

18 September 2025

REF: SHA/26635

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APPEAL AGAINST DORSET ICB DECISION TO REFUSE A COMBINED APPLICATION FOR A CHANGE OF OWNERSHIP AND RELOCATION WITHIN A HWB AREA THAT DOES NOT RESULT IN SIGNIFICANT CHANGE TO PHARMACEUTICAL SERVICES PROVISION, IN RESPECT OF LP SD NINE LTD PHARMACY AT ABBEY VIEW MEDICAL CENTRE, HAWKESDENE LANE, SHAFTESBURY, DORSET, SP7 8DH TO 8 BELL STREET, SHAFTESBURY, DORSET, SP7 8AE

1 Outcome

- 1.1 The Pharmacy Appeals Committee (“Committee”), appointed by NHS Resolution, quashes the decision of the Commissioner and redetermines the application.
- 1.2 The Committee determined that the application should be granted.

A copy of this decision is being sent to:

SNJ Health Ltd
PCSE, on behalf of Dorset ICB

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

APPEAL AGAINST DORSET ICB DECISION TO REFUSE A COMBINED APPLICATION FOR A CHANGE OF OWNERSHIP AND RELOCATION WITHIN A HWB AREA THAT DOES NOT RESULT IN SIGNIFICANT CHANGE TO PHARMACEUTICAL SERVICES PROVISION, IN RESPECT OF LP SD NINE LTD PHARMACY AT ABBEY VIEW MEDICAL CENTRE, HAWKESDENE LANE, SHAFTESBURY, DORSET, SP7 8DH TO 8 BELL STREET, SHAFTESBURY, DORSET, SP7 8AE

1 The Application

By application dated 11 December 2024, SNJ Health Ltd (“the Applicant”) applied to Dorset ICB (“the Commissioner”) for a combined change of ownership and relocation within a HWB area that does not result in a significant change to pharmaceutical services provision, in respect of LP SD Nine Ltd Pharmacy at Abbey View Medical Centre, Hawkesdene Lane, Shaftesbury, Dorset, SP7 8DH to 8 Bell Street, Shaftesbury, Dorset, SP7 8AE. In support of the application it was stated:

- 1.1 In response to why this application should not be refused pursuant to Regulation 31, the Applicant stated:
 - 1.1.1 There are no other pharmacies on or adjacent to the location specified in this application therefore Regulation 31 is not engaged.
- 1.2 The Applicant provided an undertaking to provide the same services as those that the current owner is providing by ticking “yes” in answer to question 7.1 on the application form.
- 1.3 The Applicant provided an undertaking that there would be no interruption to service provision by ticking “no” in answer to question 7.2 on the application form.
- 1.4 Information in support of the no significant change application:
- 1.5 “Jhoots acquired this pharmacy from the Lloyds Pharmacy Group in 2023 who incorporated the pharmacy into LP SD Nine Ltd which we then took over and all the conditions that were associated. The pharmacy is not tenable under the current property arrangements and therefore there is a need to move the pharmacy to be able to continue to provide services to patients and to maintain a choice of service provider in Shaftesbury.

- 1.6 We have identified premises in the town centre that we believe are the best available and the most accessible to patients. The proposed premises at 8 Bell Street is the former tourist office unit adjacent to Morrisons Supermarket and next to Bell Street Car Park. We believe our pharmacy was originally located in the town centre before it relocated to the Medical Centre.
- 1.7 The proposed unit in Shaftesbury is in a good and accessible location in the town centre for residents and visitors. It has car parking to the rear and is also close to bus stops. We will remain not significantly less accessible for patients of the Abbey View Medical Centre approximately 800 metres away.
- 1.8 **Access by Foot**
- 1.9 By foot, between the two premises the terrain is straightforward. The route has pavements and the proposed site is situated adjacent to Morrison's and other local shops and services. The majority of the population will need to access the town centre area and most of the housing is situated towards the central and eastern sides of the town.
- 1.10 **Car Parking**
- 1.11 There is plentiful car parking adjacent/behind to the proposed site in Bell Street Car Park.
- 1.12 **Bus Services**
- 1.13 Both premises are served the same [sic] bus routes 27/29/86/CR2. The distance from the nearest bus stop in both the current and proposed locations are similar although the proposed site is slightly shorter at approximately 120 metres compared to 180 metres at the current premises. Given the close proximity of the two premises there will not be any significant change to access for these groups. As can be seen from the bus route maps below, they all share a similar path around the town and utilise the same stops therefore the proposed move will not represent any significant change in this respect.
- 1.14 **Patient Groups.**
- 1.15 These can be summarised into the following groups.
- 1.15.1 Those who have accessed pharmaceutical services following a visit to a surgery
- 1.15.2 Those who access pharmaceutical services not following a visit to the surgery i.e. to collect medication or to seek advice
- 1.15.3 Those who access delivery services
- 1.15.4 Those groups who may share a protected characteristic
- 1.16 **Those who have accessed pharmaceutical services following a visit to a surgery**

- 1.17 Jhoots Pharmacy in its current location saw over 98% of its patients from the only medical centre in Shaftesbury. This is unlikely to change following relocation. The Medical Centre, many years ago used to be situated at Barton Hill before moving to the current location. A move of approximately 800 metres into what is a centrally accessible location will not be significantly less accessible for patient groups as these groups will use the centre for all their daily needs. Irrespective of whether this group walk, drive or use other transportation to get to our pharmacy the additional distance is not significant and will not change how this group access services for those that are currently accustomed to do so given the importance of the function of the town centre in Shaftesbury. By similarity, Boots Pharmacy in Shaftesbury also has approximately 93% of its NHS business from the Abbey View Medical Centre and dispenses more prescriptions than our own. This supports our evidence that patients can and do access the town centre.
- 1.18 Of the small remaining proportion of the NHS dispensing – These groups would continue to access the new premises in the same manner as they are accustomed as the pharmacy will remain in an highly accessible area of Shaftesbury or continue to make use of a deliveries. [sic]
- 1.19 For patients who access our services following a visit to other surgeries (approximately 1.5 per cent) this is made up from a range of practices outside Shaftesbury. Mainly from surrounding villages and towns but also a few from visitors over a wider area. The new premises will not be significantly less accessible due to the short distance of the move and the fact that the new premises is part of the main community town centre.
- 1.20 **Those who access pharmaceutical services not following a visit to the surgery i.e. to collect medication or to seek advice**
- 1.21 A move of approximately 800 metres into what remains centrally accessible location will not be significantly less accessible for patient groups. Irrespective of whether this group walk, drive or use other transportation to get to our pharmacy the additional distance is not significant and will not change how this group access services for those that are currently accustomed to do so.
- 1.22 **Delivery services**
- 1.23 Those groups who access our services via the free delivery service will not experience any change to accessing our services.
- 1.24 **Groups who may share a protected characteristic**
- 1.25 We are not aware of any specific groups here but given the short distance and the fact that the pharmacy is along the same side of the same road, along the same bus route and using the same bus stops as the current premises the proposed premises will not be significantly less accessible for this group.
- 1.26 In summary given the short distance of the move that is within the same neighbourhood with no barriers between the two premises we submit that the relocation represents no significant change to the provision of pharmaceutical services as the proposed premises are not significantly less accessible for patient groups accustomed to accessing the current premises.”

- 1.27 “The move is within Shaftesbury and there are not any other pharmacies in the immediate vicinity of either premises. The application is for a relocation of premises and the same services will be provided at the new site as at the current premises.”
- 1.28 “We are not aware of any proposed plans in the area of the Health and Wellbeing Board that this application would cause significant detriment should it be granted. The application is for a relocation for no significant change therefore there will not be any impact.”
- 1.29 [Supporting information in the form of maps is at Appendix A for Committee]

2 The Decision

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

- 2.1 “Dorset 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 Dorset ICB’s decision. Should you choose to appeal then you should either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:
- 2.3 Primary Care Appeals, NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU”

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

Decision report

- 2.4 **“The SW Committee noted:**
- 2.5 This is a combined application for a change of ownership and relocation within a HWB area under Regulation 26(2) of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.
- 2.6 The intention of the application is that SNJ Health Ltd will take ownership of the Pharmacy at Abbey View Medical Centre, Shaftesbury AND relocate the pharmacy to 8 Bell Street, Shaftesbury.
- 2.7 The pharmacy was previously owned by Lloyds. LP SD Nine Ltd took over in August 2023.
- 2.8 Controlled locality status
- 2.9 This is a controlled locality.
- 2.10 **PUBLIC INVOLVEMENT**

- 2.11 The SW Committee noted full details of the applicant's proposals were notified to various parties in accordance with the Regulations. Representation was received from Boots UK Ltd who acknowledge receipt and ask to be kept informed of the outcome but do not support or object to the application.
- 2.12 The applicant responded noting there were no comments made.
- 2.13 **CHANGE OF OWNERSHIP**
- 2.14 The criteria for approving a change of ownership are that:
- 2.14.1 the applicant is intending to provide the same services (which is taken to include the opening hours, range of advanced services offered) as the current contractor, and
- 2.14.2 there would be no interruption in service provision except for such good cause as the ICB allows.
- 2.15 The applicant has indicated on the application form (at part 5) that essential services, appliances listed in part IX of the Drug Tariff will be provided and details advanced services provided. At 7.1 of the application form the applicant confirms the same services will be provided as currently.
- 2.16 At 7.2 of the application form the applicant confirms that there would be no interruption to services.
- 2.17 ***The SW Committee was satisfied that the criteria for the change of ownership aspect of the application have been met.***
- 2.18 Regulation 31 (same or adjacent premises)
- 31.—** (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) the NHSCB 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).
- 2.19 There are no other contractors currently providing pharmaceutical services from the premises to which the application relates, or from adjacent premises. The nearest pharmacy is 0.1 mile away (Boots). ***The SW Committee was***

satisfied it is not required to refuse the application by virtue of Regulation 31.

2.20 RELOCATION THAT DOES NOT RESULT IN SIGNIFICANT CHANGE TO PHARMACEUTICAL SERVICES PROVISION

2.21 Summary of the proposed relocation

2.22 The proposed relocation is to move to 8 Bell Street, Shaftesbury, SP7 8AE. The distance between the current and proposed location is 0.5 miles.

2.23 Regulation 24 (1) states:

2.24 *Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to an application from a person already included in a pharmaceutical list to relocate to different premises in the area of the relevant HWB (HWB1) if—*

(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 the NHSCB, 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 in the area 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) the NHSCB is satisfied that granting the application would not 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, the NHSCB chooses to commission them); and

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

2.25 Reg 24(1)(a) – Patient Groups

2.26 The applicant defines the following patient groups:

2.26.1 *Those who have accessed pharmaceutical services following a visit to a surgery.*

2.26.2 *Those who access pharmaceutical services not following a visit to the surgery i.e. to collect medication or to seek advice.*

2.26.3 *Those who access delivery services.*

2.26.4 *Those who may share a protected characteristic*

- 2.27 The applicant states they are not aware of any specific groups sharing protected characteristics but suggest that as the 2 sites are a short distance apart, on the same bus route, the proposed site would not be significantly less accessible for those with protected characteristics.
- 2.28 The SW Committee did not identify additional patient groups to consider in relation to the application.
- 2.29 The applicant describes why each patient group will not find the proposed premises significantly less accessible, noting all groups will use the town centre for all their daily needs and the distance is not significant. They note the Boots Pharmacy in the town centre has much of their dispensing activity generated by Abbey View Medical Centre demonstrating that patients registered with this practice do not find accessing the town centre difficult.
- 2.30 The applicant offers detail on the travel methods used by patients suggesting the relocation will make no significant difference to those on foot, due to the straightforward terrain. They state the proposed premises has car parking to the rear and there is a car park in Bell Street and the bus stops are close, with the same service for both sites.
- 2.31 The applicant states patients using their free delivery service will not experience any change.
- 2.32 The applicant states, given the short distance of the move within the same neighbourhood with no barriers between the two premises, the proposed location presents no significant change to the provision of pharmaceutical services, as the proposed premises are not significantly less accessible for patient groups accustomed to accessing the current premises.
- 2.33 The SW Committee considered that for some patient groups, particularly those with impaired mobility and those on foot, half a mile is a significant distance. Recognising the current socio-economic status, even the cost of bus fare is a pressure for some people. It was noted this was especially the case for those who don't currently use bus services when visiting the pharmacy in its current location.
- 2.34 The SW Committee noted the area is a rural part of the county and moving the only two pharmacies in the area closer together is not going to benefit many patients. Whilst the SW Committee recognises some people living near the current location will be going into the busier part of Shaftesbury to access other services, for those with mobility challenges the distance is considerable.
- 2.35 The SW Committee considered if a gap would be created if the pharmacy were to move from its current location. ***The SW Committee agreed for those currently accessing the pharmacy on foot, the impact of the change***

would be significant due to the distance involved, particularly for the elderly and people with pushchairs/buggies.

- 2.36 (b) The NHSCB is of the opinion that granting the relocation would not result in significant change to the arrangements that are in place for the provision of pharmaceutical services
- 2.37 In considering this, the SW Committee reflected on the resulting clustering of pharmaceutical services in the town centre. It was noted the proposed location moves nearer to the Boots Pharmacy, leaving the outskirts to the southern part of Shaftesbury without a pharmacy. Noting the increase in clinical service provision in community pharmacy settings, moving to a location already served by a community pharmacy, leaving the current location without a service offer, would have a negative impact on accessibility of services. This was considered to be a significant change to existing service provision.
- 2.38 ***The SW Committee was satisfied that granting the application WOULD result in a significant change to the arrangements in place for the provision of pharmaceutical services.***
- 2.39 (c) The NHSCB 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 the HWB
- 2.40 No evidence has been presented that suggests the relocation would cause significant detriment to proper planning.
- 2.41 ***The SW Committee was satisfied that granting the application would not cause significant detriment to proper planning of pharmaceutical services.***
- 2.42 (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
- 2.43 The applicant has confirmed at part 7 of the application form that the same services will be available at the new premises that are available at the current premises.
- 2.44 ***The SW Committee was satisfied that the same services would be available at the proposed premises.***
- 2.45 (e) The provision of pharmaceutical services will not be interrupted
- 2.46 The applicant has confirmed at part 7 of the application form that there will be no interruption to services.
- 2.47 ***The SW Committee was satisfied that there will be no interruption to services.***
- 2.48 24(3)(a-d) an application pursuant to this regulation must be refused if the existing pharmacy premises from which the applicant is seeking to relocate

- 2.48.1 is in an approved retail area (24(3)(a))
- 2.48.2 is part of a one-stop primary care centre (24(3)(b))
- 2.48.3 has relocated in the last 12 months (24(3)(c))
- 2.48.4 this is not a distance selling premises (24(3)(d))

2.49 Regulation 24(3)(a-d) is not applicable in this case.

2.50 **Decision**

2.51 ***The SW Committee was satisfied that the application should be REFUSED because the new premises are significantly less accessible for those accustomed to using the existing premises and granting the application would result in a significant change to the arrangements in place for the provision of pharmaceutical services.***

2.52 Appeal rights

2.53 The application is declined so the applicant will get appeal rights."

3 **The Appeal**

By the online form for pharmacy application appeals dated 13 July 2025, the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

- 3.1 "Further to the decision by NHS South West Pharmaceutical Regulatory Committee that refused our application for combined relocation and no significant change relocation by letter dated 14th May 2025 I would wish to lodge the following appeal.
- 3.2 The Committee has accepted that the change of ownership element of the application is met therefore this appeal does not seek to challenge this part of the application and will instead focus on the relocation aspect.
- 3.3 **Main grounds of appeal:**
- 3.4 In consideration of Regulation 24(1)(a)- Patient Groups, in paragraph 16 of the decision report the Committee confirms they "did not identify additional patient groups to consider in relation to the application". They have therefore accepted the groups listed in the application.
- 3.5 From the representations by interested parties "circulated as the 14-day comments" there were no objections to the application. The only response was by Boots UK Ltd who confirmed they had "no comments to make" but would like to be kept informed of progress. There was no objection/response from any local groups, the LPC, Health and Wellbeing Board or GPs.
- 3.6 On page 4 of the decision report, paragraph 21 [2.33] "*the SW Committee considered that for some patient groups, particularly those with impaired mobility and those on foot, half a mile is a significant distance. Recognising the current socioeconomic status, even the cost of bus fare is a pressure for some*

people. It was noted this was especially the case for those who don't currently use bus services when visiting the pharmacy in its current location". The Committee provides no reasoning as to why they consider the distance to be significant. We provided reasons in the application as to why the proposed site was not significantly less accessible and in the decision report, paragraph 22 [2.34] say the "*Committee recognises some people living near the current location will be going into the busier part of Shaftesbury to access other services*". The Committee also refers to "*current socioeconomic status*", the SW Committee has not explained what it means by "current socioeconomic status" or how it was measured or applied in the context of our application. This was not mentioned in our application and has been a matter introduced by the SW Committee. With regards to bus services, we provided maps and details of routes and how accessible the proposed premises were in relation to the current premises by bus. The SW Committee makes no reference to the evidence we provided about bus services and routes but seeks to introduce their own evidence about bus fares. The usual concessionary fares are available to the elderly and young children. The location of the proposed premises closer to much of the housing and local services will reduce reliance on any bus journeys.

- 3.7 We provided evidence in our application, that the Boots pharmacy in the town centre sees the vast majority of its NHS business derived from the medical practice, it is evident therefore that patient groups from the Health Centre are accessing the town centre. As described in the paragraph below both the current pharmacy site and the proposed pharmacy site fall within the Shaftesbury Town ward.
- 3.8 On page 4 of the decision report, paragraphs 24 and 25 [2.36 & 2.37], the SW Committee considers Regulation 24 (1)(b) whether there would be significant detriment to the arrangements in that are in place for the provision of pharmaceutical services. In the opinion of the SW Committee this test is not met. We submit the SW Committee has not interpreted Regulation 24(1)(b) correctly. The SW Committee say in paragraph 24 that they reflected on '*clustering*'. The Committee has not defined what they interpret as '*clustering*' or how they assess it. We submit '*clustering*' is not part of the Regulations for Regulation 24 (1)(b). The SW Committee continues with "*It was noted the proposed location moves nearer to the Boots Pharmacy, leaving the outskirts to the southern part of Shaftesbury without a pharmacy*". There is nothing in the Regulations that prevents a pharmacy moving closer to another one. Any relocation would in some way move closer to another pharmacy. It is unclear what the Committee mean by '*leaving the outskirts*'. There is no definition of the '*outskirts*' or what the Committee term the '*southern part*'. The proposed premises are situated in the heart of Shaftesbury in the former tourist office and has good car parking (this is not disputed) and has good bus links (not disputed) as the current premises and the terrain is flat between the two addresses.
- 3.9 Streetview along Salisbury Road (from the current premises) towards the town centre - flat paved walk.
- 3.10 The current premises has to its south the Shaftesbury School playing fields and beyond that open fields therefore the proposed premises are closer to much of the housing. Both the current and proposed premises fall within the Shaftesbury

Town ward. The Abbey View Medical Centre is the only medical centre in Shaftesbury and services patients from all over the town. Similarly, the town centre services all of Shaftesbury. As can be seen in the map below the Medical Centre site has very little housing to the south of it with most of Shaftesbury development being to the North, East and West and therefore the proposed premises are well placed to meet the needs of patient groups accustomed to accessing the current premises.

- 3.11 The SW Committee continues in paragraph 24 [2.37] of the decision report *“Noting the increase in clinical service provision in community pharmacy settings, moving to a location already served by a community pharmacy, leaving the current location without a service offer, would have a negative impact on accessibility of services”*. The Committee is not clear what it means by *“moving to a location already served”*. Shaftesbury has two pharmacies and will continue to have two pharmacies. The existing two pharmacies (Boots and Jhoots) are currently only approximately 600 metres apart. Should this application be approved, they will be approximately 170 metres via Swans Yard pedestrian area or approximately 200 metres via Bell Street. Overall, we submit this is not a significant change.
- 3.12 The current premises are in a separate unit on the Medical Centre site and there are no other retail units on this plot where and we cannot remain due to the conditions imposed the landlord.
- 3.13 In further consideration of Regulation 24((1)b) The Appeals Committee has provided guidance on this:
- 3.14 In case SHA/18458 (22 March 2017), the Committee set out two questions to be answered in respect of this test: “Question 1: is the Committee satisfied on the balance of probabilities that granting the application would not result in the closure of the [third party] pharmacy? If the Committee is satisfied then the appeal fails and there is no need to consider the second question. If the Committee is not satisfied then it moves to consider the second question.
- 3.15 In this instance there is no suggestion by either the SW Committee or Boots (Interested third party) that the relocation would result in the closure of any other pharmacies (in this instance Boots UK Ltd at 33 High Street, Shaftesbury). The Committee should therefore have been satisfied that on the balance probabilities granting the application would not result in the closure of the third party.
- 3.16 In this case our pharmacy has applied to move out of a separate unit on the medical centre site into a highly accessible location in the central part of Shaftesbury. This will be more accessible due to the fact it is situated around local shops and services, adjacent to a car park and on good bus routes. It will also not lead to the closure of the Boots Pharmacy (33 High Street) thus Shaftesbury will retain (two pharmacies as is currently provided).
- 3.17 For the above reasons we submit the SW Committee erred in its determination that Regulation 24((1)b) was not met.
- 3.18 Regulation 24 (1)(c) the SW Committee agreed this test was met.

- 3.19 **We do not believe that for the above reasons and those submitted below that the SW Committee should have refused our application on Regulation 24(1)(a) and 24(1)(b).**
- 3.20 Below is a summary of the information provided as part of our original application:
- 3.21 Jhoots acquired this pharmacy from the Lloyds Pharmacy Group in 2023 who incorporated the pharmacy into LP SD Nine Ltd which we then took over and all the conditions that were associated. The pharmacy is not tenable under the current property arrangements. The GP landlords have introduced a rent of £100k and this and the conditions are not continuable. Therefore, there is a need to move the pharmacy to be able to continue to provide services to patients and to maintain a choice of service provider in Shaftesbury.
- 3.22 We have identified premises in the town centre that we believe are the best available and the most accessible to patients. The proposed premises at 8 Bell Street is the former tourist office unit adjacent to Morrisons Supermarket and next to Bell Street Car Park. Incidentally, [sic] we believe our pharmacy was originally located in the town centre before it relocated to the Medical Centre.
- 3.23 The proposed unit in Shaftesbury is in a good and accessible location in the town centre for residents and visitors. It has car parking to the rear and is also close to bus stops. We will remain not significantly less accessible for patients of the Abbey View Medical Centre approximately 800 metres away.
- 3.24 **Access by Foot**
- 3.25 By foot, between the two premises the terrain is straightforward. The route has pavements and the proposed site is situated adjacent to Morrison's and other local shops and services. The majority of the population will need to access the town centre area and most of the housing is situated towards the central and eastern sides of the town.
- 3.26 **Car Parking**
- 3.27 There is plentiful car parking adjacent/behind to the proposed site in Bell Street Car Park.
- 3.28 **Bus Services**
- 3.29 Both premises are served the same bus routes 27/29/86/CR2. The distance from the nearest bus stop in both the current and proposed locations are similar although the proposed site is slightly shorter at approximately 120 metres compared to 180 metres at the current premises. Given the close proximity of the two premises there will not be any significant change to access for these groups. As can be seen from the bus route maps below, they all share a similar path around the town and utilise the same stops therefore the proposed move will not represent any significant change in this respect.
- 3.30 **Patient Groups.**
- 3.31 These can be summarised into the following groups.

- 3.31.1 Those who have accessed pharmaceutical services following a visit to a surgery
- 3.31.2 Those who access pharmaceutical services not following a visit to the surgery i.e. to collect medication or to seek advice
- 3.31.3 Those who access delivery services
- 3.31.4 Those groups who may share a protected characteristic
- 3.31.5 Those who have accessed pharmaceutical services following a visit to a surgery
- 3.32 Jhoots Pharmacy in its current location saw over 98% of its patients from the only medical centre in Shaftesbury. This is unlikely to change following relocation. The Medical Centre, many years ago used to be situated at Barton Hill before moving to the current location. A move of approximately 800 metres into what is a centrally accessible location will not be significantly less accessible for patient groups as these groups will use the centre for all their daily needs. Irrespective of whether this group walk, drive or use other transportation to get to our pharmacy the additional distance is not significant and will not change how this group access services for those that are currently accustomed to do so given the importance of the function of the town centre in Shaftesbury. By similarity, Boots Pharmacy in Shaftesbury also has approximately 93% of its NHS business from the Abbey View Medical Centre and dispenses more prescriptions than our own. This supports our evidence that patients can and do access the town centre.
- 3.33 Of the small remaining proportion of the NHS dispensing – These groups would continue to access the new premises in the same manner as they are accustomed as the pharmacy will remain in an highly accessible area of Shaftesbury or continue to make use of a deliveries.
- 3.34 For patients who access our services following a visit to other surgeries (approximately 1.5 per cent) this is made up from a range of practices outside Shaftesbury. Mainly from surrounding villages and towns but also a few from visitors over a wider area. The new premises will not be significantly less accessible due to the short distance of the move and the fact that the new premises is part of the SPAR premises which is accessed by the community and visitors.
- 3.35 Those who access pharmaceutical services not following a visit to the surgery i.e. to collect medication or to seek advice.
- 3.36 A move of approximately 800 metres into what remains centrally accessible location will not be significantly less accessible for patient groups. Irrespective of whether this group walk, drive or use other transportation to get to our pharmacy the additional distance is not significant and will not change how this group access services for those that are currently accustomed to do so.
- 3.37 **Delivery services**

3.38 Those groups who access our services via the free delivery service will not experience any change to accessing our services.

3.39 **Groups who may share a protected characteristic**

3.40 We are not aware of any specific groups here but given the short distance and the fact that the pharmacy is along the same side of the same road, along the same bus route and using the same bus stops as the current premises the proposed premises will not be significantly less accessible for this group.

3.41 In summary given the short distance of the move that is within the same neighbourhood with no barriers between the two premises we submit that the relocation represents no significant change to the provision of pharmaceutical services as the proposed premises are not significantly less accessible for patient groups accustomed to accessing the current premises.”

3.42 [Supporting information including maps and photographs at Appendix B for Committee]

4 **Summary of Representations**

This is a summary of representations received on the appeal.

4.1 THE COMMISSIONER

4.1.1 “The SW Committee considered the distance of half a mile between the two sites may be significant for some patient groups, particularly those with impaired mobility and those on foot. Whilst the SW Committee recognises some people living near the current location will be going into the busier part of Shaftesbury to access other services, for those with mobility challenges the distance is considerable.

4.1.2 The SW Committee agreed the geographical spread of pharmacies is important when considering changes to the arrangements that are in place for the provision of local pharmaceutical services, and noting the current spread of pharmacies in what is a rural part of the county moving the only two pharmacies closer together is not going to benefit many patients. The SW Committee would respectfully suggest that particularly for those with mobility difficulties, moving a pharmacy that is effectively co-located with the surgery, results in a much greater effort to then have to travel an additional 600 metres to the proposed location. It also means an additional charge for those travelling by public transport. Moving a pharmacy to a location already served by a pharmacy would have a negative impact on accessibility. When there are 2 pharmacies in the town, from a planning perspective it makes little sense to have them both so close together.

4.1.3 The applicant suggests that the new location is not significantly less accessible, as evidenced by the fact that the Boots already in the town gets 93% of its business from the same surgery and indeed dispenses more prescriptions. The SW Committee would respectfully suggest this is likely a poor indicator of accessibility, given the current circumstances of the applicant. The reality is patients in Shaftesbury often find

themselves with little choice but to access their community pharmacy services in town, as the applicant's pharmacy has reported more than 40 whole day temporary suspensions between 7 April 2025 and 9 July 2025."

5 Observations

The following observations were received by NHS Resolution in response to the representations received on appeal.

5.1 THE APPLICANT

5.1.1 "The only representation has been by The Commissioner (The SW Committee).

5.1.2 The SW Committee accepts that for some who access the current premises they will also be going into the busier part of Shaftesbury. The Committee make a reference to those who may have impaired mobility. This same group will also access the town centre as this is where all the other local shops and services are situated (including Morrisons food store). We have dealt with this in our submission. We have provided evidence about bus routes and the fact that there is a bus stop conveniently close to the proposed unit. We have also provided evidence about the good car parking adjacent to the proposed premises. For those who may have more limited mobility access to the current premises is more likely to be by car or transport. We also provided evidence and a map of where people live in Shaftesbury and the fact that there is limited development to the south side of the current premises. We stated in our appeal:

5.1.3 *"The current premises has to its south the Shaftesbury School playing fields and beyond that open fields therefore the proposed premises are closer to much of the housing. Both the current and proposed premises fall within the Shaftesbury Town ward. The Abbey View Medical Centre is the only medical centre in Shaftesbury and services patients from all over the town. Similarly, the town centre services all of Shaftesbury. As can be seen in the map below the Medical Centre site has very little housing to the south of it with most of Shaftesbury development being to the North, East and West and therefore the proposed premises are well placed to meet the needs of patient groups accustomed to accessing the current premises".*

5.1.4 The SW Committee say that the geographical spread of pharmacies is important when considering the arrangements that are in place. The Regulations do not refer to consideration of 'geographical spread'. There are currently two pharmacies serving Shaftesbury and its locality and there will continue to be two pharmacies should the application be granted with the same services provided. The Committee has placed weight in the decision on the fact that two pharmacies may end up closer together they say *"When there are 2 pharmacies in the town, from a planning perspective it makes little sense to have them both so close together"*. This is not part of the test to be applied. Nevertheless,

the difference in distance between the two pharmacies would only result in a change of approximately 400 metres as set out in our appeal. This is not significant.

5.1.5 In response to our evidence that Boots Pharmacy in the town centre of Shaftesbury sees approximately 93% of its NHS items business from the same Abbey View Surgery, the SW Committee suggest this in reference to the period between 7th April and 9th July 2025 and imply it was because of temporary closures. Our application was submitted in December 2024, and we referred to the 93% in the original application well before the period between April and July 2025. Our data was based on available NHSBSA data from August 2024. It is not unsurprising that Boots also sees a high percentage of its items from Abbey View Surgery as it is the only surgery in the town and the population accesses the town centre for everyday services. Boots and Jhoots therefore serve the same population.

5.1.6 The two premises are clearly both part of Shaftesbury and the relocation in our opinion will not represent any significant change to the provision of pharmaceutical services. We therefore ask for the appeal to be upheld.”

6 Consideration

6.1 The Pharmacy Appeals Committee (“Committee”) appointed by NHS Resolution, had before it the papers considered by the Commissioner.

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 first considered Regulation 31 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“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).

- 6.5 The Committee noted that in Part 5 of the application form, the applicant had stated: *"There are no other pharmacies on or adjacent to the location specified in this application therefore Regulation 31 is not engaged."* In the decision report, the Commissioner had stated: *"There are no other contractors currently providing pharmaceutical services from the premises to which the application relates, or from adjacent premises. The nearest pharmacy is 0.1 mile away (Boots). The SW Committee was satisfied it is not required to refuse the application by virtue of Regulation 31."*
- 6.6 The Committee therefore determined that it was not required to refuse the application under the provisions of Regulation 31.
- 6.7 The Committee noted the following regulation in respect of Regulation 26(2) (Change of ownership and no significant change relocation of premises applications).

Regulation 26(2)

Section 129(2A) of the 2006 Act does not apply to an application from a person who is not included in a pharmaceutical list for the area of a HWB (HWB1) for inclusion in that list, or from a person included in a pharmaceutical list for inclusion in that list also in respect of other premises than those already listed in relation to that person, if -

- (a) the applicant (X) is undertaking to provide the pharmaceutical services that another person (Y) -
 - (i) is providing at listed chemist premises ("Y's premises"), whether in the area of HWB 1 or a neighbouring HWB, or*
 - (ii) has provided at Y's premises but Y is no longer able to provide pharmaceutical services at those premises for reasons that NHS England accepts are good cause;**
- (b) X is proposing to carry on, in place of Y, the business in the course of which Y is providing, or has provided, pharmaceutical services at Y's premises;*
- (c) X is undertaking to provide the same pharmaceutical services as Y is providing or has provided at Y's premises, but at different premises ("X's premises");*
- (d) had Y applied to move to X's premises, that application would have been granted under regulation 24; and*
- (e) in a case where pharmaceutical services-
 - (i) are being provided at Y's premises, the provision of pharmaceutical services will not be interrupted (except for such**

period as NHS England may for good cause allow) by the move of the business from Y's premises to X's premises, or

- (ii) *are not being provided at Y's premises, the provision of pharmaceutical services will commence at X's premises within the period that NHS England considers is an acceptable period for the interruption of the provision of pharmaceutical services by the business that X is taking over.*

Regulation 26(3)

An application pursuant to paragraph (1) must be refused if it relates to distance selling premises, unless the application, if made pursuant to regulation 25(1), would not be refused pursuant to regulation 25(2).

Regulation 26(4)

An application pursuant to paragraph (2) must be refused if the existing pharmacy premises from which the applicant is seeking to relocate are distance selling premises, unless the premises to which the applicant is seeking to relocate are also distance selling premises (and this is in addition to the requirement that arises by virtue of paragraph (2)(d) that the application if made to regulation 25(1), would not be refused pursuant to regulation 25(2)).

- 6.8 The Committee considered the position in relation to each criterion.
- 6.9 The Committee noted that the above Regulations are specific in the criteria the applicant must satisfy, if their proposed change of ownership and no significant change relocation of premises is to succeed.
- 6.10 The Committee noted that the existing pharmacy premises are not distance selling premises and therefore is of the view that the application of Regulation 26(3) and (4) did not require it to refuse the application.
- 6.11 The Committee considered the position in relation to each paragraph noting that there was no dispute that paragraphs 26(2)(a), (b) (c) and (e) were satisfied and applied to the circumstances of this application.
- 6.12 The focus of the appeal and subsequent submissions made by parties was on paragraph 26(2)(d) i.e. whether, if the Applicant had applied to move to the proposed premises, that application would have been granted pursuant to Regulation 24.
- 6.13 The Committee went on to consider Regulation 26(2)(d) as part of their consideration of Regulation 24.
- 6.14 The Committee considered if the Applicant's proposal to move the existing pharmacy premises at Abbey View Medical Centre, Hawkesdene Lane, Shaftesbury, Dorset, SP7 8DH to 8 Bell Street, Shaftesbury, Dorset, SP7 8AE should be granted under Regulation 24.
- 6.15 The Committee had regard to Regulation 24 which requires consideration of the following five criteria:

- (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).*

6.16 In relation to criterion (a) of Regulation 24 above, the Committee considered the map submitted by the Commissioner, which clearly show the locations of the existing pharmacies as well as the proposed premises and the medical practice within the area.

6.17 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.

6.18 In this case, the Applicant has identified the patient groups as:

6.18.1 Those who have accessed pharmaceutical services following a visit to a surgery.

6.18.2 Those who access pharmaceutical services not following a visit to the surgery i.e. to collect medication or to seek advice.

6.18.3 Those who access delivery services.

6.18.4 Those groups who may share a protected characteristic.

- 6.19 The Committee noted that there was no dispute from the Commissioner with regard to the patient groups identified by the Applicant.
- 6.20 The Committee noted that the Applicant had identified “Patients who share protected characteristics” as a separate patient group and therefore went on to consider these patients specifically.
- 6.21 The Committee concludes that the patient groups who are accustomed to accessing pharmaceutical services from the existing premises are those set out below.

Those who have accessed pharmaceutical services following a visit to a surgery

- 6.22 The Committee noted the Applicant states that “*Jhoots Pharmacy in its current location saw over 98% of its patients from the only medical centre in Shaftesbury*”, which had not been disputed. The Committee noted that the only medical centre in Shaftesbury is the Abbey View Medical Centre whose site contains the existing pharmacy premises.
- 6.23 The Committee considered that this patient group will access the new 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.
- 6.24 The Committee noted that in its application the Applicant states that the proposed premises are approximately 800 metres away from the existing premises at the Abbey View Medical Centre, whilst in its appeal the Applicant states that the distance is approximately 600 metres. The Committee noted that neither distance had been disputed by the Commissioner.
- 6.25 The Committee had regard to the Applicant’s comments that the terrain between the sites is “straightforward” and involves a “flat paved walk”, which had not been disputed. The Applicant had also provided a Google map indicating that it is a 12 minute walk, or 14 minutes by an alternative route. The Committee noted the Commissioner’s concern that “*...for some patient groups, particularly those with impaired mobility and those on foot, half a mile is a significant distance*” and “*...the impact of the change would be significant due to the distance involved, particularly for the elderly and people with pushchairs/buggies.*” The Committee was of the view that for this patient group, those that were willing and able to walk and chose to do so, the proposed premises were not significantly less accessible. However, the Committee considered that there may be patients within this group who share a protected characteristic, as identified by the Applicant as a patient group in its own right who may have difficulty accessing the proposed premises on foot due to the distance involved. Therefore, the Committee went on to consider access by other means.
- 6.26 The Committee noted that the Applicant had not provided any information with regard to car ownership in the area, however it had commented that “*There is plentiful car parking adjacent/behind to the proposed site in Bell Street Car Park.*” In the absence of any dispute, the Committee was satisfied that the proposed premises is not significantly less accessible by car.

- 6.27 For those who choose to access pharmaceutical services by public transport, the Committee noted the Applicant's comments that both the existing and proposed premises are served by the same bus routes i.e. 27, 29, 86 and CR2 which all share a similar route around Shaftesbury as illustrated by the maps provided. The Committee also noted the Applicant states that the distance from the nearest bus stop for the existing and proposed locations are similar, but that it is slightly shorter at the proposed premises at 120 metres compared to 180 metres at the existing premises. The Committee also noted the Commissioner's view that *"Recognising the current socio-economic status, even the cost of bus fare is a pressure for some people. It was noted this was especially the case for those who don't currently use bus services when visiting the pharmacy in its current location."* The Committee noted the Applicant's response that *"The usual concessionary fares are available to the elderly and young children."* The Committee saw no information to suggest that the bus fares in the area are prohibitive and considered that there was information provided, by way of routes and stops, to demonstrate that the proposed premises is not significantly less accessible by public transport.
- 6.28 The Committee noted the Applicant's comments that approximately 1.5% of patients visiting the pharmacy at its current location do so after visiting a range of practices outside Shaftesbury, mainly from surrounding villages and towns but also a few from a wider area. The Committee considered that these patients would not be accessing the existing premises on foot due to the distances involved, rather they would be driving or using public transport. The Committee was of the view that for the reasons discussed above, the proposed premises was not significantly less accessible after visiting a surgery outside Shaftesbury.

Those who access pharmaceutical services not following a visit to the surgery i.e. to collect medication or to seek advice

- 6.29 The Committee noted that this patient group would most likely consist of those living in Shaftesbury, or visiting Shaftesbury to access amenities or work etc. The Committee noted that patients in this group would be accessing the pharmacy from a variety of locations, both nearby and further afield.
- 6.30 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 new premises in light of each method of transport for this patient group.
- 6.31 The Committee noted the Applicant's comments that *"the Medical Centre site has very little housing to the south of it with most of Shaftesbury development being to the North, East and West and therefore the proposed premises are well placed to meet the needs of patient groups accustomed to accessing the current premises."* The Applicant further comments that *"The location of the proposed premises closer to much of the housing and local services will reduce reliance on any bus journeys."* The Committee considered that the distance involved would vary depending on a patient's starting point.
- 6.32 For patients where their 'starting point' would be at or around the existing premises, the Committee noted its findings above in relation to those patients

accessing pharmaceutical services on foot following a visit to Abbey View Medical Centre and was of the view that they would equally apply here.

- 6.33 For patients travelling from elsewhere around Shaftesbury, the Committee noted the Applicant's comments that the proposed premises is in a "*good and accessible location in the town centre for residents and visitors*". The Committee noted that a move to the proposed premises would bring the pharmacy closer to home for some residents, but further away for others. For those living to the east of the current premises, the Committee noted that the journey could be longer. The Committee was mindful of its consideration of bus services at paragraph 6.27, particularly noting from the bus route maps provided that services cover the eastern side of Shaftesbury and would continue to be accessible for those accustomed to using the bus, also providing an alternative mode of transport for those who had previously walked. The Committee also had regard to its consideration at paragraph 6.26 for those with access to private transport. The Committee noted that for those starting their journey from other areas of Shaftesbury which were nearer to the proposed premises, the journey was likely to be shorter. For those travelling from outside Shaftesbury, the Committee noted its consideration at paragraph 6.28. The Committee was therefore satisfied that the proposed premises is not significantly less accessible for those who had not started their journey at the Abbey View Medical Centre.

Those who access delivery services

- 6.34 The Committee was of the view that if patients were not accustomed to accessing pharmaceutical services at the 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.

Those groups who may share a protected characteristic

- 6.35 The Committee considered whether the information provided showed that there were patients accustomed to accessing pharmaceutical services at the existing premises for whom the proposed premises would be less accessible because of reasons related to 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).
- 6.36 The Committee noted the Applicant's comments that it is "*not aware of any specific groups here but given the short distance and the fact that the pharmacy is along the same side of the same road, along the same bus route and using the same bus stops as the current premises the proposed premises will not be significantly less accessible for this group.*" The Committee noted that the Commissioner had identified those with impaired mobility as a group which may face particular challenges due to the distance involved on foot. The Committee was mindful of its consideration at paragraph 6.33 regarding the increased distance for some residents to the east of the proposed premises and considered that it would also apply to this group.

- 6.37 The Committee identified that patients with the protected characteristics of disability may be accustomed to accessing pharmaceutical services at the existing premises. Therefore in considering condition (a), the Committee took into account these patients and 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 characteristic(s).

Overall assessment

- 6.38 The Committee took into account all of the above patient groups in reaching its decision in respect of condition (a).
- 6.39 In the circumstances, the Committee was satisfied that, for patient groups who are accustomed to accessing the existing premises, the proposed premises is not significantly less accessible.
- 6.40 The Committee was therefore of the view that condition (a) is met.

Regulation 24(1)(b)

- 6.41 The Committee noted the decision of the Commissioner in respect of condition (b), that the granting of this application would lead to a significant change to the arrangements in place for the provision of pharmaceutical services in the area.
- 6.42 The Committee noted the Commissioner's comments in its determination that *"...the SW Committee reflected on the resulting clustering of pharmaceutical services in the town centre. It was noted the proposed location moves nearer to the Boots Pharmacy, leaving the outskirts to the southern part of Shaftesbury without a pharmacy. Noting the increase in clinical service provision in community pharmacy settings, moving to a location already served by a community pharmacy, leaving the current location without a service offer, would have a negative impact on accessibility of services. This was considered to be a significant change to existing service provision."* The Commissioner commented further in its representations that *"...the geographical spread of pharmacies is important when considering changes to the arrangements that are in place for the provision of local pharmaceutical services, and noting the current spread of pharmacies in what is a rural part of the county moving the only two pharmacies closer together is not going to benefit many patients"*.
- 6.43 The Committee noted the Applicant's view that the Commissioner had not interpreted Regulation 24(1)(b) correctly, responding that *"The SW Committee say in paragraph 24 that they reflected on 'clustering'. The Committee has not defined what they interpret as 'clustering' or how they assess it. We submit 'clustering' is not part of the Regulations for Regulation 24 (1)(b). The SW Committee continues with "It was noted the proposed location moves nearer to the Boots Pharmacy, leaving the outskirts to the southern part of Shaftesbury without a pharmacy". There is nothing in the Regulations that prevents a pharmacy moving closer to another one. Any relocation would in some way move closer to another pharmacy" and further that "The Regulations do not refer to consideration of 'geographical spread'. There are currently two pharmacies serving Shaftesbury and its locality and there will continue to be*

two pharmacies should the application be granted with the same services provided”.

- 6.44 The Committee noted the Applicant’s comment that Boots Pharmacy in Shaftesbury town centre has approximately 93% of its “*NHS business*” from the Abbey View Medical Centre. The Committee noted the Commissioner’s view that this was likely due to a number of temporary closures of the Applicant’s pharmacy between 7 April 2025 and 9 July 2025, however the Applicant had responded that the figure was based on NHSBSA data from August 2024.
- 6.45 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.
- 6.46 On the information provided 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 HWB. The Committee concluded that condition (b) is met.

Regulation 24(1)(c)

- 6.47 The Committee noted the decision of the Commissioner in respect of condition (c) that the granting of the relocation would not lead to significant detriment to proper planning in respect of the pharmaceutical services in the area. The Committee noted that this had not been disputed by any party either on appeal or in subsequent representations.
- 6.48 Whilst the Commissioner in its representations had stated “*When there are 2 pharmacies in the town, from a planning perspective it makes little sense to have them both so close together*”, the Committee noted that this had not been expanded on.
- 6.49 On the information provided 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)

- 6.50 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)

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

Regulation 26(2)(d)

- 6.52 The Committee, taking into account its consideration above, was satisfied that in accordance with 26(2)(d) that if the Applicant had applied to move from Abbey View Medical Centre, Hawkesdene Lane, Shaftesbury, Dorset, SP7 8DH to 8 Bell Street, Shaftesbury, Dorset, SP7 8AE, that application would have been granted pursuant to Regulation 24.

Overall

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

6.53.1 confirm the Commissioner's decision;

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

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

- 6.54 As the Committee had reached a different conclusion to the Commissioner, it therefore determined that the decision of the Commissioner must be quashed.

- 6.55 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.

- 6.56 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.

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

7 Decision

- 7.1 The Committee quashes the decision of the Commissioner and re-determines 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 determined that it should be granted on the following basis:

7.3.1 the Applicant is proposing to continue in place of the existing contractor, the business in the course of which that contractor is providing pharmaceutical services at the same premises;

- 7.3.2 they can provide the same pharmaceutical services as those that the existing contractor is providing;
 - 7.3.3 the Committee was satisfied in accordance with 26(2)(d) that if the Applicant had applied to move to 8 Bell Street, Shaftesbury, Dorset, SP7 8AE, that application would have been granted pursuant to Regulation 24.
 - 7.3.4 that the provision of pharmaceutical services will not be interrupted (except for such period as the Commissioner may for good cause allow).
- 7.4 The application is granted.

Case Manager
Primary Care Appeals