

3 June 2025

FILE REF:

SHA/26577

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

COMMISSIONER:

**HAMPSHIRE AND ISLE OF WIGHT
ICB
("the Commissioner")**

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

PHARMACIST:

**JCL (UK) LTD T/A LALYS PHARMACY (FHH02)
("the Applicant")**

PREMISES:

**113 LONDON ROAD
PORTSMOUTH
PO2 0BN**

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

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

Outcome

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

A copy of this decision is being sent to:

JCL (UK) Ltd t/a Lalys Pharmacy
South East Commissioning Hub

FILE REF: SHA/26577

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

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

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

1 Introduction

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

Rights of appeal

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

Opening hours

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

- 1.5.2 “supplementary” opening hours (other hours during which the pharmacy premises are open which are in addition to the core hours), pursuant to paragraph 23(3) of Schedule 4 of the Regulations.

Alteration of core opening hours

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

Alteration of supplementary opening hours

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

The Applicant's proposals

- 1.11 The Applicant in its letter of appeal indicates that it currently has core opening hours totalling 40 hours per week.
- 1.12 The Applicant wishes to:
- 1.12.1 Increase its current afternoon opening times on Monday to Friday by opening at 2pm instead of 2.15pm. Thus adding 15 minutes on to each week day.
 - 1.12.2 Decrease its current closing time on Saturday from 12.45pm to 11.30am. Thus reducing the opening time by 1 hour 15 minutes on a Saturday.

2. Application

In this case, the Applicant provided the following information in its application form and supporting information dated 27 January 2025:

- 2.1 “This is an application to permanently change core opening hours.
- 2.2 Current opening hours for these premises:

Monday	09:00 to 13:00 14:15 to 17:30
Tuesday	09:00 to 13:00 14:15 to 17:30
Wednesday	09:00 to 13:00 14:15 to 17:30
Thursday	09:00 to 13:00 14:15 to 17:30
Friday	09:00 to 13:00 14:15 to 17:30
Saturday	09:00 to 12:45
Sunday	-

2.3 Proposed core opening hours for these premises:

Monday	09:00 to 13:00 14:00 to 17:30
Tuesday	09:00 to 13:00 14:00 to 17:30
Wednesday	09:00 to 13:00 14:00 to 17:30
Thursday	09:00 to 13:00 14:00 to 17:30
Friday	09:00 to 13:00 14:00 to 17:30
Saturday	09:00 to 11:30
Sunday	-

2.4 If this is a permanent change, please state below the date from which you would like the change to take effect: 1 March 2025.

2.5 “We believe provision is also needed during the lunchtime hours in the weekday, secondary to patient demand and access needed for services like Pharmacy first, NMS, Medicine Collections etc.

2.6 Saturday core provision has been lowered secondary to reduced need of core provision, also neighbouring pharmacies are still providing this cover.”

3. The Decision

In a letter to the Applicant dated 11 March 2025 the Commissioner decided to refuse the application. The Commissioner stated:

3.1 “I write with reference to your application to permanently change the Core hours for JCL (UK) Ltd t/a Lalys Pharmacy 113 London Road, Portsmouth, PO2 0BN received on 29 January 2025.

3.2 Hampshire and Isle of Wight Integrated Care Board (ICB), has considered the above application and I am writing to confirm that it has been refused.

3.3 REASON FOR THE DECISION

- 3.4 Your application has been refused on the grounds that you have not met the requirements set out in paragraph 24, Schedule 4 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.
- 3.5 There was no information as part of the application to describe the existing level of service provision. The Committee therefore agreed that it could not determine if it was necessary to maintain the existing level of service provision.
- 3.6 Following the refusal of the core hours application, the supplementary hours notification will be recorded as withdrawn.
- 3.7 **RIGHT OF APPEAL**
- 3.8 You have a right of appeal to the Secretary of State against the decision of Hampshire and Isle of Wight Integrated Care Board (ICB). Should you choose to appeal then you should send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to:
- 3.9 NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU or email: nhsr.appeals@nhs.net
- 3.10 If you have any questions, please contact [MM] using the contact details at the top of this letter.”

Decision Report

- 3.11 **“32.2 JCL UK Ltd t/a Lalys Pharmacy (FHH02).**
- 3.12 Application to permanently change the core & supplementary opening hours.
- 3.13 113 London Road, Portsmouth, PO2 0BN.
- 3.14 **Change of Core Hours and supplementary hours**
- 3.15 Application by Lalys Pharmacy (FHH02), 113 London Road, Portsmouth, PO2 0BN received on 29th January 2025 to change core hours.

Current core hours

Mon-Fri: 09:00-13:00 14:15-17:30

Sat: 09:00-12:45

Sun: None

Proposed Core Hours

Mon-Fri: 09:00-13:00 14:00-17:30

Sat: 09:00-11:30

Sun: None

- 3.16 **Application**
- 3.17 The Committee noted that the overall effect of the change would be that the pharmacy would open at lunchtimes between 13:00-14:15 and to reduce core hours to 09:00-11:30 on Saturdays. [sic]
- 3.18 The Committee also noted that associated changes to supplementary hours had been notified. However, these were not taken into account given that the pharmacy could change those opening times by giving 5 weeks' notice.
- 3.19 As part of the application, the applicant provided the following information:

3.20 *“There is very minimal activity and footfall between 12:00 and 1pm on Saturday. The change of hours will have no effect on Patients/Customers, we have an alternative Branch located on Kingstan Road (6 min Drive) which is open 9am to 4pm on Saturdays.”*

3.21 **Regulations**

3.22 **Schedule 4, Part 3, Regulation 26** of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended, state that a pharmacist must introduce the changes not earlier than 30 days after the date on which the pharmacy receives notification of the decision.

3.23 **Schedule 4, Paragraph 24(1)** *to ensure that the days and times at which pharmacy premises are open for the provision of pharmaceutical services in the area in which the premises that are the subject of the direction are located are such as—*

3.23.1 *e. to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises; or*

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

3.24 **Consideration**

3.25 The Committee first considered that to assess the application against Paragraph 24(1)(a), it needed to determine the existing level of service provision. It could then consider whether it is necessary to maintain the existing level of service provision and if so, whether the proposed change would maintain the existing level of service provision. Matters to consider in relation to the level of service provision would include days and times services are provided, the types and range of services provided, geographical access to services provided, other aspects of physical access aside from location, and the quality of services provided.

3.26 There was no information as part of the application to describe the existing level of service provision. The Committee therefore agreed that it could not determine if it was necessary to maintain the existing level of service provision.

3.27 The Committee further agreed that it could not conclude that the change in core hours would maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises.

3.28 The Committee then went on to consider Paragraph 24(1)(b). Given that there was no information provided as part of the application to describe the current level of service provision, the Committee could not conclude that the change in core hours would maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.

3.29 **Decision**

3.30 The application to change core hours was therefore refused.”

4. **The Appeal**

In a letter to NHS Resolution dated 27 March 2025 the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

4.1 “Summary of Proposed Changes

4.2 Our application proposed two modest amendments to better align our hours with actual service demand: - Weekdays: Modify the lunch break to provide continuous access, opening from 14:00 instead of 14:15 (i.e., 15 minutes earlier reopening). - Saturdays: Reduce core hours from 09:00–12:45 to 09:00–11:30, based on consistently low demand in the later portion of the morning. The weekday amendment increases access by reducing downtime, while the Saturday amendment reflects responsible adaptation to patient behaviour.

4.3 Existing Level of Service Provision (19 October 2024 – 18 January 2025)

4.4 We analysed service activity on Saturdays between 11:30 and 12:45 at Lallys Pharmacy, 113 London Road, during the 3-month period from 19 October 2024 to 18 January 2025. Our records show consistently low and non-essential interactions, with no NHS clinical services or prescription dispensing activity during this timeframe.

Saturday Date	Activity (11:30–12:45)	Description
19 Oct 2024	1	Customer asked about plasters for a hiking trip — directed to retail shelf.
26 Oct 2024	0	—
2 Nov 2024	1	Enquiry about how to use a digital thermometer — suggested user manual/website.
9 Nov 2024	0	—
16 Nov 2024	1	Parent asked if child vitamins should be taken with food — went through guidance
23 Nov 2024	0	—
30 Nov 2024	1	Individual asked if we offer ear piercings — booked accordingly
7 Dec 2024	0	—
14 Dec 2024	1	Customer asked about festive opening times — provided leaflet, details and info on website.
21 Dec 2024	1	Patient queried delivery for previously arranged prescription — confirmed

		delivery already booked for 23rd Dec.
28 Dec 2024	0	—
4 Jan 2025	0	—
11 Jan 2025	1	Enquiry about travel vaccines — directed to Lalys Guildhall Walk branch and website.
18 Jan 2025	0	—

4.5 **Conclusion**

- 4.6 This data confirms that: - Pharmaceutical services are not being sought during this time window. - Patients' needs can be and are being met during earlier core hours or by our wider network. - The Saturday window of 11:30–12:45 can be responsibly reduced without compromising access to NHS services or continuity of care.

4.7 **Enhanced Weekday Access**

- 4.8 As part of the application, we proposed reducing our weekday lunch break by 15 minutes, reopening at 14:00 instead of 14:15. This change improves access, particularly for working individuals and carers, and provides better alignment with school and work break patterns.

4.9 **Continued Access via Nearby Branches**

- 4.10 For any Saturday patient needing access beyond 11:30, we provide alternative nearby services including our Lalys Pharmacy at Kingston Road (6-minute drive) and Guildhall Walk branch, both of which offer extended hours. This ensures continuity of service and geographical access is maintained.

4.11 **Regulatory Compliance – Schedule 4, Paragraph 24**

- 4.12 We believe our revised submission clearly satisfies the requirements under Schedule 4, Paragraph 24 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013: - 24(1)(a): The existing level of service on Saturdays from 11:30–12:45 is not required to be maintained due to low demand and non-essential usage. - 24(1)(b): Our wider network and operational hours ensure a sustainable level of adequate service provision for the people in the area.

4.13 **Request for Reconsideration**

- 4.14 We respectfully request that this appeal be upheld, and that our application to amend the core hours be approved based on clear evidence of limited demand, continued service access, and operational efficiency that aligns with actual patient behaviour. Please let us know if any further clarification or documentation is needed.”

5. **Representations**

No representations were received by NHS Resolution in response to the circulation of the appeal.

6. Consideration

6.1 I note the following:

6.1.1 The Applicant's core opening hours total 40 hours and the Applicant proposes to redistribute those 40 core opening hours pursuant to paragraph 26 of Schedule 4. The Applicant seeks to provide services as per its proposed changes in the table at paragraph 2.3 above.

6.2 The Applicant proposes to:

6.2.1 Increase its current afternoon opening times on Monday to Friday by opening at 2pm instead of 2.15pm. Thus adding 15 minutes on to each week day.

6.2.2 Decrease its current closing time on Saturday from 12.45pm to 11.30am. Thus reducing the opening time by 1 hour 15 minutes on a Saturday.

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

6.4 Paragraph 26(1) states:

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

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

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

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

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

6.6 Paragraph 24(1) reads as follows:

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

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

(b) to maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in

circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.

6.7 Paragraph 24(2) states:

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

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

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

6.8 I will start by considering the application of paragraph 24(1)(a) and whether the proposed hours are such as to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises. I will then consider the application of 24(1)(b) if that is required.

6.9 To properly assess the application against paragraph 24(1)(a), I need to determine the existing level of service provision. I then need to consider whether it is necessary to maintain the existing level of service provision. If it is necessary to maintain the existing level of service provision, I need to consider whether, despite the proposed change of hours, the existing level of service provision to people in the area or other likely users would be maintained, e.g. by nearby pharmacies being open and providing the same level of service provision.

6.10 If I consider it unnecessary to maintain the existing level of service provision or that it is necessary to maintain the existing level of service provision but doing so is not a realistically achievable outcome, then I need to consider paragraph 24(1)(b) and determine whether the proposed change of hours are such that a sustainable level of adequate service provision would be maintained.

6.11 I therefore need to be provided with sufficient information to understand a range of matters, starting with the existing level of service provision. The references to days and times in paragraph 24(1) leads me to consider that the reference to "level" of service provision in paragraph 24(1)(a) is mainly focused on the days and times services are provided. I would point out that "level" of service provision could also refer to other characteristics of the service, such as types and range of services provided, geographical access to services provided, other aspects of physical access aside from location, and the quality of services provided.

6.12 The existing level of service provision has been outlined by the Applicant, in its own core hours provision. The Commissioner has also provided a copy of its paperwork which contains a list of the nearest pharmacies with an indication of the core hours that pharmacies in the local area are open.

6.13 I have next considered whether it is necessary to maintain the existing level of service provision. It could be argued that as the Applicant is not looking to reduce the number of hours each week that services are provided, then from a pure "number of hours of service provision each week" perspective, the existing level of service provision is maintained such that consideration of whether it is necessary to maintain the level of service provision is not needed.

6.14 However, the Applicant is applying to change the days and times that services are provided. Taking Saturday as an example, the level of service provision at the Applicant's premises on a Saturday is not being maintained. I consider it appropriate to determine if it is necessary to maintain the existing level of service provision and then,

if deemed necessary, consider if the opening hours of other pharmacies mean that level is maintained.

- 6.15 To determine whether it is necessary to maintain the existing level of service provision, I have had regard to the comments by the Applicant of those using the pharmacy. If I am satisfied that there is reliable evidence indicating no users of the pharmacy on/at the relevant days/times that the pharmacy wishes to close, this might support an argument that maintaining the existing level of service provision is not necessary.
- 6.16 I note the Applicant in its appeal states *"We analysed service activity on Saturdays between 11:30 and 12:45 at Lalys Pharmacy, 113 London Road, during the 3-month period from 19 October 2024 to 18 January 2025. Our records show consistently low and non-essential interactions, with no NHS clinical services or prescription dispensing activity during this timeframe"*. The Applicant has also provided a copy of its record of patient interactions which showed a low number of people using the pharmacy at the relevant times (i.e. one contact in seven of the 14 weeks). Given that the Applicant has accepted that there is some demand, albeit this is limited, and that there are people using the pharmacy at the times that it wishes to close, I am of the view that it is necessary to maintain the existing level of service provision.
- 6.17 I now need to consider if, despite the changes to hours, there is maintenance of the existing level of service provision. The Applicant cannot maintain this as it is changing its hours but I note the information from the Applicant and in the Commissioners paperwork with regard to other pharmacies in the area that, between them, have opening hours during the times that the Applicant is proposing to close, namely Lalys Pharmacy, 4-6 London Road, 0.2 miles (300 metres), Rowlands Pharmacy, 92 Kingston Crescent, 0.3 miles (less than 500 metres) and Allied Pharmacy, 294 London Road, 0.4 miles (650 metres). A further eight pharmacies between 0.6 to 1.5 miles (960m to 2.4 kilometres) have opening hours on Saturdays including two 100 hour pharmacies.
- 6.18 If I consider that the characteristics of other pharmacies, e.g. where they are located, their access, the services provided and the times they are open, means that the level of service provision is maintained for people in the local area or other likely users of the pharmacy, then I am able to grant the application under paragraph 24(1)(a).
- 6.19 The Applicant states in its appeal that *"For any Saturday patient needing access beyond 11:30, we provide alternative nearby services including our Lalys Pharmacy at Kingston Road (6-minute drive) and Guildhall Walk branch, both of which offer extended hours. This ensures continuity of service and geographical access is maintained."*
- 6.20 The Regulations indicate that I may take supplementary opening hours into consideration, however I am mindful that supplementary hours may be altered by the pharmacy by giving notice to the Commissioner in accordance with paragraph 23(6)(a) of Schedule 4 without the need to make an application. On this basis, I have not placed weight on the provision of pharmaceutical services on a Saturday at Lalys Pharmacy, 4 – 6 London Road, 0.2 miles (300 metres) and R J Berry Chemist, 145 Sultan Road, 0.6 miles (1 kilometre).
- 6.21 The Applicant has not provided any information on how patients might travel but I consider it likely that there will be a mix of people who drive to the Applicant's pharmacy, those who use public transport and those who walk. For those on foot wishing to access an alternative pharmacy after 11.30am there are six pharmacies providing core hours which are 0.7 miles to 1.3 miles away. Also I note that in the Commissioner's paperwork shows there are two 100 hour pharmacies which are located slightly further away but which have core hours on a Saturday (Asda Pharmacy, The Bridge Shopping Centre,

from 9am to 12.30pm, 1pm to 4.30pm and 5pm to 9pm and Lallys Pharmacy, 1 Guildhall Walk, from 9am to 12:00pm; 1pm to 2pm, 3pm to 4pm and 5pm to 9pm).

- 6.22 It is worth noting that characteristics of the persons using the pharmacy might be relevant here as well as from where they start their journey to the pharmacy. I do not consider that every single individual need should be considered at length in this regard but it would be helpful to have this information to be certain that the existing level of service provision would be maintained via local pharmacies. Having reviewed the application and appeal, I have no information on the routes involved to walk to the nearest pharmacies, for example, whether there is sufficient street lighting, dropped kerbs and pedestrian crossings where necessary, nor the length of time it will take. No information has been provided in relation to car ownership, parking facilities or the routes involved for those with access to a car and no information has been provided on the provision of public transport in the area, which patients may use when travelling to the other pharmacies.
- 6.23 Based on the information above, I am therefore struggling to be satisfied that the existing level of service provision would be maintained by virtue of the existence of other local pharmacies.
- 6.24 I have decided that it is necessary to maintain the current service provision but, due to the effect of:
- 6.24.1 limited information regarding the journey to alternative pharmacies whether on foot or by public or private transport
- I am not satisfied that there will be maintenance of the existing level of service provision by virtue of other pharmacies in the area at times the Applicant is wishing to close
- 6.25 I therefore next consider if I need to have regard to paragraph 24(1)(b) which states that I must seek to ensure that the changed hours are such as to:
- “maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome”.*
- 6.26 I have already determined that it is necessary to maintain the existing level of service provision so reference in paragraph 24(1)(b) to *“in circumstances where maintaining the existing level of service provision is ... unnecessary”* is not relevant.
- 6.27 On the point of whether maintaining the existing level of service provision is not a realistically achievable outcome, I consider that no evidence has been put forward in respect of this criteria.
- 6.28 The wording of paragraph 24(1)(b) is such that maintaining existing service levels must not be realistically achievable before considering a sustainable level of adequate provision. I consider that this sets a fairly high bar as to the level of difficulty that the Applicant must find themselves in. I do not consider that sufficient evidence has been provided to indicate that the economic and practical viability of the current opening hours has been compromised for example. I therefore consider that maintaining the existing level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b).
- 6.29 I am mindful that the provision of pharmaceutical services is greater than the dispensing of prescriptions and that maintaining a level of service provision includes all services that the pharmacy may offer, including additional enhanced and advanced services that may be commissioned. I am of the view that I have not been provided

with sufficient information to demonstrate how the proposed change of hours would maintain, as necessary, the existing levels of service provision.

7. Determination

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

7.2 The action taken by the Commissioner to refuse the application is confirmed.

**Head of Appeals
NHS Resolution**