

9 September 2025

REF: SHA/26633

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**APPEAL AGAINST HUMBER AND NORTH YORKSHIRE
ICB DECISION TO REFUSE AN APPLICATION BY
TOSHEL LTD t/a BARLBY CENTRAL PHARMACY FOR
A RELOCATION THAT DOES NOT RESULT IN A
SIGNIFICANT CHANGE TO PHARMACEUTICAL
SERVICES PROVISION UNDER REGULATION 24 FROM
THE OLD POST OFFICE, YORK ROAD, BARLBY,
SELBY, NORTH YORKSHIRE, YO8 5JH TO 79 WEST
VIEW, BARLBY ROAD, BARLBY, SELBY, NORTH
YORKSHIRE, YO8 5BD**

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:

Toshel Ltd
PCSE on behalf of Humber and North Yorkshire ICB

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1 The Application

By application dated 27 February 2024, Toshel Ltd t/a Barlby Central Pharmacy ("the Applicant") applied to Humber and North Yorkshire ICB ("the Commissioner") for a relocation that does not result in a significant change to pharmaceutical services provision under Regulation 24 from The Old Post Office, York Road, Barlby, Selby, North Yorkshire, YO8 5JH to 79 West View, Barlby Road, Barlby, Selby, North Yorkshire, YO8 5BD. In support of the application it was stated:

- 1.1 In response to why the application should not be refused pursuant to Regulation 31 the Applicant stated:
 - 1.1.1 "Not applicable, as the nearest pharmacy is 3.0km away."
- 1.2 In response to "Please explain why you believe your application should not be refused in accordance with Regulation 24(3)(c)" the Applicant stated "not applicable".
- 1.3 In response to why the new premises are not significantly less accessible for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the Applicant stated:
 - 1.3.1 "The new premises is only a few metres further up the road where the existing premises is and has access to the main street that runs through Barlby.
 - 1.3.2 Visibility for patients, will be improved as the new location is better located on the main Barlby road as opposed to the existing premises that is tucked away on a corner.
 - 1.3.3 The new premises has adequate parking for patients and customers. There is also ample off-street parking whereas at the existing premises there is no parking and there are double yellow lines in front of the shop which has been an inconvenience for our customers especially the vulnerable and elderly. This will be a welcome move for our customers/patients."

- 1.4 In response to why granting the application will not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or pharmaceutical services (other than those provided by dispensing doctors) in any part of the HWB's area or any controlled locality within 1.6 kilometres of the new premises, the Applicant stated:
- 1.4.1 "The new premises is less than a mile from the existing premises and these are located within the same Barlby village and neighbourhood and there is absolutely no material change in the proximity to existing pharmaceutical services providers."
- 1.5 In response to why the Applicant considers granting the application will not cause significant detriment to the proper planning in respect of the provision of pharmaceutical services in the HWB's area, the Applicant stated:
- 1.5.1 "The new premises are located within the same village and neighbourhood and have easy, direct access from an arterial road, along which a regular bus service operates. The new premises offer greater visibility and access to patients and these advantages will be augmented by an enhanced prescription collection and delivery service. Services to the patients will therefore be enhanced."
- 1.6 The Applicant confirmed that the services to be provided at the new premises would be the same as that that have been provided at the current premises by answering "Yes" on the application form.
- 1.7 The Applicant confirmed that there will be no interruption in services by ticking "No" on the application form.

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 30 May 2025 states:

- 2.1 "Humber and North Yorkshire 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.

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

Extract from the Humber and North Yorkshire ICB decision report

- 2.2 "Humber and North Yorkshire ICB has considered the above application, and I am writing to inform you that it has been **refused** for the following reasons:
- 2.3 **Regulation 24 - relocations that do not result in significant change to pharmaceutical services provisions has not been met.**
- 2.4 **Regulation 24(1)(a)** for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, is the location of the new premises significantly less accessible; and if so why?
- 2.4.1 The committee felt that the no [sic] specific patient groups had been identified and therefore it was difficult to assess whether for the patient groups that are

accustomed to accessing pharmaceutical services at the existing premises, if the location of the proposed premises is significantly less accessible.

2.4.2 The proposed premises were 0.8 miles from the current premises, which for some patient groups could be significantly less accessible.

2.4.3 Although the applicant has stated that they have consulted with patients and customers who have responded to say the relocation will be better and more accessible for them, no evidence was submitted to support this.

2.5 **Regulation 31** – does not apply as there are no other pharmacies at the same or adjacent premises.

2.5.1 There was confirmation that the same Essential Services will be provided.

2.5.2 There was confirmation that there will be no interruption to services.

2.5.3 There was confirmation that the dispensing hours will remain unchanged.

2.5.4 No patient groups will be adversely affected by the proposed move.

2.5.4.1 This element of the application was not met. The committee were not assured that the applicant had considered the impact of the decision on those with protected characteristics under the **Equalities Act 2010** or fully identified or considered the impact on those patients who currently utilise the pharmacy in relation to how they will access the proposed premises.

2.6 As the application was refused, the applicant has the right of appeal."

3 The Appeal

In an undated letter received 9 June 2025 addressed to NHS Resolution, the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

3.1 "Further to your letter [sic] of 30th May 2025, I wish to appeal against the decision to refuse my application to relocate Barlby Pharmacy to new premises at 79 West View, Barlby Road, Barlby, North Yorkshire YO8 5BD.

3.2 The reasons for this appeal are as follows:

3.3 There is no negative impact to patients as the proposed new location is not significantly less accessible. The proposed site is situated only 0.8 miles from the current premises and offers significantly improved accessibility for patients. The new location remains on the same main road (Barlby Road/York Road) but benefits from being on a straight section of road with no on street parking restrictions. By contrast, the current premises are located on a bend where double yellow lines have been implemented for safety, limiting access for patients arriving by car.

3.4 Furthermore, the new site offers ample designated parking directly outside the pharmacy and additional parking in adjacent offices.

3.5 Both the current and proposed premises are served by the same regular bus route (Service 415), operated by Arriva Yorkshire Limited, ensuring continuity of public transport access.

- 3.6 Barlby Pharmacy currently serves the distinct communities of Barlby, Cliffe, Escrick, North & South Duffield, Osgodby, and Riccall. Approximately 95% of our patient base resides in these villages. The new premises remain within Barlby village and will, therefore, not adversely affect patient access. On the contrary, the improved facilities and location are likely to enhance patient experience and convenience. The relocation will not alter the pharmacy's service area nor diminish the community identity of these villages, which are separate from Selby.
- 3.7 For those patients who may experience slightly increased travel distances, the pharmacy offers a well-established, free prescription collection and delivery service, which has been in operation for over 10 years. Additionally, remote services including telephone and internet consultations are provided, ensuring continued support for all patients, including those unable to attend in person.
- 3.8 All existing services will continue without disruption at the new premises. In addition, the relocation to a larger site will enable us to expand our range of clinical services to include a travel clinic, ear syringing, vitamin B12 injections, and phlebotomy service. These services will be delivered in specially designed, purpose built consultation rooms. Some of these services are not currently available at pharmacies in Selby, reinforcing the unique and enhanced value that Barlby Pharmacy continues to offer its communities.
- 3.9 Written patient feedback questionnaires have been conducted, and copies of the responses received are enclosed for your review. The results of the survey indicate that the majority of our patients and customers are supportive of the proposed relocation and view it positively. In addition, verbal patient surveys have been carried out by the pharmacy. All responses obtained through these verbal enquiries have also been unanimously supportive.
- 3.10 Given the minimal geographical change, the continued location within Barlby, and the substantial improvement in patient accessibility and service provision, no patient groups will suffer any detriment as a result of the move.
- 3.11 The sole objection to this application has come from Boots the Chemist, whose Selby branch is unaffected by the proposed relocation, given that the new premises remain within the separate and distinct community of Barlby.
- 3.12 Reasonable and proactive steps have been taken to ensure that the proposed relocation does not disadvantage any patient group and reasonable adjustments have been considered in the planning and design of the new site.
- 3.13 In light of the above, I respectfully urge you to reconsider your position and approve the relocation of Barlby Pharmacy. The move will bring tangible benefits to the communities we serve and will enable us to deliver a higher standard of care without compromising access, identity, or continuity of service."

4 Comments to the Commissioner

On reviewing the paperwork provided by PCSE, it was noted that the comments made by the Applicant in response to the representations on the application, had not been circulated or seen by parties.

In the interests of transparency and fairness, NHS Resolution sought to rely on the discretion afforded in paragraph 7 of Schedule 3 of the Regulations to vary the normal procedures and to circulate these comments to parties for them to make observations on them if they so wished.

- 4.1 "I write in response to the comments made by Boots which I believe have no firm basis regarding our proposed relocation.
- 4.2 As stated in my response on the 5th of March to your email, we have consulted with patients and our customers and they say the relocation will be better and more accessible for them.
- 4.3 The new location has ample parking space for patients and customers as opposed to our current location which is on a narrow bend with No customer parking and double yellow lines in front of the pharmacy so patients have to park a distance away from the pharmacy which makes it not ideal and difficult for them. This has been an inconvenience for our customer for years.
- 4.4 We have also offered a FREE prescription collection and delivery service for the past 10 years to all our patients and customers who are unable to come in to the pharmacy for one reason or the other and this is a service we are committed to continue to offer as a lot of our customers especially the elderly depend on this.
- 4.5 I look forward to the decision of the ICB regarding our application."

5 **Summary of Representations**

This is a summary of representations received on the appeal.

5.1 THE COMMISSIONER

5.1.1 "Thank you for your letter dated 16th June 2025.

5.1.2 As the application was not refused on Regulation 31, this will not form part of the response to the appeal which will focus on Regulation 24(1)(a) and the Equalities Act 2010. Any additional representations from Humber & North Yorkshire (HNY) Integrated Care Board (ICB) will be made under the relevant section of the regulations or under a separate heading.

In relation to Regulation 24(1), the matters to which consideration will be given are whether:

(a) for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible;

HNY ICB additional representation in response to the applicants' appeal letter in relation to Regulation 24(1)(a)

5.1.3 Regulation 24(1)(a) for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, is the location of the new premises significantly less accessible; and if so, why?

5.1.4 The proposed premises are 0.8miles (1 minute drive or 25 minute walk) away from the current premises which the applicant feels is not a material change. The journey is on easily accessible paths. The proposed premises has adequate parking for patients and customers with additional off-street parking. At the current premises there is no parking. The free delivery and collection service will continue.

- 5.1.5 In terms of access, the proposed premises are a few metres further up the road from the current premises on the main street that runs through Barby. The applicant feels it is in a better location than the current premises as it is on the main street rather than tucked away in a corner.
- 5.1.6 The applicant has not identified any specific patient groups who are accustomed to accessing pharmaceutical services at the existing premises were not clearly defined and therefore it is difficult to assess if, for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, if the location of the new premises is significantly less accessible notwithstanding the distance between the current and proposed premises.
- 5.1.7 In the application, the applicant stated that they had consulted with patients and customers who responded to say the relocation will be better and more accessible for them. No evidence of this consultation was submitted with the application.
- 5.1.8 The additional information submitted does appear to be supportive of the proposed relocation.

HNY ICB additional representation in response to the applicants' appeal letter in relation to the Equalities Act 2010

- 5.1.9 The Pharmacy Services Regulations Committee (PSRC) were not assured that the applicant had considered the impact of the decision on those with protected characteristics under the Equalities Act 2010.
- 5.1.10 They did not feel the application had clearly identified the patient groups who currently utilise the pharmacy and therefore it is difficult to assess what the impact would be on those with protected characteristics.

(b) granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list:

(i) in any part of the HWB area, or

(ii) in a controlled locality of a neighbouring HWB area, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;

- 5.1.11 No

(c) (the decision maker) is not of the opinion that granting the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the HWB area;

- 5.1.12 HNY ICB is unable to determine if granting the application would not cause significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area.

(d) the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises; and

- 5.1.13 There was confirmation that the same Essential Services will be provided. Within the additional information, it was confirmed that this relocation would allow the applicant to provide a wider range of services.

(e) the provision of pharmaceutical services will not be interrupted (except for such period as may for good cause be allowed)

- 5.1.14 There was confirmation that there will be no interruption to services & the dispensing hours will remain unchanged.

- 5.1.15 I look forward to hearing from you soon.”

6 Observations on representations

This is a summary of observations received in response to the representations received on appeal.

6.1 THE APPLICANT

- 6.1.1 “Thank you for the opportunity to respond to the additional representation provided by HNY ICB in relation to our appeal and the concern regarding Regulations 24(1)(a) and the Equalities Act 2010.
- 6.1.2 While our initial application may not have explicitly listed named patient groups, we wish to clarify that our pharmacy serves a broad and stable cross-section of the local and wider community. This includes elderly patients with long-term conditions, individuals managing chronic illnesses such as diabetes, hypertension, asthma, and mental health issues, parents of young children, housebound patients supported through our delivery service, and NHS walk-in patients referred from nearby GP practices. These groups are reflected in our prescription data, EPS nominations, and service provision records.
- 6.1.3 We are committed to maintaining uninterrupted and convenient access for all patients. The proposed relocation is only 0.8 miles from the current premises and remains within the same community catchment area in Barby village. Transport links remain unchanged, and accessibility will be significantly improved at the proposed premises through enhanced disabled access, wider aisles, better consultation spaces, and improved parking facilities. Our free delivery service for housebound or vulnerable patients will continue to operate, ensuring no loss of access due to the move.
- 6.1.4 Proactive steps will be taken to inform and support our patients throughout the relocation process, including in-store signage, direct communication, and collaboration with local GP practices. These actions will ensure continuity of care and service awareness.
- 6.1.5 The concern expressed assumes a theoretical risk of diminished accessibility. On the contrary, the relocation brings enhancements to physical access and service delivery without imposing a material burden on any identified patient group. We are confident that this move maintains and, in several aspects, improves service accessibility and availability.
- 6.1.6 We trust this clarification addresses the concerns raised regarding patient group identification and accessibility. The relocation is a forward thinking, patient centred improvement that upholds the principles of equitable access, continuity of care, and responsible planning.

- 6.1.7 We also wish to confirm that careful consideration has been given to how the proposed relocation aligns with our obligations under the Equalities Act 2010, including its potential impact on patient groups with protected characteristics. It is important to emphasise that accessibility and equality have consistently been central to our daily operations, service delivery model, and the strategic rationale for the relocation.
- 6.1.8 Our pharmacy actively supports patients across several protected characteristics. We serve a significant number of older adults, many of whom benefit from our home delivery, medication compliance aids, and long-term condition support. The new premises will offer improved facilities for disabled patients, including accessible consultation rooms. Services for pregnant women and new mothers, such as emergency contraception, maternal health advice, and infant care support, will continue in a welcoming environment. While patients from ethnic minority backgrounds do not represent the majority of our demographic, our team is equipped to support individuals from diverse racial, religious, and linguistic backgrounds, ensuring that communication and understanding are never barriers to care.
- 6.1.9 All existing services will be preserved, and the relocation will improve physical access for mobility impaired patients, maintain free delivery services for those unable to attend in person, and offer a more private and modern environment for consultations. Rather than creating a barrier, this move enhances access and patient experience particularly for those with protected characteristics.
- 6.1.10 The relocation will not leave any area underserved nor disrupt existing pharmaceutical provision. Our catchment population will continue to be effectively served as we remain clearly within Barlby Village, with no adverse impact on other providers. The move supports the principle of appropriate geographical distribution of services and aligns with the strategic goals of the ICB by ensuring future proof facilities capable of supporting enhanced clinical services.
- 6.1.11 We acknowledge HNY ICB's position that it has not determined whether this relocation would cause significant detriment to the proper planning of pharmaceutical services in the HWB area. We submit that, rather than undermining such planning, the relocation reinforces it. Our team remains committed to working in collaboration with HNY ICB to ensure our services align with local health needs, population trends, and service demand. The relocation supports service continuity, long-term sustainability, and resilience.
- 6.1.12 The proposed relocation of our pharmacy has been planned with a deep understanding of our patient groups, including those with protected characteristics under the Equalities Act 2010. The move will not create detriment to any group and will instead enhance accessibility, preserve dignity, and improve the overall patient experience. The new premises will be a freehold property, providing us with long-term security and autonomy, free from the limitations associated with occupying a landlord controlled site. We ask that these factors be given full consideration during the appeal process.
- 6.1.13 We continue to engage informally with patients through in-pharmacy conversations and ongoing feedback regarding the proposed relocation. Patients consistently express support for the move, highlighting anticipated improvements in facilities, waiting areas, consultation and treatment rooms, as well as overall service delivery. Patients have been reassured that all existing

NHS services will be maintained, with no disruption to prescriptions, nominated pharmacy arrangements, or access to pharmacy professionals.

- 6.1.14 The proposed relocation is a positive step for patients, for our pharmacy team, and for the local health system. We urge NHS England to consider this application favourably, as it aligns with improving access, quality, and sustainability in pharmaceutical services.”

7 Consideration

- 7.1 The Pharmacy Appeals Committee (“Committee”) appointed by NHS Resolution had before it the papers considered by the Commissioner, together with a plan of the area showing existing pharmacies and doctors’ surgeries and the location of the proposed pharmacy.
- 7.2 It also had before it the responses to NHS Resolution’s own statutory consultations.
- 7.3 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 7.4 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”).
- 7.5 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).*
- 7.6 The Committee noted that in relation to Regulation 31, on the application from, the Applicant had stated “*Not applicable, as the nearest pharmacy is 3.0 km away*”. The Committee noted that the Commissioner had also concluded that “[Regulation 31] *does not apply as there are no other pharmacies at the same or adjacent premises*”. The Committee noted that this had not been disputed either on appeal or in subsequent correspondence. Based on the information before it, the Committee was of the view that it was not required to refuse the application under the provisions of Regulation 31.
- 7.7 The Committee had regard to Regulation 24(1) which requires the following five conditions to be met:

- (a) *for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible;*
- (b) *in the opinion of NHS England, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list—*
 - (i) *in any part of the area of HWB1, or*
 - (ii) *in a controlled locality of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;*
- (c) *NHS England is not of the opinion that granting the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1;*
- (d) *the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises (whether or not, in the case of enhanced services, NHS England chooses to commission them); and*
- (e) *the provision of pharmaceutical services will not be interrupted (except for such period as NHS England may for good cause allow).*

7.8 The Committee considered the position in relation to each condition.

7.9 In relation to condition (a), the Committee considered the map submitted by the Commissioner which clearly shows the locations of the existing pharmacies as well as the proposed premises and medical practices within the area.

7.10 The Committee considered the information before it with regard to the patient groups who are accustomed to accessing pharmaceutical services at the existing premises. The Committee considers that it must seek to identify the patient groups who would potentially be affected by the relocation based upon the information provided by the parties. This information is most commonly going to be provided by the Applicant but others may also be able to contribute to the information on which the Committee will proceed to determination.

7.11 In this case the Committee noted that the Applicant had not specifically identified patients groups and had instead considered whether the relocation overall constituted a significant change to access to pharmaceutical services. There was reference to some patient groups within the information provided by the Applicant.

7.12 The Committee noted that the Commissioner, in its decision, had not identified patient groups and had stated “*no specific patient groups had been identified and therefore it was difficult to assess whether for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, if the location of the proposed premises is significantly less accessible.*” [sic] The Committee noted that the Commissioner had considered the overall distance of the relocation as a whole concluding that “*for some patient groups could be significantly less accessible.*”

7.13 From the information before it, the Committee determined that the patient groups who currently use pharmaceutical services at the proposed premises may be defined as:

- 7.13.1 Those resident in the communities of Barlby, Cliffe, Escrick, North and South Duffield, Osgodby and Riccall; and
- 7.13.2 Those utilising the collection and delivery service.
- 7.14 The Committee noted the further comments from the Applicant that *“our pharmacy serves a broad and stable cross section of the local and wider community”* which includes the following groups of patients:
 - 7.14.1 Elderly patients;
 - 7.14.2 Individuals managing chronic illnesses;
 - 7.14.3 Parents of young children;
 - 7.14.4 Housebound patients; and
 - 7.14.5 NHS walk in patients.
- 7.15 The Committee, whilst noting the additional groups referred to by the Applicant was of the view that these groups are based on those sharing a characteristic and was of the view that there is an overlap between those groups and the initial patient group alluded to by the Applicant. The Committee concludes that the patient groups who are accustomed to accessing pharmaceutical services from the existing premises are those set-out below.

Those resident in the communities of Barlby, Cliffe, Escrick, North and South Duffield, Osgodby and Riccall

- 7.16 The Committee was of the view that this was a very broad patient group as it encompassed those who resided in the village as well as those who lived further afield and therefore did not easily allow an assessment of the impact of the relocation on the accessibility of the proposed premises by this patient group.
- 7.17 The Committee considered that for the purposes of condition (a), it is necessary to break down this patient group into two distinct groups:
 - 7.17.1 A patient group that resides in Barlby; and
 - 7.17.2 A patient group that resides in the surrounding villages.
- 7.18 The Committee considered that application of the test in condition (a) to this patient group required it to consider issues raised in the application and appeal that could impact on the accessibility of the proposed premises. This includes a consideration of the other potential patient groups or sub-groups indicated in the application or appeal as set out in paragraph 7.14 above.
- 7.19 The Committee first considered accessibility for the elderly and those with physical impairments as well as those included by the Applicant at 7.14 above. The Committee noted that this patient group (i.e. the elderly and those with physical impairments) may have a heightened need to access pharmaceutical services.
- 7.20 The Committee considered that this patient group will access the proposed premises on foot, by car or by public transport and it was necessary to consider the accessibility of the proposed premises in light of each method of transport for this patient group.

- 7.21 For some patients, where their 'starting point' would be at or around the existing premises, the Committee noted that the distance between the two premises is approximately 0.8 miles which had been confirmed as being a 25 minute walk, which had not been disputed by any party. Whilst the Committee was of the view that this could be considered "within walking distance" for some patients, there was nothing provided as to what the journey involved, if any roads needed to be crossed, what the terrain of the area was like or if there were any barriers to movement within Barlby itself.
- 7.22 Whilst the Committee accepted that the distance could be considered relatively short for some, given the lack of information, the Committee was not satisfied that the proposed premises would not be significantly less accessible for those residing in Barlby.
- 7.23 The Committee noted the statement from the Applicant that both the existing and proposed premises are on the same bus route (Service 415) and that this would therefore mean that there was a "continuity of public transport". However, the Committee had no further information before it as to how patients would access the proposed premises by public transport, i.e. the location of the bus stops. The Committee was not satisfied that the proposed premises would not be significantly less accessible for those who access pharmaceutical services by public transport.
- 7.24 The Committee noted the comments from the Applicant that for those who access pharmaceutical services by car, the proposed premises would be more accessible due to the lack of parking restrictions and the designated parking at the proposed premises compared to the double yellow lines that are outside the existing premises. The Committee considered that there would be some in the area who would have access to a car and whilst the Committee had no information before it as to how many of those who currently accessed the existing premises would be able to access the proposed premises by private transport, it noted the undisputed comments regarding parking in the area as well as the comments in the questionnaires.
- 7.25 The Committee was satisfied that for those who did access the existing premises by car the proposed premises would not be significantly less accessible.
- 7.26 The Committee however, taking all of the above information into account was of the view that overall, for the patient group who are resident in Barlby, the proposed premises would be significantly less accessible.
- 7.27 The Committee went on to consider those who resided in the other villages in the area including Escrick, North and South Duffield, Osgodby and Riccall.
- 7.28 The Committee had no information before it as to the location of these villages in relation to Barlby but was of the view that this patient group will again access the proposed premises on foot, by car or by public transport and it was necessary to consider the accessibility of the proposed premises in light of each method of transport or this patient group.
- 7.29 The Committee, noting that the proposed premises was still within the village of Barlby, was of the view that it would be unlikely that those who did not live in the village would access services by foot.
- 7.30 The Committee noted there was very little information provided with regard to public transport in the area. The Committee noted the comments from the Applicant that "*both the current and proposed premises are served by the same regular bus route (Service 415) ... ensuring continuity of public transport access*". However, the Committee noted

that no further information with regard to these transport links, including the routes, timings, frequency or costs for example, had been provided.

- 7.31 The Committee noted the comments from the Applicant that for those who did access the existing premises by car the proposed premises would not be significantly less accessible due to the lack of parking restrictions in the vicinity (i.e. no double yellow lines) as well as there being designated parking at the proposed premises, which had not been disputed and was supported by some of the comments contained within the questionnaires submitted. The Committee was satisfied that for those who did access the existing premises by car the proposed premises would not be significantly less accessible.
- 7.32 Based on the information before it, the Committee was of the view that overall for those who are resident in a surrounding village, and use the pharmacy at the existing premises, the proposed premises would be significantly less accessible.
- 7.33 The Committee noted the patient support as provided by the Applicant which it had considered by way of its assessment as set-out above. However, the Committee noted that it had not been provided with any information as to the background of the survey, when it was completed or how the pharmacy approached the sample of patients who completed the questionnaires. Further, the Committee was of the view that the survey appeared to be based with leading questions and the overall responses do not provide a sufficient robust body of evidence. Therefore, beyond the aforementioned assessment, the Committee placed no weight on any other information contained therein.

Patients that utilise the free collection and delivery service

- 7.34 The Committee noted the Applicant's statement that *"For those patients who may experience a slightly increased travel distances, the pharmacy offers a well-established, free prescription collection and delivery service, which has been in operation for 10 years."* The Committee noted that there was no information provided as to how many patients currently made use of the collection and delivery service and that this statement, regarding those who may use it in the future, was not helpful. The Committee was of the view that if patients were not accustomed to accessing pharmaceutical services at the existing premises, then they were not subject to the test under condition (a). The Committee, however, was particularly mindful that the provision of essential services is not limited to the dispensing of prescriptions.
- 7.35 The Committee noted the comments with regard to other essential services that are carried out, however the Committee was of the view that any patient who received essential services at the pharmacy would fall into a patient group as described above. The Committee was of the view that if patients were currently accustomed to accessing pharmaceutical services at the existing premises, the offer of a collection and delivery service, due to an increase in travel distances, led it to the conclusion that the relocation was significantly less accessible.
- 7.36 For any patient who received essential services that do not involve attending the pharmacy in person, the Committee was of the view that they were not accustomed to accessing pharmaceutical services at the existing premises, irrespective of the reason, then they were not subject to the test under condition (a).

Overall assessment

- 7.37 The Committee took into account all of the above patient groups in reaching its decision in respect of condition (a).

7.38 For the reasons given above, the Committee was unable to be satisfied that, for patient groups who are accustomed to accessing the existing premises, the proposed premises is not significantly less accessible.

7.39 The Committee was therefore of the view that condition (a) is not met.

Regulation 24(1)(b)

7.40 The Committee noted the Commissioner had not made a decision in respect of condition (b). The Committee noted that the Applicant, on appeal, had sought to argue that the granting of the application would result in a significant positive change to the arrangements that are in place. The Committee reminded itself that this was not the test. The Committee noted that there was however nothing provided either on appeal or in subsequent representations from parties that the granting of this application would result in a significant change to the arrangements that are in place as envisaged by the Regulations. Given the lack of information to the contrary, the Committee was of the opinion that the granting of the application would not result in a significant change to the arrangements in place for the provision of local pharmaceutical services or of pharmaceutical services in any part of the area of HWB1 or in a controlled locality of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate. The Committee concluded that condition (b) is met.

Regulation 24(1)(c)

7.41 The Committee noted that the Commissioner had not made a decision in respect of condition (c). The Committee noted that no party had sought to argue, either on appeal or in subsequent representations that the granting of the relocation would lead to significant detriment as envisaged in the Regulations. Given the lack of information to the contrary, the Committee was of the opinion that the granting of the application would not cause a significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of HWB1 and therefore concluded that condition (c) is met.

Regulation 24(1)(d)

7.42 The Committee noted that the Applicant had given an undertaking, in their original application form, that the same services will be provided at the proposed site. On the information provided, the Committee determined that condition (d) is met.

Regulation 24(1)(e)

7.43 In relation to condition (e), the Committee noted the Applicant had confirmed in their application, and subsequent representations, that there will be no interruption to service provision. On the information provided the Committee determined that condition (e) is met.

Overall

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

7.44.1 confirm the Commissioner's decision;

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

- 7.44.3 quash the Commissioner's decision and, if it considers that there should be a further notification to the parties to make representations, remit the matter to the Commissioner.
- 7.45 In those circumstances, given that the Commissioner had not considered all aspects of Regulation 24 and that the Committee had additional information before it which was not available to the Commissioner, the Committee determined that the decision of the Commissioner must be quashed.
- 7.46 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.
- 7.47 The Committee noted that representations on Regulation 24 had already been made by parties to the Commissioner, and these had been circulated and seen by all parties who made representations on the application, as part of the processing of the application by the Commissioner. The Committee further noted that when the appeal was circulated representations had been sought from parties on Regulation 24.
- 7.48 The Committee concluded that further notification under paragraph 19 of Schedule 2 would not be helpful in this case.

8 Decision

- 8.1 The Committee quashes the decision of the Commissioner and redetermines the application.
- 8.2 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 8.3 The Committee has determined that condition (a) is not satisfied.
- 8.4 The Committee has determined that conditions (b), (c), (d) and (e) are satisfied.
- 8.5 The application is refused.

Case Manager
Primary Care Appeals