

26 November 2025

FILE REF: **SHA/ 26713**

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

COMMISSIONER: **STAFFORDSHIRE AND
STOKE-ON-TRENT ICB
("the Commissioner")**

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

PHARMACIST: **KIDSGROVE PHARMACY
("the Applicant")**

PREMISES: **42 MARKET STREET
KIDSGROVE
STOKE-ON-TRENT
ST7 4AB**

**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 are likely to benefit the people who are accustomed to accessing pharmaceutical services at the pharmacy premises such that they would be more likely to access services during the proposed hours.
- 1.2 The action taken by the Commissioner to refuse the application is confirmed.

A copy of this decision is being sent to:

Kidsgrove Pharmacy
Staffordshire and Stoke-on-Trent ICB

FILE REF: SHA/ 26713

COMMISSIONER: STAFFORDSHIRE AND
STOKE-ON-TRENT ICB
("the Commissioner")

PHARMACIST: KIDSGROVE PHARMACY
("the Applicant")

PREMISES: 42 MARKET STREET
KIDSGROVE
STOKE-ON-TRENT
ST7 4AB

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

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

**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]**

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 application form and supporting information dated 1 July 2025:

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

Monday	08:30-12:30 15:00-18:00
Tuesday	08:30-12:30

	15:00-18:00
Wednesday	08:30-12:30 15:00-18:00
Thursday	08:30-12:30 15:00-18:00
Friday	08:30-12:30 15:00-18:00
Saturday	08:30-12:30 16:00-17:00
Sunday	Closed

2.3 Proposed core opening hours for these premises:

Monday	09:00 – 12:30 13:30 – 18:00
Tuesday	09:00 – 12:30 13:30 – 18:00
Wednesday	09:00 – 12:30 13:30 – 18:00
Thursday	09:00 – 12:30 13:30 – 18:00
Friday	09:00 – 12:30 13:30 – 18:00
Saturday	Closed
Sunday	Closed

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

2.5 29th July 2025

2.6 The Applicant confirmed that it wished its application to be determined on the basis of Paragraph 26(2ZB), Schedule 4.

2.7 Please provide the information that demonstrates that your proposed core opening hours will ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises listed above are likely to benefit from the changes because, overall, they would be more likely to access those services at the pharmacy premises during the proposed core opening hours than during the existing core opening hours.

2.8 We are submitting this application under Paragraph 26(2ZB) of Schedule 4 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations.

2.9 We are looking to realign our core operating hours to better suit the needs of the business, while ensuring that our patients continue to have access to the pharmacy and the services they rely on. There is also, a Tesco supermarket pharmacy located approximately 0.7 miles away (around a 3-minute drive) that operates on Saturdays and during the hours affected by our proposed core

hour changes. This ensures that patients will continue to have access to pharmaceutical services and will not be left without support during these times.

- 2.10 The pharmacy experiences consistently low activity between 8:30am and 9:00am, and 6:00pm and 6:30pm with minimal patient footfall during these periods. Also, the nearest GP surgery closes at 6pm, which supports the significant decline in footfall after 6pm. As a result, the cost of keeping the pharmacy open during these earlier and later hours outweighs the level of activity and return, making it financially unsustainable.
- 2.11 Kidsgrove Pharmacy has been operating at a financial loss for some time and this ongoing situation poses a risk to the long-term sustainability of the business therefore due to ongoing financial pressures, these adjustments are necessary to support the long-term sustainability of the store. Our priority remains maintaining access to care for our patients, and these changes will help us continue to serve the community effectively."

3. The Decision

In a letter to the Applicant dated 13 August 2025 the Commissioner decided to refuse the application. The Commissioner stated:

- 3.1 "Further to your application to change the core opening hours at the above address, I am writing to confirm that it has been refused.
- 3.2 Committee agreed to refuse the application as it doesn't meet paragraph 26(2ZA) or 26(2ZB) of the regulation. The committee concluded that the applicant provided very limited information on business and patient evidence. The Saturday hours provided by Tesco pharmacy to support the application is supplementary hours and they can be withdrawn at any time without reference to Pharmacy Services Regulations Committee.
- 3.3 In considering the two specific matters set out in paragraph 26(2ZA) and 26(2ZB), Schedule 4 of the 2013 regulations:
- 3.4 (2ZA) 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 or paragraph 24(1) (depending on the basis of the application).
- 3.5 (2ZB) In the case of an application under sub-paragraph (1)(b) which is based on the matters that NHS England must seek to ensure pursuant to this sub-paragraph, where NHS England—
 - 3.5.1 (a) issues a direction under sub-paragraph (4) for setting any days or times for opening hours; or
 - 3.5.2 (b) determines the application under sub-paragraph (4) without issuing a direction,
- 3.6 it must in doing so seek to ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises are likely to

benefit from the changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours.”

- 3.7 **Not met** – The applicant has not demonstrated how the people who are accustomed to accessing pharmaceutical services at the pharmacy premises are likely to benefit from the changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours.

- 3.8 **Your core hours remain the same as below:**

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
08:30-12:30 15:00-18:00	08:30-12:30 15:00-18:00	08:30-12:30 15:00-18:00	08:30-12:30 15:00-18:00	08:30-12:30 15:00-18:00	08:30-12:30 16:00-17:00	

- 3.9 You have a right of appeal to the Secretary of State against the issuing of this direction. Should you choose to appeal then you should send a concise and reasoned statement of the grounds for your appeal within 30 days of receiving this notice to nhsr.appeals@nhs.net or:

- 3.10 Primary Care Appeals
NHS Resolution
8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU.”

4. **The Appeal**

In a letter to NHS Resolution received on 11 September 2025 the Applicant appealed against the Commissioner’s decision. The grounds of appeal are:

- 4.1 “I am writing to formally appeal the decision made by NHS Staffordshire to refuse Kidsgrove Pharmacy’s application to amend its core opening hours. While we understand the committee’s obligation to assess such requests against the statutory framework set out in Paragraphs 26(2ZA) and 26(2ZB) of Schedule 4 to the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, we respectfully submit that the context, evidence, and intent of our application have not been fully appreciated.
- 4.2 Our proposal to redistribute core hours is a necessary and proportionate response to operational sustainability challenges faced by the pharmacy, while maintaining robust patient access to pharmaceutical services within the local area.

- 4.3 Patients in the Kidsgrove area will not be left without pharmaceutical access as a result of the proposed changes. In fact, there are multiple alternative pharmacies operating within a 2.5-mile radius, offering comprehensive services during the hours affected by our proposal:
- 4.3.1 Tesco Pharmacy (ST7 1DX) – 0.7 miles away, open 8am – 8pm (Monday–Saturday)
 - 4.3.2 Day and Night Pharmacy (ST6 5TZ) – 2.1 miles away, open 9am – 9pm (Monday–Saturday)
 - 4.3.3 Superdrug Pharmacy (ST6 5EA) – 2.3 miles away, open 9am – 5:30pm (Monday–Saturday)
 - 4.3.4 Well Pharmacy (ST7 1QD) – 2.5 miles away, open 10am – 5pm on Saturdays
- 4.4 This ensures that local residents will have multiple options for pharmaceutical support during the periods of our proposed closures. Even in the unlikely event that Tesco Pharmacy were to amend its supplementary hours, the availability of three other pharmacies offering consistent Saturday services mitigates the risk of any gap in patient care.
- 4.5 Kidsgrove Pharmacy is currently at a critical financial junction. Rising operational costs and reduced footfall particularly on Saturdays have made our current model unsustainable. I have attached supporting data that shows consistently low service-user numbers on Saturdays, confirming minimal patient impact from this change.
- 4.6 By approving our request to redistribute hours, we can:
- 4.6.1 Reduce overheads, such as staffing and utilities on low-demand days
 - 4.6.2 Ensure the continued operation of the pharmacy beyond the current lease period
 - 4.6.3 Prevent a complete closure, which would remove a valued and trusted service from the local health landscape
- 4.7 Without the ability to adjust our operations to meet actual patient usage patterns, the long-term viability of the pharmacy is at risk, potentially leaving the community with fewer options and increased demand on nearby providers.
- 4.8 We respectfully disagree with the committee's conclusion that our proposal does not meet the criteria in Paragraph 26(2ZB). While we acknowledge that additional data was requested, we have now provided:
- 4.8.1 Service usage data showing minimal patient visits during the hours affected
 - 4.8.2 A full assessment of local pharmaceutical provision (see Section 1)

- 4.8.3 A clear justification for the proposed redistribution of hours as a measure to preserve long-term access
- 4.9 Patients who are accustomed to accessing our services are more likely to benefit from this change because it allows us to remain open during periods of higher demand and when patients are most likely to use our services. It is a reallocation not a withdrawal of access.
- 4.10 Our intention is not to reduce patient access, but to realign it with actual usage patterns, thereby supporting the long-term sustainability of Kidsgrove Pharmacy. With several alternative pharmacies operating during the affected hours, patients will remain well-served.
- 4.11 We respectfully request that this appeal be upheld and that NHS Staffordshire's refusal be overturned in recognition of the balanced, patient-conscious, and sustainability-driven nature of our proposal.
- 4.12 Please find attached the supporting documentation, our Saturday service usage data.
- 4.13 Thank you for your consideration."

NHS Resolution queried the Applicant's comment at paragraph 4.9.2 above; "see *Section 1*" as no such document was enclosed. The Applicant responded with the following by email dated 17 September 2025:

- 4.14 "Thank you for your email, and apologies for any confusion caused.
- 4.15 I recently updated the layout of the appeal letter, but inadvertently left the reference to "Section 1" unchanged. To clarify, "Section 1" is intended to refer back to the following paragraph:
- 4.16 *Patients in the Kidsgrove area will not be left without pharmaceutical access as a result of the proposed changes. In fact, there are multiple alternative pharmacies operating within a 2.5-mile radius, offering comprehensive services during the hours affected by our proposal:*
- 4.16.1 *Tesco Pharmacy (ST7 1DX) – 0.7 miles away, open 8am–8pm (Monday–Saturday)*
- 4.16.2 *Day and Night Pharmacy (ST6 5TZ) – 2.1 miles away, open 9am–9pm (Monday–Saturday)*
- 4.16.3 *Superdrug Pharmacy (ST6 5EA) – 2.3 miles away, open 9am–5:30pm (Monday–Saturday)*
- 4.16.4 *Well Pharmacy (ST7 1QD) – 2.5 miles away, open 10am–5pm on Saturdays*
- 4.17 This section highlights that local residents will continue to have access to pharmaceutical services during the proposed closure periods. Furthermore, even in the unlikely event that Tesco Pharmacy adjusts its supplementary

hours, the remaining three pharmacies provide sufficient coverage to avoid any disruption in patient care.”

- 4.18 [Both the appeal letter and email dated 17 September 2025 were circulated to the Commissioner].

5. Representations

No representations were received by NHS Resolution in response to the appeal, however the Commissioner provided its paperwork regarding the application, which was circulated to the Applicant for information.

6. Consideration

- 6.1 I note the following:

6.1.1 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.

- 6.2 The Applicant proposes to:

6.2.1 Open at 9am instead of 8.30am Monday to Friday;

6.2.2 Re-open at 1.30pm instead of 3pm Monday to Friday; and

6.2.3 Close on Saturday.

- 6.3 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.

- 6.4 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.

- 6.5 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).

6.6 I note the Applicant indicated that it wanted its application to be determined on the basis of Paragraph 26(2ZB), Schedule 4.

6.7 Paragraph 26(2ZB) reads as follows:

In the case of an application under sub-paragraph (1)(b) which is based on the matters that NHS England must seek to ensure pursuant to this sub-paragraph, where NHS England—

issues a direction under sub-paragraph (4) for setting any days or times for opening hours; or

determines the application under sub-paragraph (4) without issuing a direction,

it must in doing so seek to ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises are likely to benefit from the changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours.

6.8 I will consider the application of paragraph 26(2ZB) and whether the proposed hours are likely to benefit the people who are accustomed to accessing pharmaceutical services at the pharmacy premises, such that they would be more likely to access those services during the proposed opening hours.

6.9 To properly assess the application against paragraph 26(2ZB), I need to determine the level of demand for pharmaceutical services at the pharmacy premises. I then need to consider whether patients accustomed to accessing those services would be more likely to access services at the pharmacy premises during the proposed opening hours rather than the existing opening hours.

6.10 I therefore need to be provided with sufficient information to understand a range of matters. I consider a core question to be the benefit created because of increased availability to existing users. This can be broken down into three key elements: the first being that the change must be beneficial; the second being that the new hours are more accessible, and the last, which unpins both aspects, is that this must be measured by the impact on people who are accustomed to accessing the pharmacy, not new users.

6.11 As a starting point I note that the language of paragraph 26(2ZB) relates to why a change in hours is being requested. The reason for the change must at the very least include that those individuals who already use the pharmacy will be more likely to do so during the changed hours. The Regulations do not explain how this should be established but I consider that it must form at least part of the explanation and evidence provided by the Applicant.

6.12 Having reviewed the application and the appeal I note that the Applicant's central motivation for the change appears to be financial, referring to the pharmacy's business need, financial sustainability and long term viability. Whilst I consider that these reasons are important to the pharmacy, they are

not relevant to paragraph 26(2ZB). I note that paragraph 26(2ZB) is concerned with a situation whereby hours are being redistributed for the benefit of pharmacy users, rather than the pharmacy itself.

- 6.13 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 those accustomed to accessing pharmaceutical services would be more likely to access those services during the proposed opening hours.
- 6.14 In its appeal, the Applicant has provided a tally chart that, in the Applicant's view, "*shows consistently low service-user numbers on Saturdays, confirming minimal patient impact from this change*". The tally chart records how many people accessed the Applicant's pharmacy on Saturdays, between the times of 8.30am to 5pm, over a four week period. I note the Applicant does not currently have core opening hours at 12.30pm to 4pm on Saturdays so it is unclear why the tally chart covers these times but these are likely to be supplementary hours.
- 6.15 Whilst the demand for pharmaceutical services on a Saturday may be considered minimal, I note that the Applicant is also wishing to close Monday to Friday between 8.30am to 9am, so it is unclear why the tally chart does not cover this time range. In its application, the Applicant does state that "*The pharmacy experiences consistently low activity between 8:30am and 9:00am...with minimal patient footfall during these periods*". However no evidence has been provided to support this view. Without this information it is difficult to make an assessment of the level of demand for pharmaceutical services.
- 6.16 I consider it reasonable to take the position that, without evidence to the contrary, there is a demand for pharmaceutical services at those times. The Applicant also states that "*the nearest GP surgery closes at 6pm, which supports the significant decline in footfall after 6pm*" however I note that the Applicant does not have core opening hours after 6pm on any day, I have therefore not considered this point further.
- 6.17 I now need to consider if, the changes to hours are likely to be beneficial for those accustomed to accessing pharmaceutical services at the pharmacy premises because they are more likely to access services at those times. It is worth noting that evidence to demonstrate the actual level of demand might be relevant here.
- 6.18 The Applicant states "*Patients who are accustomed to accessing our services are more likely to benefit from this change because it allows us to remain open during periods of higher demand and when patients are most likely to use our services... Our intention is not to reduce patient access, but to realign it with actual usage patterns...*". However, other than the tally chart, no further evidence has been provided to support this view.
- 6.19 I note that the Applicant's explanation here is devoid of reference to those people who are accustomed to accessing pharmaceutical services at the

pharmacy premises. The phrasing used makes it unclear if it is new patients who would be likely to use the pharmacy during these periods of demand, or if it is existing patients. I also note that there is no evidence provided that these new hours are indeed of higher demand. I consider that this makes it difficult to establish any potential benefit to existing patients.

- 6.20 I consider that evidence of demand would only form one part of the overall picture required to be established under paragraph 26(2ZB). I am mindful of the use of the phrase "*people who are accustomed*" in the Regulations. I consider such language to be indicative of the fact that if there is demand, no matter how small, and if those individuals are likely to cease to use the pharmacy as a result of the changes, then this would be strongly indicative that the requirements of paragraph 26(2ZB) would not be met.
- 6.21 I note that no information has been produced by the Applicant which explains what will become of the patients who previously accessed the pharmacy on a Saturday. It is unclear from both the application and the appeal whether the new hours will benefit these people in any meaningful way. I have not been provided with information on why patients are using the pharmacy on a Saturday, which would assist an understanding of why they may use the new hours on other days.
- 6.22 I consider that without such information the base assumption must be that this change is not likely to benefit those who are accustomed to accessing the pharmacy, and, if anything, it would appear to be to their detriment.
- 6.23 I note that the Applicant has stated that there are other pharmacies open during its proposed closed hours that pharmacy users could instead visit. I note that this information is more relevant to the considerations under paragraph 24(1), which the Applicant has opted not to rely on. I consider that in the context of paragraph 26(2ZB), however, such information is detrimental to the Applicant. When read contextually, the inclusion of this information suggests that the proposal is not aimed at providing better access to services at the pharmacy for those that are accustomed to using the pharmacy during the hours which it is proposing to close and instead, the intention appears to be that they will seek the provision of services elsewhere.
- 6.24 I am mindful that the provision of pharmaceutical services is greater than the dispensing of prescriptions and includes all services that the pharmacy may offer, including additional enhanced and advanced services that may be commissioned. I am of the view that I have not been provided with sufficient information to demonstrate how the proposed opening hours are likely to benefit those accustomed to accessing pharmaceutical services at the pharmacy premises.

7. Determination

- 7.1 Based on the information provided, I am not satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours are likely to benefit the people who are accustomed to accessing pharmaceutical services at the pharmacy premises such that they would be more likely to access services during the proposed hours.

7.2 The action taken by the Commissioner to refuse the application is confirmed.

Head of Appeals
NHS Resolution