NHS Resolution

14 August 2025

REF: SHA/26614

APPEAL AGAINST BLACK COUNTRY ICB DECISION TO REFUSE AN APPLICATION BY ELIZABETHPHARMA LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING IDENTIFIED IMPROVEMENTS OR BETTER ACCESS UNDER REGULATION 17 AT 92 WINDMILL LANE, CASTLECROFT, WOLVERHAMPTON, WV3 8LX (BEST ESTIMATE)

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

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

1 Outcome

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

1.2 The Committee determined that the application should be refused.

A copy of this decision is being sent to:

ElizabethPharma Ltd
NHS Black Country ICB

NHS Resolution

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

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Email: nhsr.appeals@nhs.net

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1 The Application

By application dated 22 July 2024, ElizabethPharma Ltd ("the Applicant") applied to Black Country ICB ("the Commissioner") for inclusion in the pharmaceutical list offering identified improvements or better access under Regulation 17 at 92 Windmill Lane, Castlecroft, Wolverhampton, WV3 8LX (best estimate). In support of the application it was stated:

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

1.1 "The application will address gaps identified on page 85 and 23 of the Wolverhampton Pharmaceutical Needs Assessment (PNA) 2022 – 2025, which highlights "reduction in out-of-hours services". This is further exacerbated by recent closure of four pharmacies, including a 100-hour Lloyds Pharmacy in Sainsbury's, WV11 1UP. These closures have heightened pressure on local healthcare providers, a fact confirmed by a Local Primary Care Network (PCN) called Unity Primary Care Ltd in a letter attached to this application.

1.2 No local pharmacies stay open past 6:30PM. They are all closed on Sundays and have significant reduced hours on Saturdays.

1.3 This application will address the issues mentioned above by offering extended hours i.e. 9am to 8pm on weekdays and 9am to 5pm on weekends. This pharmacy will provide services that align with priorities outlined in key documents such as the Wolverhampton Joint Local Health and Wellbeing Strategy 2023 – 2028 and the NHS Long-Term Plan e.g. weight management, substance misuse, and smoking cessation programs.

1.4 As noted in the letter from Unity Primary Care Ltd, I will work very closely with the local PCN to develop and delivery services based on local GP and Nursing home needs, thereby improving patient care throughout coordinated services e.g. it will offer extended hours service to manage acute conditions outside typical GP hours and provide essential medications for palliative care needs.

1.5 Petitions from the local community confirmed that a pharmacy at the proposed location would ensure accessibility for those with mobility issues or without private transportation. The attached petitions, supported by local community, healthcare professionals, nursing homes, a letter from Unity Primary Care Ltd and endorsements from Wolverhampton councillors representing 10,756 residents, confirms this application will fill crucial service gaps and greatly improve pharmacy access and quality of healthcare in this area."

In making this application, the Applicant was seeking to secure the improvements or better access identified on pages 13, 45, 85 and 123 of the PNA.

1.6 “Page number 13: There are potential opportunities for community pharmacies to further contribute to key local health priorities. These could include smoking cessation, NHS Health Checks, brief interventions, and signposting to services for both weight management and alcohol.

1.7 Page number 45 (Figure 8: Sunday closing times of Community Pharmacies, Wolverhampton 2022): Map on page 45 reveals an uneven spatial distribution of pharmacies in Wolverhampton operating on Sundays, with a noticeable concentration on the city’s eastern side, considering the city centre as a reference point. This disparity leaves residents in the western part of the city, who may require pharmacy services, at a significant disadvantage.

1.8 Page number 85: there is a reduction in the provision of out-of-hours services, including the loss of a 100-hour pharmacy. This should be monitored over the coming years to ensure that pharmaceutical provision to those most in need is not reduced.

1.9 Page number 123: ‘Thank you for your feedback. A key finding of the PNA has highlighted the reduction in out-of-hours services and recommends that this is monitored over the coming years to make sure that pharmacy access is not reduced to those who are most in need.’

1.10 To meet the identified improvements and address the need for better access as detailed in the Pharmaceutical Needs Assessment (PNA) page 13, 45, 85 and 123, my proposal for opening a new pharmacy premises is meticulously designed to bridge these gaps through several strategic initiatives:

1.11 Since Wolverhampton PNA was published in September 2022, Wolverhampton has witnessed the closure of four pharmacies, including a notable 100-hour Lloyds Pharmacy within Sainsbury’s, WV11 1UP and reduction in pharmacies operating hours. The steepest decrease in pharmacy operating hours has been recorded on Saturdays, with a total reduction of 21.5 hours. Page 85 and 123 of the PNA has noted that there is a lack of access to out-of-hours pharmacies.

1.12 Page 41 of the PNA mentions the operating hours of the 100-hours pharmacies, it is important to note that with the exception of Boots Pharmacy in Bentley Bridge and Lloyds Pharmacy in Sainsbury’s, which is now closed, all 100-hours pharmacies have reduced their operating hours.

1.13 When considering recent pharmacy closures, reduction in pharmacies operating hours and lack of out-of-hours pharmacies identified page 85 and 123 of the PNA, it becomes obvious that there is a critical reduction in patients access to pharmacies, especially out-of-hours pharmacies. This concern was also raised by the Directors of Unity Primary Care Federation, a local GP federation made up of 13 practices (circa 78k population). This Federation provides extended access to over 140k patients from a South West Hub, 6pm to 8pm on weekdays and from 8am to 2pm on Saturdays and Sundays.

1.14 Directors of Unity Primary Care Federation conveyed to me that they need for a pharmacy in their area that complements their extended access medical services, as there are presently no pharmacies within their area that can fulfil their pharmaceutical needs, especially on Sundays when all pharmacies within their area are closed.

1.15 To address the voids mentioned above, I intend to operate my pharmacy 7 days a week this would address a number of local and city-wide concerns about the collapse of

pharmacy services in the area and extend the amount of care that is provided on the evenings and weekends. This will especially benefit those 71,000 residents in the Tettenhall Regis, Tettenhall Wightwick, Merry Hill, Park, and Penn wards, who currently lack services after 6pm and entirely on Sundays.

1.16 Furthermore, this would also reduce the fall out on GP practices in the working week and support community based clinical teams (Rapid intervention / palliative care teams / Care home outreach and 111 etc) all of who struggle to manage ailments due to the lack of access to POMs.

1.17 I intend to open the pharmacy on the following days: -

1.17.1 Monday – Friday: 9am to 8pm

1.17.2 Saturday / Sunday: 9am – 5pm

1.17.3 Bank Holidays: 9am – 12pm (including Christmas / New Years Day / Easter)

1.18 The map on page 45 of the PNA illustrates a disproportionate distribution of pharmacies open on Sundays, with a concentration primarily to the east of the city centre. The location I have selected for my proposed pharmacy aims to rectify this imbalance, ensuring that pharmacies that open on Sundays are accessible evenly across the city, providing all residents equal access. Addressing this gap in even spatial distribution is crucial for minimising travel times and enhancing safety, particularly for elderly and disabled individuals.

1.19 Although the South West contains pockets of affluent population – there are wards around my proposed location that fall into “spearhead areas” (the bottom 20th centile for deprivation). These wards contain patients who may not have ease of access to transport and will struggle to make the 30+ minute journey to the next available pharmacy that is open on a Sunday. I aim to reduce this disparity and support a reduction in health inequalities.

1.20 Page 13 of the PNA highlights, “There are potential opportunities for community pharmacies to further contribute to key local health priorities”. However, the context of these opportunities has changed, resulting in gaps in service provision. This shift is attributed to the closure of several pharmacies and the reduction in operational hours of pharmacies that remain open. Consequently, health priorities such as smoking cessation, NHS Health Check, brief interventions etc. are unlikely to be addressed due to a decrease in the number of pharmacies and reduced access to pharmacies that remain open due to reduction in their operating hours.

1.21 Leveraging my professional experience as a pharmacist independent prescriber who is deeply versed in both community pharmacy and primary care realms, I aim to close this service gap by offering advanced and enhanced service. I will work with local public health colleagues to deliver services that align with local and national priorities such as:

1.21.1 Health checks

1.21.2 Cancer screening

1.21.3 Vaccinations

1.21.4 Weight reduction

1.21.5 Smoking cessation

1.21.6 Alcohol dependency

1.22 These services also align with the health priorities identified in the PNA, the Wolverhampton Joint Local Health and Wellbeing Strategy for 2023 – 2028, the NHS Black Country Joint Forward Plan of June 2023, the NHS in England at 75: priorities for the future, and The NHS Long Term Plan of January 2019.

1.23 Concurrently, I will introduce the option of private services in line with an NHS model of care which will guarantee wide ranging, easily accessible healthcare, reduce the burden of care of NHS services locally and support the long term stability of the pharmacy. For example, I intend to introduce Private Minor Ailment service that will enhance and support the objectives of the Pharmacy First Scheme. Additionally, I will offer Private phlebotomy service, Private travel and childhood vaccination service, Private alcohol addition [sic] and weight management service. This is in line with NHS strategy to manage demand on secondary care services.

1.24 Page 80 of the PNA forecasts “estimated population projection for 2042 is 292,800 residents” and notes that “local population may impact the need for pharmaceutical services. Changes can be caused by an aging population, migration, and the development of new housing estates”.

1.25 As the population grows, there is an undeniable expectation that the need for pharmacy services will rise accordingly. Taking into account the closure of pharmacies, the reduction in their operation hours, and population growth, it’s evident that the current gap in access to pharmacy services in Wolverhampton is poised to grow further in the future following this trend.

1.26 Unfortunately, this challenge has been met with a reduction in local pharmacies and I aim to use this bid as a springboard for a novel pharmacy model.

1.27 This application has garnered support from the local community, healthcare professionals, local councillors, and the local Primary Care Network (PCN) through multiple petitions and letters. Please see the attached supporting documents.

1.28 My proposed pharmacy and I stand ready to meet the expected surge in demand for pharmacy services by providing essential, advanced, enhanced, and private services (mentioned above), to address the future health care needs of my community. Taking into account the identified need for improvement in services that align with local health priorities and better access to out-of-hours pharmacies and my professional expertise, approving my application would provide patients with the opportunity to consult a highly skilled pharmacist like myself on a no-appointment basis. This would likely result in a more satisfying consultation experience, quick resolution of health concerns, and effective referrals, consequently reducing the load on local healthcare services.

1.29 My plan to open a new pharmacy directly addresses the current and future health care needs of the Wolverhampton community. This initiative not only seeks to remedy gaps in current service provision but also to foresee and adapt to emerging health care needs, ensuring equitable access to critical pharmacy services for all residents of Wolverhampton. This effort is in line with broader objectives to enhance access to healthcare and to minimise health inequalities.

1.30 I hope that you will share with me the vision of a new pharmacy in the south west of Wolverhampton that will end the disparity of pharmacy services and reshape the care delivery for the local and city-wide population.

1.31 Lastly, I would like to express my interest in attend the Oral Hearing, should one be scheduled.

1.32 Declaration of Conflict of Interest: Before April 2024, I worked at Unity Primary Care Ltd as a clinical pharmacist, a role I assumed in April 2020 and fulfilled for three years. I am currently employed in a similar capacity at IH Medical-Bilston Health Centre. Despite the shift in my primary employment, I continue to work for Unity Primary Care Ltd through a pre-arranged agreement involving both IH Medical-Bilston Health Centre and Unity Primary Care Ltd."

LETTER OF SUPPORT FROM UNITY PRIMARY CARE LTD DATED 14 MAY 2024

1.33 "We are writing in support of the application for a new pharmacy contract in the WV3/4 area of Wolverhampton.

1.34 As a local Primary Care Network and GP Federation lead – I would be keen to see an expansion in provision in my area to better support patient care and compliment the services we provide from a Primary Care setting.

1.35 The area has been badly hit by a significant reduction in pharmacy provision as larger organisations have consolidated their contracts. Thus, shifting provision out of the local area but also reducing the amount of support provided to patients. This shift has occurred even in the context of increasing care navigation to pharmacies and the increasing burden to General Practice.

1.36 As a federation representing in excess of 130k patients– we recognise the dire need for more in-hours provisions of pharmacy care but also a significant issue within the south west of Wolverhampton for an out of hours establishment. This would support a number of out of hours services whose roles are currently limited by a lack of dispensing facilities. Examples would include issue of acute medications within our acute care hub and the availability of end of life medications for palliative care outside of core hours.

1.37 We have worked with the applicant to develop a modern initiative that should ensure that the services provided are sustainable for the long-term and will contribute heavily to patient safety and wellbeing.

1.38 We believe a joint venture between PCNs and Pharmacist teams (taking into account legal boundaries and conflict of interest) will be a new and innovative way to provide care for patients that is truly holistic and amplifies medicines stewardship and patient safety.

1.39 We are keen to support this innovative initiative for our patients and our city.

1.40 Please reach out to us if any further information or clarification will help in approving this application."

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 16 April 2025 states:

2.1 "Black Country 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 Black Country 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"

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

2.4 "Improvements or Better Access Application

2.5 Elizabeth Pharma [sic] Ltd, 84 Rowan Cresent, Wolverhampton, WV3 7HL Best Estimate of the Proposed Site

2.6 92 Windmill Lane, Castlecroft, Wolverhampton, WV3 8LX

2.7 ME3120 - CAS-313201-S0D1J2

Regulations in connection with this application

2.8 Regulations 17 and 19 – improvements or better access: additional matters and consequences.

2.9 Regulation 31 – refusal: same or adjacent premises.

2.10 Regulation 32 – deferral arising out of LPS designations.

2.11 Regulations 40 to 44 – applications in a controlled locality

2.12 Regulation 50 – gradualisation for doctors

2.13 Regulation 65 – core opening hours conditions

2.14 Regulation 66 – conditions relating to providing directed services

Decision

2.15 PSRC Decision - Committee agreed with the recommendation to REFUSE the application.

2.16 Regulation 31 – Not applicable - proposed premises are not adjacent to or in close proximity to another pharmacy or Appliance dispensing appliance contractor premises.

2.17 Regulation 17a - has not been met as the applicant is proposing core hours on a Monday to Friday, but not a Saturday or Sunday. The improvements and better access are based on the applicant's supplementary hours. The seven day week service, which is supported by Unity Primary care local counsellors and signatures from petitions would seem to be based on supplementary, not core hours. Supplementary Hours can be removed with notice and are not deemed to be a sustainable option upon which to base an application.

2.18 The applicant refers to three clauses in the pharmaceutical needs assessment sections 13, 45, 85 and 123, as the areas where the application will identify improvements or secure better access.

2.19 Section 13 of the PNA says that there is adequate provision of pharmaceutical services, which are well distributed across the population, that there are potential opportunities for pharmacies to contribute towards key local health priorities and further work is needed to assess evidence for community pharmacies contribution and including future service reviews, the ICB have not commissioned any reviews, of potential gaps in the services that are currently provided by the existing pharmacies.

2.20 The key findings of the 2022 to 2025 PNA is that there is sufficient provision of pharmacies that there is has been a reduction in approving of out of our services including loss of 100 hour pharmacies and that this should be monitored in coming years.

2.21 To date, there have been no published reviews of the impact of the reduction in those out of our services, the applicant is not committing to provide those services as those hours are supplementary.

2.22 Section 45 out of hours services and 100 hour pharmacies,

2.23 Section 45 relates to the applicants view that there is a reduction in the number of 100 hour pharmacies and out of hours services. The applicants core hours do not address these comments as the core hours do not include evenings, weekends or bank holidays.

2.24 Section 123 is part of the general feedback to the draft PNA and the health and well-being board. The feedback suggests that pharmaceutical services need to be aware of partnership, working with local organisations and monitoring any changes of services provided.

2.25 The health and well-being board have not initiated any reviews or identified gaps in services from this PNA. The PNA issued a supplementary statement in April 2024 where it noted closures, including the Boots closure at 92 Windmill Lane but did not identify any current or future need for additional pharmaceutical services.

2.26 17 (1) (b)

2.27 17 (2) (a) - Not applicable

2.28 17 (2) (b) - Not applicable

2.29 17 (2) (c) – Not applicable

2.30 17 (2) (d) – Not applicable

2.31 17 2 (e) (i) and (ii) - Not applicable

2.32 17 (2) (f) - Not applicable

2.33 17 (2) (g) (i) and (ii) Not applicable

2.34 17 (2) H - Not applicable

2.35 Regulation 19 - The ICB has not commissioned any additional services from existing pharmacies to secure improvements or better access.

2.36 There have been no complaints received by the Office of the West Midlands or the ICB.

2.37 Regulation 32 - deferral arising out of LPS designation - Not applicable.

2.38 Regulations 40 to 44 - The application is in a controlled locality – Not applicable.

2.39 Regulation 50 - gradualisation for doctors - Not applicable.

2.40 Regulation 65 core opening hours - Not applicable.

2.41 Regulation 66 - Conditions relating to providing directed services - Not applicable."

3 The Appeal

In an email dated 14 May 2025 addressed to NHS Resolution the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

3.1 "I am writing to formally appeal the decision made by the Black Country ICB to refuse my application (Ref: ME3120-CAS-313201-S0D1J2), under Regulation 17 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

3.2 This appeal sets out, in detail, the evidence to show that the Black Country ICB's decision was influenced by both factual and procedural errors, and that key supporting evidence submitted with my application was not given proper consideration which is in contravention of Regulation 17(2)(b).

3.3 For the remainder of this document, Black Country ICB will be referred to as the "ICB". Below I have laid out the "Brief Grounds of Appeal" and its "Detailed Narrative". I welcome your independent review and look forward to hearing from you soon.

Brief Grounds of Appeal

ICB's failure to acknowledge my prior core hours commitment

3.4 ICB disregarded the explicit commitment I made during the 45 day consultation period to convert all proposed supplementary hours into Core Contractual Hours in my response to the objections submitted by Local Pharmaceutical Committee (LPC) Staffordshire & Stoke-on-Trent on 20 October 2024. Please see below an excerpt from my response and I have attached the full document with this appeal for your reference.

3.4.1 "We have identified a significant demand for services in 'Supplementary' Hours and are willing to agree to convert all current 'Supplementary' Hours into 'Core' hours."

ICB's failure to acknowledge evidence of complaints from councillors and Castle Croft Medical Practice.

3.5 The ICB stated that "There have been no complaints received by the Office of the West Midlands or the ICB". However, this overlooks the evidence I submitted from local stakeholders, which clearly confirms that complaints and concerns about inadequate access do exist at the community level.

3.6 I submitted formal statements co-signed by elected councillors and Castlecroft Medical Practice confirming that they regularly receive complaints from residents and patients regarding inadequate pharmaceutical provision, accessibility issues, and service dissatisfaction. I have attached their statement with this appeal for your reference.

ICB overlooked key PNA evidence despite precise citation of page number and text

3.7 Despite my clear citation and exact quotation of the text from page 123 of the Pharmaceutical Needs Assessment (PNA) demonstrating "A key finding of the PNA…

reduction in out-of-hours service" ICB instead addressed an unrelated text on the same page. This suggests a significant oversight or failure to engage with the specific evidence I submitted.

ICB failed to consider all relevant evidence under Regulation 17(2)(b)

3.8 In contravention of Regulation 17(2)(b) ICB did not acknowledge the broad range of RELEVANT community-led evidence I submitted in support of my application which could have been used to inform their decision. Instead, they repeated cited the absence of an ICB-commissioned review, despite having valid, verifiable, locally sourced evidence before them. Regulation 17 explicitly allows for the consideration of local evidence and does not limit acceptable evidence to that commissioned by the ICB.

ICB failed to acknowledge the geographic and access barriers

3.9 ICB's own assessment under Regulation 31 confirms that the proposed site is not in close proximity to any existing pharmacy.

3.10 Furthermore, a joint statement from elected councillors and Castlecroft Medical Practice highlights poor public transport links and significant physical access barriers, which collectively limit access to pharmaceutical services. Taken together, this evidence clearly supports the conclusion that approving my application would secure better access, thereby satisfying the requirements of Regulation 17(1)(a).

Detailed Narrative of Grounds of Appeal

ICB's concerns in relation to Regulation 17a

Failure to Acknowledge my prior Core Hours Commitment

3.11 ICB incorrectly concluded that "Regulation 17(2)(a) had not been met" on the grounds that the improvement I propose are based on supplementary hours. However, during the 45 day consultation period, I formally and explicitly confirmed my commitment to convert all proposed supplementary hours into core contractual hours – including evenings, Saturdays, Sundays and Bank Holidays. This was clearly stated in my response to the objections submitted by LPC Staffordshire & Stoke-on-Trent on 20 October 2024. I have included an excerpt from my response and attached the full document for reference.

3.12 "*We have identified a significant demand for service in 'Supplementary' Hours and are willing to agree to convert all current supplementary hours into 'Core Hours'."*

3.13 This oversight indicates that not all relevant evidence was taken into account when ICB made the decision which is in direct contravention of Regulation 17(2)(b).

3.14 I would like to use this opportunity again to make it unequivocally clear that I am formally converting all previously proposed supplementary hours into "core contractual hours". Accordingly, all the pharmacy operating hours I now propose are <u>core hours</u> and all supplementary hours have now been removed.

3.15 For the avoidance of any remaining doubt; The proposed hours are listed below.

3.16 Table 1

Day	Opening Time	Closing Time	Core Hours	Supplementary Hours
Monday	09:00	20:00	11	0
Tuesday	09:00	20:00	11	0
Wednesday	09:00	20:00	11	0
Thursday	09:00	20:00	11	0
Friday	09:00	20:00	11	0
Saturday	09:00	17:00	11	0
Sunday	09:00	17:00	11	0
Total Hours			71 hours	0
Bank Holidays	09:00am	12:00pm	3	0

3.17 By converting all operating hours to core hours, my application secures better access that is guaranteed, sustainable, and fully compliant with Regulation 17(1)(a), directly addressing the ICB's main concern and justifying approval.

My response to the concerns raised by ICB on Specific Sections of the PNA

A. My response to the ICB's concerns in relation to Section 13 of the PNA

3.18 ICB repeatedly refers to the absence of an ICB commissioned review in its decision. However, the fact that such a review has not yet been concluded does not negate the existence of those gaps.

3.19 ICB stated "*To date, there have been no published reviews of the impact of the reduction in those out-of-hours services".* In doing so, the ICB effectively acknowledges my position – that a reduction in out-of-hours services has, in fact, occurred.

3.20 In the absence of a ICB commissioned review, the clear, consistent, and independently sourced evidence I have submitted in support of my application should have carried greater weight. This evidence includes input from the public, elected officials, Castlecroft Medical Practice, various local healthcare professionals, nursing homes, the Primary Care Network, and petition signatories.

3.21 Unfortunately, it appears that ICB discounted this evidence solely because it was not generated through an ICB commissioned process. In doing so, the Committee has, in effect, penalised proactive and community led effort which highlights a genuine gap in local pharmaceutical service(s) which has emerged over the past 2 years following a string of pharmacy closures (4 closures including a 100-hour contract).

3.22 Rather than valuing this initiative – or recommending that the ICB undertake a formal review – the ICB has chosen to disregard it entirely. This not only undermines the spirit of Regulation 17 but also raises concerns about the transparency and responsiveness of the needs assessment process.

3.23 A lack of formal review should not be interpreted as proof that no need exists. Instead, it highlights a missed opportunity for the ICB to address a growing concern. I would welcome the opportunity to collaborate with the ICB and share all of the evidence to support a commissioned review.

3.24 For your reference, I have attached all supporting documentation, which includes:

3.24.1 Letters from local councillors representing over 10,000 residents.

3.24.2 A letter from Castlecroft Medical Practice, which has a registered patient population of over 13,000.

3.24.3 A letter from the Primary Care Network serving approximately 75,000 patients.

3.24.4 A petition signed by representatives of local nursing homes.

3.24.5 A petition signed by local healthcare professionals.

3.24.6 Both face-to-face and online public petitions demonstrating strong community backing.

[Please note that these have been provided for Committee at Appendix A]

3.25 My application demonstrates that the establishment of new pharmacy at the proposed location will secure:

3.25.1 Improvements to the existing provision by aligning with current primary care and community service footprint, increasing the hours of service and providing additional services in line with the governments current “pharmacy first” roadmap. I have worked with the local Primary Care Network to ensure alignment with core GP hours which are now 8am – 8pm on weekdays and additional hours on weekends.

3.25.2 Better access which is a real, measurable and relating to NHS services as outlined above.

B. My response to ICB’s concerns in relation to Section 45 of the PNA

3.26 ICB noted that “*The applicant’s core hours do not address these comments, as the core hours do not include evenings, weekends, or bank holidays”*. However, ICB would not have reached this conclusion had it properly considered my response to the objections raised by LPC Staffordshire & Stoke-on-Trent during the 45 day consultation period.

3.27 In that response, I clearly stated my commitment to converting all proposed supplementary hours into core contractual hours, including evenings, weekends and bank holidays. (Please find attached my response to the objections submitted by LPC Staffordshire & Stoke-on-Trent, dated 20 October 2024.)

3.28 I would like to reaffirm that all previously proposed supplementary hours have now been formally converted into core hours, directly addressing the concerns raised by the ICB and fulfilling the requirements of Regulation 17(1)(a).

3.29 My intention is to work closely with all stakeholders to ensure the delivery of a comprehensive and accessible pharmacy service that truly meets the needs of the local community.

3.30 All operating hours in my proposal are now core contractual hours. The proposed core opening and closing times are as follows:

3.30.1 Monday to Friday: 9am – 8pm

3.30.2 Saturday: 9am – 5pm

3.30.3 Sunday: 9am – 5pm

3.30.4 Bank Holidays (including Christmas Day, New Year's Day, Easter): 9am – 12pm

C. My response to ICB's concerns in relation to Section 123 of the PNA

3.31 ICB referenced wrong text on page 123 of the PNA. Despite the fact I had referenced the exact page number and quoted the exact text from the PNA – it seems like the ICB committee has either chose to ignore this or missed it by accident.

3.32 Instead of responding to the key finding I specifically referenced from the PNA – i.e. "*A key finding of the PNA has highlighted the reduction in out-of-hours services and recommends that this is monitored over the coming years to make sure that pharmacy access is not reduced to those who are most in need"* (page 123) – the ICB has chosen to address an unrelated text on the same page, entirely overlooking the point I raised. This failure to engage with relevant evidence directly contravenes Regulation 17(2)(b).

3.33 ICB mentions later in their decision again that "*The health and wellbeing board have not… identified gaps in services from this PNA"* which is factually incorrect because PNA noted in page number 12: "*There are potential opportunities for community pharmacies to further contribute to key local health priorities. These could include smoking cessation, NHS Health Checks, brief interventions, and signposting to services for both weight management and alcohol".*

3.34 The Core Hours and the services I proposed in my application directly addresses the issues noted above in the PNA, thereby securing improvement and better access. Therefore, my application fulfils the requirement of Regulation 17(1)(a).

3.35 In its decision, the ICB referenced the PNA Supplementary Statement issued in April 2024 stating that it "*did not identify any current or future need for additional pharmaceutical services"*. This is factually inaccurate. The Supplementary Statement explicitly notes that significant changes had occurred in pharmaceutical provision due to multiple pharmacy closures. However, it also states that:

3.36 "*Due to the scale of changes, it was deemed that producing another PNA would be a disproportionate response to these changes, given a full update of the PNA is due in 2025."*

3.37 This statement reflects a decision not to commission a new PNA, not a denial of existing service gaps. Please refer to the attached April 2024 PNA Supplementary Statement.

3.38 Furthermore, even without this Supplementary Statement, the original PNA document repeatedly acknowledges a reduction in out-of-hours service provision and urges action. Key examples include:

3.39 PNA Page 85: "*There is a reduction in the provision of out-of-hours services, including the loss of a 100-hour pharmacy. This should be monitored over the coming years to ensure that pharmaceutical provision to those most in need is not reduced."*

3.40 PNA Page 123: *"A key finding of the PNA has highlighted the reduction in out-of-hours services and recommends that this is monitored over the coming years to make sure that pharmacy access is not reduced to those who are most in need."*

3.41 These excerpts directly support my position that significant service gap exists and contradict the ICB's interpretation.

ICB's concerns in relation to Regulation 19

A. My response to ICB's concerns in relation to Regulation 19

3.42 The ICB stated in its decision that "*The ICB has not commissioned any additional services from existing pharmacies to secure improvements or better access."*

3.43 The evidence I have gathered through direct engagement with stakeholders – collectively representing over 85,000 residents of Wolverhampton – should serve as a robust evidence base demonstrating the clear need for out-of-hours pharmacy services and additional provisions to secure improvement and better access. This evidence can be used to prompt the ICB to commission a review, and my pharmacy stands ready to support the ICB in delivering these additional services to achieve those outcomes.

B. My response to ICB's statement on Lack of Formal Complaints

3.44 The statement by the ICB in its decision that "*no complaints have been received by the Office of the West Midlands or the ICB"* does not accurately reflect the situation on the ground.

3.45 I submitted with this appeal a formal statement co-signed by elected councillors and Castlecroft Medical Practice representing 10,000+ residents and 13,000+ patients, respectively, confirming that they regularly receive complaints from residents and patients regarding inadequate pharmaceutical provision, accessibility issues, and existing service dissatisfaction.

3.46 The absence of formal complaints to the Office of the West Midlands or the ICB should not be interpreted as an indication that service provision is adequate – especially when it contrasts with the substantial community evidence I have gathered.

Geographic and access barriers for people with Protected Characteristics

3.47 Regulation 18 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, together with the Public Sector Equality Duty under Section 149 of the Equality Act 2010, requires decision makers to have due regard to the needs of individuals with protected characteristics. In this context, a letter co-signed by Castlecroft Medical Practice and the elected councillors for Tettenhall Wightwick Ward highlights several serious access barriers faced by local residents, including:

3.47.1 Steep hills and the absence of pavements along routes to nearby pharmacies;

3.47.2 A lack of direct public transport to the nearest Boots pharmacy;

3.47.3 Persistent patient concerns regarding delays, long queues, and prescription unavailability at existing providers.

3.48 These issues disproportionately affect individuals with protected characteristics – particularly those with mobility impairments or without access to private transport – and clearly illustrate the need for a more accessible, community based pharmaceutical service.

3.49 When considered alongside the ICB's own Regulation 31 assessment, which confirms the site is not in close proximity to any existing pharmacy, this stakeholder evidence provides a compelling case that my application satisfies Regulation 17(1)(a) – namely, that approval would secure both improvements and better access to pharmaceutical services in a manner that is practical, inclusive, and sustainable.

Request for Oral Hearing

3.50 Given the material misunderstandings of the factual evidence in the original decision, I respectfully request that an oral hearing be granted. This would provide an opportunity to clarify key issues – including my confirmed core hours commitment, the independently verified service gap, and the proper interpretation of the Pharmaceutical Needs Assessment under Regulation 17. An oral hearing would also allow for a fuller and fairer consideration of stakeholder evidence that I believe was overlooked in the original decision making process.

Conclusion

3.51 I have fully addressed ICB's key concern regarding supplementary hours by converting all proposed hours in to Core contractual hours. The pharmacy will be operation for 71 core hours per week, including 9.00am to 12.00pm on Bank Holidays, also delivered as core hours. There are no supplementary hours in the pharmacy opening hours.

3.52 In addition, I have provided credible, locally sourced evidence of service need, supported by healthcare professionals, community stakeholders, and elected representatives, and have correctly several misinterpretations of the PNA.

3.53 Given that all outstanding issues have now been addressed and the statutory criteria have been met, my application warrants approval. I therefore respectfully request, that my application be reconsidered under the full scope of Regulation 17, with due regard for both the clarified evidence and the statutory duty to ensure equitable access to pharmaceutical services for all members of the community."

LETTER FROM THE APPLICANT TO THE COMMISSIONER DATED 20 OCTOBER 2024

3.54 "We sincerely appreciate the time and effort taken by Community Pharmacy Staffordshire & Stoke-on-Trent (LPC) to review my application for inclusion in the NHS Pharmaceutical List.

3.55 We are grateful for the feedback and would like to respond to the representations made.

3.56 We aim to clarify how the application addresses local and city-wide needs and is fully compliant with The NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

3.57 From this point forward, Community Pharmacy Staffordshire & Stoke-on-Trent will be referred to as "LPC".

3.58 Representation made by LPC: It was raised that the evening and weekend hours proposed are non-core and could be altered after the pharmacy opens, leaving service gaps unaddressed.

3.59 Our Response: Regulation 65(5)(b) of (NHS Regulations 2013) provides that any changes to non-core hours must be approved by NHS England. This ensures that changes cannot be made arbitrarily without assessing the impact on local access. Any

future adjustments would be subject to Black Country ICB's review and approval. This is once again likely to involve the local LPC's.

3.60 We have submitted 40 hours as Core Hours and 26 hours as Supplementary Hours. These Supplementary hours will align to GP extended access in our area supporting the national aim for Primary Care access between 8am-8pm on weekdays and a significant service provision on weekends / bank holidays.

3.61 We have identified a significant demand for services in "Supplementary" Hours and are willing to agree to convert all current "Supplementary" hours into "core" hours.

3.62 To be clear, the current application proposes 40 core hours and 26 "Supplementary" hours. We are prepared to adjust this so that the pharmacy will operate for a total of 66 core hours per week.

3.63 This is reflected in 9am-8pm Monday – Friday and 16 hours (9am – 5pm) over the weekend.

3.64 Regulation 65(4)(c) empowers NHS England to monitor the compliance of service provision to ensure local needs continue to be met. This legal safeguard ensures that any future changes would not be possible without NHS England's Approval.

3.65 The recent closure of several local pharmacies, including a 100-hour Lloyds Pharmacy in Sainsbury's, has heightened the demand for evening and weekend services.

3.66 The pharmacy's extended hours directly address the gap created by these closures, as evidenced by support from Unity Primary Care Ltd, serving over 130,000 patients, and multiple petitions that have been submitted.

3.67 A letter of support from the three councillors, representing over 10,000 residents, highlights the strong local demand for a pharmacy, especially outside of typical working hours, with particular emphasis on palliative and acute care needs.

3.68 Representation made by LPC: It is stated that a previous pharmacy closed due to being non-viable and that there has not been significant population growth to justify a new pharmacy.

3.69 Our Response: LPC asserts that the previous pharmacy at this location closed due to non-viability; however, they have not provided any supporting evidence, such as data or a statement from the former owner to substantiate this claim. It is likely that the closure was a result of corporate consolidation rather than a lack of viability per se.

3.70 National providers of pharmaceutical services have all consolidated their footprint in a bid to save money with the reduction in income and difficulties in expanding clinical services delivered from the pharmacies.

3.71 In close working with the local GP practices and PCN; We believe we can deliver a novel model that supports additional clinical services provided from the pharmacy. We also believe we can build strong bridges with the local secondary care trust to support early patient discharge and monitoring.

3.72 Our close working relationship with local stakeholders such as PCNs, GP practices, Nursing homes, councillors etc. gives us confidence in the level of engagement which we believe will be far greater than the previous provider.

3.73 In addition, we anticipate further dilution of services from primary care into pharmacies. This aligns with NHS forward view and the recent rapid review of the NHS by Lord Darzi.

3.74 We believe that the viability of the former pharmacy doesn't necessarily reflect the current demand for services. Since the PNA was written in 2022 we have had a round of pharmacy closures and a significant change in government and policy. Pharmacy core services have increased to include 7 new minor ailments conditions (Under Pharmacy First Scheme), CPCS and expansion in vaccination programmes.

3.75 In the South West of Wolverhampton – We have the highest density of care home patient in the city with very little pharmacy provision after 6pm or on weekends. There are no local pharmacies with matching opening hours. With our proposed increase in operating hours, we anticipate closer working with clinical colleagues supporting the delivery of care (especially palliative care) closer to home that is currently lacking.

3.76 Regulation 18(2)(b) of the NHS Regulations mandates that NHS England assess whether the existing services are sufficient, regardless of the past financial viability of other pharmacies.

3.77 As noted in the PNA (pg. 123), “A key finding of the PNA has highlighted the reduction in out-of-hours services,”- this was identified before the recent pharmacy closures across the city.

3.78 The letter from Unity Primary Care Ltd highlights the support for our view on the current provision and demand.

3.79 Under Regulation 13(1)(a), NHS England must assess whether current pharmaceutical services meet local demand, which, in this case, is exacerbated by recent pharmacy closures, making my application crucial to restoring and improving service levels.

3.80 We hope this response provides clarity of vision and aspiration, helping to address the concerns raised by colleagues about demand and utilisation.

3.81 Representation made by LPC: In addition, the City of Wolverhampton Pharmaceutical Needs Assessment states that there is adequate pharmaceutical provision which is well distributed across the city and sufficient to meet the needs of residents.

3.82 Our Response: The PNA was compiled in 2021/22 and does not reflect the significant change in the pharmacy provision and expansion of services that we have seen in the past 2 years.

3.83 As previously eluded; The NHS forward view and Lord Darzi review once again encourage expanded delivery from a pharmacy setting or “care closer to home”.

3.84 On pages 85 and 123 of the PNA, “it is noted that there has been a reduction in out-of-hours service provision and this is to be monitored to ensure that access to pharmaceutical services for those most in need is not diminished”. My application aims to ensure that provision of pharmaceutical services, both locally and city-wide, are enhanced and not diminished further.

3.85 We have seen the closure of a number of pharmacies in the area including a 100hour Lloyds pharmacy in Saulsbury’s [sic] since the publication of the PNA.

3.86 Through our application we have demonstrated considerable efforts to clarify need, speaking to PCNs, Local Councillors and members of the public, and also anticipate

activity that will be delivered in a pharmacy setting giving us confidence in our case and our ambition.

3.87 Representation made by LPC: It was noted that several pharmacies are located near the proposed site and there have been no complaints about access to those services.

3.88 Our Response: While there may be other pharmacies that can be considered as geographically close, Regulation 18(2)(a) emphasizes the need for NHS England to ensure that residents have reasonable access to pharmaceutical services, taking into account not just geographic proximity but also the range of services and operational hours. As highlighted in the application, and supported by Regulation 19(2), there is a significant gap in out-of-hours services locally and in broader region. The PNA 2022–2025 also acknowledges this gap in pages 85 and 123.

3.89 The pharmacy's proposed operating hours will offer services during times when no other pharmacies are available, specifically during weekday evenings and weekends. Currently none of the local pharmacies remain open past 6:30 p.m. or entirely on Sunday. This gap is not only noted in the Wolverhampton PNA, but also strongly supported by the petitions from local organisations, residents and healthcare professionals, indicating that the current pharmaceutical services are insufficient to meet the needs of the community.

3.90 The demand for increased Primary Care access on weekends has to be matched with pharmacy availability otherwise many of the interventions offered out-of-hours can become redundant.

3.91 The LPC has not provided any evidence to support their claim that there have been no complaints about the current availability of pharmacies or access to them. In contrast, a letter from Community Pharmacy Wolverhampton (LPC), submitted in relation to this application, acknowledges that "There has been the expected patient feedback due to the Boots closures".

3.92 Additionally, the public petition we have conducted as part of our market testing clearly shows that residents face challenges accessing the existing pharmacies, not only because they are difficult to reach, but also due to their limited hours of operation, especially in the late evenings and on Sundays.

3.93 A petition we conducted among geographically dispersed nursing and residential care homes supports the fact that there is a significant gap in pharmacy services across the Wolverhampton area especially in the South West of the city – which has the highest density of care home beds.

3.94 This application seeks to address and close critical gaps in service.

3.95 The approval of this application will not only meet the needs of the local population but will also provide citywide benefits by close working relations with community based secondary care and Primary care colleagues.

3.96 Representation made by LPC: The LPC believes the application has not adequately demonstrated how it will improve access or provide better services.

3.97 Our Response: The improvements proposed in our application directly address the requirements of Regulation 17(1)(a)(b), which calls for NHS England to consider whether the new pharmacy will secure improvements or better access to services included in the Pharmaceutical Needs Assessment.

3.98 My application offers several key improvements to local area and broader region:

3.98.1 Extended hours of operation: I will deliver extended access to pharmacy services for everyone locally and across the broader region by providing convenient, longer operating hours – open from 9 a.m. to 8 p.m. on weekdays and 9 a.m. to 5 p.m. on weekends. As stated earlier, we are ready to convert all “supplementary hours” into “core” operating hours to address any concerns.

3.98.2 Integration with local healthcare services: As outlined in the letter from Unity Primary Care Ltd (PCN) and multiple petitions we will work closely with the local PCN’s, nursing homes, healthcare professionals, and residents to coordinate patient care, particularly for urgent care and palliative medications outside typical hours. This collaboration will ensure the development and delivery of services that address both local and regional needs. The result will be more effective and efficient service delivery that will drive patient engagement, leading to improved overall care.

3.98.3 Alignment with local health priorities: We will deliver services such as weight management, smoking cessation, and substance misuse programs, which align with the NHS Long-Term Plan and the Wolverhampton Joint Health and Wellbeing Strategy. Offering these services with extended availability, will improve access and convenience, ultimately enhancing patient engagement and leading to better health outcomes.

3.98.4 Accessibility for vulnerable populations: Multiple petitions and letters of support from local councillors emphasize the need for accessible services for working individuals and individuals with mobility issues or without private transportation. My pharmacy will be conveniently located and offer services during times that are otherwise unavailable in the area, improving access for underserved populations locally and across the broader region.

3.99 The overwhelming community support, evidenced by support from Unity Primary care Ltd (PCN), public petition, nursing home petition, and healthcare professionals' petition, further confirms that this application addresses critical service gaps and will improve access and enhance services provision.

Conclusion

3.100 Our application is fully aligned with The NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, and addresses key gaps identified in Pharmaceutical Needs Assessment as well as gaps that have emerged since the PNA was published in 2022.

3.101 The supporting evidence provided through multiple petitions, letters of support from local stakeholders underscores the pressing need for this pharmacy to serve the local community and the broader region.

3.102 I welcome any further discussions or clarifications and look forward to working together to enhance pharmaceutical care in our city.

3.103 I would be happy to attend an oral hearing should one be necessitated.

3.104 Thank you for your time and consideration.”

4 Summary of Representations

This is a summary of representations received on the appeal.

4.1 THE APPLICANT (these representations were unsolicited)

4.1.1 “I write in connection with my appeal to NHS Resolution under Regulation 17 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

4.1.2 My application for a new pharmacy contract in Castlecroft, Wolverhampton, was initially refused by the NHS Black Country Integrated Care Board (ICB), and the appeal is currently under consideration by your team.

4.1.3 Since the submission of my appeal on 14-May 2025, new, materially relevant information has come to light that I respectfully request be considered in support of my case.

4.1.4 On 4 June 2025, the Wolverhampton Pharmaceutical Needs Assessment (PNA) for 2025–2028 was formally published by the City of Wolverhampton Health and Wellbeing Board.

4.1.5 This updated assessment includes a clear and direct reference to Castlecroft as a priority area for future pharmacy openings due to recent closures and identified accessibility issues for residents.

4.1.6 Specifically, paragraph 2 on page 99 of the Wolverhampton PNA(2025-2028) states:

4.1.7 “*If new pharmacy openings are considered, priority should be given to areas where recent closures have occurred, such as Castlecroft and Bradmore, and where residents are more likely to be without private transport. New sites should ideally be located near GP surgeries, offer extended hours (including evenings and weekends)”*

4.1.8 My application directly addresses this identified need:

4.1.8.1 MY proposed premises is in Castlecroft, within close proximity to Castlecroft Medical Practice.

4.1.8.2 My proposed pharmacy offers “Core” extended operating hours: Monday to Friday 9am–8pm and Saturday to Sunday 9am–5pm including 9am -12pm on Bank Holidays

4.1.9 Additionally, I wish to draw your attention to page 45 of the Pharmaceutical Needs Assessment (PNA) for Wolverhampton 2025–2028, which notes that the city comprises six Primary Care Networks (PCNs), each of which provides an extended hours service which offers appointments during evenings and weekends.

4.1.10 Page 99 of the PNA (2025-2028) highlights the strategic need to ensure that pharmacy provision aligns with these extended service hours to maintain continuity of patient care.

4.1.11 My application is directly supported by Unity Primary Care Network (PCN), one of the six PCNs identified in the PNA. Unity PCN operates extended hours service offering appointments during evenings and weekends, but currently faces constraints due to the absence of a pharmacy operating on parallel hours within their local catchment area. As evidenced in the formal letter of support submitted by Dr. Kamran Ahmed, Medical Director of Unity PCN, their clinical services — including the Acute Care Hub and access to urgent medications for palliative care — are limited without a complementary, accessible pharmacy during out-of-hours periods.

4.1.12 My proposed pharmacy would directly address this gap with opening hours of 9am–8pm Monday to Friday and 9am–5pm on weekends including 9am-12pm on Bank Holidays, aligning precisely with Unity PCN's operational needs. The PNA's acknowledgement of the importance of this alignment strengthens the materiality and relevance of Unity PCN's endorsement in the context of my application.

4.1.13 The newly published PNA (2025–2028) highlights several deficiencies and unmet needs that I had already identified a year prior to its release. This not only reaffirms my assessment but also reflects my in-depth understanding of the needs within my city. I proactively engaged with numerous local stakeholders, and all supporting evidence of these efforts has been included in my original application submitted to your office.

4.1.14 For example:

4.1.15 1) Paragraph 3 on page 47 of the Wolverhampton PNA (2025–2028) identifies reports from residents in Castlecroft about difficulties accessing pharmacy services during evenings and weekends. I had previously submitted evidence highlighting this very issue as part of my application; however, this was dismissed by the NHS Black Country ICB on the grounds that no formal complaints had been received by either their office or NHS England West Midlands at the time. This latest PNA now confirms that these access challenges were, in fact, a reality on the ground — as evidenced further by page 99, which specifically recommends that *"priority be given to applications for extended hours pharmacies in Castlecroft*" to address these unmet needs. This clearly validates the concerns I raised and demonstrates that the evidence I submitted was both accurate and reflective of genuine patient need. In light of this, my application should not to have been rejected by the Black Country ICB and should be reassessed in the context of this newly endorsed need.

4.1.16 2) 2nd paragraph on the page 54 of the Wolverhampton PNA (2025–2028) further validates the point I raised above where feedback from responded repeatedly raise need for pharmacies with later opening hours and weekend availability.

4.1.17 3) 4th paragraph on Page 54 of the Wolverhampton Pharmaceutical Needs Assessment (2025–2028) reports that only 24% of respondents were able to find an open pharmacy on Sundays, meaning that the vast majority — 76% — experienced difficulty accessing pharmaceutical services on that day. This finding strongly reinforces the concerns I raised in my original application regarding the lack of Sunday pharmacy provision across the Wolverhampton area. However, instead of seeing improvement, page 52 of the same document highlights a declining trend, noting a reduction in the number of pharmacies open on Sundays. This worsening situation underscores the urgency of the issue and demonstrates a widening access gap. My proposed pharmacy — offering comprehensive Sunday service from 9am to 5pm — directly responds to this unmet need. Taken together, the evidence in the PNA both validates the case I previously made and supports the immediate approval of my application to address this ongoing and intensifying service shortfall. These elements demonstrate strong alignment with the recommendations set out in the newly published PNA, which was not available at the time of my original appeal submission.

4.1.18 4) Page 59 of the Wolverhampton PNA (2025–2028) notes that residents reporting access issues often cited "*inconvenient opening hours"* as a key barrier. This reinforces the need for extended-hour pharmacy services. My

proposed pharmacy's — Core opening hours including bank holidays — directly addresses this gap. I firmly believe this constitutes new and material evidence that may influence the outcome of the appeal.

4.1.19 5) The final paragraph on page 87 of the Wolverhampton PNA (2025–2028) states that "*The closure of local pharmacies and the need to travel to multiple locations to find medication added to the stress for some users."* My proposed pharmacy directly addresses this concern. Located near Castlecroft Medical Centre and offering extended hours, it would eliminate the need for residents to travel farther or visit multiple sites — significantly reducing patient stress and improving local access to essential medicines and advice.

4.1.20 6) The first paragraph on page 89 of the Wolverhampton PNA (2025–2028) notes that "*The proximity of pharmacies to their homes and the extended opening hours are also mentioned as valuable*". My proposed pharmacy fulfils both criteria — it is situated within the local community and provides Core extended opening hours, including evenings and weekends and bank holidays. Approval of this application would therefore deliver clear value to both Castlecroft residents and the wider Wolverhampton area.

4.1.21 7) The second paragraph on page 90 of the Wolverhampton PNA (2025–2028) states that *"extended opening hours, including weekends and evenings, were frequently mentioned as a desired improvement*." This directly supports the core of my proposal, which offers core extended hours throughout the week and weekend. Approval of my application would directly fulfil this widely expressed patient priority and enhance access to pharmaceutical services at times of greatest need.

4.1.22 8) Finally, and I repeat, second paragraph on page 99 of the Wolverhampton PNA (2025–2028) states "*new pharmacy openings are considered, priority should be given to areas where recent closures have occurred, such as Castlecroft and Bradmore, and where residents are more likely to be without private transport. New sites should ideally be located near GP surgeries, offer extended hours (including evenings and weekends)".* My application specifically and directly addresses this need.

4.1.23 I have enclosed a copy of this new Wolverhampton PNA (2025-2028) for your reference and respectfully request that NHS Resolution consider this document when reviewing my appeal.

4.1.24 I respectfully request urgent approval of my application, as the need for an extended hours pharmacy in Castlecroft is immediate and pressing. Residents in this area have now gone over a year without adequate access to pharmaceutical services that meet their needs — particularly outside of standard opera□ng hours. My proposal offers a timely and practical solution to close this service gap and ease the ongoing burden on my community.

4.1.25 Thank you for your time and attention.

4.1.26 Please do not hesitate to contact me should you require any further information or clarification."

5 Summary of Observations

The following observation were received by NHS Resolution received on appeal and on the application of Regulation 22.

5.1 THE COMMISSIONER

5.1.1 "The PSRC have considered the additional information received and they note that:

5.1.2 In the application received by PSRC, the core hours being proposed were:

5.1.3 The intended core opening hours are 40hrs with a further 26hrs as supplementary hours.

5.1.4 Proposed core

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00-14:00 15:00-18:00	09:00 – 14:00 15:00 – 18:00	09:00 – 14:00 15:00 – 18:00	09:00 – 14:00 15:00 – 18:00	09:00-14:00 15:00-18:00	0	0	40hrs

5.1.5 Proposed total (including supplementary)

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00-14:00 15:00-18:00 18:00-20:00	09:00-14:00 15:00-18:00 18:00-20:00	09:00-14:00 15:00-18:00 18:00-20:00	09:00-14:00 15:00-18:00 18:00-20:00	09:00-14:00 15:00-18:00 18:00-20:00	09:00-17:00	09:00-17:00	66hrs

5.1.6 Supplementary hours can be removed without any reference to the ICB. Therefore, PSRC focused on the proposed core hours when considering the application in line with regulations, when making the determination.

5.1.7 It is noted that on page 3 section 7 of the supporting information recently provided by the applicant as part of the appeal they state:

5.1.8 *"The second paragraph on page 90 of the Wolverhampton PNA (2025-2028) states that "extended opening hours, including weekends and evenings, were frequently mentioned as a desired improvement". This directly supports the core of my proposal, which offers core extended hours throughout the week and weekend. Approval of my application would directly fulfil this widely expressed patient priority and enhance access to pharmaceutical services at times of greatest need."*

5.1.9 The applicant therefore appears to be stating that the hours of 6pm to 8pm Monday to Friday, 9am to 5pm Saturday and Sunday, are to be core hours, which is different to the application received.

5.1.10 In addition, on page 1 of the supporting information, there is reference to core extended opening hours also including 9am – 12pm on Bank Holidays, which was also not referenced in the original application.

5.1.11 *"My proposed pharmacy offers 'Core' extended operating hours: Monday to Friday 9am – 8pm and Saturday to Sunday 9am – 5pm including 9am – 12pm on Bank Holidays."*

5.1.12 However, it is noted that the applicant applied referencing the 2022 PNA for Wolverhampton Health and Wellbeing Board. The 2025-28 PNA was not published at the time that the PSRC were determining the application, and therefore could not be considered.

5.1.13 To conclude if this information was available within the application received, the PSRC may have reached a different conclusion, however as the information is new material and was not available at the time it was determined their decision remains unless redetermined by NHS Resolution."

6 Consideration

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

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

6.3 The Committee noted that the Applicant had based its application on the 2022 – 2025 PNA but that the Health and Wellbeing Board ("HWB") had since published a 2025 version of the PNA (the "2025 PNA").

6.4 The Committee considered that there were two related issues that it needs to determine in relation to the PNA. It needed to determine which PNA was the relevant PNA for the purposes of Regulation 22 and whether the relevant PNA had identified the improvements or better access that the application was looking to secure.

6.5 All parties had been invited to comment upon the application of Regulation 22 however no comments were received.

6.6 The Committee considered that the starting point as set out in Regulation 22 was that the relevant PNA was the PNA of the relevant HWB that is current at the time that the decision is taken. There is no dispute that the 2025 PNA is the current PNA.

6.7 The Committee dealt with the appeal by way of reconsideration of the application.

6.8 The Committee noted the Applicant's request for its appeal to be considered by way of an oral hearing. Given the nature of the application being PNA-related and on the basis of the information available, the Committee considered it was not necessary to hold an Oral Hearing.

6.9 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations").

Regulation 31

6.10 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).

6.11 The Committee noted the Commissioner's decision which stated that there are no pharmacies adjacent to or in close proximity to the site in question. This had not been disputed by any party. Therefore, on the information before it, the Committee determined that it was not required to refuse the application under the provisions of Regulation 31.

6.12 The Committee noted that, if the application was granted, the applicant would – in due course – have to notify the Commissioner of the precise location of its premises (in accordance with paragraph 31 of Schedule 2). Such an application would be invalid (and the applicant would not be able to commence provision of services) if the location then provided would (had it been known now) had led to the application being refused under Regulation 31.

Regulation 17

6.13 The application (which was to be determined in accordance with the procedures in Schedule 2 to the Regulations) was submitted by the Applicant based on providing improvements, or better access, identified in the pharmaceutical needs assessment (pursuant to Regulation 17).

6.14 The Committee considered whether purported improvements or better access, on which the Applicant based its application, satisfied the elements of Regulation 17(1) which reads as follows:

"(1) If -

(a) NHS England receives a routine application and is required to determine whether granting it, or granting it in respect of some only of the services specified in it, would secure improvements, or better access to pharmaceutical services of a specified type, in the area of the relevant HWB: and

(b) the improvements or better access that would be secured have or has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 4(a) of Schedule 1,

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

6.15 Paragraph 4(a) of Schedule 1, reads as follows:

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

(a) would, if they were provided (whether or not they were located in the area of the HWB), secure improvements to, or better access to, pharmaceutical services, or pharmaceutical services of a specified type, in its area.

6.16 The Committee noted that the Applicant provided an updated list of pages in the 2025 PNA relevant to its application. The Committee noted that the Applicant has focused on pages 47, 54, 59, 87, 89, 90 and 99; specifically, page 99. The Committee noted that the Applicant seeks to address improvements or better access in the Castlecroft area of Wolverhampton. The Committee further noted that the pages referenced did not include a heading encompassing the identified improvements or better access and so considered the PNA on a page by page basis.

6.17 The Committee noted that page 47 of the 2025 PNA provides the following statement:

6.17.1 "*Several reasons were provided for why some found pharmacy locations inconvenient. Many reported that pharmacies were too far away for those without cars, particularly in areas like Castlecroft and Bradmore. The closure of Boots and other pharmacies has worsened this issue, leaving fewer options and placing greater pressure on the remaining ones. Accessibility remains a significant concern for those reliant on public transport or unable to drive, with some locations lacking evening or weekend hours. Suggestions for improvement included more pharmacies near GP surgeries, extended opening hours, and services in supermarkets.*"

6.18 The Committee was of the opinion that the above statement provides an overview of the situation in Wolverhampton currently and does not explicitly identify improvements or better access as envisaged under paragraph 4(a) of Schedule 1 to the Regulations.

6.19 The Committee noted that page 54 of the 2025 PNA provides the following statement:

6.19.1 *"Based on the 985 responses to the Public/Patient Survey, around 9 in 10 (89%) felt that their community pharmacy was open at the times they wanted to use it, and around 1 in 10 (11%) felt it was not. The most common feedback from respondents highlighted the need for community pharmacies to have later opening hours and weekend availability. Several respondents who work regular office hours during the week suggested that pharmacies should stay open a few additional hours in the evening to accommodate this.*

Regarding when people accessed their community pharmacies, the majority visited between 12pm and 5pm (63%), followed by between 8am and 12pm (42%), with a smaller proportion accessing between 5pm and 8pm (18%). Pharmacies are largely accessed on weekdays (95%), but some respondents did report visiting on Saturdays (21%).

When asked whether they could access pharmacies at specific times and days during the week, around 4 in 10 (44%) agreed they could find a pharmacy open from 5pm to 8pm on weekdays. Additionally, around 1 in 10 (10%) agreed they could find a pharmacy open between 8pm and 8am on weekdays, the large majority (69%) reported they could find an open pharmacy on Saturdays, and slightly fewer (24%) on Sundays."

6.20 Whilst the above statement (quoted from page 54) provides feedback on the public survey undertaken when constructing the 2025 PNA, the Committee was not satisfied that this indicates an identified improvement or better access as envisaged under paragraph 4(a) of Schedule 1 to the Regulations.

6.21 The Committee noted that page 59 of the 2025 PNA stated:

6.22 "*Accessibility of pharmacies*

In the 2025 Public/Patient Survey, respondents were asked if they experienced difficulties accessing their community pharmacy. Of the responses, the large majority (93%) indicated they had no issues, and fewer (6%) did reported challenges. Please note a small minority (1%) did not answer this question.

Those who faced difficulties highlighted issues such as limited parking, steps or uneven access, and a lack of ramps for wheelchairs or pushchairs. Common complaints also included pharmacies being out of stock, long queues, and inconvenient opening hours. Some respondents cited mobility issues, such as arthritis, COPD, or Parkinson's, which made visiting pharmacies more difficult. Additionally, limited delivery services and unreliable phone orders were mentioned. Poor staff attitudes, high transport costs, and a lack of dog-friendly policies were also noted as barriers to accessibility, particularly for vulnerable individuals."

6.23 The Committee was of the opinion that the above statement provides an overview of the situation in Wolverhampton currently based on feedback from the public survey undertaken during the writing of the 2025 PNA and does not explicitly identify improvements or better access as envisaged under paragraph 4(a) of Schedule 1 to the Regulations.

6.24 The Committee noted that page 87 of the 2025 PNA provides the following statement:

6.24.1 *"Negative Experiences: Conversely, a number of respondents reported issues with stock availability, leading to delays in receiving medication. Long wait times and queues were common complaints, particularly in busy pharmacies. Some respondents felt that staff were sometimes rude or unhelpful, and there were instances of incorrect or incomplete prescriptions being dispensed. The closure of local pharmacies and the need to travel to multiple locations to find medication added to the stress for some users."*

6.25 The Committee was of the opinion that the above statement provides an overview of the situation in Wolverhampton currently based on feedback from the public survey undertaken during the writing of the 2025 PNA and does not explicitly identify improvements or better access as envisaged under paragraph 4(a) of Schedule 1 to the Regulations.

6.26 The Committee noted that page 89 of the 2025 PNA provides the following statement:

6.26.1 *"Convenience and Accessibility: Convenience is a significant factor, with respondents valuing the ease of obtaining repeat prescriptions and the efficiency of electronic ordering and text message notifications. Home delivery services are particularly important for those with mobility issues or chronic conditions. The proximity of pharmacies to their homes and the extended opening hours are also mentioned as valuable."*

6.27 The Committee was of the opinion that the above statement provides an overview of the situation in Wolverhampton currently based on feedback from the public survey

undertaken during the writing of the 2025 PNA and does not explicitly identify improvements or better access as envisaged under paragraph 4(a) of Schedule 1 to the Regulations.

6.28 The Committee noted that page 90 of the 2025 PNA provides the following statement:

6.28.1 *"Improved Communication and Convenience: Several respondents emphasised the need for better communication, such as universally available text message notifications when prescriptions are ready and updates on any issues with prescription requests. There were also suggestions for pharmacies to network better to direct patients to other locations if a medication is out of stock."*

6.29 The Committee was of the opinion that the above statement provides an overview of the situation in Wolverhampton currently based on feedback from the public survey undertaken during the writing of the 2025 PNA and does not explicitly identify improvements or better access as envisaged under paragraph 4(a) of Schedule 1 to the Regulations.

6.30 The Committee noted that the Applicant referenced page 99 of the 2025 PNA, under a heading of 'The Key Findings and Recommendations for the 2025-29 PNA are', the following statement:

6.30.1 "*If new pharmacy openings are considered, priority should be given to areas where recent closures have occurred, such as Castlecroft and Bradmore, and where residents are more likely to be without private transport. New sites should ideally be located near GP surgeries, offer extended hours (including evenings and weekends), and consider integrating delivery services with more flexible time slots to improve accessibility for those who are housebound or reliant on public transport."*

6.31 Further, the Committee noted that page 98 of the 2025 PNA, under the same heading and immediately before the Applicant's quote at 6.30.1 above, states:

6.31.1 "*There is sufficient provision of pharmaceutical services for the population of Wolverhampton, considering the more complex needs of residents living in the more deprived areas of the city. The public/patient survey asked respondents whether pharmacy services were available at convenient and accessible locations. A strong majority agreed, with 94% stating services were conveniently located and 93% finding them accessible. Additionally, 89% felt that pharmacies were open when needed."*

6.32 Whilst the Committee observed that page 99 refers to potential pharmacy openings in the future, it was of the view that the 2025 PNA does not contain any explicit reference to a need for improvements or better access as envisaged under paragraph 4(a) of Schedule 1 to the Regulations.

6.33 In fact, the PNA explicitly states that there is currently sufficient provision of pharmaceutical services across the Wolverhampton area.

6.34 The Committee noted page 11 of the 2025 PNA also states:

6.35 *"At this time, there is adequate community pharmacy provision, which is well distributed across the city and sufficient to meet the needs of residents. There are opportunities to increase uptake and quality of current services offered through commissioning and contracting mechanisms. Commissioners,*

contractors, and the LPC will need to continue to work together to develop and improve these services.

There are potential opportunities for community pharmacies to further contribute to key local health priorities."

6.36 The Committee noted the information provided by the Applicant in respect of the test in Regulation 17(1). The Applicant had suggested where the application could, in their view, provide improvements or better access to the existing provision of pharmaceutical services to the Castlecroft area. However, the Committee concluded that such improvements or better access were not identified in the 2025 PNA in accordance with paragraph 4(a) of Schedule 1 of the Regulations and, as such, the provisions of Regulation 17 were not met.

Summary

6.37 The Committee was not required to refuse the application under the provisions of Regulation 31.

6.38 The Committee found no reference in the PNA to services which would fall within the description set out in paragraph 4(a) of Schedule 1 to the Regulations.

6.39 The Committee determined that, in the absence of specified circumstances in which the provision of services would secure improvements, or better access to, pharmaceutical services, the provision of Regulation 17(1) were not met.

6.40 Therefore, the Committee did not need to go on and consider Regulation 17(2).

6.41 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:

6.41.1 confirm the Commissioner's decision;

6.41.2 quash the Commissioner's decision and redetermine the application;

6.41.3 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.

6.42 Although the Committee had reached the same conclusion as the Commissioner, it noted that it had considered information before it that was not available at the time of the Commissioner's decision (namely the recent publication of the 2025 PNA), and therefore determined that the decision of the Commissioner must be quashed.

6.43 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.

6.44 The Committee noted that representations on Regulation 17 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 17.

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

7 **Decision**

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

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

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

7.3.1 The PNA does not specify circumstances in which the provision of specified services will secure improvements to, or better access to, pharmaceutical services in the Castlecroft area.

Case Manager
Primary Care Appeals