

5 June 2025

8th Floor
10 South Colonnade
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REF: SHA/26548

**APPEAL AGAINST DEVON ICB DECISION TO REFUSE
AN APPLICATION BY BAHATI 19 LTD FOR INCLUSION
IN THE PHARMACEUTICAL LIST AT GARRISON ROAD,
MATFORD, EXETER WITH REGARD TO FUTURE NEED
UNDER REGULATION 15**

Tel: 020 3928 2000
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1 Outcome

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

A copy of this decision is being sent to:

Bahati 19 Ltd
Devon ICB
Community Pharmacy Devon
Alphington Pharmacy
Exminster Pharmacy

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1 The Application

By application dated 11 July 2024, Bahati 19 Ltd ("the Applicant") applied to Devon ICB ("the Commissioner") for inclusion in the pharmaceutical list at Garrison Road, Matford, Exeter with regard to future need under Regulation 15. 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 [The applicant left this section blank].

Information in support of the application

1.3 In making this application I/we am/are seeking to meet the future need identified on page Pages 31-32 - increase in household dwellings.

1.4 Page 33 - 1 in 5 people in Devon have a limitation (protected characteristics) hence with the ageing population in Devon even more difficult.

1.5 Pages 46, 63 - Lloyds pharmacy (FXF26) have now been shut down in Sainsbury's, Alphington- more of Boots are now being sold/shut too at present.

1.6 Page 66 - talking about Exeter houses being built up to *5780 by 2025.

1.7 Page 67 - talking about the new housing being built and the pharmaceutical needs changing. of the HWB's pharmaceutical needs assessment.

1.8 Please insert the identified future need you are offering to meet here:

1.9 Over 3000 houses are being built around the Matford area - Haldon reach itself has 600 houses and still building . There is also a school being built in the same Development - Matford academy - which again will attract students from ages 2 - 16 years.

1.10 Ide Lana surgery are going into the Haldon Reach development so there is a need for a pharmacy next to it to facilitate the health care needs for the population in this area. Lloyds pharmacy which was the closest to this was also shut down in 2023.

1.11 I am keen to fulfil all the pharmaceutical needs of patients in this area as I think with the new housing, new school and new surgery, the pharmacy is an ideal / important development. Also being an independent prescriber I feel I can do more for the community here . I also have the right business acumen on how pharmacies work as I have managed and run three of them in the recent past.

1.12 In the box below please explain how you intend to meet the identified future need either in whole or in part:

- 1.12.1 by providing all essential services.
- 1.12.2 by introducing independent prescribing.
- 1.12.3 by doing all/most of the advanced/ enhanced services.
- 1.12.4 by being in close contact with the surgery and community centre to see what more can be done in terms of health outcomes of patients.”

2 The Decision

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

- 2.1 “Devon 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 Devon 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:
- 2.3 Primary Care Appeals, NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU.”

South West Pharmaceutical Regulations Committee Decision Report 15 January 2025

- 2.4 “Case reference: **ME3511 - CAS-315441-P2G4L8.**
- 2.5 Name of applicant: Bahati 19 Ltd.
- 2.6 Application type: Application for inclusion in a pharmaceutical list: routine application offering to meet a future need.
- 2.7 Address of proposed premises: Garrison Road, Matford, Exeter.
- 2.8 **The SW Committee noted:**
- 2.9 Matford is situated to the south of Exeter town and is included in the Mid Devon locality in the Devon PNA.
- 2.10 Summary of the Application
- 2.11 The applicant is proposing to open 5 days per week with 40 core hours, with an additional 5 Supplementary Hours:
- 2.12 Opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 17:00	09:00 – 17:00	09:00 – 17:00	09:00 – 17:00	09:00 – 17:00	Closed	Closed	40:00

- 2.13 Total proposed opening hours

Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Sunday		Total
09:00 – 17:00	–	09:00 – 17:00	–	09:00 – 17:00	–	09:00 – 17:00	–	09:00 – 17:00	–	Closed		Closed		45:00
17:00 – 18:00	–	17:00 – 18:00	–	17:00 – 18:00	–	17:00 – 18:00	–	17:00 – 18:00	–					

- 2.14 The pharmacy would provide Advanced and Enhanced service as shown in section 4 of the application form. Many of the services listed are not commissioned by anyone in this area.
- 2.15 Their application states that the future need they are offering to meet is:
- 2.16 [See paragraphs 1.10 to 1.12 above].
- 2.17 Proposed location
- 2.18 The applicant's best estimate location is Garrison Road, Matford, Exeter – proposed near to the GP surgery and community building. The SW Committee had a map of the proposed area.
- 2.19 Representations received
- 2.20 Full details of the applicant's proposals were notified to various parties in accordance with the Regulations. The SW Committee noted representations received. In summary:
- 2.21 Alphington Pharmacy challenge the identified need concluding:
- 2.21.1 In summary we feel that the PNA has identified no current or future gaps in service provision and there has been no significant change since the PNA was last updated. Existing contractors are able to meet the needs of the current and future population. There is already a wide range of pharmacy providers accessible to this area providing a full range of clinical services as well as extended hours provision, and as such this application should be refused.
- 2.22 Exminster Pharmacy object to the application stating the new housing development will not require any additional pharmaceutical services which cannot be offered locally by other pharmacies in the area. They state there is no unmet need outlined in the current PNA.
- 2.23 Community Pharmacy Devon comment on Regulation 15 matters, concluding:
- 2.23.1 Community Pharmacy Devon does not consider that the applicant has demonstrated that there is an identified future need for pharmaceutical services that would be met by this application.
- 2.24 The applicant responded:
- 2.24.1 Noting that other pharmacies in the area are closed at lunchtimes whereas this proposed pharmacy will be open through the lunchtime period.
- 2.24.2 Stating that Alphington pharmacy do not deliver to Matford unless the patient is housebound.

- 2.24.3 Notes the increased number of items being dispensed by Alphington and Exminster pharmacies.
- 2.24.4 Suggesting Exminster pharmacy is small as is the consultation room and suggests Alphington pharmacy is at capacity and there is always a wait. The applicant disputes their capacity to manage increased demand.
- 2.24.5 Highlights distance and travel times to other pharmacies, suggests a lack of walking routes and costs of taxis. Also discusses a lack of parking at alternative pharmacies and a lack of public transport.
- 2.24.6 Suggests a lack of choice as nearby pharmacies have the same directors.
- 2.25 The SW Committee noted an unsolicited comment received from Luxton Pharmacy. This is the owner of Alphington and Exminster pharmacies as well as Luxtons Pharmacy.
- 2.26 **The SW Committee agree that it is not necessary to hold an oral hearing to determine the application.**
- 2.27 Regulation 31 (same or adjacent premises)
- 2.28 There are not any pharmacies currently located within the best estimate location. The nearest pharmacy is 1.3 miles (Alphington Pharmacy). **The SW Committee was satisfied it is not required to refuse the application by virtue of Regulation 31.**
- 2.29 **REGULATION 15 – FUTURE NEEDS**
- 2.30 Reg 15(1) – Does the PNA identify a future need?
- 2.31 Regulation 15 states: [Quotes Regulation 15 in full]
- 2.32 Paragraph 2 of Schedule 1 reads as follows:
- 2.33 *2. 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—*
- 2.34 *(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.*
- 2.35 The SW Committee noted the need to be satisfied that there is a future need, as defined in paragraph 2 of Schedule 1, that “has been included in the relevant PNA” (reg 15(1)(b)).
- 2.36 The SW Committee had access to the current Devon PNA and noted the applicant has identified the following sections of the PNA in relation to the application:
- 2.37 [See paragraphs 1.4 to 1.8 above]
- 2.38 The SW Committee noted there is some information on the new community hub development referred to by the applicant on the Devon Council website: Community building - South West Exeter
- 2.39 The SW Committee noted Devon HWB has published several Supplementary Statements for the PNA including one that details the exit of the Lloyds in Sainsburys

in Alphington Road; whilst the supplementary statement details the closure it does not make any direct statement as to whether a gap is or will be created.

- 2.40 The SW Committee is of the view that although the PNA discusses population growth, expected development and population characteristics, it does not state this will create a future need for additional pharmaceutical services in the area.
- 2.41 The SW Committee also noted the PNA mentions the closure of all Lloyds in Sainsbury's sites but does not conclude that the closures result in a gap or need that must be addressed.
- 2.42 The SW Committee concluded that the PNA does not identify a future need which satisfies the requirements of paragraph 2(b) of Schedule 1, therefore the application is refused as the requirements of regulation 15(1) are not met.
- 2.43 Appeal rights
- 2.44 **As the application is refused it was agreed the applicant, Bahati 19 Ltd, has appeal rights."**

3 The Appeal

In an email dated 5 March 2025, the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

- 3.1 "Case Reference - ME3511 - CAS-315441-P2G4L8
- 3.2 Right of appeal from Bahati 19 Ltd, to challenge PSRC decision report dated 15 January 2025. Sent on 7/2/2025.
- 3.3 This report is to appeal the decision referenced above.
- 3.4 This appeal is a challenge to the refusal of the application for inclusion in a pharmaceutical list and the offer to meet the needs that are apparent now and will continue to develop from this point in to the future from Bahati 19 Ltd, we are appealing to have this decision changed on the following.
- 3.5 The offer to run services from the Haldon Reach development is a perfect and ideal location to provide much needed services and capacity to deliver to the local and outer reaching communities. Communities that are continuing to grow at pace in addition to the many current, new and planned developments that are live and in the pipeline.
- 3.6 A serious point in partnership with the above is the offer of services that are currently not provided by anyone in the area as mentioned in the application.
- 3.7 The above is further backed up in a concrete way by the planned Ide Lane surgery going in on the Haldon Reach development, which clearly shows the need for services and the increase in capacity for medical services. As shown in the application, a need for a pharmacy on this site is without question a massive yes.
- 3.8 Services in this and the surrounding areas are under pressure, have queues, lack of parking, lack of space to offer services and are located in the main along heavily congested roads, all of which seriously impact the community and the time each and every single person has to use these locations.
- 3.9 The objections put forward do not provide any scope of detail or answer to any of the proposal points made, nor do they provide any answers from the applicants additional

points made as noted in the report. With these points made so far I would like to add the following, taken from the Healthwatch statement 2.12.6.

- 3.10 Healthwatch is the independent consumer champion for people using local health and social care services. Their work covers all areas of health and adult social care. This includes GPs, hospitals, dentists, care homes, pharmacies, opticians and more.
- 3.11 Healthwatch listens to what local residents say about the healthcare services they use and make sure the people in charge who have the power to improve services hear them. Healthwatch Devon, Plymouth and Torbay (HWDPT) has provided the following statement for inclusion in the 2022-25 PNAs for the Devon, Plymouth and Torbay areas.
- 3.12 With the introduction of Integrated Care Systems, primary care services are evolving with the public being directed to contact services such as pharmacists for a range of minor conditions rather than their GP. Likewise, pharmacies are also being invited to take a wider role in providing community health services and supporting Primary Care Networks.
- 3.13 Patients often contact Healthwatch around issues with prescriptions or repeat prescriptions, frequently caused by the electronic communication between GP practices and dispensing pharmacies, leaving patients frustrated as it is often, they themselves who end up having to sort issues out. A robust system to deal with prescribing issues needs to be in place to provide assurance to patients, particularly those managing long-term conditions, and that issues arising will be dealt with in a timely manner. This is particularly important for those who rely on public transport or friends/family members to collect medication and to avoid multiple journeys.
- 3.14 During the COVID-19 pandemic, a greater emphasis on digital access to services has been seen and whilst some of the population have embraced this technology there are patients who cannot, or do not, wish to use this method of contact.
- 3.15 Healthwatch has also seen a rise in comments from patients about being unable to contact their pharmacy by phone or indeed receive information by text from their pharmacy, when they have been told to expect one. Again, pharmacies should have a robust process in place to ensure phone calls from and phone/text messages to patients are systematically managed in a reasonable timeframe.
- 3.16 This statement highlights the population age demographic, the need for change, the need for service enhancements, addition to capacity and ease of access to services. The need to reverse the refusal of Bahati 19 Ltd is necessary.”

4 Comments to the Commissioner

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

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

- 4.1 “Thank you for the email dated 17/09/24, please below find response to the comments made by the pharmacies and the LPC.

Opening times of Both Pharmacies and Comparisons

- 4.2 Both the pharmacies have mentioned the opening times and saying what they provide is sufficient. Both the pharmacies are CLOSED for lunch from 1pm - 2pm (Alphington) and 1pm - 2.15pm (Exminster)

- 4.3 Opening times (as per their websites/NHS websites)

Exminster Pharmacy The Limes Surgery Church Stile, Devon EX6 8DF	Alphington Pharmacy 25 Ide Lane Alphington EX2 8UP
Monday - Friday: 8:30am–1pm, 2:15–6pm Sat 9-12pm	Monday - Friday: 09:00 to 13:00, 14:00 to 18.00 Sat 09.00-13.00

- 4.4 Lloyds Pharmacy which closed in Mid 2023 opening times were:

- 4.5 (<https://healthgps.co.uk/pharmacy/36332-lloydspharmacy-inside-sainsbury%27s/>)

Lloyds Pharmacy, Alphington Road Alphington Exeter, EX2 8NH
Mon- Fri 7am - 11pm. Sat 7am - 10pm. Sun 10am - 4pm

- 4.6 So if you see from the above both Alphington, Exminster and even the LPC have claimed that after the closure of Lloyds at Alphington, the needs of patients are met. Looking at the Lloyds opening times and the other two pharmacies, Lloyds were open longer hours and even open lunchtimes. So how has this been met? It's not comparable.
- 4.7 Also Alphington and Exminster are both closed for at least an hour for lunch. Haldon Reach pharmacy, on the other hand ,will be open all through Monday to Friday 9-6pm and open for lunch as well. So, there is already a difference in what will be provided with the new pharmacy opening. And if more hours /days are needed/ available in terms of what is needed for the area of course we will accommodate that. At present we are going in line with when the GP surgery will be open.
- 4.8 Alphington Pharmacy have also said they deliver to Matford. When I phoned on 30/09/24 to find out if they did – A staff member called [# redacted by NHS Resolution] said they don't (at 12.15pm exactly) she confirmed with another member of staff who said the same. However, when I insisted on speaking to [# redacted by NHS Resolution] the pharmacy manager, he said 'we only deliver if the patient is housebound'. Conflicting advice being given to patients when staff themselves don't know. So how do they categorize housebound? It was not clear from the conversation, so I don't feel they do provide the delivery service as per his email.

Pharmacy closure impact

- 4.9 Closure for Lloyds pharmacy was in June 2023 and not 'sometime ago' as stated by Alphington Pharmacy. I have also attached the trends of both pharmacies in terms of how it has been from closure of Lloyds and the impact it has had on their script numbers.
- 4.10 See below: (source – Pharmdata UK
- 4.11 <https://www.pharmdata.co.uk/#:~:text=Community%20pharmacy%20dispensing%20and%20core%20services>)
- 4.12 [See page 1 – 2 Appendix A for Committee]
- 4.13 From the figures we can see that both have an upward trend in prescription numbers which in turn leads to increased financial pressure as well as more staff. And, we have seen in the recent times that most pharmacies are shut/shutting due to increased financial pressure and lack of staff. See below attached from CPE UK published on 26/09/24.
- 4.14 <https://cpe.org.uk/our-news/around-5800-pharmacy-working-days-lost-to-temporary-closures-says-healthwatch-england/>
- 4.15 Key findings from this report was:
- 4.15.1 436 pharmacies closed permanently in England, just under 4% of all pharmacies in the country.
- 4.15.2 13,863 instances of temporary pharmacy closure were recorded, and 48,706 hours were lost to temporary closure. This represents around 5,800 working days.
- 4.15.3 Pharmacy closures were more severe in rural areas and areas with an older population.
- 4.15.4 The chief reason for temporary pharmacy closure was **a lack of staff availability**.
- 4.16 **Furthermore, from the same report:**
- 4.17 **Janet Morrison, Chief Executive of Community Pharmacy England, said:**
- 4.17.1 "Community pharmacies are working incredibly hard to support their local patients and communities, but this Healthwatch report is yet more evidence showing just how desperate the situation for pharmacies has now become. **Ongoing financial, operational and workforce pressures are combining to leave pharmacies at crisis point, putting medicines supply and other patient services at serious risk.** Community pharmacies urgently need their core funding to be uplifted to stabilise the sector, halt the trend of pharmacy closures, and allow pharmacies to keep doing what they do best: supporting local communities and the wider NHS. Without this stabilisation we can expect the trend of pharmacy closures to continue, with a risk of the sector collapsing under the strain."
- 4.18 In fact I have personally worked in Exminster pharmacy and you can hardly move there! For anyone who has used the consultation room you can hardly fit in.
- 4.19 Alphington pharmacy is at capacity too and they seem to feel the pressure as there is always a wait time when you go in.

- 4.20 How they both think they will be able to cope with the increased population growth without financial and staff pressures is unrealistic.
- 4.21 In fact, the NPA actually launched a campaign called 'Save our pharmacy' as we are aware Pharmacy is facing severe financial strain, with 10 pharmacies closing in England every week. It is a result of a 40 per cent budget cut to pharmacies in England since 2015, since which time 1,400 are understood to have closed.
- 4.22 Community pharmacies provide essential frontline health services, but they are being driven to the brink by a funding shortfall amounting to over a billion pounds a year. That's why a lot of pharmacies supported this campaign – In fact Alphington Pharmacy also supported this campaign (see Facebook link below)
- 4.23 https://www.facebook.com/AlphingtonPharmacy/?checkpoint_src=any
- 4.24 So as most pharmacies, Alphington pharmacy is feeling the pressures too!

Transport, Distance and Parking

- 4.25 Alphington Pharmacy's is 1.25 miles away by car, however it has constant road works and speed limits(20mph) see attached pictures. It would take anyone around 10-15 minutes on a good day to drive down, and if it is rush hour/ School times (especially now that there is Matford Academy open on site) it even takes longer.
- 4.26 [See page 3 Appendix A for Committee]
- 4.27 A new bridge walkway from the Haldon Reach housing development has been built over the A379 towards the housing development on the edge of Alphington Village as quoted by the LPC, however, there is no footpath for a while as soon as you cross the bridge to get to Alphington. So how will people with pushchairs (personally tried this and pictures attached) or Wheelchairs access Alphington Pharmacy after seeing the Doctors at Matford? Besides there are constant road works as mentioned above.
- 4.28 [See page 4 - 5 Appendix A for Committee]
- 4.29 So how are people on foot to Alphington village supposed to walk safely? Not to mention to get to IDE lane there are roundabouts too, so no safe walkway to Alphington Pharmacy!
- 4.30 I also enquired with taxi firms in the area as of how much taxis would be to and from Alphington Pharmacy from Haldon Reach and quoted the below:
- 4.31 Apple taxis (01392- 666666/555555) £7-7.50 for one way and £20 an hour for any waiting around.
- 4.32 I also further tried to see what UBER quotes were (see below).
- 4.33 [See page 6 Appendix A for Committee]
- 4.34 Exminster Pharmacy on the other hand is 2.2 miles away from Haldon Reach and should take around 20-25 minutes to get to. Once again as you get into the village there is 20 miles per hour speed limit (see pics attached) which makes the ride even slower. And there is always school traffic there with a few major schools there namely Exeter Pre-Prep and Exminster Primary schools. This once again slows down the traffic. 'Drive time analysis' was mentioned by Exminster Pharmacy but this was recorded in the PNA in 2022 since then there have been roadworks/Also have had a major school open (Matford Academy at Haldon Reach) itself during rush hours makes getting to Exminster even longer!

- 4.35 [See page 7 Appendix A for Committee]
- 4.36 They have mentioned Cycle rides. However, if you are unwell would you want to ride for 20-30 minutes to get a script or would you rather get it from the pharmacy next door? Besides how many people have cycles? When I looked at the Census Report 2021 for this area, only 1.3% of the population used bicycles for work!
- 4.37 There is no safe walking route from Haldon Reach to Exminster Pharmacy either.
- 4.38 I also enquired with taxi firms in the area as of how much taxis would be to Exminster Pharmacy from Haldon Reach and got the quotes below:
- 4.39 Apple taxis (01392- 666666/555555) £10-10.50 for one way and £20 an hour for any waiting around.
- 4.40 I also further tried to see what UBER quotes were and see attached.
- 4.41 [See page 8 Appendix A for Committee]
- 4.42 Furthermore, there are no other public transport services available between the new development and the above pharmacies. Therefore, anyone requiring the above pharmacies would have to drive or to take the taxis which is expensive especially with the rise in living costs!
- 4.43 Both Pharmacies have also mentioned they have ample parking for customers including disabled. I have attached pictures for both of them. Alphington hardly has much parking and only allowed to park in there for 20 minutes! So, what are patients to do when there is longer waiting times? In fact, it was getting so bad that the GP surgery next door had to have parking permits put in!(pictures attached to show this).
- 4.44 Exminster pharmacy is the same, they share parking with the GP practice, staff and patients!
- 4.45 [See page 9 - 11 Appendix A for Committee]
- 4.46 However, Haldon Reach has ample parking and with the housing development there is free parking everywhere and anyone can park on the streets. Therefore, the Parking is not an issue at Haldon Reach site. (Pics below)
- 4.47 [See page 12 Appendix A for Committee]

Premises, consultation room and accreditation

- 4.48 There is mention of premises on the forms. The new pharmacy premises will be part of the community building. The pharmacy itself will be in this building. I am at advanced stages of discussion with Exminster Parish council on this and the new plan will be provided as soon as approved. I have run 3 pharmacy businesses in the past and have had consultation rooms put in to accommodate the growing clinical needs of patients. The consultation room will meet the requirements of paragraph 28A, Schedule 4 of the Regulations.
- 4.49 In terms of the accreditation, I 'ticked' them on the form as to say I am happy to provide all of these services. I am an Independent Prescriber (IP) and recently practiced in Wales where I used my IP skills and want to do the same here. I am more the happy to discuss what the LPC/area need in terms of services to move this sector forward.

- 4.50 I am a keen pharmacist with a passion for learning and fulfilling patient needs which has been reflected in my learning pathways.

Housing Trajectory and School in Matford

- 4.51 I have given below a link to the Teignbridge Local Plan 2020-2040 which is currently being Inspected and is expected to replace the existing Local Plan in the first half of 2025.
- 4.52 <https://www.teignbridge.gov.uk/media/vqui5k4s/csd-001-local-plan-2020-2040-proposed-submission-addendum.pdf>
- 4.53 Also, I have attached the latest Housing Trajectory I can find for Teignbridge. Look for page 6 and towards the bottom of the chart, SWE1 South West of Exeter. Out of a total of 2,062 new homes, 369 are reported to have been built by 31 March 2024 leaving 1,693 to be built. All 2,062 new homes are to be built in Matford, which is part of Exminster Parish. Exminster Parish comes under Teignbridge District Council not Exeter City Council. The 1,693 includes 245 new homes on the Matford Home Farm site which is in between the Cavanna site and Matford Mews.
- 4.54 Further, Exeter City Council has a plan to build 500 new homes between Alphington and Matford.
- 4.55 There is also a new school (Matford Academy) built at the Haldon Reach development which is now functional.
- 4.56 With the housing Trajectory which has been mentioned in the PNA, the pharmaceutical needs will change and we would need another pharmacy at Haldon Reach to fulfil the health needs of the growing population and decrease any health inequalities.
- 4.57 Furthermore, South of Matford is Exminster Village which has around 2,000 homes. There is a GPs surgery and next door is the Exminster Pharmacy. In Alphington, there is the Ide Lane GPs Surgery and next door is a Pharmacy. I further believe that Haldon Reach Pharmacy has the same model as both Alphington and Exminster pharmacies which will indeed be next door to the GP surgery.
- 4.58 The GP surgery at IDE lane are aware of this application and are in support of a pharmacy going next door to them.

Owners of Exminster, Alphington and Luxtons

- 4.59 Exminster Pharmacy LTD- owners are [# redacted by NHS Resolution] (From companies house).
- 4.60 Alphington Pharmacy and Luxtons Pharmacy are owned by [# redacted by NHS Resolution] as well (from companies house and their respective websites below).
- 4.61 See about Alphington:
- 4.62 <https://www.alphingtonpharmacy.co.uk/about-alphington-pharmacy/>
- 4.63 Luxtons Pharmacy:
- 4.64 [The Story of Luxtons Pharmacy - Family run since 1927!](#)

- 4.65 So from the above, we can see the OWNERS of all these 3 pharmacies who have challenged the application are [# redacted by NHS Resolution]. They have a financial interest in these pharmacies, and I feel they have a monopoly in this area.
- 4.66 I feel the area needs more 'CHOICE' as well as its only run by the same company.
- 4.67 I also further want to elaborate I am here to work with them, and it will be good to have another company to run beside them which will improve the supply/services of medications as we will be hopefully using different suppliers and systems.

How Pharmacy is at the moment

- 4.68 On 12/9/24- BBC news published (Link below)
- 4.69 "On average, 18 chemists, 16 pubs and nine banks shut down every week between January and June -. according to research from accountancy firm PwC" (see picture attached)
- 4.70 [See page 13 Appendix A for Committee]
- 4.71 [High Street closures led by banks, chemists and pubs - BBC News](#)
- 4.72 Further ITV reported on 19/9/24 -Pharmacies to vote over shorter hours and withdrawal of services. (see link below)
- 4.73 Quoted from the NPA with regards to this.
- 4.74 "Action could potentially include pharmacies opening only for the minimum number of hours, withdrawal the provision of free deliveries for **medication**, and potentially serving notice on some services – such as some emergency contraception services or **stop smoking support**."
- 4.75 [Pharmacists to vote on shorter opening hours and fewer services amid funding row | ITV News](#)
- 4.76 So despite knowing all of this, I am still applying for a license as I believe in patient care and I believe if we are not proactive in having a pharmacy at the new Matford development we are likely to face increased hospitalization, increased GP wait time and increased health inequalities.

Conclusion

- 4.77 In Conclusion, I feel that the pharmacy license should be granted at Haldon Reach site in Matford because of the following:
- 4.77.1 Increased housing and increased population in the area and the new housing trajectory has been shared here.
- 4.77.2 Better model of healthcare as near to the GP surgery thus better pharmacy access and an integrated health care system.
- 4.77.3 Constant roadworks/speed limits would only limit movement and increase patient waiting times for essential/acute medication as seen above.
- 4.77.4 No safe method of travelling to the existing pharmacies except for cars which can be an issue for some patients who do not drive/have cars or are not mobile.

- 4.77.5 Increased pressure on staffing levels/financial pressures on pharmacies at present which is a nationwide issue and with the population increase will only get worse.
- 4.77.6 IP services which would be offered by myself as qualified to do so.
- 4.78 I also feel with all the above and having been in the pharmacy sector for the past 20 years, having a proactive approach in applying for this license despite the odds and negative times the pharmacy sector is facing. I believe we can make a difference in the healthcare system here in Matford and I strongly believe a pharmacy next door to the GP Surgery would be very welcome by not only the GPs but also the patients using this facility. Please also note this is for a future need which is in line with the increased population on the Matford site.
- 4.79 I really hope I have put my case forward as best as possible. I am more than happy to discuss this further with the ICB/LPC and NHS England."

5 Summary of Representations

This is a summary of representations received on the appeal.

5.1 COMMUNITY PHARMACY DEVON

- 5.1.1 "Thank you for your letter of 18th March 2025 informing Community Pharmacy Devon (CPD) that the decision of the Commissioner on the above application has been appealed to NHS Resolution. The Committee has considered the appeal and would like to make the following observations.
- 5.1.2 The applicant highlights that there will be a community centre with a GP practice located on the estate. Currently we have seen no plans for the GP practice and unable to comment, On visiting the site the proposed location is on the edge of the residential estate with no plans for retail units and consequently there seemed to be limited footfall in the area. The applicant has described the potential for a 10-15 minute drive to Alphington Pharmacy and a 20-25 minute drive to Exminster Pharmacy due to traffic congestion and road works. On the day of the CPD site visit, the drive to Alphington Pharmacy took four minutes, and to Exminster Pharmacy six minutes. The current level of road works would be expected to be reduced as the development work progresses and not to be a permanent feature.
- 5.1.3 Within the appeal document there is an observation made regarding the ownership of both Alphington Pharmacy and Exminster Pharmacy and the lack of choice for patients. Having checked on the NHS.UK website both pharmacies offer a full range of both nationally and locally commissioned services where appropriate. The test for choice is not dependent on the pharmacy provider ownership but the range of services that are available to patients and the local population.
- 5.1.4 An identified need for future pharmaceutical services has not been identified in the Devon Pharmaceutical Needs Assessment for 2022-2025 and Community Pharmacy Devon has not received any complaints about difficulties being experienced in accessing pharmaceutical services in Alphington or Exminster, either in terms of opening hours or parking facilities.
- 5.1.5 Community Pharmacy Devon has no further comment on the appeal and asks to be kept informed of the decision."

5.2 ALPHINGTON PHARMACY

- 5.2.1 "I am writing in response to the appeal by Bahati 19 Ltd to the decision to refuse the contract application to open a pharmacy in Matford, Exeter in Devon.
- 5.2.2 The initial application states that it is to meet a future need described in the Pharmacy needs assessment, however the PNA states "The PNA has outlined the planned increases in housing provision across Devon over the next three years. It is not anticipated that the increase in housing will significantly impact on the provision of, or access to, the existing pharmaceutical services and it is concluded that there is no requirement for further provision within the time frame of this PNA."
- 5.2.3 NHS England should continue to be satisfied that all current and future pharmaceutical needs of the Matford development can be met by the current pharmacy contactors, and by upholding the decision of Devon ICB refuse the application which would not cause a gap in service provision for the following reasons:
- 5.2.4 The location of the proposed pharmacy is just 1.2 miles (4min drive) from existing pharmacy provision at Alphington pharmacy and 2.2miles (7min drive) from Exminster pharmacy. Both the Alphington and Exminster pharmacy are open on Saturdays, the proposed pharmacy does not intend to open on Saturdays. In addition, the proposed pharmacy is only 2.6 miles from Boots Exebridges and 3.5miles from Tesco Exe Vale both of which have extended opening hours covering evenings and Sundays.
- 5.2.5 The applicant states that the Lloyds pharmacy in the Sainsburys store on Alphington Road has closed, however this happened some time ago, even before the new housing started being built, and the needs of these patients are already being met by existing pharmacy provision, and so there is no need for any additional pharmacy capacity at the locality. The Supplementary statement to the PNA published in November 2023 noted this closure but did not identify any gaps created by this closure.
- 5.2.6 The development at Matford has no provision for any commercial buildings on or near the proposed site. There is a plan for a GP Surgery which has no space for a pharmacy to be co-located. A community building is being built with money from the Housing Infrastructure Fund and is solely intended for community use and will consist of a hall, studio, meeting rooms, kitchen and a multi-use foyer and so will also not be able to contain a pharmacy. It is therefore unlikely that a suitable premises will be available to open a pharmacy at the proposed location.
- 5.2.7 The appeal suggests that there is insufficient parking at the existing pharmacy sites and that their proposed location will have better parking. However, the new surgery/ community building site will only have 29 parking spaces which is similar to the existing parking at Ide lane surgery, and these will be solely for these 2 buildings. The on-road parking proposed on Garrison road is likely to be restricted in the future to protect the safety of children coming and going from Matford Brook Academy School. In contrast, Alphington pharmacy has its own customer parking for 4 to 5 cars at the side of the pharmacy as well as a disabled / loading bay at the front of the pharmacy and dedicated staff parking. In addition to this there is plenty of unrestricted on street parking both in front of the pharmacy and the neighbouring roads.
- 5.2.8 The applicant in their appeal comments to the original application has included information about the journey time and walking route between the new development and Alphington pharmacy. However, approximately 50% of the new homes are on the Alphington side of the A379 and so are less than 1 mile

from Alphington pharmacy. The roadworks pictured were part of the housing development and are no longer there. The road layout between the new development is being realigned creating new footways and a safe pedestrian route between Matford and Alphington <https://planning.devon.gov.uk/planning/display/DCC/4200/2020>. This route will be used by children to travel to and from the Matford Brook Academy from Alphington, and so will provide a safe on foot route between the new development and Alphington pharmacy.

- 5.2.9 The applicant has also tried to suggest an unmet need for a delivery service in the location. However, Alphington pharmacy has a dedicated delivery vehicle and delivery drivers which are used to provide a delivery service to housebound patients in the Matford area and has several patients already using this service. In fact, Alphington pharmacy regularly delivers out as far as Kennford and Kenn (3.5 miles), Shillingford St George (1.7miles) and Ide (1.7miles). In addition to this there are many DSP offering delivery services to all patients who may wish to choose a delivery option.
- 5.2.10 The proposed opening hours for the new pharmacy are less than the provision provided by existing contractors and so will not improve access for patients. The applicant suggests there is a need for opening across our current lunch closure. However, we regularly review our operating hours and ensure that our pharmacy provision matches the GP practice face to face appointment schedule. If a need was established, we would be more than happy to review our current provision. We are also actively looking at installing a 24-hour collection point which would allow patients to collect their prescriptions outside of our normal opening hours to further develop the services we offer.
- 5.2.11 The applicant states in the appeal that they plan to offer services not currently provided by anyone in the area. Alphington pharmacy already provides all locally and nationally commissioned enhanced and advanced services available to it. Currently the only services we do not provide are those that the commissioners have deemed that there is no requirement for in our locality, those being: Needle and syringe exchange and supervised consumption as these are provided by Luxtons pharmacy which is only 2.8miles away from the proposed location. The Community Pharmacy Urgent and Specialist Medicine Service, for which we have put in an Expression of Interest and are waiting to hear from the ICB as to if they have identified a need in our locality. In addition, we are a Covid vaccination site and Alphington Pharmacy is a pilot site for The Independent Prescriber Pathfinder Program where, alongside our successful Pharmacy First service we are increasing access to healthcare for the local population.
- 5.2.12 The appeal suggests that the current pharmacies are unable to cope with the existing demand, and that there are issues with unplanned closures and staffing in community pharmacy in general. Contrary to this we have never had an unplanned closure at Alphington pharmacy. We have in fact increased our staffing levels over the last 12 months and have had no issues with recruiting to expand our workforce enabling us to continue to deliver a high-quality efficient service to existing and new customers alike.
- 5.2.13 The comments in the appeal are cut and paste from Healthwatch and are a generic assessment of pharmacy as a whole and do not reflect the position here in Alphington pharmacy. We work closely within our PCN and I currently work as the community pharmacy PCN integration lead for outer Exeter PCN. We have a digital telephone system that is answered during all our opening hours in a timely manner, we use technology such as text and email to communicate with our patients about services and when their prescriptions are

ready. We operate an online, in person or on the phone booking system for access to our services, ensuring all patients can easily access services in a way that suits them.

- 5.2.14 In summary, we feel that the PNA has identified no current or future gaps in service provision and there has been no significant change since the PNA was last updated. Existing contractors are able to meet the needs of the current and future population. There is already a wide range of pharmacy providers accessible to this area providing a full range of clinical services as well as extended hours provision, and as such this application should be refused. The appeal offers no additional relevant information which would suggest the original decision to refuse the application is wrong.”

5.3 EXMINSTER PHARMACY

- 5.3.1 “I am writing to continue to object to the application by Bahati 19 Ltd to open a pharmacy in Matford, Exeter in Devon.
- 5.3.2 Further to the points made on the original objection and the refusal confirmation from the Devon ICB we have the following remarks regarding the comments made by Bahati 19 Ltd on appeal.
- 5.3.3 NHS England should continue to be satisfied that all current and future needs of the population around the proposed site can be met by the existing pharmacy premises, there would be no detriment to the provision of pharmaceutical services in the area by continuing to refuse the application.

Opening hours

- 5.3.4 Opening hours listed for Exminster pharmacy are correct as listed in the response by Bahati 19 Ltd but it should be noted that these are reviewed regularly and could be amended if the needs of the population changes. Different opening times have not been identified as being required despite the insinuation that the closure of a distant pharmacy has had an impact on patients accessing our services and I would argue that the later opening time of the proposed pharmacy is unlikely to secure improvements to or better access to pharmaceutical services in the area.

Capacity

- 5.3.5 An upward trend in prescription numbers at Exminster pharmacy follows the trend for England as a whole (as per NHSBSA prescription cost analysis) and does not demonstrate any financial or staff pressure within the business or any impact of local pharmacy closures. We continue to have excellent staffing levels within the pharmacy, this is evidenced by the fact that there has never once been a temporary closure at Exminster pharmacy.
- 5.3.6 The information regarding pharmacy closures due to lack of staff availability argues in favour of **not** opening another pharmacy, which by Bahati 19 Ltd.'s own admission would struggle to recruit staff, suffer financial and staffing pressures and be further detrimental to community pharmacy as a whole. We are confident we have capacity to meet any possible staffing pressures currently and in the future of Exminster Pharmacy.
- 5.3.7 Comments regarding the size of Exminster pharmacy and consultation room are misleading and ignorant of the fact that we have provided high quality care throughout the life of the pharmacy including delivering vaccinations, advanced

services and all “Pharmacy First” services as needed. The consultation room meets all requirements of the NHSE&E regulations guidance.

Transport

- 5.3.8 The points made by Bahati 19 Ltd are opinion based with little evidence throughout this section. All road / footpath works in the area are temporary and are in part due to the work taking place at the proposed site of the pharmacy and new housing developments. These works would be completed before any such pharmacy was opened and so should not be taken into consideration in terms of transport times or access difficulties.
- 5.3.9 I find it shocking that the use of a 20mph speed limit in Exminster, past a primary school, is being argued as a negative point. This speed limit keeps the residents of Exminster safe, the picture (figure 4) is also taken before the school and pedestrian crossing can be seen round the bend. The impact of this speed limit is inconsequential to journey time (this can be evidenced by recent data following the implementation of 20mph speed limits in Wales (gov.wales)) but is essential to the safety of pedestrians and particularly children.
- 5.3.10 There are safe walkways and cycle paths from Haldon Reach to Exminster pharmacy, along with a bus service which stops within a 1-minute walk of the pharmacy. The car park at Exminster continues to be adequate for the needs of patients' access, including disabled parking and although shared with the GP practice has never caused problems with access.

Premises

- 5.3.11 It is very difficult to comment on the proposed premises and consultation room as there are no confirmed plans. Any details regarding the applicant's practice and skills are irrelevant to the application to open a pharmacy as they themselves may not work in the proposed premises.

Housing

- 5.3.12 As previously mentioned, the increase in housing does not indicate any unmet future need in terms of pharmaceutical services and has been considered in the PNA which does not identify any such future needs. Any comments regarding possible future GP surgery placement are irrelevant to the application and the applicant has no evidence to substantiate claims that any GP surgeries support the application.

Owners of pharmacy

- 5.3.13 Comments about the ownership of community pharmacies effected by the application are irrelevant and cannot be considered in appeal. If pharmacy ownership could be seen to be a monopoly, then large chains of pharmacies would not be allowed throughout the country and clearly this is not the case. As always, patients have a choice as to where they access pharmaceutical services.

Current pharmacy outlook

- 5.3.14 Irrelevant to appeal. The picture of pharmacy closures is irrelevant in this application as neither of the pharmacies responding to the appeal will close or have taken part in any collective action by the sector.

Conclusion

- 5.3.15 We continue to argue that the relevant pharmaceutical needs assessment, and the future needs will continue to be met by the two existing pharmacies (Exminster and Alphington pharmacies) near the proposed site. The appeal offers no additional information which can be considered to change the original rejection and is unevidenced and opinion based throughout.”

Exminster Pharmacy Letter to Commissioner dated 30 August 2024

- 5.3.16 “I am writing to object to the application by Bahati 19 Ltd to open a pharmacy in Matford, Exeter in Devon.
- 5.3.17 The new housing development will not require any additional pharmaceutical services which cannot be offered locally by our own pharmacy or that of Alphington pharmacy. The application fails to mention that both our pharmacy and Alphington Pharmacy Ltd are closer to the proposed new site than that of the closed Lloyds pharmacy in Alphington Sainsbury's. When the Lloyds pharmacy was closed, the patients using these services were adequately provided for by the area's existing community pharmacies.
- 5.3.18 Exminster pharmacy can provide for the new housing estate. This is evidenced by the fact we already provide services to the surrounding area and the new residents who have now moved into the new site and Exminster pharmacy continues to have the capacity to service any patients wishing to use our pharmacy once the entire site is complete.
- 5.3.19 We have always had the capacity to deal with increasing town sizes serviced by the pharmacy, for example Exminster itself has increased by 1300 residents since 2001 and we have maintained our excellent level of pharmaceutical services throughout this time.
- 5.3.20 There are no unmet needs of the new site outlined in the current PNA. This states that despite the increase in housing provision it is not anticipated that the increase in housing will significantly impact on the provision of, or access to, the existing pharmaceutical services and it concluded that there is no requirement for further provision. Any identified change in the situation may be addressed by NHS England commissioning or directing existing pharmacies to open for additional hours without the need for a new community pharmacy (and Exminster Pharmacy could accommodate this if required). The PNA was aware of the new housing being built at the time of this statement and there have been no changes to plans from this time.
- 5.3.21 Exminster pharmacy is located within a 7-minute drive or 13-minute cycle from the proposed pharmacy site and has adequate disabled and general parking and is 2.3 miles away, this is supported by the “drive time mapping” from the provision of pharmaceutical services tool, where our hours are more than sufficient to cover the needs of the local population including supplementary hours opening early (8:30) on a week day and opening on a Saturday 9:00 – 12:00. The new application does not offer any additional access.
- 5.3.22 Exminster pharmacy offers all the current advanced services including Pharmacy First, Flu vaccination (NHS and private), Pharmacy Contraception Service, Hypertension case-finding service, New medicines Service and Smoking Cessation Service and have an Independent Prescriber working to allow early adoption of future services such as the Independent Prescribing Pathfinder Service if it becomes available. We always welcome the opportunity to offer any new services and tailor our pharmaceutical provision to any changing population needs.”

5.4 THE COMMISSIONER

- 5.4.1 “Thank you for your letter, received 19 March 2025, addressed to Mr Speight at Primary Care Support England (PCSE) enclosing a copy of the appeal as detailed above. The South West Pharmaceutical Services Regulations Committee (SW Committee) wishes to make the following comments on the appeal.
- 5.4.2 The SW Committee assessed the application against the criteria for Regulation 15 applications and concluded that the PNA does not identify a future need which satisfies the requirements of paragraph 2(b) of Schedule 1, therefore the application is refused as the requirements of regulation 15(1) are not met.
- 5.4.3 Although the PNA discusses population growth and expected development, it does not state this will create a future need for additional pharmaceutical services in the area.
- 5.4.4 Devon HWB has published several [Supplementary Statements](#) for the PNA, referencing the closure of pharmacies in the area. The statements do not, however, indicate whether a gap is or will be created following the closure. There [sic] are a statement of fact only.
- 5.4.5 The SW Committee respectfully requests that the decision to refuse the application is upheld.”

6 Summary of Observations

This is summary of observations received.

6.1 THE APPLICANT

- 6.1.1 “Thank you for the letter regarding the above appeal.
- 6.1.2 As per your email and response here are my comments on this.
- 6.1.3 Devon ICB have said they have not seen any plans for the NEW GP surgery to go on site - This is shocking as it is on the public domain and works have already started on this. See news on Devon live below:
- 6.1.4 https://www.devonlive.com/news/devon-news/new-gp-surgery-exeter-cope-10046309?utm_medium=Social&utm_source=Facebook#Echobox=1742830718
- 6.1.5 It clearly states the new GP surgery is being built to cope with the new housing structure and increase in population. However a pharmacy proposal is being rejected? Furthermore this is the same dynamic as IDE Lane and Exminster surgeries have with the two pharmacies next door. So why stop this one?
- 6.1.6 Did Devon ICB miss this development during their site visit here? The works have already started and one of the lines from this article as well shows additional space is available for other healthcare facilities so what Ide lane pharmacy has stated is not true - see below.
- 6.1.7 "The additional space on the lower ground floor of the surgery is over and above the current needs of the development, but we have included this extra capacity to benefit the local community and NHS by ensuring it is future proof.”

- 6.1.8 I have already applied for this additional space and that's where the pharmacy will be - we are at advanced stages of this. Surely you can see this is for the community and the healthcare for the local growing population.
- 6.1.9 There has been numerous remarks about how long it would take from the site to the other 2 pharmacies - at the moment they have said it's because of the construction traffic and this will end once all is built - Surely have they thought about the congestion there would be on the roads once it's all built up? With works continuing on developments and further developments already planned and additional in the pipeline - construction traffic and an increase in residential traffic is inevitable and will not end. Do you think it'll take the same amount of time to get to these two pharmacies then? I don't think so! I don't think this has even been taken into consideration. Besides would you want to travel to get your prescription if you are ill rather than go to a pharmacy next door?
- 6.1.10 Parking at Haldon Reach site is a lot more than any of the other 2 as previously documented. I have also sent the evidence on how the other 2 pharmacies work - and how the surgeries have restricted parking around there.
- 6.1.11 Choice - In terms of choice- we have seen that the same pharmacy groups use the same suppliers- hence a 'choice' in the area will help when medications are out of stock/not available if sent to other pharmacies. The other pharmacies shouldn't take this as a threat but an opportunity to work alongside each other!
- 6.1.12 On a whole, I think the decision should be reversed and license granted as pharmacy is an essential service and an integral part of the community in general. Haldon reach already has a community spirit here and living on site I feel a pharmacy will work very well.
- 6.1.13 And despite the negative press, negative attitude around the pharmacy business, challenging times I am still wanting to open this- surely you can see this is a passion and a need in the community?
- 6.1.14 Most contractors want to shut their doors and I am asking to open. Surely you can see this?
- 6.1.15 Please do not hesitate to contact me on anything further but I have honestly said what I have wanted to - and you can see how pharmacy is going - no one wants to open one/run one and I am asking for it. I am passionate about the work I do and what I can do for this community.
- 6.1.16 I have hope all this will be taken into consideration and decision reversed."

7 Consideration

- 7.1 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.
- 7.2 It also had before it the responses to NHS Resolution's own statutory consultations.
- 7.3 The Committee had before it a copy of the Devon Pharmaceutical Needs Assessment ("the PNA") 2022 to 2025 dated September 2022 and prepared by Devon Health and Wellbeing Board ("the HWB"), which had been provided by the Commissioner. The Commissioner also provided one Supplementary Statement to the PNA dated November 2023.

- 7.4 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 7.5 The Committee dealt with the appeal by way of consideration of all the issues.
- 7.6 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations").

Regulation 31

- 7.7 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).

- 7.8 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.
- 7.9 The Commissioner in its decision letter concluded that "*it is not required to refuse the application by virtue of Regulation 31*" which the Committee noted had not been disputed by any party.
- 7.10 Therefore the Committee was not required to refuse the application under the provisions of Regulation 31.
- 7.11 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 15

7.12 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.

7.13 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).”

7.14 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.

7.15 The Committee noted that the Devon PNA assesses pharmaceutical services provision in eight local authority areas and as indicated by the Applicant, Matford falls under the Exeter locality.

7.16 The summary on page 6 states:

“In conclusion, Devon’s growing, and ageing population means that the overall demand for health and social care services is likely to increase, particularly in terms of managing long-term conditions. However, pharmacies in Devon are well-placed to deliver healthcare services to their local communities and it is anticipated that the role they play will continue to evolve over the coming years, particularly with changes to future pharmacy and primary care provision. Whilst the core activity of community pharmacies is commissioned by NHS England, they continue to provide a key role for Devon County Council and the Devon CCG, particularly in relation to improving the public’s health and wellbeing and addressing health inequalities.”

7.17 Pages 62 to 67 of the Devon PNA consider the locality of Exeter noting population demographics, health needs overview, mental health, pharmacy provision overview, provision, accessibility, weekday, Saturday and Sunday drive times, housing growth and significant housing developments concluding with a gap analysis for current and future provision.

7.18 Page 67 concludes:

“Future Gap Analysis

Devon considered the following when reviewing future gaps in Pharmacy Provision-

Housing development data in all Districts from local authorities in Devon between 22/23 and 24/25

Consideration given to communications received by the HWB around Pharmacy Provision

Qualitative Analysis of Pharmacy Provision undertaken by Healthwatch

Consideration of current gap analysis.

Current [sic] Gap Analysis Conclusion

The PNA has outlined the planned increases in housing provision across Devon over the next three years. It is not anticipated that the increase in housing will significantly impact on the provision of, or access to the existing pharmaceutical services and it is concluded that there is not requirement for further provision within the time frame of this PNA. However, the situation will be reviewed on a regular basis and supplementary statements published if necessary. Any identified change in the situation may be addressed by NHS England commissioning or directing existing pharmacies to open for additional hours without the need for a new community pharmacy. If the trajectory of planned housing development escalates in Devon, there may be a future need for additional pharmaceutical services."

- 7.19 The Commissioner had also provided one Supplementary Statement dated November 2023 which refers to six pharmacy closures including a Lloyds Pharmacy Ltd, t/a Lloydspharmacy, Alphington Road, Alphington, Exeter, EX2 8NH which closed on 5 June 2023. The Supplementary Statement did not suggest that these closures had led to a gap in pharmaceutical service provision in Exeter or in Matford.
- 7.20 The Committee considered the application and the Applicant's reference to pages 33, 46, 63, 66 and 67 of the Devon PNA.
- 7.21 The Applicant stated "*Page 33 - 1 in 5 people in Devon have a limitation (protected characteristics) hence with the ageing population in Devon even more difficult*"
- 7.22 The Committee verified that this was a paraphrase of one of the statements under paragraph 3.2 Protected Characteristics.
- 7.23 The PNA stated: "*1 in 5 people across Devon indicated some sort of limitation (a little or a lot) in day-to-day activities.*"
- 7.24 The Committee was of the view that this statement in the Devon PNA did not indicate there is a future need for pharmaceutical services to be provided in Matford.
- 7.25 The Applicant stated "*Pages 46, 63 - Lloyds pharmacy (FXF26) have now been shut down in Sainsbury's, Alphington- more of Boots are now being sold/shut too at present.*"
- 7.26 The Committee noted that page 46 of the Devon PNA considered pharmacy coverage, ownership, services, openings and closures and some dispensing figures. The Committee is mindful that there was nothing specific to Matford, or the Lloyds pharmacy (FXF26) or any Boots pharmacy closures in Matford on this page.
- 7.27 The Committee noted that page 63 of the Devon PNA gave a pharmacy provision overview for the Exeter locality, which Matford falls within.

- 7.28 The Committee is mindful that there was nothing specific to Matford, or the Lloyds pharmacy (FXF26) or any Boots pharmacy closures in Matford on this page.
- 7.29 The Committee is mindful that the Supplementary Statement of November 2023 does reference the closure of Lloyds pharmacy (FXF26) in June 2023. However, the Supplementary Statement did not make any indication that the closure of Lloyds pharmacy (FXF26) had created a gap in pharmaceutical services provision in Matford.
- 7.30 The Committee was of the view that pages 46 and 63 in the Devon PNA did not indicate there is a future need for pharmaceutical services to be provided in Matford.
- 7.31 The Applicant stated "*Page 66 - talking about Exeter houses being built up to *5780 by 2025.*"
- 7.32 The Committee reviewed page 66 of the Devon PNA and verified the Applicant's summary.
- 7.33 Page 66 states: "*Local Authority Update. There are extensive housing developments proposed in Devon over the period to the early 2030s. In Exeter, 5780 dwellings are estimated to be built by 2025.*"
- 7.34 The Committee noted that there was no specific reference to Matford. The statement considered the locality of Exeter in the round. Therefore, the Committee was of the view that this statement in the PNA did not indicate there is a future need for pharmaceutical services to be provided in Matford.
- 7.35 The Applicant stated "*Page 67 - talking about the new housing being built and the pharmaceutical needs changing. of the HWB's pharmaceutical needs assessment.*"
- 7.36 The Committee reviewed page 67 of the Devon PNA noting the typographical error in the title when considering the future gap analysis conclusion which stated in the title "*Current Gap Analysis Conclusion*" rather than "*Future Gap Analysis Conclusion*"
- 7.37 The Devon PNA stated "*It is not anticipated that the increase in housing will significantly impact on the provision of, or access to the existing pharmaceutical services and it is concluded that there is not requirement for further provision within the time frame of this PNA. However, the situation will be reviewed on a regular basis and supplementary statements published if necessary. Any identified change in the situation may be addressed by NHS England commissioning or directing existing pharmacies to open for additional hours without the need for a new community pharmacy*" and then concluded that "*If the trajectory of planned housing development escalates in Devon, there may be a future need for additional pharmaceutical services.*"
- 7.38 The Committee was of the view that the summary for the Exeter locality, by using the words "*there may be a future need*" did not indicate there is a future need and specifically in Matford, as Regulation 15 requires. Further the Committee was mindful that there have been no supplementary statements which have identified a future need in terms of the housing developments in the Matford area. The Committee cannot speculate as to the content but is mindful that a new PNA is due to be published later this year.
- 7.39 The Committee was of the view that the statement on page 67 of the Devon PNA did not indicate there is a future need for pharmaceutical services to be provided in Matford.
- 7.40 The Committee noted the Applicant had provided extensive information in its 14 days comments to the Commissioner in response to the parties comments on the application and also in its appeal. The Applicant provided its view on the existing provision of pharmaceutical services in the Matford area including:

- 7.40.1 its offer of services,
 - 7.40.2 opening times, delivery services, ownership of and parking at existing pharmacies,
 - 7.40.3 pharmacy closures,
 - 7.40.4 its perceived pharmacy pressures,
 - 7.40.5 transport challenges,
 - 7.40.6 housing development,
 - 7.40.7 quotes from Health Watch and
 - 7.40.8 media commentary regarding the pharmacy industry.
- 7.41 The Committee also had regard to the responses provided by the parties in all these areas. The Committee acknowledged the Applicant's clear intention to provide pharmaceutical services for the community in Matford. However, as the Committee, was of the view that the Devon PNA had not identified a future need in the PNA, which is required for an application submitted under Regulation 15 to be successful. The Committee was therefore unable to take any of this information into account as it was not relevant to the criteria which should be considered specifically for a Regulation 15 application.
- 7.42 The Committee determined that the need in question was not included in the PNA dated September 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."*
- 7.43 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.
- 7.44 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.
- 7.45 The Committee therefore did not proceed to consider the application having regard to those matters set out in 15(2).
- 7.46 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 7.46.1 confirm the Commissioner's decision;
 - 7.46.2 quash the Commissioner's decision and redetermine the application;

- 7.46.3 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 the Commissioner.
- 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 determined that the application should be refused for the following reason:
 - 8.3.1 The Devon 2022-2025 PNA has not identified a future need which this application could meet.
- 8.4 Accordingly, the application is refused.

Case Manager
Primary Care Appeals