

8 August 2025

FILE REF: **SHA/ 26636**

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

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

COMMISSIONER: **FRIMLEY ICB**
("the Commissioner")

PHARMACIST: **VSM PHARMACY LIMITED T/A VSM**
PHARMACY (FMG78)
("the Applicant")

PREMISES: **124 FRIMLEY ROAD,**
CAMBERLEY,
SURREY
GU15 2QN

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

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

Outcome

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

A copy of this decision is being sent to:

VSM Pharmacy Ltd t/a VSM Pharmacy
Frimley ICB

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

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

1 Introduction

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

Rights of appeal

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

Opening hours

1.5 A pharmacy's opening hours may be categorised as:

- 1.5.1 "core opening hours" (at the hours during which the pharmacy must be open by virtue of paragraph 23(1) of Schedule 4 of the Regulations), which may incorporate a direction of the Commissioner requiring fewer or greater than 40 hours and at set times and days; or
- 1.5.2 "supplementary" opening hours (other hours during which the pharmacy premises are open which are in addition to the core hours), pursuant to paragraph 23(3) of Schedule 4 of the Regulations.

Alteration of core opening hours

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

Alteration of supplementary opening hours

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

2. Application

In this case, the Applicant provided the following information in its application form and supporting information dated 6 May 2025:

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

Monday	9am to 1pm 2pm to 6pm
Tuesday	9am to 1pm 2pm to 6pm

Wednesday	9am to 1pm 2pm to 6pm
Thursday	9am to 1pm 2pm to 6pm
Friday	9am to 1pm 2pm to 6pm
Saturday	
Sunday	

2.3 Proposed core opening hours for these premises:

Monday	9am to 1.30pm 2pm to 5.30pm
Tuesday	9am to 1.30pm 2pm to 5.30pm
Wednesday	9am to 1.30pm 2pm to 5.30pm
Thursday	9am to 1.30pm 2pm to 5.30pm
Friday	9am to 1.30pm 2pm to 5.30pm
Saturday	
Sunday	

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

2.5 30 June 2025

2.6 Please provide information that demonstrates that your proposed core opening hours will:

2.6.1 either maintain as necessary the existing level of service provision for people in the area of the pharmacy, or other likely users of the pharmacy premises; or

2.6.2 maintain a sustainable level of adequate service provision for the people in the area of the pharmacy, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.

2.7 VSM Pharmacy currently provides a full range of NHS and private pharmacy services, including dispensing of NHS prescriptions, New Medicine Service (NMS), Community Pharmacist Consultation Service (CPCS), flu and COVID-19 vaccinations, Pharmacy First consultations, and private services (e.g., travel health, ear micro suction). These services are delivered across our existing 40 core hours and 10 supplementary hours.

2.8 Our audit data for the last 12 months shows that the period between 17:30 and 18:00 Monday to Friday consistently records the lowest patient footfall and prescription collection volumes, with fewer than 5 patients on average using the pharmacy during this time. Moreover, the number of Pharmacy First services we can deliver is low due to surgery opening hours from Monday to Friday. Conversely, we have identified increased demand for Saturday services, especially from patients who work full-time during the week and struggle to access services within standard hours or due to the fact that the nearest surgery, Camberley Health Centre, is closed.

- 2.9 There are two other pharmacies within a 1-mile radius that continue to offer access until 18:00, ensuring that no reduction in service access will occur locally because of this change.
- 2.10 The proposed revision to our core hours (closing at 17:30 Monday to Friday) will:
 - 2.10.1 Maintain full access to all NHS services during core hours (40 hours still).
 - 2.10.2 Expand supplementary hours on Saturdays (09:00–17:30) to meet local demand for weekend access.
 - 2.10.3 Improve patient access to Pharmacy First and other time-sensitive services at weekends, supporting NHS service delivery targets.
 - 2.10.4 Keep total weekly opening hours at 51 with 40 core and 11 [sic] supplementary, above the required 40 hours.
- 2.11 We have a robust system for monitoring service demand and will continue to ensure that service quality, accessibility (including for disabled and elderly patients), and responsiveness remain at the highest standard. Given that alternative local provision remains available until 18:00 and that extended Saturday hours will improve access for working-age patients, we are confident that these changes maintain the existing level of service provision in a way that remains sustainable and aligned with community needs”.

3. The Decision

In a letter to the Applicant dated 17 June 2025 the Commissioner decided to refuse the application. The Commissioner stated:

- 3.1 “I write with reference to your application to permanently change the Core hours for VSM Pharmacy, 124 Frimley Road, Camberley, Surrey GU15 2QN received on 06 May 2025.
- 3.2 Frimley Integrated Care Board (ICB), has considered the above application and I am writing to confirm that it has been refused.
- 3.3 **REASON FOR THE DECISION**
- 3.4 Your application has been refused on the grounds that you have not met the requirements set out in paragraph 24, Schedule 4 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.
- 3.5 The Committee first considered that to assess the application against Paragraph 24(1)(a), it needed to determine the existing level of service provision. It could then consider whether it is necessary to maintain the existing level of service provision and if so, whether the proposed change would maintain the existing level of service provision. Matters to consider in relation to the level of service provision would include days and times services are provided, the types and range of services provided, geographical access to services provided, other aspects of physical access aside from location, and the quality of services provided.
- 3.6 The Committee noted that some information about the Applicants opening hours had been provided but there were no details of the other pharmacies in the area to describe the existing level of service provision. The Committee also noted that the application made reference to an audit that had been undertaken, however, no details of the audit

were included with the application. The Committee therefore agreed that it could not determine if it was necessary to maintain the existing level of service provision.

- 3.7 The Committee further agreed that it could not conclude that the change in core hours would maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises.
- 3.8 The Committee then went on to consider Paragraph 24(1)(b). Given that there was very little information provided as part of the application to describe the current level of service provision, the Committee could not conclude that the change in core hours would maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.
- 3.9 Following the refusal of the core hours application, the supplementary hours notification will be recorded as withdrawn.
- 3.10 **RIGHT OF APPEAL**
- 3.11 You have a right of appeal to the Secretary of State against the decision of Frimley Integrated Care Board (ICB). Should you choose to appeal then you should send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to:
- 3.12 NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU or email: nhsr.appeals@nhs.net
- 3.13 If you have any questions, please contact [GM] using the contact details at the top of this letter."

4. **The Appeal**

In a letter to NHS Resolution received 17 June 2025 the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

- 4.1 "Services Provided at VSM Pharmacy
- 4.2 NHS pharmacies offer a range of core services as part of the Community Pharmacy Contractual Framework. These include dispensing medicines and appliances, repeat dispensing, clinical governance, promoting healthy lifestyles, disposal of unwanted medicines, signposting, supporting self-care, and the Discharge Medicines Service. Additionally, pharmacies provide public health services like substance misuse support, sexual health services, and stop smoking programs. VSM dispense around 6,000 items a month.
- 4.3 We make the case that changing our opening hours from the following:
 - 4.3.1 Monday to Friday: 9AM to 6PM
 - 4.3.2 Saturday: 9AM to 2PM
- 4.4 To the following:
 - 4.4.1 Monday to Friday: 9AM to 5.30PM
 - 4.4.2 Saturday: 9AM to 5.30PM

- 4.5 Will have the following positive impact:
- 4.5.1 increase patients' access to emergency hormonal contraception at a time when most request it (Saturday)
 - 4.5.2 improve patients' access to Pharmacy First services at a time when surgeries are shut (Saturday)
 - 4.5.3 improve medication collection for patients who are working during the week
- 4.6 Footfall Survey
- 4.7 A survey conducted in May 2025 highlighted that Saturday is the day with the highest patients' footfall per hour.

Weekday	Average Footfall	Patients per hour
Monday	83	9
Tuesday	78.75	9
Wednesday	76.75	9
Thursday	73.2	8
Friday	92.6	10
Saturday	57.4	11

- 4.8 We also noted that on average 95% of patients visit the pharmacy before 5:30PM on any given day.

Weekday	Before 1730	After 1730	Before Percent	After Percent
Monday	151	14	92%	8%
Tuesday	299	15	95%	5%
Wednesday	291	12	96%	4%
Thursday	353	13	96%	4%
Friday	428	32	93%	7%
Saturday	287	0	100%	0%

- 4.9 Across all opening days of the month of May 2025, 90% of the patients visit the pharmacy before 5PM:

Start Hour	End Hour	Count	Percentage	Cumulative
09:00:00	10:00:00	250	13%	13%
10:00:00	11:00:00	241	13%	26%
11:00:00	12:00:00	249	13%	39%
12:00:00	13:00:00	238	13%	52%
13:00:00	14:00:00	224	12%	63%
14:00:00	15:00:00	158	8%	72%
15:00:00	16:00:00	182	10%	81%
16:00:00	17:00:00	166	9%	90%
17:00:00	18:00:00	186	10%	100%

4.10 Surgeries

4.11 If we look at the surgeries that send us prescriptions, 74% come from Camberley Health Centre:

Prescribing Organisation	Items	Percentage	Opening Days	Opening Hours
Camberley Health Centre	3,871	74%	Monday to Friday	8 AM – 6:30PM
Park Road Group Practice	826	16%	Monday to Friday	8 AM – 6:30PM
Upper Gordon Road Surgery	432	8%	Monday to Friday	8 AM – 6:30PM
Station Road Surgery	112	2%	Monday to Friday	8 AM – 6:30PM
Total	5,241	100%		

4.12 Camberley Health Centre is sending us most of their prescriptions electronically, and we receive them twice a day at AM and at PM. Typically the afternoon prescriptions are dispensed the next day as it is rare for us to have all the items in stock. The deliveries come in at AM and PM on weekdays. Therefore, the reduced hours on Monday to Friday would not affect repeat dispensing. Moreover, all our patients receive a text message to inform them that their medications are ready for collection, again from that perspective, there would be no significant change to the provision of repeat prescriptions.

4.13 With regards [sic] to acute prescriptions as we demonstrate in the next part about our competitors, four out of five closest competitors are open until 6PM so there would be no change to acute prescriptions dispensing as suitable alternative are available within a short distance from the pharmacy. It is worth noting that two of these competitors are open until 9PM.

4.14 Competition

4.15 [Map provided showing locations of the 5 pharmacies listed below]

4.16 There are 5 competitors within 1 mile (1.6 KM) which is maximum 13 minutes by bus, 20 minutes' walk or 4 minutes' drive:

Contractor	Distance to VSM	Address	Opening Hours
PARK ROAD PHARMACY (FD573)	1.03km	143 PARK ROAD, Camberley, GU15 2NN	Monday to Friday 9am to 1pm 2pm to 6pm
CAMBERLEY PHARMACY (FRE39) 100-hour pharmacy	1.37km	UPPER GORDON RD SURGERY, 37 UPPER GORDON ROAD, GU15 2HJ	Monday to Friday 9AM to 9PM Saturday 1PM to 9PM Sunday 8AM to 6PM
SUPERDRUG PHARMACY (FC693)	1.39km	6/12 PRINCE OF WALES WALK, CAMBERLEY, GU15 3SJ	Monday to Saturday 9AM to 5:30PM
BOOTS (FNC00)	1.42km	26-30 OBELISK WAY, CAMBERLEY, GU15 3SD	Monday to Friday 9AM to 6PM Saturday 9AM to 5:30PM Sunday 10:30AM to 4:30PM
TESCO PHARMACY (FE003) 100-hour pharmacy	1.62km	TESCO EXTRA, THE MEADOWS, MARSHALL ROAD, GU47 0FD	Monday to Saturday 9AM to 9PM Sunday 10AM to 4PM

4.17 Three of these competitors are open seven days a week.

4.18 Four of these competitors are open between the hours we would like to decrease which are Monday to Friday 5:30PM to 6PM. One of our competitors is shut on Saturday between 2PM and 5:30PM, which are the hours that we want to increase. So changing the opening hours would improve patients' access to core and advanced services on Saturday. Emergency Hormonal Contraception and Pharmacy First services along with medications collection for working patients would therefore be greatly improved at a crucial time when they are needed.

4.19 Most of our competitors are providing the same services as we do.

Service	Description	Provided at VSM	Provided at Park Road Pharmacy	Provided at Camberley Pharmacy	Provided at Superdrug Pharmacy	Provided at Boots Pharmacy
Core	Repeat dispensing and electronic repeat dispensing	Yes	Yes	Yes	Yes	Yes

Core	Providing Advice	Yes	Yes	Yes	Yes	Yes
Core	Discharge Medicines Service	Yes	Yes	Yes	Yes	Yes
Core	Disposal of unwanted medicines	Yes	Yes	Yes	Yes	Yes
Advanced	New Medicine Service	Yes	Yes	Yes	Yes	Yes
Advanced	NHS Pharmacy First Service	Yes	Yes	Yes	Yes	Yes
Advanced	NHS Community Pharmacy Blood Pressure Check Service	Yes	Yes	Yes	Yes	Yes
Advanced	NHS Emergency Contraception Service	Yes	Yes	Yes	Yes	Yes
Advanced	NHS Flu Vaccination	Yes	Yes	Yes	Yes	Yes
Advanced	Needle and syringe exchange	Yes	No	Yes	Yes	Yes
Advanced	NHS Covid-19 Vaccination	No	Yes			
Advanced	NHS Community Pharmacy Smoking Cessation Service	No				
Advanced	Point of care testing	No				

4.20 In terms of Pharmacy First services, because our opening hours match Camberley Health Centre opening hours Monday to Friday, we are one of the lowest providers (as seen below) [table showing the number of Pharmacy First Consultations completed by the Applicant and alternative pharmacies in February 2025]. Extending our opening hours on Saturday will allow us to provide more of these core services.

- 4.21 In terms of blood pressure checks, VSM is also lagging its competitors. We believe that extended opening hours on Saturday will allow us to provide more of these services [table provided showing the number of clinic blood pressure checks completed by the Applicant and alternative pharmacies in February 2025].

4.22 Prescription Patients Distribution

- 4.23 90% of our patients live extremely close to the pharmacy so going to a competitor if the hours change will not be a problem if they require a prescription out of the new opening hours.

Postcode	Count	Percentage
GU15	23,977	78%
GU16	2,971	10%
GU14	668	2%

- 4.24 54% of our patients are under 60 and working so the change in opening hours will improve their access to prescriptions. This has also been confirmed via anecdotal chats with working patients who said that Saturday is their preferred day for collection due to their schedule.

Age Category	Count	%
Child	2,397	8%
Working	16,627	54%
Retired	10,830	35%
Unknown	719	2%

4.25 Additional Considerations

4.26 Better Use of Resources and Cost Efficiency

- 4.27 An analysis of footfall data indicates that the final 30 minutes of weekday opening (5:30PM–6PM) accounts for only 5–7% of daily patient visits. In contrast, demand peaks earlier in the day and is particularly concentrated on Saturdays. Reallocating staff time from lower-traffic weekday evenings to higher-need Saturday afternoons represents a more efficient use of resources, enabling us to match service availability with actual patient behaviour.

4.28 Staff Wellbeing and Service Quality

- 4.29 Closing earlier during quieter weekday periods may help alleviate staff fatigue, promote wellbeing, and maintain high service standards throughout the working day. A shift in hours would enable the team to concentrate its efforts on busier periods, particularly Saturdays, without increasing total hours worked.

- 4.30 Contribution to Public Health and Reduced Pressure on Other Services
- 4.31 Increasing Saturday service availability, particularly for Pharmacy First consultations and emergency contraception, directly contributes to improved public health outcomes. These services are especially important during weekends, when access to GP surgeries is limited. Enhancing our capacity during this time can reduce inappropriate A&E visits and alleviate pressure on out-of-hours NHS services.
- 4.32 Alignment with NHS Strategy and Local Patient Need
- 4.33 The proposed changes support NHS England's vision for community pharmacies to play a greater role in urgent care and prevention. By extending Saturday hours, we improve accessibility to NHS-commissioned services at the time patients need them most. Feedback from patients has also indicated a clear demand for better access outside standard working hours, particularly among those unable to collect prescriptions during weekdays.
- 4.34 Conclusion
- 4.35 The proposed change to VSM Pharmacy's opening hours — closing 30 minutes earlier on weekdays and extending Saturday hours — aligns our service provision with actual patient demand. Our data show that 90% of patients visit before 5PM, and Saturday is our busiest day per hour. Extending Saturday hours enables us to address unmet needs in areas such as emergency contraception, Pharmacy First consultations, and medicine collection for working patients, at a time when local GP surgeries are closed and nearby competitors are less available.
- 4.36 Importantly, the weekday reduction will have no impact on the timely processing of prescriptions due to existing workflow patterns and the availability of nearby alternatives for acute prescriptions. In contrast, the added Saturday capacity offers clear opportunities to improve service reach and clinical outcomes.
- 4.37 This adjustment makes operational sense, supports public health objectives, and demonstrates our commitment to delivering patient-centred care when and where it is most needed."

5. Representations

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

6. Consideration

- 6.1 I note the following:
- 6.1.1 The Applicant's core opening hours total 40 hours and the Applicant proposes to redistribute those 40 core opening hours pursuant to paragraph 26 of Schedule 4.
- 6.2 The Applicant proposes to:
- 6.2.1 Open until 1.30pm instead of 1pm Monday to Friday;
- 6.2.2 Close at 5.30pm instead of 6pm Monday to Friday.
- 6.3 I note the Applicant also refers to changing its Saturday opening hours from 9am until 2pm to 9am until 5.30pm and has provided information in support of this proposed change throughout its appeal. However, these hours were not included in its original

application (to change core opening hours) therefore I consider them to be supplementary opening hours. As stated above at paragraph 1.9, supplementary opening hours may be altered by the pharmacy giving notice to the Commissioner, in accordance with paragraph 23(6)(a) of Schedule 4 of the Regulations, without the need to make an application to the Commissioner. I note in its decision letter, the Commissioner stated that *“Following the refusal of the core hours application, the supplementary hours notification will be recorded as withdrawn”*. There is no specific right of appeal to NHS Resolution in respect of notices given under paragraph 23(6)(a). I have therefore limited my consideration to the changes proposed in respect of the Applicant’s core opening hours and consider that it would be open to the Applicant to give notice to the Commissioner again to change its supplementary opening hours in accordance with paragraph 23(6)(a) of Schedule 4 of the Regulations if it so wishes.

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

6.5 Paragraph 26(1) states:

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

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

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

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

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

6.7 Paragraph 24(1) reads as follows:

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

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

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

6.8 Paragraph 24(2) states:

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

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

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

- 6.9 I will start by considering the application of paragraph 24(1)(a) and whether the proposed hours are such as to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises. I will then consider the application of 24(1)(b) if that is required.
- 6.10 To properly assess the application against paragraph 24(1)(a), I need to determine the existing level of service provision. I then need to consider whether it is necessary to maintain the existing level of service provision. If it is necessary to maintain the existing level of service provision, I need to consider whether, despite the proposed change of hours, the existing level of service provision to people in the area or other likely users would be maintained, e.g. by nearby pharmacies being open and providing the same level of service provision.
- 6.11 If I consider it unnecessary to maintain the existing level of service provision or that it is necessary to maintain the existing level of service provision but doing so is not a realistically achievable outcome, then I need to consider paragraph 24(1)(b) and determine whether the proposed change of hours are such that a sustainable level of adequate service provision would be maintained.
- 6.12 I therefore need to be provided with sufficient information to understand a range of matters, starting with the existing level of service provision. The references to days and times in paragraph 24(1) leads me to consider that the reference to "level" of service provision in paragraph 24(1)(a) is mainly focused on the days and times services are provided. I would point out that "level" of service provision could also refer to other characteristics of the service, such as types and range of services provided, geographical access to services provided, other aspects of physical access aside from location, and the quality of services provided.
- 6.13 The existing level of service provision has been outlined by the Applicant, in its own core opening hours provision, and by an indication of the hours that pharmacies in the local area are open.
- 6.14 I have next considered whether it is necessary to maintain the existing level of service provision. It could be argued that as the Applicant is not looking to reduce the number of hours each week that services are provided, then from a pure "number of hours of service provision each week" perspective, the existing level of service provision is maintained such that consideration of whether it is necessary to maintain the level of service provision is not needed.
- 6.15 However, the Applicant is applying to change the days and times that services are provided. Taking Monday as an example, the level of service provision at the Applicant's premises on a Monday is not being maintained. I consider it appropriate to determine if it is necessary to maintain the existing level of service provision and then, if deemed necessary, consider if the opening hours of other pharmacies mean that level is maintained.
- 6.16 To determine whether it is necessary to maintain the existing level of service provision, I have had regard to the comments by the Applicant of those using the pharmacy. If I am satisfied that there is reliable evidence indicating no users of the pharmacy on/at the relevant days/times that the pharmacy wishes to close, this might support an argument that maintaining the existing level of service provision is not necessary.

- 6.17 In its application, the Applicant stated that *“Our audit data for the last 12 months shows that the period between 17:30 and 18:00 Monday to Friday consistently records the lowest patient footfall and prescription collection volumes, with fewer than 5 patients on average using the pharmacy during this time”*.
- 6.18 In its appeal, the Applicant has provided the results of a survey which it carried out in May 2025 to establish the number of people who visited the pharmacy and at what times. I note the Applicant's comments *“We...noted that on average 95% of patients visit the pharmacy before 5:30PM on any given day”* and *“Across all opening days of the month of May 2025, 90% of the patients visit the pharmacy before 5PM”*.
- 6.19 It is clear that there are people using the pharmacy at the times the Applicant wishes to close, albeit low in numbers.
- 6.20 Therefore, I consider it reasonable to take the position that it is necessary to maintain the existing level of service provision.
- 6.21 Having determined that it is reasonable to assume that maintaining the existing level of service provision is necessary, I now need to consider if, despite the changes to hours, there is maintenance of the existing level of service provision. The Applicant cannot maintain this as it is changing its hours but I note the information from the Applicant with regard to other pharmacies in the area that, between them, have opening hours during the times that the Applicant is proposing to close, namely Park Road Pharmacy, Camberley Pharmacy, Superdrug Pharmacy, Boots and Tesco Pharmacy.
- 6.22 If I consider that the characteristics of other pharmacies, e.g. where they are located, their access, the services provided and the times they are open, means that the level of service provision is maintained for people in the local area or other likely users of the pharmacy, then I am able to grant the application under paragraph 24(1)(a).
- 6.23 It is worth noting that characteristics of the persons using the pharmacy might be relevant here as well as from where they start their journey to the pharmacy. I do not consider that every single individual need should be considered at length in this regard but it would be helpful to have this information to be certain that the existing level of service provision would be maintained via local pharmacies.
- 6.24 The Applicant has provided information regarding the opening hours and distances to alternative pharmaceutical services. I note that Superdrug and Park Road Pharmacy are open at some of the times the Applicant is wishing to close but not all. I note that the other pharmacies are open at all the times the Applicant is wishing to close. Camberley Pharmacy is 1.37km away and open from 9am to 9pm Monday to Friday. Boots Pharmacy is 1.42km away and is open from 9am to 6pm Monday to Friday. Tesco Pharmacy is 1.62km away and is open from 9am to 9pm Monday to Friday. Neither the Applicant nor the Commissioner has confirmed the core opening hours for any of these pharmacies however I note that the Applicant states that Camberley Pharmacy and Tesco Pharmacy are 100 hour pharmacies which is not disputed.
- 6.25 I note the Applicant's comment that the alternative pharmaceutical services are *“within 1 mile (1.6 KM) [of the Applicant's pharmacy] which is maximum 13 minutes by bus, 20 minutes' walk or 4 minutes' drive”*. Whilst the distances are not excessive, the Applicant has not provided any information on the routes involved to walk to these pharmacies, for example, whether there is sufficient street lighting, dropped kerbs and pedestrian crossings where necessary. Nor has any information been provided in relation to car ownership, parking facilities or the routes involved for those with access to a car or on the provision of public transport in the area, which patients may use when travelling to the other pharmacies.

- 6.26 The Applicant states that it dispenses approximately 6,000 items a month and goes on to state under the heading of “Prescription Patients Distribution”, *“90% of our patients live extremely close to the pharmacy so going to a competitor if the hours change will not be a problem if they require a prescription out of the new opening hours”*. The Applicant has also provided data to demonstrate the source of its prescriptions. Whilst I appreciate the Applicant’s intentions of providing this information, I am mindful that the provision of pharmaceutical services is greater than the dispensing of prescriptions and that maintaining a level of service provision includes all services that the pharmacy may offer, including additional enhanced and advanced services that may be commissioned.
- 6.27 Whilst I note the Applicant has provided information to demonstrate that the alternative pharmacies in the area provide the same services as it does, due to lack of information on access to these pharmacies, I am struggling to be satisfied that the existing level of service provision would be maintained by virtue of the existence of other local pharmacies.
- 6.28 I have decided that it is necessary to maintain the current service provision but, due to
- 6.28.1 a lack of information regarding the journey to alternative pharmacies whether on foot or by public or private transport,
- I am not satisfied that there will be maintenance of the existing level of service provision by virtue of other pharmacies in the area.
- 6.29 I therefore next consider if I need to have regard to paragraph 24(1)(b) which states that I must seek to ensure that the changed hours are such as to:
- “maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome”*.
- 6.30 I have already determined that it is necessary to maintain the existing level of service provision so reference in paragraph 24(1)(b) to *“in circumstances where maintaining the existing level of service provision is ... unnecessary”* is not relevant.
- 6.31 On the point of whether maintaining the existing level of service provision is not a realistically achievable outcome, I consider that no evidence has been put forward in respect of this criteria.
- 6.32 The wording of paragraph 24(1)(b) is such that maintaining existing service levels must not be realistically achievable before considering a sustainable level of adequate provision. I consider that this sets a fairly high bar as to the level of difficulty that the Applicant must find themselves in. Whilst I appreciate the points under “additional considerations” in the appeal, I do not consider that sufficient evidence has been provided to indicate that the economic and practical viability of the current opening hours has been compromised. I therefore consider that maintaining the existing level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b).
- 6.33 I am of the view that I have not been provided with sufficient information to demonstrate how the proposed change of hours would maintain, as necessary, the existing levels of service provision.

7. Determination

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

Head of Appeals
NHS Resolution