NHS Resolution

26 September 2025

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REF: SHA/26554

APPEAL AGAINST CORNWALL AND THE ISLES OF SCILLY ICB DECISION TO REFUSE AN APPLICATION BY NAIMANS UK LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT POOL HEALTH CENTRE, REDRUTH, TR15 3DU (BEST ESTIMATE)

1 Outcome

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

1.2 The Committee determined that the application should be granted.

A copy of this decision is being sent to:

Healthcare Plus Consulting Ltd (on behalf of Naimans UK Ltd)
Primary Care Support England (on behalf of Cornwall and The Isles of Scilly ICB)

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1 A summary of the application, decision, appeal and representations and observations are attached at Annex A.

2 **Site Visit**

2.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution (which comprised of Lucy Reid, Chair, Victoria Smith, Lay Member and Michael Beaman, Pharmacy Member) completed a site visit on Monday 18 August 2025 and Monday 1 September 2025 separately.

2.2 Starting at the Pool Health Centre located on Station Road, there is a car park directly outside the surgery and an overflow car park on the other side of the building. The car park was busy on both occasions although there were spaces available. The Health Centre is located in a large residential area containing a mix of social and private housing. The proposed premises, in the unit previously occupied by Boots, is part of the surgery building to the left hand side. It has a separate entrance to the surgery and is a reasonable size with a consultation room located at the front. It has an easily accessible entrance.

2.3 There is a sign on the door stating that *"this pharmacy is now closed. We have still some colleagues on duty to do some essential maintenance, but sadly no PHARMACIST and therefore we are unable to support you with usual pharmacy queries."* The sign was clearly out of date as the premises were completely empty.

2.4 Walking into the surgery, there is a sign immediately to the left of the door explaining about the application and appeal. The sign asks for letters of support providing examples of how the closure of the Boots has affected patients. Walking further into the entranceway, there is a large Boots sign stating *"this store closed on 02.03.2024"* and directing people to the Boots store on Basset Road in Redruth. It also provides addresses to the other nearby Boots pharmacies on Fore Street and Chapel Street along with a QR code to scan for further information on services.

2.5 The Committee noted that patients have to enter the GP surgery building to see the information about alternative Boots pharmacies. The GP practice was very busy at the time of both visits.

2.6 Driving along Station Road from the Health Centre to Tesco Extra took around 2 minutes by car through housing estates. Turning into the car park for Tesco Extra, which is located on the Carn Brae industrial estate, it was extremely busy with many cars driving around the large car park trying to find a space. There is no pedestrian route into the industrial estate making walking from the surgery to Tesco inaccessible. There is parking for disabled customers and families.

2.7 The pharmacy is situated at the back of the store and advertised as being open 7 days per week. It is an open area with queue management barriers in place at the front. There are two signs advising patients which queue to stand in – the first for prescriptions and the second for pharmacy services, sales and call backs. There is another sign on the counter stating *"Please treat our in-store colleagues with respect. We'll report any verbal or physical abuse of our colleagues."* The pharmacy itself includes a small counter with a dispensing area at the back. There is a consultation room to the right with a semi-opaque door. It was not busy at the time of either visit with 2-3 people waiting to be seen.

2.8 Leaving the car park via the exit was very busy with queuing traffic. On one of the visits it took seven minutes to exit the car park. Driving onto East Hill from Tesco Extra, there was further queuing traffic as the roads were also very busy. There was a large industrial estate, a college and other retailers along East Hill and areas of deprivation were evident. Driving to Camborne, the Committee visited the pharmacies and surgery located in the town in the early afternoon.

2.9 Camborne is a small town with a wide range of retailers, cafes, barbers and public houses. It was reasonably busy in the town centre although there are also a lot of empty retail units. There is street parking available, limited to 30 minutes. It was very busy and parking spaces were not available on either visit. There is a Day Lewis pharmacy located on Trelowarren Street. There were seven patients waiting on the 18 August and 4 on 1 September. There is a consultation room, chairs available for those waiting and an automated dispensing machine.

2.10 The other pharmacy in Camborne is also a Day Lewis pharmacy and located on Commercial Street adjacent to the Trevithick surgery which has a car park. There is no parking outside the pharmacy. The pharmacy has disabled access and is average sized with chairs available for those waiting. There were patients waiting on both visits – 9 on 18 August and 3 on 1 September. The over the counter products were limited with one wall taken up by a large quantity of the same product and other shelves empty. It was quite run down in appearance.

2.11 There was a bus station nearby and a bus stop outside the surgery. The practice was closed for lunch on 1 September visit. There were five patients waiting in the practice car park for it to reopen.

2.12 The Committee also visited the pharmacies in Redruth. Driving from the health centre in Pool along Trevenson Road, Agar Road, Barncoose Terrace and West End took nine minutes to travel the 2.2 miles. The roads were busy and whilst there were pavements, they were very narrow in places and in parts, only on one side of the road. There is a minor injuries unit nearby.

2.13 Redruth is an old town on a steep hill. There is very little street parking and what is available is limited to 30 minutes. Most of the roads around the centre have double yellow lines on both sides. Part of the town is pedestrianised. There are some pay and display car parks on the edges of town.

2.14 The surgeries are relatively near to each other with some parking available, although very few spaces were available at the time of both visits.

2.15 There is a Day Lewis pharmacy located on Chapel Street, which is quite small, run down in appearance, with no disabled access. It has a consultation room and an automatic dispensing machine outside. There is no parking available there.

2.16 Boots pharmacy is located on Fore Street, which is in the pedestrianised area of the town at the bottom of a steep hill. The branch has over the counter and retail products

at the front of the store with the pharmacy area located at the back. There were 6 people queuing at the time of the September visit.

2.17 Green Lane pharmacy is located on one of the roads into Redruth. The pharmacy is very small with limited short stay street parking available opposite. It had a consultation room, disabled access but was quite run down and had limited over the counter items available. There were six people waiting at the time of the visit in September and they were queuing outside of the door.

2.18 Superdrug was also located in Redruth, however had closed on 16 August 2025. The Committee then drove to the Boots pharmacy located on Bassett Road in Illogan. Illogan is a village situated to the north of the A30 towards the coast. The surgery is within a few hundred yards of the pharmacy and has a medium sized car park. Parking through the village is challenging with cars parked on both sides of the narrow roads. Boots is a very small branch with disabled access and a consultation room. It appeared very run down. There are 2 small parking spaces directly outside the pharmacy and limited off street parking opposite. It was very busy at the time of both visits with around 10 people queuing.

3 A summary of the above observations was provided to those in attendance. They were invited to comment upon them or indicate if any of the observations appeared to be inaccurate.

3.1 Mr Holby, on behalf of Carn to Coast Health Centres wished to clarify that the surgery car park in Camborne is relatively small and space is at a premium. He emphasised that the surgery car park is not for use for those visiting the pharmacy opposite.

3.2 Mrs Pasco, a local resident clarified that the parking referred to as being opposite to the Boots in Illogan belongs to the public house there. She confirmed how challenging the parking is in Illogan as noted by the Committee in the site visit.

4 **Oral Hearing Submissions**

Mr Koria, Healthcare Plus Consulting, representing Naimans UK Ltd, provided the Committee with some background to the Applicant and the application and subsequent appeal.

4.1 The Applicant, Mr Naidu of Naimans UK Ltd operates 8 pharmacies in the Cornwall area, including Green Lane pharmacy in Redruth. The application centres around capacity issues with Tesco pharmacy, which is the only pharmacy remaining in Pool, capacity issues in the wider area of Redruth, Pool and Camborne, parking issues and pharmaceutical service needs for the area.

4.2 Mr Koria explained that prior to the closure of Boots in March 2024, local residents were served by Boots and Tesco pharmacy who were both high volume dispensers. Boots dispensed around 13,000 items per month and Tesco around 11,000. A total of 24,000 items dispensed for the population of Pool, which is around 9,000 residents, may be explained by the high levels of deprivation in the area.

4.3 Mr Koria took the Committee through the census data which shows the 051D LSOA area is situated in the top 20% of deprived areas and the adjacent 051E is in the top 10%. The data also shows significantly higher than average levels of residents who describe themselves as being in bad or very bad health, long term sick or disabled and with limited mobility. There is also a significantly higher than average number of people living in social housing.

4.4 Mr Koria told the Committee that the evidence submitted by the Applicant at each stage of this process has included undisputed capacity issues across the wider pharmacy network in the area. He said that the queues in Tesco were so problematic that it was

reported by the BBC News. He referred to the decision of the Integrated Commissioning Board (ICB) who refused the application on the basis that access problems were due to a brief period of disruption. He suggested that this is clearly not the case as the problems are still apparent over a year on. He then referred to the evidence provided by the Applicant in the appeal, which included Google reviews and emails and letters from local residents describing hour long queues. He submitted that this evidence makes clear the capacity issues across the wider pharmacy network and not just Tesco in Pool.

4.5 He referred the Committee to the information contained within the bundle about where the dispensing items have gone. He submitted that Tesco has been actively discouraging patients from nominating them as their pharmacy because they do not have the capacity to manage the increase in dispensing items. He said this may explain why only 7.5% of the Boots' items have gone to Tesco, despite it being the closest pharmacy. He said that Tesco delivers a high number of Pharmacy First consultations but not dispensing items and submitted that this may be so that they can avoid requiring "double pharmacist cover" as they cannot provide the staff. He referred to the recent email exchange circulated from Tesco reporting closures due to staffing shortages. He said this makes the service unreliable for patients and it is clear that patients have "given up" going there.

4.6 Mr Koria submitted that the wider corporate issues being experienced by some providers such as Boots, Lloyds and Tesco is not something that the Applicant is experiencing who has had no problems staffing his pharmacies in Cornwall.

4.7 He then referred to the question of reasonable choice for patients. He said that a large number of items have gone to Pharmacy2U to be dispensed and is enough to sustain one pharmacy. He submitted that patients are not choosing to go to a distance selling pharmacy but it is more of a reflection of deprivation, physical access to other pharmacies and parking issues. He explained that a distance selling pharmacy cannot provide urgent medications, face to face services and cannot release a script once it has been sent to them. This can cause panic for patients who are in need of medication urgently but the script has been sent to a distance selling pharmacy as their nominated pharmacy. He also pointed out that controlled drugs have to be signed for so patients have to stay in waiting for the delivery.

4.8 Mr Koria then referred to transport and the difficulties patients experience in particular with parking. He highlighted that disabled residents have difficulty where parking is on a single street or narrow roads and those with limited mobility experience problems getting from the pay and display car parks to the pharmacies. He said that parking limited to 30 minutes is also problematic, given the hour long queues that patients are experiencing. Whilst Tesco has ample parking, it is very busy and they are evidently unreliable for patients. He submitted that none of these factors enable reasonable choice for patients.

4.9 He referred to the high dispensing numbers across the pharmacies in Camborne, Pool, Redruth and Illogan and said that granting the application would ease the pressures on the surrounding pharmacies.

4.10 Mr Holby was a managing partner at the Carn to Coast Health Centres of which Pool Health Centre is part of. He supported everything that Mr Koria had said and explained that they had had a pharmacy attached to the surgery for years. He said patients had given up on Tesco and the management there had informed them that they could not cope with the volume following the Boots closure. He said he could not understand how the ICB had arrived at their decision particularly given that Pool is a very deprived area, with greater health needs. He referred to the high proportion of patients who are on 10

or more different medications and the importance of a good relationship between the pharmacy and the practice.

4.11 Mrs Pasco is a local resident and has experienced difficulties accessing pharmaceutical services locally. She explained how she had gone to Tesco and had to queue for a long time only to be told to return for her medications four hours later. She said she has tried to ring them to see what the waiting times were like and was put through to a call centre. She explained that she now uses Illogan pharmacy and has to park a long distance away. She said there were long queues there – up to 10 people, and sometimes they have not got the prescription ready after that time queuing. She explained there was no disabled parking available either and it can be very difficult for those with mobility issues.

4.12 Mrs Pasco said she would not use the pharmacies in Redruth because the hill is too steep. She also referred to the difficulties that she had experienced when she was prescribed a particular product that required a lot of communication between the pharmacy and the GP practice to get the issue resolved. She suggested that this would have been more easily resolved previously.

4.13 Mrs Parish told the Committee that she was a local resident who has also experienced significant difficulties accessing local pharmaceutical services. She explained that she has limited mobility and cannot stand for long periods of time as a result. She also needs regular access to conveniences. She said that she uses the pharmacy in Illogan now because it is the only pharmacy she can get to. She explained that she had tried to use Tesco but she could not stand in the queue for the length of time required. She said she also found that they were frequently unable to fulfil her script.

4.14 Mr Naidu referred the Committee to the number of pharmacies closing across the UK. He said that high dispensing levels impact a pharmacy's ability to offer other services. He said he was very surprised that the ICB had decided that there was no local need, particularly given the high levels of deprivation in the area. He submitted that granting the application would increase pharmacy capacity, patient choice and access. He also advised that he has had no issues with pharmacist staffing, which he believes is due to looking after and investing in staff.

Committee questions

4.15 The Committee asked Mrs Pasco for clarification about access on foot to Tesco from the Health Centre. She confirmed that you would have to walk up the side of the store along with the cars in order to get to the entrance. When asked about the background to the area, she explained that Pool is very spread out and was part of the mining industry. Most of the retail buildings are very recent.

4.16 The Committee asked Mr Holby about the patient list size for the Health Centre in Pool and whether the referrals for Pharmacy First were still being made to Tesco. Mr Holby and Mr Koria clarified that Pool is the main surgery for Carn to Coast Health Centres and Illogan and Camborne are the branch sites. Their overall patient list size is 30,000. The number of items prescribed each month is around 60,000 with 30,000 by Pool health centre. Tesco is averaging 260 Pharmacy First consultations per month, however have indicated that they do not have the capacity to do any more.

Closing statement

4.17 Mr Koria concluded his submissions by highlighting that there was substantial evidence presented about difficulties accessing services, which is being experienced by local residents still. He reiterated that these challenges included long queues, parking issues and that people from deprived backgrounds experience additional issues. He further

submitted that obtaining urgent medication from a distance selling pharmacy is very challenging, that patients cannot rely on pharmaceutical services from Tesco and there is no reasonable choice for those in the area. He concluded that granting the application would address these difficulties, providing better access and reasonable choice for patients whilst alleviating the pressures on existing services.

5 Consideration

5.1 The Committee 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.

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

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

Regulation 31

5.4 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).

5.5 The Committee noted that in the application, the Applicant had stated "*n/a – there is no pharmacy trading from or adjacent to the proposed premises, so Regulation 31 does not apply*". The Committee noted the conclusions of the Commissioner in this respect and further that this had not been disputed on appeal or in subsequent representations. On this basis of the information before it, the Committee was not required to refuse the application under the provisions of Regulation 31.

Regulation 18

5.6 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)."

5.7 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

5.8 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.

5.9 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).

5.10 The Committee considered the PNA prepared by Cornwall 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 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 2022 - 25 and that supplementary statements had been issued in January 2023, January 2024, April 2024 and August 2024.

5.11 The Committee noted the "Conclusions" section of the PNA stated:

"*The PNA concludes that, in respect of essential pharmaceutical services:*

There is no current gap in services across Cornwall and the Isles of Scilly in any of the localities.

If current pharmacies remain open there are no future gaps in services across Cornwall and the Isles of Scilly in any of the localities however, given the housing developments in Newquay, Truro (Langarth) and St Austell (West Carclaze) there may be opportunities to consider relocation to enable better overall access for patients."

5.12 The Committee noted that the localities that had been used in the PNA are based on the 15 Primary Care Networks (PCN) for the Cornwall and Isles of Scilly area. The Committee noted that the proposed site was within the North Kerrier West PCN locality.

5.13 The Committee noted that under the heading 'Locality Summary and Adequacy Assessment' it stated in relation to the North Kerrier West PCN:

"*This locality has a total population of 38,636, around 6.8% of the total Cornwall population and is serviced by:*

6 pharmacies, which include one 100-hour pharmacy which is open 7 days a week.

3 GP surgeries, 1 of which is a dispensing premises (Praze-an-Beeble)

A full pharmacy profile, summary health profile and socio-economic profile for the North Kerrier West PCN can be downloaded from www.cornwall.gov.uk/pharmacy

Since the last PNA was published there has been one pharmacy change (change of ownership, closure, approvals, etc). Boots UK, 10 Commercial Street, Cambourne and Boots, 2 Trelawarren Street consolidated onto the site at 10 Commercial Street in May 2020.

There are extensive housing developments proposed across Cornwall leading up to 2030. As detailed within the pharmacy profile, the level of housing development within the North Kerrier West PCN over the next 3 years is expected to be no more than 935. Given the distribution and level of provision in this area, it is anticipated that existing services has [sic] the capacity to support the pharmaceutical needs of this area during the life of this PNA, and any additional demand will be able to be absorbed.

The review of the locations and access suggests there is adequate access to NHS Pharmaceutical Services in the North Kerrier West PCN and alongside additional access in neighbouring PCNs, means that pharmacies in this area provide the necessary level of service both to meet need and secure adequate access.

There is no current need identified for more pharmaceutical providers at this time."

5.14 The Committee noted that the above section in the PNA included a section that rates the following as "A = Adequate":

5.14.1 Level of access

5.14.2 Level of reasonable choice

5.14.3 Current level of pharmaceutical services

5.14.4 Ability to meet future need

5.15 The Supplementary Statements (issued between January 2023 and August 2024) covered any changes to the pharmaceutical list such as pharmacy closures, change of ownership and changes in opening hours. The Committee noted that the closure of Boots in Pool was referenced in the Supplementary Statement issued in April 2024.

5.16 The Committee noted the following statement on the published Supplementary Statement:

"*It is the opinion of the Cornwall and Isles of Scilly Health and Wellbeing board that these changes to the pharmaceutical list do not create a gap in the pharmaceutical services provision that could be met by a routine application (a) to meet a current or future need for pharmaceutical services, or (b) to secure improvements, or better access, to pharmaceutical services.*

These changes to the availability of pharmaceutical services are relevant to the granting of applications referred to in the NHS Act 2006 and the Group is satisfied that a revised Pharmaceutical Needs Assessment would be, at this time, a disproportionate response. Whilst this was the decision at the time of issuing the statement, the PNA Steering Group recognise the fast changing landscape of pharmacy provision and will continue to routinely assess the impact of any future closures or changes in opening hours on health inequalities and service access."

5.17 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients of Pool. 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.

5.18 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)

5.19 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"

5.20 The Committee noted the conclusion of the Commissioner in respect of Regulation 18(2) as a whole that it was *"satisfied that granting the application would not cause significant detriment to the proper planning or arrangements in place for provision of pharmaceutical services"*. The Committee noted that no party had sought to dispute this either on appeal or in subsequent representations.

5.21 On the basis of the information available, 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.

5.22 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)

5.23 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"*

5.24 The Committee noted the conclusion of the Commissioner that *"the* [Commissioner] *was satisfied that granting the application would not cause significant detriment to the proper planning or arrangements in place for provision of pharmaceutical services"*. The Committee noted that this had not been challenged either on appeal or in subsequent representations.

5.25 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.

5.26 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)

5.27 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)),*
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> *(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)

5.28 In order to consider whether granting the application would confer significant benefits on persons in the area, the Committee first considered the background for the area. The area in question is located in West Cornwall and includes Pool, Camborne, Illogan and Redruth. Situated close to popular coastal villages such as St Ives and Portreath, it is frequented by a reasonable number of tourists throughout the year.

5.29 The proposed premises is located in Pool in the same location as the previous Boots pharmacy which closed in March 2024. As previously described, the premises are attached to the Health Centre in Pool which forms part of the Carn to Coast group of practices. Carn to Coast has a patient list size of approximately 30,000 and Pool Health Centre is its main branch. It also has health centres located in Camborne, Illogan and Redruth.

5.30 Located to the south of the A30, Pool has a number of local services including a leisure centre, a retail park, primary school and college. The population is around 9,000 and it is in the top 20% of deprived areas in the country. It also has a higher than average number of people living in socially rented housing, residents who describe themselves as long term sick or disabled, and with ill health conditions.

5.31 Prior to its closure, the Boots pharmacy in Pool dispensed approximately 13,000 items per month with 12,000 items prescribed by the Health Centre.

Existing pharmaceutical services in Pool

5.32 Since the closure of Boots on Station Road, there is one pharmacy in Pool which is located within a Tesco Extra store on a retail park 0.8 miles from the Health Centre. The pharmacy is open 9am to 9pm Monday to Saturday and 10am to 4pm on a Sunday. The pharmacy is located at the back of the store in a separate area. There was only one chair available in the waiting area and over the counter medication was located in amongst the shopping aisles nearby. The Committee considered that this may present a barrier for customers to access advice from pharmacy staff on these products due to their location. The consultation room was on the right of the dispensing area with a semi-opaque door, which the Committee considered may present an impression of a lack of privacy for patients who wish to consult on private matters such as emergency hormonal contraception.

5.33 There is a direct bus service from the Health Centre to Tesco and it is a short drive by car. However, it is inaccessible on foot due to the lack of footpaths to the entranceway of the superstore. The car park is large and very busy with limited footpaths through the car park itself to the store front. The Committee were of the view that this may present a psychological barrier to some patients, particularly those with small children, the elderly or those with limited mobility who are required to navigate across the busy car park. However, a large number of people will be undertaking their regular shop there and could utilise the pharmacy as part of their visit.

Pharmaceutical services in Camborne

5.34 Camborne is located approximately two miles to the south of Pool and has two Day Lewis pharmacies in the town centre. The pharmacy on Trelowarren Street is open 9am to 5.30pm Monday to Friday. It is closed weekends. The other Day Lewis pharmacy is on Commercial Street and is open 9am to 5.30pm Monday to Saturday and closed on Sunday. The pharmacy is located opposite the Trevithick surgery, which is part of the Carn to Coast Health Centres.

5.35 There is a direct bus service from Pool to Camborne and bus stops are located outside the Health Centre in Pool and near the Trevithick surgery. The journey time is approximately 17 minutes and the buses run every hour. The journey by car is around 12 minutes, depending upon traffic, however there is minimal parking in the town centre and it is limited to 30 minutes. It would not be easily accessible on foot due to the busy road network and traffic enroute.

Pharmaceutical services in Redruth

5.36 Redruth is located approximately two miles to the north west of Pool. Redruth has three pharmacies after Superdrug closed its pharmacy service in August 2025. Boots is located at the bottom of a steep hill at one end of the town which is pedestrianised. It is open 9am to 5.30pm Monday to Friday and 9am to 5pm on Saturday. Although there is a till point at the front of the store, it was not staffed during the Committee's visits meaning that customers had to queue at the dispensing area for both retail and pharmaceutical services. There is no parking nearby.

5.37 Green Lane pharmacy is located at the top area of Redruth with limited parking nearby. It is open 9am to 5.30pm Monday to Friday and 9am to 1pm on Saturday.

5.38 The Day Lewis pharmacy is located on Chapel Street 140 yards away from the Leatside Health Centre on Forthnoweth. It is open 8.45am to 5.45pm Monday to Friday and closed at weekends. There is no parking nearby.

5.39 There is a direct bus service from Pool to Redruth which takes approximately 18 minutes with a 600 yard walk. The journey by car is around 10 minutes, however car parks on the outskirts of town are pay and display and there is limited short stay street parking available. As with the other areas, the journey on foot would not be easily accessible due to the road network and traffic enroute.

Pharmaceutical services in Illogan

5.40 Illogan is a small village located 1.8 miles to the north of Pool across the A30. Boots pharmacy is situated on Bassett Road and is open 9am to 6pm Monday to Friday and 9am to 1pm on Saturday. Homecroft surgery, part of the Carn to Coast Health Centres is nearby. The pharmacy is a converted end terrace residential property opposite a pub. The road is narrow with cars parked on both sides. There is a direct bus from Pool to Illogan which takes approximately 15 minutes with a 150 yard walk. The journey by car is about 8 minutes, however as mentioned, the road is narrow with limited parking nearby. It is not accessible on foot from Pool as the route includes flyovers to cross the A30 and navigating a busy road network.

5.41 The Committee was of the view that, for those living in Pool, none of the pharmacies were accessible on foot due to the nature of the road networks, lack of footpaths and terrain. There were direct bus services from Pool to the pharmacies in the surrounding pharmacies, however it noted the demographics of the area and representations regarding travel costs for residents. The Committee also noted that whilst accessing pharmaceutical services by car was relatively straightforward, the parking available was more problematic, particularly in relation to the 30 minute time limit if patients are then required to wait for the pharmacist for any length of time. It was of the view that this would impact patient access and choice in terms of which service they could use.

Accessibility in General

5.42 The Regulations do not provide a definition of accessibility and the Committee were mindful that it cannot be determined by method of transport alone. It noted the evidence provided by the Applicant of the significant challenges described by patients when accessing pharmaceutical services.

5.43 The Committee noted the number of items dispensed by the Boots pharmacy prior to its closure was 13,000 per month, above the national average and Tesco Extra in Pool had been dispensing 11,000 per month. The Committee also noted that the number of items dispensed by the Boots branch in Illogan had since increased by 30%, and Pharmacy2U had also increased dispensing by 30%. The remaining items had been dispersed across the surrounding pharmacies with the exception of Superdrug.

5.44 The Applicant provided evidence in the form of a letter from Carn to Coast Health Centres, emails from local residents and a petition started by local residents when they were informed about the Boots pharmacy closing. These described problems accessing pharmaceutical services, shortfalls in medication resulting in multiple visits being required, and long queues. There was an email exchange from Tesco Extra pharmacy advising of a number of short notice closures due to staff shortages. The Committee had also been provided with a number of Google reviews, some of them recent, describing the ongoing difficulties accessing services.

5.45 The Committee had before it a letter from the GP practice based at Pool Health Centre. They described the difficulties that patients had experienced since the Boots closure and the discussions that they had with the manager of the Tesco pharmacy nearby who "*has been very open with us concerning their inability to cope with any substantial additional business. We were advised that the Tesco facility 'has capacity to safely dispense 400-500 items per day due to a number of operational and resource factors'. The announcement of closure was sufficient to create demand which the store facility could not meet and they anticipated being as many as 3000-4000 items 'behind the curve'. While they could not directly refuse patients a service, they found it appropriate to make clear to their customers the realities of the wait they would experience…..Pharmacies in the area more generally appear to be actively discouraging patients from nominating them because they lack resource capacity and are concerned about safety….the same lack of provision has also meant that the 'Pharmacy First' scheme has effectively failed in our area to date. We have consistently found that attempts to refer patients to pharmacies under the scheme have resulted in those patients being 'bounced' back to us, and in the fact of complaints this has generated, we have found ourselves obliged to suspend almost totally any referrals under that initiative.*"

5.46 The Committee was also provided with emails received by the Applicant from local residents and Google reviews.

5.46.1 One review reported *"yesterday I waited for 1 hour and 40 minutes in the queue only to be told to come back 4 hours later. I came back 5 hours later (I have an extra hour to be sure) and got told it still wasn't ready. This was after I deliberately didn't pick up my prescription for 3 days anyway, knowing they would be backlogged. I've gone back in AGAIN today and I was stood in the queue for prescriptions that were "ready" for 45 minutes without moving, until enough was enough and just left it. The queue I was in today hadn't moved, with 7 people in front of me and 3 behind me."* The patient referred to this being the case for a year.

5.46.2 Another review referred to issues with dispensing items to the wrong person. *"Second time my medicines have been given to someone else. Ther first time that other patient tracked me down and gave them to me based on the address on the label. This time not so lucky but of course it can't be issued to me as apparently it's already been issued…I'm now without medicines I need."*

5.46.3 One resident described *"I was using Pool Tesco after Boots closed. I have queued for over an hour to ask if my script is ready and I have then been told to come back again 4 hours later and queue again to collect it. I have never queued less than half an hour. I am disabled and my pain intensifies if I have to stand. I asked for a chair and was told no you have to stay in the queue and when I explained why I was told to use an online pharmacy then. I cannot do this because I have controlled drugs that have to be signed for and despite being disabled I also work full time for the NHS so cannot be at home to do this."*

5.46.4 Others describe how beneficial it would be for them to have access to a pharmacy again in Pool referring to how people are being encouraged to visit their local pharmacies for minor ailments instead of other NHS services. "*Since the closure of pharmacy at Pool health centre, it has been difficult, without own transport to reach the nearest pharmacy/chemist. Also if needing to speak to a pharmacist, and living in Pool and surrounding areas it's quite troublesome to get help. The queues in most of the pharmacies are quite lengthy and if caring for someone, it is such a lengthy process to leave them on their own whilst getting to the nearest pharmacy. We are urged to use pharmacist for non urgent consultations, but, if no pharmacist available in the Pool area, the next resort is to call the surgery."* Others describe how the closure of the pharmacy in Pool has adversely impacted the service that they receive at their local pharmacy due to the increase in demand and those pharmacies not being able to cope with examples provided of increased waiting times, difficulty parking and multiple trips required.

5.46.5 One resident referred to the impact on other local services following the closure; *"it takes over an hour to collect a prescription, repeats are taking days longer than usual. The service provided is not being adequately delivered due to long queues, lack of staff."* Other examples described the detrimental impact the delays in accessing services are having on children, families and elderly citizens who cannot stand in line for long periods of time. Whilst some describe their ability to order medication online they reference how not everyone can do this and that they have to stay at home for the expected delivery. A 75 year old resident described waiting in line for nearly an hour only to be told by the pharmacy that they no longer had time to attend to them and to come back tomorrow.

5.47 The Committee was mindful of the challenges that other parties had raised in terms of the validity of the petition, the fact that the emails were responding to a request from the Applicant and the Google reviews are taken from the website without the ability to verify the source. However, the Committee had seen the request for email feedback from the Applicant so were aware of the question that had been asked and whilst it was clearly invited, the emails themselves had been freely provided, albeit anonymised. Further evidence was also provided by witnesses at the oral hearing which corroborated the information provided in the other reviews and correspondence.

5.48 The Committee noted the clear demand for pharmaceutical services evident in the number of items dispensed, which is significantly above the national average. It also acknowledged the evidence provided by the Pool Health Centre regarding the patient demographics representing the number of items prescribed on average for their patient list. The Committee had been provided with the number of Pharmacy First consultations completed by Tesco pharmacy in Pool before and after the closure of Boots and considered this to be further evidence of a clear demand for wider pharmaceutical services in Pool. The Applicant had submitted that Tesco pharmacy was prioritising Pharmacy First consultations over the less profitable dispensing services. The Committee noted that whilst it had not received any evidence of this, neither had Tesco pharmacy disputed it.

Reasonable Choice

5.49 The Committee then went on to consider reasonable choice. Reasonable choice is not defined in the Regulations and the Committee were of the view that it is not restricted to the number of pharmacies that an individual has access to. Neither does the closure of a pharmacy in itself result in a conclusion that there is no longer reasonable choice.

5.50 The Commissioner had determined that there was reasonable choice for those living in Pool due to the accessibility and proximity of the existing pharmacies by car or by bus. The Applicant's representations were that patients having to wait over an hour for their medications and/or not knowing whether their items will be available was not providing reasonable choice. He further submitted that the increase in items through Pharmacy2U is representative of residents not having a reasonable choice but instead a result of them not being able to travel further afield. It was also the Applicant's case that Pool, Redruth and Camborne were very separate areas evidenced by each providing their own local services to those who live there.

5.51 The Committee noted references made by residents in the emails provided of how some have to travel to more than one pharmacy to obtain their medication or have asked a family member to get it from somewhere else when they have been unsuccessful. Residents also described resorting to using online services which have presented difficulties when they need acute or urgent medications. These were supported by the evidence provided to the Committee during the oral hearing where witnesses described how they had chosen not to use the existing services because of the significant challenges they were experiencing with access. The Committee accepted the Applicant's assertion about Pool, Redruth and Camborne being separate areas as this had also been the view of the Committee during the site visit. Although close in proximity, each area appeared to have a clear separate identity.

5.52 The Committee was of the view that patients living in Pool who are reliant on accessing services on foot do not have a reasonable choice of pharmacies currently. It also determined that due to the difficulties accessing existing pharmaceutical services in general including by other means, patients do not have reasonable choice.

5.53 Therefore, the Committee was satisfied that, having regard to there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits by way of physical access on persons.

5.54 The Committee was of the view that there is **not** already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, such that it **was** 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.

5.55 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. In considering 18(2)(b)(ii), the Committee heard examples about persons with certain protected characteristics and comments that referenced persons with protected characteristics experiencing issues with access to existing pharmaceutical services. The Committee had regard to these comments but noted that there was little reference to services that meet specific needs. The comments relating to access difficulties were more general in nature and might apply to any persons as explained by the assessment as to the lack of access and reasonable choice above. The Committee considered that there was not a robust body of evidence that enabled it to be satisfied that a pharmacy at the proposed site would convey significant benefits pursuant to Regulation 18(2)(b)(ii).

5.56 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.

5.57 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.

5.58 The Committee noted that the Applicant was not seeking to argue innovation and there was no information within the application that would support the definition of innovation in terms of the delivery of pharmaceutical services.

5.59 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

5.60 The Committee noted the core opening hours offered by the Applicant and that whilst Tesco Extra was open 7 days per week, it had been unable to reliably provide this recently. The Committee had evidence of patients experiencing excessive waits for services and the impact that this had on them. However, there was no specific references made to the opening hours presenting difficulties.

5.61 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.

5.62 The Committee has considered whether there are any other factors that would confer significant benefits on including 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.

5.63 The Committee was **not** satisfied that granting the application would confer significant benefits for patients who share protected characteristics on the basis that those benefits would be secured for all patients, regardless of their status.

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

Other considerations

5.65 Having determined that Regulation 18(2)(b) had been satisfied, the Committee needed to have regard to Regulation 18(2)(c) to (e) and found that there were no other applications from other persons to consider, nor were there any appeals against applications pending.

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

5.67 The Committee had regard to Regulation 18(2)(g) and found that it did not apply in this case.

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

5.69 The Committee was 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.

5.70 The Committee had regard to Regulation 19(5) which states:

If 18(2)(b) applies (granting would confer significant benefits) then 19(6) applies and you may grant the application.

5.71 The Committee had regard to Regulation 19(6) which states:

(6) If NHS England is satisfied as mentioned in regulation 18(2)(b), it may grant the application not withstanding that the improvements or better access were or was not included in the relevant pharmaceutical needs assessment.

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

5.72.1 confirm the Commissioner's decision;

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

5.72.3 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.

5.73 The Committee considered the reasons given by the Commissioner for their decision to refuse the application. They had been provided with comments about the difficulties being experienced by patients at the Tesco Extra pharmacy and were *"of the view that the wait times are likely to be due to a brief period of disruption caused by the Market Exit of the Boots Pharmacy whilst the remaining pharmacies in the area adjusted to the increased workflow and demand. The SW Committee is of the view that an indication of long wait times in areas where an application has been received does not on its own indicate a need for a new pharmacy application to be granted. It was noted management of wait times would be reviewed with Tesco at the next review meeting."* It is unclear on what basis they made the assumption regarding the need for time for the market to adjust to increased workflow and demand, however the reference to long wait times and the need for a new pharmacy does not reflect the tests to be considered under the Regulations.

5.74 The Commissioner also referred to alternative pharmacy provision in their considerations stating *"Tesco In-Store Pharmacy likely serves the population of Pool in between Redruth and Cambourne[sic] and is situated in a convenience place for people living in those areas to reach. The SW Committee discussed the nearest alternative access and agreed that for patients seeking alternative provision to that offered by the nearest pharmacy (Tescos), under two miles to the nearest alternative pharmacies in Illogan and Camborne is not unreasonable. The SW Committee also noted Distance Selling Pharmacies are a viable alternative, as well as pharmacies who offer a delivery service, which several pharmacies in the area offer."* Again, it is unclear on what basis the Commissioner has concluded that the Tesco pharmacy *"likely serves*" the population of Pool. It is also unclear how they have assessed the access for those in the area. The Commissioner were also *"of the view that none of the applications demonstrate the demand in the area is exceeding the capacity of the pharmacies in Redruth and Cambourne[sic]"*. This Committee is of the view that Commissioner has failed to take into account the significant evidence provided by the Applicant about the access difficulties experienced by local residents and consideration under the Regulations of how granting this application would convey significant benefits to those in the HWB area.

5.75 The Committee considers that the Commissioner has erred in their decision making by referring to distance selling pharmacies as a viable alternative, on the basis that they do not provide on a face to face basis the range of pharmaceutical services considered under the Regulations.

5.76 In their response to the appeal, the Commissioner referred to the market having changed in recent years *"with pharmacies developing their working practices to accommodate larger activity and it is not always appropriate to approve a new pharmacy contract where a pharmacy has closed, in fact, the Day Lewis in Illogan has experienced an increase in activity evidencing this."* It is unclear which pharmacy the Commissioner is referring to here as Day Lewis does not have a branch in Illogan. The Commissioner goes on to state *"there is no evidence provided to demonstrate accessing these pharmacies is difficult for patients and none to demonstrate the demand in the area is exceeding the capacity of the pharmacies in Redruth and Cambourne[sic]."* The Committee disagrees and has been provided with significant evidence of patients experiencing difficulties accessing pharmaceutical services locally. It also notes however that the regulatory test is whether granting the application would confer significant benefits on persons in the area in terms of reasonable choice and better access, as opposed to whether demand is exceeding capacity.

5.77 In those circumstances, the Committee determined that the decision of the Commissioner must be quashed.

5.78 The Committee went on to consider whether there should be a further notification to the parties detailed at paragraph 19 of Schedule 2 of the Regulations to allow them to make representations if they so wished (in which case it would be appropriate to remit the matter to the Commissioner) or whether it was preferable for the Committee to redetermine the application.

5.79 The Committee noted that representations on Regulation 18 had been sought from parties by the Commissioner and representations had already been made by parties to the Commissioner in response. These had been circulated and seen by all parties as part of the processing of the application by the Commissioner. The Committee further noted that when the appeal was circulated representations had been sought from parties on Regulation 18.

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

5.81 The Committee had regard to Regulation 50(1) which states:

Discontinuation of arrangements for the provision of pharmaceutical services by doctors

In circumstances where NHS England has arrangements (whether they were made under these Regulations or were made under or continued by virtue of the 2012 Regulations) with a dispensing doctor (D) to provide pharmaceutical services to a person (P), if…

D must terminate the provision of pharmaceutical services to P, subject to any postponement of the discontinuation by NHS England in accordance with paragraphs (2) to (6).

5.82 Regulation 50(3) states:

This paragraph applies where—

(a) *NHS England grants a routine or excepted application, the result of which is the inclusion in a pharmaceutical list of pharmacy premises that are not already listed in relation to an NHS pharmacist; .*

(b) *the pharmacy premises to which that application relates are not distance selling premises but— .*

(i) *are in a controlled locality, or*

(ii) *are within 1.6 kilometres of a part of a controlled locality in which patients of a dispensing doctor reside and those patients are being provided with pharmaceutical services by that dispensing doctor; and*

(c) *granting the routine or excepted application, in the opinion of NHS England, results in a significant change to the arrangements that are in place for the provision of pharmaceutical services (including by a person on a dispensing doctor list) or local pharmaceutical services in any part of a controlled locality.*

5.83 Pursuant to paragraph 9(4)(a) of Schedule 3 to the Regulations, the Committee may:

5.83.1 confirm the Commissioner's decision;

5.83.2 substitute for that decision, any decision that the Commissioner could have taken when it took that decision

5.83.3 quash the Commissioner's decision and remit the matter to the Commissioner for it to redetermine the decision, subject to such directions as the Secretary of State considers appropriate.

5.84 The Commissioner noted that the proposed pharmacy would be located within 1.6km of a controlled locality and considered the impact on any dispensing patients in that area in the event that the application was approved. They noted a total of 121 patients who would be affected, the largest number being 48 in Carn to Coast Health Centre, 33 in Harris Memorial Surgery and 29 in Godolphin Health. They noted that no party had made any representations and the Commissioner had determined a period of two months gradualisation for Carn to Coast Health Centre, Harris Memorial Surgery and Godolphin Health for the removal of patients from the practice dispensing lists with all other practices having a period of one month.

5.85 The Committee noted the determination and the lack of representations from other parties. The Committee took into account the small numbers of patients affected and confirmed the decision of the Commissioner that a period of two months gradualisation for the removal of patients would apply for Carn to Coast Health Centre, Harris Memorial Surgery and Godolphin and one month for the remaining practices.

6 DECISION

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

6.2 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.

6.3 The Committee determined that the application should be granted on the following basis:

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

6.3.1.1 there is not already a reasonable choice with regard to obtaining pharmaceutical services;

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

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

6.3.2 Having taken these matters into account, the Committee is satisfied that granting the application would confer significant benefits as outlined above that would secure improvements or better access to pharmaceutical services.

6.4 The Committee noted the Commissioner's decision with regard to gradualisation and concludes that a period of two months should be granted for Carn to Coast Health Centre, Harris Memorial Surgery and Godolphin Health and one month for the remaining practices.

Committee Chair

ANNEX A

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REF: SHA/26554

APPEAL AGAINST CORNWALL AND THE ISLES OF SCILLY ICB DECISION TO REFUSE AN APPLICATION BY NAIMANS UK LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT POOL HEALTH CENTRE, REDRUTH, TR15 3DU (BEST ESTIMATE)

1 The Application

By application dated 30 June 2024, Naimans UK Ltd ("the Applicant") applied to Cornwall and The Isles of Scilly ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Pool Health Centre, Redruth, TR15 3DU (best estimate). In support of the application it was stated:

1.1 In response to why the application should not be refused pursuant to Regulation 31, the Applicant stated: "*n/a – There is no pharmacy trading from or adjacent to the proposed premises, so Regulation 31 does not apply.*"

In making this application you are offering to secure improvements or better access that were not included in the HWB's pharmaceutical needs assessment. Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area.

1.2 "Background

1.3 This application is in respect of opening up a new pharmacy in order to provide better access for patients requiring access to pharmaceutical services in Pool and the surrounding areas. In particular, granting this application would introduce reasonable choice of pharmaceutical provision within Pool.

1.4 The best estimate of the proposed site we wish to open a new pharmacy is co-located with Pool Health Centre, Station Rd, Pool, Redruth TR15 3DU. This is the same location as the recently closed Boots Pharmacy.

1.5 Pool can be described as a rural village within Cornwall. It has traditionally been served by two pharmacies: Tesco's Pharmacy (TR15 3QJ), which dispenses c.11,000 items per month; and Boots (TR15 3DU) which prior to closure in March 2024 was dispensing c.13,000 items per month. Both pharmacies were dispensing significantly above the national average.

1.6 We note that at present the next nearest pharmacy, Day Lewis Pharmacy in Camborne TR14 8AD is 1.8 miles away.

1.7 Although the data is not yet available, experiences at ground level suggest that the Tesco Pharmacy has absorbed the majority of these items and patients following the closure of the Boots; making this Tesco's Pharmacy one of the largest pharmacies in the UK. Subsequently, Tesco's have been unable to cope with the extra pharmaceutical

demands placed upon it and are now turning patients away – we highlight the access issues that patients face further below.

1.8 According to the 2019 index of multiple deprivation, the proposed site is located in the Cornwall 051D Lower-Layer Super Output Area (LSOA), which is amongst the most 20% deprived LSOAs in the country. The adjacent Cornwall 052A LSOA is also amongst the top 20% most deprived LSOAs; and the adjacent Cornwall 051E LSOA is amongst the top 10% most deprived areas in the country. It is evident that the proposed site and the area directly surrounding it are highly deprived and can simply be described as some of the most deprived areas in the country.

1.9 Such is the obvious need for a pharmacy at this location, residents have taken it upon themselves to petition for a pharmacy in the local area. At the time of writing, 438 local residents have signed a petition for a pharmacy in Pool Health Centre.

1.10 We invite the committee to read the petition in full at: https://www.change.org/p/keep-our-vital-local-boots-pharmacy-at-pool-health-centre-open?source_location=search

1.11 [provided for Committee at Appendix A]

1.12 The closure of the pharmacy at Pool Health Centre has also garnered BBC news coverage, with residents complaining of queues at the Tesco:

1.13 “queues were going out the door”

1.14 "We've got queues in Tesco nearly 35 people deep and we've got people who are irate in the queue,"

1.15 We invite the committee to read the article in full at: https://www.bbc.com/news/articles/cnl7wzqkqrwo

Proposed Location

1.16 The proposed location is situated in the heart of Pool, co-located with Pool Health Centre.

1.17 Pool Health Centre is the main Surgery within the Carn to Coast Health Centre Surgeries. It is estimated that c. 30,000 items are dispensed from this site. The fact that c. 24,000 of these items were dispensed by the Boots and Tesco in January 2024, suggests that patients are accustomed to utilising pharmaceutical provision within Pool.

1.18 This location is well-served by wide well-lit pavements and ample free parking. It is also well-served by bus with the bus stop located directly outside the proposed site. There is good access by foot, car, and public transport.

Regulations

1.19 We are required by NHS England to address the overarching question in an Unforeseen Benefits application:

1.20 “Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB area”.

1.21 When considering the above question, the provisions of Regulation 18(2)(b) should be noted:

1.22 (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—

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

1.24 (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 the NHSCB's duties under section 13G of the 2006 Act(c) (duty as to reducing inequalities)), or

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

1.26 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;

1.27 We note that points on reasonable choice; protected characteristics; and innovation are desirable, however, they are merely supporting considerations when determining whether in fact the overarching test in regulation 18(2)(b) has been met: an application should be granted should it provide improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area.

1.28 We have addressed these regulations overleaf.

Population & Deprivation

1.29 Per 2021 Census data, Pool houses 9,368 residents. Extrapolating this population figure allows us to conclude that Pool currently only has an effective 11 pharmacies per 100,000 people – well below the average for England (20.6/100,000). Thus, it is apparent that pharmaceutical provision is dire in Pool, and common sense alone would dictate that there is a requirement for another pharmacy.

1.30 As highlighted above, Pool is an area of high deprivation and consequently has greater health needs. The table below demonstrates those who have their day-to-day activities limited and those with bad/ very bad health for the populations within the localised LSOAs.

LSOA	Bad/Very Bad Health %	Day to Day activities limited %
Cornwall 051D	8.1%	23.3%
Cornwall 051E	10.3%	25.8%
Cornwall 052A	7.2%	21.9%
England	5.4%	17.6%

1.31 From the table above it is clear that health outcomes are far worse than the English average; with the 051E LSOA having nearly double the percentage of residents with bad/ very bad health when compared to the rest of England. We also highlight that residents in the localised LSOAs also have greater limitation on their day-to-day activities than the English average.

1.32 It is clear that health needs are significantly greater in Pool, and that singular pharmaceutical provision is unable to sustain such a large, deprived population.

1.33 The committee will also be aware that pharmaceutical provision should be doubly concentrated in deprived areas. Thus, access to pharmaceutical provision is actually far worse than the aforementioned population ratios.

Patient Journeys

1.34 When assessing patient journeys, it is important to note the significance of closed Boots (the proposed site) being co-located with Pool Health centre. As mentioned above the Boots dispensed c13,000 items in Jan 2024 with c12,000 originating from the Carn and Coast Health Centres, representing 94% of total pharmacy items. Clearly a lot of patients have been accessing pharmaceutical services in connection with a visit to the GP. The closure of the Boots means that those accessing pharmaceutical services in connection with a visit to the GP, now have two journeys to make: the first to the GP practice, and the second to the pharmacy.

1.35 Residents are now faced with having to travel 0.4 miles to Tesco Pharmacy from Pool Health Centre. We do not consider a 0.8-mile round walk as representing sufficient access to pharmaceutical provision after a visit to the GP. This is especially acute when we consider the reduced mobility of local residents in the Pool area, as highlighted in the table above.

1.36 Whilst we submit that there is a direct bus service between the two sites, we emphasize the high deprivation in the area to the Committee. Residents who wish to access pharmaceutical services may be deterred from doing so due to any additional transport costs involved.

Current Provision

1.37 As highlighted above, it is obvious that single pharmaceutical provision is incapable of serving such a large, deprived population adequately.

1.38 This can already be seen at ground level with the only other pharmacy in the vicinity (Tesco Pharmacy), following the Boots closure, unable to take more patients on. We attach a letter from Pool Health Centre attesting to the struggles that Tesco Pharmacy face.

1.39 Clearly patients not being able to access pharmaceutical services is representative of no pharmaceutical choice; much less than the threshold of ‘reasonable choice’.

1.40 Google reviews also highlight the struggles that the Tesco Pharmacy faces in serving the population:

1.41 Reviews centre around the large wait time faced by patients with some saying:

1.42 *“I was in the queue over an hour”*

1.43 *“Waited 45 mins twice in 1 day”*

1.44 We do not consider waiting times over an hour as constituting reasonable choice to pharmaceutical provision. Indeed, the elderly, disabled, and the infirm may have difficulty waiting in queues for such a long time. It is clear that those groups who share protected characteristics currently do not have reasonable choice to pharmaceutical provision.

1.45 We also note that a patient highlights uncertainty around when their medication will be available stating:

1.46 *"you are given a prescription by GP and to be told on a Monday that it might be here for the weekend, we don't know is just not acceptable"*

1.47 Not knowing whether your medication will be ready or not is clearly not representative of reasonable choice to pharmaceutical choice. We submit that this is actually quite dangerous.

1.48 It is obvious that the current pharmaceutical network is unable to cope with the demands placed upon it following the closure of the Boots (TR15 3DU), and another pharmacy is urgently required to serve the Pool population.

Conclusion

1.49 In our view, the closure of the Boots pharmacy has meant that pharmaceutical provision in Pool is no longer sufficient to support the large, deprived population. Indeed, the only other pharmacy in the area is turning patients away – leaving patients with nowhere to access pharmaceutical provision. This does not represent reasonable choice of pharmaceutical provision.

1.50 Residents would benefit significantly from having another pharmacy located next to Pool Health Centre, where residents are accustomed to accessing pharmaceutical provision.

1.51 Granting this application would secure better access and choice to pharmaceutical services. It would also introduce reasonable choice of a different pharmaceutical provider for those in the local area.

1.52 On the evidence outlined above, we believe that a new pharmacy contract should be granted."

Letter of support from Pool Health Centre dated 4 June 2024

1.53 "I write as Managing Partner of Carn to Coast Health Centres (L82041), a 30,000-patient GP Practice partnership with its main surgery at Pool Health Centre. Until recently there was an on-site pharmacy here on our premises, which, despite being extremely busy, has now been shut down as part of a programme of closures of surgery-based outlets implemented by Boots.

1.54 The nearest pharmacy currently available to affected patients is that maintained in the local Tesco supermarket. In the period since the Boots announcement held discussions with the manager of the Tesco pharmacy who has been very open with us concerning their inability to cope with any substantial additional business. We were advised that the Tesco facility has 'capacity to safely dispense 400-500 items per day due to a number of operational and resource factors'. The announcement of closure was sufficient to create demand which the store facility could not meet and they anticipated being as many as 3000 – 4000 items 'behind the curve'. While they could not directly refuse patients a service, they found it appropriate to make clear to their customers the realities of the waits they would experience. Those warnings have since turned into a

reality, with patients complaining that medications are taking a week or more to be issued and reporting to us that they are now without an effective provision locally. Pharmacies in the area more generally appear to be actively discouraging patients from nominating them because they lack resource capacity and are concerned about safety. This is particularly unacceptable giving the deprivation characteristics of the area in which we practise and the vulnerable nature of many of our patients.

1.55 The same lack of provision has also meant that the 'Pharmacy First' scheme has effectively failed in our area to date. We have consistently found that attempts to refer patients to pharmacies under the scheme have resulted in those patients being 'bounced' back to us, and in the face of the complaints this has generated, we have found ourselves obliged to suspend almost totally any referrals under that initiative.

1.56 My Partners and I share with our patients the view that pharmacy provision in Pool is insufficient, ineffective and fundamentally unsafe owing to the effects of reduced capacity.

1.57 In these circumstances we fully support and commend the application by Naimans to open a new pharmacy based at our premises and would seek to work in close co-operation with the applicant, including making a reality of 'Pharmacy First'."

2 **The Decision**

The Commissioner considered and decided to refuse the application. The decision letter dated 11 February 2025 states:

2.1 "Cornwall and the Isles of Scilly ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.

2.2 You have a right of appeal to the Secretary of State against Cornwall and the Isles of Scilly ICB's decision. Should you choose to appeal then you should either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:

2.3 Primary Care Appeals, NHS Resolution, 8th Floor 10 South Colonnade, Canary Wharf, London, E14 4PU"

[Any reference to 'Committee' in this section is not to be confused with the Pharmacy Appeals Committee of NHS Resolution. Please note that the Commissioner considered three applications for the same site however the appeal relates to "Application 2" and no appeals were received for the other applications.]

2.4 "Name of Applicant 1: Kabirsabirpharma Ltd.

2.5 Application type: Application for inclusion in a pharmaceutical list: routine application offering to secure unforeseen benefits

2.6 Address of proposed premises: Station Road, Pool, Redruth, TR15 3DU – Best estimate.

2.7 Name of Applicant 2: Naimans UK Ltd

2.8 Application type: Application for inclusion in a pharmaceutical list: routine application offering to secure unforeseen benefits

2.9 Address of proposed premises: Pool Health Centre, Redruth, TR15 3DU – Best estimate

2.10 Name of Applicant 3: Naimans UK Ltd

2.11 Application type: Application for inclusion in a pharmaceutical list: routine application offering to secure unforeseen benefits

2.12 Address of proposed premises: Pool Health Centre, Station Road, Pool, Redruth, Cornwall, TR15 3DU – premises known.

2.13 The SW Committee noted:

2.14 Pool is a village in Carne Brea civil parish located between Cambourne and Redruth where the nearest train stations are located. The 2021 census recorded a population of 8,580, an increase from the 2011 census which gave a population of 7,780.

2.15 There is current 1 other pharmacy in Pool located within half a mile of the proposed new pharmacy location. The next nearest pharmacies are in Illogan (1.7 miles away), Cambourne (1.8 miles away) and Redruth (1.9 miles away). There is a bus stop close to the Health Centre.

2.16 There was a Boots Pharmacy at Pool Health Centre until March 24; they closed under the Market Exit process. There has also been another Boots Pharmacy close under the Market Exit process in Redruth (August 2024). The SW Committee noted their opening hours.

2.17 The SW Committee noted they had three unforeseen benefits applications for the same area to be considered together and in relation to each other. One applicant submitted two applications. The Kabirsabirpharma Ltd application was received in April 2024 and is a best estimate application, the Naimans UK Ltd best estimate application was received June 2024 and the second Naimans UK Ltd application was received in August 2024 and is for premises known.

PRELIMINARY ISSUES

2.18 ….

Summary of application 2 – Naimans UK Ltd

2.19 The applicant is proposing to open Monday to Friday 8.30am – 1pm, 2pm - 6.00pm and 9am – 12:00pm Saturday. 40 Core Hours are proposed and 5.5 Supplementary. The hours proposed are shown below from section 3 of the application form:

2.20 Proposed Core Opening Hours:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 13:00; 14:00 – 18:00	09:00 – 13:00; 14:00 – 18:00	09:00 – 13:00; 14:00 – 18:00	09:00 – 13:00; 14:00 – 18:00	09:00 – 13:00; 14:00 – 18:00	Closed	Closed	40

2.21 Total Proposed opening hours:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 13:00; 14:00 – 18:00	09:00 – 13:00; 14:00 – 18:00	09:00 – 13:00; 14:00 – 18:00	09:00 – 13:00; 14:00 – 18:00	09:00 – 13:00; 14:00 – 18:00	09:00 – 12:00	Closed	45.5

2.22 The applicant proposes to provide Essential services, appliances in part IXA of the drug tariff, advanced services and enhanced services at section 4 of the application form.

2.23 The applicant states a copy of the floor plan is not currently available but confirms the premises will be registered with the GPhC and will comply with requirements. It was noted the applicant proposes to provide services requiring the use of a consultation room.

2.24 In the supporting information the applicant describes the unforeseen benefit they are offering to secure concluding:

2.25 “In our view, the closure of the Boots pharmacy has meant that pharmaceutical provision in Pool is no longer sufficient to support the large, deprived location. Indeed, the only other pharmacy in the area is turning patients away – leaving patients with nowhere to access pharmaceutical provision. This does not represent reasonable choice of pharmaceutical provision.

2.26 Residents would benefit significantly from having another pharmacy located next to Pool Health Centre, where residents are accustomed to accessing pharmaceutical provision.

2.27 Granting this application would secure better access and choice to pharmaceutical services. It would also introduce reasonable choice of a different pharmaceutical provision for those in the local area.

2.28 On the evidence outline above, we believe that a new pharmacy contract should be granted.”

<u>Public Involvement / Representations</u>

2.29 The SW Committee noted full details of the applicant’s proposals were notified to various parties in accordance with the Regulations. Representations have been received from:

2.29.1 Boots UK Ltd – acknowledge the application and ask to be kept notified of progress but neither supports or opposes the application.

2.30 There were no further comments received after the 14 day period.

2.31 When comments are circulated to the applicant and interest parties the covering letter states:

2.32 Please note that any new information that you submit at this stage will have little or no weight placed upon it unless it can be demonstrated that you are presenting it in

response to representations submitted by another party that you believe are not true or are incorrect.

…

2.33

2.34 ….The SW Committee agree that it is not necessary to hold an oral hearing to determine the applications.

Regulation 31 (same of adjacent premises)

2.35 [Regulation 31 quoted in full.]

2.36 There are no other contractors currently providing pharmaceutical services within the best estimate and premises provided. The nearest pharmacy is 0.4 miles away – Tesco Pharmacy. The SW Committee is satisfied it is not required to refuse the application by virtue of Regulation 31.

Controlled locality issues

2.37 It was agreed the application does not relate to a controlled locality but is within 1.6km of a controlled locality.

Unforeseen benefits

Reg 18(1)(b) – Improvements or better access not included in the Pharmaceutical Needs Assessment

2.38 Regulation 18 concerns 'Unforeseen Benefits' applications, which are applications where the improvements or better access that would be secured were or was not included in the relevant PNA. The current Cornwall PNA can be found here: https://www.cornwall.gov.uk/media/fplpflqg/cornwall-pna-2022-25-final-oct2022.pdf

2.39 The proposed location is included in the North Kerrier West locality. The PNA Profiles are held separately on the website for each of the PCN areas. The North Kerrier West PNA profile can be found here: https://www.cornwall.gov.uk/media/zwidfw0y/north-kerrier-west-pharmacy-pcn-profile.pdf (The North Kerrier West PNA profile covers Camborne and Redruth)

2.40 There have been four supplementary statements to the PNA issued following changes to opening hours, changes to ownership and following the exits of the two Boots locations during 2024. In the April 2024 statement, which includes but is not limited to Boots at Carn to Coast Health Centre (Pool) market exit, the Health & Wellbeing Board signal a review of the PNA is not needed. The August 2024 statement, which includes but is not limited to Boots at Off Chapel Street market exit, indicates a revision to the PNA should be undertaken in 2025. It was confirmed this revision is underway, however, an updated PNA has not yet been published.

2.41 Supplementary Statements can be located here: https://www.cornwall.gov.uk/health-and-social-care/public-health/joint-strategic-needs-assessment/pharmaceutical-needs-assessment/#Updates

2.42 The SW Committee is satisfied that as the improvements or better access which the applicants are proposing to secure were not identified in the PNA, an 'unforeseen benefits' application is the correct type of application.

Reg 18(2)(a) – Would granting the application cause significant detriment to the proper planning or arrangements in place for provision of pharmaceutical services in this area

2.43 The ICB has no particular plans regarding pharmaceutical services in the area, so there can no detriment to such plans. Comments from Day Lewis and Superdrug, regarding funding and allowing remaining contractors to achieve financial stability, was noted. It was considered that this may suggest detriment to arrangements in place, however, the level of evidence provided was insufficient to support the test of 'significant detriment'.

2.44 The SW Committee is satisfied that granting the application would not cause significant detriment to the proper planning or arrangements in place for provision of pharmaceutical services.

Regulation 18(2)(g) – Whether the application presupposes that a gap in pharmaceutical services provision has been or is to be created as a result of a consolidation application

2.45 As no consolidation applications have been made relating to this area the SW Committee is not required to refuse the application under regulation 18(2)(g).

Reg 18(2)(b)(i) – Significant benefit: Reasonable choice with regard to obtaining pharmaceutical services

2.46 The SW Committee noted a map showing the location of existing pharmacies in the area and maps showing travel routes to the nearest pharmacy on foot, by car and bus.

2.47 The SW Committee noted information on the opening hours of the nearest pharmacies to the proposed new pharmacy site within 5 miles.

2.48 The SW Committee noted the Kabirsabirpharma Ltd application states:

2.48.1 ….

2.49 The SW Committee noted Naiman's UK Ltd have submitted 2 applications. They differ in that the second one is for a defined location rather than a best estimate and offers additional opening hours compared to their first application. Both applications also include a letter of support from the surgery.

2.50 The SW Committee noted the Naimans UK Ltd applications state:

2.50.1 Suggest the nearby Tesco pharmacy will absorb the majority of the activity from the closed Boots and the Tesco was already dispensing an above average number of prescriptions.

2.50.2 Highlight the Boots was a busy pharmacy

2.50.3 Discuss the deprivation in the area

2.50.4 Highlight a petition that sought to retain the pharmacy at the surgery (from where the Boots exited)

2.50.5 Highlights reports of delays at the nearby Tesco pharmacy

2.50.6 Suggest the proposed location has ample free parking, is adjacent to a bus stop and there are wide well-lit pavements in the area so it is easily accessible on foot, by car and by bus.

2.50.7 Suggest a 0.8-mile return journey on foot to the Tesco pharmacy after a visit to the surgery is not sufficient access.

2.51 The SW Committee noted those against the application state:

2.51.1 The petition referenced was in response to the Boots upcoming closure rather than in support of the application and suggest caution in how much weight to place on petitions as the question posed may not directly relate to the regulatory tests.

2.51.2 Dispensing data does not show a significant increase in prescriptions dispensed by Tesco post the Boots exit with a significant proportion of the prescriptions have gone to the Boots in Illogan

2.51.3 Disputes the claim that 12,000 items originating from the surgery result from a GP visit. They highlight many prescriptions are for repeat prescriptions.

2.51.4 Pool is not a rural village and is, in fact, part of the Redruth / Camborne conurbation and there are a number of pharmacies in the area with a variety of opening hours.

2.51.5 Suggest that some of the information supporting the application are opinions from unverified sources rather than evidence.

2.51.6 Suggest from current performance that patients have had sufficient time to redistribute across Redruth with the market seemingly settled. To support this Superdrug have invested in IT infrastructure and resource to manage this significant uplift. This cost is based upon patient numbers remaining on this upward trajectory for this store to remain a viable business.

2.51.7 This cycle of new applications following closures/consolidations adds pressure to the local environment putting other pharmacies at risk and further perpetuates the cycles of closures. It would be beneficial to allow current pharmacies to grow their business and give them a fair chance of avoiding any negative impact or outcomes.

2.52 The SW Committee noted those in support of the applications note the loss of the Boots Pharmacy and their high dispensing volumes, suggesting this is evidence the pharmacy was well-used. The patient comments express the need for a pharmacy at the Health Centre and suggest the demand will increase due to proposed expansion of housing in the area. The time of some patients feedback at the time of the Boots closure was noted. The SW Committee had confirmation of their dispensing activity for the year 2023-2024.

2.53 The SW Committee noted the comments made in the applications around the long wait times at Tesco in store pharmacy. The SW Committee is of the view that the wait times are likely to be due to a brief period of disruption caused by the Market Exit of the Boots Pharmacy whilst the remaining pharmacies in the area adjusted to the increased workflow and demand. The SW committee is of the view that an indication of long wait times at a pharmacy in areas where an application has been received does not on its own indicate a need for a new pharmacy application to be granted. It was noted management of wait times would be reviewed with Tesco at the next review meeting.

2.54 The SW Committee noted the activity data indicates that a large number of scripts have been picked up by the Day Lewis Pharmacy in Illogan following the Boots Pharmacy closure.

2.55 The SW Committee noted the housing developments underway and planned in the area. It was considered these are referenced in the PNA.

2.56 The SW Committee noted the petition signed by many local residents indicate the feeling against the closure of the Boots Pharmacy. The SW Committee was mindful, however, of the fact that whilst a pharmacy co-located with a GP surgery is useful and can be convenient for some patients, it is not essential.

2.57 The SW Committee noted the letter of support from the Health Centre.

2.58 The SW Committee agreed that Tesco In-Store Pharmacy likely serves the population of Pool in between Redruth and Cambourne and is situated in a convenient place for people living in those areas to reach.

2.59 The SW Committee discussed the nearest alternative access and agreed that for patients seeking alternative provision to that offered by the nearest pharmacy (Tescos), under two miles to the nearest alternative pharmacies in Illogan and Camborne is not unreasonable. The SW Committee also noted Distance Selling Pharmacies are a viable alternative, as well as pharmacies who offer a delivery service, which several pharmacies in the area offer.

2.60 The SW Committee noted the PNA will be reviewed and updated this year and will include details of additional pharmacy services needed in the area, if a need is identified when the assessment is undertaken.

2.61 The SW Committee noted the high deprivation in the geography of the locality of Redruth, Pool and Cambourne. Public transport links between the areas were noted for those without access to a car.

2.62 The SW Committee noted the comments that the area around the Pool Health Centre is not residential. The SW Committee looked at Google Maps and noted there is some industrial area to one side of the health centre, but there is a substantial amount of residential housing too.

2.63 The SW Committee is of the view that none of the applications demonstrate the demand in the area is exceeding the capacity of the pharmacies in Redruth and Cambourne.

2.64 The SW Committee noted supplementary statements have been issued following the initial PNA. These supplementary statements have not resulted in a revised PNA stating there is a need for an additional pharmacy, though it was noted a review of the PNA is currently underway.

2.65 The SW Committee is of the view that because of the accessibility and proximity of the existing pharmacies by car or by bus that granting the application would NOT confer a significant benefit by way of access to, or choice of, pharmaceutical services.

<u>Reg 18(2)(b)(ii) – Significant Benefit: Patients with a protected characteristic</u>

2.66 It was agreed that little information has been provided by any party on this matter.

2.67 The SW Committee is of the view that granting the application would NOT confer significant benefits on people sharing a protected characteristic.

<u>Reg 18(2)(b)(iii) – Significant Benefit: Innovative approaches to delivery of pharmaceutical services</u>

2.68 The SW Committee concluded no information has been provided by any party on this matter.

2.69 The SW Committee is of the view that granting the application would NOT lead to significant benefits by virtue of innovation.

Decision

2.70 The SW Committee was of the opinion the application(s) SHOULD NOT BE GRANTED as conferring a significant benefit, because:

2.70.1 Granting the application would not confer a significant benefit by way of access to, or choice of, pharmaceutical services.

2.70.2 Granting the application would not confer significant benefits on people sharing a protected characteristic.

2.70.3 Granting the application would not lead to significant benefits by virtue of innovation.

Regulation 66 – conditions relating to providing directed services

2.71 The SW Committee noted, had an application been approved, the proposed pharmacy would be located within 1.6km of a controlled locality. The impact on any dispensing patients in the controlled locality area was considered. Details of the number of dispensing patients affected are:

Practice	**Disp within 1.6km**
Carn to Coast Health Centre	48
Harris Memorial Surgery	33
Godolphin Health	29
Chacewater Health Centre	2
The Clays Practice	2
St Keverne Health Centre	2
Penryn Surgery	1
Probus Surgery	1
Trescobeas Surgery	1
St Agnes Surgery	1
Carnon Downs Surgery	1
Total	**121**

2.72 Chapter 32 of the Manual states:

2.73 Periods of gradualisation should generally be no shorter than one month and, other than in exceptional circumstances, should last no longer than three months. Exceptional circumstances may include:

2.73.1 the loss by a dispensing practice of all its dispensing patients,

2.73.2 where the reduction in the number of dispensing patients would lead to staff changes or redundancies, or

2.73.3 where there is only one pharmacy within a 1.6km of the practice premises and that is the pharmacy that is opening and its ability to absorb former dispensing patients effectively needs to be staged over time.

2.74 The SW Committee noted no party has made any representations on the matter of gradualisation. The SW Committee determined a period of 2-month gradualisation for Carn to Coast Health Centre, Harris Memorial Surgery and Godolphin Health for the removal of patients from the practice dispensing lists if an application is granted on appeal. All other practices are grated a period of 1-month gradualisation.

Appeal Rights

2.75 The SW Committee is satisfied that the following practices would have appeal rights against any gradualisation decision if the application is grated on appeal: Carn to Coast, Harris Memorial, Godolphin Health, Chacewater, The Clays, St Keverne, Penryn, Probus, Trescobeas, St Agnes and, Carnon Downs.

2.76 As the applications are refused, each applicant will have appeal rights against the refusal of their application."

3 The Appeal

In a letter dated 10 March 2025 addressed to NHS Resolution, Healthcare Plus Consulting Ltd on behalf of the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

3.1 "Thank you for your letter dated 11th February 2025. NAIMANS UK Ltd have instructed us (Healthcare Plus Consulting Ltd) to act on their behalf for this appeal, please find an authorisation letter attached.

3.2 We would like to appeal the decision made in relation to the above unforeseen benefits application.

3.3 We submit that NHS England have failed to properly evaluate Regulation 18 and the fundamental question within the Regulation: does the application provide 'improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area.' In their decision, the SW Committee refused our client's application, and we believe they misdirected themselves in doing so.

3.4 We assert that this application does provide improvements or better access to pharmaceutical provision, as set out in our client's original application. We have re-attached these submissions for re-consideration by NHS Appeals [sic].

3.5 We submit that the SW Committee did not give due consideration to the following points outlined by our client:

3.5.1 High level of deprivation in Pool

3.5.2 Patient Journeys by Foot

3.5.3 Tesco Pharmacy discouraging patient nominations

3.5.4 Increase in Pharmacy2U usage

3.5.5 Google Reviews

3.6 In this appeal, we address each of these points below.

Deprivation in Pool

3.7 We submit that the high level of deprivation in Pool has not been properly considered by the SW Committee. As mentioned in our client's supporting information, Pool was served by two pharmacies before the Boots closure. We reassert that pharmaceutical provision should be doubly concentrated in deprived areas, and certainly not halved.

3.8 *The Cornwall and Isles of Scilly PNA identifies that "over 1 in 10 residents across Cornwall and the Isles of Scilly live in communities considered the most deprived (20%) nationally according to the national measure of deprivation; the Index of Multiple Deprivation"* (Cornwall and Isles of Scilly PNA 2022, pg. 46).

3.9 We reiterate that one of these communities living in the most 20% deprived areas nationally is situated in the Cornwall 051D LSOA - the location of the proposed site. Residents living in the adjacent Cornwall 051E LSOA live in the most 10% deprived areas in the country. Thus, when looking at the 2019 Index of Multiple Deprivation, it is evident that Pool is one of these deprived communities in greater need of pharmaceutical provision that the PNA references.

3.10 It is well documented that high levels of deprivation are linked with poorer health outcomes. This is also illuminated in the Cornwall PNA, which states that "*many people living in these areas will experience issues associated with lower incomes, higher unemployment rates, ill health, child poverty, low qualifications, poorer housing conditions and higher crime rates"* (Cornwall and Isles of Scilly PNA 2022, pg. 47).

3.11 We submit this is apparent when we examine the characteristics of those living at/near the proposed site, particularly in the Cornwall 051D; Cornwall 051E; and Cornwall 052A LSOAs. Below we have provided additional data extracted from the 2021 Census to provide further insight on the level of deprivation in the area.

Residents living in Socially Rented Accommodation

3.12 46.8% of residents live in socially rented housing in the Cornwall 051E LSOA. This is significantly higher than the average for Cornwall's Local Authority (12.8%) and England average (17.1%)

Long-term sick and disabled

3.13 13.5% of residents are long-term sick or disabled in the Cornwall 051E LSOA. This is triple the average for Cornwall's Local Authority (4.5%) and more than triple the average for England (4.1%)

3.14 6.7% of residents are long-term sick or disabled in the Cornwall 052A LSOA. This is higher than the average for Cornwall's Local Authority (4.5%) and much higher than the average for England (4.1%)

3.15 5.1% of residents are long-term sick or disabled in the Cornwall 051D LSOA. This is higher than the average for Cornwall's Local Authority (4.5%) and England (4.1%)

3.16 When comparing these figures with local authority and national averages, it is clear that the Pool area is highly deprived; of poor mobility; and contains residents with lower disposable incomes.

3.17 Given this level of deprivation, it would be reasonable to conclude that travelling by car or public transport is not a likely option for these residents due to petrol costs and bus fares presenting a barrier to access. It is therefore strange that the SW Committee deemed patient access sufficient without considering patient journeys by foot.

3.18 For the majority of local residents, the only pharmacy within a practical walking distance is Tesco Pharmacy (TR15 3DQ) which is unable to cope with demand. We reiterate that if patients are unable to access Tesco Pharmacy, they must endure a minimum 3.6-mile round trip by foot to access alternative pharmaceutical provision. Such a journey is not representative of sufficient access or reasonable choice and can prove challenging especially for those residents with limited mobility and poor health.

3.19 We remind the Committee that there are 9,368 residents living in Pool, which is by all means not an insignificant number. The disparity between Pool's population and current pharmaceutical services is even more evident when extrapolating this figure, which reveals that Pool has an effective 11 pharmacies per 100,000 people. This is considerably lower than the averages for Cornwall (17/100,000) and England (20.6/100,000), and therefore access to pharmaceutical provision is insufficient for these residents. We trust that the Committee will consider that health needs are significantly greater in Pool when compared to local and national averages, and therefore singular pharmaceutical provision is unable to adequately support a large, deprived population.

Current Service Provision

3.20 We highlight the imbalance between Tesco's dispensing data and the disproportionately high number of Pharmacy First consultations is consistent with feedback from the Doctors. Again, when reviewing the most recent dispensing data available, we can see that these figures have decreased from c. 12,500 in October 2024 to c. 11,000 in November 2024. Yet, the number of Pharmacy First consultations have increased from 277 (October 2024) to 294 (November 2024). Such a large discrepancy between this data highlights that Tesco Pharmacy are primarily focussing on Pharmacy First initiatives and are not fulfilling the prescription needs of the population.

3.21 Thus, we submit that this has forced a number of residents to utilise Distance Selling Pharmacies as alternative pharmacies are inaccessible for the local population. We reiterate that a Distance Selling Pharmacy, Pharmacy2U, absorbed a significant proportion of the items dispensed from Pool Health Centre, having the second largest uptake since the Boots closure.

3.22 To reiterate:

3.22.1 DSPs are not customer-facing and thus patients are not in direct contact with the Pharmacist. Elderly patients can often have vastly changing medication and require a regular local pharmacist to aid them with any medication changes and with adherence to prescribed medication.

3.22.2 DSPs are unable to deal with requests for acute medication promptly. This can often cause issues when medication is urgent.

3.22.3 The internet can be a barrier to accessing DSPs for many residents.

3.22.4 DSPs have similar overheads to community pharmacy but also must provide free delivery. Given that free delivery over significant geographies often cause financial struggles for community pharmacies, it calls into question the long-term viability of DSPs. This is no better demonstrated by the 5-million-pound operating loss incurred by Pharmacy 2 U in the year ending 2023 and the 3.4-million-pound operating loss incurred in the year ending 2024. Clearly, such losses are unsustainable and thus we cannot view DSPs as providing reasonable choice/ alternatives to bricks-and-mortar pharmacies.

3.23 We do not consider being forced into utilising a DSP to access pharmaceutical services as a viable alternative, nor do we consider it representative of reasonable choice and sufficient access.

Tesco Pharmacy (TR15 3QJ)

3.24 We are unsure as to why the SW Committee evaluated patient demand in Pool against the capacity of the pharmacies in the neighbouring areas; Redruth and Cambourne, when it is obvious that patient demand for pharmaceutical services is exceeding the capacity of the only remaining pharmacy in Pool.

3.25 While we understand that there may be a brief period of disruption following a pharmacy closure, as highlighted by the SW Committee, we submit that an unimproved service for nearly a year surpasses the definition of brief.

3.26 In our client's previous correspondence, we highlighted a number of Google Reviews signalling that Tesco Pharmacy is struggling to cope with patient demand. Such observation was also evidenced by the letter provided from the local GPs. We note that there has been an additional ten 1-star Google Reviews uploaded consecutively since those previously provided. It is clear that this is not a case of brief disruption but rather a sustained issue with access due to insufficient pharmaceutical capacity within Pool. We invite the Committee to read these reviews in full overleaf.

3.27 Google Reviews

3.28 [provided for the Committee at Appendix B]

3.29 Above, the local residents highlight the current situation at Tesco Pharmacy, captured just two days from the time of writing.

3.30 The first resident describes the "*wait is over an hour*" and adds "*it's just terrible*". We do not consider a wait of over an hour to access pharmaceutical services as representative of reasonable choice or sufficient access.

3.31 The second review felt that the "*doctor is simply terrible*", perhaps they are referring to the pharmacist given this is a review on the Tesco Pharmacy google review page. Though they do not afford the reasons why they felt this way, such negative experiences are indicative of poor service and can deter patients from accessing this pharmacy altogether. While this patient reveals that they are able to access an alternative pharmacy, we submit that this is not the case for all.

3.32 This local resident felt that they experienced an "*inappropriate attitude*" from the pharmacy staff perhaps due to stress.

3.33 Similarly to the review above, this resident also revealed "*I waited in line for an hour*", which again, does not constitute sufficient access or reasonable choice to pharmaceutical provision.

3.34 We note that these three recent reviews uploaded on the same day each described the service as "*terrible*", and such analogous experiences within a healthcare setting are especially concerning.

3.35 This resident also felt that; "*The pharmacy in this Tesco Extra is the most terrible I have seen in all of England!".* It is shocking to read that local residents feel this way, but perhaps unsurprising given that they have no choice but to endure hourly waiting times, to then receive a poor service when attended to.

3.36 This review from a month ago begins with "*avoid at all costs*". The resident continues, revealing that it has "*never been great*" and that they "*waited for 1 hour and 40 minutes in the queue only to be told to come back 4 hours later*".

3.37 On their second visit, the resident describes that they waited for *"45 minutes without moving, until enough was enough and just left it*". Again, waiting to access pharmaceutical services for this duration is simply not demonstrative of reasonable choice or sufficient access to pharmaceutical provision.

3.38 On their third visit, this resident details that the queue "*hadn't moved, with 7 people Infront of me and 3 behind me*". Including this resident, we can see that there was a queue of 11 patients waiting to access Tesco Pharmacy highlighting the sheer pressure that this pharmacy is under.

3.39 The Cornwall and Isles of Scilly PNA also notes that "*NHS England has a duty to ensure that residents of the HWB's area are able to access pharmaceutical services every day*" (Cornwall and Isles of Scilly PNA 2022, pg. 55). As this resident could not access pharmaceutical services on two different days, we submit that the service provided by Tesco Pharmacy is not satisfying NHS England's duty as outlined in the PNA.

3.40 We submit that not all patients can undertake repeated journeys and wait in an unmoving queue for such a significant amount of time, especially those local residents with bad/very bad health and groups with protected characteristics.

3.41 This resident also reveals that "*this has been the case for around a* year", which signals that Tesco Pharmacy has consistently been unable to provide an adequate service for residents since the Boots closure.

3.42 The first review above comments that they "*queued for 30 minutes*" to then be "*told to come back at 8pm, in 5 hours time*".

3.43 The review below states that "*the service is diabolical and I loath using them!".*

3.44 This resident is clearly accustomed to the poor service provided by Tesco Pharmacy, as they go on to reveal that residents should consider themselves "*lucky*" if they are queuing for "*less than 30 minutes*".

3.45 They continue, stating "*if they have your prescription when you finally speak to someone, buy yourself a lottery ticket!".*

3.46 When we consider that access to pharmaceutical services at Tesco is likened to a game of chance, we submit this cannot be considered as reasonable choice or access to pharmaceutical provision.

3.47 Above, this resident visited Tesco Pharmacy for an item but they "*refused to dispense it as they said they had a backlog*".

3.48 This resident reveals that they accessed other pharmacies prior to Tesco Pharmacy for their prescription. While the alternative pharmacies were either shut or did not have the item in stock, Tesco Pharmacy, which was open and had the item in stock, refused to dispense it.

3.49 Below this review, another resident notes; "*Unhelpful. Denying access to basic non prescription medication*".

3.50 From the experiences outlined above, we submit that residents are also having difficulties accessing items from Tesco Pharmacy.

3.51 This resident above reveals that this is the "*second time my medicines have been given to someone else*". Firstly, it is alarming to read that this incident has occurred on more than one occasion.

3.52 Secondly, the patient also notes that "*I'm now without the medicines I need*", and the "*GP can't re prescribe as it's only a week ago that they did".* Again, perhaps wrongly issuing medication can be attributed to an increased patient demand and performing under a significant amount of pressure since the Boots closure.

Google Reviews Summary

3.53 We submit that the experiences of local residents speak for themselves. In total, our client has presented seventeen recent 1-star Google Reviews so far to the Committee which reflect the current situation.

3.54 In our client's original supporting information, a Google Review was included from a local resident who stated "*I was in the queue over an hour*". We remind the Committee that this review was uploaded 9 months ago. Thus, it is obvious that the situation has not changed, and these residents have been forced to endure a poor service consistently for nearly a year. Residents are forced to wait in such onerous queues for their prescription owing to the clear lack of reasonable choice within Pool.

3.55 Additionally, the data above shows that those who are visiting Tesco Pharmacy are accessing the Pharmacy First service. Perhaps then, even more residents than those recorded are in need of accessing this service but could feel deterred from doing so due to the extensive waiting times and poor service provided by this pharmacy.

3.56 Thus, we submit that the need to open a pharmacy for residents in Pool who are frequently experiencing this inadequate service could not be clearer. We reiterate that this is not a case of brief disruption following the closure of a pharmacy but rather a sustained issue with access due to insufficient pharmaceutical capacity within Pool.

Conclusion

3.57 We submit that the only pharmacy located in Pool is unable to adequately serve the current communities and reliant population following the closure of the Boots pharmacy in Pool Health Centre.

3.58 We note that the area surrounding the proposed site is highly deprived and residents have greater health needs. This is especially pertinent when we consider that alternative pharmacies outside of Pool are challenging to reach by foot, with many residents finding that transport represents a cost barrier to access.

3.59 It is clear that these patients have no choice but to use Tesco Pharmacy or Distance Selling Pharmacies. We submit that local residents have been forced into utilising DSPs as Tesco Pharmacy have been discouraging nominations and focussing on Pharmacy First. In addition, from the Google Reviews provided, it is clear that those who are accessing Tesco Pharmacy have been forced to endure an inadequate service for over the course of a year.

3.60 Thus, we do not consider there to be reasonable choice or sufficient access to pharmaceutical services for the residents of Pool.

3.61 We maintain that granting this application would secure better access and improvements to pharmaceutical services for local residents. We submit that regulation 18 has been met and we invite NHS Resolution to grant our client's application."

4 Summary of Representations

This is a summary of representations received on the appeal.

4.1 THE COMMISSIONER

4.1.1 "Thank you for your letter, received 3rd April 2025, addressed to Mr Speight at Primary Care Support England (PCSE) enclosing a copy of the above appeal. The South West Pharmaceutical Services Regulations Committee (SW Committee) wishes to make the following comments on the appeal.

4.1.2 The SW Committee notes the appeal is based around the suggestion that current service provision in the area is lacking and patients are experiencing long wait times at Tesco Pharmacy. The SW Committee acknowledged the pressure on the pharmacy due to the Market Exit of the Boots Pharmacy and noted remaining pharmacies in any area will need time to adjust to the increased workflow and demand following a closure. The community pharmacy market has changed in recent years, with pharmacies developing their working practices to accommodate larger activity and it is not always appropriate to approve a new pharmacy contract where a pharmacy has closed, in fact, the Day Lewis in Illogan has experienced an increase in activity evidencing this.

4.1.3 The SW Committee noted the nearest alternative pharmacies are under two miles away in Illogan and Cambourne and there is no evidence provided to demonstrate accessing these pharmacies is difficult for patients and none to demonstrate the demand in the area is exceeding the capacity of the pharmacies in Redruth and Cambourne.

4.1.4 The SW Committee noted supplementary statements have been issued since the current PNA was published and these have not resulted in a statement saying there is a need for an additional pharmacy, though it was noted a review of the PNA is currently underway.

4.1.5 The SW Committee notes that this appellant has withdrawn the appeal for this appeal:

4.1.5.1 SHA/26557 – NAIMANS UK LTD – APPLICATION FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS AT POOL HEALTH CENTRE, STATION ROAD, POOL, REDRUTH, CORNWALL, TR15 3DU

4.1.6 The SW Committee would respectfully point out the withdrawn appeal was for an application that was heard with the case subject to this appeal and with

another application by a different contractor. The application for which the appeal has been withdrawn, which was submitted at a later date compared to the other two applications, had additional core hours on Saturdays.

4.1.7 The SW Committee looks forward to hearing the Primary Care Appeals' decision in due course."

5 **Observations**

5.1 HEALTHCARE PLUS CONSULTANCY LTD ON BEHALF OF THE APPLICANT

5.1.1 "Thank you for your letter dated 14 May 2025. We provide our observations below.

Summary

5.1.2 Summarising the key considerations for the Committee:

5.1.2.1 The Boots that closed in Pool Health Centre dispensed c. 13,000 items per month – almost twice the national average.

5.1.2.2 The Tesco Pharmacy in Pool actively did not take on these items due to prioritising Pharmacy First consultations.

5.1.2.3 Pool now only has an effective 11 pharmacies per 100,000 population, compared to the national average of 20.6 per 100,000. This is compounded by the fact that Pool is highly deprived, and pharmaceutical provision should be doubly concentrated in areas of high deprivation.

5.1.2.4 The proposed site is in the top 20% deprived areas in the country. Adjacent LSOAs are amongst the top 20% and top 10% most deprived areas in the country.

5.1.2.5 Residents with bad/very bad health are 1.5 – 2 times worse than the national average.

5.1.2.6 Those living in socially rented housing is almost 3 times that national average in the adjacent 051E LSOA.

5.1.2.7 Those who are long-term sick and disabled is again 3 times the national average in the adjacent 051E LSOA.

5.1.2.8 A petition to keep the busy Boots Pharmacy open gained 483 signatures, with queues at Tesco even making BBC coverage.

Previous representation

5.1.3 We note that previous ICB representation had not been appended to the appeal. Thus, we have reattached this below. Representation highlights how the Tesco Pharmacy only captured c.7.5% items from the Boots closure in Pool Health Centre despite being 0.4 miles away, which is particularly strange. The Boots in Illogan had a 30% capture even though it is 1.8 miles away, and Pharmacy 2 U also had a 30% capture.

5.1.4 We submit that the small capture by Tesco is analogous with representation from Doctors at Pool Health Centre that Tesco were actively discouraging nominations as they are too busy.

5.1.5 Notably the Tesco pharmacy dispenses 1.5 times the national average of prescriptions. It also delivers c. 240 Pharmacy First consultations per month, which is 6 to 8 times the national average. In this context, it is strange that Tesco's dispensing volumes are not higher.

5.1.6 When we take into account the extremely poor capture given the distance relative to other pharmacies; testimony from the Doctors at Pool Health Centre; and Pharmacy First data, we submit that it is a sensible inference that the Tesco is clearly avoiding dispensing in preference of the more profitable Pharmacy First scheme.

5.1.7 Additionally, Pharmacy 2 U, the Uk's largest DSP, also gained c.4000 items from the closed Boots store. We submit that this is due to the fact that patients were unable to access services at the Tesco and unable to access alternative pharmacies which are at least 1.8 miles away. This is unsurprising when we consider the highly deprived nature of the area where petrol and bus fares can be particularly prohibitive. Assuming each patient obtains an average of two items, we can see that c. 2000 patients have been forced to utilise an online pharmacy following the closure of the Boots.

5.1.8 We remind the Committee that online pharmacies do not provide reasonable choice or alternatives to bricks and mortar pharmacies for the following reasons:

5.1.8.1 DSPs cannot provide face to face services, with COVID and Flu jabs also stopping from March 2026.

5.1.8.2 DSPs are unable to deal with requests for acute medication promptly. This can often cause issues when medication is issued urgently by the GP surgery.

5.1.8.3 DSPs are not customer-facing and thus patients are not in direct contact with the Pharmacist. Elderly patients can often have vastly changing medication and require a regular local pharmacist to aid them with any medication changes and with adherence to prescribed medication.

5.1.8.4 The internet can be a barrier for many groups, particularly the elderly, in accessing DSPs.

5.1.8.5 Someone has to be home when signing for controlled drugs from a DSP. For those that work, organising this can be particularly difficult.

5.1.8.6 DSPs have similar overheads to community pharmacy, but also must provide free delivery. Given that free delivery services often cause financial struggles for community pharmacies, it calls into question the long-term viability of DSPs. This is no better demonstrated by the 5-million-pound operating loss incurred by Pharmacy 2 U in the year ending 2023, and 3.4-million-pound operating loss incurred in 2024. Clearly, such losses are unsustainable and thus we cannot view DSPs as providing reasonable choice/ alternatives to bricks-and-mortar pharmacies. These losses will only get worse once the ability for DSPs to provide COVID and Flu jabs is removed.

5.1.9 We submit that it is clear that patients have been forced to turn to online pharmacy due to the Tesco pharmacy being too busy and the inaccessibility of alternatives. This is clearly not representative of reasonable choice or access.

Performance Management

5.1.10 The ICB mention that local pharmacies just needed time to adjust as reasoning for refusal of this application. However, we would disagree with this viewpoint.

5.1.11 We provide the Committee with a timeline of events to provide greater clarity:

5.1.11.1 March 2024 - Boots in Pool Health Centre closes

5.1.11.2 June 2024 – Our client submits an unforeseen benefits application highlighting the issues that Tesco faces following the closure. We provided 6 recent 1 star Google reviews and a letter from the Doctors surgery highlighting that patients no longer have *'effective provision locally'*.

5.1.11.3 January 2025 – The application is refused by the ICB in preference of 'performance management'. The ICB mention that they will raise issues with Tesco in the decision.

5.1.11.4 March 2025 – Our client submits their appeal. We again provide several recent 1-star Google reviews of the Tesco Pharmacy, with residents complaining there are extensive queues.

5.1.12 Complaints are still being received on the Tesco Pharmacy, almost after a year following the closure of the Boots store. We submit, that if there truly were performance issues opposed to inherent capacity issues then there would not be issues an entire year after any pharmacy closure. We submit that 3 months is a far more sensible timeframe.

5.1.13 The Committee will also be aware that any decision made pertaining to Regulation 18, must have regard to Reg 18(2)(b)(i), namely 'reasonable choice'. Reasonable choice does not have an official interpretation in the regulations; however, we would submit that one interpretation relates to overall capacity issues of the local pharmaceutical network. This often manifests itself in long queues or difficulty in accessing services.

5.1.14 'Performance management' cannot solve inherent capacity problems within the network and thus we submit that long queues/ poor access to services a year after pharmacy closures is indicative of a lack of reasonable choice.

5.1.15 To further highlight to the Committee the ongoing issues over a year following the Boots closure, my client received a further letter from the Doctors at Pool Health Centre, which has been appended below.

5.1.16 They write that: *'Patients are waiting in queues literally for hours and I can report unequivocally that there is no evidence that pharmacies in Redruth, Illogan or Camborne are adjusting sufficiently to take up the slack within the foreseeable future.*

5.1.17 *We trust that the Committee would accept as evidence our assurance that this is an enormous source of distress and inconvenience to large numbers of our patients, which shows no sign of significant abatement."*

5.1.18 The Doctors, who will be cognizant of the issues at ground level, write that issues are still present and not only effect Pool but also Redruth, Illogan, and Camborne. It is clear that after a year following the Boots closure the local pharmaceutical network cannot cope. This is only set to worsen with the recent announcement that the Superdrug in Redruth is to close in June.

5.1.19 To demonstrate ongoing issues my client also sought to obtain letters from the public highlighting their experiences with access to pharmaceutical provision. These emails were received over a year from the Boots closure at Pool Health Centre. If performance management or patient acclimatisation were the solution, then there wouldn't be issues over a year on from closures. We submit that these emails demonstrate the inherent capacity issue for pharmacies within Pool.

5.1.20 These emails have been numbered and can be found in Appendix A. [provided for Committee at Appendix C.] We encourage the Committee to read each email in detail, as they show difficult personal experiences of accessing alternative pharmaceutical provision. Common issues that were highlighted include, but are not limited to:

5.1.20.1 Hour long queues being a common occurrence, cited by many.

5.1.20.2 Patients often having to return another day to obtain medication, often after already queuing for an extensive period of time.

5.1.20.3 Difficulty in travelling to pharmacies that are not Tesco's.

5.1.20.4 Difficulty obtaining medication after a trip to the GP surgery.

5.1.20.5 Difficulty standing in queues, particularly those with medical conditions as groups who share protected characteristics. Some residents talk about being forced to abandon queues due to the physical difficulty in standing.

5.1.21 Clearly hour-long queues, with the vulnerable particularly affected by standing times is not representative of reasonable choice or access to services. One resident wrote: *"I was diagnosed with osteoarthritis of the hips which deteriorated very rapidly & I found it incredibly difficult & immensely painful to stand in the long queues with other people who had also transferred to Tesco Extra. There has not been one occasion when I have been served in less than 40 minutes which has been excruciatingly painful for me…".*

5.1.22 Another wrote: *"I am 75 and recently waited in line for 55 mins to get my prescription only to be told when I finally got to the front that they didn't have time to do it and to come back tomorrow. i couldn't face standing again for that long and got my daughter to get it from St Day a couple of days later."*

5.1.23 Elderly patients and those with medical conditions are being forced to queue for excessive periods of times. Patients should not have to find a trip to the pharmacy *"incredibly difficult & immensely painful"* and abandon collection of prescriptions because they are unable to stand for extended periods. We submit that this is clearly not representative of reasonable choice or sufficient access to pharmaceutical provision.

5.1.24 For the benefit of the Committee we have categorized these emails, based on what comments pertain to. But first, we draw your attention to experiences by individuals of pharmaceutical provision in the area:

5.1.25 [T] (Email 17) writes:

5.1.25.1 *"I was using pool Tesco after Boots closed. I have queued for over an hour just to ask if my script is ready and I have then been told to come back again 4 hours later and queue again to collect it. I have never queued less than half an hour.*

5.1.25.2 *I am disabled and my pain intensifies if I have to stand. I asked for a chair and was told no you have to stay in the queue and when I explained why I was told use an online pharmacy then. I cannot do this because I have controlled drugs that have to be signed for and despite being disabled I also work full time for the NHS so cannot be at home to do this. I know several of my patients also struggle or don't want to use an online pharmacy.*

5.1.25.3 *I have just changed to day Lewis in Camborne and my son went in on his way home from college for me and again had to wait over an hour, so it is no better, other than they provide seats. I don't want to use a whole day off getting my meds!*

5.1.25.4 *Good luck with your new pharmacy proposal and thanks for trying to find a solution for the people that live in this area."*

5.1.26 [T] recalls how she waited over an hour at the Tesco Pharmacy just to be told to come back again in 4 hours – which also required queuing to collect. She also recalls how she is forced to stand in long queues despite her disability.

5.1.27 [T] also raises the limitations of online pharmacies, particularly when considering controlled drugs that need to be signed for when she isn't home. [T] has no option but to utilise a bricks and mortar pharmacy. She also details her experiences of Day Lewis in Camborne, where the waits were also an hour.

5.1.28 We submit that hour long waits for disabled residents across multiple pharmacies clearly demonstrates the inherent capacity issues that the current pharmaceutical network faces. We reiterate that the Boots in Pool Health Centre closed over a year prior to this testimony– so is not simply a case of performance management as remaining pharmacies have had ample time to adapt. It is clear that there is just not enough pharmacies to handle the workload.

5.1.29 [J] (Email 29) writes:

5.1.29.1 *"We need a replacement pharmacy in Pool as the surrounding area cannot cope. Tesco is the nearest one but they often say they are at capacity and cannot take any further requests. The queues in Camborne and Redruth take ages, it is so much easier to be able to collect from the doctors surgery location so please allow another pharmacy to replace the closed down Boots."*

5.1.30 [J] ratifies previous representation from doctors at Pool Health Centre and our client that the Tesco is actively turning away patients and denying requests for prescriptions due to capacity issues faced. He also highlights the equally difficult queuing situation for pharmacies in Camborne and Redruth.

5.1.31 [B] (Email 34) who is a patient of Pool Health Centre writes:

5.1.31.1 *"I would like to add my experiences as a very long time user of Pool Surgery of the real need for a new pharmacy at Pool Surgery.*

5.1.31.2 *Since the Boots Pharmacy closed, my experience is of long queue waits at the Camborne pharmacy, often needing to return again for missed or unavailable items.*

5.1.31.3 *As someone classified as clinically vulnerable, the continual travelling to and fro between Surgery and pharmacy is very exhausting.*

5.1.31.4 *For example today, due to some digital errors I've made three trips to the Camborne Pharmacy and two back to the surgery to sort out my pills problem, this used to be done very quickly by the pharmacy staff liaisoning* [sic] *with the surgery.*

5.1.31.5 *The busses to Camborne are not easy to access from where I live, nor to the Surgery,*

5.1.31.6 *Please help in returning a great and much needed asset to Pool Surgery, we have suffered enough over the last few years without one.."*

5.1.32 [B] again confirms the queues also suffered by patients at the Day Lewis pharmacy(s) in Camborne. We submit that it is clear that there is currently strain on the wider pharmaceutical network in the area, not just the Tesco pharmacy in Pool.

5.1.33 He highlights his exhaustion in repeatedly having to travel to Camborne to collect missed/ unavailable items after a visit to Pool Health Centre. This is exacerbated by his status as a vulnerable resident.

5.1.34 Details are even given of a time when [B] had to go back and forth from Pool Health Centre to Day Lewis 3 times to sort medication out. This is approximately a 9-mile back and forth trip just to collect a prescription. A pharmacy at Pool Health Centre would have meant this journey would have been 0 miles due to the proposed co-location. This is evidently significantly better access to pharmaceutical provision.

5.1.35 Although not explicitly said, it is suggested that [B] would have utilised the bus for this journey. By bus, it would not be an exaggeration to suggest that this interaction would have taken 4 hours when bus waiting, bus travel, and queuing time are accounted for. This is clearly not representative of reasonable choice or access, especially for a vulnerable resident.

5.1.36 [J] (Email 6) writes:

5.1.36.1 *"Good Morning*

5.1.36.2 *I am writing to state my concern regarding the lack of pharmacy facilities in Pool. The ease of having a pharmacy at the local surgery has been a great loss for the people in the area. We are an aging population who have difficulties even getting on a bus and walking is not an option. My husband has mobility issues.*

5.1.36.3 *I have also used the local Tesco for collecting medication and was actually asked if I could use an online service for medication as they*

wanted to deal with emergency medications only. The queue at this pharmacy is sometimes 14 in front of you and a long wait…."

5.1.37 This resident again highlights how Tesco Pharmacy are turning away prescriptions and directing people online – highlighting how they are overwhelmed. She also expresses access difficulties that her husband has by foot and by bus given his mobility issues, presumably making pharmacies outside of Pool difficult to access.

5.1.38 [R] (Email 9) who has joined Pharmacy 2 U following the closure of the Boots writes:

5.1.38.1 *"To whom it may concern,*

5.1.38.2 *Since the closure of Boots pharmacy at Pool Health Centre the collection of prescriptions has become pretty difficult.*

5.1.38.3 *I have had to move to Pharmacy2u for repeat prescriptions, however this can often mean single new prescriptions are sent to the wrong place and makes getting medication on the day difficult.*

5.1.38.4 *I have had times where I have had to wait hours and sometimes days to collect the medication needed or play a game of trying multiple pharmacies. Queueing has become trickier and trickier, with this sometime staking over an hour for needed medication or advice at other local pharmacies. I believe the pressure of the previous closer has had a very negative effect on other pharmacies as well as the local community.*

5.1.38.5 *Having an accessible pharmacy to take the pressure off, especially straight at Pool Health Centre would be extremely beneficial."*

5.1.39 [R] highlights how collection of medication has been difficult following the closure of the Boots in Pool Health Centre. She details how she has joined Pharmacy 2 U, but this presents problems particularly with acute prescriptions. It appears that she has struggled with urgent/ acute medication being sent to Pharmacy 2 U, but then found difficulty in reobtaining this script from the NHS spine when it was realised online pharmacies cannot provide medication urgently – this is a major limitation of DSPs.

5.1.40 She details how waits are over an hour at local pharmacies due to the capacity issues faced. Hour long queues to local pharmacies have been expressed by a number of residents.

5.1.41 The above examples are only a select few from the emails received; detailing the current difficulty patients face with pharmaceutical provision in the area. We urge the Committee to take the time to read each individual email and experience as there are numerous examples like the ones used above.

5.1.42 For the benefit of the Committee, we have briefly categorised the complaints received in the email/ letters. These categories constitute:

5.1.42.1 Long queues and poor service

5.1.42.2 Difficulties faced by groups who share protected characteristics

5.1.42.3 Lack of reasonable choice

Long queues and poor service

5.1.43 *"We need another local pharmacy because long wait for prescription alway* [sic] *having to wait in queues We are told to speak to a pharmacist for minor ailments this is almost impossible because they are to* [sic] *busy" (Letter 1)*

5.1.44 *"In this area there is a huge need, it's takes over an hour to collect a prescription, repeats are taking days longer than usual. The service provided is not being adequately delivered due to long queues, lack of staff." (Letter 3)*

5.1.45 *"Since Boots pharmacy closure in Pool, the local resident including myself have seen excessive delays, ques and a concerning increase in waiting times to receive expected prescriptions on the day it's due." (Letter 4)*

5.1.46 *"The local pharmacy now (Tesco superstore) patients are waiting for extremely long periods to be served. This is due to the volume of customers, they are now experiencing since the closure." (Letter 4)*

5.1.47 *"My wife and I would use it, as we spend far too much time queuing and chasing prescriptions at our current pharmacy." (Letter 5)*

5.1.48 *"I have also used the local Tesco for collecting medication and was actually asked if I could use an online service for medication as they wanted to deal with emergency medications only. The queue at this pharmacy is sometimes 14 in front of you and a long wait." (Letter 6)*

5.1.49 *"I am faced with long wait times, queues, prescriptions not being ready due to the staffs work load and vital medication being missed due to this." (Letter 8)*

5.1.50 *"Since the closure of Boots pharmacy at Pool Health Centre the collection of prescriptions has become pretty difficult." (Letter 9)*

5.1.51 *"I have had times where I have had to wait hours and sometimes days to collect the medication needed or play a game of trying multiple pharmacies. Queueing has become trickier and trickier, with this sometime staking over an hour for needed medication or advice at other local pharmacies. I believe the pressure of the previous closer has had a very negative effect on other pharmacies as well as the local community." (Letter 9)*

5.1.52 *"Since the closure of Boots at Pool Health Centre, I have had such difficulty with the level of service from surrounding pharmacies in Pool (Tesco), Camborne (where Boots also closed) and Redruth" (Letter 10)*

5.1.53 *"other pharmacies in the area now have long queues and excessive waiting times." (Letter 11)*

5.1.54 *"All the local pharmacies are working flat out and are struggling to meet demand. We now need to give 10 working days due to the pressure of work." (Letter 12)*

5.1.55 *"Tesco's is not able to cope since the closure of our Boots. I am 75 and recently waited in line for 55 mins to get my prescription only to be told when I finally got to the front that they didn't have time to do it and to come back tomorrow. I couldn't face standing again for that long and got my daughter to get it from St Day a couple of days later." (Letter 13)*

5.1.56 *“Troon, which is a lovely local pharmacy, but it’s small and if there are a few people waiting, you’ll be stood outside with no seating. Not ideal, when you see the elderly and physically impaired trying to access the service.” (Letter 15)*

5.1.57 *“Then we registered with Tesco, pool.. despite being bigger, it has similar issues, leaving out the fact of standing outside, seating is limited, but foot fall means sometimes over a 45min+ queue wait (standing) to then be told to come back in 4 hours to collect you're* [sic] *prescription, with having to queue again?! To collect.” (Letter 15)*

5.1.58 *“we have recently changed yet again to see if the services in Camborne high street would be better (Day Lewis) but the same issues occur, sometimes waiting for 1hour+ with limited seating for those that are more in need for it.” (Letter 15)*

5.1.59 *“Since the closure of Boots green lane pharmacy is over run with people the ques have got longer and waiting times for medication have increased due to demand on other pharmacies in the area.” (Letter 16)*

5.1.60 *“I was using pool Tesco after Boots closed. I have queued for over an hour just to ask if my script is ready and I have then been told to come back again 4 hours later and queue again to collect it. I have never queued less than half an hour.” (Letter 17)*

5.1.61 *“I have just changed to day Lewis in Camborne and my son went in on his way home from college for me and again had to wait over an hour, so it is no better, other than they provide seats. I don’t want to use a whole day off getting my meds!” (Letter 17)*

5.1.62 *“I have had to revert to use the pharmacy at Tesco Extra. It's always ridiculously busy and the wait time is extreme.” (Letter 18)*

5.1.63 *“Users of these services have experienced a very significant increase in waiting times at surrounding chemists and an increased incidence of running out of drugs causing users to have to queue and wait again!” (Letter 19)*

5.1.64 *“We really need a pharmacy in Pool, the queues at pharmacy in Tesco are always there, and a fair distance to travel to the nearest pharmacy to Pool health centre.” (Letter 20)*

5.1.65 *“Now longer queues, sometimes out of the door, people then just turn, leave, only to come back later or another day only to find once again long queues.” (Letter 21)*

5.1.66 *“Lack of prescription ready because pharmacist is so busy so having to wait with others in an already full pharmacy” (Letter 21)*

5.1.67 *“Having to wait longer because pharmacist now have to deal with patients queries and blood pressure in the private room.” (Letter 21)*

5.1.68 *“Prescription incomplete meaning having to come back and make another trip and long queues again another day to get the remaining.” (Letter 21)*

5.1.69 *“The queues in most of the pharmacies are quite lengthy, and if caring for someone, it is such a lengthy process to leave them on their own whilst getting to the nearest pharmacy.” (Letter 22)*

5.1.70 *"The waiting times in Camborne are ridiculous because so many patients have now had to collect them from other locations, The main town only has day lewis which operates a silly system where they get the prescriptions from the doctors and then sends them to a central pharmacy up country which then takes up to a week to come back" (Letter 23)*

5.1.71 *"since the closure of the boots pharmacies and the pool medical centre the queues and waiting times have increased dramatically. The pharmacy at Tesco extra is particularly bad for waiting times, often in excess of 20mins to be seen." (Letter 24)*

5.1.72 *"I used to collect at Carn to Coast Boots, but since this and also the Boots store in Camborne town has closed collecting any prescriptions is a total nightmare." (Letter 25)*

5.1.73 *"I have always collected my prescriptions from Camborne, but since the Pool Boots closed down it has meant there are many, many more people collecting from Camborne Day Lewis which means the pharmacy is always full of people and we have to wait up to an hour or even make multiple trips as prescriptions are not able to be fulfilled at the same time." (Letter 26)*

5.1.74 *"Following the closure of Boots pharmacy at Pool Health Centre I had my medication requests transferred to Tesco Extra Pool pharmacy. However this has been the most stressful time since this happened." (Letter 27)*

5.1.75 *"I was diagnosed with osteoarthritis of the hips which deteriorated very rapidly & I found it incredibly difficult & immensely painful to stand in the long queues with other people who had also transferred to Tesco Extra. There has not been one occasion when I have been served in less than 40 minutes which has been excruciatingly painful for me & the countless other people with unwell small children, painful conditions & generally feeling horrendous." (Letter 27)*

5.1.76 *"I used the one next to Carn to Coast frequently and have now relocated to one in Camborne town centre. However, collection of my prescriptions from there is a total nightmare. The do not stock the medications in store for repeats, they send it away to Croydon after it is sent from the surgeries and then you have to wait longer for the return. There is always a huge queue, prescriptions are never ready on time and it takes at least one hour to collect." (Letter 28)*

5.1.77 *"We need a replacement pharmacy in Pool as the surrounding area cannot cope. Tesco is the nearest one but they often say they are at capacity and cannot take any further requests. The queues in Camborne and Redruth take ages" (Letter 29)*

5.1.78 *"on virtually every one of our last prescriptions we have been given IOU's for missing items, by the Illogan Boots. These are repeat prescriptions for essential medications such as my husband's BP medication, my thyroid medication, my asthma inhalers. This is despite having texts to say our prescriptions are ready to collect." (Letter 30)*

5.1.79 *"the time it is taking to get the prescription fulfilled is very much longer than before the closure of Pool Boots." (Letter 30)*

5.1.80 *"As Illogan Boots was closed (4 p.m. on a Saturday) we had to go to Tesco's in Pool. The queue was massive and very slow moving, as the pharmacist was seeing people in a consultation room, and was juggling that and signing off*

prescriptions. I was in agony waiting in the car, so my husband had to queue. It took one hour." (Letter 30)

5.1.81 *"Since the closure of Boots at Pool Health Centre, I have noticed difficulty with the level of service from surrounding pharmacies in Pool (Tesco),and Boots in Illogan" (Letter 31)*

5.1.82 *"I now have to wait forever for my prescriptions and due to high demand face waiting in the queue to be told its not even available at boots in Illogan . Since boots in Pool has closed the service provided have gone downhill" (Letter 31)*

5.1.83 *"now have to wait sometimes 2 weeks before my prescription is ready to pick up, and I have run out of things a couple of times" (Letter 32)*

5.1.84 *"Since the Boots Pharmacy closed, my experience is of long queue waits at the Camborne pharmacy, often needing to return again for missed or unavailable items." (Letter 34)*

5.1.85 *"For example today, due to some digital errors I've made three trips to the Camborne Pharmacy and two back to the surgery to sort out my pills problem, this used to be done very quickly by the pharmacy staff liaisoning* [sic] *with the surgery." (Letter 34)*

Difficulties faced by groups who share protected characteristic

5.1.86 *"Families and to the elderly citizens such as my grandparents, who are unable manage standing for longer periods of time. As result on many occasions, they've had to leave her spot in the que* [sic] *and medication they need, as result of these delays." (Letter 4)*

5.1.87 *"I am 75 and recently waited in line for 55 mins to get my prescription only to be told when I finally got to the front that they didn't have time to do it and to come back tomorrow. I couldn't face standing again for that long and got my daughter to get it from St Day a couple of days later." (Letter 13)*

5.1.88 *"I am disabled and my pain intensifies if I have to stand. I asked for a chair and was told no you have to stay in the queue and when I explained why I was told use an online pharmacy then. I cannot do this because I have controlled drugs that have to be signed for and despite being disabled I also work full time for the NHS so cannot be at home to do this." (Letter 17)*

5.1.89 *"I was diagnosed with osteoarthritis of the hips which deteriorated very rapidly & I found it incredibly difficult & immensely painful to stand in the long queues with other people who had also transferred to Tesco Extra. There has not been one occasion when I have been served in less than 40 minutes which has been excruciatingly painful for me & the countless other people with unwell small children, painful conditions & generally feeling horrendous." (Letter 27)*

5.1.90 *"in both Illogan Boots and Tesco's having to wait and queue means we are putting our health at risk. We wear masks, as my husband has had a stroke, is diabetic and long covid." (Letter 30)*

5.1.91 *"I am a 68year old woman with rheumatoid arthritis and other illnesses. It would be a godsend if there could be a chemist back here in Pool Redruth where my disabled husband have lived for over 40 years" (Letter 33)*

5.1.92 *"As someone classified as clinically vulnerable, the continual travelling to and fro between Surgery and pharmacy is very exhausting." (Letter 34)*

Lack of reasonable choice

5.1.93 *"We used to be able to see a doctor then get our prescription filled no now have to take a bus into Redruth or Illogan NOT GOOD ENOUGH ." (Letter 1)*

5.1.94 *"Also the need for emergency medication is even a more difficult task. When the medication needs to go the the* [sic] *spine system and my wife driving around the area to find a pharmacy that has the medication right away." (Letter 2)*

5.1.95 *"Also having to travel several miles using my car when my local Pool pharmacy should be open." (Letter 3)*

5.1.96 *"I believe the delay is having a detrimental effect, on children. Families and to the elderly citizens such as my grandparents, who are unable manage standing for longer periods of time. As result on many occasions, they've had to leave her spot in the que and medication they need, as result of these delays." (Letter 4)*

5.1.97 *"I will add that I get my medications online for my husband and myself, this means once a month ordering from the company, the delay in the GP surgery to okay the prescription, that going back to the company and staying at home when we might expect a delivery." (Letter 6)*

5.1.98 *"Since Boots closed I now have to get my meds on line." (Letter 7)*

5.1.99 *"Also when I wanted advice over small health matters I now have to travel to either Redruth or Camborne." (Letter 7)*

5.1.100 *"I have had to move to Pharmacy2u for repeat prescriptions, however this can often mean single new prescriptions are sent to the wrong place and makes getting medication on the day difficult." (Letter 9)*

5.1.101 *"We are encouraged nationally to visit our pharmacists rather than our GP surgeries for minor ailments, and yet, have less resources in which to do this" (Letter 10)*

5.1.102 *"I'm often at Pool surgery, if Homecroft is not available and it means I have to drive back to Redruth Pharmacy to get my Prescription." (Letter 14)*

5.1.103 *"Because of these closures and having to go to Boots pharmacy in Illogan I now find it harder and more time consuming to collect my monthly prescriptions." (Letter 21)*

5.1.104 *"have to go quite a distance once a month (sometimes more) to collect my prescription." (Letter 21)*

5.1.105 *"Unfortunately, since the closure of pharmacy at Pool health centre, it has been difficult, without own transport to reach the nearest pharmacy/ chemist" (Letter 22)*

5.1.106 *"We are urged to use pharmacist for non urgent consultations, but, if no pharmacist available in the Pool area, the next resort is a call to the surgery." (Letter 22)*

5.1.107 *"Many times I have been forced to leave the pharmacy due to the traffic restrictions and come back another time" (Letter 24)*

5.1.108 *"When I have been incapacitated this makes life incredibly difficult when you are asking other people to collect prescriptions for you as they then have to go driving around the parish looking for where your prescriptions have ended up!" (Letter 27)*

5.1.109 *"We are encouraged nationally to visit our pharmacists rather than our GP surgeries for minor ailments, and yet, have less resources in which to do this, thus in the long run putting pressure (and in turn unnecessary costs) on places we should not be, such as A&E and walk in clinics (that are few and far between here in Cornwall!!)." (Letter 31)*

5.1.110 *"As I don't drive I have had order online since the chemist closed which is okay but inconvenience if there is a mistake in my order sometimes I have to wait days." (Letter 33)*

Conclusion

5.1.111 We conclude that there is a lot of evidence highlighting the urgent need for pharmaceutical services in Pool. The current pharmaceutical network is overwhelmed. Despite having a year to acclimatize to closures, patients till [sic] face hour long queues with no guarantee that medication will be ready or in stock. This is clearly not representative of reasonable choice or access to provision.

5.1.112 Granting this application would provide much better access to the local population to pharmaceutical provision, especially those visiting in connection with a visit to Pool Health Centre.

5.1.113 Given there are clear struggles faced by patients here, we submit that it may be prudent for the Committee to convene an oral hearing to allow these residents to be heard.

5.1.114 We submit that granting this application will secure improvements and better access to pharmaceutical provision and thus meets the criteria for Regulation 18.

5.1.115 We invite the Committee to grant the application."

Letter to the Commissioner dated 6 November 2024 – in reference to application 3 as stated in the decision report above

5.1.116 "Thank you for your letter dated 25th October 2024. We welcome comments from all local parties and note the following:

5.1.116.1 Tesco Pharmacy, the only other pharmacy in Pool, have chosen not to provide representation. We can only infer that this is because they have no objections to the application.

5.1.116.2 It is undisputed through all representations that pharmaceutical provision is dire in Pool, with an effective 11 pharmacies per 100,000 people, well below the average for England (20.6/100,000).

5.1.116.3 It is undisputed that there are high levels of deprivation in Pool, and thus a number of residents with greater health needs.

5.1.116.4 It is undisputed that pharmaceutical provision should be doubly concentrated in areas of high deprivation.

5.1.117 Taking each representation in turn overleaf:

Day Lewis

5.1.118 Day Lewis appear to criticise the petition against the closure of the Boots and seem to claim that this is not of relevance. We respectfully disagree with Day Lewis and submit that the petition against the closure of the Boots speaks to the real-world issues and access difficulties of local residents. Indeed, NHS Resolution have recently upheld the relevance of a petition against the closure of a Boots store in relation to a new contract application - Point 6.42, pg.33, SHA/26212 & SHA/26213. We trust that the Committee will take into account NHS Resolution's views on this matter.

5.1.119 Day Lewis also go on to misquote representation made in the original application, conveniently excluding important context to a statement made. To provide clarity to the Committee we provide the statement in full below:

5.1.120 "*Although the data is not yet available, experiences at ground level suggest that the Tesco Pharmacy has absorbed the majority of these items and patients following the closure of the Boots; making this Tesco's Pharmacy one of the largest pharmacies in the UK."*

5.1.121 It is clear that the above statement was made on observational grounds given that the data was not yet available. Day Lewis, having now had access to this data, have criticised the above statement without giving due consideration to the context that was also written.

5.1.122 Now the data is publicly available, it appears that Tesco did not in fact absorb most of the items following the closure of the Boots in Pool Health Centre. We can see that the Tesco Pharmacy traditionally dispensed 11,000 items per month and now dispenses approximately 11,750 items per month following the closure of the Boots. However, in terms of services delivered, this is a very different story. In February 2024, Tesco conducted approximately 100 Pharmacy First consultations. Following the closure of the Boots in March, this number doubled and has remained consistently high as can be seen from the table below.

Month	**Pharmacy First consultations (Pharmdata)**
April 2024	254
May 2024	248
June 2024	240
July 2024	225

5.1.123 Given the account provided within the letter from Carn to Coast Health Centres, that Tesco Pharmacy: "*found it appropriate to make clear to their customers the realities of the waits they would experience.",* and the assertion from the Health Centre that: "*Pharmacies in the area more generally appear to*

be actively discouraging patients from nominating them because they lack resource capacity and are concerned about safety." It is not difficult to infer that the Tesco Pharmacy appears to have been discouraging nominations and focussing on providing Pharmacy First consultations to the local population.

5.1.124 It is notable that the Tesco Pharmacy currently dispenses approximately 1.5 times the national average of prescriptions, and it would be thought that not too dissimilar activity levels would be found across the other services that this pharmacy provides.

5.1.125 Looking at Pharmacy First consultations, Community Pharmacy England note that the average number of Pharmacy First consultations carried out is in fact 40 per pharmacy.

5.1.126 From the table above, we can see that Tesco carries out approximately 6 times the average number of Pharmacy First consultations compared to 1.5 times the average items dispensed. Given that there are clear assertions by Carn to Coast Health Centres that Tesco Pharmacy have been struggling with capacity levels, again we submit that Tesco Pharmacy have very much been focused on providing Pharmacy First opposed to dispensing additional items caused by the Boots closure, due to the limited resource at their disposal.

5.1.127 We know that the closed Boots was dispensing 13,000 items per month, and Tesco Pharmacy dispensed approximately 11,000 items per month. Summing these figures, we see that both the Tesco and the closed Boots Pharmacy dispensed an average of 24,000 items combined. This is approximately 4 times the national dispensing average and far more in line with the Pharmacy First consultation figures now carried out by Tesco.

5.1.128 We submit that through the lens of Pharmacy First consultations, we can see that there are a number of patients who wish to utilise pharmaceutical services in Pool, however, Tesco Pharmacy simply does not have the requisite capacity to meet the dispensing needs of this population.

5.1.129 Hence, we must ask where these prescriptions are currently being dispensed from. Analysis of September 2023 and May 2024 dispensing figures from Pool Health Centre provides some insight into the movement of items. This is summarised in the table below:

Pharmacy	**Approx percentage captured from closed Boots**	**Distance from Pool Health Centre**
Boots Illogan (TR16 4SS)	30%	1.8 miles
Pharmacy 2 U	30%	Online Pharmacy / DSP
Day Lewis Cambourne	7.5%	2.0 miles
Tesco (TR15 3QJ)	7.5%	0.4 miles

5.1.130 It is perhaps unsurprising that 30% of items went to the closest remaining Boots store. Boots no doubt would have directed customers to this store in the lead up to the closure of the Boots in Pool Health Centre.

5.1.131 A small number of items are now collected from the Day Lewis in Camborne for those who are able to travel. The Tesco in Pool has seen a similar 7.5% uplift, despite discouraging nominations.

5.1.132 Perhaps most interestingly is the fact that Pharmacy 2 U, the UK's largest Distance Selling Pharmacy (DSP), collected 30% of the items from this closure. As highlighted in previous correspondence, deprivation is high, and mobility is low in Pool. Given the Tesco is reluctant to nominate patients, residents have been forced to utilise Pharmacy 2 U given that they cannot travel further afield for their pharmaceutical needs. Being forced into utilising a particular pharmaceutical service is clearly not representative of 'reasonable choice' to provision. We also submit that there are a number of issues with reliance upon DSPs:

5.1.132.1 DSPs have similar overheads to community pharmacy, but also must provide free delivery. Given that free delivery services often cause financial struggles for community pharmacies, it calls into question the long-term viability of DSPs. This is no better demonstrated by the 5-million-pound loss incurred by Pharmacy 2 U in the year ending 2023. Clearly, such losses are unsustainable and thus we cannot view DSPs as providing reasonable choice/ alternatives to bricks-and-mortar pharmacies.

5.1.132.2 DSPs are unable to deal with requests for acute medication promptly. This can often cause issues when medication is urgent.

5.1.132.3 DSPs are not customer-facing and thus patients are not in direct contact with the Pharmacist. Elderly patients can often have vastly changing medication and require a regular local pharmacist to aid them with any medication changes and with adherence to prescribed medication.

5.1.133 Thus, we submit that clearly DSPs cannot be considered to provide reasonable choice to pharmaceutical provision. Hence, it is clear that the large uptake of Pharmacy 2 U dispensing services from patients of the closed Boots in Pool Health Centre, underlines how these residents do not have reasonable choice/ access to a pharmacy.

5.1.134 Moreover, the Appellant appears to take issue with the arbitrary marker used by my client. Whilst we agree that not all residents will start their journey here, it is impractical to assess patient journeys from every single household. Some patients will have journeys that are longer, and some shorter than detailed in my client's original application, however, the proposed site represents a sensible place to evaluate these journeys.

5.1.135 Additionally, we respectfully disagree with the Appellant that Pool forms part of the Redruth/ Cambourne conurbation. We submit that each section is individual, with all the needs that residents require as part of their daily lives located in each village/ town.

5.1.136 Day Lewis also question the viability of any Pharmacy at the proposed site. Again, we disagree with any such notion. The recently closed Boots dispensed

c. 13,000 items a month which was almost double the average dispensing volume for pharmacies within England.

5.1.137 The remaining Tesco Pharmacy dispenses c. 11,000 items – approximately 1.5 times greater than the national average. It is clear that there is strong demand and need for pharmaceutical provision within Pool. Pharmaceutical services are not just limited to dispensing with pharmacies providing NMS, Pharmacy First, Hypertension, COVID/Flu jabs to name a few. It is perhaps unsurprising that Day Lewis would seek to undermine the viability of any pharmacy at the proposed site given their bias in protecting their commercial interests.

Superdrug

5.1.138 Superdrug quote Regulation 26A and go on to talk about consolidations. Our understanding is that no consolidation was granted in relation to the closed Boots at Pool Health Centre. Hence, this regulation is very much not of relevance.

5.1.139 Like Day Lewis, Superdrug question the relevance of the petition against the closure of the Boots. Again, we point Superdrug to Point 6.42, pg.33, of SHA/26212 & SHA/26213. This is a recent case where NHS Resolution have recently upheld the relevance of a petition against the closure of a Boots store in relation to a new contract application.

5.1.140 Superdrug criticise the number of signatures for the petition, there are a number of issues with this:

5.1.140.1 Not everyone will have seen or heard about the petition.

5.1.140.2 Not everyone will have internet access/ requisite skillset to support the petition.

5.1.140.3 Pharmaceutical access is not about percentages; it is about access for everyday people. Even if one patient has been severely disadvantaged by a Pharmacy closure; there is a need to facilitate access for this patient.

5.1.141 Given that 30% or 4000 items from the recently closed Boots transferred online to Pharmacy 2 U, we submit that this is likely the direct population that have been severely affected by the Boots closure. On the basis that a patient will on average receive 2 items, we can see that the Boots closure has caused at least 2000 patients to be without reasonable choice to a pharmacy – this is a significant population.

5.1.142 Superdrug head office, located in London, question the experiences of patients at ground level. My client is a local pharmaceutical operator in Cornwall - even operating a pharmacy in neighbouring Redruth. We submit that my client is better placed to assess the difficulties that residents face. Superdrug have also failed to account for the letter/ testimony from [SH], managing partner of Carn to Coast Health Centres, who will directly be aware of the struggles that patients face in accessing pharmaceutical provision.

5.1.143 The Superdrug in Redruth is located 2.4 miles away from the proposed site. This is not a pharmacy that residents near the proposed site are likely to utilise. Looking at September 2023 and May 2024 dispensing figures, we can see that the Superdrug in Redruth gained c. 297 items from Carn to Coast Health

Centres over this period. This represents at most 150 patients and could be down to normal deviations given that Carn to Coast Health Centres operates 4 surgery sites in and around Camborne/ Pool/ Redruth.

Conclusion

5.1.144 In conclusion, granting this application would secure better access and improvements to pharmaceutical services for Pool.

5.1.145 It is clear that the deprived localised population are struggling to obtain medication from the only other pharmacy in Pool, Tesco Pharmacy. This has forced a large number of patients to utilise the online Pharmacy 2 U service, however we do not consider this as offering reasonable choice to pharmaceutical provision.

5.1.146 The support by Carn to Coast Health Centres highlights the struggles and real issues that patients face. This is also reflected in the petition against the closure of the Boots pharmacy in Pool Health Centre.

5.1.147 The elderly, disabled, and the wider population are likely to find the proposed pharmacy significantly more accessible than their current choices.

5.1.148 Hence, regulation 18 has been met and this application should be granted."

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