

18 July 2025

REF: SHA/ 26603

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**APPEAL AGAINST SOMERSET ICB DECISION TO
REFUSE AN APPLICATION BY SHAVARATH LIMITED
FOR A RELOCATION THAT DOES NOT RESULT IN A
SIGNIFICANT CHANGE TO PHARMACEUTICAL
SERVICES PROVISION UNDER REGULATION 24 FROM
14-16 TAUNTON ROAD, BRIDGWATER, SOMERSET
TA6 3LS TO 11 FORE STREET, BRIDGWATER,
SOMERSET TA6 3NQ**

1 Outcome

- 1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decision of the Commissioner and redetermines the application.
- 1.2 The Committee determined that the application should be granted.

A copy of this decision is being sent to:
Pharmacy Sales & Consultancy on behalf of Shavarath Limited
PCSE on behalf of Somerset ICB

REF: SHA/ 26603

APPEAL AGAINST SOMERSET ICB DECISION TO REFUSE AN APPLICATION BY SHAVARATH LIMITED FOR A RELOCATION THAT DOES NOT RESULT IN A SIGNIFICANT CHANGE TO PHARMACEUTICAL SERVICES PROVISION UNDER REGULATION 24 FROM 14-16 TAUNTON ROAD, BRIDGWATER, SOMERSET TA6 3LS TO 11 FORE STREET, BRIDGWATER, SOMERSET TA6 3NQ

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1 The Application

By application dated 29 November 2024, Pharmacy Sales & Consultancy on behalf of Shavarath Limited ("the Applicant") applied to Somerset ICB ("the Commissioner") for a relocation that does not result in a significant change to pharmaceutical services provision under Regulation 24 from 14-16 Taunton Road, Bridgwater, Somerset TA6 3LS to 11 Fore Street, Bridgwater, Somerset TA6 3NQ. In support of the application it was stated:

In response to why the application should not be refused pursuant to Regulation 31 the applicant stated "N/A. *There is no other pharmacy within the same or adjacent premises*".

Under the heading, 'Information in support of all no significant change applications', the Applicant stated:

1.1 **"Current location: 14-16 Taunton Road, Bridgwater, Somerset, TA6 3LS.**

1.2 ***Proposed location: 11 Fore Street, Bridgwater, Somerset TA6 3NQ***

1.3 Background

1.4 Our client, Shavarath Limited, acquired the pharmacy at 14-16 Taunton Road from Lloyds Pharmacy in September 2023.

1.5 The lease for the current premises expires in spring 2025 and our client has been in discussions for some time in an attempt to secure new lease terms for the property. Unfortunately the Landlord's expectations in respect of rent are unrealistic in the current financial climate and would render our client's pharmacy unviable in the medium term.

1.6 As a result it has been necessary for our client to identify alternative premises to ensure the pharmacy is able to continue trading. Our client has therefore instructed PSC to submit this application for a no significant change relocation to those premises.

1.7 Local Area

1.8 The current location for the pharmacy is on Taunton Road, at the southern edge of Bridgwater town centre. The premises are adjacent to the Taunton Road Medical Centre but otherwise there is minimal supporting trade on Taunton Road, with the majority of amenities being north of Broadway, in the direction of the town centre.

- 1.9 An image of the current premises is provided below: [appendix A].
- 1.10 Taunton Road largely comprises substantial detached and semi-detached Victorian properties, some of which have been converted to business use, but the majority remain as residential premises.
- 1.11 Heading north towards the town centre, there is a petrol station 120m away at the junction with Broadway and to the west is a Morrisons supermarket, which is located to the rear of the surgery and pharmacy site. Otherwise amenities south of Broadway are limited.
- 1.12 To the north of Broadway, the area quickly becomes much more commercial in nature, with the section of Taunton Road approaching Friarn Street marking the start of the main town centre shopping area, with a range of largely independent shops, food outlets and a care home.
- 1.13 Continuing north, the area becomes increasingly commercial until reaching Fore Street which marks the main town centre shopping area, with major retailers, banks, coffee shops and other well-known brands being located very close to the proposed premises.
- 1.14 An image of the proposed premises is provided below [appendix A]. As can be seen this is within the pedestrianised central shopping area of the town centre.
- 1.15 The proposed premises are 550m from the current premises by the shortest practicable route. We discuss this journey further below.
- 1.16 People who travel to our client's pharmacy at present will typically travel by car. However some patients may use public transport and others may walk so we have considered the arrangements in place at both the existing and proposed premises.
- 1.17 In terms of public transport, there are bus routes that run along Taunton Road and stops within 200m of the current premises, depending on which direction people are travelling. At the proposed location there are also bus stops within 200m, on High Street, to the west of the premises and on Eastover, a short distance to the east of the premises. We discuss travel by bus later.
- 1.18 For motorists, there is patient car park at Taunton Road medical centre that is used by pharmacy patients. At the proposed location, given its location within the heart of the town centre, there are numerous parking options including a public car park on Dampiet Street, 150m away from the proposed premises.
- 1.19 We discuss accessibility for pedestrians later when considering individual patient groups.
- 1.20 The nature of the area can be seen in the aerial view below, where the current premises are marked with a green star, and the proposed premises with a red star [appendix A].
- 1.21 The area is essentially flat, as can be seen from the topographic map below where again the current site is marked with a green star and the proposed site is marked with a red star [appendix A]. There is no more than 5 metres difference in elevation between the two sites.
- 1.22 It is clear that there are no barriers to movement for pedestrians by way of any hills or inclines.

- 1.23 There are dropped kerbs, wide pavements and street lighting throughout the area and all major roads benefit from light-controlled pedestrian crossings. Movement for pedestrians is very straightforward around the whole area.
- 1.24 *The journey between the two sites*
- 1.25 Whilst Regulation 24 does not require the ICB to have specific regard to the distance or journey between the sites, this information is useful, not least because it allows the decision maker to have regard to patients whose journey takes them past the existing location on the way to the proposed location. This, therefore, illustrates the maximum additional distance any person may need to travel to access the proposed site.
- 1.26 Pedestrians
- 1.27 For those people on foot, the journey from the existing premises to the proposed premises is a straightforward one as follows:
- 1.28 Leaving the current premises turn left on Taunton Road and walk 140m north along Taunton Road to Broadway. Use the light-controlled pedestrian crossing over Broadway then continue a further 160m north to a mini-roundabout at the junction with Dampiet Street. Turn right along Dampiet Street and walk for 150m to King Street then turn left and walk 100m north to the proposed premises which are at the junction of King Street and Fore Street.
- 1.29 The image below [appendix A] shows the journey between the existing and proposed sites and provides an estimated walk-time of 9 minutes.
- 1.30 Motorists
- 1.31 Many patients visit the existing premises by motor vehicle, so we have considered the impact of the proposed relocation for motorists.
- 1.32 As discussed earlier, both the existing and the proposed sites benefit from patient parking near to the pharmacy. At the proposed site, not only is there a car park a very short distance away on Dampiet Street, but there are also three short-stay spaces on King Street within 50m of the proposed premises, which are free of charge for 30 minutes.
- 1.33 As the existing and proposed premises are so close, the journey to access either premises by car would not be materially different. The drive between the two sites is less than 5 minutes under normal traffic conditions.
- 1.34 It is clear, therefore, that the proposed premises are easily accessible for patients travelling by car.
- 1.35 Public Transport
- 1.36 The nearest bus stops to the current site are located 70m to the north (for buses heading south, away from the town centre) and 200m to the south for buses heading towards the town centre.
- 1.37 The main routes served at these stops are 21/21a and B1, with 3 buses departing per hour on average. Both routes travel to and from the town centre, with the nearest stops serving routes 21/21A being located on High Street, 200m away from the proposed premises. Route B1 stops on Eastover, 100m away from the proposed premises.

- 1.38 The journey time by bus is 3-5 minutes and the maximum single fare is £2 although many bus users travel with reduced fare arrangements, or free travel in the case of bus pass holders.
- 1.39 Patients attending the existing site by bus will very easily be able to access the proposed site. In many cases they will have used routes 21/21A or B1 to travel from their home, so they can simply alight a couple of stops earlier or later depending on their direction of travel.
- 1.40 It is clear, therefore, that the proposed premises are easily accessed by users of public transport.
- 1.41 When considering accessibility, it is important to bear in mind the following matters:
- 1.41.1 The proposed site is in the heart of the town centre, where residents of the town itself and surrounding villages travel regularly for shopping and to access other amenities.
- 1.41.2 The flat terrain of the area is such that it is very easy to travel around on foot or by bicycle. There are no barriers to movement for pedestrians or cyclists.
- 1.41.3 Both locations benefit from easy car parking, so are equally accessible for car users.
- 1.41.4 The area is well served by public transport, so is very easy to travel around for any resident who does not have a car and does not wish, or is unable, to walk.
- 1.42 **Part 8 of the application form**
- 1.43 **Regulation 24(1)(a)** requires the ICB to consider whether:
- 1.44 *“for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible”*
- 1.45 We are required, therefore, to consider the patient groups who use the existing pharmacy and the impact of the relocation on each of them to ensure that the proposed location is not significantly less accessible.
- 1.46 The NHSLA has produced a guidance note for use by its committees in respect of applications made under Regulation 24. This note gives specific consideration to the matter of patient groups and accessibility. In a recent judicial review of an application made under this regulation, Mr Justice Langstaff stated that he was broadly in agreement with the approach set out in this guidance note. Furthermore he stated that patient groups should be defined in such a way that the decision maker can assess the impact of the proposed relocation on accessibility for those patient groups. For that reason patient groups should not be defined arbitrarily but according to how and why people access pharmaceutical services.
- 1.47 Whilst the guidance note is not prescriptive in respect of patient groups, the following are provided as illustrations of matters that may be taken into account when defining them:
- 1.47.1 a. local GP practices;
- 1.47.2 b. methods of travel (on foot, by car, or public transport);

- 1.47.3 c. types of pharmaceutical services accessed (dispensing/collection and delivery);
 - 1.47.4 d. the location of the patient group's geographic starting point of the journey to the pharmacy;
 - 1.47.5 e. demography;
 - 1.47.6 f. care homes; and/or
 - 1.47.7 g. areas of deprivation
- 1.48 Taking these factors into account our proposed patient groups are as follows:
- 1.48.1 Patients receiving a delivery service.
 - 1.48.2 Patients attending the Taunton Road Medical Centre and subsequently seeking pharmaceutical services.
 - 1.48.3 Patients attending other Bridgwater surgeries and subsequently seeking pharmaceutical services.
 - 1.48.4 Patients living within the vicinity of the pharmacy who use it because it is close to home.
 - 1.48.5 Patients who wish to access advanced or locally commissioned services from the pharmacy.
 - 1.48.6 Patients who share protected characteristics.
- 1.49 For each of the patient groups we have considered the implications of the proposed relocation.
- 1.50 **Patients receiving a delivery service or other 'non face-to-face services'**
- 1.51 A proportion of the current pharmacy's prescriptions are handled via its long-standing delivery service.
 - 1.52 These deliveries include patients whose medication is supplied in 'trays' as part of a DDS (domiciliary dosage system) and any resident in a care home who are unable to access the pharmacy in person.
 - 1.53 For these people, the service will remain the same regardless of where they live. The collection/delivery service will remain unchanged as a result of this relocation.
 - 1.54 It is clear, therefore, that for this patient group pharmaceutical services will remain as accessible as they are currently following the relocation.
 - 1.55 We can also confirm that those other essential services that can be carried out through the delivery service (such as the collection of unwanted medication) will continue to be provided in the same manner after the relocation.
 - 1.56 Patients receiving essential services that do not involve visiting the pharmacy in person (such as telephoning for public health, signposting or self-care advice) will also continue to receive these services in exactly the same way from the new premises.

- 1.57 Finally, patients who receive essential services face-to-face will belong to one of the other patient groups that have been identified and are therefore dealt with below.
- 1.58 **Patients attending the Taunton Road Medical Centre and subsequently seeking pharmaceutical services.**
- 1.59 Below is a table showing prescriptions dispensed by the pharmacy at its current location for the month of August 2024, which is the latest data available at the time of collating this document (source Pharmdata).
- 1.60 The pharmacy dispensed a total of 4,241 prescription items for that month.

GP Practice	Items Dispensed from Practice	% of Total Items dispensed by Taunton Road Pharmacy in June 2024
Taunton Road Medical Centre	3,737	88.1%
East Quay Medical Centre	133	3.1%
Cranleigh Gardens Medical Centre	109	2.6%
Other combined surgeries	262	6.2%

- 1.61 Unsurprisingly the Taunton Medical Centre is the largest source of prescriptions for our client's pharmacy by a long way.
- 1.62 Clearly not all of these items are dispensed following an appointment at the medical centre, as some of them will be repeat items for which there has been no appointment at the surgery. Those patients will belong to one of the other patient groups described below.
- 1.63 For those patients who do attend an appointment at this medical centre it our client's position that the proposed premises are not significantly less accessible than the current premises.
- 1.64 As we have described above, the current location for the pharmacy is adjacent to this medical centre so it is accepted that patients who visit the medical centre first will have further to travel to access our client's pharmacy at the proposed location. However, it is also noteworthy that, being located within a rural part of the country, the surgery has a large catchment area. The surgery website describes this as being "approximately 6.5 miles from the Surgery" and this area is shown on the map below [appendix A] from the surgery website:
- 1.65 Given the size of the catchment area it is clear that many patients travel a long way to access this medical centre. For these patients a journey of no more than 550m to access the pharmacy at the proposed location will not be material in the context of their overall journey. Furthermore, as the pharmacy will be located within the heart of the town centre where patients are accustomed to accessing many of their requirements, it will be a location they are familiar with and easily able to access.

- 1.66 So, whilst it may be the case that the pharmacy will be a little further away in the proposed location, we submit that it will not be significantly less accessible.
- 1.67 **Patients attending other Bridgwater surgeries and subsequently seeking pharmaceutical services**
- 1.68 Cranleigh Gardens and East Quay surgeries (shown in the table above) are located on the eastern side of the river, between half a mile and a mile away from the current pharmacy location. The proposed location is equidistant from Cranleigh Gardens and closer to East Quay so will be at least as accessible for patients attending these medical centres.
- 1.69 There is a medical centre to the south of the current site (Somerset Bridge) but very few patients from this surgery attend our client's pharmacy. That medical centre is located almost a mile away to the south, so it is clear that any patient who is able to travel a mile to our client's pharmacy at present would not be troubled by an additional journey of 550m.
- 1.70 The only other surgery in the town (Redgate Surgery) is 0.8 miles away from our client's current premises and equidistant from the proposed premises.
- 1.71 All other surgeries are located outside of the town, some distance away. In the event any patient did travel from one of those medical centres, their journey to the proposed location would not be materially different to their journey to the current location.
- 1.72 Given the nature of the area and the proximity of the sites, it is clear that the proposed premises are not less significantly accessible regardless of how patients choose to travel even if they have attended a surgery beforehand.
- 1.73 **Patients living within the vicinity of the pharmacy who use it because it is close to home.**
- 1.74 As discussed earlier the area immediately around the current premises is predominantly residential. People currently travel to the existing premises from all directions.
- 1.75 It is likely that patients travel from their homes by motor car, public transport or on foot.
- 1.76 For those who travel by the car, they will not find the proposed premises any less accessible than the current ones. The two premises are approximately 550m apart. There is free parking available within 50m of the proposed site and regardless of where they travel from and where they park, the distance to the proposed location is unlikely to be materially different to their journey to the existing location.
- 1.77 Buses travel regularly along Taunton Road to the town centre and there are bus stops within 200m or so of both the existing and proposed locations. Most patients attending the new site will use the same bus route and will find that the journey is very short.
- 1.78 For those on foot the proposed location may be slightly closer to home for some and it may be slightly further away for others. However, given that local residents live throughout the area, for this patient group as a whole the new location is not significantly less accessible. The pavements are wide, well maintained and there is extensive street lighting throughout making them easily accessible for the elderly, people with prams and for those with mobility scooters etc.

- 1.79 It is also relevant that most of the major amenities in the area are in the town centre, so this is a location many people gravitate towards on a daily basis.
- 1.80 Regardless of where patients live, the maximum incremental distance they would be required to travel to the proposed site is 550m (assuming their journey takes them past the existing site on the way). The proposed and existing premises are relatively close together, so the walk between them takes approximately 9 minutes.
- 1.81 Overall, therefore, it is clear that accessibility for patients who use our client's pharmacy because it is close to their home will be largely unchanged as a result of this relocation regardless of their means of transport.
- 1.82 **Patients who wish to access advanced or locally commissioned services from the pharmacy.**
- 1.83 Patients accessing the pharmacy for the New Medicines Service (NMS) will fall into one of the other patient groups already described as they will already be receiving dispensing services from the pharmacy.
- 1.84 For patients wishing to access the other services offered at the current premises, the proximity of the proposed premises is such that they will be able to access the services in exactly the same manner. The pharmacy will be open for the same hours and the new premises will be close to the existing premises.
- 1.85 Regardless of where patients in this group come from and how they access the pharmacy there is no reason to believe they will find the proposed location significantly less accessible for the reasons we have described in relation to other patient groups.
- 1.86 **Patients who share protected characteristics.**
- 1.87 Every person shares at least one protected characteristic, i.e. they belong to a group that distinguishes them by age, race or any other characteristic. More commonly, however, in the context of Regulation 24, this relates to those who may be elderly, infirm or disabled.
- 1.88 The proposed premises can be easily accessed by wheelchairs or mobility scooters if necessary, as there is level access to the pavement and the area benefits from wide pavements, wheelchair-friendly crossings and the terrain is level. Furthermore, there is dedicated disabled parking provided near the proposed premises and they are easily accessed by public transport.
- 1.89 Patients who share protected characteristics will find the proposed premises at least as accessible as the existing premises.
- 1.90 **Regulation 24(1)(b)** requires the ICB to consider whether:
- 1.90.1 *"in the opinion of the NHSCB [sic], granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a*
- 1.90.2 *dispensing doctor list—*
- 1.90.3 *(i) in any part of the area of HWB1, or*

- 1.90.4 *(ii) in a controlled locality in the area of a neighbouring HWB, where that controlled*
- 1.90.5 *locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;”*
- 1.91 In our opinion it is clear that granting this application will not result in a significant change to the arrangements currently in place. The proposed relocation is a relatively short distance and is unlikely to have a material effect on the provision of pharmaceutical services by other contractors on the area.
- 1.92 The existing and proposed premises are within a short distance of each other and the existing services and opening hours will be maintained.
- 1.93 As the distance between the sites is short there is no reason to believe that dispensing patterns in the area will be affected in any way as a result of this relocation.
- 1.94 Patient groups accessing pharmaceutical services in the area will still be able to access them in the same way so there is no reason to suggest that this relocation it will result in a significant change to the arrangements in place.
- 1.95 **Regulation 24(1)(c) requires the ICB to consider whether:**
- 1.95.1 *“the NHSCB [sic] is satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB”.*
- 1.96 We have been unable to find any plans relating to future pharmaceutical services in the area, whether belonging to the local authority, the ICB or any other commissioner of pharmaceutical services, that would be affected in any way by granting this application.
- 1.97 Conclusion
- 1.98 In conclusion, for the reasons we have provided above, none of the patient groups accustomed to accessing pharmaceutical services at the current pharmacy premises will find the proposed location significantly less accessible.
- 1.99 We therefore urge the ICB to grant this application accordingly and we, and our clients, would wish to attend an oral hearing should one be convened.”

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 14 April 2024 states:

- 2.1 “Somerset 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 Somerset 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.”

PSRC report

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

2.4 **“Case reference** - CAS-341505-H0J7R2

2.5 **Name of applicant** - Shavarath Limited

2.6 **Application type** - Application for inclusion in a pharmaceutical list: no significant change relocation application

2.7 **Address of current premises** - 14-16 Taunton Road, Bridgwater, Somerset TA6 3LS

2.8 **Address of proposed new premises** - 11 Fore Street, Bridgwater, Somerset TA6 3NQ

2.9 **The SW Committee noted:**

2.9.1 Bridgwater is a historic market town and civil parish in Somerset. The town had a population of 41,276 at the 2021 census. Bridgwater is at the edge of the Somerset Levels. Taunton is linked to Bridgwater via a canal, the M5 motorway and the GWR railway line.

2.9.2 The distance between the current pharmacy location and the proposed new location is 0.4miles.

2.9.3 Lloyds previously owned the pharmacy. Shavarath Ltd took over in 2023.

2.9.4 There are 8 other pharmacies located within a mile of the current location. This includes two 100-hour pharmacies within half a mile, one of which has reduced to 72 hours under the change in Regulations for 100-hour pharmacies.

2.10 **PRELIMINARY ISSUES**

2.11 Controlled locality status

2.12 This is a non-controlled locality.

2.13 Nature of the application

2.14 This is an application ‘for a relocation of pharmacy premises that does not result in significant change to pharmaceutical services provision’ and is an excepted application and considered under Regulation 24 (1).

2.15 Regulation 24 (1) states: [quoted in full].

2.16 Public Involvement

- 2.17 The SW Committee noted full details of the applicant's proposals were notified to various parties in accordance with the Regulations. Representations have been received from:
- 2.18 Boots UK Ltd state:
- 2.19 When considering this application, we ask the Committee to be mindful that this relocation, in our opinion, will cause a clustering of pharmacies in the locality of the proposed premises. Our pharmacy and Superdrug are already located on Fore Street and Asda's pharmacy only 0.1 miles away on East Quay.
- 2.20 Patients of Taunton Medical Centre who access the pharmacy in its current location will have an additional journey to access the pharmacy they are accustomed to in a new locality where there is already provision. We believe that there is a reason this patient group use the pharmacy in its current locality rather than travelling to access our pharmacy or Superdrug close to the proposed location.
- 2.21 We do not have any comments to make on the relocation but would be grateful if you would keep us informed of the progress of this application.
- 2.22 Jhoots Pharmacy have no objection to the application.
- 2.23 Rowlands Pharmacy note this is an excepted application and request the ICB ensures the relocation satisfies the requirements of Regulation 24(1).
- 2.24 Superdrug Stores note the close proximity of other pharmacies and suggest the application will dilute the patient base in the area and add pressure to the existing pharmacies. They state patients who access the pharmacy after visiting the Taunton Road Medical Centre will be inconvenienced having to go to another site and pay for parking. They also suggest patients with protected characteristics will not find the journey to the new premises easy as it involves crossing a busy dual carriageway.
- 2.25 The applicant responded to the notification responses and state the matters raised have no relevance to the regulatory tests and note patients already access the town centre for a whole range of requirements so they will not find the new location significantly less accessible.
- 2.26 Regulation 31 (same or adjacent premises) states: [quoted in full]
- 2.27 There are no other contractors currently providing pharmaceutical services from the premises to which the application relates, or from adjacent premises. The nearest pharmacy is 0.3 miles away (Boots and Superdrug pharmacies). The SW Committee was satisfied it is not required to refuse the application by virtue of Regulation 31.
- 2.28 **REGULATION 24(1) – Relocation**
- 2.29 Reg 24(1)(a) – Patient Groups
- 2.30 The applicant defines the following patient groups:
- 2.30.1 Patients receiving a delivery service.
- 2.30.2 Patients attending the Taunton Road Medical Centre and subsequently seeking pharmaceutical services.

- 2.30.3 Patients attending other Bridgwater surgeries and subsequently seeking pharmaceutical services.
- 2.30.4 Patients living within the vicinity of the pharmacy who use it because it is close to home.
- 2.30.5 Patients who wish to access advanced or locally commissioned services from the pharmacy.
- 2.30.6 Patients who share protected characteristics.
- 2.31 The SW Committee did not identify additional patient groups to consider in relation to the application.
- 2.32 In the supporting information the applicant offers an explanation on why each of the patient groups will not find the relocated pharmacy significantly less accessible after the proposed move.
- 2.33 The applicant addresses the different methods used by patients to get to the pharmacy and describes the area and terrain between them including the maximum additional distance any person may need to travel to access the proposed site. They note the area is flat and there are no barriers, there are dropped kerbs, wide pavements and street lighting and suggest movement for pedestrians is straightforward.
- 2.34 The applicant states there is parking near both premises and 3 spaces available free of charge near the proposed premises and the average travel time by car between the two sites is less than 5 minutes.
- 2.35 The applicant states the same bus service is used for both premises with 3 buses per hour going to and from the town centre.
- 2.36 The applicant concludes:
 - 2.36.1 In conclusion, for the reasons we have provided above, none of the patient groups accustomed to accessing pharmaceutical services at the current pharmacy premises will find the proposed location significantly less accessible.
 - 2.36.2 We therefore urge the ICB to grant this application accordingly and we, and our clients, would wish to attend an oral hearing should one be convened.
- 2.37 The SW Committee discussed the concern raised by interested parties that the proposed move will result in a clustering of pharmacies in the town. It was noted patients already go into the town centre to access other services, however, the area where the pharmacy is currently located is an area of deprivation with a lot of housing. The SW Committee agreed patients who use the pharmacy in its current location for the whole range of pharmaceutical services, not just dispensing, may find the new location more inconvenient to access. The distance of 550 metres is not insignificant and in a deprived area the move will take away services for a population who may find bus fares and car parking charges a challenge.
- 2.38 The SW Committee notes the applicant states the interested party comments are irrelevant, however, it was agreed this is a broad unsubstantiated statement which the SW Committee does not agree with.
- 2.39 The SW Committee noted there are 8 other pharmacies in Bridgewater [sic]: looking at their recent dispensing volumes it was noted there are only two with volumes that could

be considered significant and, therefore, sustainable. However, whilst recognising the statements made by other contractors indicating their viability would be affected by the move, the SW Committee noted the statements had not been evidenced: none had, therefore, substantiated their comments, as reviewing dispensing volumes alone does not evidence the individual contractors position.

- 2.40 The SW Committee noted where patients are located and had confirmation of the top 5 practices generating scripts in the area. It is evident patients are centred left of the river but distributed across the whole town.
- 2.41 The SW Committee considered if a gap would be created if the pharmacy were to move from its current location. The SW Committee agreed for those currently accessing the pharmacy on foot, the impact of the change would be significant due to the distance involved, particularly for the elderly and people with pushchairs/buggies.
- 2.42 ***Taking into account the impact of distance for the patient groups on foot, also the cost of bus and car journeys for lower income families, the SW Committee was satisfied that for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises IS significantly less accessible.***
- 2.43 Reg 24(1)(b)(i) and (ii) – (b) in the opinion of the NHSCB [sic], granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list
- 2.44 In considering this, the SW Committee reflected on the increased clustering of pharmaceutical services in the town centre. It was also noted the proposed location moves further away from an area of deprivation with significant residential housing. The move will result in three pharmacies in close proximity to each other, leaving nothing to the left side of Bridgwater which is a significant change to current arrangements.
- 2.45 ***The SW Committee was satisfied that granting the application WOULD result in a significant change to the arrangements in place for the provision of pharmaceutical services.***
- 2.46 Reg 24(1)(c) the NHSCB [sic] is satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB
- 2.47 No evidence has been presented that suggests the relocation would cause significant detriment to proper planning.
- 2.48 ***The SW Committee was satisfied that granting the application WOULD NOT cause significant detriment to proper planning of pharmaceutical services.***
- 2.49 Reg 24(1)(d) the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises (whether or not, in the case of enhanced services, the NHSCB [sic] chooses to commission them); and
- 2.50 The applicant has confirmed that the same services will be available at the new premises that are available at the current premises.
- 2.51 ***The SW Committee was satisfied that the same services would be available at the proposed premises.***

- 2.52 Reg 24(1)(e) the provision of pharmaceutical services will not be interrupted (except for such period as the NHSCB [sic] may for good cause allow
- 2.53 The applicant has confirmed that there will be no interruption to services.
- 2.54 ***The SW Committee was satisfied that there will be no interruption to services.***
- 2.55 Reg 24(3)(a-d) an application pursuant to this regulation must be refused if the existing pharmacy premises from which the applicant is seeking to relocate
- 2.55.1 is in an approved retail area (24(3)(a)
- 2.55.2 is part of a one-stop primary care centre (24(3)(b)
- 2.55.3 has relocated in the last 12 months (24(3)(c)
- 2.55.4 this is not a distance selling premises 24(3)(d)
- 2.56 Regulation 24(3)(a-d) is not applicable in this case.
- 2.57 Decision
- 2.58 ***The SW Committee was satisfied that the application should be REFUSED because the new premises are significantly less accessible for those accustomed to using the existing premises and granting the application would result in a significant change to the arrangements in place for the provision of pharmaceutical services.***
- 2.59 Appeal rights
- 2.60 The application is declined so the applicant has appeal rights."

3 The Appeal

In a letter dated 30 April 2025 addressed to NHS Resolution, Pharmacy Sales & Consultancy on behalf of the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

- 3.1 "We act for Shavarath Limited and have enclosed a letter of authorisation confirming our instructions in this matter.
- 3.2 Our client has been notified by the Somerset ICB ("The ICB") that the above application, made pursuant to Regulation 24 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("The Regulations"), has been refused. I have enclosed a copy of their decision letter and report for your information.
- 3.3 Our client wishes to appeal this decision and we set out the key grounds for appeal below by reference to the ICB decision report.
- 3.4 On page 1 of the decision report, it states that the "distance between the current pharmacy location and the proposed new location is 0.4 miles". That is not accurate. The distance between the sites, as evidenced within the application, is 550m which equates to 0.3 miles. Whilst only a small difference, an additional 0.1 miles equates to an extra 2-3 minutes walking time.

- 3.5 On page 3 (para 9) and page 4 (para 19), the decision report comments that “the applicant states the interested party comments are irrelevant”. However, this is a misrepresentation of the comments we submitted, as will be apparent to the Primary Care Appeals Committee on reading our submissions. We responded to all points raised by third parties in the context of the relevant regulatory tests.
- 3.6 It is correct that we pointed out that the Regulations do not require the decision maker to have regard to whether other pharmacies will be financially impacted as a result of a proposed relocation or whether granting the application would result in ‘clustering’. However, we did not say that the other matters raised were irrelevant; instead we addressed them in our response.
- 3.7 The ICB failed to properly consider patient groups. The report states:
- 3.8 *The SW Committee agreed patients who use the pharmacy in its current location for the whole range of pharmaceutical services, not just dispensing, may find the new location more inconvenient to access.*
- 3.9 In the context of an application submitted under Regulation 24, this comment is clearly flawed. This statement refers to “patients who use the pharmacy in its current location” rather than “patient groups” as discussed within the Regulations. Whilst it may be the case that some individual patients may find the proposed location “more inconvenient” the committee was required to consider the patient groups.
- 3.10 In paragraph 12 of the report it is stated that the committee did not identify any additional patient groups to consider. It is clear, therefore, that the committee was aware that it is required to consider the impact of the proposed relocation on patient groups and not individual patients. However there is no evidence within the decision report that the committee actually considered the patient groups in this case.
- 3.11 The ICB refer to the pharmacy being currently located in an “area of deprivation with a lot of housing”. However, they fail to provide any detailed explanation in respect of this comment. We address the local demographic profile later in this appeal letter.
- 3.12 The ICB’s comments in paragraph 20 of the decision report are somewhat confusing. It is not clear how they concluded only two pharmacies in the town are ‘sustainable’, although we note that they also questioned the lack of evidence provided by objectors in this respect.
- 3.13 Paragraph 21 is also difficult to follow. It states that “patients are centred left of the river” (to which we assume they mean west of the river) “but distributed across the whole town”. It is not clear how this statement impacted on their findings in respect of 24(1)(a). We discuss patient distribution in more detail later.
- 3.14 The ICB considered, in paragraph 22, whether a gap would be created if the application was approved. In our opinion the ICB failed to consider this matter properly both in respect of the proximity of the proposed location to the current location (such that there is no meaningful gap) or in respect of another pharmacy located to the south of the current location. The ICB also make specific reference to the ‘elderly and people with pushchairs / buggies, without considering whether there are a significant number of people to whom this applies.
- 3.15 In considering the matter of ‘a significant change to the arrangements in place’ the ICB state that granting the application would leave ‘nothing to the left side of Bridgwater’. Again, assuming the ICB means the west side (looking at a map where north is up), this makes no sense as the pharmacy would be moving directly north rather than further

east, so has no impact on those people living to west (left) of the town. These comments to raise some doubts over whether the ICB was clear where the pharmacy is currently located when they made their decision.

3.16 We have provided further detail below in respect of our client's grounds for appeal as well as additional information to assist the Primary Care Appeals Committee in considering this matter

3.17 **The journey between the current and proposed sites**

3.18 Whilst, as stated within our client's application, the distance or the journey between the current and proposed sites does not form part of the regulatory tests, nevertheless it was clearly a matter the ICB had regard to when considering the application. This is apparent from the following comment in paragraph 18 of the decision report as follows:

3.19 *"The distance of 550 metres is not insignificant and in a deprived area the move will take away services for a population who may find bus fares and car parking charges a challenge".*

3.20 As there are some patients who start their journey near the current site, most notably patient group 2 (patients attending the Taunton Road Medical Centre and subsequently seeking pharmaceutical services), we have considered the journey from the current site to the proposed site in more detail. This builds on the information provided with our client's application in this respect.

3.21 Route on foot

3.22 We provided a map to the ICB that shows the pedestrian route to the proposed site, and we reproduce that below for ease [appendix B]. The journey starts at the bottom of the image below (marked Lloyds Pharmacy).

3.23 The route is summarised in the wording below provided in italics, with screenshots showing the route in more detail.

3.24 *Leaving the current premises turn left on Taunton Road and walk 140m north along Taunton Road to Broadway.*

3.25 This part of the route does not require crossing any roads, is level and benefits from a wide pavement and street lighting. The image below shows this section of the route, which uses the pavement on the left-hand side of the image [appendix B].

3.26 *Use the light-controlled pedestrian crossing over Broadway*

3.27 This crossing point is shown in the image below [appendix B]. As well as traffic lights, there are tactile pavements provided and there is a safety barrier in the central reservation to facilitate safe crossing.

3.28 *Continue a further 160m north to a mini-roundabout at the junction with Dampiet Street.*

3.29 The four images below [appendix B] show this section of the route:

3.30 Pedestrians can walk along the right-hand side (eastern side) of Taunton Road (having crossed to here at the light-controlled junction with Broadway) approaching the mini roundabout.

- 3.31 There is a crossing over the junction with Old Taunton Road with dropped kerbs and tactile paving as shown below.
- 3.32 Approaching the town centre shops there are pavements on both sides of the road as shown below. Taunton Road becomes St Mary Street at this point.
- 3.33 Approach to the mini roundabout shown below, turn right into Dampiet Street.
- 3.34 *Turn right along Dampiet Street and walk for 150m to King Street*
- 3.35 There are pavements on both sides of the road and there is just one crossing where dropped kerbs are provided, at the crossroads with George Street and Blake Street - both of which are very quiet roads [appendix B].
- 3.36 *Turn left and walk 100m north to the proposed premises which are at the junction of King Street and Fore Street* [appendix B].
- 3.37 King Street is a cul-de-sac which becomes pedestrianised at the northern end approaching Fore Street where the road narrows, as shown below [appendix B].
- 3.38 Proposed premises, with King Street shown on the right-hand side [appendix B].
- 3.39 As can clearly be seen from these images, this is a straightforward journey without any barriers to movement across level terrain and with a light controlled crossing over the only significant road on the route. As stated within our client's application, this walk takes no more than 9 minutes for a person with average mobility. The route is also straightforward for patients using a mobility scooter, as this is the route many would use to access the town centre amenities.
- 3.40 Whilst not directly relevant to this application, a 20 minute walk-time is a measure regularly used in PNAs when considering the accessibility of pharmaceutical services, so a 9 minute walk cannot be considered to be excessive.
- 3.41 Access by car
- 3.42 As discussed within the application, one of the town centre car parks is located on Dampiet Street, as shown in the image below [appendix B]:
- 3.43 The distance from this car park to the proposed premises is 150m, along easy terrain as shown in the previous images. This car park has 49 spaces and costs £1.10 for one hour or £2.20 for 2 hours. Blue badge holders can park free of charge.
- 3.44 There are also a few spaces provided on King Street where there is no charge and parking is permitted for up to 30 minutes [appendix B]. These are shown on the right-hand side below and are located only 50m from the proposed premises.
- 3.45 There are also single yellow lines along the length of King Street where blue badge holders are permitted to park provide it is safe to do so.
- 3.46 As discussed within our client's application, the journey from the existing location to the proposed location by car would take less than 5 minutes, so the proposed site is very easy to access by car.
- 3.47 Access by public transport

- 3.48 It is noteworthy that, for patients travelling from the south of Bridgwater by public transport, the nearest bus stops to the current premises (shown below as Lloyds Pharmacy and marked with a blue pointer) are each approximately 250m from the current pharmacy premises. These are marked on the map below [appendix B] as 'Hope Inn' to the south and St Mary Street to the north. The stop marked Taunton Road is on the southbound side only.
- 3.49 As discussed within our client's application, the routes served at these stops are 21/21a and B1, with 3 buses departing per hour on average. Both routes travel to and from the town centre, with the nearest stops serving routes 21/21A being located on High Street, 200m away from the proposed premises. Route B1 stops on Eastover, 100m away from the proposed premises.
- 3.50 Given that the maximum distance from the bus stop to the proposed premises is 200m and the maximum distance to the current premises is 250m, it is clear that the proposed location is at least as accessible as the existing location by public transport. It is also noteworthy, of course, that whilst we are currently considering the journey from the current site, the town centre is accessible by bus from all directions, with all major bus routes stopping within 200m of the proposed site.
- 3.51 Further to the government's change in the maximum cap on bus fares, charges in Bridgwater for a single journey are now £2.40 for journeys under 3 miles and £3 for longer journeys. However, any residents who are reliant on buses generally are much more likely to use day, week or month tickets, which cost £7, £20 or £70 respectively for adults who are not entitled to concessions. Passengers of state pension age receive free bus travel nationally.
- 3.52 In summary, therefore, it is our position that for any patient whose journey starts at, or takes them past, the existing premises, the journey to the proposed premises is straightforward whatever means of travel they use. We go on to discuss the general accessibility of the proposed site in the context of regulation 24 later.
- 3.53 **Demographic data**
- 3.54 We note that the ICB cited, in its decision report, the level of 'deprivation' and the number of houses as one of the reasons for concluding the relocation might make the new location "more inconvenient to access". We have therefore considered the demographic profile of the area in more detail.
- 3.55 Firstly we have considered the ICB's comment that there is "a lot of housing".
- 3.56 The map below [appendix B] shows the southern part of Bridgwater, including existing pharmacies. The current location of the pharmacy is marked with a blue pointer (and states Lloyds Pharmacy as this has not been updated by Google).
- 3.57 It is apparent from this map that the bulk of the residential area to the south of town is located to the south of The Meads, (the green space shown to the south and west of Morrisons). This map also shows that there is a pharmacy (Jhoots) on Taunton Road in this southern area.
- 3.58 Residential areas to the east of the River Parrett are served by Redgate and Cranleigh Gardens pharmacies.
- 3.59 So, whilst it may be that some residents living in the large southern residential area choose to access our client's pharmacy (either because they are patients at the

adjacent medical centre or because it is on their route to the town centre), those who are less mobile also have the option of accessing the Jhoots Pharmacy.

- 3.60 It is also noteworthy that the distance from the middle of this residential area to the current pharmacy location is 1.3km, so any patient who chooses to walk this obviously has reasonable levels of mobility. That being the case it is unlikely that they will be troubled by the additional distance of 550m. The reality is that residents of this area who are not mobile do not currently access our client's pharmacy on foot, so are reliant and other means of travel anyway.
- 3.61 If the ICB's comments are taken to mean there is "a lot of housing" in the immediate vicinity of the pharmacy at present, this does not stand up to further scrutiny. The image below [appendix B] is a satellite view of the pharmacy's current location (again described as Lloyds Pharmacy).
- 3.62 It can be seen from this image that there is relatively little housing in the immediate area, which is bounded by the river to the east, the canal to the south, the Morrisons store and The Meads to the west and south-west and the town centre to the north.
- 3.63 In terms of the demographic profile of local residents, we have considered data from the 2021 census for the Bridgwater South ward, the boundaries of which are shown on the map below. The current location is marked with a red star and the proposed location with a green star [appendix B]. This area also includes the residential area discussed above.
- 3.64 Key demographic information is as follows:
- 3.65 Car ownership
- 3.66 30.1% of households do not have a car, compared to the national average of 23.5%.
- 3.67 Given that the area includes much of the town centre, where many residents may have no need for a car, it is not surprising that car ownership levels are a little lower than the national average. However, it is still clear that 7 in 10 homes within the area highlighted do have access to a car or van.
- 3.68 Disability
- 3.69 At the time of the last census, 21.8% of residents in this ward were classified as disabled under the Equality Act, compared to 17.3% nationally. Again the demographic profile is slightly adverse compared to the average, but not extremely so. Furthermore, as we have discussed already, the residents to the south of the ward already live 1-2km away from the pharmacy at present, so any resident here whose mobility is limited is very unlikely to walk to the pharmacy anyway. They are much more likely to use a car or public transport.
- 3.70 Residents in the northern part of the ward, i.e. the town centre, who have reduced mobility are likely to live closer to the proposed location than the existing location anyway.
- 3.71 Age
- 3.72 Using census data, 18.9% of the population of this ward was under the age of 16 at the time of the census compared to the national average of 18.5%.

- 3.73 16.9% of the population was aged over the age of 65 compared to the national average of 18.1%.
- 3.74 This is clear, therefore, that the area is not unusual in respect of the age profile of its residents.
- 3.75 Economic activity
- 3.76 The table below [appendix B] shows levels of employment and economic activity generally within the ward. As can be seen, levels of employment are broadly in line with the national averages, although there is a slightly higher level of employees compared to the number of self-employed residents.
- 3.77 So whilst we accept that there may well be pockets of deprivation within the area discussed, deprivation is only relevant to the extent that it affects the ability of residents to access pharmaceutical services.
- 3.78 For the reasons we have provided above, in our opinion there are no demographic features that would render the proposed location significantly less accessible in the context of Regulation 24.
- 3.79 **Patient distribution**
- 3.80 Within its application to the ICB, our client made the point that a significant proportion of its patients use the pharmacy because it is located next to Taunton Road Medical Practice. Historically many of the patients who have nominated this pharmacy have done so following a visit to the surgery.
- 3.81 Within the supporting information for the application we supplied copy of a map with shows the patient catchment area for this practice, which covers the whole of the town and a significant part of the surrounding area.
- 3.82 In order to further assist the committee our client has extracted postcode information from its Patient Medication Record (PMR) system for all patients who are considered to be 'current'. This includes, at the very least, all patients who have had a prescription dispensed at the pharmacy within the last two months.
- 3.83 We acknowledge that this only captures patients receiving a dispensing service and not necessarily other pharmaceutical services, but given the nature of the area we do not believe that the distribution of patients attending to receive pharmaceutical services overall will differ greatly from those attending to receive dispensing services.
- 3.84 The postcode data was then filtered to remove those patients who receive their medication by delivery, as they belong to a different patient group and will be unaffected by the proposed relocation as they do not attend in person.
- 3.85 When the post code data was mapped, it was apparent that this covered a much larger area than might be reasonably considered to be the 'catchment area' for the pharmacy. There may be several reasons for this, such as people visiting relatives or in the area for work, but it is clear that patients who live many miles away, who access pharmaceutical services at our client's premises for some reason, will not be troubled by a relocation of just over 500m. In any event, many of these patients may have only attended the pharmacy once, so it cannot be said that they are "accustomed" to accessing pharmaceutical services from our client's pharmacy.

- 3.86 These postcodes were plotted on a map, and this has been provided as an annex to this appeal [appendix C]. This map shows current patients with a postcode that is with approximately 3.5 miles of the current site.
- 3.87 As the map shows, current patients are distributed in all directions around the existing and proposed premises. It is also clear, taking a broad view of the distribution of these postcodes, that in fact more patients live to the north of the current location than to the south. This is in line with the assessment that there is a strong correlation between the catchment area of the medical centre and the patients who attend our client's pharmacy.
- 3.88 Whilst we accept that this analysis is not perfect, in that we cannot assess each of these patients individually in respect of their health needs and how they travel to the pharmacy at present, it does provide a relatively clear representation of how patients who use the pharmacy are distributed.
- 3.89 Referring back to the legal test, it is our client's position that, taking this patient distribution overall it cannot be said that the proposed location is significantly less accessible for these patient groups overall. As would be expected, the proposed location would be closer for some patients and further for others, but the overall impact will be neutral at worst.
- 3.90 **Accessibility of the proposed site**
- 3.91 Whilst this matter was dealt with in our client's application, and we have discussed some of these matters above in the context of the journey between the two sites, we wish to make some general points about the accessibility of the proposed premises.
- 3.92 It is important to be mindful, of course, that just because a patient uses one means of travel to access the pharmacy at its current site, this does not mean that patient could not use a different means of travel to access the pharmacy at the proposed location. So whilst a patient who lives 50m from the current premises would clearly walk to the pharmacy at present, if they also have access to a car or they are regular users of the bus network, they will not find the proposed premises difficult to access even if they choose not to walk to them.
- 3.93 The most relevant factor in respect of accessibility generally is the fact the proposed location is within the heart of the town centre.
- 3.94 Fore Street, where the proposed premises are located, is the main shopping street of the town. It is pedestrianised and is home to many national retail brands such as New Look, Sports Direct, Costa, Vodafone, &H Samuel as well as several banks and building societies.
- 3.95 The next nearest towns are Taunton 10 miles to the south and Burnham-on-Sea 8 miles to the north. For this reason Bridgwater meets the shopping needs of residents, not only of the town but also the numerous villages in the surrounding rural area. It is clear that almost all residents of the town are likely to visit the town centre from time to time when going about their daily lives.
- 3.96 The ICB questioned whether the proposed location would result in the pharmacy being "inconvenient to access" but we believe that its proximity to all the other amenities in the town centre make it highly convenient to access.

- 3.97 Many people choose to access the town centre by car and should they do so, there are numerous car parks available to them, including the Dampiet Street Car Park referred to previously.
- 3.98 These car parks are shown on the map below [appendix B], where the blue area indicates a 15-minute walk distance from the town centre. Again the proposed location is marked by a green star.
- 3.99 It is clear, therefore, that anybody accessing the town centre by car will very easily be able to access our client's proposed premises.
- 3.100 In terms of general access to the town centre by public transport, we have enclosed a copy of a bus route map [appendix D] which shows the routes which service the town centre. As this map clearly shows, areas to the south, the west and the east are all well served by public transport. Bus stops are located within the town centre a short distance away from the proposed location.
- 3.101 For those residents who live closest to the town centre, it is easy to access on foot. Within the supporting information to our client's application we provided a topographic map which showed that the town centre area is level. The further map below [appendix B] shows that the whole area around the town centre is also essentially level with the exception of some areas of slightly higher elevation to the far west.
- 3.102 For those residents who already walk to the town centre to visit the facilities there it is clear that they will find the proposed location easy to access.
- 3.103 **Regulatory tests**
- 3.104 Finally, we have considered the relevant regulatory tests in the context of our comments above.
- 3.105 Regulation 24(1)(a) - for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible.
- 3.106 As we discussed earlier, the ICB was content with the patient groups we identified and did not find any need to add any additional groups. We therefore have nothing further to add in respect of the patient groups described in our client's application.
- 3.107 Whilst the ICB did not appear to consider each of the patient groups, based on the comments, their case that this test was not met appears to be based on two considerations.
- 3.107.1 It was their view that the proposed relocation distance of 550m was such that some patients would find the proposed location significantly less accessible.
- 3.107.2 As we have previously mentioned the ICB erred in considering individual patients rather than patient groups. For the reasons set out in our client's application and above we contend it is clear that the proposed premises are highly accessible and there is no reason to conclude that the distance alone renders the proposed location significantly less accessible for any patient group.
- 3.107.3 The ICB felt that there was a significant population living in an area of deprivation who may find it difficult to access the proposed location due to the bus fares or parking charges.

- 3.107.4 We have provided information which shows that the demographic profile of the area is such that there is no reason to conclude there is a significant number of patients whose access to pharmaceutical services will be limited by affordability. Levels of employment are broadly in line with the national average and whilst data is not readily available in respect of average earnings, the area to the immediate south of the town centre where the pharmacy is currently located is clearly not an area of extreme poverty.
- 3.107.5 For the vast majority of residents, they will be able to walk from the current location to the proposed location in less than 10 minutes, a journey they are likely to make frequently to access various amenities in the town centre. There is no additional cost for these residents.
- 3.107.6 For the 7 in 10 households that have access to a car, we would contend that the modest cost of parking in the town centre is not such that it renders the proposed location significantly less accessible. Parking charges of £1.10 per hour are not prohibitive compared to the costs of running a motor vehicle. Furthermore, there is some free parking available on King Street within 50m of the proposed location and, no doubt, at other locations within the town centre for those residents who are familiar with the town.
- 3.107.7 For those residents who frequently use bus travel to get around the town they are likely to use weekly or monthly bus tickets or, if they are older, will be entitled to free bus travel.
- 3.107.8 It is important to note that the amenities to the south of Bridgwater town centre are very limited. Most amenities are only available in the town centre. It is not realistic, therefore, to suggest that there are significant numbers of local residents who are unable to travel into the town because they cannot afford to do so.
- 3.107.9 It is our assertion that for the patient groups identified within our client's application the proposed location is not significantly less accessible for the reasons we have provided.
- 3.108 *Regulation 24(1)(b)* [quoted in full].
- 3.109 The committee reached the conclusion that the application should fail in respect of this part of regulation 24 because, in its opinion:
- 3.109.1 Granting the application would result in the clustering of pharmaceutical services in the town centre.
- 3.109.2 The proposed relocation would result in the pharmacy moving away from an area of deprivation with significant residential housing i.e. it would leave a gap.
- 3.109.3 Approving the relocation would leave "nothing to the left side of Bridgwater".
- 3.110 Taking each of these points in turn:
- 3.110.1 The Regulations do not require the decision maker to consider whether the proposed premises are located close to other pharmacies (other than in respect of Regulation 31 which is not applicable in this case). Even if the application was to result in 'clustering' using the term applied by the ICB, that is not a ground for refusal.

- 3.110.2 In any event it is perfectly natural that pharmacies will be located in areas where residents visit when going about their daily lives. It is clearly not unusual for a town centre to have three pharmacies located within it.
- 3.110.3 We dispute the suggestion that granting the application will leave a gap. As we have shown earlier there is another pharmacy (Jhoots) located ¾ mile to the south of our client's current location. Furthermore, that pharmacy is located closer to the large residential area to the southwest of the town centre.
- 3.110.4 We contend that there will remain accessible pharmaceutical services provision to the south of the town and that granting this application will not result in a meaningful 'gap'.
- 3.110.5 As we have commented before, if we assume that the 'left' of Bridgwater is the west, our client's pharmacy is not currently located to the west of the town, so it is not clear how the situation in respect of provision to the west will change by granting this application. If the ICB actually meant the south, we have addressed this point already.
- 3.111 It is our position that granting this application will **not** result in a significant change to the arrangements that are in place for the provision of pharmaceutical services or local pharmaceutical services.
- 3.112 *Regulations 24(1)(c) to (e)*
- 3.113 We note that the ICB found no reason to refuse the application in respect of these parts of regulation 24 so we have nothing further to add on this matter.
- 3.114 **Conclusion**
- 3.115 In conclusion, in our opinion, all the requirements of Regulations 24 have been met in this case.
- 3.115.1 Our client defined its patient groups in its application and explained why each of these groups would not find the proposed location significantly less accessible.
- 3.115.2 We have provided additional information to show that the proposed location is highly accessible by public transport, by car and on foot.
- 3.115.3 We have demonstrated that the demographic profile is such that it is reasonable to assume patients are able to travel to the proposed location without undue difficulties.
- 3.115.4 We have also shown that, in respect of those patients who live closest to the pharmacy, they are evenly distributed in respect of the current and proposed locations and, as such, this patient group will not find the proposed location to be significantly less accessible.
- 3.116 We believe there is enough evidence within our client's application and appeal for the Primary Care Appeals committee to grant the application based on the written evidence. However, should the committee wish to convene a hearing our client would wish to attend.
- 3.117 We look forward to hearing the outcome of this appeal in due course."

3.118 [Copy of information in support of the application enclosed – see 1.1 to 1.99 above].

4 Summary of Representations

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 the documentation relied upon by the Commissioner to make its determination as well as the Applicant's '14 day comments' received in response to the representations made to the Commissioner as these had not been seen by parties prior to the decision being made by the Commissioner [appendix E and F respectively]. This is a summary of the representations received.

4.1 Pharmacy Sales and Consultancy on behalf of the Applicant

- 4.1.1 "Thank you for your letter dated 19th May inviting our client to make additional comments on the Commissioner's internal paperwork that was used to inform its decision to refuse this application.
- 4.1.2 We wish to make brief comments on the Appendices to the Committee paper as follows:
 - 4.1.3 We have no comments to make on pages 1 to 5 of the appendices.
 - 4.1.4 We note that page 6 shows the journey on foot from our client's current location to Asda "for those not wanting to go into the pedestrianised area of the town centre". Notwithstanding the fact the legal test relates to the accessibility of the proposed premises rather than any alternative pharmacy, it is not clear why pedestrians would choose to walk 0.6 miles to Asda when they could walk a significantly shorter distance to the proposed location.
 - 4.1.5 Page 7 shows the journey by car to Asda. Again, the relevance of this information is not clear. It appears that the ICB erred by placing undue weight on the location of other pharmacies when considering our client's application.
 - 4.1.6 Page 8 (Annex 6) shows that, unsurprisingly, the majority of the prescriptions dispensed by our client's pharmacy are for patients registered at the adjacent medical centre. However it must be remembered that the majority of prescriptions dispensed are repeat items that are not connected to a visit to the GP surgery. It is more useful to know where patients start their journey, which in most cases will be from their homes.
 - 4.1.7 Page 9 is helpful in this respect as it shows the number of Taunton Road Medical Centre patients living in various Lower Super Output Areas (LSOA) around the town. For the avoidance of doubt, the proposed location is near to the number 2 directly to the north of the Taunton Road Medical Centre (TRMC) site marked on the map.
 - 4.1.8 It is apparent from this data that TRMC patients are more likely to live to the west of the river. Both the existing and proposed locations are also west of the river. It is also clear that the areas with the highest number of TRMC patients are the areas to the north, the west and the south-west of the current location. For patients living to the north, the proposed premises will be closer to them. For those to the west it will be essentially equidistant and for those to the south it will be a little further. We believe this supports the assertion made in our client's appeal that the net effect of the relocation, in relation to where patients live, is broadly neutral.

4.1.9 We have no further comments at this point and look forward to receiving third party comments in due course.”

4.2 The Commissioner

4.2.1 “Thank you for your letter, received 21st May 2025, addressed to Mr Speight at Primary Care Support England (PCSE) enclosing a copy of the above appeal. The South West Pharmaceutical Services Regulations Committee (SW Committee) wishes to make the following comments on the appeal.

4.2.2 The SW Committee agreed the geographical spread of pharmacies is important when considering changes to the arrangements that are in place for the provision of local pharmaceutical services, and noting the significant housing in an area of deprivation agreed, the move further to the south [sic] is a significant change.

4.2.3 The SW Committee was satisfied for a significant number of patients, noting the demographic of the population being served, the location of the new premises is significantly less accessible.

4.2.4 The SW Committee looks forward to receiving the Primary Care Appeals’ decision in due course.”

4.3 Boots UK Limited

4.3.1 “Thank you for your letter dated 19th May 2025 informing us of the above appeal.

4.3.2 We do not have any further comments to add.

4.3.3 We would be grateful if you would inform us of the outcome of this appeal in due course.”

5 Observations on representations

The following observations were received by NHS Resolution in response to the representations received on appeal.

5.1 Pharmacy Sales and Consultancy on behalf of the Applicant

5.1.1 “We have reviewed the additional representations made by Boots and the ICB. As neither party makes any material comments that have not been addressed already, we have no further comments to make at this time and look forward to receiving the decision in due course.”

6 Consideration

6.1 The Pharmacy Appeals Committee (“Committee”) appointed by NHS Resolution had before it the papers considered by the Commissioner, together with a plan of the area showing existing pharmacies and doctors’ surgeries and the location of the proposed pharmacy.

6.2 It also had before it the responses to NHS Resolution’s own statutory consultations.

6.3 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.

- 6.4 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations").
- 6.5 The Committee first considered Regulation 31 of the Regulations which states:
- (1) A routine or excepted application, other than a consolidation application, must be refused where paragraph (2) applies.*
- (2) This paragraph applies where -*
- (a) a person on the pharmaceutical list (which may or may not be the applicant) is providing or has undertaken to provide pharmaceutical services ("the existing services") from -*
- (i) the premises to which the application relates, or*
- (ii) adjacent premises; and*
- (b) NHS England is satisfied that it is reasonable to treat the services that the applicant proposes to provide as part of the same service as the existing services (and so the premises to which the application relates and the existing listed chemist premises should be treated as the same site).*
- 6.6 In response to the question in the application form, the Committee noted that the Applicant stated "N/A. *There is no other pharmacy within the same or adjacent premises*". The Committee noted the conclusions of the Commissioner in this respect and further that this had not been disputed either on appeal or in subsequent representations. However, the Committee noted the arguments put forward by Superdrug PLC in its representations to the Commissioner and noted that these had not been addressed by the Commissioner. Superdrug PLC asked for Regulation 31 to be considered for the reason that if the application were to be granted, there would be "*only 3 units between the 2 sites*". The Committee was mindful of the wording of the first part Regulation 31: an application must be refused where a person on the pharmaceutical list is providing or has undertaken to provide services at the premises to which the application relates or the adjacent premises. Given that there would be three units between the proposed premises and the existing pharmacy (Superdrug), the Committee was of the view that if the application was granted, Regulation 31(1)(a) is not engaged. As Regulation 31(1)(b) is conditional on Regulation 31(1)(a) being satisfied, the Committee did not proceed to consider it. On the basis of the information available, the Committee was not required to refuse the application under the provisions of Regulation 31.
- 6.7 The Committee had regard to Regulation 24(1) which requires the following five conditions to be met:
- (a) for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible;*
- (b) in the opinion of NHS England, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list—*
- (i) in any part of the area of HWB1, or*

- (ii) *in a controlled locality of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;*
 - (c) *NHS England is not of the opinion that granting the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1;*
 - (d) *the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises (whether or not, in the case of enhanced services, NHS England chooses to commission them); and*
 - (e) *the provision of pharmaceutical services will not be interrupted (except for such period as NHS England may for good cause allow).*
- 6.8 The Committee considered the position in relation to each condition.
- 6.9 In relation to condition (a), the Committee considered the map submitted by the Commissioner which clearly shows the locations of the existing pharmacies as well as the proposed premises and the medical practices within the area.
- 6.10 The Committee considered the information before it with regard to the patient groups who are accustomed to accessing pharmaceutical services at the existing premises. The Committee considers that it must seek to identify the patient groups who would potentially be affected by the relocation based upon the information provided by the parties. This information is most commonly going to be provided by the Applicant but others may also be able to contribute to the information on which the Committee will proceed to determine.
- 6.11 In this case, the Applicant has identified the patient groups as:
- 6.11.1 Patients receiving a delivery service or other 'non face-to-face services';
 - 6.11.2 Patients attending the Taunton Road Medical Centre and subsequently seeking pharmaceutical services;
 - 6.11.3 Patients attending other Bridgwater surgeries and subsequently seeking pharmaceutical services;
 - 6.11.4 Patients living within the vicinity of the pharmacy who use it because it is close to home;
 - 6.11.5 Patients who wish to access advanced or locally commissioned services from the pharmacy; and
 - 6.11.6 Patients who share protected characteristics.
- 6.12 The Committee concludes that the patient groups who are accustomed to accessing pharmaceutical services from the existing premises are those set-out below.

Patients receiving a delivery service or other 'non face-to-face services'

- 6.13 The Committee noted the Applicant's statement that "*a proportion of the current pharmacy's prescriptions are handled via its long-standing delivery service*". The Applicant describes these patients in detail and concludes that "*For these people, the*

service will remain the same regardless of where they live. The collection/delivery service will remain unchanged as a result of this relocation”.

- 6.14 The Committee was of the view that if patients were not accustomed to accessing pharmaceutical services at the premises, then they were not subject to the test under condition (a). The Committee, however, was particularly mindful that the provision of essential services is not limited to the dispensing of prescriptions.
- 6.15 With regard to other essential services that are carried out, the Committee was of the view that any patient who received essential services at the pharmacy would fall into a patient group as described below. For any patient who receives essential services that does not involve attending the pharmacy in person, the Committee was of the view that they were not accustomed to accessing pharmaceutical services at the pharmacy premises, irrespective of the reason, then they were not subject to the test under condition (a).

Patients attending the Taunton Road Medical Centre and subsequently seeking pharmaceutical services

- 6.16 The Committee noted the table provided by the Applicant with its application which shows that, in June 2024, 88.1% of the Applicant's prescriptions generated from Taunton Road Medical Centre.
- 6.17 The Committee noted the Applicant's comment that Taunton Road Medical Centre is adjacent to the existing premises and *“As there are some patients who start their journey near the current site, most notably patient group 2 (patients attending the Taunton Road Medical Centre and subsequently seeking pharmaceutical services), we have considered the journey from the current site to the proposed site in more detail”*. The Committee noted the Commissioner's comment that *“The distance between the current pharmacy location and the proposed new location is 0.4miles”* and the Applicant's comment in response that *“That is not accurate. The distance between the sites, as evidenced within the application, is 550m which equates to 0.3 miles”*. The Committee had regard to the route map provided by the Applicant in its appeal which outlined three routes, the quickest being 550 metres or an 8 minute walk. The Committee noted the Applicant's comment *“Whilst only a small difference, an additional 0.1 miles equates to an extra 2-3 minutes walking time”* and considered the likely reason for the variation of distances is as a result of there being more than one possible route. The Committee did note that the Applicant had outlined the walk time as *“9 minutes”* in its application however it considered this to either be an error, as the map outlined the quickest route as 8 minutes, or be the average walking time, given that the shortest walking time is 8 minutes and longest is 10 minutes, depending on the route taken. In any event, the Committee did not consider this to be a material point.
- 6.18 The Committee noted that the Applicant had provided a detailed description as well as images of the quickest route involved and concluded that *“As can clearly be seen from these images, this is a straightforward journey without any barriers to movement across level terrain and with a light controlled crossing over the only significant road on the route...The route is also straightforward for patients using a mobility scooter, as this is the route many would use to access the town centre amenities”*. The Committee had regard to the information before it and noted that no party had sought to dispute the route required to be undertaken. The Committee observed the level terrain, well maintained pavements, streetlights, dropped kerbs and the controlled crossing along with the topographic map submitted with the application which shows that *“There is no more than 5 metres difference in elevation between the two sites”*.

- 6.19 For those with access to private transport, the Applicant provided data on car ownership in the area. The Applicant states that *“30.1% of households do not have a car, compared to the national average of 23.5%. Given that the area includes much of the town centre, where many residents may have no need for a car, it is not surprising that car ownership levels are a little lower than the national average. However, it is still clear that 7 in 10 homes within the area highlighted do have access to a car or van”*. The Committee considered the Applicant’s comments to be speculative.
- 6.20 In its application, the Applicant states that *“both the existing and the proposed sites benefit from patient parking near to the pharmacy. At the proposed site, not only is there a car park a very short distance away on Dampiet Street, but there are also three short-stay spaces on King Street within 50m of the proposed premises, which are free of charge for 30 minutes...As the existing and proposed premises are so close, the journey to access either premises by car would not be materially different”*. The Applicant expands on this in its appeal and states that *“The distance from this car park to the proposed premises is 150m, along easy terrain as shown in the previous images. This car park has 49 spaces and costs £1.10 for one hour or £2.20 for 2 hours. Blue badge holders can park free of charge”*. The Applicant goes on to state that there are a *“few spaces provided on King Street where there is no charge and parking is permitted for up to 30 minutes”*. The Committee noted that the Applicant states that King Street is 50 metres from the proposed premises and that there are single yellow lines along the length of it *“where blue badge holders are permitted to park provide it is safe to do so”*. The Committee had regard to the images provided by the Applicant and was mindful of its findings above in relation to the route that requires walking along Dempiet and King Street for access on foot. The Committee also noted the map provided by the Applicant which shows the distribution and location of additional car parks surrounding the proposed premises. The Committee noted that no party had sought to dispute the information provided by the Applicant.
- 6.21 The Committee noted that the Commissioner had relied on the cost of car journeys as a reason for concluding that the proposed premises is *“significantly less accessible for lower income families...that are accustomed to accessing pharmaceutical services at the existing premises”*. The Committee noted that the Commissioner had previously referred to *“car parking charges”* as a *“challenge”*. The Committee also noted the Commissioner’s comments in relation to deprivation in the area but had provided no further information on this point. Conversely, the Applicant had provided economic data activity in its appeal and whilst the data did not show, for example, average earnings, it provided an indicator of those working. The Committee was mindful of the distance between the existing and proposed premises and was not of the view that the cost of a patient’s car journey would increase so much to conclude that it would be significantly less accessible. The Committee was mindful that there was a small number of free car parking spaces available and had no information before it to conclude that the cost of parking in the town centre is so expensive to conclude that the proposed premises would be significantly less accessible.
- 6.22 For those without access to private transport, the Committee had regard to the bus route map provided by the Applicant with its appeal. The Applicant states that for buses heading towards the town centre (location of the proposed premises), there is a bus stop 200 metres from the existing premises and goes on to state that *“The main routes served at these stops are 21/21a and B1, with 3 buses departing per hour on average. Both routes travel to and from the town centre, with the nearest stops serving routes 21/21A being located on High Street, 200m away from the proposed premises. Route B1 stops on Eastover, 100m away from the proposed premises”*. The Committee noted the journey time by bus is three to five minutes and the Applicant’s conclusion in its appeal that *“Given that the maximum distance from the bus stop to the proposed premises is 200m and the maximum distance to the current premises is 250m, it is*

clear that the proposed location is at least as accessible as the existing location by public transport". It was unclear to the Committee why the distance provided by the Applicant to the bus stop nearest to the existing premises varied.

- 6.23 The Committee noted that the Commissioner had relied on the cost of bus journeys as a reason for concluding that the proposed premises is *"significantly less accessible for lower income families...that are accustomed to accessing pharmaceutical services at the existing premises"*. The Committee also noted the Commissioner's comments in relation to deprivation in the area. The Applicant states that *"the maximum cost for a single fare is £2"* and the Committee was aware that some individuals would be eligible for travel concessions, as highlighted by the Applicant. The Committee was mindful that patients that currently access the Applicant's pharmacy by bus will be accustomed to the bus fares to access this pharmacy as well as the Applicant's comment that *"Most patients attending the new site will use the same bus route"*.
- 6.24 The Committee also noted the "Bridgwater Px" map submitted by the Applicant with its appeal which demonstrates that the majority of patients within the catchment area of Taunton Road Medical Practice live to the north of the proposed premises.
- 6.25 In considering all the points above, the Committee was satisfied that for those patients attending Taunton Road Medical Centre and subsequently seeking pharmaceutical services, regardless of how they travel to the proposed premises, the location of the new premises is not significantly less accessible.

Patients attending other Bridgwater surgeries and subsequently seeking pharmaceutical services

- 6.26 The Committee noted the table provided by the Applicant with its application which shows that in, June 2024, 3.1% of the Applicant's prescriptions generated from East Quay Medical Centre and 2.6% from Cranleigh Gardens Medical Centre. The Committee considered the data to be low volume but still represents a patient group. The Applicant states that *"The proposed location is equidistant from Cranleigh Gardens and closer to East Quay so will be at least as accessible for patients attending these medical centres"*. The Committee noted that this had not been disputed by any parties.
- 6.27 6.2% of the Applicant's prescriptions in June 2024 generated from *"other combined surgeries"*. The Applicant goes on to state that Redgate Medical Centre is 0.8 miles from the existing premises and *"equidistant from the proposed premises"*, which had not been disputed by any party.
- 6.28 In relation to Somerset Bridge Medical Centre, the Applicant states that *"very few patients from this surgery attend our client's pharmacy. That medical centre is located almost a mile away to the south, so it is clear that any patient who is able to travel a mile to our client's pharmacy at present would not be troubled by an additional journey of 550m"*.
- 6.29 The Committee had regard to the distances being either closer or equidistant, of its consideration above regarding the availability of car parking near the proposed premises, the availability of bus services and further that patients would alight from bus services either earlier or later to access the proposed premises.
- 6.30 Therefore, the Committee was of the view that for this patient group the proposed premises would not be significantly less accessible.

Patients living within the vicinity of the pharmacy who use it because it is close to home

- 6.31 The Applicant described the area surrounding its existing premises as “*predominantly residential*” and states that “*there is minimal supporting trade on Taunton Road, with the majority of amenities being north of Broadway, in the direction of the town centre*”. The Applicant provides a description of the journey from the existing premises to the proposed premises/town centre and states that “*the area becomes increasingly commercial until reaching Fore Street which marks the main town centre shopping area*”. It also acknowledges that “*the proposed location may be slightly closer to home for some and it may be slightly further away for others*”. In its representations on the Commissioner’s documentation, the Applicant highlights the map named “Taunton Road MC – registered patients” and states that “*It is apparent from this data that TRMC patients are more likely to live to the west of the river. Both the existing and proposed locations are also west of the river. It is also clear that the areas with the highest number of TRMC patients are the areas to the north, the west and the south-west of the current location. For patients living to the north, the proposed premises will be closer to them. For those to the west it will be essentially equidistant and for those to the south it will be a little further. We believe this supports the assertion made in our client’s appeal that the net effect of the relocation, in relation to where patients live, is broadly neutral*”. The Committee also noted the “Bridgwater Px” map submitted by the Applicant with its appeal which supports this view.
- 6.32 The Committee noted that the Commissioner had relied on deprivation in the area surrounding the existing premises as a reason for refusal by stating that “*The distance of 550 metres is not insignificant and in a deprived area the move will take away services for a population who may find bus fares and car parking charges a challenge*”. The Applicant provides information in response to this point in its appeal and concludes that “*So whilst we accept that there may well be pockets of deprivation within the area discussed, deprivation is only relevant to the extent that it affects the ability of residents to access pharmaceutical services*”. The Committee was of the same view as the Applicant and was mindful of its consideration above at 6.21 and 6.23 as well as its findings for those patients who access pharmaceutical services on foot, by car and public transport as a whole, particularly those patients who attend the Taunton Road Medical Centre and subsequently seek pharmaceutical services.
- 6.33 In considering all the points above, the Committee was satisfied that for those patients accustomed to accessing pharmaceutical services who use the existing pharmacy location because it is close to home, regardless of how they travel to the proposed premises, the location of the new premises is not significantly less accessible.

Patients who wish to access advanced or locally commissioned services from the pharmacy

- 6.34 The Applicant states that “*Patients accessing the pharmacy for the New Medicines Service (NMS) will fall into one of the other patient groups already described as they will already be receiving dispensing services from the pharmacy. For patients wishing to access the other services offered at the current premises, the proximity of the proposed premises is such that they will be able to access the services in exactly the same manner. The pharmacy will be open for the same hours and the new premises will be close to the existing premises*”. The Committee noted there was no dispute with regard to this patient group. The Committee had already considered patients who access the existing pharmacy either on foot, by car or using public transport in relation to the other patient groups as above.
- 6.35 In considering all the points above, the Committee was satisfied that for those patients accustomed to accessing advanced or locally commissioned services from the existing pharmacy, regardless of how they travel to the proposed premises, the location of the new premises is not significantly less accessible.

Patients who share protected characteristics.

- 6.36 In its application, the Applicant states that *“Every person shares at least one protected characteristic, i.e. they belong to a group that distinguishes them by age, race or any other characteristic. More commonly, however, in the context of Regulation 24, this relates to those who may be elderly, infirm or disabled”* and goes on to state that *“The proposed premises can be easily accessed by wheelchairs or mobility scooters if necessary, as there is level access to the pavement and the area benefits from wide pavements, wheelchair-friendly crossings and the terrain is level. Furthermore, there is dedicated disabled parking provided near the proposed premises and they are easily accessed by public transport”*. This had not been disputed on appeal.
- 6.37 In its appeal, the Applicant states that *“At the time of the last census, 21.8% of residents in this ward were classified as disabled under the Equality Act, compared to 17.3% nationally...the residents to the south of the ward already live 1-2km away from the pharmacy at present, so any resident here whose mobility is limited is very unlikely to walk to the pharmacy anyway. They are much more likely to use a car or public transport...Using census data, 18.9% of the population of this ward was under the age of 16 at the time of the census compared to the national average of 18.5%. 16.9% of the population was aged over the age of 65 compared to the national average of 18.1%. This is clear, therefore, that the area is not unusual in respect of the age profile of its residents”*.
- 6.38 The Committee noted the comments made earlier in this determination about the terrain, pavements with dropped curbs and controlled crossing to support its finding that there are no barriers to access. The Committee was of the view that for those for those with limited mobility, the distance to the proposed premises might be prohibitive. However, the Committee was mindful of its consideration above for those patients who access pharmaceutical services by car and public transport and was of the view that the proposed premises would not be significantly less accessible.
- 6.39 The Committee considered whether the information provided showed that there were patients accustomed to accessing pharmaceutical services at the existing premises for whom the new premises would be less accessible because of reasons related to a protected characteristic under the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation). The Committee identified that the relocation may impact patients with protected characteristics, however it was of the view that there was no specific information relating to a patient group who shared a specific protected characteristic, but that these patients were included within the patient groups identified by the Applicant. Therefore, in considering condition (a), the Committee took into account these patients and had regard to the need to eliminate discrimination and advance equality of opportunity and foster good relations between these patients and those who do not share their protected characteristic(s).
- 6.40 For the reasons stated earlier, the Committee was of the view that for this patient group, the proposed premises would not be significantly less accessible.

Overall assessment

- 6.41 For the reasons given above, the Committee was able to be satisfied that, for patient groups who are accustomed to accessing the existing premises, the proposed premises is not significantly less accessible. The Committee was therefore of the view that condition (a) is met.

Regulation 24(1)(b)

- 6.42 The Committee noted the decision of the Commissioner in respect of condition (b), that the granting of this application would result in a significant change to the arrangements that are in place. The Committee noted the reasoning provided by the Commissioner and that the Applicant had split this into three parts:
- 6.42.1 *“Granting the application would result in the clustering of pharmaceutical services in the town centre.*
- 6.42.2 *The proposed relocation would result in the pharmacy moving away from an area of deprivation with significant residential housing i.e. it would leave a gap.*
- 6.42.3 *Approving the relocation would leave “nothing to the left side of Bridgwater”.*
- 6.43 The Committee noted the Applicant’s response to each part in turn.
- 6.44 The Applicant states that *“The Regulations do not require the decision maker to consider whether the proposed premises are located close to other pharmacies (other than in respect of Regulation 31 which is not applicable in this case). Even if the application was to result in ‘clustering’ using the term applied by the ICB, that is not a ground for refusal. In any event it is perfectly natural that pharmacies will be located in areas where residents visit when going about their daily lives. It is clearly not unusual for a town centre to have three pharmacies located within it.”* The Committee was of the same view as the Applicant, the Regulations are clear, there must be a *“significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services”*. The Committee considered that the relocation would be a change to the provision of pharmaceutical services as it would result in one less pharmacy in the existing location and one more pharmacy in the proposed premises. However, the Committee considered that the change to the arrangements in place for the provision of pharmaceutical services was not significant because the relocation, if granted, would not lead to a significant change in the general availability of pharmaceutical services in the areas of the existing or proposed premises.
- 6.45 In addressing part two, the Applicant states that *“We dispute the suggestion that granting the application will leave a gap. As we have shown earlier there is another pharmacy (Jhoots) located ¾ mile to the south of our client’s current location. Furthermore, that pharmacy is located closer to the large residential area to the southwest of the town centre. We contend that there will remain accessible pharmaceutical services provision to the south of the town and that granting this application will not result in a meaningful ‘gap’”.*
- 6.46 The Committee noted that the Commissioner also addresses this point earlier in its report and states that *“The SW Committee considered if a gap would be created if the pharmacy were to move from its current location. The SW Committee agreed for those currently accessing the pharmacy on foot, the impact of the change would be significant due to the distance involved, particularly for the elderly and people with pushchairs/buggies”.*
- 6.47 The Committee was mindful of its conclusion that for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the proposed premises are not significantly less accessible as well as the location of the Jhoots Pharmacy located further south of Taunton Road. The Committee did not consider that the reasoning provided by the Commissioner was enough to amount to a significant change.
- 6.48 Finally, the Applicant states that *“As we have commented before, if we assume that the ‘left’ of Bridgwater is the west, our client’s pharmacy is not currently located to the west*

of the town, so it is not clear how the situation in respect of provision to the west will change by granting this application. If the ICB actually meant the south, we have addressed this point already". Using the Commissioner's map, the Committee noted that the Applicant's existing premises is not located to the left of Bridgwater but in fact, located south of it, on the west side of the river.

- 6.49 The Committee noted that there is currently no pharmacy located to the left of Bridgwater but it did not consider this to be relevant to this application and if indeed the Commissioner did mean south of Bridgwater, Jhoots Pharmacy on Taunton Road will still remain in its existing location.
- 6.50 Therefore, on the information provided the Committee was of the opinion that the granting of the application would not result in a significant change to the arrangements in place for the provision of local pharmaceutical services or of pharmaceutical services in any part of the area of HWB1 or in a controlled locality of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate. The Committee concluded that condition (b) is met.

Regulation 24(1)(c)

- 6.51 The Committee noted the decision of the Commissioner in respect of condition (c) that the granting of the relocation would not lead to significant detriment to proper planning in respect of the pharmaceutical services in the area. The Committee noted that this had not been disputed by any party either on appeal or in subsequent representations. However, the Committee noted that Superdrug PLC had stated in its representations to the Commissioner that if the application was granted, it *"would cause detriment to the proper planning of pharmaceutical services"*. The Committee noted that this had not been addressed by the Commissioner nor had it been expanded upon further by Superdrug PLC. The Committee was of the view that more information would be required to conclude that Regulation 24(1)(c) is not met. On the information provided the Committee was of the opinion that the granting of the application would not cause a significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of HWB1 and therefore concluded that condition (c) is met.

Regulation 24(1)(d)

- 6.52 The Committee noted that the Applicant had given an undertaking, in their original application form, that the same services will be provided at the proposed premises. On the information provided, the Committee determined that condition (d) is met.

Regulation 24(1)(e)

- 6.53 In relation to condition (e), the Committee noted the Applicant had confirmed in their application that there will be no interruption to service provision. On the information provided the Committee determined that condition (e) is met.

Overall

- 6.54 The Committee noted the comments from the Applicant with regard to the expiry of the lease, however this was not a relevant consideration within the criteria as set out in the Regulations. The Committee therefore placed no weight on this information.
- 6.55 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 6.55.1 confirm the Commissioner's decision;

- 6.55.2 quash the Commissioner's decision and redetermine the application;
- 6.55.3 quash the Commissioner's decision and, if it considers that there should be a further notification to the parties to make representations, remit the matter to the Commissioner.
- 6.56 Given the Commissioner had reached a different conclusion to that of the Committee, the Committee determined that the decision of the Commissioner must be quashed.
- 6.57 The Committee went on to consider whether there should be a further notification to the parties detailed at paragraph 19 of Schedule 2 of the Regulations to allow them to make representations if they so wished (in which case it would be appropriate to remit the matter to the Commissioner) or whether it was preferable for the Committee to redetermine the application.
- 6.58 The Committee noted that representations on Regulation 24 had already been made by parties to the Commissioner, and these had been circulated and seen by all parties who made representations on the application, as part of the processing of the application by the Commissioner. The Committee further noted that when the appeal was circulated representations had been sought from parties on Regulation 24.
- 6.59 The Committee concluded that further notification under paragraph 19 of Schedule 2 would not be helpful in this case.

7 Decision

- 7.1 The Committee quashes the decision of the Commissioner and redetermines the application.
- 7.2 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 7.3 The Committee has determined that conditions (a), (b), (c), (d) and (e) are satisfied.
- 7.4 The application is granted.

Case Manager
Primary Care Appeals