

5 June 2025

REF: SHA/26536

**APPEAL AGAINST SURREY HEARTLANDS ICB
DECISION TO REFUSE AN APPLICATION BY SJD
(WALTON) LTD FOR INCLUSION IN THE
PHARMACEUTICAL LIST AT 27 WALTON ROAD,
WOKING, SURREY, GU21 5DL WITH REGARD TO
FUTURE NEED UNDER REGULATION 15**

8th Floor
10 South Colonnade
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1 Outcome

- 1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decision of the Commissioner and redetermines the application.
- 1.2 The application is refused.

A copy of this decision is being sent to:

SJD (Walton) Limited
Primary Care Support England (on behalf of Surrey Heartlands ICB)
Community Pharmacy Surrey & Sussex
May & Thomson Pharmacy
Kico Health Ltd t/a Kingfield Pharmacy
Boots UK Ltd

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1 The Application

By application dated 5 October 2024, SJD (Walton) Ltd (“the Applicant”) applied to Surrey Heartlands ICB (“the Commissioner”) for inclusion in the pharmaceutical list at 27 Walton Road, Woking, Surrey, GU21 5DL with regard to future need under Regulation 15. In support of the application it was stated:

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

- 1.1 “The proposed location is 0.6 kilometres away from Boots Pharmacy (Wolsey Place Shopping Centre, 10 Wolsey Walk, Woking, GU21 6XU) and Bridge Pharmacy (53 Maybury Rd, Woking, GU21 5LX). This application should not be denied as the demand for pharmacy services is increasing with the growth of Woking’s population and the aging demographic.
- 1.2 With Woking’s expanding population and two recent pharmacy closures in the local area, there is a clear need for additional healthcare services, including a new pharmacy. The closure of these pharmacies has left a gap in service, placing extra strain on existing healthcare providers. A new pharmacy will help fill this gap and alleviate the pressure on other local healthcare facilities.
- 1.3 Furthermore, the introduction of a new pharmacy will foster healthy competition, leading to improvements in customer service and the range of services available to the community. The community will benefit from having more options and better service. In summary, opening this pharmacy will meet the rising demand for healthcare services and address the service shortfall in the local area.”

In making this application the Applicant is seeking to meet the future need identified on page 32 and 38 of the HWB’s pharmaceutical needs assessment.

- 1.4 “Surrey Health and Wellbeing Board Pharmaceutical Needs Assessment October 2022:
- 1.5 Growing and Aging Demographic – “Over the next three years during the lifetime of this PNA, between 2022 and 2025, the population of Surrey is predicted to increase by 0.5%. The population aged 65 and over is expected to experience the biggest increase of 4.5%”... “Looking over 10 years, the Surrey population is projected to increase by 1.3% between 2020 and 2030. The 65 and over age group continues to experience the largest increase with an estimated rise equating to an increase of around 40,300 people.”
- 1.6 Upcoming and proposed planning developments – “Taking into account cumulative planned development in the Town Centre and West Byfleet District Centre growth

areas, projections in these areas sum to just above 1,000 dwelling.”... “Woking has been awarded Housing Infrastructure Funding to deliver additional homes in the Town Centre and is currently preparing a Town Centre Masterplan to guide this extra development which may enable the delivery of up to 3,304 extra town centre homes above the existing Development Plan commitments, by 2030. This is across 13 sites in the Town Centre. If these plans are successful, then, cumulatively, this may trigger a need for a new pharmacy in the Town Centre of Woking.”

- 1.7 Minutes of Meeting Health and Wellbeing Board, Wednesday 20 March 2024 2.00pm (Item 6/24)
- 1.8 Recent pharmacy closures and address dissatisfaction from local residents – “The number of closures was unprecedented, there had been four closures in the previous cycle” ... “A Board member noted the importance of listing [sic] to the voice of those using pharmacies, for example noted frustrations with a busy pharmacy in Woking.”
- 1.9 With the recent closures of pharmacies across Surrey in combination with a growing and aging population in Woking, the new pharmacy in the proposed location will sustain the growing healthcare needs of Woking. We will be offering the latest services including the newly commissioned NHS Pharmacy First service. The new pharmacy can play a pivotal role in meeting the future healthcare needs of Woking by combining traditional pharmacy services with modern, patient orientated and technology driven healthcare solutions. By being proactive in addressing preventive health, chronic disease management and adopting digital innovations, it can help to relieve pressure on local NHS services and contribute to a healthier community.”

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 6 February 2025 states:

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

- 2.1 “Surrey Heartlands 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 Surrey Heartland ICB’s decision. Should you choose to appeal then either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or Primary Care Appeals, NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU.”

DECISION REPORT

- 2.3 “Introduction and background
- 2.4 A future need application had been received from SJD (Walton) Ltd on 25th September 2024. The proposed site address was 27 Walton Road, Woking, Surrey, GU21 5DL.
- 2.5 The Committee was now required to consider the application in accordance with Regulations 15 and 16 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.
- 2.6 Full details of the applicant’s proposal had been notified to the various interested parties in accordance with the regulations. Comments had been received from the

following; Boots UK Ltd, May & Thompson Pharmacy, Kingfield Pharmacy and Surrey LPC.

- 2.7 The Committee noted that there were no follow up comments from the applicant in response to the representations received.

2.8 Consideration by the Committee

- 2.9 The Committee had before it:

2.9.1 The NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.

2.9.2 Department of Health guidance on Market Entry by means of pharmaceutical needs assessment – Chapter 6 – Future needs.

2.9.3 The Report and annexes prepared by Primary Care Support England (PCSE) and NHS England.

2.9.4 The application form provided by the applicant.

2.9.5 The Committee noted that the applicant's fitness to practice was approved on 31st December 2024.

2.9.6 The Committee noted that the applicant was proposing to provide essential, enhanced and advanced services, if commissioned.

2.9.7 The applicant also proposed core opening of 42.5 hours per week and total proposed opening of 45.5 hours per week.

2.9.8 The applicant had also confirmed which hours they proposed the 40 core hours to be, and which hours were proposed as additional core hours (the additional core hours/directed hours were 17:00 – 17:30 Monday to Friday).

2.9.9 The Committee noted under section 6 of the application the applicant declared they are *seeking to meet the future need identified on page 32 and 38 of the HWB's pharmaceutical needs assessment*.

2.9.10 The Committee considered the applicant's statement as to the future need it is offering to meet. The Applicant stated:

2.9.10.1 *"Surrey Health and Wellbeing Board Pharmaceutical Needs Assessment October 2022:*

2.9.10.2 *Growing and Aging Demographic – 'Over the next three years during the lifetime of this PNA, between 2022 and 2025, the population of Surrey is predicted to increase by 05.%. The population aged 65 and over is expected to experience the biggest increase of 4.5%'... 'Looking over 10 years, the Surrey population is projected to increase by 1.3% between 2020 and 2030. The 65 and over age group continues to experience the largest increase in population with an estimated rise equating to an increase of around 40,300 people.'*

2.9.10.3 *Upcoming and proposed planning developments – 'Taking into account cumulative planned development in the Town Centre and West Byfleet District Centre growth areas, projections in these areas sum to just above 1,000 dwellings' ... 'Woking has been awarded*

Housing Infrastructure Funding to deliver additional homes in the Town Centre and is currently preparing a Town Centre Masterplan to guide this extra development which may enable the delivery of up to 3,304 extra town centre homes above existing Development Plan commitments, by 2030. This is across 13 sites in the Town Centre. If these plans are successful, then, cumulatively, this may trigger a need for a new pharmacy in the Town Centre of Woking'.

2.9.10.4 *Minutes of Meeting of Health and Wellbeing Board, Wednesday, 20 March 2024 2.00pm (Item 6/4)*

2.9.10.5 *Recent Pharmacy closures and address dissatisfaction from local residents – 'The number of closures was unprecedented, there had been four closures in the previous cycle'... 'A Board member noted the important of listening to the voice of those using pharmacies, for example noted frustrations with a busy pharmacy in Woking'.*

2.9.11 The applicant also stated, *"With the recent closures of pharmacies across Surrey in combination with a growing and aging population in Woking, the new pharmacy in the proposed location will sustain the growing healthcare needs of Woking"*.

- 2.10 All additional information, including location, opening times and distances of surrounding pharmacies and GP surgeries were noted and considered by the Committee.
- 2.11 The Committee considered information from a virtual site visit of the Woking area that had been undertaken by a Pharmacy Commissioning Hub representative who was present at the meeting.
- 2.12 The Committee considered the representations made by Boots UK Ltd, May & Thomson Pharmacy, Kingfield Pharmacy and the Surrey LPC – and noted the comments made by the interested parties. The Committee noted that all opposed the application.
- 2.13 The Committee noted that all representations received had objected to the application and the majority of them had stated that the Surrey PNA 2022 had not identified a future need.
- 2.14 Regulation 31 – Refusal: same or adjacent premises
- 2.15 The Committee first considered Regulation 31(2)(a)(i) and was of the view that Regulation 31(2)(a)(i) is not met as there is currently no person on the pharmaceutical list who is providing or has undertaken to provide pharmaceutical services from the premises to which the application relates, or adjacent premises.
- 2.16 The Committee was satisfied that there is no pharmacy providing pharmaceutical services at the same or adjacent premises. The application did not therefore need to be refused in accordance with Regulation 31.
- 2.17 Regulations 40, 41 and 44
- 2.18 The Committee noted that the proposed pharmacy location was not in a controlled locality, and therefore Part 7 of the Regulations (in particular Regulation 40, 41 and 44) did not have to be considered.
- 2.19 Oral Hearing

2.20 The Committee decided that it was not necessary to hold an oral hearing before determining the application.

2.21 Regulation 15 – future need

2.22 The application (which was to be determined in accordance with the procedures in Schedule 2) was submitted by the applicant based on addressing future need for pharmaceutical services.

2.23 The Committee considered whether the need on which the applicant based its application satisfied elements of Regulation 15(1) which reads as follows:

15(1) If the NHSCB receives a routine application and is required to determine whether granting it, or granting it in respect of some only of the services specified in it, would meet a future need–

(a) for pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and

(b) that has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 2(b) of Schedule 1,

in determining whether it is satisfied as mentioned in section 129(2A) of the 2006 Act (1) (regulations as to pharmaceutical services), the NHSCB must have regard to the matters set out in paragraph (2).

2.24 Paragraph 2(a) of Schedule 1 reads as follows:

“A statement of the pharmaceutical services that the HWB has identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied–

(a) need to be provided (whether or not they are located in the area of the HWB) in order to meet a current need for pharmaceutical services, or pharmaceutical services of a specified type, in its area;”

2.25 The Committee noted that the Applicant is offering to meet a future need in Woking, Surrey.

2.26 The Committee had regard to the Surrey PNA 2022 (issued 1st October 2022) (‘the PNA’) and noted that supplementary statements had been issued on 6th, 8th and 9th March 2023 but were not in relation to the Woking area.

2.27 The Committee noted that under Key Findings and Recommendations the PNA states:

“This PNA has assessed whether the current and future pharmacy provision meets the health and wellbeing needs of the population. It has also determined whether there may be gaps, needs for improvements, or better access in the provision of pharmaceutical services within the lifetime of this PNA (three years from 1 October 2022 until 30 September 2025).

There are 195 community pharmacies located within in [sic] Surrey’s HWB area and 87 pharmacies located within a one-mile radius of the Surrey border.

*The conclusion of this PNA is that there are no gaps in **necessary services** in Surrey. The number, distribution and choice of pharmaceutical services meets the current needs of Surrey’s population and future needs foreseen within the lifetime of this PNA.”*

[Page 11, Surrey PNA, 2022.]

- 2.28 The Committee also noted that the PNA goes on to state:

“Population growth and the proposed housing developments in each locality (district and borough) across Surrey is not expected to exceed the needs that can be managed by existing providers during the life time of this PNA, however recognising the potential for change due to proposed large scale housing developments in Surrey, it is recommended that the PNA steering group should review actual increases in population and the implications of any increases on an annual basis, publishing their findings in a PNA supplementary statement.”

[Page 12, Surrey PNA, 2022.]

- 2.29 The applicant had claimed in the application that they were seeking to meet the future need identified on pages 32 and 38.
- 2.30 The Committee noted that although the applicant had provided the page numbers 32 and 38 and extracts from these pages, the Surrey PNA does not mention or identify a future need within the lifetime of the current PNA.
- 2.31 The Committee was minded of the explicit wording of the regulations and further noted that the Surrey PNA does not specify that there is a future need for pharmaceutical services in Woking.
- 2.32 The Committee determined that the Applicant had not indicated an identified future need in the Surrey PNA which this application would meet in accordance with paragraph 2(b) of Schedule 1.
- 2.33 The Committee agreed that in this case, the provisions of Regulation 15(1) were not met.
- 2.34 The Committee therefore did not proceed to consider the application further having regard to those matters set out at 15(2).
- 2.35 Decision
- 2.36 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 2.37 The Committee determined that the application should be refused on the following basis:
- 2.37.1 The PNA has not identified a future need which this application could meet.
- 2.38 Rights of appeal
- 2.39 The application is refused so the applicant has the right to appeal.
- 2.40 The Committee decided not to grant third party rights of appeal to the decision to any of the parties that responded during the consultation period because the application had been refused.”

3 The Appeal

In an email dated 25 February 2025, the Applicant appealed against the Commissioner’s decision. The grounds of appeal are:

- 3.1 “I am writing to formally appeal the decision to refuse the future need application submitted by SJD (Walton) Ltd for the establishment of a new pharmacy at 27 Walton Road, Woking, Surrey, GU21 5DL. This appeal is based on the need to improve patient satisfaction with existing pharmaceutical services in the Woking area, specifically regarding prolonged waiting times and frequent medication shortages. There are an overwhelming number of complaints for the pharmacies in the local vicinity of the proposed location. This has included Boots Pharmacy on Wolsey Place, the reviews on this pharmacy have been categorized [sic] as ‘Absolutely unreliable’ with patients highlighting issues such as extended waiting periods. Additionally, regarding Bridge Pharmacy on 153 Maybury Road: Patients have repeatedly complained regarding medication availability and excessive waiting times.
- 3.2 The documented experiences of patients indicate that the current pharmaceutical services in Woking are inadequate, leading to delays in medication procurement and potential health risks. The prevalence of negative reviews underscore a systemic issue that necessitates immediate attention.
- 3.3 The establishment of a new pharmacy at the proposed location would address the existing service gaps by providing timely access to medications and improving overall patient care. This addition would alleviate the burden on overextended pharmacies and enhance the quality of service for Woking residents.
- 3.4 Given the substantial patient complaints regarding current pharmaceutical services in Woking, I urge the committee to reconsider the application submitted by SJD (Walton) Ltd. Approving this application would directly address the community’s needs by reducing waiting times, ensuring medication availability, and enhancing patient satisfaction.”

4 Summary of Representations

This is a summary of representations received on the appeal.

4.1 COMMUNITY PHARMACY SURREY & SUSSEX

- 4.1.1 “Thank you for your letter dated 10 March 2025 along with the accompanying enclosures, advising Surrey Local Pharmaceutical Committee of the above application.
- 4.1.2 The application has been submitted to meet an identified future need within a local authority Health and Wellbeing Board (HWB’s) pharmaceutical needs assessment (PNA). Regarding the application, we make the following observations:
- 4.1.3 The applicant has stated that the application is based on an identified future need however, the summary of pharmacy provision in Surrey Pharmaceutical Needs Assessment (PNA) October 2022 stated:
- 4.1.4 *‘The conclusion of this PNA is that there are no gaps in necessary services in Surrey. The number, distribution and choice of pharmaceutical services meets the current needs of Surrey’s population and future needs foreseen within the lifetime of this PNA.*
- 4.1.5 *‘There are no identified needs for additional pharmaceutical services, or enhancements to current arrangements across the county that would secure improvements or better access to services.’*
- 4.1.6 In their original application the applicant had taken from the PNA, information on the growth of the population and the upcoming and proposed developments

during the lifetime of the current PNA. However, the detail referenced was considered during the development of the PNA with the conclusion stating there are no gaps in necessary services or a requirement for a specific directed service in Surrey.

- 4.1.7 Since October 2022 the closure of pharmacies within the Surrey geography including the pharmacies in the surrounding area have not resulted in the publication of Supplementary Statements as no gaps in pharmaceutical provision have been identified by the Surrey Health and Wellbeing Board.
- 4.1.8 It should also be noted that the draft 2025 Pharmaceutical Needs Assessment which was approved by the Surrey Health and Wellbeing Board in March and is available in their public board papers, will shortly be published replacing the 2022 PNA. In addition, it is stated that there are no gaps in pharmaceutical provision across Surrey.
- 4.1.9 Existing pharmacy provision
- 4.1.10 The NHS pharmacy finder lists 8 community pharmacies within a 2-mile radius of the proposed site, providing both access to services and a choice of provider. The applicant has not provided evidence of patients in this locality having difficulty accessing the existing pharmacies in the area.
- 4.1.11 Supporting information.
- 4.1.12 The applicant has not provided any new evidence in their appeal letter that patients do not have access to services to meet any specific need.
- 4.1.13 We have no other significant comments to make. The LPC considers that the application should be refused. I hope this response is helpful for NHS Resolution to consider when coming to a decision about this application.
- 4.1.14 We would wish to ensure that we continue to be included in the circulation list for any relevant correspondence and attend any oral hearing if required. I would be grateful if you would inform me of the decision in due course, so that I can keep the Committee updated."

4.2 MAY & THOMSON PHARMACY

- 4.2.1 "Thank you for the email application submitted to open a pharmacy in the vicinity of Walton Road, Woking.
- 4.2.2 We have the following comments to make with regards [sic] to the application.
- 4.2.3 The applicant details that the population will be increased by 0.5% within the Surrey area. This is lower than the national average and a marginal increase of this small magnitude does not justify the inclusion of an additional pharmacy contractor.
- 4.2.4 Woking Borough Council have been overly ambitious in their plan to deliver further housing within the town centre that has led them to bankruptcy and the scrapping of several projects. Their debts are close to 2 billion that has resulted in many of the developments mentioned in the application to be terminated due to an obvious lack of funds. <https://www.room151.co.uk/treasury/woking-council-to-pause-rollout-of-regeneration-project-following-intervention/>

- 4.2.5 There are 8 pharmacies within a 2 miles distance to the proposed site in which a free delivery service is offered to patients by existing contractors. Hence this area is serviced in terms of pharmacy provision.
- 4.2.6 It is noted that the proposed core hours do not offer any further advantages and exclude Saturday as its core offering.
- 4.2.7 The core hours in this instance total 42.5 hours whilst NHS regulations specifically details that 40 hours is the maximum number of hours.
- 4.2.8 The Surrey Health and Wellbeing Board conducted a thorough analysis of the pharmaceutical provision in the Surrey and concluded that are no identified gaps.
https://www.surreyi.gov.uk/download/2ykmy/89b/Surrey%20Health%20and%20Wellbeing%20Board%20Pharmaceutical%20Needs%20Assessment%20October%202022_Final.pdf
- 4.2.9 It is noted that the proposed site does not have any adequate carparking close by and this would be a further drawback in terms of accessibility.
- 4.2.10 There has been a previous application which was rejected and since this there has not been any sufficient changes to warrant reassessing this area.
- 4.2.11 The rationale behind the application states “poor waiting times.” This does not justify the creation of a new pharmacy contract to my knowledge.
- 4.2.12 The viability of an additional pharmacy requires to be considered. Boots streamlined three branches into one hub pharmacy due to the unprofitable nature of community pharmacy. With a reported 10 pharmacies closing weekly in the UK we feel that this application is unnecessary and offers no further benefit that to the current providers.”

4.3 KICO HEALTH LTD t/a KINGFIELD PHARMACY

- 4.3.1 “As a neighbouring pharmacy operating in the Woking area, I am writing to formally object to the appeal submitted by SJD (Walton) Ltd regarding the refusal of their future need application for a new pharmacy at 27 Walton Road, Woking, GU21 5DL.
- 4.3.2 The original decision to refuse this application was entirely appropriate, and we urge the committee to uphold it. There is already sufficient pharmaceutical provision within the local area, with several well-established pharmacies effectively meeting the needs of the community. The claim that there is a significant gap in service provision appears to rely heavily on isolated, anecdotal complaints, which do not accurately reflect the overall standard of care available in Woking.
- 4.3.3 Moreover, the application by SJD (Walton) Ltd fails to identify a genuine future need or demonstrate how the proposed pharmacy would materially improve pharmaceutical access for patients. There is no evidence of underserved populations in the immediate area, nor does the proposal offer any unique services or innovations that would meaningfully enhance local provision. In short, the application does nothing to address current inequalities or anticipate future demand in a way that justifies an additional pharmacy.
- 4.3.4 Pharmacies such as ours are dedicated to maintaining high quality service, and any concerns raised by patients are dealt with promptly through established quality assurance processes. The appeal makes broad

generalisations that overlook the considerable efforts being made by existing providers to serve the local population.

- 4.3.5 Introducing a new pharmacy in such close proximity would not only result in unnecessary duplication of services, but also undermine the viability of existing pharmacies, many of which have invested substantially in staff development, stock control systems, and patient support services. Fragmentation of service provision could lead to confusion among patients and reduced continuity of care.
- 4.3.6 Furthermore, challenges such as temporary medicine shortages are largely due to national supply chain issues, which affect all pharmacies equally and would not be resolved by the opening of another branch.
- 4.3.7 In summary, we respectfully ask the committee to maintain its original decision and reject this appeal. There is no demonstrable unmet or future need in the area that would justify the opening of an additional pharmacy, and such a development could adversely affect the stability and sustainability of the current, well-functioning network of pharmaceutical services in Woking."

4.4 BOOTS UK LTD

- 4.4.1 "Thank you for your letter dated 18th March 2025 informing us of the above application.
- 4.4.2 The applicant submitted an application under Regulation 15 of the NHS Pharmaceutical and Local Pharmaceutical Services regulations 2013 offering to meet an identified future need.
- 4.4.3 In order for the application to meet the requirements set out in the Regulations, the application must meet a future need:
 - (a) for pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; **and***
 - (b) that has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 2(b) of Schedule 1.*
- 4.4.4 There appears to be no future gaps identified in the Surrey PNA or any of the supplementary statements issued detailing that a further pharmacy is necessary in this locality.
- 4.4.5 There are three pharmacies within a mile of the application site. They provide access to pharmaceutical provision beyond the opening hours being offered by the applicant.
- 4.4.6 The closure of our pharmacy on Guildford Road, Woking, GU22 7QQ took place in October 2023 – 18 months ago. This pharmacy was the other side of the railway line approximately ¾ of a mile away from the application site.
- 4.4.7 Whilst there was initially a period of disruption for our pharmacy at Wolsey Place following our closure, this is not a true reflection now. We have recently invested in a new, larger dispensary, and our pharmacy staff have been actively working to minimise any queues and reduce waiting times. We are not aware of any formal complaints about this pharmacy.
- 4.4.8 We would be grateful if you would keep us informed of the progress of this appeal."

5 Summary of Observations

No observations were received by NHS Resolution in response to the representations received on appeal.

6 Consideration

- 6.1 The Pharmacy Appeals Committee ("Committee") appointed by NHS Resolution, had before it the papers considered by the Commissioner, together with a plan of the area showing existing pharmacies and doctors' surgeries and the location of the proposed pharmacy.
- 6.2 It also had before it the responses to NHS Resolution's own statutory consultations.
- 6.3 The Committee had before it a copy of the Surrey Pharmaceutical Needs Assessment ("the PNA") dated October 2022 and prepared by Surrey Health and Wellbeing Board ("the HWB"), which had been provided by the Commissioner. The Commissioner advised that there had been three supplementary statements issued in March 2023.
- 6.4 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 6.5 The Committee dealt with the appeal by way of consideration of all the issues.
- 6.6 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations").

Regulation 31

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

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

(2) This paragraph applies where -

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

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

(ii) adjacent premises; and

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

- 6.8 The Committee noted that in response to the question of Regulation 31 in the application form, the Applicant had stated:

6.8.1 *"The proposed location is 0.6 kilometres away from Boots Pharmacy (Wolsey Place Shopping Centre, 10 Wolsey Walk, Woking, GU21 6XU) and Bridge Pharmacy (53 Maybury Rd, Woking, GU21 5LX). This application should not be denied as the demand for pharmacy services is increasing with the growth of Woking's population and the aging demographic.*

6.8.2 *With Woking's expanding population and two recent pharmacy closures in the local area, there is a clear need for additional healthcare services, including a new pharmacy. The closure of these pharmacies has left a gap in service, placing extra strain on existing healthcare providers. A new pharmacy will help fill this gap and alleviate the pressure on other local healthcare facilities.*

6.8.3 *Furthermore, the introduction of a new pharmacy will foster healthy competition, leading to improvements in customer service and the range of services available to the community. The community will benefit from having more options and better service. In summary, opening this pharmacy will meet the rising demand for healthcare services and address the service shortfall in the local area."*

6.9 The Committee noted that the decision of the Commissioner concluded:

6.9.1 *"The Committee first considered Regulation 31(2)(a)(i) and was of the view that Regulation 31(2)(a)(i) is not met as there is currently no person on the pharmaceutical list who is providing or has undertaken to provide pharmaceutical services from the premises to which the application relates, or adjacent premises.*

The Committee was satisfied that there is no pharmacy providing pharmaceutical services at the same or adjacent premises. The application did not therefore need to be refused in accordance with Regulation 31."

6.10 The Committee further noted that the Commissioner's determination on Regulation 31 had not been disputed by any party during the appeal process

6.11 Therefore based on the information provided, the Committee was not required to refuse the application under the provisions of Regulation 31.

Regulation 15

6.12 The application (which was to be determined in accordance with the procedures in Schedule 2) was submitted by the Applicant based on addressing future need for pharmaceutical services.

6.13 The Committee considered whether the need on which the Applicant based its application satisfied the elements of Regulation 15(1) which reads as follows:

"(1) If—

(a) NHS England receives a routine application and is required to determine whether granting it, or granting it in respect of some only of the services specified in it, would meet a future need for pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and

(b) the future need has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 2(b) 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)."

6.14 The Committee noted that paragraph 2(b) of Schedule 1 states:

2. Necessary services: gaps in provision

A statement of the pharmaceutical services that the HWB has identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied—

(b) will, in specified future circumstances, need to be provided (whether or not they are located in the area of the HWB) in order to meet a future need for pharmaceutical services, or pharmaceutical services of a specified type, in its area.

- 6.15 The Committee noted that in its application form, the Applicant had referred to page 32 of the 2022 PNA which states:

6.15.1 *“Over the next three years during the lifetime of this PNA, between 2022 and 2025, the population of Surrey is predicted to increase by 0.5%. The population aged 65 and over is expected to experience the biggest increase of 4.5%, while the 0 to 14 and 30 to 44 age cohorts are predicted to decrease in Surrey. The increase in the population groups aged 45 and over is likely to impact on healthcare services due to increased risks of developing long term conditions such as cardiovascular disease.*

...

Looking over 10 years, the Surrey population is projected to increase by 1.3% between 2020 and 2030. The 65 and over age group continues to experience the largest increase in population with an estimated rise equating to an increase of around 40,300 people. The second largest increase will be among young people aged 15 to 29 years.”

- 6.16 The Committee was of the view that this was a generalised statement in relation to the aging population in the HWB area, and indeed the wider county. The Committee considered that this paragraph did not contain a statement in accordance with paragraph 2(b) of Schedule 1 of the Regulations.

- 6.17 The Applicant had also referred to page 38 of the 2022 PNA which states:

6.17.1 *“Woking Borough Council do not have any sites allocated in the borough for developments of 2,000 homes or above on a single site during the lifetime of this PNA.*

Taking in to account cumulative planned development in the Town Centre and West Byfleet District growth areas, projections in these areas sum to just above 1,000 dwelling.

Woking has been awarded Housing Infrastructure Funding to deliver additional homes in the Town Centre and is currently preparing a Town Centre Masterplan to guide this extra development which may enable the delivery of up to 3,304 extra town centre homes above the existing Development Plan commitments, by 2030. This is across 13 sites in the Town Centre. If these plans are successful, then, cumulatively, this may trigger a need for a new pharmacy in the Town Centre of Woking. Review of this development should be undertaken through the mechanism of supplementary statements and in future PNAs.

Currently, none of the approved planning and development estimates exceeds the benchmark of 2,000 homes indicating a need for additional pharmacies during the lifetime of this PNA. However, the PNA steering group have agreed to review these developments once the homes are built, through the mechanism of supplementary statements.” [emphasis added by NHS Resolution.]

- 6.18 The Committee noted that the Applicant had not provided any information to demonstrate that the approved planning in the Woking area has exceeded the benchmark of 2,000 homes as quoted above. The Committee further noted that although there had been three supplementary statements issued to the 2022 PNA for Cranleigh, Caterham and Molesey respectively, these were related to pharmacy consolidations as opposed to planning developments.
- 6.19 The Committee was of the view that the housing development statement for Woking on page 38 was a generalised overview of the situation in the HWB area. The Committee considered that this paragraph did not contain a statement in accordance with paragraph 2(b) of Schedule 1 of the Regulations.
- 6.20 The Committee further noted that the 2022 PNA states, on page 11 and later page 125, that:
- 6.20.1 *"The number, distribution and choice of pharmaceutical services meets the current needs of Surrey's population and future needs foreseen within the lifetime of this PNA."*
- 6.21 The Committee determined that the need in question was not included in the PNA dated October 2022 in accordance with paragraph 2(b) of Schedule 1, which reads as follows:
- "A statement of the pharmaceutical services that the HWB has identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied—*
- (b) will, in specified future circumstances, need to be provided (whether or not they are located in the area of the HWB) in order to meet a future need for pharmaceutical services, or pharmaceutical services of a specified type, in its area."*
- 6.22 The Committee found no reference in the PNA to services which would fall within the description set out in paragraph 2(b) of Schedule 1 to the Regulations.
- 6.23 The Committee determined that, in the absence of specified circumstances in which the provision of services would meet a future need for pharmaceutical services or pharmaceutical services of a specified type, the provisions of Regulation 15(1) were not met.
- 6.24 The Committee therefore did not need to have regard to those matters set out at Regulation 15(2).
- 6.25 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 6.25.1 confirm the Commissioner's decision;
- 6.25.2 quash the Commissioner's decision and redetermine the application;
- 6.25.3 quash the Commissioner's decision and, if it considers that there should be a further notification to the parties to make representations, remit the matter to the Commissioner.
- 6.26 Although the Committee has reached the same overall determination as the Commissioner, given that the Commissioner had referred to paragraph 2(a) of Schedule 1 in error in its determination, the Committee determined that the decision of the Commissioner must be quashed.
- 6.27 The Committee went on to consider whether there should be a further notification to the parties detailed at paragraph 19 of Schedule 2 of the Regulations to allow them to

make representations if they so wished (in which case it would be appropriate to remit the matter to the Commissioner) or whether it was preferable for the Committee to redetermine the application.

6.28 The Committee noted that representations on Regulation 15 had already been made by parties to the Commissioner, and these had been circulated and seen by all parties as part of the processing of the application by the Commissioner. The Committee further noted that when the appeal was circulated representations had been sought from parties on Regulation 15.

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

7 Decision

7.1 The Pharmacy Appeals Committee ("Committee), appointed by NHS Resolution, quashes the decision of the Commissioner and redetermines the application.

7.2 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.

7.3 The Committee has determined that the application should be refused for the following reason:

7.3.1 The PNA has not identified a future need which this application could meet.

7.4 Accordingly, the application is refused.

Case Manager
Primary Care Appeals