing us of the above appeal.
- 4.5.2 Bestway National Chemists Ltd T/A Well agree with the decision of the committee to refuse the application.
- 4.5.3 The applicant states in their appeal that "the lack of complaints to the P&O Team does not equate to patient satisfaction with the pharmacy closures."

- 4.5.4 The Pharmacy and Optometry Contracting Team would be the correct escalation route for complaints and concerns. Patient Groups and other healthcare professionals would use this route to escalate any concerns.
- 4.5.5 Decisions should not be made on anecdotal information. If there is a gap in provision, we agree the correct path is for a supplementary statement to the PNA. In all circumstances, the closure of a pharmacy does not create a gap in the PNA if existing contractors fully cover the provision of services.
- 4.5.6 Dr Adegbite mentions that Well Pharmacy have the provision to dispense prescriptions off-site at our central hub. This is correct and the hub has unlimited capacity to deal with volume. The SLA is in place for a 24-48-hour turnaround, which ensures medicines are provided with reasonable promptness.
- 4.5.7 The workplace pressures reported by cpe.org.uk paint a national picture of the challenges pharmacies face, which are driven by funding challenges.
- 4.5.8 The applicant states in their appeal that they have looked at the top 10 dispensing locations. Analysing the top 10 dispensing locations provides a snapshot of that moment in time. Alongside this, the argument that patients are being discriminated against based on age is not true and is an anecdotal point with no evidence to support this. The important point to note is patients have chosen where to obtain the provision of pharmaceutical service, and the P&O team have received no complaints.
- 4.5.9 We would be grateful if you could keep us informed of the progress of this appeal."
- 4.6 MID AND SOUTH ESSEX LPC
 - 4.6.1 "Thank you for inviting the committee's comments in respect of the above appeal.
 - 4.6.2 We support the decision reached by Mid and South Essex in refusing this application. The basis of the appeal appears to be that a gap has been created by the closing of a pharmacy, which is not necessarily the case.
 - 4.6.3 The current provision of pharmaceutical services on Canvey Island meets the objective measures used in the Essex Health and Wellbeing Board Pharmaceutical Needs Assessment with regard to travel times, and therefore no gaps have been identified.
 - 4.6.4 Should an oral hearing be deemed necessary to consider this appeal we would wish to attend."
- 4.7 NORTH AND SOUTH ESSEX LMC
 - 4.7.1 "Thank you for your letter dated 18th February 2025.
 - 4.7.2 The LMC remains of the view that the proximity of the proposed site to the GP surgery would be of benefit to the registered patient population and that an additional pharmacy would reduce workload on the existing pharmacies on Canvey Island.
 - 4.7.3 The LMC would therefore support the application."

5 Observations

5.1 THE APPLICANT

5.1.1 “Thank you for the sharing with me representations made by relevant stakeholders. I welcome their comments, and I wish to exercise my right to issue a rebuttal.

5.1.2 **REBUTTAL:**

5.1.3 **REPRESENTATION BY AVNI SHAH, DIRECTOR OF PRIMARY CARE TRANSFORMATION – HWE ICB, CHAIR OF PSRC ON BEHALF OF THE EAST OF ENGLAND ICBs.**

5.1.4 **Regulation 18(2)(b)(i) – Reasonable Choice of Persons to Access Services**

5.1.5 The ICB erroneously claim that there are six pharmacies within a two-mile radius of proposed pharmacy location at SS8 9SU. Britannia Pharmacy, 193 High Street, Canvey Island, SS8 7RN is located 2.4 miles away, so there are only five pharmacies located within a two-mile radius. (Source: Google.com 2025).

5.1.6 The ICB makes the claim that this proves there is enough choice. A look at these five pharmacies on the map (as provided by the ICB and NHS Resolutions) show clearly that 3 of these pharmacies are concentrated together on Furtherwick Road to the east of Canvey Island. There is only one pharmacy to the west of the Island even though there are 4 GP surgeries situated there. This does not provide reasonable choice for residents of Canvey particularly those who live West.

5.1.7 *The Appellant’s data is based on a period when the Boots Pharmacy was operational and actively serving the community, however this data does not reflect the current situation. Using the most up to date data demonstrates that the population continues to have access to pharmaceutical services, ensuring their needs are met effectively. This current data provides an accurate representation of the accessibility and availability of pharmaceutical services.*

5.1.8 I explained in my appeal document why I chose these dates for my analysis. Boots at Third Avenue Health Centre closed March 2024, with patients informed of closure 6 months before. Therefore, any analysis using data from 6 months before closure up until present time will fail to adequately show what patients’ preferences were, as their choice had been reduced from the point of announcement of closure. The fact that the prescriptions issued now by Third Avenue Health Centre are being dispensed by other pharmacies does not prove choice. Would the ICB rather patients went without medication? If all the pharmacies in Canvey Island closed, patient would still travel elsewhere to collect their medication. This does not prove that there is no need for another pharmacy or that reasonable choice exists. Rather it disproves it and just goes to highlight the importance of having their medication.

5.1.9 *Table 2 highlights the dispensing activity for the top 5 pharmacies, indicating that the residents of Canvey Island are accessing a range of pharmacies. When reviewing the dispensing data for the 6 nearest GP practices, it is evident that residents of Canvey Island are choosing the nearest pharmacies shown in Table 1 to obtain pharmaceutical services. For the avoidance of doubt, this dispensing data has been extracted from the Local Authority Shape Tool and the most recent up to date information has been provided from November 2024.*

- 5.1.10 The ICB asserts that residents of Canvey are choosing nearest pharmacies to their GP surgeries. Table 2, as provided by ICB, shows Third Avenue Health Centre as issuing the most prescriptions of the six nearest GP practices to proposed location for their chosen time period. If residents are choosing nearest pharmacies, it surely proves that choice has been greatly reduced for the patients of the surgery issuing the highest number of prescriptions by denying them a pharmacy at this proposed location at Third Avenue Health Centre.
- 5.1.11 *The ICB notes the comments from Dr Yomi Adegbite particularly that he had written and verbally informed the ICB about dissatisfaction following the closure of two pharmacies. The hosted contracting team unfortunately have not been passed this information and we note copies of documents were not enclosed as part of the appeal. As referenced above, the PSRC is required to make decisions based on the information it has before it. The PSRC did not have this information and were unable to grant the application as the closure of one pharmacy does not lead to the granting of another. It is disappointing when any pharmacy permanently closes however this does not mean that patients cannot access pharmaceutical services.*
- 5.1.12 Dr Adegbite confirms emails were sent to Paula Wilkinson and the ICB Medical Director and Clinical Leads in November 2023, with meetings discussing these closures held thereafter. I could request Dr Yomi Adegbite send a copy to the Resolutions Team if agreeable to him, but the ICB will also have copies of said emails as it was sent to them.
- 5.1.13 Dr Adegbite's input was shared with the ICB pre-application — its absence in decision-making is unfortunate and not due to a lack of communication.
- 5.1.14 It is also worth reiterating that TWO pharmacies closed. This proposal is not to reopen both pharmacies but just one of the pharmacies to improve access to pharmaceutical services.
- 5.1.15 **Regulation 18(2)(b)(ii) – Protected Characteristics**
- 5.1.16 *The ICB also acknowledges that there are elderly patients in the Canvey and Castleford locality and/or that these residents may have age-related or other protected characteristics. However, specific information has not been included about them and the pharmaceutical services they need that they cannot access or are having difficulty in accessing. The appeal appears based on a generalisation that there are elderly people and they will therefore struggle to access pharmaceutical services.*
- 5.1.17 25.4% of Canvey Island's population is aged 65+ (ONS) — significantly higher than the national average.
- 5.1.18 This cohort typically has reduced mobility, higher dependency on in-person care, and relies on accessible physical locations with amenities such as car parks.
- 5.1.19 The pharmacy previously co-located with Third Avenue Health Centre offered a dedicated car park, unlike any current alternative in Canvey Island.
- 5.1.20 If residents of Sweetbriar Lodge used the pharmacy closest to them, it stands to reason that they will mostly have to walk or drive longer or get on bus to access pharmaceutical services now that that their preferred pharmacy is closed. This was a common complaint heard from residents.

- 5.1.21 *The Appellant states that “a third of the pharmacies in Canvey Island charge for prescription delivery, which puts the elderly out of pocket and at risk of going without medication if Unaffordable,” (appeals document, page 11). No evidence has been submitted to show that this cohort or any other patient is going without their medication because they cannot afford the delivery charge.*
- 5.1.22 *The Appellant also proposes to offer a “free delivery service to all patients with special preference for the elderly.” (Appeals document, page 11).*
- 5.1.23 *The nearest pharmacies to the Appellant's proposed location were contacted and it was confirmed that five out of the six do provide a delivery service, with at least 3 offering this service free of charge.*
- 5.1.24 The cost-of-living crisis is pushing some to skip paid delivery — despite claims of “free delivery,” at least one-third of local pharmacies charge.
- 5.1.25 Having worked frontline, I can confirm some patients have told me they delay or forgo meds due to cost or access challenges. These experiences may not be formally reported, but they are real.
- 5.1.26 Also, the statement made by the ICB that 3 pharmacies provide delivery free of charge does not negate my statement that a third of pharmacies in Canvey Island charge for delivery.
- 5.1.27 **Regulation 18(2)(b)(iii) – Innovative Approaches**
- 5.1.28 *The ICB remains of the view that whilst the services listed above are beneficial, they are not innovative as they are happening in many pharmacies across the country.*
- 5.1.29 Innovation is about local unmet need, not national novelty. Currently, no pharmacy in Castle Point offers services listed. My proposal directly addresses this.
- 5.1.30 I am also committed to piloting new services in collaboration with the ICB, making this a proactive rather than reactive model.
- 5.1.31 **Representations by Britannia Pharmacies (13 & 17 March 2025) – Combined Response**
- 5.1.32 My response is structured under Regulation 18(2)(b) criteria:
- 5.1.32.1 Reasonable choice.
- 5.1.32.2 Protected characteristics.
- 5.1.32.3 Innovation in service delivery.
- 5.1.33 I also address broader comments relating to burden of proof, prescription data, and practical access.
- 5.1.34 Reasonable Choice – Clarifying Misinterpretations
- 5.1.35 Britannia states that Canvey Island has six pharmacies and a pharmacy-to-population ratio in line with the national average. However, this macro perspective masks a key local disparity: West Canvey Island, especially the area around Third Avenue Health Centre, is underserved following the closure of Boots (FD403).

- 5.1.36 Prescription redistribution does not imply preference — it reflects necessity. As noted in PharmData analysis, scripts have fragmented across over 80 pharmacies, many of them further afield or online.
- 5.1.37 A key example is that Boots FD403 dispensed 45–48% of Third Avenue Health Centre scripts pre-closure — highlighting the heavy reliance on a co-located provider.
- 5.1.38 Britannia's closest site is 550m away, but the route involves road crossings and lacks the familiarity and convenience of a pharmacy embedded within the same site as the GP.
- 5.1.39 Access for Patients with Protected Characteristics
- 5.1.40 I respectfully disagree with Britannia's assertion that the closure does not disproportionately affect those with protected characteristics, particularly older adults.
- 5.1.40.1 25.4% of the local population is aged 65+. This exceeds the national average and creates a duty under the Equality Act to ensure equitable access.
- 5.1.40.2 My proposed site is the only location offering on-site GP-linked care with an adjacent car park and not just 'free parking nearby' as with Britannia stores
- 5.1.40.3 Many elderly patients are uncomfortable with delivery or digital platforms. They value proximity, familiarity, and face-to-face reassurance.
- 5.1.41 Innovation in Delivery of Services
- 5.1.42 Britannia argues that services such as NHS Health Checks and Palliative Care are not commissioned pharmaceutical services and therefore not relevant. However, Regulation 18(2)(b)(iii) does not require services to be commissioned. It refers to "innovative approaches."
- 5.1.42.1 I commit to delivering the services listed immediately at launch, without requiring further commissioning.
- 5.1.42.2 No pharmacy in Castle Point is currently offering NHS Health Checks, and no dedicated Palliative Care stockist is confirmed on the Essex PNA list.
- 5.1.42.3 My approach fills known service gaps and complements, rather than duplicates, existing offers.
- 5.1.43 GP Support and Community Feedback
- 5.1.44 Britannia questions the validity of support from Dr Yomi Adegbite. As Clinical Director of the Canvey PCN and a practising GP, Dr Adegbite is uniquely placed to speak on local needs. His views were not commercial; they reflect clinical concern for equitable access.
- 5.1.45 Additionally, the suggestion that complaints on platforms such as Facebook are invalid overlooks the lived experience of patients — especially those digitally excluded from formal ICB processes.

- 5.1.46 Dispensing Data – What the Figures Miss
- 5.1.47 While Britannia presents impressive numbers around script absorption, they do not address:
- 5.1.47.1 Patient satisfaction post-closure
 - 5.1.47.2 Increased travel time for elderly and carers
 - 5.1.47.3 Loss of continuity in pharmaceutical care
 - 5.1.47.4 Delays for urgent or acute medication from DSPs
- 5.1.48 These human impacts are not captured in item counts.
- 5.1.49 Burden of Proof and Legal Framework
- 5.1.50 I respectfully note the reference to Assura Pharmacy Ltd v NHS LA. I believe I have discharged the burden of proof by demonstrating material change in patient access since the closure of Boots FD403 and offering services not currently available or accessible.
- 5.1.51 Site Advantage
- 5.1.52 Contrary to Britannia's claim that the 550m walk is negligible, for an elderly patient with comorbidities or a parent with a pushchair, those metres and steps matter.
- 5.1.53 My proposed location offers:
- 5.1.53.1 Co-location with GPs for seamless care
 - 5.1.53.2 Car park access
 - 5.1.53.3 Familiarity from historical use
- 5.1.54 **WELL PHARMACY REPRESENTATION**
- 5.1.55 Above comments to ICB and Britannia answers their questions
- 5.1.56 **COMMUNITY PHARMACY ESSEX REPRESENTATION**
- 5.1.57 No Comment.
- 5.1.58 **CONCLUSION**
- 5.1.59 The PSRC noted on page 12 of their representations that there were 5 closures in Essex HWB. Of the 12 localities under Essex HWB, two of these closures were in one locality (Castle Point), and in one particular area of that locality - Canvey Island.
- 5.1.60 Nine of the twelve localities have had two Supplementary Statements since the last PNA, and two other localities have had one.
- 5.1.61 It is therefore very curious that the locality with two closures has not had any Supplementary Statements.

- 5.1.62 It appears to be a clear dereliction of duty or a case of not wanting to open the hood for fear of what lies underneath.
- 5.1.63 The ICB wishes to make the case that there is no issue just because the issue has not been investigated.
- 5.1.64 But having worked in Canvey many times over the last few years and spoken with many residents, it is evident there is an issue brought on by the closures of these pharmacies.
- 5.1.65 It may be helpful and would be welcome if the Resolutions Committee could visit Canvey Island to see the distribution of pharmacies and perhaps speak to Patient Participation Groups of some of the challenges faced following closures of the two pharmacies.
- 5.1.66 My correspondence to Dr Yomi Adegbite was in his capacity as Canvey Island PCN Clinical Lead, although he also happens to be a partner at Third Avenue Health Centre, and this was solely to get an idea of the impact of these closures on the patients served by Canvey PCN.
- 5.1.67 It is worth reiterating that his initial discussions with the ICB regards this predated my application to open a pharmacy at Third Avenue Health Centre. It should also be mentioned Dr Yomi Adegbite is not the Landlord of the pharmacy premises at Third Avenue Health Centre, neither does he have any financial interests in Teerem Limited as was casually insinuated by Britannia pharmacy in one of their submissions.
- 5.1.68 Dr Adegbite's opinion should therefore be greatly valued. He is, as mentioned before, the Clinical Lead for Canvey PCN and is more aware than most of the medical and pharmaceutical challenges facing the patients and residents of Canvey Island. Also worth mentioning is that The Local Medical Committee (LMC) supports this application.
- 5.1.69 This application satisfies the requirements under Regulation 18(2)(b):
- 5.1.69.1 There is reduced reasonable choice, especially for elderly and west-side residents.
- 5.1.69.2 The proposal supports those with protected characteristics, especially those facing mobility or financial hardship.
- 5.1.69.3 It introduces locally innovative services that are currently unavailable in the area.
- 5.1.70 I respectfully request that NHS Resolution overturns the ICB's decision and approve the inclusion of Teerem Limited in the pharmaceutical list."

5.2 THE COMMISSIONER

- 5.2.1 "Thank you for your letter dated 28 March 2025. We note the responses submitted by:
- 5.2.1.1 North & South Essex Local Medical Committees
- 5.2.1.2 Britannia Pharmacy
- 5.2.1.3 Britannia Pharmacy (236 Furtherwick Road) (FGN22)

5.2.1.4 Britannia Pharmacy (363 Long Road) (FWW06)

5.2.1.5 Community Pharmacy Essex

5.2.1.6 [Note Representations from Bestway Pharmacies Ltd T/A Well were also included in NHS Resolution's email of 28 March 2025.]

5.2.2 The only additional observation the ICB wishes to make is in reference to the comments made by Britannia Pharmacy Head Office and Britannia Pharmacy (FGN22) in relation to Dr Yomi Adegbite and Dr Godwin. We are unable to confirm whether there is a financial or other interest however the ICB does query whether these are two separate people.

5.2.3 The Canvey Island PCN website has Dr Yomi Adegbite listed as the Clinical Director. Dr Godwin does not appear to be referenced. On the General Medical Council website, it states the following:

5.2.4 [Screen shot from GMC website – Appendix F for Committee]

5.2.5 The representations made by the Appellant infer these are two individuals and it would be helpful if the Appellant could clarify this."

6 Further Comments

6.1 THE APPLICANT

6.1.1 "Thanks for your attached submission by the ICB.

6.1.2 The ICB are correct in saying that Dr Yomi Adegbite and Dr Godwin Adegbite are the same person.

6.1.3 As per the GMC website, his full name Godwin Abayomi Adegbite.

6.1.4 His name on prescriptions appear as Dr Godwin Adegbite as Godwin is his official first name. I believe his preferred name is Yomi Adegbite as this is how his name appears on Canvey PCN website.

6.1.5 In my submission, I made clear that I approached him in his capacity as Canvey PCN clinical lead and I went with his details as per PCN website.

6.1.6 I believe I did not address him in my submission as Dr Godwin Adegbite so as not to create any confusion. It was submission from Britannia Pharmacy that referenced him as such.

6.1.7 At no point did I seek to give ICB the impression that they were 2 separate individuals and I believe I was very clear about this.

6.1.8 To reiterate, Dr Adegbite does not have any financial interests in Teerem Limited and neither is he the landlord of the pharmacy premises so does not stand to benefit financially if application is granted. His discussions with Paula Wilkinson and the ICB predates my interest in the pharmacy premises at Third Avenue Health Centre and his interest is purely clinical - the care and wellbeing of Canvey patient and residents being his only concern."

7 Consideration

7.1 The Pharmacy Appeals Committee ("the Committee"), appointed by NHS Resolution, had before it the papers considered by the Commissioner, together with a plan of the

area showing existing pharmacies and doctors' surgeries and the location of the proposed pharmacy.

- 7.2 It also had before it the responses to NHS Resolution's own statutory consultations.
- 7.3 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 7.4 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations").

Regulation 31

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

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

(2) This paragraph applies where -

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

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

(ii) adjacent premises; and

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

- 7.6 The Committee noted that the Applicant had not provided any information in the application form on this point but the Committee noted that the wording of the application form only required the Applicant to include information in the relevant section if the proposed premises were adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises. The Committee considered it reasonable to determine that the lack of information in the application form on this point when read with the wording of the application form allowed it to be reasonably satisfied that the Applicant considered that the proposed premises were not adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises. The Commissioner in its decision report concluded that the application did not need to be refused under Regulation 31, which the Committee noted had not been disputed by any party. The Committee therefore determined that it was not required to refuse the application under the provisions of Regulation 31.
- 7.7 The Committee noted that, if the application were granted, the successful applicant would - in due course - have to notify the Commissioner of the precise location of its premises (in accordance with paragraph 31 of Schedule 2). Such a notification would be invalid (and the applicant would not be able to commence provision of services) if the location then provided would (had it been known now) have led to the application being refused under Regulation 31.

Regulation 18

- 7.8 The Committee noted that this was an application for "unforeseen benefits" and fell to be considered under the provisions of Regulation 18 which states:

"(1) If—

- (a) *NHS England receives a routine application and is required to determine whether it is satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and*
- (b) *the improvements or better access that would be secured were or was not included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1,*

in determining whether it is satisfied as mentioned in section 129(2A) of the 2006 Act (regulations as to pharmaceutical services), NHS England must have regard to the matters set out in paragraph (2).

(2) Those matters are—

- (a) *whether it is satisfied that granting the application would cause significant detriment to—*
 - (i) *proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB, or*
 - (ii) *the arrangements NHS England has in place for the provision of pharmaceutical services in that area;*
- (b) *whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—*
 - (i) *there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also NHS England's duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)),*
 - (ii) *people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also NHS England's duties under section 13G of the 2006 Act (duty as to reducing inequalities)), or*
 - (iii) *there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),*

granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published;

- (c) *whether it is satisfied that it would be desirable to consider, at the same time as the applicant's application, applications from other persons*

offering to secure the improvements or better access that the applicant is offering to secure;

- (d) *whether it is satisfied that another application offering to secure the improvements or better access has been submitted to it, and it would be desirable to consider, at the same time as the applicant's application, that other application;*
 - (e) *whether it is satisfied that an appeal relating to another application offering to secure the improvements or better access is pending, and it would be desirable to await the outcome of that appeal before considering the applicant's application;*
 - (f) *whether the application needs to be deferred or refused by virtue of any provision of Part 5 to 7.*
 - (g) *whether it is satisfied that the application presupposes that a gap in pharmaceutical services provision has been or is to be created—*
 - (i) *by the removal of chemist premises from a pharmaceutical list as a consequence of the grant of a consolidation application, and*
 - (ii) *since the last revision of the relevant HWB's pharmaceutical needs assessment other than by way of a supplementary statement.*
- (3) *NHS England need only consider whether it is satisfied in accordance with paragraphs (2)(c) to (e) if it has reached at least a preliminary view (although this may change) that it is satisfied in accordance with paragraph (2)(b)."*

- 7.9 The Committee considered that Regulation 18(1)(a) was satisfied in that it was required to determine whether it was satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB.
- 7.10 The Committee went on to consider whether Regulation 18(1)(b) was satisfied, i.e. whether the improvements or better access that would be secured if the application was granted were or was included in the Pharmaceutical Needs Assessment ("the PNA") in accordance with paragraph 4 of Schedule 1 of the Regulations.
- 7.11 Paragraph 4 of Schedule 1 requires the PNA to include: "a *statement of the pharmaceutical services that the HWB had identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied (a) **would** if they were provided....secure improvements or better access, to pharmaceutical services... (b) **would** if in specified future circumstances they were provided...secure future improvements or better access to pharmaceutical services...*" (emphasis added).
- 7.12 The Committee considered the PNA prepared by Essex Health and Wellbeing Board, conscious that the document provides an analysis of the situation as it was assessed at the date of publication. The Committee bears in mind that, under Regulation 6(2), the body responsible for the PNA must make a revised assessment as soon as reasonably practicable (after identifying changes that have occurred that are relevant to the granting of applications) unless to do so appears to be a disproportionate response to those changes. Where it appears disproportionate, the responsible body may, but is not obliged to, issue a Supplementary Statement under Regulation 6(3). Such a statement then forms part of the PNA. The Committee noted that the PNA was

dated October 2022 to September 2025 and that supplementary statements had been issued in April 2023, December 2023 and June 2024.

- 7.13 The Committee noted that there are twelve localities within the PNA. Castle Point being the relevant locality for Canvey Island. The PNA states there are 18 pharmacies in the Castle Point Locality. This has not been disputed by parties, though it is noted and not disputed that two have since closed.
- 7.14 The Committee verified the Commissioner's statement from the PNA on page 142 which concludes:
- 7.15 *"No gaps in the provision of necessary pharmaceutical services have been identified in the Castle Point locality"*
- 7.16 *No gaps in pharmaceutical services have been identified that if provided either now or in the future would secure improvements or better access to relevant services across the Castle Point locality"*
- 7.17 The Applicant, in its observations stated *"Nine of the twelve localities have had two Supplementary Statements since the last PNA, and two other localities have had one. It is therefore very curious that the locality with two closures has not had any Supplementary Statements."* The Committee reviewed the supplementary statements and verified that no supplementary statement had been issued since the closure of two pharmacies within the Castle Point locality. The Committee was of the view that it should not speculate as to why the Health and Wellbeing Board had made updates in other localities within its remit, and not issue a supplementary statement with regard to the Castle Point locality.
- 7.18 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients of Canvey Island. The Committee noted that the improvements or better access that the Applicant was claiming would be secured by its application were not included in the relevant PNA in accordance with paragraph 4 of Schedule 1.
- 7.19 In order to be satisfied in accordance with Regulation 18(1), regard is to be had to those matters set out at 18(2). The Committee's consideration of the issues is set out below.

Regulation 18(2)(a)(i)

- 7.20 The Committee had regard to
- "(a) *whether it is satisfied that granting the application would cause significant detriment to—*
- (i) *proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB"*
- 7.21 The Committee noted the Commissioner's decision stated *"The Committee noted that there was no evidence to suggest granting the application would cause significant detriment to proper planning in the area and for any arrangements the ICB has in place for the provision of pharmaceutical services in the area."* The Committee considered that no information had been provided to demonstrate that granting the application would cause significant detriment to the proper planning and provision of services and parties had not made this claim in representations on the appeal.
- 7.22 On the basis of the information available, the Committee was not satisfied that, if the application were to be granted and the pharmacy to open, the ability of the Commissioner thereafter to plan for the provision of services would be affected in a significant way.

- 7.23 The Committee was therefore not satisfied that significant detriment to the proper planning of pharmaceutical services would result from a grant of the application.

Regulation 18(2)(a)(ii)

- 7.24 The Committee had regard to

"(a) *whether it is satisfied that granting the application would cause significant detriment to— ...*

(ii) the arrangements NHS England has in place for the provision of pharmaceutical services in that area"

- 7.25 The Committee noted the Commissioner's decision stated "*The Committee noted that there was no evidence to suggest granting the application would cause significant detriment to proper planning in the area and for any arrangements the ICB has in place for the provision of pharmaceutical services in the area.*" The Committee considered that no information had been provided to demonstrate that granting the application would cause significant detriment to the arrangements the Commissioner has in place for the provision of pharmaceutical services in that area and parties had not made this claim in representations on the appeal.

- 7.26 The Committee was therefore not satisfied that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of the application.

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

Regulation 18(2)(b)

- 7.28 The Committee had regard to

"(b) *whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—*

(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also NHS England's duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)),

(ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also NHS England's duties under section 13G of the 2006 Act (duty as to reducing inequalities)), or

(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),

granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published"

Regulation 18(2)(b)(i) to (iii)

- 7.29 The Committee noted the application was submitted in response to the closure of two Boots pharmacies in Canvey Island since the latest PNA of October 2022 had been published. The Applicant further stated that the closures coupled with an increase in services being provided by community pharmacies in general had created a gap in Canvey Island.
- 7.30 The Committee noted that the application proposes to be located at the site of one of the closed pharmacies within the Third Avenue Health Centre. The Applicant explained that the proposed pharmacy would alleviate pressure on existing pharmacies, reduce workloads, increase access for the elderly, give potential to offer services not already offered and improve access to medication.
- 7.31 The Committee sought to understand the nature of the population in the area. The Applicant claimed that there is a high elderly population. The Committee accepted that an elderly population may be associated with an increased demand for pharmaceutical services. However, the mere presence of an elderly population does not in the Committee's view, of itself, justify granting the application, nor does the closure of pharmacies in the area. The Committee needed to assess whether the demand for pharmaceutical services is capable of being met by any existing pharmacies.
- 7.32 The Committee had regard to the location of the existing pharmacies and GP surgeries as provided on the map by the Commissioner, which had not been disputed by any party. The Commissioner initially stated that there are six pharmacies within 1.6 miles of the proposed pharmacy, later referring in its representations to six within 2 miles. The Commissioner also provided a table at paragraph 4.1.17 above showing the distances and time taken by type of travel to get to the six nearest pharmacies, as taken from Google Map data. The distances being between 0.4 and 1.9 miles away. The Applicant disputes this in its observations and states only five are within two miles with the sixth being 2.4 miles away. The Applicant, in its observations, also states that *"3 of these pharmacies are concentrated together on Furtherwick Road to the east of Canvey Island. There is only one pharmacy to the west of the Island even though there are 4 GP surgeries situated there. This does not provide reasonable choice for residents of Canvey particularly those who live West."* The Committee went on to consider the information before it regarding access to the existing pharmacies in Canvey Island.
- 7.33 The Committee considered access to the nearest existing pharmacies on foot. With regard to the nearest Britannia Pharmacy, Britannia Pharmacy Head office state that *"The terrain is flat. The route is straightforward."* The Applicant, in its observations states that Britannia Pharmacy's closest site which is 550 metres away: *"the route involves road crossings."* The Committee was of the view that crossing roads alone does not of itself indicate that there is difficulty with access in respect of there not being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB. The Committee was not persuaded that the Applicant had demonstrated that access to any of the six nearest pharmacies would be inhibited for persons willing and able to access pharmaceutical services on foot. The Committee also considered that difficulties of access on foot, such as for patients in the west, as intermated by the Applicant, did not of itself indicate that there was not reasonable choice in obtaining pharmaceutical services. The Committee therefore went on to consider the ease of access to the nearest pharmacies by private and public transport.
- 7.34 With regard to private transport, the Commissioner, in its decision and Britannia Pharmacy Head Office, in its representations, both state that *"car ownership in Castle Point is higher than the national average, with 85% of households having a least one car or van compared to 76.5% nationally"*. The Committee noted that this information has not disputed. The Commissioner further states *"there is a dedicated car park for*

the parade of shops in which Britannia Pharmacy is located, as well as free, on-street parking on local side roads. Other pharmacies in Canvey Island, including the Boots and Well pharmacies in the main shopping centre, also have ample nearby parking." Britannia Pharmacy also state in their representations that *"There is free car parking near all our three branches."* The Committee was of the view that the Applicant has not demonstrated that those who do have access to their own transport are currently having difficulties in accessing the existing pharmacies. The Committee was of the view therefore that for those who had their own transport there was nothing to demonstrate that they were experiencing any difficulties in access the existing pharmaceutical provision or that they did not have reasonable choice with regard to obtaining pharmaceutical services.

- 7.35 With regard to public transport, Well Pharmacy, in representations included in the Commissioner's decision report stated *"Access is also available via a direct bus service which takes just 18 minutes."* Britannia Pharmacy Head office representations included in the Commissioner's decision report stated *"Whilst it is unlikely that patients would need to use public transport to access pharmaceutical services, local bus routes serve the proposed location and existing pharmacies, including Britannia Pharmacy and the pharmacies in Canvey Island town centre, meaning that pharmacies are also easily accessibly [sic] by public transport"* and *"It is of note, of course, that residents of pension age have access to free public transport, meaning that they can use local buses to access pharmacies throughout Canvey Island and beyond for free."* The Committee noted this information had not been disputed. The Committee was of the view therefore that for those who relied on public transport the Applicant had not demonstrated that they were experiencing any difficulties in accessing the existing pharmaceutical provision or that they did not have reasonable choice with regard to obtaining pharmaceutical services.
- 7.36 The Applicant has claimed that the two now closed pharmacies dispensed 18,000 items per month which the existing pharmacies now have to process. The Commissioner, in its decision noted that *"the Pharmacy and Optometry Contracting Team (P&O Team) reviewed contracting files and confirmed that they have not received patient complaints or concerns relating to these closures, resulting in residents being unable to access pharmaceutical services or obtain their medication."* The Applicant, on appeal, states *"Many patients are very dissatisfied with the decision and lack of correspondence with the ICB cannot be the only metric by which approval or satisfaction is measured."* The Applicant has provided some screenshots from Facebook with 15 comments to a question posed *"If a new pharmacy at third avenue would be wanted/needed? Has the loss of the boots originally there effected anyone?"* The Committee acknowledged these 15 comments but noted that 67 had commented at the time of screenshot, 10 comments were limited to 'Yes' or 'Yes definitely'. The Committee considered that it is not known when the question had been posed, who to, and whether the respondents are a true reflection of the 18,000 dispensing items recipients. For example, if the question had been asked immediately after the closure, this could illicit a different response to the same question asked 14 months down the line when new routines of prescription collection have been embedded. Nevertheless, the Committee accepted there was some limited support raised by the question posed in the undated Facebook post.
- 7.37 The Applicant also provided one Google review to support its finding that a new pharmacy was needed on Canvey Island. This review is undated and not linked to an individual pharmacy. This makes it challenging for the Committee to quantify. For example, it was unclear when was this post made, which pharmacy did it relate to, how many other posts were made and what is the pharmacy's overall rating. The Commissioner in its representations provided a list of the Google ratings and numbers of reviews for five of the six nearest pharmacies. Of the five pharmacies there are 128 reviews so the Committee was cautious when only one review of potentially 128 have been provided for the Committee to consider. Britannia Pharmacy Head office, in its

representations notes, its three pharmacies scored 4.1, 4.5 and 4.7 rating out of five in the Google reviews. Britannia Pharmacy FWW06 selected five positive quotes attributed to its pharmacy. Again the Committee noted these reviews are also undated and does not include all the reviews.

- 7.38 The Committee considered the Applicant's information regarding the letter of support from Dr Adegbite. The Committee has considered complaints in the round as above. The Committee noted Dr Adegbite refers to patient hardships in accessing acute medication and many being forced to use online pharmacies. The Committee noted that this statement is at odds with the Applicant's own finding also in its appeal that *"the proportion of Third Avenue Health Centre patients that use Online Pharmacies is miniscule."* The statement regarding population and new builds has not been supported by any evidence regarding development times, scale of build, site of builds, expectation of population increases. It is right that Dr Adegbite has raised these matters with the Commissioner however there is no evidence to suggest that existing pharmacies are unable to cope with an unquantified increase in population and over what period of time the increase is expected to come to Canvey Island.
- 7.39 The Applicant provided information regarding dispensing locations for Third Avenue Health Centre from April 2023 to September 2023 citing *"because the pharmacy at Third Avenue Health Centre closed on the 8th of March 2024, and patients were notified of the closure about 6 months prior and were forced to find different pharmacies."* The Applicant concluded that this data made it clear *"that a very significant percentage of Third Avenue Health Centre patients prefer to use the pharmacy attached to the Health Centre."* The Committee acknowledged that the co-location of a pharmacy with the Health Centre would be convenient to those patients attending the Health Centre. However the Committee concluded that there was no information to demonstrate that patients of the GP surgery are unable to access the existing pharmaceutical providers in this regard.
- 7.40 Taking all of the above into account, the Committee was of the view that there is already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, such that it was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits on persons.
- 7.41 In considering Regulation 18(2)(b)(ii) the Committee reminded itself that it was required to address itself to people who share a protected characteristic under the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation) having access to services that meet specific needs for pharmaceutical services that, in the relevant area, are difficult for them to access.
- 7.42 The Applicant stated in its application that its proposed pharmacy would provide *"Increased access for elderly demographic. Canvey island has a higher percentage of the elderly (over 65) population (25.4%) compared with the national percentage for England (18.6%). This demographic tends to have increased medical and pharmaceutical needs. Some are unable to walk to or drive to other pharmacies on the island. Closure of two pharmacies without replacement runs the risk of putting this particular demographic at increased risk of neglect and greatly reduces their access to healthcare. This proposed pharmacy at Third Avenue HC will look to cater for all demographics, but especially the elderly demographic that need it most by aiming to deliver medication, and also providing convenience and ease of access, especially to the many patients registered at the Health Centre but also the community at large."*
- 7.43 The Commissioner in its decision stated *"Whilst it is accepted that there would be people with protected characteristics living in Canvey Island, and that some may need*

pharmaceutical services as a result, there was no evidence that any specific groups had any difficulty accessing such services."

- 7.44 In its appeal the Applicant refers in addition to *"Sweetbriar Lodge is a retirement home not too far from Third Avenue Health Centre. A new care home is also due to be opened imminently which will further increase pharmaceutical need in Canvey..... A third of the pharmacies in Canvey Island charge for prescription delivery, which puts the elderly out of pocket and at risk of going without medication if unaffordable."* The Committee considered the Applicant had not provided any evidence to support such its assertions. The Commissioner noted *"that there may be residents of Canvey Island and Sweetbriar Lodge who are on repeat prescriptions and as a result may not need to access the GP Surgery first"* and *"The nearest pharmacies to the Appellant's proposed location were contacted and it was confirmed that five out of the six do provide a delivery service, with at least 3 offering this service free of charge."* The Committee was mindful that pharmaceutical services, especially other essential services apart from dispensing, may be difficult to access for people with protected characteristics based on age and whilst the Committee accepted that there were always people in an area who share a protected characteristic, there was no information provided as to why those with a protected characteristic were currently experiencing any difficulties in accessing services. The Committee was therefore not satisfied that, having regard to the desirability of people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access, granting the application would confer significant benefits on persons.
- 7.45 In considering Regulation 18(2)(b)(iii) the Committee had regard to the desirability of innovative approaches to the delivery of pharmaceutical services. In doing so, the Committee would consider whether there was something more over and above the usual delivery of pharmaceutical services that might be expected from all pharmacies, some 'added value' on offer at the location.
- 7.46 In its appeal, the Applicant proposed to offer the following under the heading "Innovative Approaches"
- 7.46.1 Run a weight loss support clinic.
 - 7.46.2 Offer Palliative Care Service.
 - 7.46.3 Offer the Minor Ailment Service.
 - 7.46.4 Offer NHS Health Check.
 - 7.46.5 Other services like RSV Vaccination Clinic, Covid Vaccination Clinic, Sexual Health Clinic, Needle Exchange Service and any new services that the ICB would like to commission.
 - 7.46.6 Install Medicine Collection Point.
- 7.47 In its observations, the Applicant added:
- 7.47.1 Piloting new services in collaboration with the ICB, making this a proactive rather than reactive model.
- 7.48 The Committee considered each offer in turn noting that the Commissioner, in response to all the services offered in the appeal stated *"The ICB remains of the view that whilst the services listed above are beneficial, they are not innovative as they are happening in many pharmacies across the country."*

- 7.49 The Committee was of the view that a weight loss clinic was not a new concept and as Britannia Pharmacy Head office noted “*A weight loss clinic is not a commissioned NHS pharmaceutical service.*” The Committee was of the view that simply providing a service in an area does not on its own equate to employing an innovative approach to the delivery of services.
- 7.50 The Committee was of the view that the Palliative Care Service is not a new innovative service. Britannia Pharmacy Head office noted that “*Palliative care services tend to be commissioned from pharmacies which offer extended hours. It is therefore unlikely that the service would be commissioned from the proposed pharmacy.*” This has not been disputed. The Committee was therefore unable to satisfy itself that this was an innovative approach to the delivery of pharmaceutical services.
- 7.51 The Committee was of the view that the Minor Ailment Service is not a new or innovative service as it is already provided in Canvey Island. This has not been disputed. The Committee was therefore unable to satisfy itself that this was an innovative approach to the delivery of pharmaceutical services.
- 7.52 The Committee was of the view that the NHS Health Check is not a new or innovative service and noted Britannia Pharmacy Head Office stated “*is not an NHS commissioned pharmaceutical service.*” This has not been disputed. The Committee was therefore unable to satisfy itself that this was an innovative approach to the delivery of pharmaceutical services.
- 7.53 The Committee considered the other services named by the Applicant in its appeal including: RSV Vaccination Clinic, Covid Vaccination Clinic, Sexual Health Clinic, Needle Exchange Service and any new services that the ICB would like to commission. The Committee was of the view that these services are not innovative. Some are already being provided by existing pharmaceutical providers and others are commissioned locally. This has not been disputed. The Committee was of the view that simply providing a service in an area does not on its own equate to employing an innovative approach to the delivery of services.
- 7.54 The Committee considered the installation of a Medicine Collection Point. The Committee had not been provided with any reasons why the Applicant considered this to be innovative. The Committee was therefore unable to satisfy itself that this was an innovative approach to the delivery of pharmaceutical services.
- 7.55 The Committee considered the piloting of new services in collaboration with the Commissioner, making this a proactive rather than reactive model as offered in its observations on representations to the appeal. The Committee had not been provided with any reasons why the Applicant considered this to be innovative. The Committee was of the view that simply providing a service in an area does not on its own equate to employing an innovative approach to the delivery of services.
- 7.56 The Committee was not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting the application would confer significant benefits on persons.

Regulation 18(2)(b) generally

- 7.57 The Committee has considered whether there are any other factors that would confer significant benefits including on patients who share protected characteristics. The Committee had regard to the need to eliminate discrimination and advance equality of opportunity and foster good relations between these patients and those who do not share their protected characteristics.

- 7.58 The Committee noted the Applicant in its application proposed core hours from 9:00 to 13:00 and 14:00 to 18:00 Monday to Friday. Totalling 40 core hours. On appeal the Applicant has offered to open at 08:00 to 13:00 and 14:00 to 18:00 Monday to Friday which totals 45 core hours.
- 7.59 The Commissioner, in its representations noted that page 141 of the Essex PNA stated that all the community pharmacies in Castle Point are open from Monday to Friday between 9 am to 5 pm with the earliest opening time at 07.45 am and latest closing time at 23:00.
- 7.60 The Committee was of the view that there was no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore it was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits (in relation to opening hours) on persons.
- 7.61 The Committee was also mindful that where it considers there is a need to do so, the Commissioner may bring about changes to the opening hours of existing pharmacies.
- 7.62 The Committee noted that the Regulations are silent on whether an applicant can change the proposed opening hours in its application at any stage of the appeal process. However, given the Committee was not satisfied that granting the application would confer significant benefits (in relation to opening hours) on persons (as stated in paragraph 7.60 above), the Committee was not required to consider whether the Applicant was entitled to amend the core opening hours offered pursuant to Regulation 65 of the Regulations. The amended core opening hours offered by the Applicant did not change the Committee's view stated in paragraph 7.60 above, namely that there was no information provided to support a finding that pharmaceutical services were not currently provided at such times as needed.
- 7.63 The Committee considered the Applicant's information regarding the offer to provide services not already offered by existing pharmacies. The Committee noted the Applicant had not demonstrated any such services were needed and it was mindful that the Commissioner could direct the existing pharmacies to provide such services if needed.
- 7.64 The Committee considered the Applicant's information regarding improved access to medication. The Committee considered the Applicant's comments to be a generalised view regarding the supply chain of drugs in the pharmaceutical industry as opposed to a specific issue in relation to the existing pharmacies in Canvey Island. The Committee was not persuaded by the Applicant's comments in this regard.
- 7.65 The Committee was of the view that in accordance with Regulation 18(2)(b) the granting of this application would not confer significant benefits on persons in the area of the HWB which were not foreseen when the PNA was published.

Other considerations

- 7.66 Having determined that Regulation 18(2)(b) had not been satisfied, the Committee did not need to have regard to Regulation 18(2)(c) to (e).
- 7.67 No deferral or refusal under Regulation 18(2)(f) was required in this case.
- 7.68 The Committee had regard to Regulation 18(2)(g) and found that it was not applicable.
- 7.69 The Committee considered whether there were any further factors to be taken into account and concluded that there were not.

- 7.70 The Committee was not satisfied that the information provided demonstrates that there is difficulty in accessing current pharmaceutical services such that a pharmacy at the proposed site would provide better access to pharmaceutical services.
- 7.71 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 7.71.1 confirm the Commissioner's decision;
 - 7.71.2 quash the Commissioner's decision and redetermine the application;
 - 7.71.3 quash the Commissioner's decision and, if it considers that there should be a further notification to the parties to make representations, remit the matter to the Commissioner.

8 DECISION

- 8.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of Mid and South Essex ICB.
- 8.2 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 8.3 The Committee has considered whether the granting of the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area covered by the HWB, or the arrangements in place for the provision of pharmaceutical services in that area and is not satisfied that it would;
- 8.4 The Committee determined that the application should be refused on the following basis:
- 8.4.1 In considering whether the granting of the application would confer significant benefits, the Committee determined that –
 - 8.4.1.1 there is already a reasonable choice with regard to obtaining pharmaceutical services;
 - 8.4.1.2 there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and
 - 8.4.1.3 there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services;
 - 8.4.2 Having taken these matters into account, the Committee is not satisfied that granting the application would confer significant benefits as outlined above that would secure improvements or better access to pharmaceutical services.

**Case Manager
Primary Care Appeals**