NHS Resolution

1 December 2025

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REF: SHA/26708

APPEAL AGAINST LANCASHIRE AND SOUTH CUMBRIA ICB DECISION TO REFUSE AN APPLICATION BY PRESCRIPTION HUB LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT WILLOW LANE/HORNBEAM ROAD, LANCASTER (LA1) (BEST ESTIMATE)

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, on behalf of Prescription Hub Ltd
PCSE, on behalf of Lancashire and South Cumbria ICB
Boots UK Ltd
Superdrug Plc

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1 The Application

By application dated 26 January 2025, Prescription Hub Ltd ("the Applicant") applied to Lancashire and South Cumbria ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Willow Lane/Hornbeam Road, Lancaster (LA1) (best estimate). In support of the application it was stated:

1.1 In response to Section 5 'Applications in relation to premises that are in close proximity to other listed chemist premises', the Applicant stated:

1.1.1 "N/A

1.1.2 Regulation 31 does not apply"

Information in support of the application

1.2 **Background**

1.3 This application is in respect of opening a new pharmacy in order to provide better access to pharmaceutical services for patients residing in Marsh Ward, Lancaster. Marsh is a discrete community located to the West of Lancaster and is delineated by the River Lune to the North, a major rail line to the East, and greenbelt to the West and South. There is currently no pharmacy situated within these boundaries, and the next closest pharmacy provision is located in Lancaster town-centre, some 0.9 miles away. The relevant ward covers a vast area and thus it can be more prudent to analyse the LSOAs (Lower-layer Super Output Area) surrounding the proposed site to determine the local population that are likely to utilise the site. The surrounding Lower-Layer Super Output Areas (LSOAs), collectively have a population of c.7,000 people, according to 2021 Census Data. This can be seen in the table below.

LSOA	Population
Lancaster 017A	2432
Lancaster 017B	1373
Lancaster 017D	1250
Lancaster 014C	1966

1.4 The best estimate of the proposed site we wish to open up a new pharmacy is located at Willow Lane Shops, LA1 5NA.

1.5 According to the 2019 index of multiple deprivation, the Marsh Ward contains some of the most deprived areas in the country. The Lancaster 017B Lower-Layer Super Output Area, situated within the Marsh Ward, is amongst the top 20% most deprived areas in the country and it is well documented that health needs are greater in deprived areas. It is important to ensure that pharmaceutical services are easily accessible for these residents.

1.6 **Proposed Location**

1.7 The proposed location is situated on the cusp of the Lancaster 017A and 017B LSOAs, amongst communal shops located at the LA1 5NA postcode. The proposed site features a dedicated car park with free parking, a convenience store with a cash point, and a parcel collection point. Opening a pharmacy in close proximity to the convenience store will greatly benefit patients, who can combine pharmacy usage with their existing daily routines. The proposed site fills a large geographical gap in pharmaceutical provision for Marsh and the surrounding area, as demonstrated by the map overleaf. [Map provided]

1.8 **Regulations**

1.9 We are required by NHS England to address the overarching question in an Unforeseen Benefits application:

1.10 *"Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB area".*

1.11 When considering the above question, the provisions of Regulation 18(2)(b) should be noted: [quotes regulation 18(2)(b) in full]

1.12 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.*

1.13 We have addressed these regulations overleaf.

1.14 **Patient Journeys**

1.15 When considering securing better access, we consider what a typical patient journey would look like. We also consider the reasonable choice within these journeys, alongside how those with protected characteristics find those journeys.

1.16 Using the proposed site, LA1 5NA, as an arbitrary marker to represent these residents; we can see that the next nearest pharmacy is the Fox & Medcalfe Pharmacy (LA1 1RE), which is 0.9 miles away. It is worth noting that alternative

pharmaceutical provision follows similar journeys to the one made to the above pharmacy, given the requirement of all journeys to cross the railway via Westbourne Road.

1.17 For residents currently residing near the proposed site, existing pharmaceutical provision is difficult to access by foot and public transport. These factors are even more relevant for patients living in the Lancaster 017B LSOA, who have much worse health outcomes compared to the rest of England. Per 2021 Census data, 6.9% of residents in the Lancaster 017B LSOA have bad/very bad health, compared to 5.2% of residents for England.

1.18 We must also consider that 017B LSOA is among the 20% most deprived areas in the country, making additional costs of travel such as parking, petrol costs, and bus fare, a barrier to access for patients residing in this area. It should be noted that the area features many additional geographical barriers such as steep hills, and railway tracks with limited crossings. These factors make access to amenities outside their immediate area difficult for all residents, especially for those with protected characteristics.

By foot to the Current Nearest Pharmacy (Fox & Medcalfe Pharmacy, LA1 1RE)

1.19 As can be seen from the map below, the journey on foot is 0.9 miles or 20 minutes, equating to a 40-minute round-journey. It is noteworthy that Google Maps does not consider topography or mobility issues when calculating trips, so this journey could be even longer for the elderly, disabled, or those with young children. This area of Lancaster features many steep hills which is a factor for patients with protected characteristics accessing pharmaceutical provisions in the area.

1.20 We cannot consider a 1.8-mile round walk to access pharmaceutical services as sufficient access, nor can we consider this as having a reasonable choice to pharmaceutical services. The distance to the nearest pharmacy is particularly pertinent when we consider the limited mobility of residents in the area.

1.21 Per 2021 Census data, 25.5% residents of the 017B LSOA and 18.8% residents of the 017A LSOA are considered disabled under the 2010 Equality Act. These figures are greater than the average of 17.3% for the rest of England. It is apparent that mobility is poorer near the proposed site, making a 0.9-mile one way journey by foot even more difficult for local residents.

1.22 The actual journey by foot involves patients walking along Westborn [sic] Road. The incline on this road has been calculated to have a gradient as steep as 1 in 18 for a distance of 200m. For context, guidance states that a disabled access ramp should have a gradient of no more than 1 in 20 for a maximum ramp length of 10 metres. Given this hill is significantly longer than such a ramp, and the gradient is more than the mandated figure, it is a clear barrier to access for those in a wheelchair/mobility scooter/or of impaired mobility. Additionally, there are no practicable walking routes which avoid traversing hills of similar steepness.

1.23 Based on the above considerations, we submit that for some residents near the proposed site, access to alternative pharmacies is difficult by foot. [Map provided]

By Public Transport to the Current Nearest Pharmacy (Fox & Medcalfe Pharmacy, LA1 1RE)

1.24 The journey by bus to the Fox and Medcalfe Pharmacy is not the best served by public transport. The journey takes approximately 12 minutes, however, includes 6 minutes of walking. This leg of the journey could also be longer for patients with mobility issues or the elderly. Additionally, the bus service is infrequent, arriving only every 30 minutes. When factoring in the return trip and waiting time, the total round-trip could take up to 54 minutes in total; perhaps longer for those residents with mobility issues.

1.25 Clearly, this journey time is excessive and is not representative of reasonable choice to pharmaceutical provision.

1.26 Another consideration is the unsheltered bus stop on the return journey, which ultimately leaves patients exposed to the elements on days with poor weather. Such poor choice of pharmaceutical access is especially felt by the elderly and disabled. These groups could face having to wait 30 minutes for a return bus in the cold on a winter's day. When we consider that these patients may not be able to drive, or may not feel comfortable driving in winter conditions, it is clear that the current pharmaceutical provision is inadequate.

By Car to the Current Nearest Pharmacy (Fox & Medcalfe Pharmacy, LA1 1RE)

1.27 The car journey from the proposed location to the Fox and Medcalfe Pharmacy can take up to 12 minutes. We do not consider a 24-minute round-trip to access pharmaceutical services by car as sufficient access or choice to pharmaceutical provision.

1.28 Furthermore, Marsh and surrounding LSOAs have much lower car ownership figures than the Lancaster local authority (22.7%) and rest of England (23.5%). This is especially true for the Lancaster 014C and 017B LSOAs, where as many as 43.3% and 42.6% of residents respectively do not own a car. This lack of car ownership ultimately creates barriers to accessing pharmaceutical provision.

1.29 For those that do have access to a car, we note that there is no street parking near the Fox & Medcalfe Pharmacy, and the few car parks in the area are pay-and-display only. This additional parking cost, alongside petrol costs constitutes an economic barrier to accessing pharmaceutical provision for the deprived residents of Marsh.

Conclusion

1.30 We submit there is currently a significant gap in pharmaceutical provision for those residing in Marsh Ward. The community is isolated from the rest of Lancaster by the geography of the area, which makes accessing the current pharmaceutical provision difficult for all residents and presents further access barriers to residents with protected characteristics.

1.31 Granting this application would secure better access to pharmaceutical services, especially when we consider the access difficulties by foot, bus, and car. We must also consider that the deprived localised populations, who have lower car ownership and income for travel costs, will benefit significantly from

the more accessible proposed location. The elderly, disabled, and wider population will find the proposed pharmacy significantly more accessible than the existing provision available to them.

1.32 We would like to note that granting this application would not cause significant detriment to access of current pharmaceutical services, as the nearest pharmacy to the proposed site is located 0.9 miles away.

1.33 Based on the evidence outlined above, we submit that a new pharmacy contract should be granted."

2 Applicant's '14 day comments' to the Commissioner

2.1 "Thank you for your letter dated 27th May 2025. We would like to take this opportunity to respond on behalf of our client to comments made by interested parties in the area. We note that:

2.1.1 It is undisputed that the adjacent Lancaster 017B LSOA is within the top 20% most deprived areas in the country.

2.2 Taking each representation in turn below.

2.3 **Community Pharmacy Lancashire & South Cumbria (CPLSC)**

2.4 We would like the Committee to note that the LPC represents the interest of current pharmaceutical contractors. The LPC are inherently obliged to contest unforeseen benefits applications, in order to fulfil their responsibilities to current contractors. Hence, comments by the LPC are biased and should be read in such context.

2.5 The LPC are incorrect in stating that there are six pharmacies within 1-mile of the proposed site. We submit that these distances are measured 'as the crow flies', which does not accurately reflect the distances in reality. We do not understand why the LPC insist that the nearest pharmacy (Fox and Medcalfe Pharmacy, LA1 1RE) is 0.7-miles away from the proposed site when our client's supporting information provided an image from Google Maps evidencing a 0.9-mile distance. Thus, we would like to correct the LPC and reassert that there is only one pharmacy just under 1-mile away from the proposed site. We also highlight that alternative pharmaceutical provision is located 1-mile away or further as per Google Maps distances.

2.6 The LPC also appear to question our client's proposed Superintendent Pharmacist. Mr [S] will be registered with the GPHC should Prescription Hub Ltd enter the pharmaceutical list. We can confirm that all requirements for NHS Fitness to Practice [sic] have been provided as part of this application.

2.7 We are unsure why the LPC suggest that our client's application used 'AI driven statistics'. As mentioned in the supporting information, the statistics are derived from 2021 Census data which provide the most accurate insights into the local population. The Committee will be aware that the 2021 Census is widely accepted and used by Health and Wellbeing Boards in Pharmaceutical Needs Assessments. Thus, by dismissing these statistics, we submit that the LPC have not considered the local population that the proposed pharmacy would serve. We reiterate that the data reveals that a high proportion of the local

population are of limited mobility; have bad/very bad health; and low car ownership when compared to national averages.

2.8 It is of particular note that the LPC do not consider the significant proportion of local residents living at/near the proposed site who do not have access to a car/van. We reiterate that 42.6% of residents living in the 017B LSOA do not have access to a car/van. When compared to the national average of 23.5%, it is obvious that access to a car/van is poor for some of the localised population.

2.9 For residents that do drive, the LPC also dispute that the journey by car can be up to a 24-minute round trip. We have evidenced this journey using Google Maps below:

2.10 [Map provided]

2.11 We can clearly see that this journey could indeed be up to 12-minutes one way, and therefore be 24-minutes in total. It is notable that the screenshots provided by the LPC tracked this journey from 20:59 p.m. – a time when traffic is likely to be minimal, and they did not consider this journey during busier times of the day.

2.12 Additionally, the LPC have not acknowledged that residents living in the adjacent Lancaster 017B LSOA live within the top 20% most deprived areas in the country. When we consider that a significant proportion of the local population do not have access to a car/van and thus may be deterred from accessing pharmaceutical services due to petrol costs/bus fares, we submit that these residents are more likely to be reliant on travelling by foot.

2.13 In light of this, we reiterate that patients living at/near the proposed site are currently forced to travel at least 1.8-miles in total to access pharmaceutical provision by foot. Again, we do not consider a 40-minute round journey as representative of sufficient access or reasonable choice to pharmaceutical services.

2.14 The LPC agree that residents living at/near the proposed site are currently served by one bus service which runs every 30 minutes. We do not consider a bus service which operates every 30 minutes as frequent. They have also failed to consider that this journey also requires residents to walk from the proposed site for approximately 6-minutes. For those living to the north of the proposed site, this walk can be as long as 11-minutes or 0.5 miles, which could prove especially difficult for those with mobility issues. As per our client's application, we reiterate that there are 18.8% of residents in the 017A LSOA and 25.5% of residents in the adjacent 017B LSOA who are disabled under the 2010 Equality Act. When compared to the average of 17.3% for England, we can see that there is a high number of residents with limited mobility living at/near the proposed site thus making this journey even more challenging.

2.15 The LPC also suggest the availability of remote healthcare services and home delivery services. We submit that not all residents, such as the elderly who are more dependent on pharmaceutical services, are likely to be comfortable accessing pharmaceutical services on the internet. The Committee will also be aware that delivery services are not NHS commissioned and can be withdrawn at any time, and thus no weight should be placed on these comments.

2.16 With the advent of Pharmacy First, we highlight that pharmacies are no longer just dispensers but are being tasked with providing a number of minor ailments services through the Pharmacy First scheme and are playing an important role in accessing professional advice for people to lead healthier lives. We submit that DSPs do not provide pharmaceutical services face-to-face and thus patients are not in direct contact with the Pharmacist. Thus, pharmacies need to be realistically accessible to ensure that c. 7,000 residents living at/near the proposed site can access these services.

2.17 **Boots UK Ltd**

2.18 Boots also state that there are five pharmacies within 1-mile of the proposed site. Again, this may be the case 'as the crow flies' but not in reality.

2.19 They suggest that our client's application has provided no evidence to suggest that residents living at/near the proposed site, including those who share protected characteristics, experience difficulties when accessing current pharmaceutical provision. We submit that Boots have clearly not considered the characteristics of the local population as evidenced by 2021 Census data, which indicate that local population are of limited mobility; have bad/very bad health; and low car ownership when compared to national averages. Thus, we would contest these claims from Boots and urge the Committee to consider the demographics of the local population which present the need for an accessible community pharmacy.

2.20 **Superdrug Pharmacy**

2.21 Superdrug state that there are three pharmacies operating in the Lancaster area, listing Superdrug Pharmacy; Boots Pharmacy; and Fox and Medcalfe Pharmacy. It is notable that these pharmacies are located within Lancaster's town centre, and thus patients are required to make special, repeated journeys to and from the town centre when accessing pharmaceutical provision. We submit that local residents, on the balance of probabilities, are currently unlikely to make one-off journeys to a pharmacy for what they perceive to be a passing condition. As highlighted above, it is important to have pharmacies situated within communities so residents can access Pharmacist advice and minor ailments services through the Pharmacy First scheme which, in turn, reduces pressure on GP services.

2.22 Superdrug also highlight the availability of a home delivery service from the pharmacies. Again, we reiterate that this is not an NHS commissioned service and therefore can be withdrawn at any point, thus no weight should be placed on this.

2.23 **Sykes Chemists Ltd (T/A Fox and Medcalfe Pharmacy)**

2.24 In their representation, Sykes Chemists suggest that our client is selective of data. We submit that this is not the case and pockets of high deprivation; low car/van ownership; limited mobility; and bad/very bad health statistics have been evidenced to highlight the real struggles that localised residents face. It would be unjust to conflate these areas with those of higher affluence as averages do not highlight the realities of the situation.

2.25 Regardless, looking at the demographic data for the entire Marsh Ward, we can see that:

2.25.1 26.5% of residents do not have access to a car/van

2.25.2 19.7% residents are disabled under Equality Act 2010

2.26 When we compare these figures to the national averages - 23.5% of residents with no car/van and 17.3% of those who are disabled under the Equality Act 2010 - it is clear that the statistics across the Marsh Ward are also disproportionate to the rest of England.

2.27 Overleaf, we include an image highlighting the deprivation levels in the area, with red representing the most deprived areas and blue representing the least deprived areas.

2.28 [Image provided]

2.29 We can see that the Marsh Ward is predominantly of higher deprivation, aside from areas to the South. Notably, the proposed location is situated within an area of higher deprivation. The Committee will be aware that areas of deprivation have higher health needs and pharmaceutical provision should be doubly concentrated in these areas. The fact that there is currently not even a single easily accessible pharmacy to serve these residents is representative of no choice - much less than the threshold of 'reasonable choice'.

2.30 Sykes Chemists draw attention to our client's proposed location. We would like to reiterate that patients can access amenities at the SPAR Convenience Store which includes an ATM; Evri ParcelShop; and an InPost Locker. We would also like to highlight that Willow Lane runs through the centre of the Marsh area, with day-to-day amenities and services along this road which serve the local community such as a Morrisons Daily; Marsh Community Centre; Willow Lane Community Primary School; a park; and a nearby nursery.

2.31 The objector notes the good parking at our client's proposed site and posits that people must access this site by car, without fully considering the local demographic data. We reiterate that 42.6% of residents in the adjacent 017B LSOA do not have access to a car, so observations from the Objector would appear to be without foundation.

2.32 We contest assertions by the objector that the 017B LSOA is located closer to the town centre than to our client's proposed site – we submit that this is clear in the very image provided by the objector. Residents are likely to find the proposed pharmacy significantly more accessible than travelling to Lancaster's town centre on each occasion. Again, with the advent of Pharmacy First we stress the importance of having accessible pharmacies within communities.

2.33 Sykes Chemists also appear to take issue with the arbitrary marker provided in our client's application. While we understand that not all residents will start their journey at the proposed site, it is impractical to assess patient journeys from every single household. Some patients will have journeys that are longer, and some shorter than detailed in our client's original application, however, the proposed site represents a sensible place to evaluate these journeys. They suggest that there will be pharmacies closer to some residents in the LSOAs

outlined in our client's application. By this logic, it would also be the case that there are residents living further away from pharmaceutical provision. For example, when we consider residents living to the northwest of the proposed site, we submit that these patients are 1.2 miles away from pharmaceutical provision.

2.34 They highlight that the journey on foot from the proposed site to Fox and Medcalfe Pharmacy would be deemed reasonable by most Health and Wellbeing Boards. However, given that there are residents living to the northwest of the proposed site who must travel 1.2 miles/27-minutes by foot to access pharmaceutical provision, we can see that patient journeys exceed the 0.9-mile/20-minute distance originally given.

2.35 Sykes Chemists also failed to consider the evidence from 2021 Census data that a significant proportion of local residents do not have access to a car/van. As evidenced above, the journey by car from the proposed site to Fox and Medcalfe Pharmacy can take up to 12-minutes one way for a journey less than 2-miles. We understand that journeys to the town centre will mean that residents are likely to encounter traffic congestion. Thus, we reiterate that a pharmacy at the proposed site would significantly improve access to pharmaceutical services given the existing provision is concentrated in the town centre.

2.36 **Conclusion**

2.37 We maintain that granting this application would secure better access and improvements to pharmaceutical services for residents in the Marsh area.

2.38 We submit that there is a need for a pharmacy in the Marsh Ward when we consider the high levels of low car/van ownership, residents with bad/very bad health, and limited mobility. The Committee will be aware that pharmaceutical provision should be doubly concentrated in deprived areas.

2.39 We submit that the proposed location would provide much better access for the local population, which has a significant proportion of residents without access to a car/van and therefore must travel by foot or via public transport. When we consider an infrequent bus service alongside a 1.8-mile round trip, we submit that these journeys are not representative of reasonable choice or sufficient access to pharmaceutical services.

2.40 Granting this application would provide reasonable choice for these c. 7,000 residents in the Marsh area and enable better access to provision for those groups who share protected characteristics.

2.41 Hence, we submit that Regulation 18 has been met, and we invite the Committee to grant this application."

3 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 3 August 2025 states:

3.1 “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.

3.2 You have a right of appeal to the Secretary of State against Lancashire and South Cumbria ICB’s decision. Should you choose to appeal then you should either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:

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

Determination – Pharmaceutical Services Group

3.4 “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.

3.5 ***Regulation 31***

3.6 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.

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

3.8 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).

3.9 ***Regulation 18(2)(a)***

3.10 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 PNA, or the arrangements in place for the provision of pharmaceutical services in that area.

3.11 ***Regulation 18(2)(b)***

3.12 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:

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

3.12.2 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).

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

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

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

3.15 ***Regulation 18(2)(b)(i)***

3.16 For this application, using the NHS website, and postcode LA1 5NA (Spar), there are 6 pharmacy contractors within 1 mile. There are 6 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.

3.17 Using googlemaps, 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.

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

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

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

3.21 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 6 pharmacies within 1 mile of the proposed location.

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

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

3.24 ***Regulation 18(2)(b)(ii)***

3.25 Within the main body of the application form, other than a brief reference to ‘elderly/disabled population’ the applicant has not specifically mentioned any users with protected characteristics. As specific groups cannot be identified, then it is not clear what particular needs those patient groups have.

3.26 The applicant has stated that people do not have access; however, there are 6 other pharmacies within 1 mile of the used postcode.

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

3.28 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.

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

3.30 ***Regulation 18(2)(b)(iii)***

3.31 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.

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

3.33 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.

3.34 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.

3.35 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.

3.36 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.

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

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

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

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

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

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

3.40 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.

3.41 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.

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

3.43 Therefore, the application was **Refused.**

3.44 Appeal Rights granted to the Applicant.

3.45 As the Regulation 18(2)(b) is not satisfied, the Group did not make regard to [sic] Regulation 18(2)(c) to (e)."

4 The Appeal

In a letter dated 28 August 2025 addressed to NHS Resolution, the Applicant, through its representative Healthcare Plus Consulting Ltd, appealed against the Commissioner's decision. The grounds of appeal are:

4.1 "Thank you for your letter dated 3rd August 2025. Prescription Hub Ltd have instructed us (Healthcare Plus Consulting Ltd) to act on their behalf for this appeal, please find an authorisation letter attached.

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

4.3 We submit that NHS England [sic] have failed to properly evaluate Regulation 18 and the fundamental question within the Regulation: whether the application provide 'improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area.' In their decision, the Lancashire and South Cumbria ICB refused our client's application, and we believe they misdirected themselves in doing so.

4.4 We wish to reiterate to the committee that an application under regulation 18 is not one for need, but for securing better access or improvements. The ICB seems to have misunderstood this and satisfied themselves that current provision is adequate – which we dispute – and so no further improvements or better access is possible. This is incorrect and contrary to section 129(2A) of the National Health Service Act 2006, which clearly distinguishes need and necessity from better access and improvements.

4.5 The present application must therefore succeed if the committee determines that it would provide significantly better access to persons or improved services, within the framework of regulation 18.

4.6 We submit that this application does provide significant improvements or significantly better access to pharmaceutical provision, as set out in our client's original application and the comments previously provided by our client. We have re-attached these submissions for re-consideration by NHS Appeals [sic].

4.7 We submit that the Lancashire and South Cumbria ICB did not give due consideration to a number of points outlined by our client, and in particular:

4.7.1 The characteristics of the area

4.7.2 The proposed location

4.7.3 The practical barriers to accessing pharmaceutical provision

4.8 **The Marsh Area**

4.9 The Marsh area is separated from Lancaster by the railway track to the east, undeveloped land to the south and the river Lune to the north and west. We can see in the map below that this area is geographically distinct and isolated from Lancaster. [Map provided]

4.10 It is notable that the Marsh area was previously known for its port and industrial presence, but over time the area has developed into its own distinct community, now containing local shops; schools; sports centres; and a care home. Despite its growth in amenities and community, the Marsh area lacks any pharmaceutical provision, consequently, residents are forced to endure journeys into the town centre on each occasion to access pharmaceutical services.

4.11 When we consider the local population demographics of those living in the Marsh area, we submit that a pharmacy at the proposed location would provide better access to pharmaceutical services.

4.12 We wish to reiterate there are high levels of deprivation in the Marsh area. We draw particular attention to the 3,805 residents living in the Lancaster 017A and 017B Lower-layer Super Output Areas (LSOAs), which capture those residents who are most likely to use a pharmacy at the proposed site.

4.13 The table below compares the combined Lancaster 017A and 017B LSOA demographics to the local authority and national averages as per 2021 Census data.

	Lancaster 017A and 017B LSOAs weighted combined	**Lancaster Local Authority**	**England**
No access to a car/van	29.9%	22.7%	23.5%
Bad/very bad health	5.9%	5.6%	5.2%
Disabled under the Equality Act 2010	21.2%	20.2%	17.3%

Living in social rented accommodation	19.2%	10.3%	17.1%

4.14 From the table above, we can conclude the following:

4.14.1 Local population has much higher levels of no car/van ownership when compared to Lancaster Local Authority and England

4.14.2 Local population has higher levels of bad/very bad health when compared to Lancaster Local Authority and England

4.14.3 Local population has higher levels of residents disabled under the Equality Act 2010 when compared to Lancaster Local Authority and England

4.14.4 Local population has higher levels of residents living in socially rented accommodation than Lancaster Local Authority and England

4.15 It is well documented that health needs are greater in deprived areas. This is especially pertinent when we consider that the Lancaster 017B LSOA is within the top 20% most deprived areas in the country. Further, we reiterate that these residents are likely to find bus fares, petrol costs and parking charges a barrier to access.

4.16 We also note that 42.6% residents living in the Lancaster 017B LSOA do not have access to a car and 41.5% live in social rented accommodation. Furthermore, 25.5% of residents are disabled under the Equality Act 2010. Indeed, 10.4% of the population having their day-to-day activities limited a lot, compared with just 7.3% nationally.

4.17 We note that looking at the ward as a whole risks covering the reality of the situation, since the ward includes Abraham Heights which is more affluent and healthier, but this does not eliminate the particular need in the rest of the Marsh area. Even looking at the ward as a whole, we note that 26.5% of residents do not have access to a car, and 19.7% are disabled.

4.18 We must consider the local population demographics detailed above when considering patient journeys to access pharmaceutical services located at least 0.9 miles away. We reiterate that distance itself is a barrier to access, we cannot consider such a journey as representative of reasonable choice especially for a population with high levels of deprivation and limited mobility. We trust that the Committee will give due consideration to the local population demographics.

4.19 **Current Service Provision**

4.20 The ICB incorrectly assert throughout their decision report that there are 6 pharmacies located within 1-mile of the proposed site. This is ultimately incorrect as this was measured ‘as the crow flies’, which does not reflect the distances in reality. We reiterate that the nearest pharmacy (Fox and Medcalfe Pharmacy, LA1 1RE) is 0.9 miles away from our client’s proposed site.

4.21 **Patient Journeys**

4.22 The ICB report also states that our client's application has not provided information on how patients *"cannot"* access the other pharmaceutical services in the area. We reiterate that the test is one of better access. In abstract terms all pharmacies can be accessed by some means from all locations. The question is whether this application offer significantly better access. We submit that our client's application does.

4.23 We also submit that the current provision does not represent reasonable choice for residents of the Marsh area. Below we detail patient journeys from the proposed site to various pharmacies. We note that journeys are calculated from an arbitrary marker at the proposed site to represent those traveling from the general area which the proposed pharmacy will serve. Naturally some residents have shorter journeys, and some have a longer journey. We note that the arbitrary marker is located close to the bus stop, and so most residents would also face an extra journey in order to reach the bus stop.

4.24 We also reiterate that given 1 in 4 residents do not have access to a car, residents are more likely to rely on travelling by foot or public transport. Bus tickets and petrol costs can also be a financial barrier to access for many residents in the Marsh area, therefore the bus and car journeys detailed below may not be available to all residents. These facts must be born in mind when considering the journeys detailed below.

4.25 We also note that the Lancashire PNA did not explicitly consider journeys by foot or by public transport when identifying gaps in Lancaster – nor did it consider parking. Thus, to the extent that our application identifies benefits in the form of avoiding these unconsidered journeys or elements of journeys, the benefit was not foreseen at the time the relevant PNA was published.

4.26 **Fox & Medcalfe Pharmacy (LA1 1RE)**

4.27 **Journey by Foot**

4.28 As previously detailed the journey on foot takes 20-minutes one way, meaning a 1.8 mile or 40-minute round trip. We note that when the Lancashire PNA 2022 considered walking, in reference to Blackpool, a 15-minute standard was used (Lancashire PNA 2022-2025, pg. 69).

4.29 We also reiterate that this journey requires walking up or down a hill for most of the route. This will be particularly difficult for those with disabilities. We reiterate that almost 1 in 5 residents in the Marsh ward are disabled, and this is as much as 1 in 4 in the Lancaster 017B LSOA. Ultimately, these residents would struggle to travel along the surrounding hills to reach pharmacy services. [Photograph provided]

4.30 We can see that local residents must travel along this hill which poses a barrier for those groups who share protected characteristics accessing pharmaceutical services. We also note that hills must be traversed from the surrounding areas.

4.31 **Journey by Public Transport**

4.32 When traveling by bus, patients must travel for approximately 12 minutes outbound and 18 minutes return, with 5 minutes of walking both ways. The number 11 bus only arrives every 30 minutes. Thus, the total journey time could be up to 1-hour and 12-minutes. This is not representative of reasonable choice.

4.33 Granting our client's application would provide the residents of the Marsh locality with a pharmacy within their community, instead of being forced to endure long one-off journeys. Journeys of such length may in itself deter usage of pharmacy services. With the advent of Pharmacy First, we submit that it is important to have pharmacies located within communities. Residents are more likely to access minor ailments services and advice in connection with other amenities as part of their daily lives, leading to better health outcomes and reducing pressures on current medical service providers.

4.34 We also wish to remind the committee that the bus fare would be £1.80 for a single and £6 for a day rider. This expense is not insignificant for a large proportion of the deprived area that the proposed site would serve.

4.35 **Journey by Car**

4.36 Before considering the journey by car, we remind the Committee that vehicular access is not an option for all patients. As previously stated, 29.9% (combined Lancaster 017B and 017A LSOAs) of local residents do not have access to a car, with 42.6% alone in the Lancaster 017B LSOA. When we consider this LSOA falls within the top 20% most deprived areas across the country, we submit that these residents are likely to have less disposable income and thus petrol costs and parking fees can present difficulties.

4.37 The journey is up to 12 minutes one way, equating to a 24-minute return journey. This time does not include finding suitable parking or walking from the car to the pharmacy since there is no on street parking available directly outside the pharmacy. This also means that a driver must pay a parking fee of £2 for an hour.

4.38 Furthermore, the Fox and Medcalfe Pharmacy has a step before the door meaning disabled users cannot access the pharmacy unassisted.

4.39 Overall, the pharmacy is not representative of reasonable choice, is particularly hard for disabled users to access, and granting our client's application would offer significantly better access.

4.40 **Superdrug Pharmacy (LA1 1NB)**

4.41 **Journey by Foot**

4.42 Superdrug Pharmacy is c. 1-mile away from our client's proposed site, equating to a 21-minute journey. It involves walking up the same hill as the journey for Fox and Medcalfe Pharmacy. This is in excess of the 15-minute standard used by the PNA when it did consider journeys on foot and clearly not representative of a reasonable choice.

4.43 **Journey by Public Transport**

4.44 The outbound journey by bus takes 15 minutes on the number 11 bus, including 9 minutes of walking and the return journey takes around 19 minutes including 6 minutes of walking, again on the number 11. The bus departs once every 30 minutes. The one-way journey could be up to 45-minutes, equating to a 1-hour and 30 minute round trip, which is not at all representative of reasonable choice.

4.45 **Journey by car**

4.46 The journey by car can take up to 18 minutes, equating to a 36-minute round trip. There is parking in the same complex, but it is not free, charging £2.20 for one hour. We reiterate that not all residents own a car, and that parking or petrol costs can be a barrier to access for patients, especially when considering the deprived nature of the area.

4.47 We also note that the parking available is a multistorey park, which some may find hard to navigate. We note that a bollard near the exit is not only narrow, but seems to have been displaced in an incident. [Photograph provided]

4.48 Although reviews of parking are generally good, it is noted that the parking is hard to find and that it is not actually wheelchair accessible. We submit that even if the premises is technically wheelchair accessible it is therefore likely that some users are not aware of how to use this facility. We would not consider this as representative of reasonable choice for the large number of disabled residents.

4.49 Google Reviews are the best way of evaluating patients' real experiences since they are the most used reviews site for individual branches of a pharmacy. We also note that since NHS Find a Pharmacy reviews have been removed and comments to the ICB are private, these are the main comprehensive and public platform for the public to express their view on individual pharmacies. We also note that it is not sensible to rely on comments to the ICB when the ICB is virtually unknown outside of pharmacy circles.

4.50 Overall, we do not believe this is representative of reasonable choice and submit that the present application would offer significantly better access to the residents of the Marsh area, particularly the high proportion of disabled residents.

4.51 Fig. 4. Image taken from Google Reviews of St Nics – Shopping Centre. Image reveals reviews of the St Nics Shopping Centre Parking, mentioning difficulties for disabled/wheelchair users.

4.51.1 "*A bit hard to find the parking entrance, lots of stairs, not wheelchair friendly*"

4.51.2 "*Great parking, great shopping area. Lancaster is very well developed and the lay out means no matter where you want to be, there are walk throughs taking you through, so no excessive walking around. Plenty of food and drinking areas…*"

4.51.3 "*Untidy dirty precinct and parking was difficult for disabled*"

4.52 **Boots Pharmacy (LA1 1NB)**

4.53 The journey to the Boots is almost identical to that of Superdrug since both are in the same complex. We reiterate that such a journey is not representative of reasonable choice or sufficient access to pharmaceutical services.

4.54 Therefore, due to inadequate access detailed above, Boots does not represent reasonable choice and the proposed pharmacy offers better access.

4.55 **Brock Street Pharmacy (LA1 1UR)**

4.56 We note that this pharmacy relocated from King Street, near Fox and Medcalfe Pharmacy, to a location closer to Boots and Superdrug. Its former site was notable for its historic pestle and mortar trade sign which stood as testament to its decades of service as a pharmacy. We also note the proprietors of Brock Street closed their pharmacy at Dalton Square, near Brock Street.

4.57 The net effect of this is that there is one fewer pharmacy in Lancaster and a pharmacy has moved east, further away from the Marsh area. To the extent that the present application ameliorates this issue, it provides an unforeseen benefit.

4.58 **Journey by Foot**

4.59 The journey by foot takes 22 minutes, equating to a 44-minute/2-mile round journey across a route similar to that of Fox and Medcalfe, including the hills. We reiterate that the PNA applied a 15- minute test standard, when it did consider walking time.

4.60 **Journey by Public Transport**

4.61 The outbound journey takes 13 minutes but involves 7 minutes of walking. The return takes 17 minutes with 4 minutes of walking. With the number 11 arriving every 30 minutes, we submit that the total journey could be up to 1-hour and 30 minutes, including at least 11 minutes of walking. We note that this much walking is not suitable for the substantial disabled population in the Marsh area.

4.62 **Journey by Car**

4.63 The journey by car can take up to 24 minutes at peak times. We also note that though there is some on street parking on the narrow street, the disabled parking is some 50 metres away.

4.64 We therefore conclude that Brook Street does not represent reasonable choice, and the present application offers significantly better access.

4.65 **Pointer Court Pharmacy (LA1 4JT)**

4.66 Pointer Court Pharmacy is across the railway and the Lancaster Canal. It is therefore among the less accessible pharmacies.

4.67 **Journey by Foot**

4.68 The journey by foot is 1.4 miles and would take approximately 32 minutes. This more than double the PNA's 15-minute standard applied to when it considered

walking. Such a journey is clearly excessive and does not represent reasonable choice or sufficient access to pharmaceutical services.

4.69 **Journey by Public Transport**

4.70 The journey by bus is hard to quantify since there do not seem to be any consistent options. The fastest journey, taking the number 11 and then the number 40, takes 26 minutes but is only available hourly. The more frequently available journey, by the 1A or 41, would take 30 minutes and requires around 25 minutes of walking. Overall, this is not representative of reasonable choice and cannot be seen as accessible.

4.71 **Journey by Car**

4.72 By car the journey takes up to 16-minutes meaning a 32-minute round trip, we cannot consider a 32-minute round to access a pharmacy by car as good access or reasonable choice. We reiterate the low car ownership and deprivation in the locality, meaning that for many residents travelling by car is not an option, making this pharmacy non-accessible to the majority of residents in the Marsh area. It is also worth noting, though a car park is available, it is of modest size and shared with a GP practice. Most of the parking available is likely to be used by staff.

4.73 We do not believe that Pointer Court Pharmacy is representative of reasonable choice and submit that the present application offers significantly better access.

Asda Pharmacy (LA1 5JR)

4.74 Asda Pharmacy is located across the River Lune meaning patients must traverse one of the bridges the river. While this may be the closest pharmacy as the crow flies, it is in fact one of the least accessible.

4.75 **Journey by foot**

4.76 The journey by foot would normally be 38 minutes, one way, but this requires using the Carlisle Rail Bridge which is only accessible via stairs and features a narrow walkway. Thus, for a large proportion of residents, the Millenium bridge must be utilised which means the journey can take up to 51 minutes one way. A 1-hour 41-minute round trip is clearly not reasonable choice or sufficient access.

4.77 **Journey by bus**

4.78 The journey by bus is at least 30 minutes one way, but this involves a 15-minute walk and crossing the River Lune. This may be uncomfortable for local residents and therefore cannot be considered practicable. Alternative journeys involve travelling on foot longer than by bus or via multiple buses which can be up to 45-minutes one way.

4.79 **Journey by car**

4.80 The journey by car can take up to 16 minutes outbound but up to 35 minutes returning, due to the Greyhound Bridge being one way. This could mean a 46-minute journey even for those with a car.

4.81 We do not consider this to be representative of reasonable choice and the present application provides better access.

Cohens Chemist (LA1 2BU)

4.82 The Cohens is 1.6 miles away and is also located across the River Lune, ultimately rendering the journey by foot as impracticable.

4.83 **Journey by bus**

4.84 The outbound trip via the 11 bus is 28-minutes, equating to a c. 1-hour round trip without considering the frequency of the buses which run every 30 minutes. When we consider the wait time, we submit the entire trip could be up to 1-hour and 30 minutes. This does not represent reasonable choice or sufficient access to pharmaceutical services.

4.85 **Journey by car**

4.86 The journey by car can take up to 14-minutes outbound but up to 28 minutes in returning, meaning a up to a 42-minute round trip. We do not understand why the ICB considered that the pharmacies across the river were accessible, as they are clearly not representative of a reasonable choice, particularly for those without access to a car.

4.87 **Summary of Patient Journeys**

4.88 Having considered all the pharmacies which the ICB might have considered accessible, we conclude that none are representative of reasonable choice, and the present application offers significantly better access than all of them. We also wish to remind the committee that around 1 in 4 residents do not have access to a car and around 1 in 5 are disabled. The current provision of pharmacy services simply does not provide for these residents. We therefore urge the Committee to closely consider the benefits in terms of better access the present application offers. If this application is rejected residents will continue to be forced to make arduous journeys, or even be forced to go without the full range of pharmacy services. Residents are unlikely to walk up hills, wait at unsheltered bus stops, or pay bus fare or petrol costs on a tight budget, to access pharmacy services. This can lead to a greater burden on other parts of the health service and worse health outcomes for the residents of this area.

4.89 **Proposed site**

4.90 The ICB failed to acknowledge the amenities at/near our client's proposed site. We have listed these below:

4.90.1 ATM

4.90.2 Evri Parcel Shop

4.90.3 InPost Locker

4.90.4 Groceries

4.90.5 Fresh fruit and vegetables

4.91 We would also like to highlight the amenities along Willow Lane which run through the centre of Marsh which currently serve the local community. These are as listed below:

4.91.1 Morrisons Daily

4.91.2 Marsh Community Centre

4.91.3 Willow Lane Community Primary School

4.91.4 Park

4.91.5 Nursery

4.92 We also note that all premises within the best estimate have ample and free dedicated customer parking set back from the road.

4.93 The Lancashire PNA (2022-2025) cites the Community Pharmacy Forward vision, which states that;

4.93.1 *"all pharmacies will operate as neighbourhood health and wellbeing centres, providing the 'go-to' location for support, advice and resources on staying well and independent"* (Lancashire PNA 2022-2025, pg. 129)

4.94 and the PNA notes that

4.94.1 *"As a core provider of essential healthcare and public health services, the currently underutilised resource of community pharmacists and their teams, are well-placed in their unique locations, close to where people live and work, or online"* (Lancashire PNA 2022-2025, pg. 130)

4.95 The PNA continues, describing that *"being the neighbourhood health and wellbeing hub"* is a core function of community pharmacies (Lancashire PNA 2022-2025, pg. 129-130).

4.96 The proposed location aligns with the community pharmacy vision of having pharmacies integrated within communities, allowing residents to access these facilities for a range of services. This location, in the central hub of a deprived area, will act as a centre for health needs in the Marsh area, which presently lacks any other conventional medical services. Our client also proposes the widest possible range of services of any pharmacy in the area to patients in the localised area that are currently unlikely to be properly accessing medical services, will now be provided with better access and reasonable choice.

4.97 This includes providing both supervised consumption and needle exchange, which no pharmacy in the area currently advertises. This is exactly the kind of integrated care which leads to the better health outcomes envisioned by the relevant PNA.

4.98 Pharmacy First provides 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.

4.99 **Conclusion**

4.100 For the reasons outlined above we submit that our client's application should be granted.

4.101 We remind the committee that the Marsh area is geographically isolated and distinct. The community has a range of amenities but lacks any accessible pharmaceutical services.

4.102 We remind the committee that the area around the proposed site is deprived, with low car ownership, high rates of disability, and bad health. These residents are simultaneously in particular need of pharmacy services and face particular barriers to pharmacy access.

4.103 We remind the committee that the closest pharmacy is 0.9 miles/20 minutes away by foot and requires traversing across hills. This is not representative of reasonable choice or sufficient access to pharmaceutical services. Buses require long waits and circuitous journeys. Even those with cars might face issues with traffic and parking. These barriers likely hinder uptake of pharmacy services and can worsen health outcomes.

4.104 By contrast, granting our client's application would allow residents of the Marsh area, particularly the less mobile and deprived residents, to access pharmacy services as part of their daily lives. This would encourage the uptake of pharmacy services such as Pharmacy First and improve health outcomes while reducing pressure on the health service. Aligning with the vision expressed in the PNA, where pharmacies will act as health and wellbeing centres for communities, providing service for those who may otherwise not be reached by the healthcare network.

4.105 It therefore seems indisputable that the present application offers significantly better access to pharmacy services for residents of the Marsh."

5 Summary of Representations

After reviewing the paperwork to the Commissioner, it was noted that the comments made by the Applicant in response to the representations on the application [see 2.1 to 2.41 above] had not been circulated or seen by parties. NHS Resolution therefore applied its discretion under Schedule 3, Part 3, paragraph 7 and allowed parties the opportunity to make comments on these. This is a summary of representations received on the appeal.

5.1 Boots UK Ltd

5.1.1 "Thank you for your letter dated 9th September 2025 informing us of the above appeal.

5.1.2 We agree with the decision of the Lancashire and South Cumbria ICB and their reasoning to refuse the application as above.

5.1.3 We stand by our comments in our objection letter, and we have attached this for your information.

5.1.4 It is of note that the Pharmaceutical Needs Assessment 2025 for Lancashire (PNA) has now been published and does not identify and [sic] gaps, future needs or areas for improvements or better access. **We therefore fail to see how this application can be approved.** [Boots' emphasis]

5.1.5 Boots UK Ltd have no further comments to make, and we respectfully ask that NHS Resolution inform us of the decision in due course.

5.1.6 We will attend an oral hearing if it is deemed necessary to hold one in connection with this appeal."

Letter to the Commissioner dated 7 May 2025

5.1.7 "Thank you for your letter dated 9th April 2025 informing us of the above application and the recirculation of the application. Boots UK Limited wish to make the following comments:

5.1.8 Boots UK LTD respond as follows:

5.1.9 Whilst we accept that the application is based on benefits not foreseen when drafting the Pharmaceutical Needs Assessment (PNA), it is unclear from the information provided what elements of this application were 'unforeseen' during the preparation of the PNA.

5.1.10 The applicant has not provided any evidence to suggest that residents in the locality of the best estimate site are experiencing difficulties when accessing the existing pharmaceutical provision nor has the applicant provided any indication that patients who share a protected characteristic do not have access to services to meet any specific needs.

5.1.11 Furthermore, there is no evidence to suggest patients do not currently have access to a reasonable choice of pharmaceutical services, according to NHS.UK there are five pharmacies within one mile of the application site. (LA1 5NA – as suggested by the applicant)

5.1.12 It is of note that the applicant is not proposing to offer Appliances as stated "none" in section 4 of the application form.

5.1.13 We submit that patients are already accustomed in accessing pharmaceutical services within the locality. As the applicant is only offering to open supplementary hours between 9am and 1pm on a Saturday and none on a Sunday, it suggests that it would be acceptable for patients to continue to access these existing services outside of these times?

5.1.14 We do not believe that the applicant is offering to secure any innovation by way of services or delivery.

5.1.15 In conclusion we submit that the application should be refused as it will not secure significant benefits on persons in the area of the relevant Health and Wellbeing Board which were not foreseen when the relevant Pharmaceutical Needs Assessment was published.

5.1.16 Please be aware that we may wish to make further representations at a later stage and attend any oral hearing that may be held."

6 Observations and 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, together with observations on the representations.

6.1 Healthcare Pus Consulting Ltd, on behalf of the Applicant

6.1.1 "Thank you for your letter dated 14th October 2025. Below we provide observations on comments made and the new Pan-Lancashire PNA (2025-2028).

6.1.2 **Appeal**

6.1.3 We note that no local contractors other than Boots have responded to our client's appeal. We can only infer that they have no objections to our client's appeal.

6.1.4 In particular, we note that no contractor has objected to the fact that the ICB failed to consider the application properly in determining the application on *'need'* rather than *'improvements or better access'* as per Regulation 18(1)(a).

6.1.5 Our client's appeal included a detailed analysis of patient access to current pharmaceutical provision and significant benefits which the present application provides. We also highlight that no commenter has raised any objections to our detailed analysis of the journeys to the nearest pharmacies, which clearly showed that the proposed pharmacy would offer significantly better access than all existing pharmacies.

6.1.6 We wish to reiterate the following points:

6.1.6.1 The Marsh area is geographically distinctive and isolated from Lancaster

6.1.6.2 The residents of the Marsh area, many of whom are economically deprived, rely on amenities in the locality during their day-to-day lives

6.1.6.3 The current walk to the nearest pharmacy is in excess of the 15 minute standard applied by the Pan-Lancashire PNA when considering walking

6.1.6.4 The area at/near the proposed site is deprived, with low levels of car ownership, high rates of disability, bad/very bad health, and high levels of people residing in social rented accommodation.

6.1.7 We also reiterate that Marsh is an urban area where people ought to be able to access services locally. We note that the Marsh ward has a density of 1,998 residents per square kilometre, which is approximately 8 times that of the Lancaster Local Authority. We also reiterate that local residents have access to a number of amenities including local shops; schools; sports centres; and a care home. Yet there is no pharmacy provision in the Marsh area. When we consider that the 017A Lower-layer Super Output Area (LSOA) is among the 20% most deprived LSOAs nationally, and the Lancaster 017B LSOA is amongst the 10% most deprived LSOAs nationally.

6.1.8 The Committee will be aware that pharmaceutical provision should be doubly concentrated in areas of high deprivation; so the fact that the Marsh area is currently not served by even one pharmacy is clearly not representative of reasonable choice or access to pharmaceutical provision.

6.1.9 Given the nature of the Marsh area it is clear that residents would benefit greatly from a local pharmacy. With the advent of Pharmacy First, it is important to have accessible pharmacies within communities to ensure that patients are accessing minor ailments services and preventative advice services. We submit that residents of the Marsh Ward are unlikely to access these services due to there being no pharmaceutical provision within 0.9 miles; 1.2 for some residents. This in-turn will cause conditions for some patients to worsen and then put further pressure on the primary care network. Pharmacy First is an important to step in allowing residents to lead healthier lives, however, Pharmacy First cannot be delivered without accessible pharmacies!

6.1.10 We also note the closure of Dalton Square Pharmacy and relocation of Kings Street pharmacy which have reduced the number of pharmacies in Lancaster and moved pharmacies even further from the Marsha [sic] area.

6.1.11 We highlight that the standard used by the Pan-Lancashire PNA 2022 when considering walking distance is 15 minutes. Given the low level of car ownership in the area around the proposed site and high rate of economic deprivation, walking is likely to be a key form of transport. The closest pharmacy accessible by foot is more than 20 minutes away and requires traversing at least one hill. It is therefore clear that the present

provision fails to meet the standards used by the PNA. Our client's application would remedy this clear gap.

6.1.12 **Boots**

6.1.13 Boots state that they stand by the ICB's decision but make no attempt to defend the decision report.

6.1.14 Boots also seem to suggest that since the new PNA does not identify any gaps, an unforeseen benefits application cannot be granted. However, the Committee will be aware that this application is submitted under Regulation 18 to provide unforeseen benefits, which we remind the Committee in its very nature is unforeseen and therefore no gap will have been identified in the PNA that this application is assessed under.

6.1.15 **Pan-Lancashire PNA (2025-2028)**

6.1.16 We do not believe that the new Pan-Lancashire PNA (2025-2028) changes the present application in any significant way. The new PNA, like the previous PNA, fails to consider journeys by foot in Lancaster without any reasoning. It also fails to account for parking when considering journeys by car. At least, to the extent that this application offers better access by allowing for access on foot and ameliorating the lack of parking at other pharmacies the better access is unforeseen.

6.1.17 We also note that when walking is considered, a 15-minute standard is applied in the new PNA as previously.

6.1.18 However, we note that given that the ICB decision, and all previous representations were made before the Pan-Lancashire PNA (2025-2028) was published, we do not believe it would be just to determine the application under the new PNA. We note in particular that since the ICB did not consider the new PNA, NHS Resolution would be making a first instance determination."

7 Observations on the Regulation 22 comments

The following observations were received by NHS Resolution in response to the Regulation 22 comments.

7.1 Superdrug

7.1.1 "Thank you for your email updating us on the above application and inviting final observations.

7.1.2 Superdrug would like to point out that we do not believe as suggested by the applicant that the Pan-Lancashire PNA (2025-2028) fails to consider journeys made by patients by foot without any reasoning and do not believe this can be used as grounds to overturn an already refused application under the title of unforeseen benefit.

7.1.3 We have no further comments to make to the ones we have already made.

7.1.4 We kindly ask to continue to be kept informed of the outcome of this application."

8 Consideration

8.1 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.

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

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

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

Regulation 31

8.5 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).

8.6 The Committee noted the Applicant had stated on the application form "*N/A Regulation 31 does not apply*". The Commissioner in its decision had stated "*…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 no dispute on this matter had been received from other parties. The Committee therefore determined that it was not required to refuse the application under the provisions of Regulation 31.

8.7 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

8.8 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)."

8.9 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 HWB.

8.10 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.

8.11 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).

8.12 The Committee considered the PNA prepared by Lancashire Health and Wellbeing Board, 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.

8.13 The Committee noted that the PNA in force at the time the Commissioner made its decision was the Pan-Lancashire 2022 PNA, but that the Pan-Lancashire 2025 PNA had since been published.

8.14 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 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 its 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."

8.15 The Committee considered that the starting point as set out in Regulation 22 was that the relevant PNA is the PNA of the relevant HWB that is current at the time that the decision is taken. There is no dispute that the 2025-2028 PNA is the current PNA.

8.16 The Committee noted the Applicant's comments that it does not "*…believe that the new Pan-Lancashire PNA (2025-2028) changes the present application in any significant way*" as it "*fails to consider journeys by foot in Lancaster without any reasoning*" and also "*fails to account for parking when considering journeys by car.*" The Applicant therefore considers that "*the better access is unforeseen.*" The Committee noted that Superdrug disputes this view, but does not provide any reasoning in this regard.

8.17 The Committee also noted the Applicant's comment that "*…we do not believe it would be just to determine the application under the new PNA. We note in particular that since the ICB did not consider the new PNA, NHS Resolution would be making a first instance determination.*" The Committee proceeded to consider both PNAs.

8.18 The Committee first considered the 2025 – 2028 PNA and noted that the Executive Summary states at section 4 'Recommendations':

8.18.1 "*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.*

8.18.2 *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."

8.19 At page 54 of the 2025 – 2028 PNA titled 'Current Provision of NHS pharmaceutical services' the PNA states:

8.19.1 "*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.*

8.19.2 *The change between 2022 and 2025 is as follows*

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

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

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

8.20 The Committee also considered the 2022 PNA, noting that paragraph 4 'Recommendations' of the Executive Summary states:

8.20.1 "*4.1 Despite the modest decline in overall provision of pharmaceutical service across Blackburn with Darwen, Blackpool and Lancashire County Council compared to 2018, the level of current provision is nevertheless deemed to remain sufficient, although 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.*

8.20.2 *4.2 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 growing areas 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.*"

8.21 The Committee noted that section 4 'Current provision of NHS pharmaceutical services' under 'Key messages' states:

8.21.1 "*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 352 community*

pharmacies overall across pan-Lancashire, representing a 8.1% reduction in the number of providers, down from 383 since the last publication of the PNA in 2018.

8.21.2 *The change between 2018 and 2022 is as follows*

8.21.2.1 *Blackburn with Darwen (46 pharmacies in 2022, a reduction of 8.0% from 50 in 2018)*

8.21.2.2 *Blackpool (39 pharmacies in 2022, a reduction of 7.1% from 42 in 2018)*

8.21.2.3 *Lancashire (267 pharmacies in 2022, a reduction of 7.9% from 290 in 2018)*"

8.22 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients of the Marsh Ward of Lancaster. The Committee noted that the improvements or better access that the Applicant was claiming would be secured by its application were not included in either PNA in accordance with paragraph 4 of Schedule 1.

8.23 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)

8.24 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"

8.25 The Committee noted that the Commissioner had determined 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 PNA, …*". The Committee saw no dispute on the matter from other parties.

8.26 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.

8.27 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)

8.28 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"

8.29 The Committee noted that the Commissioner had determined that "*…the granting of the application would not cause significant detriment to … the arrangements in place for the provision of pharmaceutical services in that area.*" The Committee saw no dispute on the matter from other parties.

8.30 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.

8.31 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)

8.32 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)

8.33 The Committee noted the location of the proposed best estimate in the Marsh Ward of Lancaster, located to the west of the city centre and bounded by the River Lune to the north, the railway line to the east and fields to the south and

west. The Committee also had regard to the location of existing pharmacies and GPs in Lancaster as identified on a map provided by the Commissioner.

8.34 The Committee had regard to the information provided by the Applicant regarding the Marsh area, noting the Applicant's comment that it is "*geographically distinct and isolated from Lancaster*". The Applicant further comments that it has developed into a distinct community with local shops, schools, sports centres and a care home. The Committee noted that the proposed site has a population of approximately 7,000 people, according to 2021 Census data provided by the Applicant. The Applicant has highlighted the data for the 017A and 017B Lower-layer Super Output Areas (LSOAs) in particular, regarding the level of access to a car/van, bad/very bad health, disability and living in social rented accommodation. The Committee noted that the percentages for these LSOAs combined were worse than those for the Lancaster Local Authority and for England as a whole. The Committee also noted the Applicant's comment that "*The Lancaster 017B Lower-Layer Super Output Area, situated within the Marsh Ward, is amongst the top 20% most deprived areas in the country and it is well documented that health needs are greater in deprived areas.*"

8.35 The Committee noted the Applicant states that there are currently no pharmacies located in the Marsh area and further that "*The proposed site fills a large geographical gap in pharmaceutical provision for Marsh and the surrounding area…*" The Committee was mindful that the application would be considered in accordance with the Regulations based on the information provided and considered that the lack of a pharmacy in the Marsh Ward did not automatically lead to the conclusion that an application should be granted.

8.36 The Committee next considered access to existing pharmacies and noted the Commissioner in its decision letter states that there are 6 pharmacies within 1 mile of the postcode LA1 5NA. The Applicant disputes this, commenting that this distance was measured "as the crow flies" and does not reflect the real distances.

8.37 The Committee noted that the nearest pharmacy is Fox and Medcalfe Pharmacy, and considered the journey on foot. The Applicant states that it is 0.9 miles away and a 20 minute walk, further commenting that this is outside the 15 minute standard used in the 2022 PNA in reference to Blackpool. The Committee was of the view that it would consider access to existing pharmacies based on the information before it and not with regard to standards used for other purposes. The Committee noted the Applicant's comment that the route involves walking up or down a hill for most of the route, which would be difficult for those with disabilities. The Committee had regard to the picture of Westbourne Road showing a hill on the route to Fox and Medcalfe Pharmacy. This appeared to be a moderate incline over a moderate distance, but there was no further information about *"hills"* the Applicant refers to. The Committee noted the Applicant's comments that the journeys on foot to Boots, Superdrug and Brock Street Pharmacy are all approximately 1 mile taking 21 minutes, 21 minutes and 22 minutes respectively and involve walking up the same hill as that to Fox and Medcalfe Pharmacy, therefore having the same access issues for those on foot. The Committee saw no information to suggest that there are any barriers such as a lack of crossings, street lighting etc., other than the hilly terrain, which had not been expanded upon. Whilst the Committee accepted

the walk involved may not be suitable for certain people, it was of the view that no information had been provided to indicate that a reasonably fit and able person would not be able to walk in order to access these pharmacies.

8.38 The Committee noted the journeys on foot to Pointer Court Pharmacy, Asda and Cohens Chemist were longer at 1.4 miles (32 minutes), 38 (or 51) minutes and 1.6 miles respectively according to the Applicant. The Committee accepted that patients were less likely to undertake the journey to these pharmacies on foot.

8.39 For those with access to private transport, the Committee noted the Applicant had provided journey times to each pharmacy and that these appeared to be maximum journey times. The Committee was mindful that the journey time would vary depending on traffic, particularly in a city centre, and did not consider the journey times stated to be excessive for peak time travel. The Committee considered that residents of Lancaster would be aware of the best times to travel and could plan journeys accordingly. With regard to parking, the Committee noted it had not been provided with any information by which it could consider the convenience of nearby car parks when accessing Fox and Medcalfe Pharmacy, however the Applicant had stated that a patient would have to pay £2 for an hour.

8.40 For those travelling to Superdrug and Boots pharmacies by car, the Committee noted the Applicant states that the journey can take up to 18 minutes, with parking in the same complex costing £2.20 for one hour. The Committee noted the Applicant's comment that "*…reviews of parking are generally good…*", although it had also provided two Google reviews stating:

8.40.1 "*A bit hard to find the parking entrance, lots of stairs, not wheelchair friendly*"; and

8.40.2 "*Untidy, dirty precinct and parking was difficult for disabled.*"

8.41 Whilst two reviews had been provided, the Committee considered this was not a robust body of evidence to demonstrate that parking at the complex where Boots and Superdrug are is not suitable for disabled patients.

8.42 The Committee noted that for Brock Street Pharmacy, the Applicant states that "*…there is some on street parking on the narrow street, the disabled parking is some 50 metres away.*" For Pointer Court Pharmacy, the Applicant states that a car park is available, which is "*…of modest size and shared with a GP practice.*" The Committee noted that no information had been provided regarding car parking for Cohens Chemist and Asda Pharmacy but suspected the latter would provide extensive parking. The Committee was of the view that although there appears to be difficulties in parking near some pharmacies, overall, there were reasonable parking options for those travelling by car.

8.43 The Committee noted the Applicant had provided data indicating that 29.9% of LSOA's 017B and 017A do not have access to a car, which had not been disputed. The Applicant further comments that the 017B LSOA falls within the top 20% most deprived areas in the country and therefore "*…these residents are likely to have less disposable income and thus petrol costs and parking fees can present difficulties.*" Whilst the Committee acknowledged that the costs of running a car and parking may be prohibitive for some, the Committee

did not view the parking charges stated as excessive. However, the Committee proceeded to consider the availability of public transport for those without access to a car/van.

8.44 For Fox & Medcalfe Pharmacy, the Committee noted the Applicant states that the journey is approximately 12 minutes there and 18 minutes return, with 5 minutes walking both ways, and that the frequency is every 30 minutes, which the Applicant does not consider to be reasonable. The Committee noted the Applicant states that the bus fare would be £1.80 for a single. For Boots and Superdrug, the Applicant states that the journey would take 15 minutes on the number 11 bus with 9 minutes of walking, and 19 minutes for the return journey, with 6 minutes of walking and again, a frequency of every 30 minutes. For Brock Pharmacy, the Applicant states that the journey takes 13 minutes with 7 minutes of walking, with the return taking 17 minutes with 4 minutes of walking and a frequency of 30 minutes. The Committee noted the Applicant's view that "*…this much walking is not suitable for the substantial disabled population in the Marsh area.*" The Committee however was mindful that any walking would depend on a patient's start point and not all would be starting from the immediate vicinity of the proposed premises. The Committee was of the view that bus services every 30 mins was frequent especially given the out of town location. The Committee considered that on the information available it was able to conclude that transport by bus to certain pharmacies in Lancaster was a reasonable option for those without access to private transport.

8.45 The Committee had regard to the Applicant's undisputed comment that "*…the Fox and Medcalfe Pharmacy has a step before the door meaning disabled users cannot access the pharmacy unassisted*" and accepted that those with impaired mobility may find access to this particular pharmacy difficult. The Committee saw no information to suggest similar difficulties with the other nearby pharmacies.

8.46 The Committee noted the Applicant's description of the amenities available nearby the proposed premises which include groceries, an ATM, an Evri Parcel Shop and an InPost Locker. Other amenities located along Willow Lane include Morrisons Daily, a community centre, a primary school, a park and a nursery. The Committee considered that, due to the limited nature of the amenities available in the area, residents would most likely be accustomed to accessing a wider range of amenities in the city centre and elsewhere on a regular basis. Whilst noting the Applicant's view that "*…residents are forced to endure journeys into the town centre on each occasion to access pharmaceutical services*", there was no evidence provided to indicate patient experience travelling to other pharmacies.

8.47 Therefore 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.

8.48 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 that 21.2% of residents in the 017A and 017B LOSAs within the Marsh area were disabled under the Equality Act 2010, a figure slightly higher that the Lancaster Local Authority and also higher than the figure for England. Looking at the ward as a whole brings the figure down slightly to 19.7%, due to the healthier and more affluent area of Abram Heights to the south of the ward. The Committee noted however that the information regarding those who may share a protected characteristic and the pharmaceutical services they needed was limited. The issue of access and choice as might apply to any such persons was dealt with by the assessment as to reasonable access above.

8.49 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.

8.50 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 saw no information to indicate that the Applicant was proposing to take an innovative approach with regard to the provision of pharmaceutical services. 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

8.51 The Committee noted the Applicant proposes to provide core opening hours 09:00 to 13:00 and 14:00 to 18:00 Monday to Friday, with supplementary opening hours of 09:00 to 13:00 on Saturday. The Committee had not been provided with any information regarding the opening hours of existing pharmacies. The Committee was of the view that there was no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore 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 (in relation to opening hours) on persons.

8.52 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.

8.53 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

8.54 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).

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

8.56 The Committee had regard to Regulation 18(2)(g) and found that it was not applicable.

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

8.58 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.

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

8.59.1 confirm the Commissioner's decision;

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

8.59.3 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.

8.60 In view of the fact that the Committee had considered both the 2022-2025 PNA and the 2025-2028 PNA, and the limited reasoning provided in the Commissioner's decision report, the Committee determined that the decision of the Commissioner must be quashed.

8.61 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.

8.62 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.

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

9 DECISION

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

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

9.3 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;

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

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

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

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

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

9.4.2 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