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12 December 2025

REF: SHA/26678

APPEAL AGAINST LANCASHIRE AND SOUTH CUMBRIA ICB DECISION TO REFUSE AN APPLICATION BY ACQUIRING UK SERVICES LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 WITHIN 250M OF WESTGATE MEDICAL PRACTICE, 3 BRADDON CLOSE, MORECAMBE, LA4 4UG

1 Outcome

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

1.2 The Committee determined that the application should be refused.

A copy of this decision is being sent to:

Healthcare Plus Consulting Ltd on behalf of Acquiring UK Services Ltd
Temple Bright on behalf of Cohens Chemist, Morecambe Bay Pharmacy and West End Pharmacy
PCSE on behalf of Lancashire and South Cumbria ICB

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1 The Application

By application dated 10 March 2025, Acquiring UK Services Limited ("the Applicant") applied to Lancashire and South Cumbria ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 within 250m of Westgate Medical Practice, 3 Braddon Close, Morecambe, LA4 4UG. In support of the application it was stated:

1.1 In response to why the application should not be refused pursuant to Regulation 31 the Applicant left this blank.

1.2 "Westgate, an area within Morecambe, has experienced the loss of a local Boots pharmacy that served its population, including the elderly and disabled. Residents with protected characteristics now have to travel further, which can be debilitating and time-consuming for many.

1.3 The nearest local pharmacy is 0.8 miles from where the Boots pharmacy closed.

1.4 The next closest pharmacy, a Lloyds in Sainsbury's closed in mid-2023, further exacerbating the difficulties these patients are now facing.

1.5 The Boots pharmacy within the Westgate Surgery was open and had no plans to close at the time the PNA was written. A year before this closure, residents of the local area were dealt a blow when Lloyds inside Sainsbury had closed. Consequently, this application is now submitted under Regulation 18 as an unforeseen benefits application."

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 20 June 2025 states:

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

2.1 “Lancashire and South Cumbria 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.”

Extract from the “Determination – Pharmaceutical Services Group”

2.2 “The PSG considered based on information included in the application, appropriate pharmaceutical regulations, interested parties’ representations and further comments made by the applicant. Relevant regulations were Regulations 31 and 18.

Regulation 31

2.3 The PSG considered Regulation 31 and felt that the application met the requirements of the regulation, i.e., that the Group could not refuse the application due to a person on the Pharmaceutical List providing pharmaceutical services from the site to which the application relates, from either the same site or from adjacent premises. Therefore, the application met the requirements of the regulation.

Regulation 18(1)(a) and (b)

2.4 An application has been received by NHS LSCICB therefore the Group can be satisfied that the application had been received and that they must determine the application with regard to matters set out in paragraph (2).

Regulation 18(2)(a)

2.5 Regarding Regulation 18(2)(a), the PSG concluded that the granting of the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area covered by the HWB, or the arrangements in place for the provision of pharmaceutical services in that area.

Regulation 18(2)(b)

2.6 Under Regulation 18(2)(b), the Group considered whether the granting of the application would secure improvements or better access to pharmaceutical services in respect of:

2.6.1 there being a reasonable choice with regard to obtaining pharmaceutical services 18(2)(b)(i).

2.6.2 people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access 18(2)(b)(ii).

2.6.3 there being innovative approaches taken with regard to the delivery of pharmaceutical services 18(2)(b)(iii).

2.7 and that granting the application would confer significant benefits on persons in the area of the relevant HWB.

2.8 The Group considered each of the three areas in turn and made the following conclusions:

Regulation 18(2)(b)(i)

2.9 For this application, using the NHS website, and postcode LA4 4UG, there are 5 other pharmacy contractors within 1 mile. There are 5 GP practices currently listed within 1 mile. The PNA determines that there is adequate provision in the area and users obtain a choice of services.

2.10 Using googlemaps, the distance between the ends of the best estimate submissions is around 460m. Access to the premises along this route appear to be at street level and there are public transport routes, pedestrian crossings, dropped kerbs and differing parking options available.

2.11 Within the application the applicant has stated that there is a gap between patients having access to pharmaceutical services due to closures of other premises. No Supplementary Statements have been published to change the fundamental messages in the PNA.

2.12 The applicant has not provided any information on how patients cannot access the other pharmaceutical services in the area.

2.13 The ICB has not received any patient complaints in relation to access to pharmaceutical services in this area of the relevant HWB.

2.14 Under Section 4, the applicant has listed the services they hope to provide. It is confirmed that these services are also available at the other 5 pharmacies within 1 mile of the proposed location.

2.15 Therefore, the Group was satisfied that there is already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB.

2.16 Therefore, the application did not meet the requirements of the regulation.

Regulation 18(2)(b)(ii)

2.17 Within the main body of the application form, other than a brief reference to ‘elderly population’ the applicant does not determine what groups in the area have a protected characteristic. If specific groups cannot be identified, then it will not be clear what particular needs those patient groups have.

2.18 The applicant has stated that people do not have access; however, there are 5 other pharmacies within 1 mile of the used postcode.

2.19 Also, the Applicant has not provided evidence that any current users are having difficulty accessing pharmaceutical services.

2.20 Therefore, the Group was satisfied that, based on the information provided, people who share a protected characteristic do have access to services to meet specific needs for pharmaceutical services.

2.21 Therefore, the application did not meet the requirements of the regulation.

Regulation 18(2)(b)(iii)

2.22 On review of the application, the only mention of any innovative approaches is reliance upon extended hours which, if deemed necessary, could be effected by the ICB in other ways using current providers.

2.23 Therefore, the Group was satisfied that, based on the information provided within the application, no innovative approaches had been outlined.

2.24 Therefore, the application did not meet the requirements of the regulation.

2.25 The Group was not satisfied that the information provided by the applicant demonstrates that there is difficulty in accessing current pharmaceutical services or that a pharmacy at the proposed site would improve access.

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

2.27 The Group was not satisfied that the information provided demonstrates that there is difficulty in accessing current pharmaceutical services or that a pharmacy at the proposed site would improve access.

2.28 The Group considered whether the granting of the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area, or the arrangements in place for the provision of pharmaceutical services and concluded that it would not.

2.29 The Group considered whether the granting of the application would secure better access to pharmaceutical services and has had regard to the fact that:

2.29.1 There is already a reasonable choice with regard to obtaining pharmaceutical services

2.29.2 There is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services

2.29.3 There is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services.

2.30 Having taken these matters into account, the Group is not satisfied that granting the application would secure improvements or better access to pharmaceutical services.

2.31 The Group felt that that granting the application would not confer significant benefits on persons in the area of the relevant HWB.

2.32 The applicant has provided no evidence to demonstrate that any persons sharing a protected characteristic were having difficulty in accessing current pharmaceutical services in the area or that they would derive significant benefits from the granting of this application.

2.33 The applicant is proposing to provide a range of services; however, there is nothing to conclude that the granting of this application would lead to significant benefits by virtue of innovation.

2.34 Having taken these matters into account, the Group is not satisfied that granting the application would secure improvements or better access to pharmaceutical services.

2.35 Therefore, the application was Refused.

2.36 As the Regulation 18(2)(b) is not satisfied, the Group did not make regard to Regulation 18(2)(c) to (e).

2.37 Appeal Rights granted to the Applicant."

3 The Appeal

In a letter dated 20 July 2025 addressed to NHS Resolution, Healthcare Plus Consulting Ltd on behalf of the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

3.1 "Thank you for your letter dated 20th June 2025 to our client. Acquiring UK Services Ltd have instructed us (Healthcare Plus Consulting Ltd) to act on their behalf for this appeal, please find an authorisation letter attached.

3.2 We would like to appeal the decision made in relation to the above unforeseen benefits application.

3.3 All submissions made at this appeal are made in addition to previous submissions made.

3.4 We appeal on the following ground that the ICB failed to properly consider the following points:

3.4.1 Regulation 18

3.4.2 The demographics of the area around the proposed site

3.4.3 Characteristics of the area around the proposed site

3.4.4 Pharmacy closures

3.4.5 The barriers to accessing current pharmaceutical provision

3.5 We consider each of these issues below.

Regulation 18

3.6 We are required by regulation 18(2) requires the committee to consider among other things: [quoted in full]

3.7 We note that points on reasonable choice; protected characteristics; and innovation are desirable, however, they are merely supporting considerations when determining whether in fact the overarching test in regulation 18(2)(b)

has been met: an application should be granted should it provide improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area.

3.8 We submit that the ICB erred in failing to consider the benefits of the application beyond those enumerated in regulation 18(2)(b).

3.9 Regulation 18 provides a broad discretion to the committee, and we invite the committee to pursue a purposive interpretation of the regulations to best serve the public interest.

3.10 We wish to detail the significant benefits that this application offers below.

Demographics of the area around the proposed site

3.11 We note that the ICB made no attempt to consider the demographics of the of the area [sic] around the proposed site where those who would stand to gain the most from this application being granted.

3.12 We anticipate that those who will receive the most direct benefit from this application are those in the following Lower Level Super Output Areas (LSOAs): Lancaster 010A, Lancaster 010B, Lancaster 010C. Our analysis will therefore focus on these LSOAs near the proposed site and in particular Lancaster 010B since that is the LSOA in which our proposed site is located.

3.13 The residents immediately around and near the proposed site who will see the most direct benefits of this application are disproportionately elderly; in bad or very bad health; without a car/van; disabled; in socially rented accommodation; and out of work due to a long-term sickness or disability.

3.14 Below is a table of relevant statistics for Lancaster 010B, a weighted combination of the three LSOAs, the Lancaster local authority and England from the 2021 census.

	Lancaster 010B	Weighted Combined Average of Lancaster 010A, 0101B, 010C	Local Authority Lancaster	England
No car/van	34.6%	24.9%	22.7%	23.5%
Bad /very bad health	11.5%	8.9%	5.6%	5.2%
Disabled (a lot/little)	29.2%	24.9%	20.2%	17.3%
65+	23.8%	25.8%	20.5%	18.3%
Social rented	41.3%	18.9%	10.3%	17.1%
Economically inactive due to long term sickness or disability	11.1%	7.3%	4.3%	4.1%

3.15 We note that this data shows the importance of non-vehicular access to pharmacies. Note the high rate of residents without access to a car/van, in particular in Lancaster 010B. In Lancaster 010B more than 1 in 3 people do not have access to a car/van and so must rely on walking or public transport. We also wish to draw attention to the high rate of people over the age or 65. The

elderly are more likely to be averse to driving, particularly on busy roads or while feeling unwell and so are more likely to rely on walking or public transport. Therefore, when one comes to consider present access to pharmaceutical services non-vehicular options are of particular importance.

3.16 We also note that any additional expense involved in accessing pharmacies will be a particularly potent barrier to the residents of the area around the proposed site. We note that in the combined area the rate of people living in social rented accommodation is almost twice that of the local authority, while in Lancaster 010B the rate is more than double the national rate. This indicates an economically deprived population. Therefore, any expenses may deter residents from accessing their pharmacy and in particular deter them from accessing minor ailments services such as Pharmacy First.

3.17 We also wish to emphasise that the residents around the proposed site are in particularly bad health. This means that they stand to substantially benefit from greater access to pharmacy services and also disproportionately suffer when they do not have good access to these services. We note that the rate of bad or very bad health is greater than the local and national average for both the combined area and the immediate vicinity where it is double the national average. Furthermore, there are disproportionately many people who are disabled or elderly, who are also more likely to benefit from greater access to pharmaceutical services. Additionally, the more than 1 in 10 people rendered economically inactive due to long term sickness or disability in the immediate vicinity stand to benefit greatly from increased pharmaceutical services.

3.18 From the above analysis we hope the committee accepts these findings that the residents of the area around the proposed site:

3.18.1 Are particularly likely to rely on buses or walking

3.18.2 Are particularly likely to be hindered from accessing pharmacy services due to additional expense

3.18.3 Are in particular need of pharmaceutical services

The characteristics of the area around the proposed site

3.19 The proposed site lies in the distinct area of Westgate. This area can be delineated by the railroad which runs along the North West and Greenway which runs to the North East. Residents are unlikely to regularly need to leave Westgate and so existing pharmacy provision, all of which is outside of Westgate requires undertaking additional special trips.

3.20 The proposed site lies at the retail and social centre of West Gate. Within 500 metres of the Westgate Medical Centre one can find:

3.20.1 Church

3.20.2 Pub

3.20.3 Lidl Supermarket

3.20.4 Co-op Food

3.20.5 Post office

3.20.6 Betting Shop

3.20.7 Newsagents

3.20.8 Off-license

3.20.9 Fish and chip shop

3.20.10 Public Park

3.20.11 2 preschools, with a combined 300 seats

3.20.12 Primary school with 630 seats

3.20.13 Westgate Medical Practice

3.21 We reiterate that these are just the amenities near the proposed site. Smaller areas of retail also exist in other areas of Westgate as does a large area of commercial and light industrial employment to the South East. Given these amenities the location is accessible in the course of residents day to day lives.

3.22 This is of particular importance in relation to Pharmacy First. Pharmacy First gives the opportunity to ease pressures on other primary care providers and improve resident's health early. However, it is only possible when pharmacies are accessible within communities. We submit that current barriers to access are likely to deter people from accessing preventative and alternative care at pharmacies and so allow conditions to worsen and shifts the burden to other already overextended primary care providers.

The closed pharmacies

3.23 Two pharmacies have closed in or in the vicinity of Westgate. This constitutes the primary cause of the present unforeseen benefit in this application. The closure of these pharmacies has significantly reduced access to pharmacy services in and around the proposed site.

3.24 It has been suggested that the closure of the pharmacies was due economic viability [sic] and by implication by a lack of demand. We reject these assertions.

3.25 The Boots at the proposed site closed in February of 2024. Prior the announcement of its closure in November 2023 it dispensed 8,180 items in September 2023. We also note that the closed Boots never offered CPCS or Pharmacy First, meaning it was not fully utilizing all available the [sic] revenue streams. This was hardly an unviable pharmacy. Rather we believe that the pharmacy was closed by Boots without reference to its individual circumstances and as part of a national scheme. We hope these facts assure the committee that the present application is for a pharmacy for which there is likely great demand and that the present application is economically viable.

3.26 The second closure was of the Lloyds inside a Sainsbury's to the East of Westgate in June 2023. This was a more modest pharmacy serving around

5000 items per month. While this is less than average it is not unusual for a supermarket pharmacy, and still well-utilised. This pharmacy may also have been the closest remaining pharmacy for residents near the proposed site. The patients and clientele of the Lloyds have now be forced to use alternative pharmacies increasing the pressure on the system as a whole.

3.27 To summarise, two pharmacies which the residents of Westgate may have used have been closed reducing access for residents, increasing pressure on remaining pharmacies.

Current pharmacy provision

3.28 Below we detail current alternative pharmacies. As noted above a third of residents near the proposed site do not have access to a car and a substantial proportion in the wider area our client hopes to serve do not have access to a car. Our case is therefore based on that substantial part of the population and so journeys by car are omitted.

3.29 We have used the Westgate Medical Practice, which is at the centre of the proposed site as a proxy for the area to be served. Naturally some will live closer that this and some farther.

3.30 We also detail current access to services each pharmacy provides since without these the pharmacy does not serve all the needs of the people.

3.31 We have also mentioned the amenities near each pharmacy to show that there is no reason for people from near the proposed site to go to those areas.

Morecambe Bay Chemists (LA3 1QN)

3.32 To walk to Morecombe Bay Chemists would take 28 minutes one way or 56 minutes round trip. The length of this journey alone appears to render it not a reasonable option for the vast majority of people.

3.33 By bus the route takes 9 minutes from the proxy. The bus leaves every 15 minutes which means the adding the average wait of 7 minutes. On disembarking the bus the patient is not able to cross the road immediately and rather has to walk to the nearest set of traffic lights since there is no crossing at the bus stop (this is not recognised by Google in the bus calculations). This adds 3 minutes on the journey on the way to the chemist.

3.34 The average journey to the chemist would therefore be 19 minutes there and 16 minutes on the way back leading to an average round trip of 35 minutes [maps provided to the Committee in Appendix A].

3.35 This trip costs £1.80 for a single or £5.70 for a DayRider. As we noted above this expense is particularly dear to the residents near the proposed site, who can find the bus fare as prohibitive to accessing pharmaceutical services.

3.36 We note that there is little reason for residents near the proposed site to make the journey to the Westend where Morecambe Bay Chemists is located. In this area there are a number of second-hand shop, restaurants, a framing shop, and a betting shops. These amenities are either already present at the proposed site or not the kind of amenities one uses on a regular basis. There

is also no replacement for the supermarket near the proposed site meaning a journey to the Westend would be unlikely to replace a journey to the proposed site. The result is that we submit that residents near the proposed have to make additional trips to access the Morecambe Bay Chemists.

3.37 We also note that Morecambe Bay Chemists close at 5:30 pm. This means that people with appointments finishing at the Westgate Medical Practice after 5:10 pm would not be able to collect their prescriptions at this pharmacy, assuming the journey to the 19 minutes as above [sic] and that the pharmacy can fill a prescription instantaneously. This would be particularly difficult with those who have to take appointments after work or school. Our client proposes to open till 6 pm on weekdays and would be very close to the medical practice allowing our client to serve these patients with appointments before around 5:55 pm.

Cohens, St James St (LA4 5TE)

3.38 The walk to the Cohen on St James St would take 23 minutes. We note that one must avoid a road with no pavement which adds around 4 minutes. This leads to a 46-minute round journey which seems impractical.

3.39 There is no good bus route to this pharmacy as even the best routes take around 23 minutes and one must walk most of the way, again avoiding an area of road with no pavement. The pharmacy is also closed all of Saturday which may cause problems for some people.

3.40 This pharmacy is co-located with a GP in an otherwise residential area. Westgate already has a GP surgery, in the proposed site, and so any person from Westgate using the St James St GP would be traveling excessively and applying excess pressure on that GP surgery.

3.41 We also note that this pharmacy does not appear to offer needle exchange or emergency supply which limits its ability to meet the needs of the people near the proposed site. Our client proposes to offer both.

Cohens Hanover St (LA4 5LY)

3.42 The walk to this pharmacy is 31 minutes avoiding roads with no pavements. A round trip of more than an hour is clearly not practical or representative of reasonable choice.

3.43 By bus the journey can be 23 minutes, but this is infrequent, generally once an hour. The more common route is 27 minutes and requires one to walk for 13 minutes. This route is therefore impractical.

3.44 The pharmacy is also closed on Saturdays and does not appear to offer needle exchange or emergency supply.

3.45 This pharmacy is co-located with a school and church but those already exist in Westgate at the proposed site. There is also a hospital and emergency dentist but these are not regularly visited. The result is that any resident near the proposed site would likely have a make a special trip to use this pharmacy.

Boots Royalty Mall (LA4 5DH)

3.46 The walk to this pharmacy is 34 minutes avoiding a road with no pavement. This is therefore impractical as the round trip would be 1 hour 8 minutes.

3.47 The bus takes 19 minutes and departs every 15 minutes. It includes a 5-minute walk at the end. The overall average journey is then 52 minutes, assuming 7 minutes of waiting on both legs. We submit that this of itself too long to be practical for most people.

3.48 We also note that the pharmacy closes at 5 pm, meaning that assuming a one-way journey of 26 minutes, including wating, people with appointments after work are unlikely to be able to fill their prescription on the same day.

3.49 We also believe that this pharmacy does not offer supervised consumption, which means it does not provide the full range of services residents near the proposed site need.

3.50 Despite being located in a mall there are limited amenities to draw people from Westgate, other than the pharmacy. There is an Iceland but not a full supermarket. There are also clothes and charity shops but these are more infrequent attractions. There is also a Greggs but this seems unlikely to draw people on a 20 minute journey.

Kings Chemist (LA4 6RL)

3.51 This pharmacy is 24 minutes from the proposed site. A 58-minute round trip does not seem practical for most people. A 21-minute bus journey is possible, with a 5-minute walk at the end. But most of the time a 32-minute journey with 10 minutes of walking in the middle between changes is the fastest option. Even a 41-minute journey seems to be too far to access pharmacy services.

3.52 We also note that this pharmacy appears to only offer contraception services. We do not believe they offer Pharmacy First nor needle exchange nor supervised consumption.

3.53 We also note that this pharmacy has received mixed reviews calling into question whether it represents a reasonable choice. Notably one patient complains that they were turned away after being instructed to visit a pharmacy for advice by a GP and another notes that they frequently found the pharmacy was out of stock. [Reviews of King Chemist provided to the Committee in Appendix A].

3.54 The area around the pharmacy offers a carpet shop, a convenience store, take aways and several barbers. None of these seem to draw residents near the proposed site on a regular basis.

Asda Pharmacy (LA1 5JR)

3.55 This pharmacy is located a 33-minute walk from the proposed site. A 1 hour 6-minute walk does not seem to represent practical access to pharmacy services.

3.56 By bus there is a bus every half hour which takes 16 minutes. On average then each leg of the journey will take around 30 minutes including waiting. This means the round journey may take around 1 hour round trip. We are doubtful that this represents reasonable choice.

3.57 We are also unable to confirm if they offer supervised consumption, needle exchange and emergency supply. Meaning we are unable to be sure they provide all the pharmacy services that the residents near the proposed site require.

3.58 We note also that there are poor review of the pharmacy including some that suggest they do not always operate during their stated opening hours. [Reviews of Asda Pharmacy provided to the Committee in Appendix A].

3.59 Naturally the pharmacy is collocated with a supermarket, but there is a supermarket at the proposed site and a Sainsbury's close to the proposed site, where the Lloyds closed. We therefore doubt that the supermarket is a significant draw. We also note that there is a preschool and an insurance firms office but little else near the site. Therefore, any journey to Asda Pharmacy is likely to be a special journey or at any rate an additional journey for residents near the proposed site.

Conclusion

3.60 Having considered the demographics of the area, the characteristics of the proposed site and surrounding area, the closed pharmacies and the current provision, we submit that there is clearly a substantial unforeseen benefit to be gained by the granting of the application to those near the proposed site.

3.61 We remind the committee that the residents near the proposed site are disproportionately old, without access to a car/van, in bad or very bad health, disabled, living in socially rented accommodation and economically inactive due to long term sickness or bad health.

3.62 We remind the committee that there have been two pharmacy closures effecting residents near the proposed site. We note in particular that the closed Boots in the proposed site was busy and ought to have been financially viable

3.63 We remind the committee that none of current provision is sufficiently accessible to residents near the proposed site or so located at to be usable whilst on other regular journeys.

3.64 We therefore submit that NHS Resolution should quash the decision of the ICB and grant the application."

4 Summary of Representations

This is a summary of representations received on the appeal.

4.1 TEMPLE BRIGHT ON BEHALF OF GORGEMEAD LTD, WEST END PHARMACY AND MORECAMBE BAY CHEMIST

4.1.1 "I act for the following:

4.1.1.1 Mr R and Mr V Patel, who are included in the pharmaceutical list for premises trading as West End Pharmacy, 3 Heysham Road, Morecambe, LA3 1DA

4.1.1.2 Jhalley Limited which is included in the pharmaceutical list for premises trading as Morecambe Bay Chemist, 28-30 Regent Road, Morecambe, LA3 1QN

4.1.1.3 Gorgemead Limited, which is included in the pharmaceutical list for premises trading as Cohens Chemist at Yorkbridge Medical Centre, 5 James Street, Morecambe, LA4 5TE; Coastal Pharmacy, 1 Heysham Road, Heysham, Morecambe, LA3 1DA; and the Morecambe Health Centre, Hanover Street, Morecambe, LA4 5LY.

4.1.2 On behalf of my clients I write further to your letter of 30th July 2025 and in order to submit representations to NHS Resolution in respect of an appeal by Acquiring UK Services Ltd against a decision of NHS England to refuse its application for inclusion in the pharmaceutical list offering unforeseen benefits for premises within 250m of the Westgate Medical Practice, 3 Braddon Close, Morecambe, LA4 4UG.

4.1.3 My clients invite NHS Resolution to conclude that NHS England correctly determined – and refused – this application and, consequently, invite NHS Resolution to refuse the appeal for the following reasons.

4.1.4 As NHS Resolution will be aware, this application is submitted pursuant to regulation 18 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

4.1.5 It may only be granted if NHS Resolution is satisfied that to do so would secure improvements in and better access to pharmaceutical service provision in the HWB's area which are not contained within the relevant PNA.

4.1.6 When determining this application, NHS Resolution must have particular regard to the matters contained within regulation 18(2)(b) and must consider whether granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published. To the extent that there is a burden of proof in respect of applications submitted pursuant to regulation 18, this rests with the applicant.

4.1.7 In its letter of appeal, the applicant's representative states that "*Regulation 18 provides a broad discretion to the committee, and we invite the committee to pursue a purposive interpretation of the regulations to best serve the public interest*." This is not the regulatory test that must be applied to NHS Resolution's determination of this application, and were NHS Resolution "*to pursue a purposive interpretation of the regulations to best serve the public interest*" (rather than applying the relevant regulatory test), NHS Resolution would be erring in law.

4.1.8 In terms of the matters contained within the applicant's appeal letter, my clients respond as follows (adopting the headings contained within the appeal letter).

Demographics of the area around the proposed site

4.1.9 To the extent that the appellant's representative is seeking to define a "neighbourhood" for the purposes of the determination of this appeal, as NHS Resolution will be aware, the concept of "neighbourhoods" was removed from the regulatory test in 2012. Instead, NHS Resolution must consider the provision of pharmaceutical services in the HWB's area, albeit that it is accepted that NHS Resolution will no doubt focus particularly on any patients who may be more likely to access a pharmacy at the applicant's proposed location.

4.1.10 In its letter of appeal, the applicant's representative refers to certain Lower Super Output Areas (Lancaster 010A, 010B and 010C), although no information is provided as to where the boundaries of these areas are.

4.1.11 The applicant's representative then provides information from the 2021 census in relation to the LSOA for Lancaster 010A and then for all three LSOAs referred to above.

4.1.12 However, the information provided does not support the conclusions that are put forward by the applicant's representative.

4.1.13 It is accepted that the local area, and Morecambe generally, has a higher proportion of retired residents than the English average. It is therefore unsurprising that the area has higher incidences of ill health/ability-limiting conditions and lower rates of car ownership than the average for England. However, that does not lead to a conclusion that local residents have difficulty accessing a pharmacy.

4.1.14 By way of example, whilst car ownership may be marginally lower than the English average, given that more of the population are of retirement age, a higher than average number of residents will have access to free public transport. Those residents may therefore be more mobile than other areas as they can travel on buses for free (about which more information is given below). The population as a whole is therefore less likely to be incurring "additional expense" in accessing a pharmacy by public transport compared to those who may drive (and, for example, may incur car parking charges).

4.1.15 The same is true of those with a disability, since concessionary travel passes are available to people in the follow categories of individuals:

4.1.15.1 are blind or partially sighted

4.1.15.2 are profoundly or severely deaf

4.1.15.3 are without speech

4.1.15.4 have a long term disability or injury which seriously impairs the ability to walk

4.1.15.5 are without the long term use of both arms

4.1.15.6 have a significant degree of learning disability

4.1.15.7 would be refused a driving licence on physical fitness grounds

4.1.16 The other difficulty with the census information presented by the applicant's representative is that it appears to be seeking to group together different categories of data on the assumption that these are shared characteristics of a particular group of individuals. For example, there appears to be an assumption by the applicant's representative that there is a group of individual patients who have no car/van AND have bad/very bad health AND are over 65 AND live in social rented accommodation AND are economically inactive due to long-term sickness or disability.

4.1.17 Not only is that exercise not possible using census data (because you can't sort the statistics by individuals to see what characteristics are shared by them across data sets), but also it is inherently unlikely that these are shared characteristics across a group of individuals. For example, in order for an individual to be "inactive due to long-term sickness or disability", that individual must be below retirement age (otherwise they would be economically inactive because they are retired).

4.1.18 The difficulty with the information provided by the applicant's representative is that it is seeking to draw conclusions from general statistics without any specific local knowledge or evidence (noting that the applicant company appears to be based in Slough). The applicant then uses the statistics to make assumptions about which there appears to be no evidence, such as the assertion that "the elderly are more likely to be averse to driving, particularly on busy roads or when feeling unwell and so are more likely to rely on walking or public transport".

4.1.19 In concluding its comments on the census data, the applicant's representative makes three statements, none of which are supported by any specific local evidence. In particular, my clients note as follows:

Are particularly likely to rely on buses or walking

4.1.20 This is not supported by any real evidence beyond census figures, but the census figures do not lead to the conclusions being made by the applicant's representative.

4.1.21 According to information provided by the applicant, the 24.9% of households with no car for the "weighted combined average" is only marginally above the English average (which is 23.5%). Additionally, since the area has a higher proportion of those who are of retirement age and those who are of working age but are economically inactive, it may be that households have greater access to a car than the English average, because the household's car won't be being used by one member of the household to drive to work, for example. The fact is that the applicant does not know the actual picture "on the ground", and nor, therefore, can NHS Resolution.

Are particularly likely to be hindered from accessing pharmacy services due to additional expense

4.1.22 Whilst, again, there is no specific data provided by the applicant beyond bare census data, this assertion is more likely to be incorrect than correct, on average, simply because the local area has a higher proportion of residents who have access to free public transport.

Are in particular need of pharmaceutical services

4.1.23 This appears to be assumed by the applicant based on health/disability census data. However, the applicant provides no specific examples of residents who have a particular protected characteristic and who require access to pharmaceutical services but who currently find access difficult.

The characteristics of the area around the proposed site

4.1.24 The applicant refers to a number of shops and other services which, it is said, are in the area "around the proposed site".

4.1.25 As a starting point, the difficulty with this assertion is that the applicant has not specified a "proposed site" but, instead, has given a relatively wide radius of 250m around the Westgate Medical Practice.

4.1.26 So when the applicant's representative asserts that these shops and services are "in the area around the proposed site", the reality is that they could be some distance away from the proposed location. By way of example, the Post Office and Lidl are both located towards the eastern side of the applicant's best estimate "radius" location, meaning that the Post Office could actually be over 800m away from where the applicant ultimately ends up commencing services should its application be granted. In relation to the Primary School, the Westgate Primary School is right on the western boundary of the applicant's best estimate "radius", and so, again, could be anything up to 800m away from the applicant's pharmacy were its application to be granted.

4.1.27 Additionally, providing a list of services that are located "in the area" ignores the fact that these services are spread out throughout the area. This simply underlines my clients' assertion that residents who live in the area are mobile and are able to (and do) travel in order to access whatever services they require.

4.1.28 The applicant's representative then asserts that "*Pharmacy First gives the opportunity to ease pressures on other primary care providers and improve resident's health early. However, it is only possible when pharmacies are accessible within communities*." As a starting point, it is of note that pharmacies do not have to be "within" communities in order to be accessible, they must simply be accessible to communities. However, in any event, given that the location of the proposed pharmacy could be anywhere within a wide radius, it is impossible for NHS Resolution to assess how accessible the proposed pharmacy would be.

4.1.29 Finally, for the avoidance of doubt, existing pharmacies in Morecambe offer the Pharmacy First service, which is therefore accessible to the local population.

The closed pharmacies

4.1.30 As a preliminary observation, as NHS Resolution will be aware, the pharmacy market entry regulations in England are not based on a "one in, one out" system. That is, simply because a Boots pharmacy (or Lloyds Pharmacy) has closed does not mean that an application must be granted in order to replace that closed pharmacy. Instead, the applicant must demonstrate why its application meets the relevant regulatory test and provide evidence to support any such assertion. For the reasons given in this letter, my clients believe that the applicant has failed to provide any, or any sufficient, evidence in support of its application.

4.1.31 It is of note that the two pharmacies referred to by the applicant's representative have been closed for some time: Boots Pharmacy closed over 18 months ago and Lloyds Pharmacy closed over 2 years ago. In that time, my clients are not aware of any complaints regarding difficulties accessing the remaining pharmacy network. It is, instead, asserted by my clients that local residents who may have used either of the pharmacies that have closed are aware of the location of the remaining pharmacy network, have identified the most convenient way of accessing those pharmacies and are now accustomed to doing so.

4.1.32 My clients do not propose to speculate on the reasons why the Boots pharmacy closed, since that is unlikely to assist NHS Resolution in its determination of the appeal.

4.1.33 In relation to the closure of the Lloyds Pharmacy in the Sainsburys store, the applicant's representative notes that residents of Westgate "may have used" this pharmacy. Whilst the applicant does not appear to know whether "residents of Westgate" did, in fact, use this pharmacy, assuming that they did, this is evidence that residents are mobile. It is 1.8km from the Westgate Medical Practice to the Sainsburys store. This is significantly further than the current nearest pharmacy to the Westgate Medical Practice (which is the Cohens pharmacy at 5 James Street) and similar to the distances to Morecambe Bay Chemist, Coastal Pharmacy and West End Pharmacy.

4.1.34 To the extent that the applicant's representative asserts that residents of Westgate would have accessed the Sainsburys store which is 1.8km from the centre of the applicant's radius, it must also follow that residents can access other pharmacies in Morecambe which are either closer than 1.8km or a similar distance.

Current pharmacy provision

4.1.35 In relation to access to existing pharmacies, as stated above, no evidence is provided of patients who share a relevant protected characteristic and who require access to pharmaceutical services but who currently find access difficult.

4.1.36 I have detailed, below, information about the accessibility of the nearest pharmacies to the proposed location. It is of note that these pharmacies have all been at their respective locations for many years and the general locality has well-established populations and services, meaning that the local population will be accustomed to accessing services (including pharmaceutical services) as part of their daily lives. Local residents will be familiar with the location of the nearest pharmacies and the most convenient way for them to get to those pharmacies.

4.1.37 The nearest pharmacy to the proposed location is Cohens Chemist, which is approximately 1.3km from the centre of the applicant's best estimate radius as shown in the google maps image below. This is the distance from the central point of the applicant's best estimate radius.

4.1.38 However, if the applicant were to open at the northern boundary of its radius, the distance could be as little as just over 1km to Cohens [see map provided to Committee at Appendix B].

4.1.39 By foot, this is a walk of approximately 18 minutes by the most direct route. The applicant's representative states that this route involves a road with no pavement, but this is not entirely accurate, since this appears to be reference to a lane which has relative little vehicular traffic use (as shown on the google streetview image below) and is, therefore, safe for pedestrians to use. [see map provided to Committee at Appendix B]

4.1.40 The route is easy and straightforward through residential streets with relatively light traffic.

4.1.41 Roads are easily crossed, and pavements are in good order, with adequate streetlighting and dropped kerbs. The terrain is largely flat. There are, therefore, no barriers to accessing Cohens Chemist (or, indeed, any other pharmacies in Morecambe) for those travelling by foot from the vicinity of the applicant's proposed location.

4.1.42 By car, Cohens Chemist is a 7-minute drive from the proposed location. There is free car parking at the Cohens Chemist both on the surgery site where Cohens is located and on adjacent residential streets.

4.1.43 Cohens Chemist can also be accessed by public transport, with bus route 6A (services every 30 minutes) stopping near to both the central point of the applicant's proposed location and Cohens Chemist.

4.1.44 There are a further two pharmacies located to the north of the proposed location as shown on the map provided with the letter of appeal: a Cohens Chemist and a Boots Pharmacy. Those pharmacies are located in Morecambe town centre, near to the main shopping area and train station. Both of those pharmacies are therefore within close proximity of car parks and are located on, or near to, the 6A bus route, with services every half an hour running along Westgate. By way of example, the journey time to Boots Pharmacy at Royalty Mall by bus is 17 minutes from the centre of the applicant's best estimate radius, including walking to and from the bus stop.

4.1.45 Given that these two pharmacies are both located in Morecambe town centre they are, of course, at locations which local residents will be accustomed to accessing as part of their daily lives.

4.1.46 There are a further 3 pharmacies to the west of the proposed location on, or near, the sea front, including West End Pharmacy, Morecambe Bay Chemist and Coastal Pharmacy.

4.1.47 The closest of those three pharmacies to the proposed location is Morecambe Bay Chemist, which is approximately 1.8km from the central point of the applicant's best estimate radius (or a 23 minute walk), but could be as little as 1.4km away (or a 19-minute walk) were the applicant to open at the western edge of its best estimate radius boundary.

4.1.48 By car, the three pharmacies to the west of the proposed location are each around a 4-minute drive. Each of those pharmacies are located on residential streets which have free on-street parking.

4.1.49 By public transport, bus route 6A (a half hour service) connects Westgate (including the central point of the applicant's best estimate radius) directly with Morecambe Bay Chemist.

4.1.50 To the northeast of the applicant's proposed location is King's Chemist, which is located approximately 1.7km (or a 24 minute walk) from the central point of the applicant's best estimate radius (although this could be as little as 1.4km were the applicant to open at the eastern boundary of the radius, or a 19 minute walk). King's Chemist is a 4-minute drive from the central point of the radius. It is located in a small parade of shops which has dedicated parking spaces as well as on-street parking.

4.1.51 Finally, there is also a pharmacy within the Asda store to the east of the proposed location, which has a large, free car park. It is also directly connected to Westgate by bus route 6A.

4.1.52 I have included, below, a map showing the 6A bus routes for the Morecambe area so that NHS Resolution can identify the relevant routes compared to the local pharmacies. [see map provided to Committee at Appendix B].

4.1.53 It is therefore submitted that access to existing pharmacies is not difficult, and that the existing pharmacy network secures a reasonable choice of service provision. Consequently, granting this application would not confer significant benefits in relation to the matters contained within regulation 18(2)(b).

4.1.54 Additionally, existing pharmacies (including my clients' pharmacies) all offer a free and robust prescription delivery service throughout Morecambe which is open to all patients irrespective of their health needs.

4.1.55 Finally, it is of note that there is significant local marketing by Pharmacy2U taking place, with many patients now using distance selling pharmacies in order to receive dispensing services.

4.1.56 By way of example, approximately 3% of items prescribed by the Bay Medical Practice (which operates the surgery at Westgate Medical Practice) are dispensed by Pharmacy2U.

4.1.57 The applicant provides some google review extracts. Notwithstanding that individual reviews must be treated with some care, it is clear that local pharmacies are generally well regarded.

4.1.58 In terms of overall google review ratings, these are as follows for the nearest pharmacies:

4.1.58.1 Coastal Pharmacy – 4.9 stars, 15 reviews

4.1.58.2 Morecambe Bay Chemist – 4.8 stars, 94 reviews

4.1.58.3 West End Pharmacy – 4.6 stars, 45 reviews

4.1.58.4 King's Chemist – 4.1 stars, 21 reviews

4.1.58.5 Cohens Chemist, 5 James Street – 4 stars, 23 reviews

4.1.58.6 Boots Pharmacy – 4 stars, 3 reviews

4.1.59 In terms of service provision itself, the applicant proposes to open from 9am to 6pm Monday to Friday and 9am to 1pm on Saturday. However, these hours are already matched or exceeded by the existing pharmacy network. For example:

4.1.59.1 Cohens Chemist at 5 James Street is open from 9am to 6pm Monday to Friday

4.1.59.2 Boots Pharmacy, whilst it closes at 5pm Monday to Friday, is also open 9am to 5pm on Saturday and 11am to 4pm on Sunday

4.1.59.3 Similarly, Morecambe Bay Chemist closes at 5.30pm Monday to Friday but is open on Saturday from 9am to 5.30pm

4.1.59.4 West End Pharmacy is open from 8.30am to 6pm Monday to Friday (with an hour closure at lunchtime)

4.1.59.5 Asda Pharmacy offers extended hours from 9am to 8pm Monday to Saturday (with two breaks of half an hour each at 12.30pm and 4.30pm) and is open from 10am to 4pm on Sunday

4.1.60 Granting this application would therefore not confer a significant benefit in respect of pharmacy opening times provision.

4.1.61 Finally, regarding the provision of advanced services, the existing pharmacy network (including my clients' pharmacies) already provides a full range of advanced services to meet local needs.

4.1.62 The applicant does not identify any gaps in the provision of advanced pharmaceutical services from existing local pharmacies.

Conclusion

4.1.63 In conclusion, on behalf of my clients I invite NHS Resolution to conclude that the applicant has failed to discharge the burden of proving that this application would meet the regulatory test contained within regulation 18 and to refuse it."

5 Observations

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

5.1 HEALTHCARE PLUS CONSULTING LTD ON BEHALF OF THE APPLICANT

5.1.1 "Thank you for your letter dated 2nd September 2025. We note the responses made by interested parties on our client's appeal and respond accordingly here.

Local contractors represented by Temple Bright

5.1.2 We note that our client's application is not based solely off the Boots closure but seeks to provide 'better access to pharmaceutical services'. The Committee will be aware that this wording is directly from Regulation 18 (NHS Pharmaceutical and Local Pharmaceutical Services Regulations 2013) which states [quoted in full];

5.1.3 As outlined above, it is clear that the overarching legal test to meet Regulation 18 is whether NHS England is satisfied that granting the application would "secure improvements, or better access, to pharmaceutical services". Within this test NHS England must consider broad range of considerations, including all forms of improvement and better access for all persons in the Health and Wellbeing Board.

5.1.4 In light of this, we reiterate that granting our client's application would indeed secure improvements or better access to pharmaceutical services, especially when we consider patient access currently. The representative correctly asserts that NHS Resolution must consider the provision of pharmaceutical services in the Health and Wellbeing Board's area, and particularly the area where people are most likely to use the proposed pharmacy. It is therefore pertinent to the context of our client's application to highlight that the Lancashire HWB has lost two pharmacies in the town of Morecambe; Boots Pharmacy Westgate on Braddon Close (LA4 4UZ), and Lloyds Pharmacy inside Sainsbury's, Lancaster Road (LA4 5TJ).

5.1.5 From the map provided [see Appendix C for Committee], we can clearly see that there is a sizeable geographical gap in pharmaceutical provision.

5.1.6 We wish to highlight that c. 5,000 residents living in the Lancaster 010B; 010A and 010C Lower-layer Super Output Areas are highly likely to access pharmaceutical services should this application be granted. We have provided images overleaf depicting our client's best estimate

address (marked as a red star) in relation to the aforementioned LSOAs taken from the 2021 Census for the benefit of the Committee.

5.1.7 From the maps above it is clear that the residential population within these LSOAs are in fact more densely populated near our client's proposed site.

5.1.8 We strongly refute suggestion from the objectors that Census data is not sufficient evidence. Census data is an independent dataset obtained by the Office for National Statistics, which evidences household demographics in an area. Participation in the Census is compulsory for every household, and it is against the law not to participate and participate truthfully to that extent. Latest Census data was taken on 21st March 2021, so whilst not completely up to date it still provides a strong measure of the situation residents find themselves at "ground level" - and thus is highly relevant evidence.

5.1.9 To reiterate, per 2021 Census data residents living in the Lancaster 010B LSOA have:

5.1.9.1 34.6% of residents with no car/van vs 23.5% in England

5.1.9.2 11.5% of residents with bad/very bad health vs 5.2% in England

5.1.9.3 29.2% of residents disabled under the Equality Act 2010 vs 17.3% in England

5.1.9.4 23.8% aged 65 and above vs 18.3% in England

5.1.9.5 41.3% of residents living in socially rented accommodation vs 17.1% in England

5.1.9.6 11.1% of residents economically active due to long-term sickness or disability vs 4.1% in England

5.1.10 Notably the 0108 LSOA (the LSOA of the proposed site) is within the top 2.4% deprived areas in the entire country, and thus in greater need of local pharmaceutical provision. It is clear that local residents are disproportionately disabled; have worse health outcomes; and poorer economic outcomes.

5.1.11 The objectors do acknowledge the relatively poorer access to a car that local residents have, but appear to claim that these residents are more likely to qualify for a free bus bass – so distant pharmacies are not difficult to access by virtue of this benefit. Whilst we submit that there will be groups eligible for a free bus bass, there are still many groups who will not be eligible:

5.1.11.1 Those with less severe or non-specified disabilities

5.1.11.2 Carers/ companions

5.1.11.3 Mothers with young children

5.1.11.4 Pregnant women

5.1.11.5 Those with mental health problems

5.1.11.6 Any condition which started after you became an adult (e.g. brain injury)

5.1.11.7 Children aged 5-15 (concession fares)

5.1.12 Given the deprived nature of the area, these groups, along with other local residents, can find bus fares as presenting a barrier to accessing pharmaceutical provision.

5.1.13 We highlight that the very fact we are debating the groups eligible for a free bus pass, should tell the Committee all they need to know regarding the deprivation and difficult access to pharmaceutical provision that exists in the Westgate area following the closure of the Boots pharmacy.

5.1.14 Notwithstanding this, for those unable to afford bus travel and costs associated with car travel, alternative pharmacies are at least a 24-minute, 1.1-mile one-way journey by foot. We submit that this is clearly not representative of reasonable choice or access to pharmaceutical provision.

5.1.15 The Committee will be aware that health needs are greater in deprived areas, and the loss of a well utilised community pharmacy as a vital source of accessing health services has impacted the local community. In particular, the elderly, sick and disabled also face greater difficulties in accessing pharmacy services.

5.1.16 The objectors view that pharmacies "must simply be accessible to communities" for Pharmacy First, is incomplete. Pharmacy First is rendered less effective if the users are unable to access the pharmacy as part of their daily lives.

5.1.17 We disagree with the representative's suggestion that the shops and services could be a distance away from our client's best estimate/proposed location. The best estimate provided is of modest size and largely consists of the commercial/communal area of Westgate, where most of the amenities in the Westgate area are located. It is also highly unlikely that the pharmacy will open in the residential areas to the far north or south of the best estimate.

5.1.18 We reiterate that residents are accustomed to accessing facilities in the Westgate area and are not required to leave for it is served by Westgate Medical Practice; Lidl Supermarket; Co-op Food; Post Office; Off-license; Newsagents; Fish & Chips Shop; two Pre-schools; Primary School; Church; Public House; Betting Shop; Public Park. Contrary to the objectors concerns, residents suggest that they would be able to access the pharmacy while utilising other services in the area.

5.1.19 We also reiterate that the Boots Pharmacy was a very well-utilised pharmacy, dispensing c. 8,000 items (September 2023). It is clear that the local community were accustomed to accessing pharmaceutical

services both in connection with a visit to Westgate Medical Centre and while utilising the facilities within Westgate. This is also reflected from the local residents who have voiced their concerns below surrounding the need to reinstate pharmaceutical provision in Westgate.

5.1.20 We are unsure as to why the objector considered a road also utilised by vehicles without a designated pavement as a safe route for residents accessing pharmaceutical services – this is ultimately for the Committee to determine, and note they may be aided by a site visit when making any such determination.

5.1.21 The representative also places weight on Distance Selling Pharmacies (DSPs), suggesting that Pharmacy2U deliver in the area. We submit that DSPs do not provide reasonable choice to pharmaceutical provision for a number of reasons:

5.1.21.1 DSPs cannot provide face to face services, with onsite COVID and Flu jabs also stopping from March 2026.

5.1.21.2 DSPs are not customer-facing and thus patients are not in direct contact with the Pharmacist. Patients can often have changing medication and require a regular local pharmacist to aid them with any medication changes and with adherence to prescribed medication.

5.1.21.3 The internet can be a barrier for many groups, particularly the elderly, in accessing DSPs. This is especially relevant in Westgate when we consider the high elderly population.

5.1.21.4 Someone has to be home when signing for controlled drugs from a DSP. For those that work, organising this can be particularly difficult.

5.1.22 The objector also suggests that delivery services from local pharmacies are adequate, however the Committee will be aware that these services are not NHS commissioned and can be removed at any time.

5.1.23 We note that the Objector and the ICB previously highlight that there is no evidence provided to show that local residents have difficulty accessing a pharmacy. As explained above, Census data does constitute sufficient evidence, however, our client has engaged with the local community for further feedback on the realities they face. To best understand current access to pharmaceutical services and the needs of local residents, our client has recently collated a survey and received 30 responses plus additional emails.

Patient Survey

5.1.24 As per the patient survey carried out, attached below [see Appendix D for Committee], we can initially conclude the following:

5.1.24.1 No respondents were unsupportive of a new pharmacy opening

5.1.24.2 Almost half of the respondents were aged 65 and above - 47%

5.1.24.3 Over half of respondents had some form of limited mobility – 53%

5.1.24.4 1/5 were unable to drive or have access to regular transport

5.1.24.5 60% regularly care for another person

5.1.24.6 Almost ¾ had difficulties accessing a pharmacy since the Boots closure in 2024 – 73%

5.1.25 While the objector is incorrect in suggesting we implied that local residents shared of all the characteristics, when analysing the responses received, we can see that some of these characteristics are indeed shared. For example, we highlight that 1/6 of respondents are both aged 65 and above and have limited mobility.

Groups with Protected Characteristics

5.1.26 Regarding the lack of examples of residents who have a particular protected characteristic who require access to pharmaceutical services but currently find access difficult, we highlight;

5.1.26.1 “The inconvenience of having to travel to the chemist on Regent Road on my mobility scooter in the pouring rain and extreme cold, it's a long way in really bad weather.” – [J], Survey 29

5.1.26.2 “Nearest chemist is a further 20 minute walk away, not good if you have a poorly grandchild you have to drag along.” – [H], Survey 24

5.1.26.3 “My wife(disabled), daughter (autism) and son (autism) require medication every week and I can be going to pick up there prescriptions every few days for different ones after I finish work…. If for any reason I could not collect the prescriptions and my wife had to go , at least it was in a short distance away especially with the amount of medication our family uses. When we moved to the area it was a big plus to have the doctor surgery and pharmacy next to each other for these purposes. I was deeply saddened when they decided to close the pharmacy as it was such a big part of the local area especially for the likes of disability and aged people…” – Survey 30

5.1.27 Such extensive journeys are difficult for residents who utilise a mobility scooter such as [J] (Survey 29). This difficulty is exacerbated by bad weather conditions such as “pouring rain and extreme cold”, which is likely to make patients feel more unwell and cause conditions to worsen.

5.1.28 When we look at [H] in Survey response 24, we can see that she falls between the 50-64 age bracket and does not drive. She also lacks regular transport. Thus, she has no choice but to walk 20- minutes, equating to a 40-minute round trip by foot, to access pharmaceutical

services on each occasion. She highlights this journey is especially challenging when travelling with “a poorly grandchild”. Such a journey for both Heather and an unwell young child does not represent reasonable choice or sufficient access to pharmaceutical services.

5.1.29 What is evident through 2021 Census data and consistent among insights from local residents is that the localised population are disproportionately elderly and/or disabled and those with those protected characteristics have consequently struggled to access pharmaceutical services since the Boots closure due to their protected characteristics.

Difficulty by Public Transport

5.1.30 The objector also suggests that local resident’s reliance on bus services is not supported by any real evidence.

5.1.31 In fact, we not only have evidence of local residents who are reliant on the bus service, but evidence of difficulties when utilising public transport such as;

5.1.31.1 “Extra long waiting time, up to 45 minutes, waiting for my medication, missed bus as limited service and forced to get a taxi back home” – [C], Survey 22

5.1.31.2 “Chemist services are required in this area which has a high number of elderly people without access to regular transport” – [R], Survey 15/16

5.1.32 Thus, public transport services are described as “limited” and that there are a “high number of elderly people without access to regular transport”.

5.1.33 The statements as per our client’s previous correspondence are not merely assertions, for they are evidenced by local residents. We invite the Committee to the read further insights and comments from local residents who struggle to access public transport services provided below.

5.1.34 Difficulty by Car/Taxi

5.1.34.1 “I am a support worker and many of my clients have to book taxis to collect medication from pharmacies in other areas” – Survey 1

5.1.34.2 “Getting a taxi is very costly” – Survey 4

5.1.34.3 “But I now have to have access to a car to get my prescriptions and shopping and parking is difficult at other sites and is time consuming.” – Survey 23

5.1.35 Notably, the support worker reveals many of their clients “have to book taxis to collect medication”, suggesting that they have no choice but to pay for a taxi. These patients therefore are unlikely to have access to a

car, are unable to use public transport and cannot walk to the current pharmacy. As is clear from Survey response 4, this is a significant financial burden on members of the community.

5.1.36 We do not consider residents having no choice but to pay for taxis to access pharmacies in other areas as representative of sufficient access or reasonable choice.

5.1.37 Even journeys by car pose difficulties when accessing pharmaceutical provision. Patricia in Survey 23 highlights that despite having vehicular access, the "shopping and parking is difficult at other sites".

5.1.38 It is evident that journeys by foot, public transport, and car are described as difficult among local residents, and therefore do not represent reasonable choice to pharmaceutical provision.

Difficulty accessing pharmacy from GP

5.1.39 Since the loss of the Boots Pharmacy located with the Westgate Medical Practice, we submit that residents are now forced to endure separate, one-off journeys to access pharmaceutical services.

5.1.40 This is not a scenario, but a reality as highlighted below:

5.1.40.1 "I don't accept appointments at Westgate now because I have to travel twice to get a prescription" – [S], Survey 12

5.1.41 In fact, because this resident has no choice but to travel twice to get a prescription, they reveal that they "don't accept appointments at Westgate". We submit that purposefully not accepting appointments due to the multiple journeys involved to access pharmaceutical services is not representative of reasonable choice.

Patient Emails

5.1.42 As mentioned, our client also received some emails directly from patients further expressing the need for a new pharmacy. We have attached these below but analyse some of these below.

Email 1

5.1.43 [X] a local resident, writes that she is a mother of two autistic children, with one not attending school and therefore cannot leave the house for long. She suffers from arthritis herself and cannot leave the house for long for this reason to. She does not drive and neither do any family members.

5.1.44 Since the Boots Pharmacy closure, she must travel to Morecambe to access pharmaceutical services, which leaves her with no choice but to leave her disabled child alone for a longer period of time.

5.1.45 She also has two elderly parents (one with a brain aneurysm and one with cancer) who utilise public transport but highlights this is dangerous

for their conditions. She notes that her mother panics when her father leaves the house to collect her prescriptions.

5.1.46 The Boots Pharmacy was less than a 5-minute walk from her house which she visited weekly, and even shorter of a distance for her elderly parents. Clearly, reinstating pharmaceutical provision within our client's best estimate address would provide better access for residents like and her parents.

Email 2

5.1.47 [X], who previously worked as a dispensing store manager for Boots Pharmacy on Braddon Close, reveals that she has kept in touch with patients, who are struggling to access pharmaceutical provision since the closure.

5.1.48 In fact, she reveals that "I have spoken with a few patients who have gone over a week without medication because they can't get to pick theirs up.". Evidently, a number of patients going without medication due to difficulties with accessing pharmacies in other areas is not representative of reasonable choice.

5.1.49 She also highlights that Westgate is not on a major bus route, with "limited bus times". Again, this view is shared across a number of patients. uses Westgate Medical Centre, noting that "it is a pain, when you are not well, not being able to pick up medication…"

5.1.50 While drives, for those who cannot drive, journeys in the cold/rainy weather can cause conditions to worsen and deter patients from accessing pharmaceutical services.

Email 4

5.1.51 [X] is a local resident who lives with her housebound partner - both are pensioners in their 70s. She reveals she has been ill and had an operation. [X] states "*I find it very hard getting out to collect our prescriptions from regent road chemist with having to get bus there and back and having to carry all the prescription items*". Again, [X] among other residents, has no choice but to utilise the bus service due to there not being a pharmacy within a reasonable walking distance. She describes her journey as "very hard", which is exacerbated by "having to carry all the prescription items". Clearly, we can see that groups with protected characteristics are having difficulties accessing pharmaceutical services within the relevant HWB - directly addressing Regulation 18(2)(b)(ii).

Email 5

5.1.52 We wish to highlight the contribution of (Email 5). We encourage the Committee to read the email in full as it cogently presents the case for a pharmacy in Westgate.

5.1.53 We note that she identifies the particular health needs of the GRT (Gypsy, Roma, Traveller) community and the difficulties they face in

accessing these services. She notes that the GRT community face worse health outcomes and are less likely to access medical services. She also notes the limits on some GRT people to travel due to religious beliefs which make a local pharmacy vital.

5.1.54 Overall, the GRT community would particularly benefit for the addition of a more accessible pharmacy in Westgate.

5.1.55 The GRT community is well established in Morecambe. We also note that the GRT community have historically not been properly captured in official data (Tackling inequalities faced by Gypsy, Roma and Traveller communities, Women and Equalities Committee, 2019), however their presence in Morecambe is well known in the community.

Summary of Responses

5.1.56 From the insights of local residents per the patient survey and emails, it is evident that;

5.1.56.1 Residents do not have an accessible pharmacy within walking distance

5.1.56.2 Public transport services are limited

5.1.56.3 Journeys by car are difficult

5.1.57 Further, residents of an elderly age have no choice but to rely on others to get their prescriptions, revealing a loss of independence. When we consider that the elderly have higher health needs and are therefore more likely to access pharmaceutical services, groups with protected characteristics clearly do not have reasonable choice or sufficient access.

5.1.58 Below we list further excerpts from survey responses and emails by content. We hope this helps the Committee gain a clearer understanding of the overall sentiment within the local community.

Barriers to Pharmacy Access

5.1.59 A large number of respondents noted the increased difficulty in accessing a pharmacy after the closure of the pharmacy on Brandon Close.

5.1.59.1 “I am a support worker and many of my clients have to book taxis to collect medication from pharmacies in other areas” – Survey 1

5.1.59.2 “Getting a taxi is very costly” – Survey 4

5.1.59.3 “Having to go so much further to get a prescription is time consuming and out of my way “ – Survey 6

5.1.59.4 “I have friends who can no longer get to a chemist because they can no longer drive.” – Survey 15/16

5.1.59.5 “missed bus as limited service and forced to get a taxi back home” – Survey 22

5.1.59.6 “Nearest chemist is a further 20 minute walk away, not good if you have a poorly grandchild you have to drag along.” – Survey 24

5.1.59.7 “Chemist to far away” – Survey 26/27

5.1.59.8 “The inconvenience of having to travel to the chemist on Regent Road on my mobility scooter in the pouring rain and extreme cold, it's a long way in really bad weather.” – Survey 29

5.1.59.9 “Less convenient, more waiting” – Survey 9

5.1.59.10 “Yes I now have a lot further to travel” – Survey 19

5.1.59.11 “Daily routine, I now have to plan to collect and use public transport” – Survey 22

5.1.59.12 “Yes in the winter my options arthritis becomes much worse, extremely painful due to being bout in the cold, damp weather” – Survey 29

5.1.59.13 “None of my family drive and the pharmacy was only a five minute walk away from our house. We used it weekly and was a massive help due to the fact that none of us drove and I cannot leave the house for long due to having a disabled daughter and also due to my own condition.” – Email 1

Access in Daily Routines

5.1.60 A number of survey respondents also mentioned that they were able to use the Brandon Close pharmacy as part of their daily lives. This includes those who could walk to this location without needing to use the car or public transport.

5.1.60.1 “This pharmacy is in an area where I drop and pick up my son. So itâ€™s convenient. [sic] Also I use a number of the other shops in that area” – Survey 11

5.1.60.2 “Daily routine, frustration really as my local pharmacy is hard to get to in the car due to constant school traffic or shop traffic and double parking all along the main road.” – Survey 11

5.1.60.3 “Just live round corner walking distance” – Survey 5

5.1.60.4 “Handy coz only live round corner” – Survey 10

5.1.60.5 “Westgate used to be so much better and convenient, i would get a text message and if i was at home i could nip down the road 2 minutes away and collect the prescriptions and even on the way home , i didn't have to go out of my way.” – Survey 30

5.1.60.6 “I could walk to boots” – Survey 19

Access in Connection with GP Visits

5.1.61 A number of survey respondents highlighted the significant of the proximity of the pharmacy to the GP in Westgate. Many noted that they have changed their GP usage due to the lack of a pharmacy.

5.1.62 Ultimately, this leads to longer travel times to access GP services and placing additional strain on more distant GPs. The reinstatement of pharmaceutical provision near the Westgate GP would prevent these burdens and improve patient access to healthcare.

5.1.62.1 “I’ve had to make sure I get a doctors appointment at a centre with a chemist which makes waiting longer for appointments.” – Survey 12

5.1.62.2 “I don’t accept appointments at Westgate now because I have to travel twice to get a prescription” – Survey 12

5.1.62.3 “All doctors have a pharmacy on site / in situ. Nearest is a bus journey away” – Survey 22

5.1.62.4 “When we moved to the area it was a big plus to have the doctor surgery and pharmacy next to each other for these purposes.” – Survey 30

5.1.62.5 “it is convenient being next door to the surgery. Now I have to get the bus to my nearest chemist on regent road. It would be great if the chemist on Braddon close were to reopen.” – Survey 19

5.1.62.6 “When people are not feeling well and they come out of the doctors with a prescription, the last thing you want to do is worry about catching a bus to go to a pharmacy far away. I have spoken with a few patients who have gone over a week without medication because they can't get to pick theirs up. Having a pharmacy back open up on Braddon Close would mean so much to so many people. I use the doctors next to the vacant pharmacy and it is a pain, when you are not well, not being able to pick up medication, without a trek to a pharmacy 10 minutes away, and I'm only in my 50's and drive.” – Email 2

Capacity Issues

5.1.63 Numerous survey responses indicated that existing pharmacy provision are experiencing capacity issues, such as long queues, extended waiting times or a decline in service quality. Many respondents linked these issues to the two pharmacy closures. Naturally, the addition of a new pharmacy would relieve this excess pressure.

5.1.63.1 “The pharmacy I now used is very helpful but seems to be on the verge of being overwhelmed. I regularly leave a week or more between ordering meds and going to collect and they are

never already made up and ready to collect. Shop is full from opening to closing." – Survey 9

5.1.63.2 "The west gate pharmacy was very useful, its closure has had a poor affect on the other pharmacies which have long queues." – Survey 15/16

5.1.63.3 "Extra long waiting time, up to 45 minutes, waiting for my medication, missed bus as limited service and forced to get a taxi back home" – Survey 22

5.1.63.4 "Longer waiting times for chemist to have prescriptions ready" – Survey 30

5.1.63.5 "Less convenient, more waiting" – Survey 9

5.1.63.6 "I have to go to Asda pharmacy, which is not the best service and takes anything up to 20 mins to be served. This pharmacy was convenient linked with the area I am in daily."

5.1.63.7"Alternative pharmacy is brilliant and staff also ,but so so busy due to having to take on new patients since Boots shut westgate knowing it's a well used needed pharmacy" – Survey 25

5.1.63.8 "It was much better when after a doctors appointment, if given a prescription I could just drop it in to the chemist next door and wait for it to be made up." – Survey 29

5.1.63.9 "With Westgate closing it put pressure on the other pharmacies to take on more customers and that has slowed down the process of prescriptions being ready on time and chasing them up if they were not ready." – Survey 30

Loss of Independence

5.1.64 Some survey respondents noted that they rely on others to collect prescriptions from a pharmacy.

5.1.65 This compromises their independence and negatively impacts their quality of life. Such a situation reflects a decline in access to pharmaceutical services – an issue that could be resolved with the granting of our client's application.

5.1.65.1 "I have to get someone to collect my repeat prescriptions as this was my nearest chemist." – Survey 12

5.1.65.2 "Since my husband passed away last year, I have had to rely on others to drop off and pick up my prescriptions." – Survey 13

5.1.65.3 "It puts others out to collect and drop off my prescriptions and medication" – Survey 13

5.1.65.4 "I miss not having a pharmacy near by so do lots of others who live in this area it's handy to pick up your medication yourself

without having to rely on it been delivered by the NHS or someone else to pick it up for you" – Email 3

Importance to the Elderly

5.1.66 A number of survey respondents emphasised the particular importance the closed pharmacy held for elderly residents. As the Committee will be aware, the elderly represent a protected characteristic group that stands to benefit significantly from the grant of this application. In this regard, we remind the Committee that over a quarter of residents living at/near the proposed site are elderly.

5.1.66.1 "IN VIEW OF THE LARGE AMMOUNT OF ELDERLY PEOPLE LOCALLY, A COVINIENT PHARMACY IS ESSENTIAL" – Survey 8 [sic]

5.1.66.2 "For elderly people (of which there are quite a number in the area) and parents, the nearest Chemist is miles away now, which will make life difficult for those without transport or family to help out." – Survey 14

5.1.66.3 "Chemist services are required in this area which has a high number of elderly people without access to regular transport" – Survey 15/16

5.1.66.4 "We really need a pharmacy. The elderly must suffer with not having thus facility. Some elderly have no family to travel and get there prescriptions and it must cost if they need them delivered. A pharmacy would definitely make a difference if only for advice instead of seeing a g.p." – Survey 17

5.1.66.5 "There's a lot of elderly and infirm residents in this area who struggle to get their prescriptions." – Survey 28

5.1.66.6 "I was deeply saddened when they decided to close the pharmacy as it was such a big part of the local area especially for the likes of disability and aged people being so convenient." – Survey 30

5.1.66.7 "We are both pensioners in our 70s I find it very hard getting out to collect our prescriptions from regent road chemist with having to get bus there and back and having to carry all the prescription items" – Email 4

Conclusion

5.1.67 From the evidence outlined above, we maintain that granting our client's application would provide significantly better access to pharmaceutical services for local residents living in Westgate.

5.1.68 Our client has presented Census data evidence and sought survey & email evidence from the local community which reveals that the Westgate area is home to a significant proportion of elderly and disabled residents who are struggling to access pharmaceutical

services since the Boots closed. This is against a backdrop of a community with poorer economic outcomes.

5.1.69 When we consider that there is no pharmacy within a reasonable walking distance, public transport availability is limited, and car ownership is low, it is clear that there is not reasonable choice to pharmaceutical provision for the local population.

5.1.70 We submit that granting this application will secure improvements and better access to pharmaceutical provision and thus meets the criteria for Regulation 18."

6 Regulation 22

Regulation 22 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations") states that the relevant Pharmaceutical Needs Assessment ("PNA") for the purpose of determining a pharmacy application is the PNA that is current at the time NHS Resolution makes the determination unless the only way to determine the application justly is with regard to an earlier PNA. Regulations 5 and 6 envisage there will be a revised PNA published by each Health and Wellbeing Board regularly. NHS Resolution noted that the original decision of the Commissioner in this matter was taken in relation to an earlier PNA. In the interests of transparency and fairness, NHS Resolution sought to rely on the discretion afforded in paragraph 7 of Schedule 3 of the Regulations to vary the normal procedures and to add an additional round of observations on this matter. The following comments were received.

6.1 TEMPLE BRIGHT ON BEHALF OF GORGEMEAD LTD, WEST END PHARMACY AND MORECAMBE BAY CHEMIST

6.1.1 "Thank you for your email below and your letter of 13th October.

6.1.2 My clients agree that the current PNA (2025) is the relevant PNA for the purposes of the determination of this appeal, noting that the 2025 PNA concludes that there is no need for additional pharmacies in the HWB's area (notwithstanding the reduction in service providers since the last PNA was published)."

7 Consideration

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

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

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

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

Regulation 31

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

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

(2) This paragraph applies where -

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

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

(ii) adjacent premises; and

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

7.6 The Committee noted that the Applicant had not provided any information in the application form on this point but the Committee noted that the wording of the application form only required the Applicant to include information in the relevant section if the proposed premises were adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises. The Committee considered it reasonable to determine that the lack of information in the application form on this point when read with the wording of the application form allowed it to be reasonably satisfied that the Applicant considered that the proposed premises were not adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises.

7.7 The Commissioner in its decision found that "*the application met the requirements of the regulation, i.e., that the Group could not refuse the application due to a person on the Pharmaceutical List providing pharmaceutical services from the site to which the application relates, from either the same site or from adjacent premises*." The Committee noted that this had not been disputed either on appeal or in subsequent correspondence. The Committee therefore determined that it was not required to refuse the application under the provisions of Regulation 31.

7.8 The Committee noted that, if the application were granted, the successful applicant would - in due course - have to notify the Commissioner of the precise location of its premises (in accordance with paragraph 31 of Schedule 2). Such a notification would be invalid (and the applicant would not be able to commence provision of services) if the location then provided would (had it been known now) have led to the application being refused under Regulation 31.

Regulation 18

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

"(1) If—

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

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

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

(2) Those matters are—

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

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

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

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

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

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

(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into

account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),

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

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

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

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

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

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

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

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

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

7.10 The Committee considered that Regulation 18(1)(a) was satisfied in that it was required to determine whether it was satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant Health and Wellbeing Board ("HWB").

7.11 The Committee went on to consider whether Regulation 18(1)(b) was satisfied, i.e. whether the improvements or better access that would be secured if the application was granted were or was included in the Pharmaceutical Needs

Assessment ("the PNA") in accordance with paragraph 4 of Schedule 1 of the Regulations.

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

7.13 The Committee noted that Regulation 22 states:

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

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

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

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

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

7.14 The Committee noted that the Applicant had based its application on the 2022 PNA but that the HWB had since published a 2025 version of the PNA (the "2025 PNA").

7.15 The Committee considered that there were two related issues that it needs to determine in relation to the PNA. It needed to determine which PNA was the

relevant PNA for the purposes of Regulation 22 and whether the relevant PNA had identified the improvements or better access that the application was looking to secure.

7.16 In considering these issues, the Committee had regard to the comments made by the parties.

7.17 The Committee considered that the starting point as set out in Regulation 22 was that the relevant PNA was the PNA of the relevant HWB that is current at the time that the decision is taken. There is no dispute that the 2025 PNA is the current PNA.

7.18 The Committee considered the Pan-Lancashire PNA prepared by Blackburn with Darwen, Blackpool and Lancashire's HWBs, conscious that the document provides an analysis of the situation as it was assessed at the date of publication. The Committee bears in mind that, under Regulation 6(2), the body responsible for the PNA must make a revised assessment as soon as reasonably practicable unless to do so appears to be a disproportionate response to those changes. Where it appears disproportionate, the responsible body may, but is not obliged to, issue a supplementary statement under Regulation 6(3). Such a statement then forms part of the PNA. The Committee noted that the PNA was dated 2025 and that no supplementary statements had been issued.

7.19 The Committee noted the Executive Summary in section 3 "Findings" it states:

3.2 Overall pharmacy provision over the last four years

> *There are currently 327 community pharmacies (and four dispensing appliance contractors) overall across pan-Lancashire (January 2025), representing an 7.1% reduction in the number of providers, down from 352 since the last publication of the PNA in 2022. The corresponding figures across each local authority are Lancashire County Council (249 pharmacies in 2025, a reduction of 7% from 267 in 2022) Blackburn with Darwen (40 pharmacies in 2025, a reduction of 13% from 46 in 2022) Blackpool (38 pharmacies in 2025, a reduction of 3% from 39 in 2022)*
>
> *The number of pharmaceutical service providers per head of population has also declined during the same period. The previous PNA showed that there were 23 pharmacies per 100,000 registered population, whereas the corresponding national figure for England was 21 per 100,000 and the average for the North West was 24 per 100,000. In the pan-Lancashire area there are now 21 pharmaceutical service providers per 100,000 registered population, and the corresponding figures for both England (18 per 100,000) and North West of England (21 per 100,000) have also declined.*

3.3 Provision of pharmacy relative to both driving and walking time

> *The assessment of provision included drive/walk/public transport time analysis, analysis of pharmacies per head of population and examination of population density and demographic profiling. Across the three local authorities there is a good coverage of pharmacies. In*

Blackburn with Darwen over 98% of the population has access to a pharmacy within a 10-minute drive. In Blackpool 98% of the residents are within 15 minutes' walk to a pharmacy. 100% of Lancashire County Council's residents, in both rural and urban areas, can get to a pharmacy within 20 minutes' drive by car. In Lancashire County Council's urban areas nearly 100% of residents can get to a pharmacy within 20 minutes on public transport and 94% of residents in urban areas are within 20-minutes' walk to a pharmacy."

7.20 The Committee noted that section 4 "Recommendations" went on to conclude:

"In a number of Lancashire County Council localities, the 2025 rate of pharmacies per head of population is below the England rate and the decline (between 2015 and 2025) in the rate per head of population is greater than the decline for England. Despite the decline in overall provision of pharmaceutical services across Blackburn with Darwen, Blackpool and Lancashire County Council, the level of current provision is nevertheless deemed, at a system level, to remain sufficient. However, this is a trend that needs to continue to be carefully monitored. Additional pharmacy provision is not required to secure improvements or better access to such services, at this time.

At present there is no need for additional pharmaceutical contracts, but should current provision significantly change in advance of the next PNA, particularly because of any new housing developments or any further future closure of existing pharmacy provision, then that position should be reconsidered. We acknowledge that there are some areas increasing in population across pan-Lancashire. However, it is anticipated that current pharmaceutical service providers will be sufficient to meet local needs over the lifetime of this PNA."

7.21 The Committee further noted the "Key messages" in Chapter 4 "Current Provision of NHS Pharmaceutical services which states:

"There is currently no need for any additional pharmacies as there are sufficient existing community pharmacies across pan-Lancashire. This PNA has not identified a current need for new NHS pharmaceutical service providers across pan-Lancashire. There are 327 community pharmacies overall across pan-Lancashire, representing a 7.1% reduction in the number of providers, down from 352 since the last publication of the PNA in 2022.

The change between 2022 and 2025 is as follows

• Blackburn with Darwen (40 pharmacies in 2025, a reduction of 13.0% from 46 in 2022)

• Blackpool (38 pharmacies in 2025, a reduction of 2.6% from 39 in 2022)

• Lancashire (249 pharmacies in 2025, a reduction of 6.7% from 267 in 2022; this excludes the four DACS)"

7.22 And further:

"Review of the locations, opening hours and access for people with disabilities, suggest there is sufficient access to NHS pharmaceutical services across pan-Lancashire. There appears to be good coverage in terms of opening hours across the area. The extended opening hours of community pharmacies are valued, and these extended hours should be maintained. Many pharmacies and dispensing surgeries have wheelchair access, and home delivery services can help to provide medications to those who do not have access to a car or who are unable to use public transport. Overall, for the population of pan-Lancashire almost 90% of pharmacies have wheelchair access. It is important to note that key services such as extended hours (beyond core 40/100 hours) and home delivery are not part of the NHS contract. If pharmacies withdrew extended supplementary hours, there could be a need within certain areas for pharmacy provision. Community pharmacies and pharmacists can have an impact on the health of the population by contributing to the safe and appropriate use of medicines."

7.23 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients of the Westgate Medical Practice as well as those resident in the surrounding area of Morecambe. The Committee noted that the improvements or better access that the Applicant was claiming would be secured by its application were not included in the relevant PNA in accordance with paragraph 4 of Schedule 1.

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

Regulation 18(2)(a)(i)

7.25 The Committee had regard to

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

(i) proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB"

7.26 The Committee noted the conclusion of the Commissioner in respect of Regulation 18(2)(a) that "*the granting of the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area covered by the HWB*". The Committee noted that this had not been disputed either on appeal or in subsequent representations.

7.27 On the basis of the information available, the Committee was not satisfied that, if the application were to be granted and the pharmacy to open, the ability of the Commissioner thereafter to plan for the provision of services would be affected in a significant way.

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

Regulation 18(2)(a)(ii)

7.29 The Committee had regard to

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

7.30 The Committee noted the conclusion of the Commissioner in respect of Regulation 18(2)(a) in that "*the granting of the application would not cause significant detriment to proper planning … or the arrangements in place for the provision of pharmaceutical services in that area*." The Committee noted that no party had sought to dispute this either on appeal or in subsequent representations.

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

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

Regulation 18(2)(b)

7.33 The Committee had regard to

> *"(b) whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—*
>
> *(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also NHS England's duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)),*
>
> *(ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also NHS England's duties under section 13G of the 2006 Act (duty as to reducing inequalities)), or*
>
> *(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),*
>
> *granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published"*

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

7.34 The Committee had regard to the location of the existing pharmacies and GP surgeries as provided on the map by the Commissioner, which had not been disputed by any party.

7.35 The Committee noted the Applicant is proposing to open a new pharmacy in the area where there was previously a Boots pharmacy, which closed in February 2024. The Committee also noted the undisputed comments from the Applicant with regard to the Lloyds pharmacy, which was located inside a Sainsbury's which is located to the east of the area of Westgate, which closed in 2023. Whilst acknowledging the loss of these pharmacies, the Committee was of the view that the closure of pharmacies did not automatically lead it to the conclusion that a new pharmacy should be granted.

7.36 The Committee further noted the comments from the Applicant with regard to the viability of a pharmacy, however the Committee took no view on why the previous pharmacies in the area have now closed and that viability is not a relevant consideration within the criteria of the Regulations and so took no view on these comments from the Applicant.

7.37 The Committee noted and accepted the comments from the Applicant that these closures were not foreseen when the 2022 PNA was written, upon which the application was made. The Committee however was mindful that the PNA had been reviewed and a new PNA was published in October 2025 and that no gaps in pharmaceutical provision has been identified.

7.38 The Committee sought to understand, from the information provided to it, the nature of the population in the area. The Applicant claimed that there is a high elderly population in the area as well as those who are suffering from bad health. The Committee accepted that a high elderly population may be associated with an increased demand for pharmaceutical services. However, the mere presence of an elderly population does not, in the Committee's view, of itself justify granting the application. The Committee needed to assess whether the demand for pharmaceutical services is capable of being met by any of the existing pharmacies.

7.39 The Committee noted the comments from the Applicant with regard to the amenities and facilities in the area which include:

7.39.1 Church

7.39.2 Pub

7.39.3 Lidl Supermarket

7.39.4 Co-op Food

7.39.5 Post office

7.39.6 Betting Shop

7.39.7 Newsagents

7.39.8 Off-license

7.39.9 Fish and chip shop

7.39.10 Public Park

7.39.11 2 preschools, with a combined 300 seats

7.39.12 Primary school with 630 seats

7.39.13 Westgate Medical Practice

7.40 The Committee did not doubt that these services and amenities may be used by persons in the area, however the Committee considered these services and amenities not so extensive that they would not have to travel elsewhere for some of their requirements. In doing so, they may be able to access existing pharmaceutical services in the area.

7.41 The Committee noted the Commissioner's comment that there are 5 pharmacies located within a mile of the proposed site as well as 5 GP practices.

7.42 The Committee considered access to existing pharmacies on foot. The Committee noted that the distances to the nearest pharmacies had been disputed by Temple Bright who had proposed alternative distances in particular to Morecambe Bay Chemists and one of the Cohens premises. The Applicant had provided limited information regarding the routes but the Committee did note the photograph provided by Temple Bright showing the lane patients would walk to access Cohens. However, in the Committee's view the lack of a pedestrian pavement might deter patients from walking that route. The Committee also accepted that the distance to some pharmacies may be beyond walkable. With the exception of its above observations, the Committee noted that there was nothing provided to demonstrate that there were significant physical barriers to accessing pharmaceutical services on foot and also noted the conclusion of the 2025 PNA which stated "*94% of residents in urban areas are within 20-minutes' walk to a pharmacy"* which the HWB had considered was acceptable. The Committee had regard to the patient comments about the ease of having a pharmacy in the area which they can walk to but the Committee was of the view that for persons who are able and willing to access the existing pharmacies on foot, there was nothing provided to demonstrate that they were currently experiencing any difficulties in doing so.

7.43 The Committee was mindful that there would be some who would choose not to access services on foot, or who are unable to access services on foot, for whatever reason. The Committee therefore went on to consider the ease and level of access to existing pharmacies by private and public transport.

7.44 The Committee noted the comments with regard to the location being in a deprived area and the low car ownership in particular that "*more than 1 in 3 people do not have access to a car/van and so must rely on walking or public transport*." The Committee noted the undisputed comments in the 2025 PNA that "*100% of Lancashire County Council's residents, in both rural and urban*

areas, can get to a pharmacy within 20 minutes' drive by car." The Committee noted the assertion from the Applicant that "*The elderly are more likely to be averse to driving, particularly on busy roads or while feeling unwell …*". The Committee was of the view that this was a sweeping generalisation. Further, other than distance and travel times as quoted by the Applicant, there was no additional information provided with regard to the availability or otherwise of car parking at existing pharmacies . The Committee noted reference by Temple Bright to free on street parking at Morecambe Bay Chemists and parking near to Cohens which had not been disputed. The Committee concluded that for those who did have access to private transport there was nothing provided by the Applicant to demonstrate that they were currently having difficulties in accessing the existing pharmaceutical provision in the area of the HWB.

7.45 The Committee noted the information from the Applicant with regard to the length of the bus journeys to the existing pharmacies in the area as well as the frequency of some of the bus services. The Committee did not regard a service every 15 minutes to Morecambe Bay Chemists, which took 9 minutes, and Boots as infrequent. The Committee also noted the undisputed comments from the 2025 PNA which states "*In Lancashire County Council's urban areas nearly 100% of residents can get to a pharmacy within 20 minutes on public transport*". The Committee also noted the comments from the Applicant with regard to the cost of using public transport, however the Committee further noted the comments from Temple Bright that for a large proportion of those in the area who do use public transport there would be concessionary travel due to their age as well as other reasons.

7.46 The Committee was mindful that those who did use public transport, especially if they were using it to access medical provision in the area, would be aware of the services and times. The Committee found it difficult to assess the extent to which patients were using public transport but was of the view that there was nothing provided to demonstrate that for those who were reliant on public transport that they were currently having difficulties accessing the existing pharmaceutical provision in the area of the HWB.

7.47 The Committee noted the Applicant's comments regarding the provision of services at the existing pharmacies, including the Google reviews and considered the comments therein. The Committee also noted and considered the comments from the survey from those who use the existing pharmaceutical provision in the area. Whilst in no doubt that there has been some dissatisfaction with some existing pharmacies in the area and that any negative patient experience is of concern, the Committee was not persuaded that this is the general consensus demonstrating there are widespread issues. In this regard, the Committee noted that the Google reviews appeared to predominantly relate to Asda. The Committee further noted that the Applicant was relying on comments from some patients who were registered with the medical practice in Westgate and was unsure how these views and comments had been sought.

7.48 Whilst the Committee was mindful that the transition following the closure of pharmacies in the area may have caused an increase in demand for pharmaceutical services, there was insufficient information provided to demonstrate that the remaining pharmacies were not able to cope with the

perceived increase in demand. The Committee was further of the view that this demand would have now plateaued following the initial spike.

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

7.50 In considering Regulation 18(2)(b)(ii) the Committee reminded itself that it was required to address itself to people who share a protected characteristic under the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation) having access to services that meet specific needs for pharmaceutical services that, in the relevant area, are difficult for them to access. The Committee noted the comments from the Applicant with regard to those in the area who are "*disproportionally elderly; in bad or very bad health; without a car/van; disabled; in socially rented accommodation; and out of work due to a long term sickness or disability*." Whilst the Committee had regard to this comment, the Committee was of the view that there was little or no evidence of specific pharmaceutical needs. The issue of access and choice as might apply to these persons was dealt with in the assessment of reasonable access discussed above and the Committee was mindful that there will always be people who share a protected characteristic.

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

7.52 In considering Regulation 18(2)(b)(iii) the Committee had regard to the desirability of innovative approaches to the delivery of pharmaceutical services. In doing so, the Committee would consider whether there was something more over and above the usual delivery of pharmaceutical services that might be expected from all pharmacies, some 'added value' on offer at the location. The Committee noted that the Applicant was not seeking to rely on innovation in this application. The Committee was therefore not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting the application would confer significant benefits on persons.

Regulation 18(2)(b) generally

7.53 The Committee noted that the Applicant was proposing to open for 49 hours a week of which 44 would be core hours. The Committee noted that there would be provision of pharmaceutical services from 9am to 6pm Monday to Friday with core hours being from 9am to 1pm and 2pm to 6pm. The Committee noted that the Applicant was also proposing to offer core hours on a Saturday morning from 9am to 1pm. The Committee noted that the Applicant was not proposing to offer any hours, either core or supplementary, on a Saturday afternoon or on a Sunday.

7.54 The Committee was mindful that, based on the information before it, there was nothing provided to support a finding that pharmaceutical services were not

currently provided at such times as needed and therefore it was not satisfied that, having regarding to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits (in relation to opening hours) on persons.

7.55 The Committee further noted that the services the Applicant was proposing to offer were all currently provided by the existing pharmacies in the area and there was nothing provided to demonstrate, as set out above, that the existing pharmacies were not able to continue to fulfil the needs of those requiring access to pharmaceutical services.

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

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

Other considerations

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

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

7.60 The Committee had regard to Regulation 18(2)(g) and found that it did not apply in this case.

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

7.62 The Committee was not satisfied that the information provided demonstrates that there is difficulty in accessing current pharmaceutical services such that a pharmacy at the proposed site would provide better access to pharmaceutical services.

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

7.63.1 confirm the Commissioner's decision;

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

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

7.64 Although the Committee had reached the same conclusion as the Commissioner, it was mindful that it had been provided with more information on appeal and had considered the application against the 2025 PNA. In those

circumstances the Committee determined that the decision of the Commissioner must be quashed.

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

7.66 The Committee noted that representations on Regulation 18 had been sought from parties by the Commissioner and representations had already been made by parties to the Commissioner in response. These had been circulated and seen by all parties as part of the processing of the application by the Commissioner. The Committee further noted that when the appeal was circulated representations had been sought from parties on Regulation 18.

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

8 DECISION

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

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

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

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

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

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

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

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

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

Case Manager
Primary Care Appeals