NHS Resolution

22 August 2025

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

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

REF: SHA/26615

APPEAL AGAINST BUCKINGHAMSHIRE, OXFORDSHIRE AND BERKSHIRE WEST ICB DECISION TO REFUSE AN APPLICATION BY MR OLUBUKOLA TAOFIK SHODUNKE FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 WITHIN 100M OF THE CHIPPING NORTON HEALTH CENTRE, RUSSELL WAY, CHIPPING NORTON, OX7 5FA

1 Outcome

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

A copy of this decision is being sent to:

Temple Bright LLP on behalf of Mr Olubukola Taofik Shodunke
PCSE on behalf of Buckinghamshire, Oxfordshire and Berkshire West ICB
Community Pharmacy Thames Valley

NHS Resolution

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

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

REF: SHA/26615

APPEAL AGAINST BUCKINGHAMSHIRE, OXFORDSHIRE AND BERKSHIRE WEST ICB DECISION TO REFUSE AN APPLICATION BY MR OLUBUKOLA TAOFIK SHODUNKE FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 WITHIN 100M OF THE CHIPPING NORTON HEALTH CENTRE, RUSSELL WAY, CHIPPING NORTON, OX7 5FA

1 The Application

By application dated 17 December 2024, Mr Olubukola Taofik Shodunke ("the Applicant") applied to Buckinghamshire, Oxfordshire and Berkshire West ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 within 100 metres of Chipping Norton Health Centre, Russell Way, Chipping Norton, OX7 5FA. In support of the application it was stated:

In my/our view this application should not be refused pursuant to Regulation 31 for the following reasons:

1.1 "Not applicable"

Information in support of the application

1.2 "On 4 December 2024, Chipping Norton Pharmacy, Chipping Norton Health Centre, Russell Way, London Road, Chipping Norton, OX7 5FA suddenly announced that it was closing with immediate effect.

1.3 Chipping Norton Pharmacy was dispensing an average of just over 10,000 items every month at the time that it closed and had an average of 4,500 EPS nominations each month, meaning a large number of repeat patients were regularly using the Chipping Norton Pharmacy.

1.4 In addition, it provided a number of advanced services. For the last available month, Chipping Norton Pharmacy provided 41 Pharmacy First consultations and 26 NMS consultations.

1.5 The closure of Chipping Norton Pharmacy has left a gap in service provision which means that there is no longer a reasonable choice of pharmaceutical service provision in the town.

1.6 Whilst there are two other pharmacies in the town, those two pharmacies were, between them, already dispensing an average of almost 15,000 items per month, which is approximately the national average for England per pharmacy.

1.7 Given the loss of a pharmacy which had, until its closure, dispensed an average of 10,000 items per month, it will clearly not be possible for the two remaining pharmacies to easily absorb the 10,000 items per month that were dispensed by Chipping Norton Pharmacy.

1.8 In short, the two remaining pharmacies will now have to dispense an average of 25,000 items a month between them in order to meet patient demand. This will either prove to

be impossible, or will result in a significant drop in local patient satisfaction which will be evidenced by long queues, long wait times and a reduction in additional pharmaceutical service provision as pharmacy staff have to concentrate on the core dispensing function.

1.9 We are therefore applying to open a pharmacy in the vicinity of the closed Chipping Norton Pharmacy to restore the town to 3 pharmacies and to ensure that there is adequate pharmaceutical service capacity within the town.

1.10 Granting our application would therefore secure improvements and better access to pharmaceutical service provision for patients in Chipping Norton. In particular, it would restore the service provision to the position before the sudden closure of Chipping Norton Pharmacy, and will ensure a reasonable choice of service provision for the local community.

1.11 Since the latest PNA did not factor in the closure of Chipping Norton Pharmacy, the improvements and better access that would be secured by the granting of our application were unforeseen in the current PNA."

Please explain how you intend to secure the unforeseen benefit(s).

1.12 "Granting this application would confer significant benefits in terms of providing a reasonable choice of pharmaceutical service provision within Chipping Norton from a location which will be easily and conveniently accessible.

1.13 We intend to secure the unforeseen benefits by offering full Pharmaceutical services that were offered by previous provider through extended opening hours to improve access.

1.14 We would provide all Essential services, Advanced services and Locally commissioned services."

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 14 April 2025 states:

2.1 "Buckinghamshire, Oxfordshire and Berkshire West 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."

Extract from decision report

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

2.2 "Introduction and background

2.3 An unforeseen benefits application had been received from Olubukola Taofik Shodunke (Sole Trader), on 23 December 2024. The Committee was now required to consider the application in accordance with Regulations 18 and 19 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.

2.4 Full details of the applicant's proposal had been notified to the various interested parties in accordance with the regulations. Comments had been received from the following Thames Valley LPC and Oxfordshire Health and Wellbeing Board. There were also follow up comments from the applicant.

2.5 Consideration by the Committee

2.6 The Committee had before it:

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

2.8 Department of Health guidelines on market entry by means of pharmaceutical needs assessment – Chapter 8 – Unforeseen Benefits.

2.9 The Report which included:

2.9.1 the application form and information provided by the Applicant

2.9.2 letters from interested parties and a response to those comments from the Applicant,

2.9.3 maps of the location,

2.9.4 opening times and distances to surrounding pharmacies and GP Practices,

2.9.5 a site visit report,

2.9.6 Oxfordshire PNA extracts and a link to the full PNA,

2.9.7 demographic information including population density,

2.9.8 public transport information,

2.9.9 prescription information

2.9.10 the relevant Regulations (18, 19, 31, and 50).

2.10 In relation to the application, the Committee noted the following:

2.11 The Committee noted that the applicant's fitness information had previously been considered and approved.

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

2.13 The applicant also proposed core opening of 40 hours per week and total proposed opening of 63 hours per week.

2.14 The Committee considered information from a site visit of the Chipping Norton area that had been undertaken by a Pharmacy Commissioning Hub representative who was present at the meeting.

2.15 The Committee considered the representations made by Thames Valley LPC and Oxfordshire Health and Wellbeing Board – and noted the comments made by the interested parties.

2.16 The applicant's response to the representations received during the consultation period was also considered.

2.17 Chipping Norton is a market town in West Oxfordshire, located 12 miles south-west of Banbury and 18 miles north-west of Oxford. Chipping Norton sits close to the border

with Gloucestershire and is served by the A44 which runs through the town, providing direct links to Oxford and the Midlands.

2.18 **Regulation 31 – Refusal: same or adjacent premises**

2.19 The Committee first considered Regulation 31(2)(a)(i) and was of the view that Regulation 31(2)(a)(i) is not met as there is currently no person on the pharmaceutical list at the premises to which the application relates.

2.20 The Committee went on to consider paragraph (a)(ii) of Regulation 31(2); whether there is a person on the pharmaceutical list providing pharmaceutical services from adjacent premises.

2.21 The Committee was satisfied that there is no pharmacy providing pharmaceutical services within the area of the best estimate. The application did not therefore need to be refused in accordance with Regulation 31.

2.22 Regulations 40,41 and 44

2.23 The Committee noted that the proposed pharmacy location was not in a controlled locality, and therefore Part 7 of the Regulations (in particular Regulations 40, 41 and 44) did not have to be considered.

2.24 Regulations 50

2.25 There are 59 dispensing patients living within 1.6km radius of the proposed best estimate address, therefore the Committee noted that if the application was approved it would be required to consider the discontinuation of arrangements for the provision of pharmaceutical services by doctors to the affected patients under Regulation 50.

2.26 The Committee agreed that if the application is approved, it was inclined that the service provided by the dispensing doctors to the affected patients should be discontinued, and notice of the discontinuation as follows:

2.26.1 Chipping Norton Health Centre - for a period of one (1) months – (35 patients)

2.26.2 The Charlbury Medical Centre- for a period of one (1) months – (1 patient)

2.26.3 Sibford Surgery- for a period of one (1) months – (2 patients)

2.26.4 Deddington Health Centre- for a period of one (1) months – (1 patient)

2.26.5 Bloxham Surgery- for a period of one (1) months – (1 patient)

2.26.6 Mann Cottage Surgery- for a period of one (1) months – (16 patients)

2.26.7 White House Surgery- for a period of one (1) months – (2 patients)

2.26.8 Cotswold Medical Practice - for a period of one (1) months – (1 patient)

2.27 Oral Hearing

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

2.29 **Regulation 18 – Unforeseen benefits application**

2.30 The Committee noted that this was an application for "unforeseen benefits" and fell to be considered under the provisions of Regulation 18 which states:

2.31 *(1) if –*

2.32 *(a) the NHSCB receives a routine application and is required to determine whether it is satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and*

2.33 *(b) the improvements or better access that would be secured were or was not included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule1,*

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

2.35 The Committee considered that **Regulation 18(1)(a)** was satisfied in that it was required to determine whether it was satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB

2.36 The Committee went on to consider whether **Regulation 18(1)(b)** was satisfied, i.e. whether the improvements or better access that would be secured if the application was granted were or was included in the Pharmaceutical Needs (the 'PNA') in accordance with paragraph 4 of Schedule 1 of the Regulations.

2.37 The Committee had regard to the Oxfordshire PNA 2022-2025 (issue date 1st October 2022) (the 'PNA') and noted that supplementary statements had been issued on 29 June 2023 but were not in relation to the Chipping Norton area.

2.38 The Committee noted that the Health and Wellbeing Board ('HWB') had commissioned an assessment of the current capacity of pharmacies in the areas of known housing growth within Oxfordshire and had reached the conclusion that "*To summarise, in terms of general access in the future no parts of Oxfordshire, are expected to have gap status in the lifetime of the present PNA"* [Page 12 Oxfordshire PNA, 2022-25]

2.39 The Committee also noted that, having considered the entire west Oxfordshire locality including the area of Chipping Norton, the HWB had reached the conclusion that *"There are 18 community pharmacies in West Oxfordshire and two of these are 100 hour pharmacies. In addition, there is one DAC (Table 27). There are 8 GP practices in West Oxfordshire which are recognised as dispensing GPs (Table 28). Community pharmacies are providing essential services to all parts of West Oxfordshire such that all residential areas are within either 20 minutes' driving time or a five mile radius in rural areas, and within 20 minutes' walking time or 20 minutes' public transport time in the urban area of Witney (Table 30). Thus at the present time no areas are considered to have gap status."* [Page 138 PNA, 2022-25].

2.40 The Committee noted that the HWB had considered access (distance, travelling times and opening hours') to assess how current service provisions will meet the needs of the population within the lifetime of the PNA.

2.41 The Committee noted that the improvements or better access that the Applicant was claiming would be secured by its application were not included in the relevant pharmaceutical needs' assessment in accordance with paragraph 4 of Schedule 1.

2.42 The Committee was satisfied that the unforeseen benefits claimed in the application were not identified in the PNA.

2.43 In order to be satisfied in accordance with Regulation 18(1), the Committee went on to consider those matters set out at Regulation 18(2).

2.44 **Regulation 18(2)(a)(i)** - *whether or not granting the application would cause significant detriment to the proper planning in respect of the provision of pharmaceutical services.*

2.45 The Committee was not aware of any plans that would be affected and concluded that granting the application would not have an adverse effect on any future plans. None of the submissions included any comment or evidence in regard to this matter. Therefore, the Committee concluded that granting the application would not cause significant detriment in this regard.

2.46 **Regulation 18(2)(a)(ii)** - *whether or not granting the application would cause significant detriment to the arrangements in place for the provision of pharmaceutical services.*

2.47 None of the submissions included any evidence on this question and the Committee found no proof to support the suggestion that if the application was to be granted, it would cause significant detriment to the arrangements in place for pharmaceutical services in the area.

2.48 The Committee did not find any significant detriment to proper planning or to the arrangements in place for the provision of pharmaceutical services and therefore was not obliged to refuse the application under Regulation18(2)(a).

2.49 **Regulation 18(2)(b)(i)** – *whether notwithstanding that the improvements or better access were not included in the relevant PNA, it is satisfied that, having regard in particular to the desirability of – there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB – granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.*

2.50 On this point the Applicant has said:

2.51 *"Since the latest PNA did not factor in the closure of Chipping Norton Pharmacy, the improvements and better access would be secured by the granting of our application were unforeseen in the current PNA. Granting this application would confer significant benefits in terms of providing a reasonable choice of pharmaceutical service provision within Chipping Norton from a location which will be easily and conveniently accessible."*

2.52 *"The closure of Chipping Norton Pharmacy has left a gap in service provision which means that there is no longer a reasonable choice of pharmaceutical service provision in the town. Whilst there are two other pharmacies in the town, those two pharmacies were, between them, already dispensing an average of almost 15,000 items per month, which is approximately the national average for England per pharmacy.*

2.53 *Given the loss of a pharmacy which had, until its closure, dispensed an average of 10,000 items per month, it will clearly not be possible for the two remaining pharmacies to easily absorb the 10,000 items per month that were dispensed by Chipping Norton Pharmacy.*

2.54 *In short, the two remaining pharmacies will now have to dispense an average of 25,000 items a month between them in order to meet patient demand. This will either prove to be impossible, or will result in a significant drop in local patient satisfaction which will be evidenced by long queues, long wait times and a reduction in additional*

pharmaceutical service provision as pharmacy staff have to concentrate on the core dispensing function".

2.55 The Committee noted the Oxfordshire Health and Wellbeing Board representations that stated, *"We note the proposed site is in the vicinity of a recently closed pharmacy. The applicant notes the Oxon PNA 2022 did not foresee the closure of the Chipping Norton Pharmacy, Russell Way. This is correct, however, when the 20 minute (drive time or five mile radius in rural areas) rule is applied to this area we have not identified a gap in service provision. However, the HWB notes the increased choice and ease of access that an additional pharmacy in this area offers, could result in benefit to the local residents."*

2.56 In order to determine if patients in the area already had a reasonable choice, the Committee considered access (distance, travelling times and opening hours) as an important factor in determining the extent to which the current pharmaceutical service provision meets the needs of the population in the Chipping Norton area.

2.57 The Committee had regard to the current service provision in the immediate area of Russell Way, Chipping Norton and noted that there are 2 pharmacies within 0.7-mile radius of the best estimate address. This includes an independent pharmacy and branch of a multiple pharmacy. The Committee noted that Chipping Norton Pharmacy at Chipping Norton Health Centre, Russell Way, Chipping Norton, OX7 5FA, permanently closed on 13 December 2024.

2.58 The opening hours of the 2 pharmacies range from 09:00 to 17:30 Monday to Saturday, and from 10:00-16:00 Sundays.

2.59 The Committee noted that the Applicant had offered to open from 09:00 to 19:00 on Monday to Friday, 09:00 to 17:00 on Saturdays and 10:00 to 16:00 on Sundays.

2.60 The Committee noted that the proposed core hours are 09:00-17:00 Monday to Thursday, 09:00-13:00 13:00-18:00 on Friday.

2.61 The Applicant also proposes supplementary opening hours of 17:00-19:00 Monday to Friday and 09:00-17:00 on Saturdays, and 10:00 to 16:00 on Sundays. The Committee noted that these hours can be removed by giving 5 weeks' notice and that therefore the core hours were the only hours that should be taken into consideration.

2.62 The Committee noted that there is a Bus route that has a bus stop at the proposed best estimate address and then goes into Chipping Norton town centre where two pharmacies are located. The Bus runs every hour from 09.05 to 16.05 Monday to Friday, there is no service on weekends.

2.63 The Committee was provided with no information to demonstrate that there were any issues relating to access to, or demand for, pharmaceutical services in Chipping Norton.

2.64 The Committee noted a map included in the Committee report depicting the population within Chipping Norton, which shows that the majority of residents live near to where the existing pharmacies are sited.

2.65 The Committee was provided with no information to indicate that the existing pharmacies are struggling to cope with the level of demand for pharmaceutical services either now, or in the future or following the closure of Chipping Norton Pharmacy in December 2024.

2.66 The representations from Oxfordshire Health and Wellbeing Board and Thames Valley LPC did not include comments relating to groups of patients having difficulty accessing pharmaceutical services.

2.67 The Committee noted that the applicant had not substantiated their claims that the remaining pharmacies would not be able to absorb the items that were previously dispensed by Chipping Norton Pharmacy.

2.68 The Committee noted that the opening hours being offered by the applicant were longer than the existing pharmacies, but that there was no evidence that there was a need for these additional hours.

2.69 Having considered the factors above, the Committee was satisfied that residents of Chipping Norton already have reasonable choice with regard to obtaining pharmaceutical services.

2.70 **Regulation 18(2)(b)(ii)** - *whether notwithstanding that the improvements or better access were not included in the relevant PNA, it is satisfied that, having regard in particular to the desirability of – people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access - granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.*

2.71 The Committee reminded itself that it was required to address itself to people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access. The Committee was also aware of its duties under the Equality Act 2010 which include considering the elimination of discrimination and advancement of equality between patients who share protected characteristics and those within such characteristics.

2.72 The Applicant did not mention anything regarding people who share a protected characteristic in their application.

2.73 The site of both existing pharmacies have on street parking and a variety of car parks nearby. The proposed site for the proposed pharmacy is on the outskirts of the town centre and has a car park.

2.74 The Committee therefore concluded that the application did not satisfy the test in this part of the Regulation.

2.75 **Regulation 18(2)(b)(iii)** - *whether notwithstanding that the improvements or better access were not included in the relevant PNA, it is satisfied that, having regard in particular to the desirability of – there being innovative approaches taken with regard to the delivery of pharmaceutical services - granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.*

2.76 The Committee agreed that the applicant had not provided evidence that an innovative approach would be taken with regard to the delivery of pharmaceutical services.

2.77 Therefore, the Committee concluded that there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services.

2.78 The Committee was of the view that in accordance with Regulation 18(2)(b) the granting of this application would not confer significant benefits on persons in the relevant area of the HWB which were not foreseen when the PNA was published.

2.79 Other Considerations

2.80 **Regulation 18(2)(c)-(f)** - The Committee had previously determined that there was no need to defer the application under Regulation 18(2)(c) to (f).

2.81 Decision

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

2.83 The Committee had considered whether the granting of the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area covered by the HWB, or the arrangements in place for the provision of pharmaceutical services in that area and was not satisfied that it would.

2.84 The Committee determined that the application should be refused on the following basis:

2.84.1 In considering whether the granting of the application would confer significant benefits, the Committee determined that –

2.84.1.1 there is already a reasonable choice with regard to obtaining pharmaceutical services;

2.84.1.2 there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and

2.84.1.3 there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services. 8.4 Having taken these matters into account, the Committee is not satisfied that granting the application would confer significant benefits as outlined above that would secure improvements or better access to pharmaceutical services.

2.85 Rights of appeal

2.86 The application is refused so the applicant has the right to appeal.

2.87 The Committee decided not to grant third party rights of appeal to the decision to any of the parties that responded during the consultation period because the application had been refused."

3 The Appeal

In a letter dated 14 May 2025 addressed to NHS Resolution, Temple Bright LLP on behalf of the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

3.1 "On behalf of my client, I write to appeal a decision of NHS England to refuse my client's application for inclusion in the pharmaceutical list offering unforeseen benefits for premises within 100m of the Chipping Norton Health Centre, Russell Way, Chipping Norton, OX7 5FA. The decision was notified to my client by letter dated 14th April 2025.

3.2 My client's ground of appeal is that NHS England failed to have proper regard to the impact on the provision of pharmaceutical services which has been caused to patients in Chipping Norton by the closure of the pharmacy which was previously located at the Chipping Norton Health Centre. As a result, NHS England failed to properly assess the benefits that would be secured by granting my client's application.

3.3 **Factual background**

3.4 By way of background, my client applied for inclusion in the pharmaceutical list offering unforeseen benefits for premises within 100m of the Chipping Norton Health Centre, Russell Way, Chipping Norton, OX7 5FA pursuant to regulation 18 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

3.5 Chipping Norton is a market town in rural Oxfordshire. The population of the town itself was estimated at approximately 7,000 residents in 2021. It is anticipated that the population will be somewhat higher now given recent housing developments in the local area. Further housing developments are also planned for the near future, which are anticipated to add around 200 houses in the short term.

3.6 As would be expected from a market town, Chipping Norton has a large and busy shopping centre, with a range of national shopping chains and local, independent, shops. It also contains a number of schools, a leisure centre, pubs and restaurants, care homes, industrial units, large health centre, etc. Giving the attractive nature of the town's buildings and its central location in the Cotswolds, Chipping Norton has a significant number of tourist visitors, particularly in the summer months and at weekends.

3.7 As a market town and tourist attraction, Chipping Norton therefore serves a much larger reliant population who visit the town to access its range of facilities. By way of example, the only GP surgery in town (Chipping Norton Health Centre) has a patient list size of approximately 10,200, so approximately 50% higher than the resident population of the town itself.

3.8 It is therefore anticipated that the "catchment" population for Chipping Norton is at least double the immediate resident population throughout the year, and higher during the summer months with the influx of tourists. Many of the people living in the "catchment" area for the town will live in small villages with few, if any, amenities. They therefore look to Chipping Norton for their needs.

3.9 **Pharmacy provision**

3.10 Historically there have been three pharmacies in Chipping Norton: Boots and Topside Pharmacy in the centre of town and Chipping Norton Pharmacy within the Chipping Norton Health Centre, which is located to the northeast of the town.

3.11 However, on 4th December 2024, Chipping Norton Pharmacy, Chipping Norton Health Centre, Russell Way, London Road, Chipping Norton, OX7 5FA suddenly announced that it was closing with immediate effect.

3.12 As a result of the closure, there are now only two pharmacies remaining in Chipping Norton, both of which are located in the town centre and away from the GP surgery.

3.13 It is 1km from the Chipping North Health Centre to Boots Pharmacy and 1.1km to Topside Pharmacy. The next nearest pharmacies are in Charlbury (13km) Milton-under-Wychwood (12km), Moreton-in-Marsh (17km) or Stow-on-the-Wold (15km). These distances mean that there are no reasonable alternatives for Chipping Norton patients to the two pharmacies in the town itself.

3.14 **Regulation 18 considerations**

3.15 My client believes that the closure of the pharmacy at the Chipping Norton Health Centre has created a gap in service provision in the town, such that granting my client's application would confer significant benefits in terms of:

3.15.1 Securing a reasonable choice of service provision.

3.15.2 Overcoming difficulties in accessing the remaining pharmacies, particularly for those who are present at the Health Centre and require access.

3.15.3 Innovation in service delivery, including through the provision of medication to patients in compliance aids and offering additional opening hours.

3.16 Chipping Norton Pharmacy was dispensing an average of just over 10,000 items every month at the time that it closed and had an average of 4,500 EPS nominations each month, meaning a large number of repeat patients were regularly using the Chipping Norton Pharmacy.

3.17 In addition, it provided a number of advanced services. For the last available month, Chipping Norton Pharmacy provided 41 Pharmacy First consultations and 26 NMS consultations.

3.18 The closure of Chipping Norton Pharmacy has therefore left a gap in service provision which means that there is no longer a reasonable choice of pharmaceutical service provision in the town. Whilst there are two other pharmacies in the town as detailed above, those two pharmacies, between them, dispensed 22,030 items in the last available month (January 2025). Given that an “average” pharmacy in England dispenses around 7,000 items per month, it can be seen that the remaining pharmacies, between them, have a significantly higher volume of dispensing than “average”.

3.19 Given the loss of a pharmacy which had, until its closure, dispensed an average of 10,000 items per month, it has understandably not been possible for the two remaining pharmacies to easily absorb the 10,000 items per month that were dispensed by Chipping Norton Pharmacy without issues arising.

3.20 My client has extensively engaged with the local community over the last 2 months and has been provided with evidence of issues such as:

3.20.1 Longer patient waiting times, especially during late afternoons and weekends,

3.20.2 Patient complaints about delays and reduced access to pharmacist consultations,

3.20.3 Patients being referred to pharmacies more than 12 miles away for their MDS trays,

3.20.4 Husband and wife forced to use different pharmacies, causing undue stress,

3.20.5 Patients are being turned away because of capacity.

3.21 Attached to this letter of appeal are some completed survey forms which detail these difficulties. The survey forms received to date are representative of wider feedback received by my client following local engagement and are therefore believed to be representative of wider concerns amongst the local community.

3.22 It is submitted that the above is evidence that the closure of the Chipping Norton Pharmacy has led to a demonstrable reduction in choice, such that there is no longer a reasonable choice of service provision in the town.

3.23 Additionally, the closure has led to a physical gap in service provision.

3.24 As stated above, Chipping Norton Pharmacy was located within the Chipping Norton Health Centre – a large GP surgery with over 10,000 registered patients. GPs at the surgery prescribe an average of approximately 35,000 items per month, approximately 2/3 of which are dispensed by community pharmacies (the remaining items are dispensed by the surgery itself).

3.25 There is, therefore, clearly a very significant focus for demand for pharmaceutical services at the Health Centre itself. It will, of course, be self-evident that many of those who are present at the GP surgery and who require access to pharmaceutical services (and, in particular, dispensing services) will share a relevant protected characteristic (such as older age, poor health, a disability, etc.).

3.26 For those patients, and particularly for more vulnerable patients, access is difficult to the remaining pharmacies for the following reasons. This is particularly true in the context of patients who, until very recently, had become accustomed to having a pharmacy co-located with the Health Centre.

3.26.1 Distance. As stated above, the remaining pharmacies are 1km and 1.1km respectively from the Health Centre. Whilst these distances may not be significant for those who are mobile and in relatively good health, the distances are significant for those with a disability or who are elderly and infirm, or who are unwell.

3.26.2 The nature of the route. The route from the Health Centre into Chipping Norton town centre is along the A44, London Road. This is a busy main road which is often used by HGVs as it a main arterial road connecting Oxford to the northwest Cotswolds. It is therefore often congested and polluted, making the route particularly unpleasant for pedestrians and difficult for drivers during rush hour.

3.26.3 There is a very limited bus service, with only one bus an hour each way from the Health Centre into town. This means that it is impractical for anyone using the health centre to travel into town by bus, because it could involve a very long wait.

3.26.4 Parking in Chipping Norton town centre can be difficult, particularly on market days (Wednesday) and during the summer months when there is an influx of tourists visiting the town. Even for those patients who have access to a car, using that car to access pharmacies in town is therefore often challenging.

3.27 My client's application to open a pharmacy in the vicinity of the closed Chipping Norton Pharmacy would restore the town to 3 pharmacies and ensure that there is adequate pharmaceutical service capacity within the town.

3.28 Granting his application would therefore secure improvements and better access to pharmaceutical service provision for patients in Chipping Norton. In particular, it would restore the service provision to the position before the sudden closure of Chipping Norton Pharmacy, and will ensure a reasonable choice of service provision for the local community going forward.

3.29 In particular, the proposed pharmacy would offer the following significant benefits:

3.29.1 Easy and convenient access. The proposed pharmacy would be located at, or within 100m of, the Chipping Norton Health Centre. It would have on-site parking for easy access and would offer accessible premises for patients with mobility difficulties.

3.29.2 Extended hours up to 7pm on weekdays and Sunday openings, currently unmatched in the area. Both Topside Pharmacy and Boots Pharmacy currently close at 5.30pm Monday to Saturday. This is despite the fact that the Chipping Norton Health Centre is open until 6.30pm, so there is clearly still demand for pharmaceutical services after the two pharmacies in town have closed. This means that any patient with an appointment after 5.30pm which results in a prescription will have to wait until the following day to access a pharmacy. Whilst Boots is open on a Sunday, Topside Pharmacy is closed.

3.29.3 Same-day home delivery for housebound patients and those with long term conditions. This service is not available from existing pharmacies.

3.29.4 Online repeat prescription and medication management tools. In particular, my client's pharmacy would offer MDS trays free to all patients upon request, a service which is much needed locally but which is not available from the remaining pharmacies.

3.29.5 Drop-in health screenings (e.g., blood pressure, diabetes risk, smoking cessation and weight management).

3.29.6 7 days a week minor ailment consultations through the Pharmacy First service.

3.29.7 Digital access (online repeat request system and SMS alerts when prescriptions are ready to collect)

3.30 Since the latest PNA did not factor in the closure of Chipping Norton Pharmacy, the improvements and better access that would be secured by the granting of my client's application are unforeseen in the current PNA. However, these benefits were acknowledged by the HWB in its representations to NHS England on my client's application. In its email of 17th February 2025, the HWB stated relevantly that "the increased choice and ease of access that an additional pharmacy in this area offers, could result in benefit to local residents".

3.31 For the reasons given above and those given in my client's application form, on behalf of my client I assert that there is sufficient evidence to satisfy NHS Resolution on appeal that there is not currently a reasonable choice of service provision in the local area, that existing pharmacies are difficult to access for many and that my client is offering innovation in service delivery. For the reasons given above, my client's application would therefore confer significant benefits in terms of the matters contained within regulation 18(2)(b).

3.32 On behalf of my client I therefore invite NHS Resolution to conclude that granting my client's application would secure improvements and better access to service provision and to uphold this appeal."

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 a copy of the site visit report 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.

This is a summary of representations received on the appeal.

4.1 Community Pharmacy Thames Valley

4.1.1 “The LPC has nothing further to add to our previous comments made on the above application, but we would like to be informed of any oral hearings or decisions made.”

Copy letter dated 10 January 2025 addressed to the Commissioner

4.1.2 “The LPC is pleased to have the opportunity to comment on this application.

4.1.3 An application offering to secure unforeseen benefits must be judged against the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 having particular concern to regulations 18 and 19.”

4.2 Temple Bright LLP on behalf of the Applicant

4.2.1 “I write further to your correspondence of 22 May 2025 inviting representations on the site visit report compiled in connection with the above appeal. On behalf of Mr Olubukola Taofik Shodunke, we set out the following observations, which are strictly limited to the content of the site visit report and support the grounds of appeal already submitted.

4.2.2 **Accessibility for Elderly and Disabled Patients**

4.2.3 The site visit report confirms that the area around the Chipping Norton Health Centre houses Willow Gardens, a complex of 80 independent living apartments for residents over 55, with on-site care and amenities.

4.2.4 Additionally, the visit directly observed multiple individuals with walking aids and walking sticks in and around the Health Centre. These facts support the appeal’s position that a significant proportion of patients accessing the Health Centre are elderly or mobility-impaired, and therefore require convenient pharmacy access onsite or in its immediate vicinity.

4.2.5 **Physical Barriers to Accessing Remaining Pharmacies**

4.2.6 The report describes the journey from the Health Centre to the two remaining pharmacies (Boots and Topside) as follows:

4.2.6.1 **Distance:** 0.6–0.7 miles.

4.2.6.2 **Gradient:** Approximately 20% downhill slope along the busy A44 London Road.

4.2.6.3 **Pavement conditions:** Includes narrow walkways that make it impossible for mobility scooters or walking frames to pass each other safely.

4.2.7 These observations corroborate the appeal’s contention that the route poses serious accessibility challenges for vulnerable patients, particularly those already attending the Health Centre with health concerns.

4.2.8 **Parking Constraints Near Existing Pharmacies**

4.2.9 The site visit found that on the day of inspection:

4.2.9.1 All 46 short-stay parking spaces near Boots and Topside were full, with cars circling for spaces.

4.2.9.2 Albion Street and New Street long-stay car parks were also full.

4.2.9.3 Only the Co-op car park had available capacity, and that was restricted to Co-op customers.

4.2.10 This demonstrates that, even for patients who can drive, accessing the remaining pharmacies by car is problematic, especially during busy periods such as market days or summer tourist months, as also noted in the report.

4.2.11 **Confirmation of Pharmacy Closure**

4.2.12 The report confirms that the pharmacy located within the Health Centre closed on 13 December 2024, creating a physical and functional void in pharmaceutical service provision at the point of GP care. This directly supports the appellant's position that there is a clear service gap which the proposed pharmacy aims to fill.

4.2.13 **New and Future Housing Growth**

4.2.14 The report identifies two major developments:

4.2.14.1 **86 homes on Banbury Road** (construction underway).

4.2.14.2 **104 homes east of Burford Road** (recommended for approval on 17 March 2025).

4.2.15 These developments will inevitably increase demand on already stretched pharmaceutical services. This supports the contention that the current provision is not only insufficient for existing needs but also inadequate for forecasted population growth.

4.2.16 **Conclusion**

4.2.17 The site visit report provides independent, factual confirmation of several key issues raised in the appeal:

4.2.17.1 The unsuitability of the current access routes to remaining pharmacies for vulnerable patients.

4.2.17.2 The clear physical and service-based gap left by the closure of the Health Centre pharmacy.

4.2.17.3 The pressures on remaining pharmacies, both in terms of parking and physical access.

4.2.17.4 The future demand increase from housing developments.

4.2.18 I respectfully submit that these findings provide compelling support for the appeal and reinforce the assertion that granting Mr Shodunke's application would secure improvements and better access in line with Regulation 18(2)(b) of the 2013 Regulations."

5 Observations

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

6 Consideration

6.1 The Pharmacy Appeals Committee ("the 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").

Regulation 31

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 The Committee noted that the Applicant had stated "*Not applicable*" in relation to this point in its application form, however the Committee noted that the wording of the application form only required the Applicant to include information in the relevant section if the proposed premises were adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises. The Committee considered it reasonable to determine that the lack of information in the application form on this point when read with the wording of the application form allowed it to be reasonably satisfied that the Applicant considered that the proposed premises were not adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises.

6.7 The Commissioner in its decision letter concluded that "*there is no pharmacy providing pharmaceutical services within the area of the best estimate. The application did not therefore need to be refused in accordance with Regulation 31.*"

6.8 Based on the information provided, which has not been disputed by any party, the Committee determined that it was not required to refuse the application under the provisions of Regulation 31.

6.9 The Committee noted that, if the application were granted, the successful applicant would - in due course - have to notify the Commissioner of the precise location of its premises (in accordance with paragraph 31 of Schedule 2). Such a notification would be invalid (and the applicant would not be able to commence provision of services) if

the location then provided would (had it been known now) have led to the application being refused under Regulation 31.

Regulation 18

6.10 The Committee noted that this was an application for "unforeseen benefits" and fell to be considered under the provisions of Regulation 18 which states:

"(1) If—

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

(b) the improvements or better access that would be secured were or was not included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 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).

(2) Those matters are—

(a) whether it is satisfied that granting the application would cause significant detriment to—

(i) proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB, or

(ii) the arrangements NHS England has in place for the provision of pharmaceutical services in that area;

(b) whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—

(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also NHS England's duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)),

(ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also NHS England's duties under section 13G of the 2006 Act (duty as to reducing inequalities)), or

(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),

granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published;

(c) whether it is satisfied that it would be desirable to consider, at the same time as the applicant's application, applications from other persons offering to secure the improvements or better access that the applicant is offering to secure;

(d) whether it is satisfied that another application offering to secure the improvements or better access has been submitted to it, and it would be desirable to consider, at the same time as the applicant's application, that other application;

(e) whether it is satisfied that an appeal relating to another application offering to secure the improvements or better access is pending, and it would be desirable to await the outcome of that appeal before considering the applicant's application;

(f) whether the application needs to be deferred or refused by virtue of any provision of Part 5 to 7.

(g) whether it is satisfied that the application presupposes that a gap in pharmaceutical services provision has been or is to be created—

(i) by the removal of chemist premises from a pharmaceutical list as a consequence of the grant of a consolidation application, and

(ii) since the last revision of the relevant HWB's pharmaceutical needs assessment other than by way of a supplementary statement.

(3) NHS England need only consider whether it is satisfied in accordance with paragraphs (2)(c) to (e) if it has reached at least a preliminary view (although this may change) that it is satisfied in accordance with paragraph (2)(b)."

6.11 The Committee considered that Regulation 18(1)(a) was satisfied in that it was required to determine whether it was satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB.

6.12 The Committee went on to consider whether Regulation 18(1)(b) was satisfied, i.e. whether the improvements or better access that would be secured if the application was granted were or was included in the Pharmaceutical Needs Assessment ("the PNA") in accordance with paragraph 4 of Schedule 1 of the Regulations.

6.13 Paragraph 4 of Schedule 1 requires the PNA to include: "a *statement of the pharmaceutical services that the HWB had 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….secure improvements or better access, to pharmaceutical services… (b)* ***would*** *if in specified future circumstances they were provided…secure future improvements or better access to pharmaceutical services…"* (emphasis added).

6.14 The Committee considered the PNA prepared by Oxfordshire Health and Wellbeing Board, conscious that the document provides an analysis of the situation as it was assessed at the date of publication. The Committee bears in mind that, under

Regulation 6(2), the body responsible for the PNA must make a revised assessment as soon as reasonably practicable (after identifying changes that have occurred that are relevant to the granting of applications) unless to do so appears to be a disproportionate response to those changes. Where it appears disproportionate, the responsible body may, but is not obliged to, issue a supplementary statement under Regulation 6(3). Such a statement then forms part of the PNA. The Committee noted that the PNA was dated April 2022 and that three Supplementary Statements had been issued on 29 June 2023, all relating to Lloyds Pharmacy closures.

6.15 The Committee noted that Chipping Norton is located within West Oxfordshire. In relation to West Oxfordshire, the PNA states:

6.15.1 ***"General Access Now:*** *There are 18 community pharmacies in West Oxfordshire and two of these are 100 hour pharmacies. In addition, there is one DAC (Table 27). There are 8 GP practices in West Oxfordshire which are recognised as dispensing GPs (Table 28). Community pharmacies are providing essential services to all parts of West Oxfordshire such that all residential areas are within either 20 minutes' driving time or a five mile radius in rural areas, and within 20 minutes' walking time or 20 minutes' public transport time in the urban area of Witney (Table 30). Thus at the present time no areas are considered to have gap status.*

6.15.2 ***Opening Hours:*** *One pharmacy in Shipton under Wychwood, one in Carterton and one in Long Hanborough are closed on Saturdays, but other pharmacies are available in nearby settlements at this time.*

6.15.3 ***Villages with high level of lacking a car:*** *It did not appear to be the case that any rural wards in West Oxfordshire had lack of a car at the 15% level or more.*

6.15.4 ***General Access in the Future:*** *New build plans suggest that most new housing areas in the period up to 2025 would meet the criteria of general access. An exception is West Witney (Table 31). This area is just outside current public transport provision. Therefore West Witney is not considered to have gap status."*

6.16 The PNA concludes that it *"has not identified any gaps in general access in the present situation in Oxfordshire and in the expected situation in Oxfordshire to 2025, that is during the lifetime of the current PNA."*

6.17 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients in Chipping Norton. The Committee noted that the improvements or better access that the Applicant was claiming would be secured by its application were not included in the relevant PNA in accordance with paragraph 4 of Schedule 1.

6.18 In order to be satisfied in accordance with Regulation 18(1), regard is to be had to those matters set out at 18(2). The Committee's consideration of the issues is set out below.

Regulation 18(2)(a)(i)

6.19 The Committee had regard to

"(a) whether it is satisfied that granting the application would cause significant detriment to—

(i) proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB"

6.20 The Commissioner in its decision letter stated that it "*was not aware of any plans that would be affected and concluded that granting the application would not have an adverse effect on any future plans. None of the submissions included any comment or evidence in regard to this matter. Therefore, the Committee concluded that granting the application would not cause significant detriment in this regard.*"

6.21 On the basis of the information available, which has not been disputed by any party, the Committee was not satisfied that, if the application were to be granted and the pharmacy to open, the ability of the Commissioner thereafter to plan for the provision of services would be affected in a significant way.

6.22 The Committee was therefore not satisfied that significant detriment to the proper planning of pharmaceutical services would result from a grant of the application.

Regulation 18(2)(a)(ii)

6.23 The Committee had regard to

> *"(a) whether it is satisfied that granting the application would cause significant detriment to— …*
>
> *(ii) the arrangements NHS England has in place for the provision of pharmaceutical services in that area"*

6.24 The Commissioner in its decision letter stated that "*None of the submissions included any evidence on this question and the Committee found no proof to support the suggestion that if the application was to be granted, it would cause significant detriment to the arrangements in place for pharmaceutical services in the area.*"

6.25 Based on the information available, which has not been disputed by any party, the Committee was therefore not satisfied that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of the application.

6.26 In the absence of any significant detriment as described in Regulation 18(2)(a), the Committee was not obliged to refuse the application and went on to consider Regulation 18(2)(b).

Regulation 18(2)(b)

6.27 The Committee had regard to

> *"(b) whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—*
>
> *(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also NHS England's duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)),*
>
> *(ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also NHS England's duties under section 13G of the 2006 Act (duty as to reducing inequalities)), or*

(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),

granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published"

Regulation 18(2)(b)(i) to (iii)

6.28 The Committee noted that Chipping Norton is a market town in rural Oxfordshire. According to the Applicant, "*the population of the town itself was estimated at approximately 7,000 residents in 2021. It is anticipated that the population will be somewhat higher now given recent housing developments in the local area. Further housing developments are also planned for the near future, which are anticipated to add around 200 houses in the short term*."

6.29 The Committee was mindful that whilst an increase in population does not automatically lead to the requirement to grant an application, Chipping Norton had a sizeable population already which would increase as developments materialised.

6.30 The Committee noted that Chipping Norton Pharmacy, which was co-located with the health centre, closed in December 2024. The Applicant contends that "*the closure of Chipping Norton Pharmacy has … left a gap in service provision which means that there is no longer a reasonable choice of pharmaceutical service provision in the town*." The Committee was mindful that the closure of one pharmacy does not automatically mean that there is a need for a pharmacy to open in its place, and therefore went on to consider access to the existing pharmaceutical provision.

6.31 The Committee noted the range of facilities available in Chipping Norton as described by the Applicant which included, a shopping centre, with a range of national shopping chains and local, independent, shops. Chipping Norton also contains a number of schools, a leisure centre, pubs and restaurants, care homes, industrial units and a large health centre, which the Applicant states attracts *"a significant number of tourist visitors, particularly in the summer months and at weekends."* The Applicant had not detailed what facilities were contained in the immediate area of its application save for the health centre.

6.32 The Applicant highlights that *"the only GP surgery in town (Chipping Norton Health Centre) has a patient list size of approximately 10,200, so approximately 50% higher than the resident population of the town itself."* The Committee accepted there would be some surgery patients living outside of Chipping Norton who would access pharmaceutical services in Chipping Norton but conversely, those same patients might access services elsewhere. Further, whilst it was undoubtedly the case that some patients would find it convenient to have a pharmacy co-located with the health centre, convenience is not a determinative factor on its own.

6.33 The Committee had regard the findings of the site visit report, which has not been disputed, where the Commissioner highlighted two pharmacies within 0.7miles of the best estimate address. According to the site visit report, the journey from the best estimate address to the existing pharmacies involves approximately a 20% downhill gradient along London Road, which is a busy through road with good paving and street lighting either side. There are traffic light crossing or Zebra crossing across the London Road dependant on when patients choose to cross the road. The site visit report then referred to part of the route involving a narrow pavement on both sides of the road "*Where the road narrows briefly for approx. 30m, and the pavement at this point also becomes slightly restricted which prevents pushchairs, mobility walkers or motorise scooters from passing each other at the same time. The road then leads on to the main*

High Steet with good pavements, lighting and a traffic light pedestrian crossing." Further, in its decision report, the Commissioner found that *"the majority of residents live near to where the existing pharmacies are sited"* which has not been disputed by the Applicant. Therefore, the Committee was mindful that not all patients would make this journey from the best estimate address.

6.34 Based on the information provided, the Committee saw no reason to conclude that for those who are reasonably fit and able, they were currently experiencing any difficulties accessing the existing pharmacies on foot. However, the Committee was mindful that there may be some patients who are not willing or able to make the journey on foot, and therefore went on to consider access by other means.

6.35 The Committee noted from the site visit report, the presence of several car parks as well as on street parking near to the High Street where the existing pharmacies are located. At the time of its visit (a Wednesday lunchtime), the Commissioner found all High Street parking (approximately 46 spaces plus 4 disabled spaces), and two free long stay car parks (55 spaces and 125 spaces) to be full, which the Committee noted both the Applicant and Commissioner refers to as 'market day'. The Commissioner also noted the Co-op car park which is for Co-op customers, which was half full at the time of the visit.

6.36 The Applicant contends that "*parking in Chipping Norton town centre can be difficult, particularly on market days (Wednesday) and during the summer months when there is an influx of tourists visiting the town. Even for those patients who have access to a car, using that car to access pharmacies in town is therefore often challenging*."

6.37 Whilst acknowledging the difficulties and the findings in the site visit report, the Committee was mindful that this is a snapshot in time. No further information had been provided to support a finding that parking at the existing pharmacies was an issue at all times of the day, such that it prohibits access.

6.38 The Committee noted the Applicant's comments that "*there is a very limited bus service, with only one bus an hour each way from the Health Centre into town. This means that it is impractical for anyone using the health centre to travel into town by bus, because it could involve a very long wait."* However, the Committee was of the view that those using public transport would be familiar with the bus times. Further, not all patients, as highlighted above, would start their journey from the best estimate address, particularly any tourists referred to by the Applicant. No evidence had been provided by the Applicant to demonstrate that patients who are reliant on public transport, were currently experiencing any difficulties accessing existing pharmaceutical provision.

6.39 The Applicant states that the two existing pharmacies between them, dispensed 22,030 items in January 2025. The Applicant contends that "*given that an "average" pharmacy in England dispenses around 7,000 items per month, it can be seen that the remaining pharmacies, between them, have a significantly higher volume of dispensing than "average"."* And further that *"Given the loss of a pharmacy which had, until its closure, dispensed an average of 10,000 items per month, it has understandably not been possible for the two remaining pharmacies to easily absorb the 10,000 items per month that were dispensed by Chipping Norton Pharmacy without issues arising."* The Committee concluded this was speculative.

6.40 The Committee went on to consider the findings of the Applicant's survey, which it noted there were 18 responses. Whilst the Committee noted some comments mentioned Topside Pharmacy being overrun/overloaded, and another comment that it took 45 minutes to collect and the individual not being able to stand for that long, the Committee was of the view that waiting times and general performance issues should not be the only reason that a new pharmacy is granted. It is the Commissioner's role

to act on reports of negative service. The Committee considered that performance issues should not be a reason to completely discount the existence of a pharmacy when considering whether there is reasonable choice, but that continued ongoing problems and complaints will affect an individual's decision whether to make the journey to that pharmacy. Further in its site visit report, the Committee noted reference to seating being available in both existing pharmacies.

6.41 Further one comment referred to there being a need for more than one pharmacy in Chipping Norton, however the Committee noted the presence of two pharmacies therefore it was unclear what was meant by this comment. There were some comments in relation to longer opening hours needed, which the Committee considered in further detail below.

6.42 Another comment referred to there being no privacy during a consultation, however from the site visit report, the Committee noted both existing pharmacies had consultation rooms available so it is unclear the context of this comment. Five respondents said that there was still a good choice of pharmacy services available in Chipping Norton and one respondent answered 'Not sure'.

6.43 Given the size of the population and the number of those who completed the survey, the Committee did not consider the survey outcomes provided a robust body of evidence. Further the methodology of the survey was not explained by the Applicant. In particular the Committee was provided with no information regarding the time period over which the survey was conducted nor how recipients were selected to complete the survey.

6.44 The Applicant states that the *"survey forms are representative of wider feedback received by my client following local engagement and are therefore believed to be representative of wider concerns amongst the local community"* however the Committee could not place weight on assertions without the supporting evidence.

6.45 The Committee noted the Applicant was proposing to open a total of 63 hours; 40 of which would be core hours. The core hours were 9am – 5pm, Monday to Thursday, and 9am – 1pm, and 2pm – 6pm Friday. The Applicant contends that "*extended hours up to 7pm on weekdays and Sunday openings, currently unmatched in the area. Both Topside Pharmacy and Boots Pharmacy currently close at 5.30pm Monday to Saturday. This is despite the fact that the Chipping Norton Health Centre is open until 6.30pm, so there is clearly still demand for pharmaceutical services after the two pharmacies in town have closed. This means that any patient with an appointment after 5.30pm which results in a prescription will have to wait until the following day to access a pharmacy. Whilst Boots is open on a Sunday, Topside Pharmacy is closed."* Although the Applicant was proposing to open until 7pm weekdays, and on both Saturday and Sunday, the Committee was mindful that these were supplementary hours and could therefore be withdrawn upon notice to the Commissioner.

6.46 The Committee was of the view that there was no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore it was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits (in relation to opening hours) on persons.

6.47 Based on its findings above, the Committee was of the view that there is already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, such that it was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits on persons.

6.48 In considering Regulation 18(2)(b)(ii) the Committee reminded itself that it was required to address itself to people who share 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) having access to services that meet specific needs for pharmaceutical services that, in the relevant area, are difficult for them to access. The Committee noted the Applicant's reference to 80 independent living apartments within the vicinity of the best estimate address, for residents over 55, with on-site care and amenities. The Applicant also refers to the findings of the site visit report, which the Applicant states, highlighted "*multiple individuals with walking aids and walking sticks in and around the Health Centre. These facts support the appeal's position that a significant proportion of patients accessing the Health Centre are elderly or mobility-impaired, and therefore require convenient pharmacy access onsite or in its immediate vicinity.*"

6.49 However, the Committee considered that the information regarding those who share a protected characteristic and the pharmaceutical services they needed was limited. The Committee was of the view that there was little or no evidence of specific pharmaceutical needs. The issue of access and choice as might apply to these persons was dealt with in the assessment of reasonable access discussed above and the Committee was mindful that there are always people in an area who share a protected characteristic.

6.50 The Committee was therefore not satisfied that, having regard to the desirability of people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access, granting the application would confer significant benefits on persons.

6.51 In considering Regulation 18(2)(b)(iii) the Committee had regard to the desirability of innovative approaches to the delivery of pharmaceutical services. In doing so, the Committee would consider whether there was something more over and above the usual delivery of pharmaceutical services that might be expected from all pharmacies, some 'added value' on offer at the location. It was unclear from the information provided whether the Applicant was proposing innovative approaches to the delivery of pharmaceutical services, however the Committee considered the following points below:

6.51.1 *"Same-day home delivery for housebound patients and those with long term conditions. This service is not available from existing pharmacies."* The Committee was mindful that this was not a new concept, and simply offering a service that was not available from the existing pharmacies, does not on its own equate to employing an innovative approach to the delivery of services.

6.51.2 *"Online repeat prescription and medication management tools. In particular, my client's pharmacy would offer MDS trays free to all patients upon request, a service which is much needed locally but which is not available from the remaining pharmacies.".* The Committee was mindful that this was not a new concept, and simply offering a service that was not available from the existing pharmacies, does not on its own equate to employing an innovative approach to the delivery of services.

6.51.3 *"Drop-in health screenings (e.g., blood pressure, diabetes risk, smoking cessation and weight management)".* The Committee was mindful that these services are already offered by pharmacies and therefore could not be considered as an innovative approach to the delivery of services.

6.51.4 *"Digital access (online repeat request system and SMS alerts when prescriptions are ready to collect)".* The Committee did not consider this to be innovative as pharmacies are already offering these services.

6.52 Therefore the Committee was not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting the application would confer significant benefits on persons.

Regulation 18(2)(b) generally

6.53 The Committee has considered whether there are any other factors that would confer significant benefits including on patients who share protected characteristics. The Committee 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 characteristics.

6.54 The Committee was of the view that in accordance with Regulation 18(2)(b) the granting of this application would not confer significant benefits on persons in the area of the HWB which were not foreseen when the PNA was published.

Other considerations

6.55 Having determined that Regulation 18(2)(b) had not been satisfied, the Committee did not need to have regard to Regulation 18(2)(c) to (e).

6.56 No deferral or refusal under Regulation 18(2)(f) was required in this case.

6.57 The Committee had regard to Regulation 18(2)(g) and found that it did not require it to refuse the application.

6.58 The Committee considered whether there were any further factors to be taken into account and concluded that there were not.

6.59 The Committee was not satisfied that the information provided demonstrates that there is difficulty in accessing current pharmaceutical services such that a pharmacy at the proposed site would provide better access to pharmaceutical services.

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

6.60.1 confirm the Commissioner's decision;

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

6.60.3 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.

7 DECISION

7.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of the Commissioner.

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 considered whether the granting of the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area covered by the HWB, or the arrangements in place for the provision of pharmaceutical services in that area and is not satisfied that it would;

7.4 The Committee determined that the application should be refused on the following basis:

7.4.1 In considering whether the granting of the application would confer significant benefits, the Committee determined that –

7.4.1.1 there is already a reasonable choice with regard to obtaining pharmaceutical services;

7.4.1.2 there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and

7.4.1.3 there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services;

7.4.2 Having taken these matters into account, the Committee is not satisfied that granting the application would confer significant benefits as outlined above that would secure improvements or better access to pharmaceutical services.

Technical Case Manager
Primary Care Appeals