

3 December 2025

FILE REF: **SHA/26707**

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

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

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

PHARMACIST: **MILL PHARM LTD T/A MILL PHARMACY
(FFF68)
("the Applicant")**

PREMISES: **HADLEIGH HEALTH CENTRE
MARKET PLACE
HADLEIGH
IPSWICH
SUFFOLK
IP7 5DN**

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

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

Outcome

- 1.1 Based on the information provided, I am not satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours are likely to benefit the people who are accustomed to accessing pharmaceutical services at the pharmacy premises such that they would be more likely to access services during the proposed hours.
- 1.2 The action taken by the Commissioner to refuse the application is confirmed.

A copy of this decision is being sent to:

Mill Pharm Ltd T/A Mill Pharmacy
Hertfordshire and West Essex ICB

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

1 Introduction

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

Rights of appeal

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

Opening hours

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

Alteration of core opening hours

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

Alteration of supplementary opening hours

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

The Applicant's proposals

- 1.11 The Applicant in its letter of appeal indicates that it currently has core opening hours totalling 40 hours per week.
- 1.12 The Applicant wishes to:
- 1.12.1 Increase its core hours on a Friday; and
 - 1.12.2 Not open on a Sunday.

2. Application

In this case, the Applicant provided the following information in its application form and supporting information dated 7 July 2025:

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

2.2 Current opening hours for these premises:

Monday	08:00 – 11:00 16:00 – 18:30
Tuesday	08:00 – 11:00 16:00 – 18:30
Wednesday	08:00 – 11:00 16:00 – 18:30
Thursday	08:00 – 11:00 16:00 – 18:30
Friday	08:00 – 11:00 16:00 – 18:30
Saturday	09:30 – 18:00
Sunday	10:00 – 14: 00

2.3 Proposed core opening hours for these premises:

Monday	08:00 – 11:00 16:00 – 18:30
Tuesday	08:00 – 11:00 16:00 – 18:30
Wednesday	08:00 – 11:00 16:00 – 18:30
Thursday	08:00 – 11:00 16:00 – 18:30
Friday	08:00 – 15:00 16:00 – 18:30
Saturday	09:30 – 18:00
Sunday	-

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

2.5 15 August 2025.

2.6 I wish this application to be determined on the basis of:

2.6.1 Paragraph 26(2ZB), Schedule 4.

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

those services at the pharmacy premises during the proposed core opening hours than during the existing core opening hours.

- 2.8 In our application we would like to move the core hours on Sunday from 10:00 till 14:00 to one of our busiest times Friday from 11:00 till 15:00.

2.8.1 Sunday hours 10:00am – 14:00pm (4 hours)

2.8.2 Moved to Fri 11:00am – 15:00pm (4 hours)

- 2.9 We gathered data to support the determination of this application; we have conducted an audit of the services utilised at our pharmacy for both the new proposed core hours and the current ones which we seek to change.

- 2.10 The audit was a period of a full month from 25/04/2025 to 25/05/2025

2.10.1 The information shows the demand for and use of the pharmacy's services - the data collected shows the levels of use - for prescriptions, for advice and OTC medicines sales - for the relevant days/times.

- 2.11 We counted the numbers of patients accessing our services and we also looked at the full range of reasons people might visit or telephone our pharmacy – this included:

2.11.1 To visit to collect a repeat prescription across the audit period:

Day	Total Patients collecting Repeat Prescriptions
Friday 11am – 3pm	243
Sunday 10am to 2pm	169

2.11.2 44% more patients visit for repeats during the proposed core hours

2.11.3 To visit to collect a private prescription across the audit period:

Day	Total Patients collecting Private Prescriptions
Friday 11am – 3pm	8
Sunday 10am to 2pm	1

2.11.4 800% more patients visit for private prescriptions – only 1 person turned up with a private prescription on a Sunday during the Audit month. [Note this % is incorrect and should read 700% based on the Appellant's calculation formula.]

2.11.5 To visit with a newly prescribed prescription across the audit period:

Day	Total Patients collecting Newly Prescribed Prescriptions
Friday 11am – 3pm	243
Sunday 10am to 2pm	59

2.11.6 410% more patients visit for repeats during the proposed core hours – basically 4 times as many patients. [Note % changed to 310% at paragraph 6.5.2 below.]

2.11.7 To purchase OTC medication across the audit period:

Day	Total OTC Purchases
Friday 11am – 3pm	231
Sunday 10am to 2pm	114

2.11.8 203% more patients visit for repeats during the proposed core hours – twice as many patients. [Note % changed to 103% at paragraph 6.5.3 below.]

2.11.9 To get advice from the pharmacist by phone across the audit period:

Day	Total calls
Friday 11am – 3pm	52
Sunday 10am to 2pm	26

2.11.10 Again here twice as much activity at the proposed new core hours. [Note 100% at paragraph 6.5.4 below.]

- 2.12 We also asked Sunday patients what they would have done if we had not been open and the overwhelming majority said they would have come on the Saturday or popped back on the following day.
- 2.13 We also noted that the newly prescribed prescription patients were often not from the locality. This suggests that they had travelled for an out of hours prescription and if this pharmacy was not open then, since already mobile, they would have been able to access another 100 hour within the district. We don't think this outweighs the clear demand for services on the proposed Friday Core hours.
- 2.14 GP practice hours – As you can see the local practice is closed on Sunday but open on the Friday hours we would like to change to. We feel this supports the application as shown by the relevant audit numbers.

Hadleigh Health Centre Opening Hours	
Day	Opening hours
Monday	8am to 6.30pm
Tuesday	8am to 6.30pm
Wednesday	8am to 6.30pm
Thursday	8am to 6.30pm
Friday	8am to 6.30pm
Saturday	Closed
Sunday	Closed

- 2.15 We also have taken account of the evidence of the economic viability of the current opening hours – which we believe can be considered alongside evidence of patient demand for the pharmacy’s services during these hours.
- 2.16 We found that the average takings on those old core hours was £209.84 across the four hours- this excluded NHS prescription charges. Given our conversations with the patient, the overwhelming majority of prescriptions would be collected either on the Saturday or the Monday so there is not net gain from opening on those hours – which hopefully makes sense.
- 2.17 Staffing the pharmacy with a pharmacist and support for those hours had a total cost on average of £286.56 – which does not make it a viable exercise to be open. We will not labour this point as we believe the case for change is demonstrably made by the other data.
- 2.18 We think that that [sic] the data shows how moving the core hours to a Friday is much more in line with our patient’s needs and habits. We believe as such that this application therefore meets the criteria for the change as laid out in Paragraph 26(2ZB), Schedule 4.”

3. The Decision

In a letter to the Applicant dated 28 August 2025 the Commissioner decided to refuse the application. The Commissioner stated:

- 3.1 “The Pharmaceutical Services Regulations Committee (hereafter referred to as “the Committee”) considers all pharmaceutical services applications on behalf of NHS Hertfordshire & West Essex ICB on behalf of all six ICBs in the East of England region, in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as “the Regulations”).
- 3.2 The Committee considered this application under Schedule 4, Part 3, Paragraph 24 and 26 of the Regulations.

- 3.3 This application was considered under 26(1)(b).
- 3.4 The Committee first considered Regulation 65 – Core opening hours conditions.
- 3.5 **Is there a direction in place in respect of the pharmacy premises?**
- 3.6 The Committee noted that no direction under Regulation 65 is in existence.
- 3.7 The Committee next considered paragraph 26(1)(b), of Schedule 4 – Determination of pharmacy premises core opening hours instigated by the NHS pharmacist.
- 3.8 **Is the applicant seeking to keep the total number of core opening hours of the pharmacy premises the same, but to change when they are?**
- 3.9 The Committee noted that you proposed to keep the total number of core opening hours the same.
- 3.10 Current core and supplementary opening hours:

Current							40:00[C]	25:30[S]
	S1		C1		S2		C2	
Monday			08:00	11:00	11:00	16:00	16:00	18:30
Tuesday			08:00	11:00	11:00	16:00	16:00	18:30
Wednesday			08:00	11:00	11:00	16:00	16:00	18:30
Thursday			08:00	11:00	11:00	16:00	16:00	18:30
Friday			08:00	11:00	11:00	16:00	16:00	18:30
Saturday	09:00	09:30	09:30	13:00			13:00	18:00
Sunday			10:00	14:00				

- 3.11 Proposed core and supplementary opening hours:

Opening Hours							40:00[C]	21:30[S]
	S1		C1		S2		C2	
Monday			08:00	11:00	11:00	16:00	16:00	18:30
Tuesday			08:00	11:00	11:00	16:00	16:00	18:30
Wednesday			08:00	11:00	11:00	16:00	16:00	18:30

Thursday			08:00	11:00	11:00	16:00	16:00	18:30
Friday			08:00	15:00	15:00	16:00	16:00	18:30
Saturday	09:00	09:30	09:30	18:00				
Sunday								

3.12 The Committee agreed that you are seeking to maintain the total number of core hours while redistributing them throughout the week. The proposed changes would result in core hours from 10:00 – 14:00 being removed on a Sunday resulting in total closure on that day and extending the core hours on a Friday from 08:00 – 11:00, 16:00 – 18:30 to 08:00 – 15:00, 16:00 – 18:30. Additionally, you proposed to reduce the supplementary hours on Friday to 15:00 – 16:00 if the application to redistribute core hours is granted.

3.13 **Paragraph 26(2ZB), Schedule 4**

3.14 The Committee noted that you wished the application to be considered under the sub-paragraph (2ZB) test.

3.15 The Committee noted that you had provided supporting information to assist the Committee in determining whether the people who are accustomed to accessing pharmaceutical services at the pharmacy premises are likely to benefit from the changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours. The supporting information formed part of the Committee report that was shared in advance of the meeting. It is included at **Appendix 1** [provided] for ease.

3.16 The Committee noted that whilst the Regulations state that it may take supplementary opening hours into consideration, it is to be mindful that these can be changed by the giving of notice. The Committee agreed to place little weight on the provision of pharmaceutical services during supplementary opening hours.

3.17 The Committee noted that you provided evidence including local GP surgery hours and:

3.18 **Patient surveys showing preferred times of access.**

3.19 The Committee noted that you had stated:

3.19.1 *“We also asked Sunday patients what they would have done if we had not been open and the overwhelming majority said they would have come on the Saturday or popped back on the following day.*

3.19.2 *We also noted that the newly prescribed prescription patients were often not from the locality. This suggests that they had travelled for an out of hours prescription and if this pharmacy was not open then, since already mobile, they would have been able to access another 100 hour*

within the district. We don't think this outweighs the clear demand for services on the proposed Friday Core hours"

- 3.20 The Committee noted that you had not provided information on what the minority of patients said, when asked what they would have done if you were not open on Sunday.
- 3.21 **Usage data (e.g. prescription volumes, OTC sales) by time of day.**
- 3.22 The Committee noted that the data provided does show that there is a demand on Sundays.
- 3.23 **Neighbouring pharmacy hours and patient travel patterns.**
- 3.24 The Committee noted that no information was submitted.
- 3.25 **Economic viability if current hours are unsustainable.**
- 3.26 The Committee noted that that there was information provided on this aspect. The Committee noted that you were applying under the sub-paragraph (2ZB) test which does not include economic viability. Whilst business need might be considered, it is not determinative and the application must demonstrate that the change would not disadvantage existing service users.
- 3.27 **Decision**
- 3.28 The Committee refused the application. You had not provided sufficient information/evidence to satisfy the Committee that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises are likely to benefit from the changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours.
- 3.29 The Committee agreed that you, Mill Pharm Ltd t/a Mill Pharmacy (FFF68), Hadleigh Health Centre, Market Place, Hadleigh, Ipswich, Suffolk IP7 5DN has the right of appeal.
- 3.30 You have the right of appeal to the Secretary of State against our decision. Should you choose to appeal, you should send in writing a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to:
- 3.30.1 nhsr.appeals@nhs.net or NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU,"

4. **The Appeal**

In an email to NHS Resolution dated 2 September 2025 the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

- 4.1 "We would like to appeal against the decision to refuse our application to change our core hours.
- 4.2 This route has a single regulatory test, which states that NHSE (in practice, the ICB) must:

- 4.2.1 ‘... seek to ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises are likely to benefit from the changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours.’
- 4.3 We strongly believe that this has been demonstrated. We do not believe the Committee properly applied the tests with regard to the demand for services - we believe they did not place sufficient weight on the overwhelming demand for services at the new proposed core hours.
- 4.4 We also did raise the economic viability of the current hours as an issue, the Committee did not believe this should have been considered however it is our understanding that this should not have been ignored.
- 4.5 Whilst we acknowledge the Committee would like to have pharmacies open for as many hours as possible - we do not believe that this application was properly considered against the regulatory test and would therefore like to have our appeal granted.
- 4.6 Please do let me know if you require any further information and if possible I would appreciate an idea of long it usually takes for you to consider an appeal like ours.”

5. **Representations**

In a letter to NHS Resolution dated 1 October 2025 the Commissioner stated:

- 5.1 “Please note that from the 01 April 2023, community pharmacy contracting and commissioning has been delegated to Integrated Care Boards (ICBs). Hertfordshire and West Essex (HWE) ICB are hosting the function on behalf of the six East of England ICBs.
- 5.2 Please find below information we wish to be considered in relation to Mill Pharm Ltd t/a Mill Pharmacy (‘Mill Pharmacy’).
- 5.3 Having reviewed the grounds of the appeal and the information provided by Mill Pharmacy (‘the Appellant’), we remain of the opinion that this application should be refused.
- 5.4 The grounds for the appeal appear to be that the Committee did not apply the regulatory tests with regards to the overwhelming demand for services at the new proposed hours and economic viability.
- 5.5 Having reviewed the notice of appeal, HWE ICB would like to make the following representations on behalf of Suffolk and North East Essex ICB (SNEE ICB).
- 5.6 The application form stated the Appellant would like the application to be considered under Paragraph 26(2ZB), Schedule 4 of the 2013 Regulations (‘the Regulations’).
- 5.7 The current and proposed core and supplementary hours for Mill Pharmacy are set out below:

- 5.8 [As per tables at paragraphs 3.10 and 3.11 above.]
- 5.9 The overall effect of the application is that the Appellant is seeking to remove core hours on a Sunday resulting in total closure on that day and extend the core hours on a Friday from 08:00 – 11:00 and 16:00 – 18:30 to 08:00 – 15:00 and 16:00 – 18:30. Additionally, the applicant will reduce the supplementary hours on Friday to 15:00 – 16:00 if the application to redistribute core hours is granted.
- 5.10 NHS England's template application form asks that the applicant provide such information so as to demonstrate that the proposed core opening hours will:
- 5.10.1 ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises listed above are likely to benefit from the changes because, overall, they would be more likely to access those services at the pharmacy premises during the proposed core opening hours than during the existing core opening hours
- 5.11 In response, the Appellant stated:
- 5.11.1 *"In our application we would like to move the core hours on Sunday from 10:00 till 14:00 to one of our busiest times Friday from 11:00 till 15:00.*
- 5.11.2 *Sunday hours 10:00am – 14:00pm (4 hours)*
- 5.11.3 *Moved to Fri 11:00am – 15:00pm (4 hours)*
- 5.11.4 *We gathered data to support the determination of this application; we have conducted an audit of the services utilised at our pharmacy for both the new proposed core hours and the current ones which we seek to change.*
- 5.11.5 *The audit was a period of a full month from 25/04/2025 to 25/05/2025*
- 5.11.5.1 *The information shows the demand for and use of the pharmacy's services – the data collected shows the levels of use - for prescriptions, for advice and OTC medicines sales - for the relevant days/times."*
- 5.12 The Appellant included the results of the audit [See tables in paragraph 2.11 above] and concluded with *"We think that that the data shows how moving the core hours to a Friday is much more in line with our patient's needs and habits. We believe as such that this application therefore meets the criteria for the change as laid out in Paragraph 26(2ZB), Schedule 4."*
- 5.13 It is noted that the Appellant has not provided any further supporting information within its appeal and therefore, the PSRC maintains that the decision to refuse the application was correct.
- 5.14 **Paragraph 26 (2ZB)**
- 5.15 It is necessary to assess whether individuals who routinely access pharmaceutical services at the specified pharmacy premises are likely to derive

benefit from the proposed changes, given that the revised core opening hours may offer improved accessibility compared to the current hours provision.

- 5.16 Within its application, the Appellant included the results from an audit that was carried out between 25 April 2025 through to and including 25 May 2025 [See tables in paragraph 2.11 above]. The evidence submitted by the applicant showed that a total of 169 patients chose to obtain their repeat prescription on Sunday between the hours of 10:00 – 14:00, a day where the Appellant is requesting to permanently remove core hours.
- 5.17 It is unclear how the Appellant reached the percentages within its application to show the higher demand for services on a Friday between 11:00 and 15:00 but it is clear that if the application had been granted, 41% of patients (169 patients) would not be able to collect their repeat prescriptions or obtain any other pharmaceutical services as they have been on a Sunday.
- 5.18 The information on private prescriptions have not been considered as only the provision and accessibility of NHS pharmaceutical services is relevant.
- 5.19 The audit results provided clearly demonstrate that patients are choosing to access pharmaceutical services at Mill Pharmacy on Sundays. However, what remains unsubstantiated is the extent to which these same patients would be able or willing to access services during the proposed revised core hours on Fridays. The application does not provide evidence to show that those currently accessing services on Sundays potentially due to constraints such as working Monday to Friday, would have the same opportunity to attend on a Friday.
- 5.20 The Appellant stated within its application that those attending Mill Pharmacy on a Sunday were asked *“what they would have done if we had not been open.”* The Appellant then says, “the majority of patients said they would attend on a Saturday.” There are no numbers or further detail provided on this and it is unclear how many patients were asked or what the minority of patients said.
- 5.21 It is also noted that the only answer to this question would be “attend on a different day” or “use an alternative pharmacy.” The question is perhaps flawed and questions focused on a patient’s preference for attending the pharmacy on a particular day e.g. a Sunday or Friday, may have been more effective.
- 5.22 The Appellant states within its application that *“the newly prescribed prescription patients were often not from the locality. This suggests that they had travelled for an out of hours prescription and if this pharmacy was not open then , since already mobile, they would have been able to access another 100 hour within the district”*(page 3, application form). Whilst there is a total of 10 pharmacies providing pharmaceutical services under the 100 hours condition within the Suffolk Health and Wellbeing Board area (source, Pharmaceutical list), there is only one 100 hour pharmacy within a 15 mile radius of Mill Pharmacy. From the Mill Pharmacy premises, it would be an 11.9 miles journey (one way) by car, taking approximately 24 minutes (according to Google maps).
- 5.23 Under the regulatory test (Paragraph 26(2ZB), Schedule 4), there is no requirement to assess the availability of other pharmacies within the vicinity that may be accessible during the times and days referenced in the application. However, for context, it is noted that the nearest alternative pharmacy to Mill Pharmacy is Boots, located at 31 High Street, Hadleigh, approximately 0.9

miles away with a walking distance of around three minutes (Source: Local Authority SHAPE tool). This pharmacy does not operate either core or supplementary hours on Sundays but is open on Fridays from 09:00 to 17:30.

- 5.24 In its appeal, the Appellant states: *"We also did raise the economic viability of the current hours as an issue. The Committee did not believe this should have been considered; however, it is our understanding that this should not have been ignored."* (Page 1, appeal communication).
- 5.25 The PSRC did not ignore economic viability, as evidenced in the minutes from the meeting and in the decision letter. It was noted that the applicant had raised economic viability and whilst PSRC recognised that it could consider business need to an extent, economic viability is not the determining factor under the Paragraph 26 (2ZB) test. Whilst the PSRC acknowledges the financial pressures currently facing community pharmacies, the information was not sufficient to allow the application to be granted under the Paragraph 26(2ZB) regulatory test.
- 5.26 In summary, we remain of the opinion that the application should be refused."

6. Observations

In a letter to NHS Resolution dated 17 October 2025 the Applicant stated:

- 6.1 "Thank you very much for this, whilst it's helpful to see the ICBs reasoning again we do not believe that it's offered a valid justification for the rejection of Mill Pharmacy's application to redistribute its core hours under Paragraph 26(2ZB), Schedule 4 of the 2013 Regulations.
- 6.2 We see the Committee's determination as flawed for the following reasons:
- 6.3 **1. Misapplication of the Regulatory Test**
- 6.4 Paragraph 26(2ZB) requires the Committee to assess whether people accustomed to accessing pharmaceutical services at the premises are likely to benefit from the proposed changes because, overall, they would be more likely to access those services during the proposed hours than the existing hours.
- 6.5 The Committee focused disproportionately on the fact that 169 patients accessed services on Sundays, without considering the comparative data showing significantly higher demand during the proposed Friday hours:
- 6.5.1 Repeat prescriptions: 243 on Friday vs. 169 on Sunday (+44%)
- 6.5.2 New prescriptions: 243 vs. 59 (+310%)
- 6.5.3 OTC sales: 231 vs. 114 (+103%)
- 6.5.4 Advice calls: 52 vs. 26 (+100%)
- 6.6 This evidence clearly demonstrates that the proposed Friday hours align better with patient demand and habits, satisfying the statutory test.
- 6.7 **2. Failure to Consider Patient Benefit Holistically**

- 6.8 The Committee assumed that Sunday users would be disadvantaged without properly considering:
- 6.8.1 Patient feedback: The majority of Sunday patients indicated they would attend on Saturday or Monday if Sunday opening ceased.
 - 6.8.2 Local GP alignment: Hadleigh Health Centre operates Monday–Friday, including the proposed Friday hours, but is closed on Sundays. Aligning pharmacy hours with GP availability enhances continuity of care.
 - 6.8.3 Alternative provision: While not determinative under the test, the presence of other pharmacies within reasonable distance mitigates any residual impact.
- 6.9 The Committee’s reasoning ignored these factors, which demonstrate that patients would benefit overall from the proposed redistribution.
- 6.10 **3. Improper Dismissal of Economic Viability**
- 6.11 While economic viability is not the primary criterion under Paragraph 26(2ZB), NHS England guidance (and CPE best practice) confirms that business sustainability can be considered alongside patient benefit. The Committee acknowledged financial pressures but failed to weigh the evidence:
- 6.11.1 Average takings during Sunday hours: £209.84
 - 6.11.2 Staffing cost: £286.56
- 6.12 Operating at a loss undermines service sustainability, which is contrary to NHS objectives for a resilient pharmacy network.
- 6.13 **4. Inconsistent Application of NHS England Guidance**
- 6.14 NHS England’s published guidance on core hours changes emphasizes:
- 6.15 Flexibility to meet patient needs
 - 6.16 Consideration of usage data and GP hours
 - 6.17 Recognition of operational viability
- 6.18 Mill Pharmacy provided comprehensive audit data and contextual evidence, yet the Committee dismissed these without adequate justification.
- 6.19 **Conclusion**
- 6.20 The refusal fails to properly apply the statutory test and disregards NHS England and CPE guidance.
- 6.21 The evidence demonstrates that:
- 6.22 Patients would benefit overall from the proposed Friday hours.
 - 6.23 The change supports continuity of care with local GP services.

- 6.24 It ensures long-term sustainability of pharmaceutical provision.
- 6.25 We respectfully request that the decision be overturned and the application approved.”

7. Consideration

- 7.1 I note the following:

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

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

- 7.3 Paragraph 26(1) states:

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

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

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

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

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

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

- 7.6 Paragraph 26(2ZB) reads as follows:

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

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

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

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

- 7.7 I will consider the application of paragraph 26(2ZB) and whether the proposed hours are likely to benefit the people who are accustomed to accessing pharmaceutical services at the pharmacy premises, such that they would be more likely to access those services during the proposed opening hours.
- 7.8 To properly assess the application against paragraph 26(2ZB), I need to determine the level of demand for pharmaceutical services at the pharmacy premises. I then need to consider whether patients accustomed to accessing those services would be more likely to access services at the pharmacy premises during the proposed opening hours rather than the existing opening hours.
- 7.9 I therefore need to be provided with sufficient information to understand a range of matters. I consider a core question to be the benefit created because of increased availability to existing users. This can be broken down into three key elements: the first being that the change must be beneficial; the second being that the new hours are more accessible, and the last, which underpins both aspects, is that this must be measured by the impact on people who are accustomed to accessing the pharmacy, not new users.
- 7.10 As a starting point I note that the language of paragraph 26(2ZB) relates to why a change in hours is being requested. The reason for the change must at the very least include that those individuals who already use the pharmacy will be more likely to do so during the changed hours. The Regulations do not explain how this should be established but I consider that it must form at least part of the explanation and evidence provided by the Applicant.
- 7.11 Having reviewed the application and the appeal I note one of the Applicant's reasons for the change appears to be financial, referring to the pharmacy's economic viability. Whilst I consider that this reason is important to the pharmacy, it is not relevant to paragraph 26(2ZB). I note that paragraph 26(2ZB) is concerned with a situation whereby hours are being redistributed for the benefit of pharmacy users, rather than the pharmacy itself.
- 7.12 I have had regard to the comments by the Applicant of those using the pharmacy. If I am satisfied that there is reliable evidence indicating no users of the pharmacy on/at the relevant days/times that the pharmacy wishes to close, this might support an argument that those accustomed to accessing pharmaceutical services would be more likely to access those services during the proposed opening hours.
- 7.13 In its appeal, the Applicant has provided a number of tables which record how many people accessed the Applicant's pharmacy on a Friday between 11am to 3pm and on a Sunday between 10am and 2pm over a four week period. In the Applicant's view this "*shows how moving the core hours to a Friday is much more in line with our patient's needs and habits.*" I am mindful that the Applicant currently has supplementary hours on Friday from 11am to 4pm. I consider this is helpful, as the data collected is a true reflection of the current movement of

patients at the specific times during the existing opening hours on Fridays and Sundays.

- 7.14 For ease I have consolidated the data provided by the Applicant into the table below. I note some of the percentages given in the application section above were incorrect but were corrected in the Applicant's observations:

Service	Friday 11:00–15:00	Sunday 10:00–14:00	Difference
Repeat Prescriptions Collected	243	169	+44% on Friday
Private Prescriptions Collected	8	1	+700% on Friday
Newly Prescribed Prescriptions Collected	243	59	+310% on Friday
OTC (Over-the-Counter) Purchases	231	114	+103% on Friday
Advice Calls to Pharmacist	52	26	+100% on Friday

- 7.15 I am of the view that based on the data provided, it shows that more patients use the pharmacy for a variety of reasons on Fridays compared to Sundays. However, whilst the Applicant claims Fridays are “*one of our busiest times*” the data does not offer a comparison with other days of the week, so it remains unclear whether Fridays are particularly busy or if this trend is typical across other weekdays. Similarly, without information on Saturday usage, it is difficult to gauge how Sunday figures relate to overall weekend activity. I am mindful that many pharmacy users may not be aware of core versus supplementary opening hours, and simply know that the pharmacy is open between 11am to 3pm on Friday, these currently being supplementary hours. Nonetheless, 169 individuals still accessed pharmaceutical services on a Sunday. Without knowing the total number of pharmacy users, it is challenging to determine what proportion these 169 individuals represent across the week. While the data provided is informative, it is difficult to make an assessment of the level of demand for pharmaceutical services without access to the complete dataset which would have allowed for a more thorough analysis focused specifically on usage patterns for Fridays and Sundays.
- 7.16 Based on the information provided, I consider it reasonable to take the position that, without evidence to the contrary, there is a demand for pharmaceutical services on Sundays between 10am and 2pm.
- 7.17 I acknowledge that the Applicant has provided the opening hours for Hadleigh Health Centre, which operates from 8:30 am to 6:30 pm, Monday to Friday. The Applicant stated, “*the local practice is closed on Sunday but open during the Friday hours we would like to change to.*” I also note that the pharmacy currently maintains core hours from 4:00 pm to 6:30 pm, Monday to Friday. In my view, the information does not substantiate the necessity for core hours between 11:00 am and 3:00 pm on Fridays in particular as opposed to any other weekday from Monday to Thursday.

- 7.18 Furthermore, I am mindful that the provision of pharmaceutical services is greater than the dispensing of prescriptions and includes all services that the pharmacy may offer, including additional enhanced and advanced services that may be commissioned.
- 7.19 I now need to consider if the changes to hours are likely to be beneficial for those accustomed to accessing pharmaceutical services at the pharmacy premises because they are more likely to access services at those times. It is worth noting that evidence to demonstrate the actual level of demand might be relevant here.
- 7.20 The Applicant states in its appeal: "*We strongly believe that this has been demonstrated. We do not believe the Committee properly applied the tests with regard to the demand for services—we believe they did not place sufficient weight on the overwhelming demand for services at the new proposed core hours.*" The Applicant also noted in its application: "*We also asked Sunday patients what they would have done if we had not been open, and the overwhelming majority said they would have come on the Saturday or returned the following day.*" It should be noted that the underlying data supporting these assertions has not been provided for review. For instance, it is unclear whether all 169 pharmacy users on a Sunday were surveyed, and what the precise proportions of the majority and minority responses were. The minority could represent any number from 1 to 83 individuals. In light of these data limitations, I consider that this makes it difficult to establish any potential benefit to existing patients.
- 7.21 I consider that evidence of demand would only form one part of the overall picture required to be established under paragraph 26(2ZB). I am mindful of the use of the phrase "*people who are accustomed*" in the Regulations. I consider such language to be indicative of the fact that if there is demand, no matter how small, and if those individuals are likely to cease to use the pharmacy as a result of the changes, then this would be strongly indicative that the requirements of paragraph 26(2ZB) would not be met.
- 7.22 I note that the Applicant explains that the majority of patients who previously accessed the pharmacy on a Sunday would "*come on the Saturday or popped back on the following day*". As considered above I am unclear from both the application and the appeal whether the new hours will benefit these people in any meaningful way.
- 7.23 I consider that without such information the base assumption must be that this change is not likely to benefit those who are accustomed to accessing the pharmacy, and, if anything, it would appear to be to their detriment.
- 7.24 I note that the Applicant has in its observations mentioned alternative provision of pharmaceutical services stating "*While not determinative under the test, the presence of other pharmacies within reasonable distance mitigates any residual impact.*" I note that this information is more relevant to the considerations under paragraph 24(1), which the Applicant has opted not to rely on. I consider that in the context of paragraph 26(2ZB), however, such information is detrimental to the Applicant. When read contextually, the inclusion of this information suggests that the proposal is not aimed at providing better access to services at the pharmacy for those that are accustomed to use

the pharmacy during the hours which it is proposed to closed and instead the intention appears to be that they will seek the provision of services elsewhere.

- 7.25 I am of the view that I have not been provided with sufficient information to demonstrate how the proposed opening hours are likely to benefit those accustomed to accessing pharmaceutical services at the pharmacy premises.

8. Determination

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

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

**Head of Appeals
NHS Resolution**