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5 September 2025

**REF: SHA/ 26628**

**APPEAL AGAINST SOUTH EAST LONDON ICB DECISION TO REFUSE AN APPLICATION BY DANSON HEALTHCARE LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT 137-139 BLENDON ROAD, BEXLEY, KENT, DA5 1BT**

## 1 Outcome

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

1.2 The Committee determined that the application should be refused.

A copy of this decision is being sent to:

Temple Bright LLP on behalf of Danson Healthcare Ltd
PCSE on behalf of South East London ICB
Broadway Pharmacy
Day Lewis PLC
Boots UK Ltd

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## 1 The Application

By application dated 12 December 2024, Danson Healthcare Ltd ("the Applicant") applied to South East London ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at 137-139 Blendon Road, Bexley, Kent DA5 1BT. In support of the application it was stated:

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

1.1 "Not applicable."

In response to "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" the Applicant stated:

1.2 "We are applying for inclusion in the pharmaceutical list for premises at 137- 139 Blendon Road, Bexley, Kent, DA5 1BT. The Blendon/Penhill ward areas were originally built as suburban family estates, initially constructed in the 1930s. Urban overflow was greater in the 1960s when young families moved in. Most of the parents from then are of an elderly profile needing caring and support, and as they are moving on more younger families with children are considering this area as a prime location. The reason for this being that the location has good primary schools in the near surroundings (Hurst Primary and Sherwood Park primary) together with various grammar schools and comprehensive schools.

1.3 Since 1983 there had been a pharmacy at these premises (Compact Pharmacy), and it had served the community's health needs extensively. However, Compact Pharmacy recently closed (after the company which owned it went into administration) and this has resulted in a gap in service provision for the local community. Many local residents were upset by the closure of Compact Pharmacy since it has left them without reasonable access to pharmaceutical services. In fact, a petition was organised before the closure of Compact Pharmacy which was signed by 650 people.

1.4 Our aim is to restore (and improve upon) the pharmacy service that had been in place for many years so we can continue to deliver the best healthcare possible to the community.

1.5 We believe that granting our application would secure improvements in, and better access to, pharmaceutical services in the HWB's area. Since the improvements and better access arise following the closure of a long-standing pharmacy at this site, they are not contained within the relevant PNA (which was published before the pharmacy closed).

1.6 We are applying for premises within a parade of shops in Blendon, Bexley. The parade includes the following: funeral parlour, bookmakers, convenience stores, angling supplies, bakery, partyware shop, dental clinic, newsagents and several takeaway restaurants. There is also a pub/restaurant opposite the parade (the Three Blackbirds). Within approximately 200m of the parade there is also an Audi dealership, a Halfords garage and a Shell petrol station with an attached Little Waitrose. There is a further parade which is linked to the Blendon Road parade on Sherwood Park Avenue (numbers 242 - 276). This parade includes a further supermarket together with Post Office/off licence, fish and chip shop together with various food outlets/restaurants, a drycleaner, a cafe, florist, hairdressers and barbershop.

1.7 Importantly, the Blendon Road/Sherwood Park Avenue shopping parades (and other nearby commercial units) are very closely associated with the A2 road junction which significantly increases local use of the facilities at the proposed location as shown in the google maps image below. [Image provided]

1.8 The proposed location within the shopping parade is therefore well used by the local community for their daily needs and acts as a hub for the surrounding residential estates.

1.9 With the closure of Compact Pharmacy there is no pharmacy in Blendon meaning that the local community no longer has a choice to access pharmaceutical services from within their own community and from the shopping parade which is at the heart of the community.

1.10 Existing pharmacies are all at least 0.9 miles away from the proposed site, making them difficult to access, particularly for elderly and disabled people who are struggling greatly. Whilst those who have a car may be able to drive to pharmacies, many residents do not have access to a car (either at all, or because the car is in use by another family member). There are also some parking difficulties with pharmacies in surrounding areas. For example, there is no specific car park in Blackfen. The car park next to the Co-op belongs to this supermarket for their business and is only for use by Co-op shoppers. In relation to Bexley High Street, there is a council car park that can be used, but this again poses a greater degree of inconvenience as it is a pay and display car park. The same principle applies with the station car park, which is also a pay and display car park and more for the benefit of commuters.

1.11 In addition, the closest GP surgery is 0.7 miles away (or a 20-minute walk) away (noting that not all residents of Blendon will be registered at the nearest surgery). This means that not only is there no longer a community pharmacy serving the local population, but also the nearest GP surgery is some distance away.

1.12 Granting our application would therefore offer the community additional healthcare provision, and would be of particular benefit in terms of providing advanced services such as the Pharmacy First scheme since we would be able to provide treatments for minor conditions such as coughs, tonsillitis, UTIs etc.

1.13 Our proposed pharmacy would therefore secure improvements in, and better access to, pharmaceutical services. In particular, our proposed pharmacy would confer significant benefits having regard to the benefits of patients having a reasonable choice of service provision and overcoming barriers to accessing services for those with a protected characteristic which currently exist."

In response to "please explain how you intend to secure the unforeseen benefit(s)" the Applicant stated:

1.14 “Granting our application would confer significant benefits in terms of securing a reasonable choice of service provision and overcoming access difficulties that arise due to the lack of pharmaceutical service provision for the local community.

1.15 The site already has excellent modern facilities and has a consultation room leaving us well equipped.

1.16 We will ensure that we employ pharmacists that have the accreditation to provide enhanced services such as blood pressure clinics, travel vaccines, flu jabs and pharmacy first.”

Important information

1.17 “There is information to hand stating that Compact Pharmacy of Blendon Road is scheduled to close by the end of October or sooner. This is mainly as a consequence of mismanagement in the last decade by a company that is shortly going to go into liquidation. The pharmacy operated originally until 1961 and then became a drug store until 1984, later reverting back to being a pharmacy from 1984 to the present date.

1.18 Persons residing in the Blendon and Penhill ward are already being troubled by the administrative entity as they are being refused and are being told to go elsewhere. This is clearly not the best approach for our community as there is always an important need to pharmacy services in our area. There are clearly no pharmacies within the immediate vicinity, and the present operator is not prepared to provide any enhanced services that the community clearly needs which will of course include additional services that are being moved from surgeries into pharmacies. It is therefore important to let your local councillors know about the desire to have a pharmacy within our Blendon and Penhill ward. Therefore, it is important for you (and your family members) to sign the petition to ensure that these services are provided to the community for now and for the future.

1.19 The proposal will be to forward the petition to the Local councillor [N O’H] who has been updated of the situation.

1.20 Online petition link: https://www.ipetitions.com/petition/maintaining-pharmacy-services-blendon-and-penhill

1.21 [Enclosed: petition titled:

1.22 “Residents petition

1.23 Importance of maintaining pharmacy services in our Blendon and Penhill area

1.24 We the undersigned residents of Blendon and Penhill area desire to have a pharmacy within our community and would like the council and NHS together to maintain and achieve this aim.”]

## 2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 29 May 2025 states:

2.1 “South East London 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 NHS England’s decision. Should you choose to appeal then either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:

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

PSRC Report

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

2.4 "**CAS reference number** - CAS-343296-B6F6K3

2.5 **Name of applicant** - Danson Healthcare Ltd

2.6 **Fitness to practise** - Cleared for inclusion:

2.7 **Address/best estimate of proposed premises** - 137- 139 Blendon Road, Bexley, Kent, DA5 1BT

2.8 **Status of location** - Non-controlled locality.

2.9 **Relevant regulations and guidance** - Regulations 18 and 19 – unforeseen benefits: additional matters and consequences.

2.10 Regulation 31 – refusal: same or adjacent premises.

2.11 Regulation 66 – conditions relating to providing directed services. DH market entry guidance chapter 8.

| **Interested parties notified of the application – Representation Submitted** | | | |
|---|---|---|---|
| **Name** | **Address** | **Postcode** | **Reason appeal rights – given or reason why not given** |
| Well | 71-79 High Street | DA16 1TU | **Appeal rights given if granted** |
| Day Lewis Pharmacy | 253 Westwood Lane | DA15 9PS | **Appeal rights given if granted** |
| Boots | 31 The Mall, Broadway Shopping Centre | DA6 7JJ | **Appeal rights given if granted** |
| Broadway Pharmacy | 172 Broadway | DA6 7BN | **Appeal rights given if granted** |
| Community Pharmacy South East London | | | **Appeal rights not given as not a pharmacy** |
| Bexley LMC | | | |

| **Interested Parties notified of the application – Representations not submitted** | | |
|---|---|---|
| **Name** | **Address** | **Postcode** |
| Osbon Pharmacy | 24 Steynton Avenue | DA5 3HP |
| Olins Pharmacy | 3 The Oval | DA15 9ER |
| Crook Log Pharmacy | 329 Broadway | DA6 8DT |

| | | |
|---|---|---|
| Brownes Chemist | 252 Blackfen Road | DA15 8PW |
| Mistvale Chemist | 138-140 Welling High St | DA16 1TJ |
| Neem Tree Welling Pharmacy | 109-111 Welling High St | DA16 1TY |
| Warren Pharmacy | 24 High Street | DA5 1AD |
| Bexleyheath Pharmacy | 32 Pickford Lane | DA7 4QW |
| Falconwood Pharmacy | 3 Falconwood Parade | DA16 2PL |
| Osbon Pharmacy | 7 Bourne Parade | DA5 1LQ |
| B R Lewis Chemists | 62-64 Upper Wickham Lane | DA16 3HQ |
| Bexley Healthwatch | | |
| Bexley HWBB | | |

2.12 **Additional information**

2.13 The London Region PSRC have determined that there is enough information within the papers to decide the application without an oral hearing.

2.14 **Applicants Comments**

2.15 [see 1.2 to 1.16 above]

2.16 **Well Comments**

2.17 The applicant refers to the closure of Compact pharmacy at this address in their application.

2.18 The closure of a pharmacy does not automatically mean that a gap has been created.

2.19 If a gap was created as result of this closure, the Bexley Pharmaceutical Needs Assessment should be updated to reflect this. To our knowledge the PNA has not been changed, and no supplementary statements have been issued.

2.20 There are 5 pharmacies located within a 1 mile radius of the proposed location.

2.21 Our pharmacy located at 71-79 High Street, Welling, DA16 1TU is 1.6 miles away from the proposed location and is easily accessible by car which is only a 5-minute drive.

2.22 Access is also available via a bus service.

2.23 The applicant states that ‘Existing pharmacies are all at least 0.9 miles away from the proposed site, making them difficult to access, particularly for elderly and disabled people who are struggling greatly’, however no evidence has been provided that identifies a group of patients sharing a protected characteristic having difficulty accessing services in the area.

2.24 This application does not provide a greater choice; services proposed to be offered are already available to patients at existing pharmacies in the area.

2.25 To conclude, there is no evidence to support the need for an additional pharmacy contract in this locality.

2.26 **Day Lewis Comments**

2.27 On behalf of Day Lewis PLC, who provide pharmaceutical services from premises at 253 Westwood Lane, Blackfen, I wish to object to this application for the following reasons.

2.28 Addressing some of the matters raised by the applicant within its application:

2.28.1 The applicant makes reference to residents with an “elderly profile” and “young families” without actually providing any demographic information to back this up.

2.28.2 In fact, census data from 2021 (source Nomis) for the Blendon & Penhill ward shows that the area is unremarkable in respect of the age profile of residents. As the time of the census, 19.5% of residents were under the age of 16 (compared to the national average of 18.5%) and 19.1% of residents were over the age of 65 (compared to 18.1% nationally).

2.28.3 The age profile of the local residents in this area is not such that the need for a community pharmacy here is significantly different to any other part of the country.

2.28.4 The closure of one pharmacy does not automatically lead to the conclusion that there is a gap in pharmaceutical services provision. There are 5 pharmacies within a mile of the proposed location and a further 26 pharmacies if the distance is extended to 2 miles. This is an area where residents are highly mobile so are easily able to travel to alternative pharmacies.

2.28.5 Census data shows that car ownership levels are significantly higher than national average, with only 13.4% of homes having no car compared to the England average of 23.5%. Furthermore, public transport availability in this area is excellent.

2.28.6 We note the petition provided and the reference to local support. As an aside we are surprised that the applicant has provided unredacted information with names, addresses and signatures of members of the public. In our opinion this information should not have been circulated to interested parties.

2.28.7 In any event we note that the wording of the petition is not the same as the wording used by the applicant. The applicant states that the closure of compact pharmacy has left local residents “without reasonable access to pharmaceutical services”. In fact, what the petition actually states is that local residents “desire to have a pharmacy within our community”.

2.28.8 It is not surprising that when people are asked if they would like a pharmacy near to their home they support this idea, but that does not form part of the regulatory tests. Furthermore the applicant has provided absolutely no evidence from these residents that they actually have any difficulties accessing the existing pharmacies in the wider area. We would suggest that the ICB is unlikely to place any significant weight on this petition.

2.28.9 The applicant suggests that the shopping parade in which the proposed premises are located attracts a significant level of footfall due to its proximity to the A2 Road junction. This is simply additional evidence to support the view that the vast majority of people travel here by car and, that being the case, they are very easily able to travel to alternative pharmacies in a matter of minutes.

2.28.10 The applicant states that the existing pharmacies are “difficult to access, particularly for elderly and disabled people who are struggling greatly”. No evidence whatsoever has been provided to support this assertion.

2.28.11 It is important to remember that the residential area referred to by the applicant is relatively large and most people do not live in the immediate proximity of the proposed premises. The distance they would have to travel from home to a pharmacy will not necessarily be the distance of “at least 0.9 miles” referred to by the applicant.

2.28.12 We have already mentioned the high levels of car ownership in the area and the good public transport links.

2.28.13 The information provided by the applicant regarding parking is not accurate. Looking specifically at Blackfen, there is parking immediately outside Brownes Chemist, and it is incorrect to say that the car park next to our Blackfen Pharmacy is only for Co-Op customers. Free parking is available for 1 hour for anybody, regardless of whether they are using the Co-Op. Many of the other pharmacies in the wider area also benefit from free parking immediately outside.

2.28.14 The applicant discusses the distance to GP surgeries, but this is simply evidence that the local population is mobile and that patients travel around the area to access their daily needs, including healthcare. It is also noteworthy that the nearby pharmacies provide the full range of Pharmaceutical Services including Pharmacy First.

2.29 Finally, it is well known to the ICB that the pharmacy closures seen over recent years have resulted from significant shortfalls in pharmacy funding against the backdrop of large increases in costs for pharmacy operators.

2.30 It is important that those contractors who remain are given every opportunity to ensure the financial stability of their businesses so the pharmaceutical services that exist in the area at present can be maintained. Granting applications for new pharmacies in an area where there is already good provision will simply result in further instability for the sector.

2.31 The burden of proof rests with the applicant when making an application for inclusion in the pharmaceutical list but the applicant has actually provided very little relevant information.

2.32 In conclusion, this application falls a long way short of providing any evidence that might lead the ICB to conclude that granting it would secure improvements or better access to the provision of pharmaceutical services in the area. For that reason, the application should be refused.

2.33 Should the ICB decide to hold an oral hearing I can confirm that we would wish to attend.

2.34 **Boots Comments**

2.35 Whilst we accept that the application is based on benefits not foreseen when drafting the Bexley Pharmaceutical Needs Assessment (PNA), it is clear that the PNA does not identify any gaps in current pharmacy provision. Nor does it identify any future gaps and there have been no supplementary statements produced to our knowledge. The application appears to be based on the closure of a pharmacy in the area however, having also seen the 2025 draft PNA for Bexley, it mentions the pharmacy closures in the locality and still concludes that there are no gaps identified.

2.36 As the ICB will be aware, the closure of a pharmacy does not automatically create gap in services.

2.37 There are 5 pharmacies (NHS.UK) within 1 mile of the application site and therefore we believe that patients have access to existing providers and choice in this locality. We do not believe that the applicant is offering to secure any innovation by way of services or delivery and the applicant has not identified any specific patient groups that may wish to access a pharmacy at the proposed location that currently have expressed difficulty in accessing services in the area.

2.38 For these reasons we respectfully urge the ICB to refuse this application.

2.39 Please be aware that we may wish to make further representations at a later stage and attend any oral hearing that may be held in relation to the application. We would be most grateful if you could keep us informed of the progress of this application.

2.40 **Broadway Pharmacy Comments**

2.41 Please find attached our formal representations in response to the application submitted by Danson Healthcare Ltd for a new pharmacy at 137-139 Blendon Road, Bexley, Kent, DA5 1 BT, under the unforeseen benefits provision.

2.42 Our representations outline key concerns, including:

2.43 Alignment with the Current PNA – The 2022 Pharmaceutical Needs Assessment (PNA) does not identify a gap in pharmaceutical services at the proposed location.

2.44 Sufficiency of Existing Services – The area is already well-served, with five pharmacies within one mile and nine more within 1.5 miles.

2.45 Questionable Unforeseen Benefits – The applicant has failed to provide concrete evidence of significant benefits beyond existing services.

2.46 Impact on Existing Pharmacies – Granting this application may jeopardise the viability of established pharmacies, affecting service quality and continuity of care for the local community.

2.47 We respectfully urge the South East London ICB to refuse this application on these grounds.

2.48 **LMC Comments**

2.49 Londonwide LMCs have approached local GP practices to seek their views on the application and has received no representations. We therefore do not have any comments to make on this occasion, but we would be grateful if you would keep us informed of developments.

2.50 **Community Pharmacy South East London Comments**

2.51 Community Pharmacy South East London (CPSEL) acknowledges receipt of the letter from Primary Care Support Services regarding the application submitted under Regulation 18 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”).

2.52 The Bexley Pharmaceutical Needs Assessment 2022 clearly states that *“no gaps have been identified in the need for pharmaceutical services in specified future circumstances across Bexley.”* Furthermore, the draft Bexley Pharmaceutical Needs Assessment 2025, which is currently out for public consultation, also *“concludes that there are no identified gaps in the provision of NHS Necessary Services to meet the current and future needs of the population, including during both working and non-working hours.”*

2.53 The Applicant has failed to meet the burden of proof required under Regulation 18, as they have not provided sufficient evidence to demonstrate that the proposed pharmacy services would offer unforeseen benefits. The absence of substantive evidence undermines the validity of the application and renders it insufficient for approval under the current regulatory framework.

2.54 In light of the above, CPSEL submits that the application must be refused. Additionally, CPSEL requests to be kept informed of all subsequent correspondence, including any appeals process, and confirms that the Local Pharmaceutical Committee (LPC) would like to attend any hearings related to this matter.

2.55 **Applicant's response**

2.56 We continue to act for Danson Healthcare Limited. On behalf of our client we write further to your letter of 14th March 2025 and in order to respond to representations received from interested parties. Taking each letter in turn, our client comments as follows:

2.57 **Well Pharmacy**

2.58 Our client does not assert that the closure of a pharmacy automatically means that a gap has been created. Each location must be considered on a case-by-case basis. However, our client does believe that the closure of Compact Pharmacy has created a gap in service provision at its proposed location such that regulation 18 applies for the reasons given in our client's application form.

2.59 In relation to the PNA, our client has no control over whether the HWB issues an updated PNA or supplementary statement. However, it is acknowledged in the regulations that, despite changes in pharmaceutical needs or provision, an updated PNA may not be issued, hence regulation 18 which enables NHS England to grant an application to secure benefits which are not foreseen in the context of the current PNA.

2.60 The assertion that "there are 5 pharmacies located within a 1-mile radius of the proposed site" is flawed and paints a misleading picture of local service provision. Firstly, these distances are as the crow flies, not by the most practicable route. Secondly, as detailed in our client's application, there are no pharmacies within 0.9 miles of the proposed location (by the most practicable route), so that all of the nearest pharmacies are on the edge of the radius referred to by Well.

2.61 In relation to Well Pharmacy, the distance (1.6 miles) means that the Well Pharmacy is not accessible by foot since it would involve a round-trip journey of 3.2 miles, or over an hour for an able-bodied person.

2.62 In relation to the journey by car, whilst the distance "point to point" is 1.7 miles, this is door to- door distancing, but one would need to park in the Morrisons car park to get to Well Pharmacy that has its own parking restrictions. The driving distance therefore would be 1.9 miles, plus walking to/from the car to Well and this cannot be achieved in 5 minutes. It is also important to note that there is always congestion on the Crook Log junction of Danson Road and further congestion on the high street before heading to the car park, so in reality one would need to allow at least 15 minutes as a minimum on the understanding that parking is found relatively quickly and this may not be the case during busy times as the car park will also be full.

2.63 In connection with the bus services, there is no direct bus to Welling from the subject area. There is at least a one bus change followed by a 3-minute walk to get to Welling.

2.64 For the reasons given in our client's application form, our client asserts that its application would confer significant benefits in terms of a reasonable choice and access

difficulties. It is of note that Compact Pharmacy, before it closed, was dispensing around 10,000 items a month, demonstrating that it was very well used locally.

2.65 **Boots Pharmacy**

2.66 In relation to the PNA, Compact Pharmacy closed after the last PNA was issued, so the benefits that would be secured by the granting of our client's application are unforeseen in the context of the current PNA.

2.67 Boots refer to the current draft 2025 PNA but, of course, this is currently only in draft form and is subject to consultation and possible revision.

2.68 As stated above, our client does not seek to assert that the closure of a pharmacy automatically creates a gap in services.

2.69 In relation to the statement that "there are 5 pharmacies within 1 mile of the application site", we have already addressed this in relation to an identical comment by Well. The statement is not of assistance to NHS England in its determination of our client's application because these are distances as the crow flies, do not take into account local access issues (as detailed in our client's application and in this letter) and all of the pharmacies are at the edge of the given radius in any event.

2.70 In relation to access difficulties, these are, of course, detailed in our client's application, with additional information provided in this letter.

2.71 **Broadway Pharmacy**

2.72 As stated above, Compact Pharmacy closed after the 2022 PNA was published, so the need identified in my client's application is unforeseen in the context of that PNA.

2.73 Broadway Pharmacy also repeat the comment about the number of pharmacies within a given radius, which we have addressed above.

2.74 Broadway Pharmacy refer to "concrete evidence", but our client's application form does provide evidence in support of its application.

2.75 In relation to the effect of a grant on existing pharmacies, this is not evidenced by Broadway Pharmacy. As NHS England will be aware, there was a pharmacy at this location until recently, meaning that granting our client's application would simply restore service provision and would therefore be unlikely to have a significant detrimental effect on other pharmacies.

2.76 **Day Lewis**

2.77 In relation to demographic data, it is not clear how comparisons with national age profiles will assist NHS England in its determination of our client's application. However, it is clear that the local ward has a higher number of residents aged over 65 compared to both Bexley and national averages. In relation to the "need for a community pharmacy" at the proposed location, it is not clear what Day Lewis means in its statement that this need is not "significantly different to any other part of the country". NHS England must, of course, assess our client's application based on the location specified, and each location must be considered on its own merits. Our client has explained in detail in its application form why granting its application would secure improvements and better access, and the local age profile is an additional matter to consider as part of the evidential matrix in this case.

2.78 As above, our client does not assert that the closure of one pharmacy "automatically" leads to a conclusion that there is a gap in pharmaceutical services provision. However,

it has led to a gap at the location proposed by our client for the reasons given in our client's application form and in this letter.

2.79 Day Lewis also make the same flawed comments as the other interested parties in relation to the number of pharmacies within a radius of the proposed location. In relation to those pharmacies, it is of note that 3 of them are located in a cluster, which does not assist patients with accessibility (that is, if they find it difficult to get to one of them, they will find it difficult to get to all 3 of them).

2.80 Day Lewis state that "this is an area where residents are highly mobile", but no evidence is provided to support this statement. In relation to car ownership, whilst car ownership is higher than "average", there are still 1 in 7.5 households (approximately) with no car or van.

2.81 Even for those with a car, access to existing pharmacies is difficult for the reasons given in our client's application form, in particular in relation to traffic, busy road junctions and limited parking which may be some distance away from the pharmacy being accessed.

2.82 In relation to the petition, it is of note that engaging in a petition was a long-drawn affair using support from the local councillor, [N O'Hare], who assisted in compiling the terminology for the purposes of canvasing the closure. This petition was made available to both the local member of parliament and to the ICB, inviting them to look at these matters. The ICB did provide good guidance via the councillor on next steps to be taken and information of links as to where this petition should be sent within the ICB. Naturally, these are matters of concern to the public as stakeholders and it is only fair that the same information is once again presented to the relevant department of the ICB in taking regard of what the community also requires.

2.83 In relation to "evidence" to support the petition responses, our client's application does, of course, evidence how and why existing pharmacies are difficult to access and do not secure a reasonable choice of service provision.

2.84 In relation to the A2, Day Lewis assert that simply upon the basis that there is an A2 (Danson interchange) junction, this must mean that people are able to travel anywhere. It must be appreciated that the Blendon/Sherwood Park Avenue parades thrive because of the passing trade coming in from Penhill Road to join up to the A2. It is for these reasons that the parades house a petrol filling station and Blackfen does not. The comments that our client provided should be construed upon the basis that Blendon/Sherwood Park parades are an important community/business hub, and not only does it provide a function of the passing trade of the A2 interchange but also serving the general community with the local area.

2.85 Day Lewis states that there is adequate parking outside pharmacies based in Blackfen. No further details have been provided as to whether the parking facilities are adequate to cover most of the Blackfen parades. It should be noted that Blackfen is based on a crossroads with an extensive number of retail shops. Historically, the Co-op car park used to be part of a supermarket that considered the location unviable and eventually Co-op took over the unit and the old supermarket car park is now effectively the only car park that services between 100 and 115 retail units (there is no parking outside those units). In our client's view, this is very small to achieve the purpose to include adequate car parking all the time. It should be noted that during peak times, there is difficulty finding parking spaces as the area is on a busy crossroads section and supports several primary/secondary schools. It is accepted that the car park is managed by a different company, but it is essentially the co-op car park which has coop signage.

2.86 The comment from Day Lewis in relation to GP surgeries misses the point being made by our client in support of its application. Pharmacy service provision now is much more independent of a visit to a GP because of ETP and the greater range of advanced services available. The absence of a local GP surgery therefore does not demonstrate patient mobility but demonstrates a gap in healthcare advice and services that can be met by granting our client's application.

2.87 In relation to pharmacy closures, whilst it is acknowledged that some pharmacies have closed due to funding arrangements, others have closed due to business decisions and consolidations.

2.88 Compact Pharmacy was dispensing approximately 10,000 items per month before it closed, so it is submitted that its closure was not the result of a lack of viability.

2.89 **LMC**

2.90 Our client has no comments to make on the contents of this letter.

2.91 **LPC**

2.92 As above in respect of the letter from Boots, the contents of a draft PNA are not determinative of this application.

2.93 In relation to "evidence", NHS England is referred to our client's application form and supporting documentation along with the contents of this letter.

2.94 **Conclusion**

2.95 On behalf of our client we therefore invite NHS England to conclude that our client's application would secure improvements and better access to pharmaceutical services and to grant it.

2.96 We look forward to hearing from you.

2.97 **Regulation 31**

2.98 There are no pharmacies in the immediate vicinity of this application so regulation 31 is not engaged.

2.99 **Regulation 32**

2.100 There are currently no LPS designations in this area therefore regulation 32 is not engaged.

2.101 **General Comments**

2.102 The relevant PNA for this Application is the PNA published by Bexley HWBB in Sept 2022. This is the latest published PNA.

2.103 The PNA has not identified any current or future needs, not any identified improvements or better access currently or in the future.

2.104 **18(1)(a)** [quoted in full]

2.105 The London Region PSRC considers that Regulation 18(1)(a) was satisfied in that NHSCB was required to determine whether it was satisfied that granting the application, or granting it in respect of some only of the services specified in it, would

secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB.

2.106 **18(1)(b)** [quoted in full]

2.107 The relevant PNA for this Application is the PNA published by Bexley HWBB in Sept 2022. This is the latest published PNA.

2.108 The officer considered the Bexley Pharmaceutical Needs Assessment 2022 ("the PNA") prepared by Bexley Health and Wellbeing Board, conscious that the document provides an analysis of the situation as it was assessed at the date of publication. The ICB bears in mind that, under regulation 6(2), the body responsible for the PNA must make a revised assessment as soon as reasonably practicable (after identifying changes that have occurred that are relevant to the granting of applications) unless to do so appears to be a disproportionate response to those changes. Where it appears disproportionate, the responsible body may, but is not obliged to, issue a Supplementary Statement under regulation 6(3). Such a statement then forms part of the PNA. It is noted that the PNA was dated Sept 2022 and that there had been one supplementary statement issued, in Sept 2022.

2.109 The applicant seeks to provide unforeseen benefits to Blendon/Penhill Ward in Bexley. The improvements or better access that the Applicant was claiming would be secured by its application were not included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1.

2.110 Therefore, the application would need to be assessed in accordance with the regulations under 18(2) [Regulation 18(2)(a)(i) quoted in full].

2.111 There are 15 pharmacies within 2 kms of the application site, as the crow flies as per NHS Choices website. Granting a new pharmacy application could cause detriment to proper planning or the arrangement in place for pharmaceutical services.

2.112 **The London Region PSRC have determined that the granting of this application may result in the over provision of essential services in the area. This may cause detriment to proper planning of pharmaceutical services or the arrangements in place for the provision of pharmaceutical services in this area.**

2.113 **At present there is no evidence that this will be significant.**

2.114 [Regulation 18(2)(a)(ii) quoted in full]

2.115 The conclusions above relating to 18(2)(a)(i) applied equally to Regulation 18(2)(a)(ii).

2.116 **The London Region PSRC have determined that the ICB was 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.**

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

2.118 [Regulation 18(2)(b)(i) quoted in full]

2.119 There are 15 pharmacies within 2kms of the proposed site. The nearest ones as the crow flies are 0.8 miles away. We have reviewed the information for all of those under 1 mile and two just over a mile who have made comments on this application. For all of these we have looked at the straight-line distance, walking distance, public transport distance and driving distance, the details are listed below:

| Pharmacy | Address | Straight line distance | Walking distance | Approx. walking time |
|---|---|---|---|---|
| Day Lewis | 253 Westwood Lane, DA15 9PS | 0.8 miles | 0.9 miles | 19 minutes |
| Osbon | 24 Steynton Ave, DA5 3HP | 0.8 miles | 1.1 miles | 24 minutes |
| Olins | 3 The Oval, DA15 9ER | 0.8 miles | 0.9 miles | 21 minutes |
| Crook Log | 329 Broadway, DA6 8DT | 0.9 miles | 1 miles | 23 minutes |
| Browns Chemist | 252 Blackfen Rd, DA15 8PW | 0.9 miles | 0.9 miles – | 19 minutes |
| Well | CWS Superstore, 71-79 High Street, DA16 1TU | 1.1 miles | 1.6 miles | 37 minutes |
| Broadway | 172 Broadway, DA6 7BN | 1.1 miles | 1.4 miles | 31 minutes |

2.120 There are two pharmacies with a walking distance of under 20 minutes and three more just over 20 minutes. For the area served this would be reasonable.

2.121 Distances from the proposed site to the nearest pharmacies by public transport (bus) and by car:

| Pharmacy | Address | Public | Distance to | Car |
|---|---|---|---|---|
| Day Lewis | 253 Westwood Lane, DA15 9PS | 10 mins Frequency between 10 and 20 minutes peak time | 2 minutes one end and 3 minutes the other | 3 mins |
| Osbon | 24 Steynton Ave, DA5 3HP | 12 mins Frequency every 30 minutes peak time | 3 minutes either end | 5 mins |
| Olins | 3 The Oval, DA15 9ER | 11 mins Frequency every 20 minutes peak time | 4 minutes either end | 4 mins |
| Crook Log | 329 Broadway, DA6 8DT | 10 mins Frequency every 30 | 4 minutes at one end none the other | 5 mins |

| | | | | |
|---|---|---|---|---|
| | | minutes peak time | | |
| Browns Chemist | 252 Blackfen Rd, DA15 8PW | 10 mins Frequency every 10 minutes peak time | 1 minutes one end and 3 minutes the other | 5 mins |
| Well | 71-79 High Street, DA16 1TU | 24 mins Frequency every 30 minutes peak time | 16 minutes one end and 4 minutes the other | 6 mins |
| Broadway | 172 Broadway, DA6 7BN | 20 mins Frequency every 15 minutes peak time | 4 minutes at either end | 6 mins |

2.122 All of the public transport options have a walk to and from the bus stops, some are longer than others. Bus journeys and frequencies vary but are not overly lengthy. Car journeys are reasonably shorter but will vary with traffic and time to find parking.

2.123 The applicant had suggested in their application that Compact pharmacy before it closed was dispensing approx. 10,000 items per month, when reviewing the stats in the year that this closed, it is apparent that this figure is much higher than the actual dispensing figures reported. These are all around 4,000 per month.

2.124 The applicant is offering opening hours as follows:

2.124.1 Core hours

2.124.2 Mon to Fri – 9.15am to 5.15pm

2.124.3 Total Hours

2.124.4 Mon to Fri – 9.15am to 6.30pm, Sat 9.15am to 2.15pm

2.125 These are broadly line with the hours offered by other local pharmacies, although there are some offering services starting earlier and closing layer [sic]. The services offered by this applicant is also in line with other local pharmacies.

2.126 **The London Region PSRC have determined that it is satisfied that residents of this part of Bexley have a reasonable choice of pharmacies. Therefore, if the application were granted this would not secure improvements and better access to pharmaceutical services.**

2.127 [Regulation 18(2)(b)(ii) quoted in full]

2.128 There is no information regarding difficulty in accessing services for those that share a protected characteristic other than the location and distance to be travelled to pharmacies. This is not exclusive to those that share a protected characteristic.

2.129 **Therefore, the London Region PSRC have determined it is 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.**

2.130 [Regulation 18(2)(b)(iii) quoted in full]

2.131 **The London Region PSRC have determined it is not satisfied that there are innovative approaches with regard to pharmaceutical services within this application.**

2.132 Regulation 19 - Deferral

2.133 n/a as not deferred

2.134 **Decision**

2.135 The London Region PSRC have determined that there is enough information within the papers to decide the application without an oral hearing.

2.136 There are no pharmacies within the immediate vicinity of the application, so regulation 31 is not engaged.

2.137 With regard to 18(1)(a) the London Region PSRC is satisfied that they were required to determine the application.

2.138 With regard to 18(1)(b) the London Region PSRC is satisfied that the application would need to be assessed in accordance with the regulations under 18(2)

2.139 With regard to 18(2)(a)(i) & (ii) In the absence of any significant detriment as described in Regulation 18(2)(a), the London Region PSRC was not obliged to refuse the application and went on to consider Regulation 18(2)(b).

2.140 With regard to 18(2)(b)(i) the London Region PSRC is satisfied that residents of this part of Bexley have a reasonable choice of pharmacies.

2.141 With regard to 18(2)(b)(ii) that the London Region PSRC is 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.

2.142 With regard to 18(2)(b)(iii) the London Region PSRC is not satisfied that there are innovative approaches with regard to pharmaceutical services within this application.

2.143 The London Region PSRC has determined that the applicant has not fulfilled the criteria as required in regulation 18(1) & 18 (2) and therefore the Pharmaceutical Services Regulations Committee has refused the application

2.144 Determination made by London PSRC on behalf of NHS South East London ICB."

## 3 The Appeal

In a letter dated 26 June 2025 addressed to NHS Resolution, Temple Bright LLP on behalf of the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

3.1 "I act for Danson Healthcare Limited. On behalf of my client, I write to appeal a decision of NHS England to refuse my client's application for inclusion in the pharmaceutical list offering unforeseen benefits for premises at 137/139 Blendon Road, Bexley, DA5 1BT. The decision was notified to my client by letter dated 29th May 2025.

3.2 My client's ground of appeal is that NHS England failed to have proper regard to the detailed information provided in support of my client's application: NHS England appears to have adopted a broadbrush approach to consideration of the provision of

pharmaceutical services (using the number of pharmacies within a wide radius) rather than considering the granular information provided by my client in support of its application.

3.3 By way of background, my client applies for inclusion in the pharmaceutical list for premises at 137/139 Blendon Road, Bexley, DA5 1BT.

3.4 Since 1983 there had been a pharmacy at these premises (Compact Pharmacy) which had served the community's health needs extensively. However, Compact Pharmacy closed in mid-2024 (after the company which owned it went into administration) and this has resulted in a gap in service provision for the local community. Compact Pharmacy was dispensing approximately 10,000 items per month before it closed, so it is submitted that its closure was not the result of a lack of viability.

3.5 Many local residents were upset by the closure of Compact Pharmacy since it has left them without reasonable access to pharmaceutical services. In fact, a petition was organised before the closure of Compact Pharmacy which was signed by 650 people (attached).

3.6 In relation to the petition, it is of note that engaging in a petition was a long, drawn-out affair using support from the local councillor, Nick O'Hare, who assisted in compiling the terminology for the purposes of canvasing the closure. This petition was made available to both the local member of parliament and to the ICB, inviting them to look at these matters. The ICB did provide good guidance via the councillor on next steps to be taken and information of links as to where this petition should be sent within the ICB. Naturally, these are matters of concern to the public as stakeholders and it is only fair that the same information is once again presented to NHS Resolution when having regard to the depth of feeling amongst the local community.

3.7 My client therefore applied to, in essence, re-open the pharmacy which had been located within the Blendon Road shopping parade for over 40 years. My client understands that the closure of a pharmacy does not automatically lead to a gap in service provision but explained in detail in its application form why the closure of Compact Pharmacy had created a gap in service provision.

3.8 In terms of the local area, the proposed pharmacy would be located in the Blendon/Penhill ward areas. The Blendon/Penhill ward areas were originally built as suburban family estates, initially constructed in the 1930s. Urban overflow was greater in the 1960s when young families moved in. Most of the parents from then are of an elderly profile needing care and support, and as they are moving on more younger families with children are considering this area as a prime location. The reason for this being that the location has good primary schools in the near surroundings (Hurst Primary and Sherwood Park primary) together with various grammar schools and comprehensive schools.

3.9 The proposed pharmacy would be located in premises which are within a parade of shops in Blendon, Bexley. The parade includes the following: funeral parlour, bookmakers, convenience stores, angling supplies, bakery, partyware shop, dental clinic, newsagents and several takeaway restaurants. There is also a pub/restaurant opposite the parade (the Three Blackbirds). Within approximately 200m of the parade there is also an Audi dealership, a Halfords garage and a Shell petrol station with an attached Little Waitrose. There is a further parade which is linked to the Blendon Road parade on Sherwood Park Avenue (numbers 242 - 276). This parade includes a further supermarket together with Post Office/off licence, fish and chip shop together with various food outlets/restaurants, a drycleaner, a cafe, florist, hairdressers and barbershop.

3.10 Importantly, the Blendon Road/Sherwood Park Avenue shopping parades (and other nearby commercial units) are very closely associated with the A2 road junction which significantly increases local use of the facilities at the proposed location as shown in the google maps image below.

3.11 The proposed location within the shopping parade is therefore well used by the local community for their daily needs and acts as a hub for the surrounding residential estates.

3.12 Against the above background, my client believes that granting its application would secure improvements in, and better access to, pharmaceutical services. In particular, it would confer significant benefits in terms of:

3.12.1 Patients who have a relevant protected characteristic and who require access to pharmaceutical services but who currently find access difficult.

3.12.2 Patients having a reasonable choice of service provision

3.13 Since Compact Pharmacy closed after the publication of the last PNA, the benefits that would be secured by the granting of my client's application are unforeseen in the context of that PNA.

3.14 <u>Access to existing pharmacies</u>

3.15 My client believes that existing pharmacies are difficult to access for the reliant population. As a starting point, it is of note that there are no pharmacies within 0.9 miles of the proposed location by the most practicable route. This means that all pharmacies present difficulties with access, particularly for those patients who are unwell, more vulnerable or who have reduced mobility.

3.16 Looking at the nearest pharmacies in turn, my client comments as follows:

3.17 **Day Lewis Pharmacy and Brownes**

3.18 Day Lewis and Brownes pharmacies are located at least 0.9 miles to the west of the proposed location as shown in the google maps image below in Blackfen. Given the location of those pharmacies within their own parade of shops (which are similar in nature to the retail units at my client's proposed location), it is submitted that those living around the proposed location would have no reason to be in the vicinity of those pharmacies as part of their daily lives.

3.19 The route takes pedestrians along the A210 and is a 20 minute walk (each way) for those walking at a reasonable, average pace. This is a significant distance for patients to walk, particularly those with reduced mobility or with young children.

3.20 It should be noted that the walking journey to Blackfen also carries various risks to do with crossing Penhill Road followed by Sherwood Park Avenue and access in and out of the petrol station before heading onto Blackfen Road. These junctions are not easy to navigate as the proper pedestrian crossing is beyond the petrol station. Some of the footpaths are not Equality Act compliant and care must be taken to cross the roads, which poses problems for persons with disability/elderly and parents with pushchairs, etc.

3.21 For those who are unable to walk, not all of the buses that serve the Blendon area also serve Blackfen. In relation to route 132 (which does pass near to both locations), the 132 bus journey that goes towards Blackfen starts its journey from Bexleyheath and travels up to North Greenwich (the o2). On this bus journey, there are numerous secondary schools effectively starting from Bexleyheath to beyond Blackfen as follows:

3.21.1 Bexleyheath Academy

3.21.2 St Catherine's Girls and St Columba's Boys

3.21.3 Beths Grammar School

3.21.4 Blackfen Girls School

3.21.5 Bexley Grammar School

3.21.6 Crown Woods Academy

3.22 There can be considerable problems with behaviour of the bus journey, this is for the following reasons:

3.22.1 If there is a traffic issue (which often is the case during peak times), this leads to choking up of the flow of buses in either direction and they more than often failed to complete the loop.

3.22.2 In addition, given the extent of school children that heavily rely on this service in both directions, some buses will be exclusively run for children and others will be quite full and will not always permit passengers to board as there is often limited capacity during peak school times and peak travel times.

3.23 In relation to access by car, it is of note that, according to the 2021 census, 1 in 7.5 households in the ward do not have a car or van at all. Even for those that do have a car, car parking at Blackfen is insufficient to meet local needs. It should be noted that Blackfen is based on a crossroads with an extensive number of retail shops. Historically, the Co-op car park used to be part of a supermarket that considered the location unviable and eventually Co-op took over the unit and the old supermarket car park is now effectively the only car park that services in excess of between 100 and 115 retail units (there is no parking outside those units). In my client's view, this is very small to achieve the purpose to include adequate car parking all the time. It should be noted that during peak times, there is difficulty finding parking spaces as the area is on a busy crossroads section and supports several primary/secondary schools.

3.24 It is therefore submitted that access to the Blackfen pharmacies is difficult.

3.25 **Olins Pharmacy**

3.26 Olins Pharmacy is located 0.9 miles to the west of the proposed location as shown in the google maps image below. Ollins Pharmacy is located in a small parade of shops at The Oval and, it is submitted, those living around the proposed location or using the Blendon shops would have no reason to be in the vicinity of the Olins Pharmacy as part of their daily lives.

3.27 The route involves is a 19 minute walk (each way) for those walking at a reasonable, average pace. This is a significant distance for patients to walk, particularly those with reduced mobility or those walking with children.

3.28 For those who are unable to walk, there is no direct bus route between the proposed location and Olins Pharmacy, meaning that Olins Pharmacy cannot be accessed by direct public transport from the proposed location.

3.29 In relation to access by car, parking at Olins Pharmacy is insufficient to meet local needs. There is on street parking at the Oval, but the number of spaces is limited, and is insufficient for the number of shops located in the parade.

3.30 It is therefore submitted that access to the Olins Pharmacy is difficult.

3.31 **Osbon Pharmacy**

3.32 Osbon Pharmacy is located 1.1 miles to the south of the proposed location as shown in the google maps image below. Osbon Pharmacy is located in a small parade of shops and, it is submitted, those living around the proposed location would have no reason to be in the vicinity of the Osbon Pharmacy as part of their daily lives.

3.33 As can be seen from the above, the route is not straightforward and requires pedestrians to wind their way through residential streets. It is a 28-minute walk (each way) for those walking at a reasonable, average pace. This is a significant distance for patients to walk, particularly those with reduced mobility.

3.34 For those who are unable to walk, as for Day Lewis there is only one bus route which connects the proposed location with Osbon Pharmacy – the B14. The B14 bus starts its journey from Bexleyheath and finishes its journey at Orpington Station (12 miles each way). Nearing the bus route there are again several secondary schools that rely on this service, meaning that buses can be full of school children at certain times of day. The schools are as follows:

3.34.1 Hurstmere School

3.34.2 Cleeve Park School

3.34.3 Christ The King

3.35 This bus runs on a half hourly timetable and again carries higher risks of delays during school times and peak times as it also faces the traffic around Sidcup/Orpington High Street. This can often be a difficult option for reasons that if it does not turn up, one might be waiting a very long time, added to the fact that patients must also make a return journey as well. It should also be noted that the B14 bus stop is on the south side of Albany Park Station and one has to go over the footbridge to get to the other side where the pharmacy is located. This footbridge is much lower down compared to the bus stop and then there are rising steps on either side. Therefore, access from the bus stop to the pharmacy is no step free nor is it Equality Act compliant, which makes it difficult for elderly persons or persons with wheelchairs.

3.36 In relation to access by car, whilst Olins Pharmacy is in a parade of shops which has some parking, and a car park nearby, it is of note that this is shared with Albany Park train station, meaning that there is significant pressure for spaces, which also incur a charge. There are also predominantly yellow lines and resident-only parking restrictions.

3.37 **Other pharmacies**

3.38 Other pharmacies in the wider area are clustered in central Bexleyheath, Welling and Bexley. These pharmacies are further away than the three pharmacies summarised above, meaning that they are inaccessible by foot due to distance.

3.39 The difficulties with all of these locations is that they are in busy and congested “town centre” localities. This means not only that traffic is an issue, but also that “point to point” distances are meaningless because patients have to drive to car parks (or take public transport) and then walk some distance to the pharmacy itself, before repeating the journey in reverse.

3.40 Additionally, given that Blendon is on the south side of the A2, there are only three real ways to get towards Welling or Bexleyheath from the nearer vicinity:

3.40.1 Danson Underpass that leads to Danson Road. To navigate towards Danson Road, it is generally quite difficult and risky as both the A2 roundabout and the Penhill roundabouts must be navigated before getting onto the left side of the Danson Underpass. Further roads have then got to be crossed either to get towards the right side of Danson Road or heading towards Brook Lane. This is a very difficult and dangerous walk as there is generally fast-moving traffic on all the linking roads. It should also be noted that there are no pedestrian crossings on these roundabouts, and it can make it dangerous for persons with walking difficulties and parents/carers with pushchairs

3.40.2 Pedestrian underpass linking from Banwell Road to Brook Lane. Whilst this underpass has been in existence for many years, this is seldom used as it is a narrow lit up tunnel that goes under the A2 for pedestrians. Whilst the tunnel has concave mirrors to show if somebody is within the tunnel, this is not properly monitored by CCTV. More than often, the lights get damaged, there is a lot of litter and graffiti and there have been historic incidents, so most people are not keen on using this tunnel at leisure. The tunnel is used as a necessity and more by persons that are bold and do not have any worries of being intimidated, even though that may be only a potential risk

3.40.3 Arbuthnot Lane linking from Bridgen Road. To get to Arbuthnot Lane, the road slopes downwards so there is a hill when returning, and to get towards Bexleyheath there is a further incline as well.

3.41 By way of further general comments in connection with bus travel, it should be noted that even the online timetabling systems are never up to date as both the journeys referred to above (132 & B14) can be heavily constrained by delays etc. This then adds further confusion and lack of timing to catch the relevant buses. In addition, many elderly persons are not able to use web-based telephones and will not be able to download apps to assist them effectively in terms of bus travel. There have also been many occasions of journey diversions due to road works, with the most recent one a few months ago when the entire road through Bexley Village was shut down for a couple of weeks due to a sink hole. There are also often gas/roadworks that hinder journey timings etc.

3.42 For the above reasons, my client asserts that existing pharmacies are difficult to access. In order to support this assertion, my client has been engaging with the local community. Its application has received significant support, and many local residents have been kind enough to speak to my client and to provide information as to their experience of access to local pharmacies.

3.43 I **attach** to this letter, summaries of the discussions with various patients. The names and addresses of the patients have been redacted, but this information can be supplied to NHS Resolution if required [Applicant's emphasis].

3.44 By the very nature of information gathering, only a sample can be provided of local views, since it is not possible to canvass every local resident who may be experiencing difficulties with the pharmacy network. However, my client believes that these summaries are of real evidential value to NHS Resolution in determining this appeal and should be given significant weight (the detailed responses do, of course, accord with the significant number of local residents who signed the petition when Compact Pharmacy was closing).

3.45 I have no doubt that NHS Resolution will carefully consider the contents of all the attached, and will note themes that repeat through the conversations with local residents. These include:

3.45.1 Being elderly and frail

3.45.2 Caring for others, with difficulty leaving the home for long periods due to those caring responsibilities

3.45.3 Specific health conditions, including cancer, alzheimer's, heart problems, hip fracture, stroke, Parkinsons, pregnancy, arthritis, diabetes, COPD, bladder problems, back problems

3.45.4 Reduced mobility, including only being able to walk short distances and with walking aids

3.45.5 Being on multiple medications, including acute prescriptions which require urgent dispensing

3.45.6 Difficulties with access to the remaining pharmacies, and difficulties with delivery services

3.45.7 Lack of car ownership and difficulty with access by car (including congestion, parking difficulties, parking charges and disabled spaces being full)

3.45.8 Difficulties with public transport (particularly linked to health conditions which make using buses difficult)

3.45.9 Reduced opening hours of pharmacies (for example, Day Lewis Pharmacy not being open on a Saturday)

3.45.10 The inability to reach existing pharmacies by mobility scooter

3.45.11 The difficulty of travelling to pharmacies with small children

3.46 All of those who took the time to discuss their particular issues with my client expressed their support for the re-opening of a pharmacy at the Blendon Parade, the anxiety that has been caused by the closure of Compact Pharmacy and why reopening a pharmacy would be of significant benefit to them. Many also commented that their experience is similar to their friends and neighbours, so that they were not speaking as isolated voices.

3.47 Having regard to the above, it is submitted on behalf of the applicant that there is ample evidence that existing pharmacies are difficult to access for those who have a protected characteristic and require access to pharmaceutical services, and that granting this application would confer significant benefits in terms of overcoming those access difficulties.

3.48 <u>Reasonable choice of service provision</u>

3.49 It is submitted that, in light of the above information, residents at the proposed location (and, in particular, those who live in the vicinity of the Blendon Road shops and/or who use those shops as part of their daily lives) do not have a reasonable choice of service provision.

3.50 In short, pharmacies that are difficult to access cannot secure a reasonable choice of service provision. Since, for the reasons given above, the existing pharmacy network is difficult to access for many, it follows that patients do not have a reasonable choice of service provision.

3.51 That is particularly the case given the fact that there was a well-used pharmacy at the proposed location for over 40 years, such that patients had been accustomed to having the choice to access a pharmacy from their local shopping parade.

3.52 In addition, the closest GP surgery is 0.7 miles away (or a 20-minute walk) away (noting that not all residents of Blendon will be registered at the nearest surgery). This means that not only is there no longer a community pharmacy serving the local population, but also the nearest GP surgery is some distance away.

3.53 Granting my client's application would therefore offer the community additional healthcare provision, and would be of particular benefit in terms of providing advanced services such as the Pharmacy First scheme since we would be able to provide treatments for minor conditions such as coughs, tonsillitis, UTIs etc. In essence, it would give patients the choice to be able to access a range of healthcare services from their local community, a choice that they currently do not have.

3.54 Conclusion

3.55 In conclusion, it is submitted on behalf of the applicant that granting its application would secure improvements in, and better access to, pharmaceutical services for the reasons given above.

3.56 Granting the application would confer significant benefits in terms of securing a reasonable choice of service provision and overcoming access difficulties that exist due to the lack of pharmaceutical service provision for the local community.

3.57 The proposed premises already have excellent modern facilities with a consultation room, meaning that the applicant would be well equipped to commence the provision of services without delay should its application be granted. My client will ensure that it employs pharmacists that have the accreditation to provide advanced services such as blood pressure services, vaccinations and the Pharmacy First service.

3.58 For the reasons given above, my client therefore invites NHS Resolution to uphold this appeal and to grant its application.

3.59 I look forward to hearing from you."

## 4 Summary of Representations

This is a summary of representations received on the appeal.

4.1 Broadway Pharmacy

4.1.1 "I write further to the appeal lodged by Danson Healthcare Ltd regarding their application for inclusion in the pharmaceutical list for 137-139 Blendon Road, Bexley.

4.1.2 I wish to reaffirm and expand on the points set out in my original objection, particularly in light of the appeal submission, which does not present any substantive new information or unforeseen benefit that would justify a change in the original decision.

4.1.3 **1. The Pharmaceutical Needs Assessment (PNA) Remains Valid**

4.1.4 The most recent PNA for Bexley does not identify a gap in pharmaceutical provision in this area. The closure of a pharmacy does not automatically create a gap, nor has any supplementary statement been issued since the closure of Compact Pharmacy that suggests a change in need. The applicant has not provided any new evidence to contradict this.

4.1.5 **2. No Material Change Since the Original Application**

4.1.6 The appeal largely repeats the points made in the original application, including references to:

4.1.6.1 The closure of Compact Pharmacy, which, as previously noted, does not automatically justify a new pharmacy contract.

4.1.6.2 A petition dated August 2024, which remains outdated and was organised by the landlord with a vested interest. This document does not represent objective evidence of patient need.

4.1.6.3 Patient anecdotes, which, while sympathetic, do not meet the threshold for regulatory approval under the NHS regulations, particularly given the availability of services within the area.

4.1.7 **3. Existing Pharmaceutical Services are Sufficient**

4.1.8 The local area remains well served by several pharmacies within a reasonable distance, with no evidence provided that access to these is materially inadequate in accordance with the regulations. The applicant's repeated focus on walking distances and transport links does not amount to evidence of a gap in service or difficulty that meets the regulatory threshold for granting this type of application.

4.1.9 **4. No Relevant Unforeseen Benefit Identified**

4.1.10 The appeal does not demonstrate any unforeseen benefit that would meet the criteria under Regulation 18.

4.1.11 The application lacks any innovation in service delivery.

4.1.12 The proposed services are no different from those already provided by existing pharmacies.

4.1.13 No new commissioned services or enhanced access arrangements have been offered.

4.1.14 **5. Risk to Existing Providers**

4.1.15 As highlighted previously, granting this application could destabilise existing providers, potentially jeopardising established services for the local community without delivering any additional benefit.

4.1.16 **Conclusion**

4.1.17 In summary, this appeal provides no new material evidence that would warrant a change in the original decision. The applicant has failed to show how granting this application would secure improvements or better access that were unforeseen when the PNA was last published.

4.1.18 We respectfully request that NHS Resolution uphold the original decision and reject the appeal."

4.2 Day Lewis PLC

4.2.1 "On behalf of Day Lewis plc, who provide pharmaceutical services from premises at 53 Westwood Lane, Blackfen, I wish to respond to this appeal.

4.2.2 We continue to object to this application and ask the Primary Care Appeals Committee ("the Committee") to take our original representation, as attached, into account when considering this application.

4.2.3 We have no further comments to make currently and look forward to receiving the outcome of this appeal in due course.

4.2.4 Should the committee wish to convene an oral hearing to determine this application we would wish to attend."

Letter to the Commissioner dated 6 March [see 2.27 to 2.33 above].

4.3 Boots UK Limited

4.3.1 "We agree with the decision of the NHS South East London ICB and their reasoning to refuse the application as above.

4.3.2 We stand by our comments in our objection letter, and we have attached this for your information.

4.3.3 The fact that a pharmacy has closed in the area does not automatically create a gap. We accept than many patients may be inconvenienced by the closure of a pharmacy, but convenience and desirability are not considerations when determining an application for a new pharmacy contract. We note that the residents petition that has been submitted with the appeal is titled as follows;

4.3.4 ***Importance of maintaining pharmacy services in our Blendon and Penhill area***

4.3.5 ***We the undersigned residents of Blendon and Penhill area desire to have a pharmacy within our community and would like the council and NHS together to maintain and achieve this aim.***

4.3.6 There is no context as to how the information as part of this petition was obtained and how the participants were chosen to take part. The fact that the title contains the wording "desire" could be misleading. We believe that if any patients were asked if they would like, or desire a pharmacy within their community, they are likely to say yes. It is also of note that one of the written and redacted comments included within the appeal bundle, page 3, (although there appears to be more than one page 3?) talks about Mrs T who is 83 years old and is now having to use Lloyds pharmacy in Blackfen? To our knowledge all Lloyds pharmacies have now closed or changed ownership? The patient may be referring to an old Lloyds pharmacy, but it has made us challenge the factual content therefore of some of the responses.

4.3.7 Boots UK Ltd have no further comments to make, and we respectfully ask that NHS Resolution inform us of the decision in due course."

Letter to the Commissioner dated 12 March 2025 [see 2.35 to 2.40 above].

4.4 The Commissioner

4.4.1 "We are responding to the above appeal. Please read this response in conjunction with our decision report.

4.4.2 The map provided appears to suggest that this is a best estimate application, but that is not the case, the application has provided a proposed premises with the address as above.

4.4.3 The applicant has provided additional information at the appeal including a petition, the details of this have been redacted so we are unable to comment on these. This is new information that was not provided with the application and appears to have been complied after the application was refused.

4.4.4 We note that the PNA states on page 103

4.4.5 *A previously published article suggests:*

4.4.5.1 *89% of the population in England has access to a community pharmacy within a 20-minute walk*

4.4.5.2 *This falls to 14% in rural areas*

4.4.5.3 *Over 99% of those in areas of highest deprivation are within a 20-minute walk of a community pharmacy "89% of the population of Bexley*

4.4.6 Page 107 In summary:

4.4.6.1 *Driving: 96.1% of the population can drive (off-peak) to a pharmacy within 5 minutes (100% within 10 minutes) and 92.3% of the population can drive (peak) to a pharmacy within 5 minutes (100% within 10 minutes)*

4.4.6.2 *Public transport: 88.3% of the population can reach the nearest pharmacy in the morning within 10 minutes and 88% in the afternoon*

4.4.6.3 *Walking: 98.6% of the population can walk to a pharmacy within 20 minutes (100% within 30 minutes)*

4.4.7 This indicates that when the PNA was written what local parameters were used in assessing access and choice.

4.4.8 The decision report outlines that there are two pharmacies with a walking distance under 20 minutes and three more just over 20 minutes walking distance. These are all owned by different entities and therefore give patients a choice of type of pharmacy to visit. We note the comments made in the appeal regarding travel by bus, regarding traffic and school children using the services, but these comments would be the same for any bus journey and are not specific to these journeys.

4.4.9 We also noted in the decision report that at the time that the pharmacy closed the prescription volume was much lower than quoted in the application and they were dispensing approximately 4,000 items per month and not 10,000.

4.4.10 The hours offered are broadly in line with other pharmacies in the area.

4.4.11 When the application was made there was no mention of any difficulties for patients with protected characteristics specifically.

4.4.12 Whilst the PNA used for this application is the one published in 2022, the next PNA has been out for consultation and we are currently waiting for this to be published, but at the draft stage the PNA did not find any identified gaps in the current provision of service. Which would suggest that the HWBB did not feel that a pharmacy was needed in this area and that the closure of the pharmacy in question had not detrimentally effected access to pharmacies in this HWBB area.

4.4.13 The main contention in this appeal appears to be access and choice. As there are a number of pharmacies in this area, the London Region PSRC determined that it was satisfied that residents of this part of Bexley have a reasonable choice of pharmacies and that if the application were granted it would not secure improvements or better access to pharmaceutical services. We would therefore ask that this appeal is dismissed."

## 5 Observations

This is a summary of the observations received.

5.1 Temple Bright LLP on behalf of the Applicant

5.1.1 "I write further to your letter of 6th August 2025 and, on behalf of my client, to respond to representations made by interested parties in respect of my client's appeal. Taking each letter in turn, my client comments as follows:

5.1.2 **Broadway Pharmacy**

5.1.3 Taking each of the points raised by Broadway Pharmacy, and adopting the headings in the Broadway Pharmacy letter, my client responds as follows:

5.1.4 <u>The Pharmaceutical Needs Assessment (PNA) Remains Valid</u>

5.1.5 As stated in previous correspondence, the current PNA (published in 2022) is out of date because Compact Pharmacy closed after the publication of the PNA. Whilst it is correct that no supplementary statement has been issued in respect of the Compact Pharmacy closure, this is, of course, a matter for the HWB and outside the control of my client.

5.1.6 It is certainly the position that a supplementary statement should have been published to note the change in service provision. However, the purpose of a supplementary statement is not to identify gaps in service provision caused by a pharmacy's closure, so that the publication of a supplementary statement (or otherwise) is of no relevance to the determination of my client's appeal.

5.1.7 No material change since the original application

5.1.8 This assertion is simply incorrect. The appeal contains a significant amount more material than was available to NHS England when it determined the application at first instance, including 60 pages of detailed comments from local residents. For the avoidance of doubt, these are not "anecdotes" but detailed and relevant evidence of difficulties being experienced by local residents in terms of accessing pharmaceutical services.

5.1.9 This additional evidence goes directly to the relevant regulatory test and is of particular relevance to NHS Resolution's determination of this appeal.

5.1.10 <u>Existing pharmaceutical services are sufficient</u>

5.1.11 This is, of course, a matter for NHS Resolution to determine having regard to the information available to it. My client's position is, self-evidently, that there is an insufficiency of service provision for the reasons given in its letter of appeal.

5.1.12 <u>No relevant unforeseen benefit identified</u>

5.1.13 Again, this assertion is clearly incorrect. My client's appeal sets out, in detail, how granting this application would confer significant benefits in terms of the matters contained within regulation 18(2)(b). I do not propose to repeat those benefits in this response to avoid repetition.

5.1.14 Risk to existing providers

5.1.15 As a starting point, as NHS Resolution will be aware, this is an application to provide pharmaceutical services at a location where there was, until recently, a pharmacy which had been located at the site for over 35 years. On the basis that Compact Pharmacy was open for many years without presenting a "risk to existing providers", it is not clear on what basis Broadway Pharmacy asserts that, in essence, re-opening the pharmacy would create such a risk now.

5.1.16 In any event, this assertion by Broadway Pharmacy is entirely speculative and unevidenced.

5.1.17 **Day Lewis Pharmacy**

5.1.18 It is noted that Day Lewis make no additional comments to those made to NHS England at the first instance decision-making stage. My client has already responded to the initial Day Lewis representations, both directly in its letter of 27th March 2025 (which my client assumes NHS Resolution has a copy of) and indirectly in its letter of appeal, which addresses many of the issues that were raised by Day Lewis at first instance.

5.1.19 As such, my client has no further comments to make on the letter from Day Lewis, which have already been addressed in full.

5.1.20 **Boots Pharmacy**

5.1.21 As stated in previous correspondence, and as stated explicitly in the letter of appeal, my client does not assert that the closure of a pharmacy automatically leads to a gap in service provision. However, a gap has been created at the proposed location for the detailed reasons given in my client's appeal.

5.1.22 In relation to "convenience and desirability", as NHS Resolution will be aware, the regulatory test in regulation 18 is whether granting the application would secure improvements and better access to pharmaceutical services in the HWB's area which are not contained in the relevant PNA. Whilst the regulations do not refer specifically to either "convenience" or "desirability", those concepts may not be irrelevant factors when NHS Resolution is making its assessment of the regulatory test.

5.1.23 In relation to the contents of the petition, my client's letter of appeal explains how and why the petition was created and worded. The appeal letter details the approach taken in terms of collaborating with one of the three councillors for the Blendon and Penhill ward to look into public concerns. Passing customers on the Blendon parade (including with the assistance of the local newsagent to share the information with local customers by retaining/completing petition forms) were invited to put their names to support the need for the pharmacy to open. Nearby streets were also visited with a purpose of canvasing and an online petition was also considered at the time. This information was provided to the local ICB well before even lodging the application which was based upon their advice.

5.1.24 In relation to the 60 pages of commentary from local residents which detail the lived experience of their difficulties accessing pharmacies, it is of note that the

only comment from Boots is in relation to one reference to a patient accessing "Lloyds Pharmacy" in Blackfen. To the extent that it assists NHS Resolution with its assessment of my client's appeal, my client visited the person in question, and she confirms that she wasn't entirely sure of the name of the Pharmacy. However, she shared the medication label of a recently dispensed item, which confirmed that this had been dispensed by Day Lewis Pharmacy in Blackfen. She mentioned that the online information was referring to Lloyds but perhaps that was her confusion. It is of note that the patient is 83 years old, is unable to drive and suffers from severe arthritis.

5.1.25 DMB

5.1.26 In relation to the map, this has not been produced by my client. It is correct that my client has provided a specific address, not a best estimate location.

5.1.27 To the extent that it assists NHS Resolution with its determination of the appeal, it appears that Mistvale Chemist (numbered 8 on the map) has closed, as it is showing as closed on the NHS choices website (Contact details and opening times - Mistvale Chemist - NHS) and, according to dispensing data, has not provided any services since April 2025.

5.1.28 The DMB is correct to note that my client's appeal includes information which was not available to NHS England when it made its decision, although NHS England does not appear to have commented on that additional information in its response, so it is not clear whether the additional information is disputed. As NHS Resolution will be aware, it is determining this application afresh, rather than reviewing the decision made at first instance, such that the fact that additional information has been provided at the appeal stage is neither unusual nor should it be detrimental to NHS Resolution's determination of the appeal.

5.1.29 In relation to the petition, an unredacted version has been provided to NHS Resolution, although it is not clear why NHS England considers it necessary to have sight of the redacted information in order to comment on the petition itself.

5.1.30 In relation to the PNA, my client has already explained how the benefits that would be secured by the granting of its application are unforeseen in the context of the relevant PNA and does not intend to repeat those comments in this response.

5.1.31 The broadbrush walking and journey times (by car and public transport) which are used to form the basis of the PNA conclusions clearly fail to have regard to specific local factors which are detailed in the appeal letter and supporting information. However, in relation to walking distances, as NHS Resolution will note, all of the nearest pharmacies are either at, or above, the "20-minute" walk threshold referred to by NHS England. That does, of course, assume that patients are fit and able to walk either at an average speed, or the distances involved. As detailed in my client's letter of appeal, there is a significant amount of evidence to demonstrate that local residents are not able to make those journeys (and are also unable to drive or use public transport).

5.1.32 In relation to prescription volumes at Compact Pharmacy, the position stated by NHS England is somewhat misleading because dispensing volumes were reducing in the months leading up to Compact Pharmacy's closure.

5.1.33 I have set out, below, a table which shows the number of items being dispensed by Compact Pharmacy in the months leading up to its closure. It can be seen from the data that the pharmacy consistently dispensed over 10,000 items per month until November 2023 when dispensing volumes

started to fall per month until the pharmacy closed in July 2024. [Table provided]

5.1.34 It is accepted that the hours proposed by my client are in line with some of the other pharmacies, although the pharmacies numbered 1, 4 and 9 on the map provided with your letter are closed on Saturdays and the pharmacies marked 5, 13 and 14 close at 1pm on Saturdays. In addition, all the surgeries on the map are closed on Saturdays except for the Bexley Medical Group (marked A on the map) which closes at midday. This means that services such as Pharmacy First are more important for the local population on Saturdays (when the GP surgeries are closed), and that several of the pharmacies are not open either on Saturdays at all, or are closed on Saturday afternoons.

5.1.35 In any event, the comment from NHS England in relation to Saturday opening misses the point of the application, which is not simply that it would secure improvements or better access through additional opening hours (although benefit would be secured on Saturdays and, in particular, on Saturday afternoons), but that it would secure improvements or better access in terms of physical accessibility and choice.

5.1.36 In relation to the "next PNA", as NHS England notes this is currently in draft form so is not the relevant PNA for the purposes of NHS Resolution's determination of this application.

5.1.37 NHS England's opinion in terms of the application at the conclusion of its letter is noted, but NHS Resolution is determining this application afresh and is not, therefore, bound by NHS England's previous decision (or its opinion on my client's appeal).

5.1.38 I hope that the above assists NHS Resolution with its consideration of my client's appeal and look forward to hearing from you in due course."

## 6 Consideration

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

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

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

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

**Regulation 31**

6.5 The Committee first considered Regulation 31 of the Regulations which states:

*(1) A routine or excepted application, other than a consolidation application, must be refused where paragraph (2) applies.*

*(2) This paragraph applies where -*

*(a) a person on the pharmaceutical list (which may or may not be the applicant) is providing or has undertaken to provide pharmaceutical services ("the existing services") from -*

*(i) the premises to which the application relates, or*

*(ii) adjacent premises; and*

*(b) NHS England is satisfied that it is reasonable to treat the services that the applicant proposes to provide as part of the same service as the existing services (and so the premises to which the application relates and the existing listed chemist premises should be treated as the same site).*

6.6 The Committee noted that in response to the question in the application on this point, the Applicant had stated "*Not applicable*". The Commissioner in their decision letter stated that *"There are no pharmacies in the immediate vicinity of this application so regulation 31 is not engaged".* The Committee noted that this finding had not been disputed.

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

**Regulation 18**

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

*"(1) If—*

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

*(b) the improvements or better access that would be secured were or was not included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1,*

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

*(2) Those matters are—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.9 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 Health and Wellbeing Board ("HWB").

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

6.11 Paragraph 4 of Schedule 1 requires the PNA to include: "a *statement of the pharmaceutical services that the HWB had identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied (a)* ***would*** *if they were provided….secure improvements or better access, to pharmaceutical services… (b)* ***would*** *if in specified future circumstances they were provided…secure future improvements or better access to pharmaceutical services…"* (emphasis added).

6.12 The Committee noted that the Commissioner, in its representations, had referenced the draft 2025 PNA and the Applicant had challenged this comment by stating that it is "*not the relevant PNA for the purposes of NHS Resolution's determination of this application".*

6.13 The Committee noted that Regulation 22 of the Regulations states:

*"Refusal of routine applications that are based on neither a pharmaceutical needs assessment nor unforeseen benefits*

*(1) If NHS England receives a routine application to which regulation 19(6) does not apply, NHS England must refuse it unless granting it, or granting it in respect of some only of the services specified in it, would—*

> *(a) meet a current or future need for pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB that has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 2 of Schedule 1; or*
>
> *(b) secure (including in the future) improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB that have or has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1.*

*(2) For the purposes of paragraph (1), the relevant pharmaceutical needs assessment is—*

> *(a) the pharmaceutical needs assessment of the relevant HWB that is current at the time that NHS England takes its decision to grant or refuse the application, unless in the opinion of NHS England (or on appeal the Secretary of State) the only way to determine the application justly is with regard to an earlier pharmaceutical needs assessment, in which case the relevant pharmaceutical needs assessment is that earlier assessment; or*
>
> *(b) if the relevant HWB has not published a pharmaceutical needs assessment, the pharmaceutical needs assessment of a Primary Care Trust (as extended by regulation 7(1))that relates to the locality in which the location or premises to which the application relates is or are situated."*

6.14 The Committee considered that the starting point is that the relevant PNA is the PNA of the relevant HWB that is current at the time that the decision is taken. The Committee noted that there is no dispute that the 2022 PNA is the current PNA.

6.15 The Committee therefore considered the 2022 PNA prepared by Bexley HWB, conscious that the document provides an analysis of the situation as it was assessed at the date of publication. The Committee bears in mind that, under Regulation 6(2), the body responsible for the PNA must make a revised assessment as soon as reasonably practicable (after identifying changes that have occurred that are relevant to the granting of applications) unless to do so appears to be a disproportionate response to those changes. Where it appears disproportionate, the responsible body may, but is not obliged to, issue a supplementary statement under Regulation 6(3). Such a statement then forms part of the PNA. The Committee noted that a supplementary statement had been issued in September 2022 which listed two changes of ownerships in the area.

6.16 The Committee had regard to section 7 of the PNA, 'Conclusions', which states:

6.16.1 "Necessary Services – normal working hours

6.16.2 *There is no current gap in the provision of Necessary Services during normal working hours across Bexley to meet the needs of the population.*

6.16.3 Necessary Services – outside normal working hours

6.16.4 *There are no current gaps in the provision of Necessary Services outside normal working hours across Bexley to meet the needs of the population*

6.16.5 Future provision of Necessary Services

6.16.6 *No gaps have been identified in the need for pharmaceutical services in specified future circumstances across Bexley.*

6.16.7 Current and future access to Advanced Services

6.16.8 *There are no gaps in the provision of Advanced Services at present or in the future that would secure improvements or better access to Advanced Services in Bexley*

6.16.9 Current and future access to Enhanced Services

6.16.10 *No gaps have been identified that if provided either now or in the future would secure improvements or better access to Enhanced Services across Bexley.*

6.16.11 Current and future access to Locally Commissioned Services (LCS)

6.16.12 *Based on current information no current gaps have been identified in respect of securing improvements or better access to Locally Commissioned Services, either now or in specific future circumstances across Bexley to meet the needs of the population."*

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

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

**Regulation 18(2)(a)(i)**

6.19 The Committee had regard to

> *"(a) whether it is satisfied that granting the application would cause significant detriment to—*
>
> *(i) proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB"*

6.20 The Committee noted the Commissioner's finding on this point that *"The London Region PSRC have determined that the granting of this application may result in the over provision of essential services in the area. This may cause detriment to proper planning of pharmaceutical services or the arrangements in place for the provision of pharmaceutical services in this area. At present there is no evidence that this will be significant"* and that no party had sought to dispute this.

6.21 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.

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

**Regulation 18(2)(a)(ii)**

6.23 The Committee had regard to

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

6.24 The Committee noted the Commissioner's finding on this point that *"The London Region PSRC have determined that the ICB was 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".* Even though no party had sought to dispute this finding in particular, the Committee noted the following comments from Day Lewis and Broadway Pharmacy respectively *"It is important that those contractors who remain are given every opportunity to ensure the financial stability of their businesses so the pharmaceutical services that exist in the area at present can be maintained. Granting applications for new pharmacies in an area where there is already good provision will simply result in further instability for the sector"* and *"granting this application could destabilise existing providers, potentially jeopardising established services for the local community without delivering any additional benefit".* The Committee considered it was appropriate to consider this point in more detail.

6.25 The Committee noted the Applicant had not responded to Day Lewis' comment but had responded to the point made by Broadway Pharmacy by stating that *"As a starting point, as NHS Resolution will be aware, this is an application to provide pharmaceutical services at a location where there was, until recently, a pharmacy which had been located at the site for over 35 years. On the basis that Compact Pharmacy was open for many years without presenting a "risk to existing providers", it is not clear on what basis Broadway Pharmacy asserts that, in essence, re-opening the pharmacy would create such a risk now. In any event, this assertion by Broadway Pharmacy is entirely speculative and unevidenced".*

6.26 The Committee considered that Regulation 18(2)(a)(ii) relates to significant detriment to arrangements in place for the provision of pharmaceutical services if an application is granted. The reference to "arrangements in place for provision of pharmaceutical services" is very broad in scope. It is not limited to detriment to a particular person, class of person, patient, patient group or provider of pharmaceutical services whether this is a dispensing practice or community pharmacy.

6.27 The Committee therefore concluded that a finding that granting the application would cause significant detriment to arrangements in place for the provision of pharmaceutical services can only be achieved after a consideration of all the consequences of granting the application, both positive and negative, benefits and detriment, provided that these consequences were all linked to the broad concept of arrangements in place for the provision of pharmaceutical services.

6.28 The Committee considered that the evidence before it was not enough to persuade the Committee that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of an application. More robust evidence would be needed to satisfy the Committee of this finding.

6.29 The Committee was therefore not satisfied that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of the application.

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

**Regulation 18(2)(b)**

6.31 The Committee had regard to

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

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

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

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

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

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

6.32 The Committee noted the application was prompted by the closure of Compact Pharmacy in mid-2024 which, according to the Applicant, "*has resulted in a gap in service provision for the local community*" and left patients "*without reasonable access to pharmaceutical services*". The Applicant goes on to state that it "*applied to, in essence, re-open the pharmacy which had been located within the Blendon Road shopping parade for over 40 years*". The Committee was mindful that the closure of one pharmacy does not automatically mean that there is a need for a pharmacy to open in its place. The Applicant acknowledges this itself but adds that it has provided information to demonstrate "*why the closure of Compact Pharmacy had created a gap in service provision*".

6.33 The Committee had regard to the proposed location of the pharmacy, as identified by the map provided by the Commissioner. The Committee noted the Commissioner's comment in its representations that the map is misleading as it indicates that the Applicant has applied for a best estimate location. In response, the Applicant clarified that it had not produced this map and confirmed that it had provided a specific address. The Committee found it odd that the Commissioner was disputing its own map. Whilst the green marker covers Blendon Road, the Committee agreed it was misleading and noted that in its application form, the Applicant had confirmed the address of the proposed premises as 137 to 139 Blendon Road. The Committee noted that the Applicant had provided maps with its appeal that illustrate the specific location of the proposed premises.

6.34 The Committee noted the information provided by the Applicant in terms of the history to the area and that the proposed premises would be located within a parade of shops which includes a *"funeral parlour, bookmakers, convenience stores, angling supplies, bakery, partyware shop, dental clinic, newsagents and several takeaway restaurants"* with a pub opposite and schools in the surrounding area. The Applicant goes on to state that "*Within approximately 200m of the parade there is also an Audi dealership, a Halfords garage and a Shell petrol station with an attached Little Waitrose. There is a further parade which is linked to the Blendon Road parade on Sherwood Park Avenue (numbers 242 - 276). This parade includes a further supermarket together with Post Office/off licence, fish and chip shop together with various food outlets/restaurants, a drycleaner, a cafe, florist, hairdressers and barbershop".* Whilst the Applicant states that the proposed site is *"well used by the local community for their daily needs"*, the Committee noted that the "supermarkets" referred to by the Applicant did not appear on the maps provided which indicated to the Committee that they were not superstores. The Committee considered that residents would need to travel outside of the area to access a wider range of services and amenities including pharmaceutical services.

6.35 The Applicant states that *"the closest GP surgery is 0.7 miles away (or a 20-minute walk) away (noting that not all residents of Blendon will be registered at the nearest surgery). This means that not only is there no longer a community pharmacy serving the local population, but also the nearest GP surgery is some distance away"*. Day Lewis challenge this point and the Applicant responds with *"The comment from Day Lewis in relation to GP surgeries misses the point being made by our client in support of its application. Pharmacy service provision now is much more independent of a visit to a GP because of ETP and the greater range of advanced services available. The absence of a local GP surgery therefore does not demonstrate patient mobility but demonstrates a gap in healthcare advice and services that can be met by granting our client's application".* Whilst the Committee appreciated the point the Applicant was making, it noted that the majority of existing pharmacies have a GP surgery located within a close proximity of them and was mindful that it must have regard to whether there is reasonable choice to pharmaceutical services, not GP services. The Committee therefore went on to consider the existing pharmaceutical provision.

6.36 The Committee noted the Applicant's comment that *"there are no pharmacies within 0.9 miles of the proposed location by the most practicable route. This means that all*

*pharmacies present difficulties with access".* The Committee noted that this comment is in line with the distances outlined in the table in the Commissioner's decision report under the heading "Walking distance". The Committee noted the Applicant and the Commissioner had provided information on access to the existing pharmacies which the Committee proceeded to consider.

6.37 The Commissioner states that "*There are 15 pharmacies within 2kms of the proposed site".* Both the Applicant and the Commissioner are of the same view that Day Lewis Pharmacy, Brownes Chemist and Olins Pharmacy are located 0.9 miles away with a walking time of 19 to 21 minutes. According to the Applicant, *"the walking journey* [to Day Lewis Pharmacy and Brownes Chemist]*…carries various risks to do with crossing Penhill Road followed by Sherwood Park Avenue and access in and out of the petrol station before heading onto Blackfen Road. These junctions are not easy to navigate as the proper pedestrian crossing is beyond the petrol station. Some of the footpaths are not Equality Act compliant"*, however, the Committee noted that no further information had been provided to support this finding such as photographs. Further, the Committee noted that none of the discussions the Applicant has undertaken with patients highlight any issues with the pavements or actual walking route required to be undertaken.

6.38 Both the Applicant and the Commissioner are of the same view that Osbon Pharmacy (DA5 3HP) is located 1.1 miles away. The Applicant states that it is a 28 minute walk whereas the Commissioner states that it is a 24 minute walk. The Committee noted that the map provided by the Applicant outlines three possible routes with the quickest being 24 minutes and the longest being 28 minutes. The Applicant does not provide any information on the route involved to walk to Olins Pharmacy or Osbon Pharmacy other than stating that they are a "*significant distance*".

6.39 The Applicant goes on to state that *"Other pharmacies in the wider area are clustered in central Bexleyheath, Welling and Bexley. These pharmacies are further away than the three pharmacies* [sic] *summarised above, meaning that they are inaccessible by foot due to distance. The difficulties with all of these locations is that they are in busy and congested "town centre" localities".* It was unclear to the Committee why a pharmacy located within a town centre makes it inaccessible on foot. The Committee assumed that these pharmacies are the others outlined on the Commissioner's map. In its decision letter, the Commissioner had provided the distance and walking times to Crook Log Pharmacy, Broadway Pharmacy and Well Pharmacy which are 1 mile/23 minutes, 1.4mile/31 minutes and 1.6 mile/37 minutes respectively. The Committee noted that the Applicant had not sought to dispute this data however, it did note its comments in relation to the route involved to access the areas where these pharmacies are located but that no further information such as photographs had been provided to support this view. The Committee noted that none of discussions with patients highlight this route as a barrier however, the Committee appreciated that due to the distance involved, some may not make this journey on foot.

6.40 The Committee was of the view that no information had been provided to demonstrate that for those who are willing and able were having difficulty accessing the existing pharmaceutical provision on foot. With that said, the Committee did note some of the Applicant's discussions with patients indicated that residents cannot access a pharmacy on foot due to the distance involved, therefore, the Committee proceeded to consider access by other means.

6.41 For access to Day Lewis Pharmacy and Brownes Chemist by bus, the Applicant states that bus 132 passes near to both pharmacies however it highlights "*considerable problems with behaviour of the bus journey*". It states that traffic is a problem at peak times as well as capacity at peak school times as there are schools located on this bus route. The Committee noted that the Applicant had not provided any further information to support these assertions however, the Committee did note a small number of

comments from members of the public in relation to traffic whilst on a bus but none in relation to capacity. The Applicant had not provided a route map or timetable for bus 132 however, the Committee noted that the Commissioner had outlined the frequency of bus services in the area and distances from the proposed site to the existing pharmacies. Whilst the Commissioner had not provided bus numbers, the Committee noted that the Applicant had not sought to dispute this information. The Committee noted that the bus described by the Commissioner operates every 10 and 20 minutes at peak times and takes 10 minutes, with a short walk from the bus stop.

6.42 In terms of access to Osbon Pharmacy by bus, the Committee noted that the B14 passes it. The Committee noted this bus operates every 30 minutes and takes 12 minutes. The Commissioner states that it takes "*3 minutes either end*" to walk to the bus stops however, the Applicant states that the bus stop is *"on the south side of Albany Park Station and one has to go over the footbridge to get to the other side where the pharmacy is located. This footbridge is much lower down compared to the bus stop and then there are rising steps on either side".* The Committee noted that the Applicant had not provided any images to support this finding nor did any members of public comment on this in the discussions. Again, the Applicant states that this bus journey is impacted at peak school times in terms of capacity as it is on a school route however, the Committee noted there were no comments in relation to this from members of the public.

6.43 In relation to Olins Pharmacy, the Applicant states that *"there is no direct bus route between the proposed location and Olins Pharmacy, meaning that Olins Pharmacy cannot be accessed by direct public transport from the proposed location".* However, the Committee noted that the Commissioner had stated that there is a bus which takes 11 minutes and operates every 20 minutes and takes *"4 minutes either end".* No party had sought to comment on access to Olins Pharmacy by bus nor had the Applicant provided a route map or timetable which made it difficult for the Committee to assess the actual journey required to be undertaken. However, the Committee did note that in the discussions with members of the public, nobody highlights the bus journey to Olins Pharmacy in particular as a barrier to access.

6.44 In terms of access to the other pharmacies in the area, the Committee had regard to the frequency and journey length to Crook Log, Well Pharmacy and Broadway Pharmacy as outlined by the Commissioner and noted the Applicant's comment in response to the representations received on the application that "*there is no direct bus to Welling from the subject area. There is at least a one bus change followed by a 3-minute walk to get to Welling*".

6.45 As general comments, the Applicant highlights outdated bus timetables, issues for elderly persons who do not have smartphones to access applications and road diversions/roadworks as a barrier to access. However, the Committee was mindful that those who are reliant on buses will be familiar with the bus times and whilst the Committee appreciated roadworks/diversions could impact bus provision, it was mindful that these are temporary matters. In considering access by bus overall, whilst the Committee appreciated the small number of comments from the members of the public, there was not a robust body of evidence to persuade it that the issues encountered rendered access unreasonable. It also agreed with the Commissioner's comment that *"regarding traffic and school children using the services… these comments would be the same for any bus journey and are not specific to these journeys".* Based on the information before it, in particular noting the frequency and journey lengths, the Committee did not consider the bus provision in the area to be a barrier to accessing the existing pharmaceutical services.

6.46 Looking at access by private transport, in its appeal, the Applicant states that *"it is of note that, according to the 2021 census, 1 in 7.5 households in the ward do not have a car or van at all".* The Committee noted that the Applicant had made the same point

in its application and Day Lewis had responded to this point by stating that *"Census data shows that car ownership levels are significantly higher than national average, with only 13.4% of homes having no car compared to the England average of 23.5%".* The Committee noted that the Applicant had not disputed this and even acknowledged that car ownership is higher than average.

6.47 The Applicant highlights parking as a barrier to access the pharmacies located in Blackfen i.e. Day Lewis and Brownes Chemist. Day Lewis disputes this and states that *"there is parking immediately outside Brownes Chemist, and it is incorrect to say that the car park next to our Blackfen Pharmacy is only for Co-Op customers. Free parking is available for 1 hour for anybody, regardless of whether they are using the Co-Op".* The Committee noted that the Applicant had responded to this point in its representations to the Commissioner and was of the view that the car park available is too small to cater for the retail units present. In relation to Olins Pharmacy, the Applicant states that *"There is on street parking at the Oval, but the number of spaces is limited, and is insufficient for the number of shops located in the parade".* The Committee noted it would take four minutes to access this pharmacy by car. In terms of Osbon Pharmacy, the Committee noted it would take five minutes to access this pharmacy by car and noted the Applicant's comment that it *"is in a parade of shops which has some parking, and a car park nearby, it is of note that this is shared with Albany Park train station, meaning that there is significant pressure for spaces, which also incur a charge. There are also predominantly yellow lines and resident-only parking restrictions".* The Committee noted it would take between five and six minutes to access Crook Log, Well Pharmacy and Broadway Pharmacy. In relation to parking at Well Pharmacy, the Applicant states that *"one would need to park in the Morrisons car park to get to Well Pharmacy that has its own parking restrictions"* however, it had not expanded upon what parking restrictions are in place.

6.48 The Committee noted that some of the discussions with members of the public focus on issues with parking at Albany Park, Oval Pharmacy, pharmacies located in Bexley Heath and Warren Pharmacy. Although not explained by the Applicant, from looking at the Commissioner's map, the Committee considered that "Oval Pharmacy" is Olins Pharmacy and Albany Park is the area surrounding Osbon Pharmacy. The Committee noted a single comment in relation to an issue with parking at Day Lewis Pharmacy and the small number of comments in relation to parking charges as well as the one comment in relation to fuel costs. The Committee noted that no information had been provided by the Applicant to demonstrate that the parking charges are so expensive that they would constitute as a barrier to access. Based on the information before it, in particular noting the journey time to the existing pharmacies, the Committee was of the view that access by private transport is not a barrier to accessing the existing pharmaceutical provision.

6.49 In its observations, the Applicant provided evidence to demonstrate that Mistvale Chemist closed in April 2025. The Committee noted this was prior to the Commissioner's decision and the Commissioner had not commented on this. However, the Committee did not consider it to be a material point as this pharmacy is/was located further away from some of the other pharmacies and was not part of the Committee's consideration as outlined above.

6.50 The Committee noted the table provided by the Applicant detailing the dispensing figures at Compact Pharmacy from April 2022. The Committee agreed with the Applicant's comment that *"it can be seen from the data that the pharmacy consistently dispensed over 10,000 items per month until November 2023".* The Committee noted that from November 2023 to the pharmacy closing, the average figure was in line with that outlined by the Commissioner "*of around 4,000 per month*". Nevertheless, the Committee did not consider this to be a material point as it was mindful that the provision of pharmaceutical services is wider than the dispensing of prescriptions alone.

6.51 The Committee had regard to the petition as outlined at 1.22 to 1.24 above and noted it had been signed by 650 residents. The Committee noted the background to the petition as outlined by the Applicant in its appeal and observations. The Committee also noted the comment from Broadway Pharmacy that it was *"organised by the landlord with a vested interest"* however, this had not been expanded upon and was considered to be speculative. The Applicant states that it was organised prior to the closure of Compact Pharmacy. The Committee was mindful that the closure occurred over a year ago and agreed with Day Lewis and Boots' view that it is likely that people would always prefer to have a pharmacy within convenient walking distance. Further, the petition does not highlight access to current pharmaceutical services nor does it indicate that services provided from the proposed site would be a significant benefit in the area of the relevant HWB.

6.52 The Committee next considered the sixty pages of summaries of discussions with various patients provided by the Applicant. The Committee had reservations over the way the evidence had been presented. It noted that it not been provided with direct quotes from the patients but instead had been provided with a summary of the discussion as described by the Applicant. Further, it had not been provided with the questions that had been asked nor how the information was obtained. It was unclear if this was a targeted or voluntary discussion. The Committee was mindful that it had already addressed some of the comments in its consideration of access above. Other comments refer to waiting times and medicine shortages along with the problems that patients are facing in receiving medication in a timely fashion. The Committee was of the view that waiting times and general performance issues should not be the only reason that a new pharmacy is granted. It is the Commissioner's role to act on reports of negative service. The Committee considered that performance issues should not be a reason to completely discount the existence of a pharmacy when considering whether there is reasonable choice, but that continued ongoing problems and complaints will affect an individual's decision whether to make the journey to that pharmacy.

6.53 The Committee was mindful that there will be some patients who have lost pharmaceutical provision that was conveniently located to them, and can now no longer walk to their nearest pharmacy. However the Committee must have regard to all forms of access to current pharmaceutical services and consider whether services provided from the proposed site would be a significant benefit in the area of the relevant HWB.

6.54 Taking all factors into account, the Committee was not 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.

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

6.56 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.

6.57 The Applicant states that approving its application would confer significant benefits on *"Patients who have a relevant protected characteristic and who require access to pharmaceutical services but who currently find access difficult".* The Applicant also highlights those who took part in its discussions that have protected characteristics. However, the Committee considered that the information regarding those who share a

protected characteristic and the pharmaceutical services they needed was limited. It also noted the comment from Day Lewis that *"census data from 2021 (source Nomis) for the Blendon & Penhill ward shows that the area is unremarkable in respect of the age profile of residents. As the time of the census, 19.5% of residents were under the age of 16 (compared to the national average of 18.5%) and 19.1% of residents were over the age of 65 (compared to 18.1% nationally). The age profile of the local residents in this area is not such that the need for a community pharmacy here is significantly different to any other part of the country".* The Committee had regard to the Applicant's response to this comment however, the Committee was of the view that there was little or no evidence of specific pharmaceutical needs. The issue of access and choice as might apply to these persons was dealt with in the assessment of reasonable access discussed above and the Committee was mindful that there are always people in an area who share a protected characteristic.

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

6.59 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. The Committee noted that no information had been provided to suggest that any innovative approaches would be taken with regard to the delivery of pharmaceutical services. The Committee was not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting the application would confer significant benefits on persons.

**Regulation 18(2)(b) generally**

6.60 The Committee noted the Applicant's proposed core hours which are, 9.15am to 5.15pm Monday to Friday and total 40 hours. It proposes to open with supplementary opening hours between the times of 5.15pm to 6.30pm Monday to Friday and 9.15am to 2.15pm on Saturday.

6.61 The Committee noted that in its decision letter, the Commissioner stated that the Applicant's opening hours *"are broadly line with the hours offered by other local pharmacies, although there are some offering services starting earlier and closing layer* [sic]*".* In its observations on appeal, the Applicant responds to this point and states that *"It is accepted that the hours proposed by my client are in line with some of the other pharmacies, although the pharmacies numbered 1, 4 and 9 on the map provided with your letter* [Commissioner's map] *are closed on Saturdays and the pharmacies marked 5, 13 and 14 close at 1pm on Saturdays".* In relation to the patient discussion summaries, the Applicant states that *"I have no doubt that NHS Resolution will carefully consider the contents of all the attached, and will note themes that repeat through the conversations with local residents. These include…Reduced opening hours of pharmacies (for example, Day Lewis Pharmacy not being open on a Saturday)".* The Committee noted the single comment from the member of the public in the discussions that Day Lewis is not open on a Saturday but did not consider this to representative of the wider issue with access. In any event, it noted that the Applicant is only proposing to open on a Saturday with supplementary hours and was mindful that these can be withdrawn by giving notice to the Commissioner. The Committee did not find any comments that indicate that the opening hours of the existing pharmacies constitute as a barrier to access.

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

6.63 The Committee has considered whether there are any other factors that would confer significant benefits including on patients who share protected characteristics. The Committee had regard to the need to eliminate discrimination and advance equality of opportunity and foster good relations between these patients and those who do not share their protected characteristics.

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

**Other considerations**

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

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

6.67 The Committee had regard to Regulation 18(2)(g) and found no reason that required it to refuse the application under this regulation.

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

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

6.69.1 confirm the Commissioner's decision;

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

6.69.3 quash the Commissioner's decision and, if it considers that there should be a further notification to the parties to make representations, remit the matter to the Commissioner.

6.70 Although the Committee had reached the same conclusion as the Commissioner, it was mindful that it had been provided with more information on appeal, such as the discussions with patients. In those circumstances the Committee determined that the decision of the Commissioner must be quashed.

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

6.72 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.

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

## 7 DECISION

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

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

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

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

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

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

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

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

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

**Case Manager**
**Primary Care Appeals**