

24 October 2025

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

FILE REF: SHA/ 26701

COMMISSIONER: HERTFORDSHIRE AND WEST
ESSEX ICB
("the Commissioner")

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

PHARMACIST: BRAMPTON CHEMIST (FQJ32)
("the Applicant")

PREMISES: 97B HIGH STREET
BRAMPTON
HUNTINGDON
CAMBRIDGESHIRE
PE28 4TQ

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

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

Outcome

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

A copy of this decision is being sent to:
Brampton Chemist (FQJ32)
Hertfordshire and West Essex ICB

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

1 Introduction

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

Rights of appeal

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

Opening hours

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

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

Alteration of core opening hours

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

Alteration of supplementary opening hours

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

2. Application

In this case, the Applicant provided the following information in its original application form and supporting information dated 12 June 2025:

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

Monday	09:00-13:00 13:30-18:00
Tuesday	09:00-13:00

	13:30-18:00
Wednesday	09:00-13:00 13:30-15:30
Thursday	09:00-13:00 13:30-18:00
Friday	09:00-13:00 13:30-18:00
Saturday	Closed
Sunday	Closed

2.3 Proposed core opening hours for these premises:

Monday	09:00-13:00 13:30-18:00
Tuesday	09:00-13:00 13:30-18:00
Wednesday	09:00-15:30
Thursday	09:00-13:00 13:30-18:00
Friday	9:00-13:00 13:30-17:30
Saturday	Closed
Sunday	Closed

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

2.5 As soon as possible

2.6 The local GP surgery close at 5pm on a Friday so we would still catch the final patients- we find that the last half an hour is quiet on a Friday."

Following a change in the Regulations on 23 June 2025, the Commissioner sent the following letter dated 27 June 2025 to the Applicant:

2.7 "I am writing in respect of the above application which was received on 12th June 2025.

2.8 The NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 were amended with effect from Monday 23 June 2025 and as a result there are now two tests that applications to redistribute core opening hours are to be determined under.

2.8.1 Paragraph 24(1), Schedule 4

2.8.2 Paragraph 26(2ZB), Schedule 4

2.9 Although your application was received before the regulations were amended, it has not yet been determined. I would therefore be grateful if you could confirm by 11th July 2025 whether you wish the integrated care board to determine your application under paragraph 24(1), Schedule 4.

- 2.10 If we do not hear from you by that date, we will proceed and determine your application under that test.
- 2.11 If you wish to reapply under the new test, please complete and return the enclosed application form by 11th July 2025. If you will require a longer period of time to prepare your new application, please let me know at your earliest convenience.
- 2.12 Please note that the integrated care board is unable to provide advice to you as to which test you should apply under. You may therefore like to see [sic] advice from your local pharmaceutical committee.”

In this case, the Applicant submitted a revised application form dated 27 June 2025:

- 2.13 “This is an application to permanently change core opening hours.

- 2.14 Current opening hours for these premises:

Monday	09:00-13:00 13:30-18:00
Tuesday	09:00-13:00 13:30-18:00
Wednesday	09:00-13:00 13:30-15:30
Thursday	09:00-13:00 13:30-18:00
Friday	09:00-13:00 13:30-18:00
Saturday	Closed
Sunday	Closed

- 2.15 Proposed core opening hours for these premises:

Monday	09:00-13:00 13:30-18:00
Tuesday	09:00-13:00 13:30-18:00
Wednesday	09:00-15:30
Thursday	09:00-13:00 13:30-18:00
Friday	9:00-13:00 13:30-17:30
Saturday	Closed
Sunday	Closed

- 2.16 If this is a permanent change, please state below the date from which you would like the change to take effect:
- 2.17 As soon as possible- 1st August 2025?.

- 2.18 The Applicant confirmed that it wished its application to be determined on the basis of Paragraph 24(1), Schedule 4.
- 2.19 Please provide the information that demonstrates that your proposed core opening hours will:
- 2.19.1 either maintain as necessary the existing level of service provision for people in the area of the pharmacy, or other likely users of the pharmacy premises; or
- 2.19.2 maintain a sustainable level of adequate service provision for the people in the area of the pharmacy, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.
- 2.20 The local GP surgery closes at 5pm on a Friday so we would still catch the final patients- we find that the last half an hour is quiet on a Friday. Wednesday is already a short day for us so we find ourselves still working during that half an hour that we are shut.”

3. The Decision

In a letter to the Applicant dated 26 August 2025 the Commissioner decided to refuse the application. The Commissioner stated:

- 3.1 “The Pharmaceutical Services Regulations Committee (hereafter referred to as “the Committee”) considers all pharmaceutical services applications on behalf of all six ICBs in the East of England region, in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as “the Regulations”).
- 3.2 The Committee considered your application under Schedule 4, Part 3, Paragraph 24 and 26 of the Regulations.
- 3.3 The Committee considered your application to redistribute core hours under paragraph 24(1), Schedule 4 of the Regulations.
- 3.4 In line with an amendment to the Regulations, confirmation was sought prior to presentation at PSRC, as to whether you wished your application to be determined in line with the tests of paragraph 24(1) or 26(2ZB), Schedule 4 of the Regulations. An updated application form was subsequently received, confirming you wished the application to be considered under the 24(1) test.
- 3.5 The Committee first considered Regulation 65 – Core opening hours conditions.
- 3.6 Is there a direction in place in respect of the pharmacy premises?
- 3.7 The Committee noted that no direction under Regulation 65 is in existence.
- 3.8 **The Committee moved on to consider paragraph 26(1), of Schedule 4 – Determination of pharmacy premises core opening hours instigated by the NHS pharmacist.**

3.9 Is the applicant seeking to keep the total number of core opening hours of the pharmacy premises the same, but to change when they are?

3.10 The Committee noted that you are seeking to maintain the total number of core opening hours while redistributing them throughout the week. The proposed changes include closing the premises on a Friday at 17:30 and extending the afternoon opening hours from 13:00 – 13:30 on Wednesday.

3.11 The Committee next considered Paragraph 24(1), Schedule 4 – Matters to be considered when issuing directions in respect of pharmacy premises core opening hours.

3.12 What is the existing level of service provision?

3.13 The Committee noted your current and proposed core and supplementary opening hours of the pharmacy premises which are as follows.

3.14 Current core and supplementary opening hours:

Current									40:00	0:00		
	S1		C1		S2		C2		S3		C3	
Monday			09:00	13:00			13:30	18:00				
Tuesday			09:00	13:00			13:30	18:00				
Wednesday			09:00	13:00			13:30	15:30				
Thursday			09:00	13:00			13:30	18:00				
Friday			09:00	13:00			13:30	18:00				
Saturday												
Sunday												

3.15 Proposed core and supplementary opening hours:

Proposed									40:00		0:00	
	S1		C1		S2		C2		S3		C3	
Monday			09:00	13:00			13:30	18:00				
Tuesday			09:00	13:00			13:30	18:00				
Wednesday			09:00	13:00			13:00	15:30				
Thursday			09:00	13:00			13:30	18:00				

Friday			09:00	13:00			13:30	17:30				
Saturday												
Sunday												

3.16 Is it necessary to maintain the existing level of service provision?

3.17 The Committee noted in support of your application, you had provided the following information on the usage of the pharmacy at the time(s) you are proposing that the pharmacy will close and/or now open.

3.18 *“The local GP surgery close at 5pm on a Friday so we would still catch the final patients- we find that the last half an hour is quiet on a Friday.”*

3.19 You had not provided examples and results of any survey of usage by the public, how many patients attend at the times you are proposing to close and open the pharmacy, what services people access, how patients travel to the pharmacy etc.

3.20 The Committee noted, as no information had been submitted that evidences when pharmaceutical services are not utilised during the times you are proposing to remove core hour provision, it agreed that it is necessary to maintain the existing level of service provision.

3.21 Will the applicant’s proposed core opening hours maintain the existing level of service provision at the pharmacy premises?

3.22 The Committee noted that you did not provide any evidence to this regard.

3.23 The Committee therefore agreed, your proposed core opening hours would not maintain the existing level of service provision at the pharmacy premises.

3.24 Would the existing level of service provision be maintained by virtue of the existence of other pharmacies in the area at times when the applicant is proposing to close?

3.25 The Committee noted that you provided no information regarding the existence of other pharmacies in the area at times when you are proposing to close.

3.26 The Committee noted you had not provided any information regarding the provision of advanced and enhanced services by the nearest pharmacies.

3.27 Taking into account that you had not provided any evidence regarding the provision of pharmaceutical services during core opening hours by other pharmacies in the area, the Committee agreed it was not satisfied that patients would be able to access the same services from the alternative pharmacies if the application was granted, and therefore in the absence of any evidence had to agree that the existing level of service provision cannot be maintained by those other pharmacies.

- 3.28 Paragraph 24(1)(b), Schedule 4 - are the proposed core opening hours such as to maintain a sustainable level of adequate service provision for the people in the area of the pharmacy or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome?
- 3.29 The Committee noted as you had not provided any evidence it had to conclude that maintaining the existing level of service provision is necessary, therefore paragraph 24(1)(b), part 3 of schedule 4 is not relevant. Consideration was therefore given as to whether or not maintaining the existing level of service provision is not a realistically achievable outcome.
- 3.30 You had not provided any information to demonstrate that maintaining the existing level of service provision is not a realistically achievable outcome.
- 3.31 Taking into account you had not provided any evidence to support this provision, the Committee was not satisfied that the proposed core opening hours are such as to maintain a sustainable level of adequate service provision for the people in the area of the pharmacy or other likely users of the pharmacy premises in circumstances where maintaining the existing level of service provision is not a realistically achievable outcome.
- 3.32 **Decision**
- 3.33 The Committee refused the application.
- 3.34 The Committee agreed that the proposed core hours of opening:
- 3.34.1 would not maintain as necessary the existing level of service provision for the people in the area of the applicant's pharmacy premises, or other likely users of the pharmacy premises;
- 3.34.2 would not maintain a sustainable level of adequate service provision for the people in the area of the applicant's pharmacy premises, or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.
- 3.35 The rationale is as follows:
- 3.35.1 You did not provide any information/evidence regarding how people travel to the pharmacy.
- 3.35.2 You did not provide information/evidence to support that other local pharmacies would be able to maintain the existing level of service provision.
- 3.35.3 You did not provide details around who is using the service and what services they require.
- 3.36 The Committee agreed the applicant Sai-Ching NG T/A Brampton Chemist, 97B High Street, Brampton, Huntingdon, PE28 4TQ (FQJ32) has the right of appeal.

3.37 You therefore have the right of appeal to the Secretary of State against our decision. Should you choose to appeal, then you should send in writing a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to:

3.38 nhsr.appeals@nhs.net or

3.39 NHS Resolution,
8th Floor,
10 South Colonnade,
Canary Wharf,
London,
E14 4PU.”

4. **The Appeal**

In an email to NHS Resolution dated 28 August 2025 the Applicant appealed against the Commissioner’s decision. The grounds of appeal are:

4.1 **“Appeal Response: Brampton Chemist – FQJ32**

4.2 **To: The Secretary of State**

4.3 I am writing to appeal the decision made by the Committee to refuse our application regarding proposed core opening hours for Brampton Chemist (FQJ32).

4.4 The Committee’s concerns appear to centre on the lack of supporting evidence regarding service provision, travel options, patient demographics, and availability of alternative pharmacies. I would like to take this opportunity to address these points in turn and provide further context to our request.

4.5 **Nature of Service Provision**

4.6 Brampton Chemist currently operates as a dispensing pharmacy only. We do not provide any Advanced or Enhanced services such as Pharmacy First. As such, the core service we provide is the safe and efficient dispensing of prescribed medications. The Committee’s concerns about maintaining service levels for enhanced services are therefore not applicable in our specific case, as we are not a provider of such services at this time. The majority of our dispensing workload comprises monthly repeat prescriptions, with only a small proportion related to acute prescriptions from the local GP surgery. The surgery typically closes at 5:00 PM on Fridays and we routinely dispense the final prescriptions from those late afternoon appointments before closing. Patients are aware of this and usually attend promptly to collect. The GP surgery is also aware that we generally prefer not to dispense after 5:30 PM. In such cases, they issue paper FP10 prescriptions to patients who may then choose to use an alternative pharmacy open later. This collaborative approach has worked effectively and ensures patient access is not compromised.

4.7 **Patient Demographics and Usage**

4.8 The majority of our service users are residents of Brampton village. We rarely serve patients from outside the immediate area. Our busiest periods typically fall between 11am and 4pm, which align closely with the operating hours of the local GP surgery. When the GP surgery is closed for training or other reasons, we notice a marked decrease in footfall, particularly for acute prescriptions. This clearly shows that service demand is closely linked to GP availability. As our primary service users are based in the village, most travel on foot or by car. Brampton is a small village and we have been providing this service for over 30 years as an independent family owned business.

4.9 **Impact of Supplementary Hours Changes**

4.10 We recently amended our supplementary hours by closing on Saturdays. This change has not significantly affected our patient base. Patients who previously visited on Saturdays have either transferred to local delivery services or opted to use alternative pharmacies in the surrounding area that do operate on weekends. This demonstrates a degree of flexibility and choice available to our service users without creating access issues.

4.11 **Availability of Nearby Pharmacies**

4.12 There are several other pharmacies within close proximity to Brampton Chemist. For example:

4.12.1 **Priory Fields Pharmacy**, approximately 2.6 miles away, remains open until 9:00 PM.

4.12.2 **Buckden Pharmacy**, around 3 miles away, is open until 6:00 PM.

4.13 These pharmacies provide extended access for patients outside our proposed core hours, ensuring that adequate pharmaceutical services remain available in the area.

4.14 In conclusion, we believe that our proposed change in core opening hours will not result in a reduction of necessary pharmaceutical service provision to the local population. The needs of our patients continue to be met through our dispensing services, the availability of nearby pharmacies with extended hours, and alternative access methods such as deliveries. We respectfully request that the original decision be reconsidered.”

5. **Representations**

In a letter to NHS Resolution dated 29 September the Commissioner stated:

5.1 “Please note that from the 01 April 2023, community pharmacy contracting and commissioning has been delegated to Integrated Care Boards (ICBs). Hertfordshire and West Essex (HWE) ICB are hosting the function on behalf of the six East of England ICBs.

5.2 Please find below information we wish to be considered in relation to Sai-Ching NG t/a Brampton Chemist (‘Brampton Chemist’). HWE ICB make the following representations on behalf of Cambridge and Peterborough ICB.

- 5.3 Having reviewed the grounds of the appeal and the information provided by Emma Ng (Appellant) on behalf of Brampton Chemist, we remain of the opinion that this application should be refused.
- 5.4 It is recognised that the Appellant has provided additional information on appeal that was not available to the Pharmaceutical Services Regulations Committee (PSRC) at the time of the application. A small amount of additional information has been provided on the following:
- 5.4.1 Service provision
 - 5.4.2 Travel options
 - 5.4.3 Patient demographics
 - 5.4.4 Availability of alternative pharmacies.
- 5.5 The representations will follow the four identified areas in turn:
- 5.6 **Service Provision - Paragraph 24(1)(a), Schedule 4**
- 5.7 PSRC noted it was first necessary to identify the existing level of service provision for people in the area of Brampton Chemist or other likely users of the pharmacy.
- 5.8 The Appellant is proposing to maintain the total number of core opening hours (40) provided Monday to Friday but is seeking to change the times when the pharmacy is open. The existing level of service provision would therefore not be maintained because as part of the proposed change, the pharmacy will close 30 minutes earlier at 17:30 on a Friday and on a Wednesday afternoon, the hours will be extended from 13:00 to 13:30.
- 5.9 The PSRC noted it was therefore necessary to identify whether there are other providers of pharmaceutical services in the area, when they are open and whether when considered, they would maintain the existing level of service provision.
- 5.10 When assessing the existing level of service provision by these other pharmacies, the PSRC has only considered core opening hours Monday to Friday, noting that supplementary hours can cease or be amended with the giving of notice.
- 5.11 The Appellant did not provide any information on service provision by other pharmacies in their application however has noted in their appeal that they only provide essential services (no advanced or enhanced services). The Appellant provides the full suite of essential services which includes:
- 5.11.1 Discharge Medicines Service
 - 5.11.2 Dispensing medicines
 - 5.11.3 Disposal of unwanted medicines

5.11.4 Health Living

5.11.5 Support for self-care and;

5.11.6 Repeat dispensing and eRD

- 5.12 The Appellant has not been able to demonstrate the usage nor the level of pharmaceutical services within the pharmacy at the times at which it is proposing to close on a Friday. No evidence has been provided to show how many patients attend at the times at which the applicant is proposing to close, how they travelled to the pharmacy and what service was required.
- 5.13 The Appellant describes generally that *“the surgery typically closes at 5pm on Fridays.....and that the GP surgery is aware that they “prefer not to dispense after 5:30pm” (page 1, appeal letter). These comments are made in relation to dispensing of medicines however no information or evidence has been provided on whether people access the pharmacy for other essential services at the time the contractor is proposing to close.*
- 5.14 GP practices are required to remain open throughout GP core hours which are 08:00 - 18:30. NHS Cambridgeshire & Peterborough ICB have advised that they will be addressing this matter directly with the practice concerned.
- 5.15 It is the view of the PSRC that the proposed core opening hours do not satisfy paragraph 24(1)(a), Schedule 4.
- 5.16 **Travel Options**
- 5.17 The Appellant states:
- 5.18 *“There are several other pharmacies within close proximity to Brampton Chemist. For example:*
- 5.18.1 *Priory Fields Pharmacy, approximately 2.6 miles away, remains open until 9:00 PM.*
- 5.18.2 *Buckden Pharmacy, around 3 miles away, is open until 6:00 PM.*
- 5.19 *These pharmacies provide extended access for patients outside our proposed core hours, ensuring that adequate pharmaceutical services remain available in the area (page 2, appeal letter).*
- 5.20 As shown in Appendix 1, the 5 nearest pharmacies would take a minimum of 49 minutes to walk one way, therefore a round trip to the nearest pharmacy would take 1 hour 38 minutes which is a considerably long and unrealistic journey for people to make on foot. It is likely to be impossible for those who have mobility issues or who are unwell.
- 5.21 Priory Fields Pharmacy is open until 21:00, however it would take 54 minutes to travel on foot one way and 1 hour 28 minutes to travel on foot to Buckden Pharmacy which is excessive.

5.22 The Appellant has not provided any information on the routes involved for those who travel on foot for example, whether there is sufficient street lightening [sic], dropped kerbs and pedestrian crossings where necessary. There is no evidence with regards to car ownership, parking facilities or the routes those travelling by car would need to take. There is no information on how those people using public transport could access alternative pharmacies. It is therefore not possible to conclude that the existing level of service will be maintained by virtue of other pharmacies within the area.

5.23 **Patient Demographics**

5.24 The Appellant states:

5.25 *“The majority of our service users are residents of Brampton village. We rarely serve patients from outside the immediate area. Our busiest periods typically fall between 11am and 4pm, which align closely with the operating hours of the local GP surgery. When the GP surgery is closed for training or other reasons, we notice a marked decrease in footfall, particularly for acute prescriptions. This clearly shows that service demand is closely linked to GP availability. As our primary service users are based in the village, most travel on foot or by car. Brampton is a small village and we have been providing this service for over 30 years as an independent family owned business”* (page 1, appeals email).

5.26 These are general statements. Little weight should be placed on assumptions made by the Appellant that demand is greater between 11:00 – 16:00 as no robust evidence has been provided. It is unclear what happens to the minority of service users or those that might attend on the rare occasion. Furthermore, no information or evidence has been provided to indicate where users of the pharmacy would be able to access alternative pharmaceutical services within a reasonable distance on a Friday.

5.27 **Supplementary Hours**

5.28 The Appellant states:

5.29 *“Impact of Supplementary Hours Changes*

5.30 *We recently amended our supplementary hours by closing on Saturdays. This change has not significantly affected our patient base. Patients who previously visited on Saturdays have either transferred to local delivery services or opted to use alternative pharmacies in the surrounding area that do operate on weekends. This demonstrates a degree of flexibility and choice available to our service users without creating access issues.”*

5.31 Brampton Chemist did have supplementary hours opening hours between 09:00 to 12:00 on a Saturday until 30 April 2025. Those people who were accustomed to using the pharmacy on a Saturday between the hours of 09:00 – 12:00 may have found an alternative pharmacy to use on this day or may choose to wait until Monday to access Brampton Pharmacy when the pharmacy re-opens. The Appellant’s suggestion that this shows a degree of flexibility and choice is irrelevant in assessing whether a core hour application meets the requirements of the Regulations.

5.32 **Availability of Alternative Pharmacies - Paragraph 24(1)(b), Schedule 4**

5.33 The Appellant states:

5.34 *“There are several other pharmacies within close proximity to Brampton Chemist. For example:*

5.34.1 *Priory Fields Pharmacy, approximately 2.6 miles away, remains open until 9:00 PM.*

5.34.2 *Buckden Pharmacy, around 3 miles away, is open until 6:00 PM.*

5.35 *These pharmacies provide extended access for patients outside our proposed core hours, ensuring that adequate pharmaceutical services remain available in the area.”* (page 2 of the appeal email).

5.36 The pharmacies the Appellant has listed along with 3 additional pharmacies premises are located within a 3.7km radius of Brampton Chemist and offer similar opening and closing of core hours. It should be noted that there are no pharmacies within a 1.5km radius and therefore these pharmacies may not be easily accessible for those who are already accustomed to traveling to Brampton Chemist on foot. As a minimum it could take someone over an hour to walk one way (times taken from Google Maps). Appendix 1 gives the core opening times along with the travel times and Appendix 2 shows a map of the 4 nearest pharmacies within the 3.7km.

5.37 It can be seen from Appendix 1 that Buckden Pharmacy, J G Clifford Dispensing, and Wellbeing Pharmacy all close at 18:00 Monday to Friday which is in alignment with the current hours provided by Brampton Chemist. Boots Pharmacy closes at 17:00 Monday to Friday and Priory Fields Pharmacy does have longer core hours with a closing time of 21:00 Monday to Friday. Therefore, if the Appellant’s application were granted, those who wish to attend the pharmacy in person to obtain pharmaceutical services would need to make the journey to one of the pharmacies within the 3.7km radius.

5.38 **Paragraph 24(1)(b), Schedule 4**

5.39 The PSRC was of the opinion that:

5.39.1 it is necessary to maintain the existing level of service provision,

5.39.2 the Appellant’s proposed opening hours would not achieve that, and

5.39.3 there is no evidence that other providers of pharmaceutical services would maintain the existing level of service provision,

5.40 The Appellant has not provided any robust evidence to demonstrate that the current users of Brampton Chemist who can access services from 17:30 to 18:00 on a Friday would not be affected should the change in hours be granted.

5.41 HWE ICB are not persuaded by the Appellant’s representations that there are any circumstances where maintaining a sustainable level of adequate service

provision for people in the area or other likely users of the pharmacy is either unnecessary or not a realistically achievable outcome.

5.42 In summary, we remain of the opinion that the application should be refused.”

5.43 [A copy of the original application form, letter dated 27 June 2025, revised application form, PSRC meeting report and minutes dated 16 July 2025 were enclosed].

6. **Observations**

No observations were received by the Applicant in response to the Commissioner’s representations.

7. **Consideration**

7.1 I note the following:

7.1.1 The Applicant’s core opening hours total 40 hours and the Applicant proposes to redistribute those 40 core opening hours pursuant to paragraph 26 of Schedule 4.

7.2 The Applicant proposes to:

7.2.1 Open between 1pm to 1.30pm on Wednesday; and

7.2.2 Close at 5.30pm instead of 6pm on Friday.

7.3 The Regulations, which came into force on 1 April 2013, have been amended a number of times. Certain amendments, relating to pharmacy premises opening hours, came into force with effect from 25 May 2023. Further amendments to paragraph 26, Schedule 4, Part 3 of the Regulations came into force on 23 June 2025.

7.4 Paragraph 26(1) states:

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

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

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

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

Where P makes an application under sub-paragraph (1)(b), as part of that application P must provide NHS England with such information as NHS England may reasonably request in respect of the matters that NHS England must seek to ensure pursuant to sub-paragraph (2ZB) or paragraph 24(1) (depending on the basis of the application).

7.6 I note the Applicant indicated that it wanted its application to be determined on the basis of paragraph 24(1).

7.7 Paragraph 24(1) reads as follows:

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

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

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

7.8 Paragraph 24(2) states:

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

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

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

7.9 I will start by considering the application of paragraph 24(1)(a) and whether the proposed hours are such as to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises. I will then consider the application of 24(1)(b) if that is required.

7.10 To properly assess the application against paragraph 24(1)(a), I need to determine the existing level of service provision. I then need to consider whether it is necessary to maintain the existing level of service provision. If it is necessary to maintain the existing level of service provision, I need to consider whether, despite the proposed change of hours, the existing level of service provision to people in the area or other likely users would be maintained, e.g. by nearby pharmacies being open and providing the same level of service provision.

7.11 If I consider it unnecessary to maintain the existing level of service provision or that it is necessary to maintain the existing level of service provision but doing so is not a realistically achievable outcome, then I need to consider paragraph

24(1)(b) and determine whether the proposed change of hours are such that a sustainable level of adequate service provision would be maintained.

- 7.12 I therefore need to be provided with sufficient information to understand a range of matters, starting with the existing level of service provision. The references to days and times in paragraph 24(1) leads me to consider that the reference to "level" of service provision in paragraph 24(1)(a) is mainly focused on the days and times services are provided. I would point out that "level" of service provision could also refer to other characteristics of the service, such as types and range of services provided, geographical access to services provided, other aspects of physical access aside from location, and the quality of services provided.
- 7.13 The existing level of service provision has been outlined by the Applicant, in its own core hours provision, and by an indication of the hours that two pharmacies in the local area are open.
- 7.14 I have next considered whether it is necessary to maintain the existing level of service provision. It could be argued that as the Applicant is not looking to reduce the number of hours each week that services are provided, then from a pure "number of hours of service provision each week" perspective, the existing level of service provision is maintained such that consideration of whether it is necessary to maintain the level of service provision is not needed.
- 7.15 However, the Applicant is applying to change the days and times that services are provided. Taking Friday as an example, the level of service provision at the Applicant's premises on a Friday is not being maintained. I consider it appropriate to determine if it is necessary to maintain the existing level of service provision and then, if deemed necessary, consider if the opening hours of other pharmacies mean that level is maintained.
- 7.16 To determine whether it is necessary to maintain the existing level of service provision, I have had regard to the comments by the Applicant of those using the pharmacy. If I am satisfied that there is reliable evidence indicating no users of the pharmacy on/at the relevant days/times that the pharmacy wishes to close, this might support an argument that maintaining the existing level of service provision is not necessary.
- 7.17 The Applicant states *"The majority of our dispensing workload comprises monthly repeat prescriptions, with only a small proportion related to acute prescriptions from the local GP surgery. The surgery typically closes at 5:00 PM on Fridays and we routinely dispense the final prescriptions from those late afternoon appointments before closing. Patients are aware of this and usually attend promptly to collect."*, *"Our busiest periods typically fall between 11am and 4pm"* and *"we find that the last half an hour is quiet on a Friday"*.
- 7.18 The comment *"The surgery typically closes at 5:00 PM on Fridays and we routinely dispense the final prescriptions from those late afternoon appointments before closing"* indicates to me that there are some people using the pharmacy at times the Applicant is wishing to close.

- 7.19 Therefore, I consider it reasonable to take the position that unless I am provided with evidence to the contrary, I should consider that it is necessary to maintain the existing level of service provision.
- 7.20 Having determined that it is reasonable to assume that maintaining the existing level of service provision is necessary, I now need to consider if, despite the changes to hours, there is maintenance of the existing level of service provision. The Applicant cannot maintain this as it is changing its hours but I note the information from the Applicant with regard to other pharmacies in the area that have opening hours during the times that the Applicant is proposing to close, namely Priory Fields Pharmacy and Buckden Pharmacy.
- 7.21 If I consider that the characteristics of other pharmacies, e.g. where they are located, their access, the services provided and the times they are open, means that the level of service provision is maintained for people in the local area or other likely users of the pharmacy, then I am able to grant the application under paragraph 24(1)(a).
- 7.22 It is worth noting that characteristics of the persons using the pharmacy might be relevant here as well as from where they start their journey to the pharmacy. I do not consider that every single individual need should be considered at length in this regard but it would be helpful to have this information to be certain that the existing level of service provision would be maintained via local pharmacies.
- 7.23 The Applicant has provided limited information regarding the opening hours and distances to Priory Fields Pharmacy and Buckden Pharmacy. The Applicant states that *"Priory Fields Pharmacy, approximately 2.6 miles away, remains open until 9:00 PM. Buckden Pharmacy, around 3 miles away, is open until 6:00 PM"*. I note that both pharmacies are open at times the Applicant is wishing to close however the Applicant has provided no information regarding access to these pharmacies for those who currently access its own pharmacy and how they might travel to access alternative pharmaceutical services.
- 7.24 In its representations, the Commissioner has provided a table which outlines the *"Nearest pharmacies core opening times and travel times from Brampton Chemist"*, which has not been disputed by the Applicant. I note that to access Priory Fields Pharmacy it would take 7 minutes by car, 54 minutes on foot and 26 minutes by public transport. It would take 7 minutes by car, 88 minutes on foot and 12 minutes by public transport to access Buckden Pharmacy. I further note that J G Clifford Dispensing Causeway and Wellbeing Pharmacy are also open at times the Applicant is wishing to close and are located at similar distances away.
- 7.25 I am mindful of the Applicant's comment *"As our primary service users are based in the village, most travel on foot or by car"*. Whilst the Applicant has not provided any information on the routes involved to walk to the alternative pharmacies, for example, whether there is sufficient street lighting, dropped kerbs and pedestrian crossings where necessary, due to the distance alone, I do not consider them to be a reasonable alternative for access on foot. In terms of access by car, whilst the journey lengths are not excessive, the Applicant has provided no information on car ownership, parking facilities or the routes

involved for those with access to a car. Turning to access by public transport, whilst the journey lengths have been outlined by the Commissioner, the Applicant has not provided any information on the provision of public transport in the area, such as the routes or frequency of service, which patients may use when travelling to the other pharmacies.

- 7.26 Whilst I note the Applicant does not provide enhanced or advanced services and has provided information to demonstrate that the alternative pharmacies in the area provide at least the same services, if not more, due to the lack of information on access to these pharmacies and being mindful of the Applicant's comment "*The majority of our service users are residents of Brampton village*", I am struggling to be satisfied that the existing level of service provision would be maintained by virtue of the existence of other local pharmacies.
- 7.27 I have decided that it is necessary to maintain the current service provision but, there is a lack of information regarding the journey to alternative pharmacies whether on foot or by public or private transport. I am therefore not satisfied that there will be maintenance of the existing level of service provision by virtue of other pharmacies in the area.
- 7.28 I therefore next consider if I need to have regard to paragraph 24(1)(b) which states that I must seek to ensure that the changed hours are such as to:
- "maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome"*.
- 7.29 I have already determined that it is necessary to maintain the existing level of service provision so reference in paragraph 24(1)(b) to "*in circumstances where maintaining the existing level of service provision is ... unnecessary*" is not relevant.
- 7.30 On the point of whether maintaining the existing level of service provision is not a realistically achievable outcome, I consider that no evidence has been put forward in respect of this criteria.
- 7.31 The wording of paragraph 24(1)(b) is such that maintaining existing service levels must not be realistically achievable before considering a sustainable level of adequate provision. I consider that this sets a fairly high bar as to the level of difficulty that the Applicant must find themselves in. I note that no evidence has been provided to indicate that the economic and practical viability of the current opening hours has been compromised. I therefore consider that maintaining the existing level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b).
- 7.32 In its appeal, I note the information provided under the heading "Impact of Supplementary Hours Changes" and the Commissioner's response in its representations. I agree with the Commissioner's comment that "*The Appellant's suggestion that this shows a degree of flexibility and choice is irrelevant in assessing whether a core hour application meets the requirements of the Regulations*".

- 7.33 I am mindful that the provision of pharmaceutical services is greater than the dispensing of prescriptions and that maintaining a level of service provision includes all services that the pharmacy may offer, including other essential services. I am of the view that I have not been provided with sufficient information to demonstrate how the proposed change of hours would maintain, as necessary, the existing levels of service provision.
- 7.34 In relation to the opening hours of the “*local GP surgery*”, I note the Commissioner has confirmed that “*GP practices are required to remain open throughout GP core hours which are 08:00 - 18:30. NHS Cambridgeshire & Peterborough ICB have advised that they will be addressing this matter directly with the practice concerned*”. I therefore take no view on this matter.

8. **Determination**

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

Head of Appeals
NHS Resolution