NHS Resolution

17 December 2025

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

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

REF: SHA/26711

APPEAL AGAINST MID AND SOUTH ESSEX ICB DECISION TO REFUSE AN APPLICATION BY MARRA HEALTHCARE LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT BEST ESTIMATE MONKS MEAD, BICKNACRE, CHELMSFORD CM3 4EU

1 Outcome

1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of the Commissioner.

1.2 The Committee determined that the application should be refused.

A copy of this decision is being sent to:

Healthcare Plus Consulting Ltd representing Marra Healthcare Ltd
PCSE for the Commissioner
Community Pharmacy Essex
North and South LMCs
Boots UK Ltd

NHS Resolution

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

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

REF: SHA/26711

APPEAL AGAINST MID AND SOUTH ESSEX ICB DECISION TO REFUSE AN APPLICATION BY MARRA HEALTHCARE LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT MONKS MEAD, BICKNACRE, CHELMSFORD CM3 4EU (BEST ESTIMATE)

1 The Application

By application dated 19 February 2025, Marra Healthcare Ltd ("the Applicant") applied to South Essex ICB for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Monks Mead, Bicknacre, Chelmsford CM3 4EU (Best Estimate). In support of the application it was stated:

1.1 "In my/our view this application should not be refused pursuant to Regulation 31 for the following reasons:

1.2 N/A

1.3 There is no pharmacy trading from or adjacent to the proposed premises, so Regulation 31 does not apply

1.4 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's area.

1.5 **Bicknacre Supporting Information**

1.6 **Background**

1.7 This application is in respect of opening a new pharmacy to provide better pharmaceutical access and choice for residents of Bicknacre. The best estimate of the proposed site my client wishes to open a new pharmacy is located on a communal row of shops on Monks Mead, CM3 4EU. There is currently no pharmacy situated within Bicknacre and the next closest pharmaceutical provision is Boots Pharmacy, Danbury, CM3 4QF, located 1.8 miles away. According to 2021 Census data Bicknacre has a higher proportion of elderly residents (23.6%) than both the national (18.3%) and local authority average (19.4%).

1.8 **Proposed Location**

1.9 The proposed site is situated centrally in Bicknacre, amongst a row of communal shops. The site features; ample free parking, a Premiere convenience store, a post office and a beauty salon. These are all amenities

that resident's access as part of their daily lives. As there is no pharmaceutical provision within Bicknacre, we submit that the proposed site fills a gap in pharmaceutical provision within Bicknacre and the surrounding area, as demonstrated by the map below: [Map showing location of the proposed site, CM3 4EU and Site images Image depicting ample road parking and shops. Image depicting more parking and wide footpath. – Appendix A for Committee]

1.10 **Regulations**

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

1.12 *"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".*

1.13 When considering the above question, the provisions of Regulation 18(2)(b) should be noted:

1.14 *(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—*

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

1.16 *(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 the NHSCB's duties under section 13G of the 2006 Act(**c**) (duty as to reducing inequalities)), or*

1.17 *(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also the NHSCB's duties under section 13K of the 2006 Act(**a**) (duty to promote innovation)),*

1.18 *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;*

1.19 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.*

1.20 We have addressed these regulations overleaf.

1.21 **Patient Journeys**

1.22 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.

1.23 Using the proposed site, CM3 4EU, as an arbitrary marker to represent these residents; we can see that the next nearest pharmacy is Boots Pharmacy (CM3 4QF), which is 1.8 miles away by practicable means. It must be noted that distance in itself is a barrier to access. For residents currently living near the proposed site, pharmaceutical provision is difficult to access by foot, and public transport. Again, we reiterate that there are a large number of elderly residents living near the proposed site.

1.24 **By foot to the Current Nearest Pharmacy (Boots Pharmacy, CM3 4QF)**

1.25 As can be seen from the map below, [Map showing Journey on foot from proposed site to Boots Pharmacy, CM3 4QF. – Appendix A for Committee] the journey on foot is 1.8 miles or 42 minutes, equating to a 1- hour 24-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. We cannot consider a 3.6-mile round walk to access pharmaceutical services as sufficient, nor can we consider this as having reasonable choice.

1.26 **By Public Transport to the Current Nearest Pharmacy (Boots Pharmacy, CM3 4QF)**

1.27 The journey by Boots Pharmacy is not best served by public transport. The journey takes approximately 10 minutes, including 5 minutes of walking which can cause difficulty for those patients with mobility issues or the elderly. Most notably the bus service is infrequent only arriving hourly.

1.28 When factoring in the return trip and waiting time, the total round-trip could take up to 1-hour 20-minutes in total. Clearly, this journey time is excessive, and is not representative of reasonable choice for those residing in Bicknacre.

1.29 **By Car to the Current Nearest Pharmacy (Boots Pharmacy, CM3 4QF)**

1.30 The journey by car to Boots Pharmacy from the proposed site involves driving 1.8 miles which can take approximately 7-minutes, equating to a 14-minute round-trip. We do not consider a 14-minute trip by car as sufficient access, nor do we consider this as having a reasonable choice to pharmaceutical services. When we consider that patients who share protected characteristics may not be able to drive or even may not feel comfortable driving in winter conditions; alongside their inability to walk the excessive 1.8-mile return journey, it is apparent that pharmaceutical access and choice is inadequate for these residents.

1.31 **Conclusion**

1.32 We submit that there is currently a gap in pharmaceutical provision for Bicknacre, with current pharmaceutical provision difficult to access.

1.33 Granting this application would secure better access to pharmaceutical services, especially when we consider the access difficulties by foot. We must also consider the demographics of the localised population. As mentioned above, the large population of elderly residents are likely to find better access and choice to pharmaceutical provision from the proposed site. We reiterate that there is a greater need for pharmaceutical provisions in areas with high populations of individuals with protected characteristics.

1.34 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 1.8 miles away by practicable means.

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

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 9 August 2025 states:

2.1 "Mid and South Essex 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.

2.2 You have a right of appeal to the Secretary of State against Mid and South Essex 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:

2.2.1 Primary Care Appeals, NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU."

Decision Report

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

2.3 "Marra Healthcare Ltd - Best Est CM3 - CAS-353514-K8D4V2

2.4 The Pharmaceutical Services Regulations Committee (hereafter referred to as "the Committee") considers all pharmaceutical services applications for the 6 Integrated Care Boards (ICB) within the East of England footprint. NHS Hertfordshire and West Essex ICB (HWE ICB) hosts the meeting on behalf of the 6 ICBs, in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as "the Regulations").

2.5 The Committee considered this routine application offering unforeseen benefits in the area of the Essex Health and Wellbeing Board (HWB) under Regulation 18 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended ("the Regulations").

2.6 The Committee first considered Regulation 31.

2.7 **Regulation 31 – Must the application be refused?**

2.8 The application has been submitted by Healthcare Plus Consulting Ltd who are acting on behalf of Marra Healthcare Ltd.

2.9 The Committee noted that the applicant had provided a best estimate address of Bicknacre, Chelmsford CM3 for the location of the pharmacy premises within its application and included the map embedded below: [Page 1 of Appendix B for Committee.]

2.10 The applicant provided a more exact location as part of their supporting information as a premises within a row of shops on Monks Mead, Bicknacre, Chelmsford CM3 4EU.

2.11 The Committee noted the nearest pharmacies in the attachment 'Nearest Pharmacies' in the Additional Information Section on page 2 of the report circulated prior to the meeting (information obtained from the NHS website, Pharmaceutical List and Google maps).

2.12 The Committee noted that there are no existing services being provided by anyone on the pharmaceutical list from the proposed premises or at adjacent premises.

2.13 The applicant provided the following statement in relation to Regulation 31:

2.14 *"There is no pharmacy trading from or adjacent to the proposed premises, so Regulation 31 does not apply."*

2.15 The Committee noted it is not required to refuse the application under the provisions of Regulation 31.

2.16 **Paragraph 31, Schedule 2 – conditional grant of applications where the address of the premises is unknown**

2.17 The Committee noted that as the applicant has provided a best estimate address for the proposed pharmacy premises Paragraph 32, Schedule 2 will apply. Therefore, if this application is granted, it is a condition of the grant that the applicant must notify NHS England of the address of the premises to be listed within six months of the date the decision letter is sent.

2.18 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.

2.19 As it is not yet known where the premises would be located there are no grounds for the Committee to refuse the application under Paragraph 31, Schedule 2, at this time.

2.20 **Regulation 32 – Is the application to be deferred?**

2.21 The Committee noted this Regulation does not apply as there are no LPS designations in the area covered by the best estimate address of the pharmacy premises.

2.22 **Regulation 40 – refusals because of preliminary matters**

2.23 The Committee considered Regulation 40 of the Regulations.

2.24 **Regulation 40— (1)**

2.25 The Committee noted that the applicant has not disputed that the area of the proposed premises, where they are seeking listing of pharmacy premises, is within a controlled locality.

2.26 **Regulation 40— (2)**

2.27 The Committee noted that Regulation 40(2) does not apply as the proposed premises is not in an area in relation to which outline consent has been granted within the 5-year period as set out in the Regulation, and the applicant's best estimate is not located within 1.6 kilometres of pharmacy premises listed in a routine application that has been refused in the last five year period.

2.28 **Regulation 40— (3)**

2.29 The Committee noted that this Regulation is applicable as the applicant has not provided an exact address.

2.30 **Regulation 41 – Is the relevant location in a reserved location?**

2.31 The Committee considered the issue of reserved location for the address provided in the application.

2.32 Primary Care Support England (PCSE) provided patient numbers of those residing within a 1.6-kilometre radius of CM3 4EU. Those patient numbers were 2,859. As the patient numbers exceeded the reserved location threshold of 2,750, the Committee concluded this is not within a reserved location.

2.33 **Regulation 18(1) – does the need on which the applicant based its application satisfy the elements of Regulation 18(1)?**

2.34 The Committee considered if Regulation 18(1)(a) was satisfied in that it is required to determine whether it is satisfied that granting the application or granting it in respect of some 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.

2.35 **Regulation 18(1)(b)**

2.36 The Committee considered 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 were not included in the relevant pharmaceutical needs assessment (PNA) in accordance with paragraph 4 of Schedule 1.

2.37 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).

2.38 The Committee considered the applicant's full supporting evidence, which was embedded within the Committee report (page 6), but note that the applicant's representative provided the following background: [See paragraphs 1.5 to 1.35 above].

2.39 The Essex PNA (see additional information on page 2 of committee report) states that there are 249 (254 including 5 Distance Selling Pharmacies) community pharmacies across Essex.

2.40 The Committee noted that the overall number of providers of pharmaceutical services increases when combined with dispensing GP practices present in Essex, of which there is 46. Bicknacre is located in the Chelmsford locality in the PNA.

2.41 The Committee noted the current Essex PNA notes in its Executive Summary "*The HWB has not identified any services that would secure improvements, or better access, to the provision of pharmaceutical services either now or within the 3-year lifetime of this pharmaceutical needs assessment*."

2.42 The Supplementary Statement for Chelmsford locality in June 2024 (see additional information on page 2 of committee report) noted that 6 pharmacies had closed. The findings of the Supplementary Statement were that "*No gaps in pharmaceutical services have been identified that if provided either now or in the future would secure improvements or better access to necessary pharmaceutical services across the locality."*

2.43 In its supporting statement the applicant's representative states that:

2.44 *"We submit that there is currently a gap in pharmaceutical provision for Bicknacre, with current pharmaceutical provision difficult to access."*

2.45 However, in its summary, the Essex PNA states that *"The PNA also looked at changes which are anticipated within the lifetime of the document, for example the predicted population growth. Given the current population demographics, housing projections and the distribution of service providers across the HWB area, this document concludes that the current provision will be sufficient to meet the likely future needs of the residents during the three-year lifetime of this pharmaceutical needs assessment".*

2.46 The Committee noted that no supplementary statement has been produced which relates to major housing sites/developments in that locality.

2.47 The Committee agreed that the improvements or better access that the applicant is claiming would be secured by its application, were not included in the relevant PNA in accordance with Paragraph 4 of schedule 1.

2.48 The Committee noted that in order to be satisfied in accordance with Regulation 18(1), it also had to regard those matters set out in Regulation 18(2).

2.49 **Regulation 18(2)(a)(i) & (ii)**

2.50 The Committee considered whether it is satisfied that granting the application would cause significant detriment to—

2.50.1 *proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB, or*

2.50.2 *the arrangements the [ICB] has in place for the provision of pharmaceutical services in that area;*

2.51 The Committee noted that there was no evidence to suggest granting the application would cause significant detriment to proper planning in the area and for any arrangements the ICB has in place for the provision of services in the area.

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

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

2.54 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Essex PNA, 2022 - 2025, it is satisfied that, having regard in particular to the desirability of—

2.54.1 *there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also the [ICB'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))*

2.55 granting the application would confer significant benefits on persons in the area of Essex HWB that were not foreseen when the PNA was published.

2.56 The Committee noted that the applicant states the following points:

2.57 *"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.*

2.58 *Using the proposed site, CM3 4EU, as an arbitrary marker to represent these residents; we can see that the next nearest pharmacy is Boots Pharmacy (CM3 4QF), which is 1.8 miles away by practicable means. It must be noted that distance in itself is a barrier to access. For residents currently living near the proposed site, pharmaceutical provision is difficult to access by foot, and public transport. Again, we reiterate that there are a large number of elderly residents living near the proposed site"*

2.59 The Committee noted that in the current Essex PNA there is no mention of additional needs in this area of Essex.

2.60 There are 14 (40 hour) community pharmacies and one Dispensing Appliance Contractor (DAC) within a 5 mile straight line of the proposed location and

within the 20 minute one way journey as used by Essex HWB to determine acceptable access to pharmaceutical services.

2.61 The nearest pharmacy, Boots Pharmacy (FHG91), CM3 4QF is in Danbury, which is to the north of the proposed location, with there being no nearest pharmacies directly to the east, or to the west, “+1” is the proposed location and the circle indicates 5km radius. The pharmacy located in East Hanningfield, Jade-Euro-Med, is a DAC.

2.62 The Committee were asked to note the map, current services provided by Boots Pharmacy (FHG91) along with their contracted hours which were included within the committee report.

2.63 The Committee noted that the applicant proposes to offer the following services:

2.63.1 Supervised consumption

2.63.2 Smoking Cessation

2.63.3 Covid 19 Vaccinations

2.63.4 Flu Vaccination

2.63.5 Pharmacy Contraception Service

2.63.6 Hypertension Case Finding

2.63.7 New Medicine Service

2.63.8 Palliative Care

2.63.9 Pharmacy First

2.63.10 NHS Health Checks

2.63.11 Needle Exchange

2.63.12 Emergency Hormonal Control

2.63.13 Sexual Health Service

2.64 The Committee noted that the applicant is proposing to offer 40 core hours and 4 supplementary hours;

Opening hours					40:00	4:00
	C1		C2		S3	
Monday	09:00	13:00	14:00	17:30	17:30	18:00
Tuesday	09:00	13:00	14:00	17:30	17:30	18:00

Wednesday	09:00	13:00	14:00	16:00	16:00	18:00
Thursday	09:00	13:00	14:00	17:30	17:30	18:00
Friday	09:00	13:00	14:00	17:30	17:30	18:00
Saturday	09:00	13:00				
Sunday						

2.65 The Committee noted the embedded data below showing the top 10 dispensing locations for prescriptions issued by the three pharmacies that are within 2 miles of the proposed site:

2.66 [Dispensing data -Page 2 and 3 of Appendix B for Committee.]

2.67 There is nothing to suggest that the patients who use the dispensing service were forced to do so and every reason to believe they chose this option.

2.68 The overall provision of pharmaceutical services in Bicknacre is through an established pharmacy in Danbury and a dispensing practice in both Bicknacre and Danbury. In addition, there are several pharmacies within a 5-mile straight line distance (within 20 minute drive as included in the Essex PNA).

2.69 The Committee noted that the test is whether or not those living in Bicknacre have reasonable choice with regard to obtaining pharmaceutical services in the area of Essex HWB, not in the village. At present, those who are eligible to be dispensed to by the GP practices choose to do so. Those who choose not to be dispensed to or who are not eligible to be dispensed to, accessed 124 different pharmacy contractor premises in January 2025.

2.70 No evidence has been provided to demonstrate that those living in Bicknacre are currently unable to exercise a choice in obtaining pharmaceutical services.

2.71 Based on the information available, the Committee agreed that there is already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, such that it cannot be 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 in the area of the relevant HWB which were not foreseen when the Essex PNA was published.

2.72 **Reg 18(2)(b)(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.**

2.73 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Essex PNA 2022-2025, it is satisfied that, having regard in particular to the desirability of—

2.73.1 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 the NHSCB's duties under section 13G of the 2006 Act (duty as to reducing inequalities))

2.74 granting the application would confer significant benefits on persons in the area of Essex HWB that were not foreseen when the PNA was published.

2.75 The applicant's representative states that

2.76 *"Granting this application would secure better access to pharmaceutical services, especially when we consider the access difficulties by foot. We must also consider the demographics of the localised population. As mentioned above, the large population of elderly residents are likely to find better access and choice to pharmaceutical provision from the proposed site. We reiterate that there is a greater need for pharmaceutical provisions in areas with high populations of individuals with protected characteristics".*

2.77 The Committee noted the public transport provision:

2.78 Public transport provision [Page 4 to 7 of Appendix B for Committee.]

2.79 The Committee were 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 in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published.

2.80 **Reg 18(2)(b)(iii) – Providing an innovative approach to the delivery of pharmaceutical services**

2.81 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Essex PNA 2022-2025, it is satisfied that, having regard in particular to the desirability of—

2.81.1 there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also the NHSCB's duties under section 13K of the 2006 Act (duty to promote innovation)),

2.82 granting the application would confer significant benefits on persons in the area of Essex HWB that were not foreseen when the PNA was published.

2.83 The applicant has not provided any supporting information with regard to an innovative approach to the delivery of pharmaceutical services. Rather stating that "*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."*

2.84 As the applicant has not provided any evidence regarding innovative approaches in the delivery of pharmaceutical services, the Committee were 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 in the area of the relevant HWB which were not foreseen when the Essex PNA, 2022 - 2025 was published.

2.85 **Representations**

2.86 During the 45-day notification period, representations were received from:

2.86.1 Boots the Chemist Head Office

2.86.2 North & South Essex Local Medical Committees

2.86.3 Community Pharmacy Essex

2.86.4 The Beacon Health group (Danbury & Greenwood and Wyncroft Surgery)

2.87 The full representations can be found within the 'Representations received from 45-day notification period' embedded below.

2.88 Boots UK Ltd

2.88.1 Thank you for your letter dated 21st March 2025 informing us of the above application. Boots UK Limited wish to make the following comments:

2.88.2 Bicknacre is an established village with a population of just 2,263 according to the latest census data. There are no large-scale housing developments in the village that would change the requirement for additional pharmaceutical provision.

2.88.3 Our pharmacy is located in Danbury, 1.7 miles away (using the proposed postcode & our pharmacy postcode), we do offer access to pharmaceutical provision beyond the hours offered by the applicant.

2.88.4 The applicant has failed to mention that the Greenwood and Wyncroft Surgery, 0.1 mile from the application site is a dispensing practice who offer pharmaceutical provision to patients who reach the criteria.

2.88.5 The applicant has provided no evidence to suggest that residents of Bicknacre experience difficulties when accessing 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 health needs.

2.88.6 Furthermore, there is no evidence to suggest patients do not currently have access to a reasonable choice of pharmaceutical services or that the application is based on innovative approaches to the delivery of pharmaceutical services.

2.88.7 The Pharmaceutical Needs Assessments does not highlight any gap in provision, and we are not aware of any supplementary statements issued since its publication highlighting a gap in this locality.

2.88.8 In conclusion we submit that the application should be refused as it will not confer 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.

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

2.89 North and South LMCs

2.89.1 Thank you for inviting LMC representations on the application by Marra Healthcare Ltd for inclusion in the pharmaceutical list in Bicknacre, Chelmsford CM3.

2.89.2 Bicknacre is designated as controlled (rural) in character. Regulation 41(3) defines a location as being reserved if the number of residents residing in the defined area is less than 2,750. You have defined the location as CM3 and that the number of residents living within 1.6km of the postcode is 2,852. On this basis the location is unlikely to be defined as reserved and therefore you will need to consider if granting this application will prejudice the provision of relevant NHS service in the area.

2.89.3 Medical services are provided in Bicknacre from two different practices.

2.89.3.1 The Beacon Health Group who have 3 surgery sites; The Danbury Medical Centre, The Mountbatten House Surgery and The Moulsham Lodge Surgery.

2.89.3.2 The Greenwood and Wyncroft Surgery who have 2 surgery sites: The Greenwood Surgery and The Wyncroft Surgery.

2.89.4 The Beacon Health Group have a Dispensary at their Danbury Medical Centre Surgery.

2.89.5 The Greenwood and Wyncroft Surgery have a Dispensary at their Wyncroft Surgery.

2.89.6 The dispensing information for The Danbury Medical Centre Dispensary is as follows:-

2.89.6.13439 dispensing patients with 7000 items each month.

2.89.6.21044 dispensing patients in Bicknacre.

2.89.6.3440 of those patients are aged 60+

2.89.7 The dispensing information for the Wyncroft Surgery Dispensary is as follows:-

2.89.7.12484 dispensing patients with 3000 items each month.

2.89.7.21093 dispensing patients in Bicknacre.

2.89.7.3320 of those patients are aged 60+

2.89.8 These figures demonstrate that between The Danbury Medical Centre Dispensary and The Wyncroft Surgery Dispensary the population of Bicknacre is almost completely covered.

2.89.9 Both dispensaries are open from 8am – 6.30pm Monday to Friday and offer the following services:-

2.89.9.1Full dispensing service

2.89.9.2Dosette Box Service for safe medication compliance

2.89.9.3Delivery service of medications

2.89.9.4A team of clinical pharmacists who provide expert medication management and support to patients

2.89.9.5Annual medication review face to face

2.89.9.6Full minor illness management, including all services offered by the Pharmacy First Service.

2.89.9.7Complete NHS vaccination service.

2.89.10 If the pharmacy application is granted, The Beacon Health Group and The Greenwood and Wyncroft Surgery would incur a significant loss of dispensing patients resulting in a substantial loss of income. This will impact the delivery of essential medical services in Bicknacre and risks the ongoing viability of maintaining the delivery of medical services in the area. This would be to the detriment of people living in Bicknacre and it is therefore the view of the LMC that granting the application will prejudice the provision of health services in the area.

2.89.11 The applicant submits that there is a gap in the provision of pharmaceutical services in Bicknacre and that granting this application would offer unforeseen benefits. There were no gaps identified in the Essex Pharmaceutical Needs Assessment 2022 -25 that if provided either now or in the future would secure improvements or better access to relevant services across the Chelmsford locality.

2.89.12 Bicknacre is a typical rural village, where residents have access to typical village amenities; a shop, post office, 2 pubs, some hair salons and a café. Medical services are delivered from The Beacon Health Group and The Greenwood and Wyncroft Surgery, who offer a full dispensing service, from The Danbury Medical Centre and The Wyncroft Surgery sites. There are limited employment opportunities, and those of working age will travel to neighbouring areas for work. There is a primary school but no secondary school located in Bicknacre, with education for Key Stages 3 and 4 accessed in adjacent neighbourhoods.

2.89.13 People living in Bicknacre will therefore routinely travel outside the area to access services from adjacent neighbourhoods. The application

suggests that travelling 1.8km (sic) to the nearest pharmacy, located in Danbury could prove difficult but given that residents will routinely travel outside the area of Bicknacre for work, education and larger retail outlets, travelling 1.8km (sic) to the nearest pharmacy (around a mile) is reasonable and easily accessible. The view of the LMC is that there is no gap in the provision of pharmaceutical services in the area and that the application for unforeseen benefits should be refused.

2.89.14 In the event that the application is granted, the ICB will need to consider a period of gradualisation. In these circumstances, the LMC would propose a period of 12 months, to allow the affected dispensing practices time to make whatever alterations to their working practices may be necessary, such as reducing stock holdings and altering staff duties.

2.90 Community Pharmacy Essex

2.90.1 Thank you for inviting the committee's comments in respect of the above application. The committee notes that the restarted deadline for submission for comments is 5th May 2025 and trust that you will confirm safe receipt of this submission within the above deadline.

2.90.2 This application has been considered at our committee meeting on 16th April 2025, and we would like to make the following comments:

2.90.3 The application form gives a best estimate of "Bicknacre, Chelmsford CM3-" and provides a map which includes an extensive area across Bicknacre including Bicknacre road, White Elm Road, Priory Road and Augustine way. We would challenge that this should be unacceptable, however the supporting information suggests the proposed premises to be "communal row of shops, Monks Mead, CM3 4EU" and we have therefore based our responses on these premises.

2.90.4 A site visit was undertaken by an officer of Community Pharmacy Essex (Essex LPC) on 2nd April 2025.

2.90.5 The visit took place between 4pm and 5pm and the volume of traffic and parked cars was considerably higher than shown in the applicant's photographs which we assume from shadow patterns were taken in the middle of the day.

2.90.6 Reserved location

2.90.7 Mid and South Essex Integrated Care Board (MSE ICB) has stated that the number of registered patients living with 1.6 kilometres of the proposed premises is 2,852. However, there is an overlap between a 1.6 kilometre radius of the proposed premises and a 1.6 kilometre radius of the Boots pharmacy at Eve's Corner, Danbury, CM3 4QF (map appended). The ICB may need to exclude any patients in this overlap area from the 2,852 number as they would not in any event be eligible for inclusion as dispensing patients. This may inform whether the ICB proceeds to consider Bicknacre as a reserved location.

2.90.8 Controlled locality

2.90.9 Bicknacre is a controlled location with access to dispensing services for eligible patients from Wyncroft Surgery. It is for MSE ICB to review the patient count and consider Reserved Location status, taking into account the overlap with the 1.6km radius from Boots in Danbury as described above.

2.90.10 However, we also feel that Bicknacre should be reviewed as a controlled locality. Regulations do not define a controlled locality, however the local amenities, transport connections and proximity to expanded services in South Woodham Ferrers and Danbury suggest that Bicknacre may no longer be rural in nature. The area was last reviewed in 2014, we feel a review is due now.

2.90.11 Proposed services to be provided at the premises

2.90.12 The applicant has included several services which are not commissioned by either NHS England or the relevant delegated integrated care board, i.e. Supervised Consumption, NHS Health Checks, Needle Exchange, Emergency Hormonal Contraception and Sexual Health.

2.90.13 The guidance notes on the application form clearly state that only services which are commissioned by NHS England or the relevant delegated integrated care board should be included, the ICB may wish to ascertain if this is an oversight by the applicant, a failure to properly follow the written instructions or an attempt to present an application in a more favourable light.

2.90.14 Supporting information

2.90.15 The applicant has correctly identified that the current nearest pharmacy is Boots in Danbury, CM3 4QF, however there are marked inaccuracies regarding public transport provision.

2.90.16 There are in effect two bus routes, the 336 Essex Bus and the 36 First Essex, both operating 7 days a week between Bicknacre and Danbury, with a given journey time of six minutes. Combined the two routes offer 29 buses a day Monday to Friday between 9am and 6pm (proposed opening times) and 5 buses on Saturday between 9am and 1pm.

2.90.17 Further the same routes in the opposite direction have a journey time of 8-9 minutes to Village Pharmacy in South Woodham Ferrers, 31 buses a day between 9am and 6pm Monday to Friday and 4 buses between 9am and 1pm on Saturday.

2.90.18 We feel that 60 buses between 9am and 6pm on weekdays with a journey time less than 10 minutes in either direction provides excellent public transport to nearby pharmacies, and this should be taken into account in any review of the Bicknacre controlled locality. We have appended the bus timetables to this application.

2.90.19 The applicant then states that they do not consider car access to the nearest pharmacy, Boots in Danbury CM3 4QF, approximately 7 minutes each way (14 minutes round trip) as sufficient access.

2.90.20 The Essex Health and Wellbeing Board Pharmaceutical Needs Assessment uses a 20-minute one way car journey as acceptable, this journey is well within that.

2.90.21 The applicant does not give an estimate of the driving time to Village Pharmacy in South Woodham Ferrers, a Google Maps estimate is 9 minutes, again well within the 20 minute range.

2.90.22 Census data shows car ownership/access is high in Bicknacre, only 6.8% of households do not have access to a car compared to 23.5% nationally, and 65.3% of households have access to two or more vehicles compared to 35.2% nationally.

2.90.23 The application then seems confused, no unforeseen benefits have been identified and the applicant simply submits that they consider there is a gap in pharmaceutical provision in Bicknacre on the basis of difficulty accessing current provision. We therefore feel that the application should be refused, and look forward to receiving the committee's decision on this.

2.91 Beacon Health Group and Greenwood and Wyncroft Surgery

2.91.1 We are writing to formally contest the proposed opening of a pharmacy in Bicknacre, as outlined in the recent notification. Our GP surgeries both have a well-established Dispensary, serving the population of Bicknacre and the surrounding areas. We have serious concerns about the potential negative impact this development will have on both our practices and the patients we serve.

2.91.2 Background

2.91.3 Bicknacre has a population of approximately 2278. Around 533 are aged 65 years plus, 1318 are aged between 18-64 years and 418 are aged 0-17 years.

2.91.4 The Beacon Health Group have 10,725 patients registered to The Danbury Medical Centre.

2.91.4.13439 dispensing patients with 7000 items each month.

2.91.4.21044 dispensing patients in Bicknacre.

2.91.4.3440 of those patients are aged 60+

2.91.5 The Danbury Medical Centre Dispensary is open from 08:00 – 18:30 Monday to Friday. We offer a Dosette Box service and a delivery service.

2.91.6 The Wyncroft Surgery branch has 3906 registered patients.

2.91.6.12484 dispensing patients with 3000 items each month.

2.91.6.21093 dispensing patients in Bicknacre.

2.91.6.3320 of those patients are aged 60+

2.91.7 The Wyncroft Surgery branch is open from 08:00 – 18:30 Monday to Friday and they offer a Dosette Box service.

2.91.8 These figures demonstrate that between The Danbury Medical Centre and The Wyncroft Surgery branch Dispensaries we have the population of Bicknacre almost completely covered. There are around 2278 people in Bicknacre and together we dispense to 2137. There are around 533 patients aged 65 years and over. We collectively dispense to 760 patients over the age of 60, therefore these elderly patients are already served by our Dispensaries.

2.91.9 **Objections to the application**

2.91.10 I will now summarise the application document and advise on our comments and reasons for objections to each point, including objections to the supportive information included by the applicant. I will then provide a summary of the reasons for our objection.

2.91.11 In response to the Application Form Chapter 15 Annex 1

2.91.12 'Application for inclusion in the pharmaceutical list for the area'

2.91.13 Point 1 – Information regarding the applicant

2.91.14 Point 2 – Proposed premises

2.91.15 Point 3 – Opening hours

2.91.16 Point 4 – Pharmaceutical services – A description of the services to be provided.

2.91.17 Point 5 **-** Applications in relation to premises that are in close proximity to other listed chemist premises.

2.91.18 *'There is no pharmacy trading from or adjacent to the proposed premises, so Regulation 31 does not apply'*

2.91.19 Point 6 **–** Information in support of the application. To include 'please explain how you intend to secure the unforeseen benefit(s).'

2.91.20 'Please see enclosed supporting information.'

2.91.21 *'An increase in local pharmacy capacity and improved choice to meet the needs of the local population. Better access and choice to pharmaceutical services.'*

2.91.22 Point 7 **–** Undertakings – Rules regarding submitting the application and signatures

2.91.23 **Objection to Point 5**

2.91.24 This statement fails to acknowledge the significant impact this new pharmacy would have on our business as Dispensing Practices. The location of the proposed pharmacy immediately threatens the eligibility of our patients for dispensing services as this is determined by their proximity to any pharmacy. If approved, we would no longer be able to dispense to many of our current patients, including offering appliances such as catheters, dressings or creams.

2.91.25 This is not a fair, 'open market' scenario. The introduction of a new pharmacy automatically disadvantages us due to the restrictive Dispensing Doctor regulations. We are extremely concerned for the potential harm this decision could cause us as local dispensing practices, who are not only delivering these services but also the essential GMS Contract for the area.

2.91.26 **Objection to Point 6**

2.91.27 The claim of 'improved choice' is misleading. This proposal does not enhance choice - it removes it. If the new pharmacy is approved, we will automatically lose our dispensing patients in the area, forcing them to switch providers rather than allowing them to make an independent choice. Our patients have been satisfied with our services for many years, including home delivery and Dosette Box services. There is no indication that the new pharmacy will provide these essential services, meaning patients may lose vital support rather than gain new options. There is also no evidence for a need to increase local pharmacy capacity as The Danbury Medical Centre and Wyncroft Surgery branch already adequately serve this population as per the figures above.

2.91.28 **Supporting Information Objections**

2.91.29 I now refer to the supporting information submitted by the applicant. 'Please see enclosed information' and make our objections in response.

2.91.30 Background

2.91.31 The document states that there is currently no pharmacy in Bicknacre and that the nearest one is Boots Pharmacy, Danbury (CM3 4QF), located 1.8 miles away. Additionally, it highlights that Bicknacre has a higher proportion of elderly residents (23.6%) compared to the national (18.3%) and local authority average (19.4%).

2.91.32 **Objection**

2.91.33 This completely ignores the fact that we already provide dispensing services to patients through our Dispensary at The Danbury Medical Centre, and the Dispensary at The Wyncroft Surgery branch. Our services, including Dosette Boxes and home delivery, are particularly crucial for our elderly residents. Between our two Dispensaries we cover all the patients in the age group 65+. The proposed pharmacy does not appear to offer these services, meaning many patients may be left without adequate support. The argument that the new pharmacy will better serve the higher proportion of elderly residents cannot therefore be qualified.

2.91.34 According to NHS regulations, there must be a 'reasonable choice' in obtaining pharmaceutical services. However, the establishment of this new pharmacy would eliminate choice rather than enhance it. Patients currently served by our

Dispensaries would be forced to switch, stripping them of the option to continue receiving our services. Again, our vulnerable patients who we offer Dosette Boxes and home delivery services would also be left without adequate support.

2.91.35 Patient Journeys – Accessibility

2.91.36 The application claims that accessing a pharmacy is currently difficult due to the 1.8-mile distance to Boots Pharmacy in Danbury.

2.91.36.1 On Foot**:** The document argues that a 1.8-mile walk (approximately 42 minutes one way) is too long for elderly or disabled residents.

2.91.36.2 By Public Transport or Car**:** The proposed site claims to improve access, as public transport in the area is infrequent, making pharmacy visits inconvenient.

2.91.37 **Objection**

2.91.38 The arguments completely neglects the existing service provided by our Dispensaries, which ensures patients receive their medications without needing to travel to a pharmacy. Patients can collect medication at their surgery when attending for appointments or use our home delivery service from The Danbury Medical Centre. This means that any patients who are unable to travel can still receive their medication.

2.91.39 **Conclusion**

2.91.40 The argument that this new pharmacy would not significantly impact current pharmaceutical provision is completely flawed. It would impact on our practices and patient populations enormously. The proposed site is only 1.8 miles from an existing pharmacy and entirely ignores the comprehensive services we already provide from The Danbury Medical Centre and Wyncroft Surgery branch Dispensaries. I will break this down into the areas of importance for clarity.

2.91.41 Impact on Patient Access and Continuity of Care

2.91.42 Our in-house Dispensaries play a vital role in ensuring seamless access to medication for our patients, particularly those in rural areas who may struggle with transport to alternative locations. Our teams provide not only medication but also critical advice, support, and monitoring that integrates directly with our clinical care. A new pharmacy in Bicknacre would totally disrupt the service and care we have been providing to our patients for many years.

2.91.43 Financial Viability of Our Dispensaries

2.91.44 The viability of our Dispensaries is integral to the sustainability of our practices. A significant reduction in dispensing volume due to an external pharmacy would compromise our ability to continue providing this essential service. The revenue generated from dispensing allows us to reinvest in patient care, including additional services that directly benefit our community. If our Dispensaries becomes unsustainable, it

could have serious financial repercussions for our practices, ultimately impacting the overall provision of primary care.

2.91.45 Lack of Demonstrable Need for Additional Pharmacy Services

2.91.46 The Dispensing services delivered by The Danbury Medical Centre and Wyncroft Surgery branch already adequately meets the needs of our patients, and there is no evidence to suggest that a new pharmacy would significantly improve service provision. Instead, it risks destabilising an existing, well-functioning system.

2.91.47 We would like to highlight that our practices have a team of Clinical Pharmacists who provide expert medication management and support to our patients. Patients receive an annual medication review face to face which covers all content which would have been covered by medicines use reviews, and more. We have a full service provision for minor illness management including everything covered by the Pharmacy First Service. We provide a complete NHS vaccination service. We also have the capacity to welcome new patients, with the potential to expand our services while maintaining high quality care.

2.91.48 Impact on Vulnerable and Rural Patients

2.91.49 Many of our patients rely on our Dispensaries due to mobility issues, age, or lack of transport. The introduction of another pharmacy would lead to consequences, such as the closure of our Dispensaries, forcing patients to travel further for their medication. This is especially concerning for elderly or vulnerable patients who depend on our integrated approach to healthcare. Taking away lifeline services such as Dosette Boxes for safe medication compliance and delivery services could potentially cause harm to our patients which is not something we would find acceptable.

2.91.50 Alignment with NHS Priorities and Rural Healthcare Provision

2.91.51 The NHS emphasises integrated care, sustainability, and efficiency in healthcare services. Introducing a competing provider in a location already served by our Dispensaries contradicts these principles, creating unnecessary duplication and financial strain rather than improving service delivery.

2.91.52 We strongly urge the ICB to consider our objections when reviewing the application for this proposed pharmacy. The potential harm to our practices, the disruption to patient care, and the unnecessary financial and logistical burden on the local healthcare system far outweigh any perceived benefits. We kindly request that our concerns be given serious consideration before any final decision is made.

2.92 **Regulation 18(2)(b) generally**

2.93 The opening hours of those pharmacies that are closest to the proposed postcode can be found embedded below in the document entitled ‘Nearest Pharmacies’.

2.94 Nearest pharmacies to CM3 4EU [Page 8 and 9 of Appendix B for Committee.]

2.95 The Committee noted that supplementary hours can be withdrawn at any time in line with the Regulations.

2.96 The Committee considered whether there are any other factors that would confer significant benefits including on patients who share protected characteristics based on the information provided by the applicant. The Committee noted 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.

2.97 The Committee noted the applicant provided no evidence to satisfy the conclusion that there are other factors that would confer significant benefits on patients who shared protected characteristics.

2.98 **Regulation 65 – core opening hours conditions**

2.99 The applicant is not offering more than 40 core opening hours and therefore regulation 65(4) does not apply.

2.100 **Consider impact of decision on those with protected characteristics under the Equalities Act 2010 and is this in accordance with NHS England/the ICB's Public Sector Equality Duty.**

2.101 This would not be affected in granting this application.

2.102 **Decision**

2.103 The Committee refused the application on the following basis, under Regulation 18 (2)(b):

2.103.1 There is no evidence that there is not already a reasonable choice with regard to obtaining pharmaceutical services in the area of Essex HWB.

2.103.2 There is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services that meet their specific needs for such services in the area of Essex HWB.

2.103.3 There is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services in the area of Essex HWB. The granting of this application would not offer significant benefits to people within the area of Essex HWB.

2.104 There is no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore the Committee were 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.

2.105 For all the above reasons the view in accordance with Regulation 18(2)(b), the granting of this application would not confer significant benefits on persons in

the area of the Essex HWB which were not foreseen when the Essex 2022 - 2025 PNA was published.

2.106 The Committee were not satisfied that granting the application would confer significant benefits as outlined above or would secure improvements or better access to pharmaceutical services.

2.107 **Regulation 44 – Prejudice test**

2.108 The Committee agreed, as the best estimate is not within a reserved location, it must consider Regulation 44, the prejudice test. However, the Committee noted that prejudice could only arise if the application meets the requirements of Regulation 18. As the Committee refused the application, it is unnecessary to consider the prejudice test.

2.109 **Regulation 50 - Discontinuation of arrangements for the provision of pharmaceutical services by doctors**

2.110 The Committee agreed that as the application was refused, it was not required to consider Regulation 50, discontinuation of arrangements for the provision of pharmaceutical services by doctors.

2.111 **Regulation 66 – directed services conditions.**

2.112 The Committee agreed that as the application has been refused, it is not required to consider this regulation.

2.113 The Committee agreed that, if they had been minded to grant the application, the grant would have been subject to Regulation 66.

2.114 The Committee agreed that as the application has been refused, appeal rights are given to the applicant, Marra Healthcare Ltd."

3 Comments to the Commissioner

On reviewing the paperwork provided by Primary Care Support England, it was noted that the comments made by the Applicant and the North and South LMC in response to the representations on the application, had not been circulated or seen by parties.

The Applicant included their comments with its appeal which was circulated to all parties. 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 circulate these comments in addition to the appeal bundle to parties for them to make observations on them if they so wished.

3.1 THE APPLICANT

3.1.1 "Thank you for your letter dated 6th May 2025. We welcome comments from all local parties and respond accordingly below.

3.1.2 **Boots**

3.1.3 Boots claim that the population of Bicknacre is 2,263 people. We would contest this given it has been confirmed that the application is not within

a reserved location. Correspondence from NHS England confirms that there are at least 2,852 registered patients within 1.6 kilometres of the proposed location. Again, this figure will not capture every resident within Bicknacre but is a much better guide to the true population figure.

3.1.4 Boots also mention the dispensing practices currently located within Bicknacre. Whilst GP dispensaries can dispense medication, they cannot provide the full suite of pharmaceutical services such as:

3.1.4.1 Sale of P meds

3.1.4.2 NMS

3.1.4.3 Pharmacy First

3.1.4.4 Access to the general public, not just those registered at dispensing GP Practices

3.1.4.5 Emergency supply

3.1.4.6 Prescribing of medication under Patient Group Directions

3.1.5 It is clear that there are a number of important services that pharmacies provide that GP dispensaries simply do not. We submit that the population of Bicknacre is now at the level where the full suite of pharmaceutical services should be available. Indeed, a pharmacy within Bicknacre would create better access for local residents, as per the regulations.

3.1.6 We note that Boots also focus on the Pharmaceutical Needs Assessment (PNA) and lack of identification of a need within this document. We highlight that an Unforeseen Benefits application is in its very nature, unforeseen, offering improvements or better access to pharmaceutical services not captured within the PNA. Thus, comments by Boots surrounding the PNA are widely irrelevant.

3.1.7 **Essex LPC**

3.1.8 We would like the Committee to note that the LPC represent the interests of current pharmaceutical contractors. The LPC are inherently obliged to contest unforeseen benefits applications, in order to fulfil their responsibilities to current contractors. Objection by the LPC is obligatory and thus comments should be read in such context.

3.1.9 The LPC seem to query a number of services proposed by my client. Our understanding is that NHS Health Checks, Needle Exchange, Sexual Health, & Emergency Hormonal Contraception (within Pharmacy First) are commissioned locally per the Community Pharmacy England website. Supervised consumption has been added if required. We are unsure as to why the LPC is critical of my client for the commissioned services that our client proposes to offer.

3.1.10 The LPC also mention the 36 bus route, however, we understand that this is no longer operational – causing even less access to

pharmaceutical provision for local residents. The 336 bus still operates, but again this hourly and thus infrequent.

3.1.11 We are unaware of any need to exclude 'overlap' patients as detailed by the LPC. Notably the LPC have already been incorrect on a few issues here, so we trust the ICB will look into this with depth and the correct expertise. Regardless, this 'overlap area' consists predominantly of wooded land so are unsure as to how much of an impact this actually has."

3.2 NORTH AND SOUTH LMCS

3.2.1 "Thank you for the opportunity to review comments on the application from Marra Healthcare for inclusion in the pharmaceutical list in Bicknacre.

3.2.2 The LMC confirms its view that there is no gap in the provision of pharmaceutical services in Bicknacre and that granting the application would prejudice the provision of healthcare services in the area. We note the query raised by Community Pharmacy Essex in connection with reserved location and the accuracy of the postcode suggested by Mid and South Essex ICB; we request that this is carefully considered by NHS England when making a determination."

4 The Appeal

In a letter dated 21 August 2025 addressed to NHS Resolution, the Applicant represented by Healthcare Plus Consulting Ltd appealed against the Commissioner's decision. The grounds of appeal are:

4.1 "Thank you for your letter dated 9th August 2025. Marra Healthcare 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 have failed to properly evaluate Regulation 18 and the fundamental question within the Regulation: does 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 Mid and South Essex ICB refused our client's application, and we believe they misdirected themselves in doing so.

4.4 We assert that this application does provide improvements or 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.

4.5 There are a number of issues with the decision report, but highlighting a few of the key issues with the decision:

4.5.1 The ICB misdirected itself as to Regulation 18 by failing to distinguish between need and better access

4.5.2 The ICB failed to consider the evidence showing a lack of access and reasonable choice

4.5.3 The ICB wrongly considered dispensing doctor services as interchangeable with that of a community pharmacy

4.6 **Regulation 18**

4.7 The ICB failed to recognise the distinction between need and better access. We note that in the decision report the ICB asked:

4.7.1 *does the **need** on which the applicant based its application satisfy the elements of Regulation 18(1)?* (emphasis added)

4.8 And later in the conclusion it was stated that:

4.8.1 *There is no information provided to support a finding that pharmaceutical services are not currently provided at such times as **needed** and therefore the Committee were 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.* (emphasis added)

4.9 These two examples portray the general approach of the ICB. The ICB ultimately considered the wrong regulatory test and thus did not properly consider the merits of the present application against the criteria of better access as set out in Regulation 18:

4.10 *18.—(1) If—*

4.11 *(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…*

4.12 We also note that Section 129(2A) of the National Health Service Act 2006 is the source of the criteria considered in routine applications, and also makes this distinction:

4.13 *(2A) NHS England is satisfied as mentioned in this subsection if, having regard to the needs statement for the relevant area and to any matters prescribed by the Secretary of State in the regulations, it is satisfied that to grant the application would—*

4.14 *(a)meet a need in that area for the services or some of the services specified in the application, or*

4.15 *(b)secure improvements, or better access, to pharmaceutical services in that area*

4.16 There is a clear distinction between need and better access under this subsection.

4.17 The ICB therefore misdirected itself as to what was to be demonstrated, and the criterion to assess the application against.

4.18 Below we consider the question of better access and improvements to services for the purposes of Regulation 18.

4.19 **Population of Bicknacre**

4.20 We note that PCSE stated there are 2,859 patients residing within a 1.6-kilometre radius of our client's proposed location. The ICB accepted this and noted that this figure exceeds the threshold of a reserved location; 2,750.

4.21 The Committee will be aware that when considering dispensing doctors and controlled localities, a reserved location loses its status as a 'reserved location' when the population within 1-mile/1.6km of the dispensing doctor exceeds 2,750 people. A loss of 'reserved location' status often invites unforeseen benefits applications under Regulation 18 due to there no longer being reasonable choice to provision.

4.22 We submit that not all said applications will necessarily be granted; however, there is a clear population and distance criteria which would prompt an application under Regulation 18.

4.23 **Population Growth & New Housing Developments**

4.24 Bicknacre has recently seen new developments and proposals which will ultimately increase the reliant population.

4.25 We highlight that 42 new homes are nearing completion as part of the Hawthorn Close development, with 64% built and 67% of these sold.

4.26 We also highlight that Welbeck Land have proposed a development of up to 250 new homes within Bicknacre on land west of Barbrook Way. Amongst these proposals is a community hub, which will further define Bicknacre as its own, distinct community.

4.27 Thus, assuming an occupancy rate of 2.5 per household, we submit that 730 additional residents will be living in Bicknacre upon completion of the developments. We must consider that these new residents combined with the current population (2,859) will increase the reliant population to c. 3,500 residents. When we consider that the threshold for a reserved location has already been exceeded, we submit that this increases the need for pharmaceutical services within Bicknacre.

4.28 **Current Service Provision**

4.29 We remind the Committee that there is currently no community pharmacy within Bicknacre. The nearest pharmacy is 1.8-miles away from our client's proposed site in Danbury.

4.30 As previously highlighted, distance in itself is a barrier to access. Thus, we cannot consider a 3.6-mile round trip to access pharmaceutical provision as representative of reasonable choice or sufficient access.

4.31 It is worth noting that the Essex PNA (2022-2025) stated that only 11% of residents within the HWB were more than a 30-minute walk from a pharmacy (Essex PNA, 2022-2025, pg. 162). When we consider that the nearest pharmacy is a 42-minute walk away, we submit that residents of Bicknacre do not have an accessible pharmacy by foot, despite exceeding the reserved location threshold.

4.32 We highlight that Bicknacre is not a rural area when we look at its population density. The Chelmsford 016A LSOA, which captures most of Bicknacre, has a population density of 847.4 residents per square kilometre. When we compare this to the population density for England (433.5 residents per square kilometre), we submit that Bicknacre is nearly twice as densely populated as England. Given its population density, there is no reason as to why the residents of Bicknacre should not have a pharmacy within walking distance.

4.33 It is particularly unfortunate that Bicknacre lacks a pharmacy within walking distance since one of the goals adopted by the Essex Health & Wellbeing Board was *"Encouraging the public to use active transport"* (Essex PNA 2022-2025, pg. 244).

4.34 Granting our client's application would give all residents an accessible pharmacy within approximately 0.5-miles opposed to the current 1.8 miles, thus providing significantly better access to pharmaceutical services, especially on foot.

4.35 We also note that the ICB failed to consider the infrequency of buses in their decision. This is especially important in Bicknacre, where the only bus service available; the 336 Essex Bus, runs approximately once every hour.

4.36 We reiterate that 23.6% of residents living in the Chelmsford 016A LSOA are over the age of 65 according to 2021 Census data compared with just 19.4% in the Chelmsford Local Authority and 18.3% in England as a whole. Further, 10.4% of residents in the Chelmsford 016A LSOA are aged 75 and over, compared to 9.2% in the Chelmsford Local Authority and 8.5% nationally.

4.37 We submit that this large proportion of local residents who are elderly are likely to find a 40-minute journey by foot difficult, especially along roads which lack any pavement either side of the road. We also submit that these residents may no longer drive or feel comfortable driving long distances despite owning a car, especially in cold/dark winter conditions. Thus, these residents are more likely to rely on travelling via public transport, which is highly infrequent. This should be kept in mind when considering patient journeys below.

4.38 **Patient Journeys**

4.39 Below we have outlined the patient journeys by foot, public transport, and car to access current pharmaceutical services. It must be noted that all pharmacy provision is in excess of a 3.6-mile round trip, which we cannot consider as representative of reasonable choice or sufficient access to pharmaceutical services for the residents of Bicknacre.

4.40 The ICB cast a wide net when considering which pharmacies were relevant to access and reasonable choice. They appear to consider that all pharmacies

within 5 miles were relevant. This is an entirely arbitrary distance, which is unusually large, with no connection to the relevant PNA's analysis.

4.41 We do not understand why the ICB would consider the distance to pharmaceutical services as the crow flies, when this does not reflect reality. We therefore wish to highlight that there are only four pharmacies within 5 miles of our client's proposed site as per Google Maps distances. However, assert that 5 miles is a completely unreasonable distance to evaluate accessibility to pharmaceutical provision.

4.42 **Boots Pharmacy (CM3 4QF)**

4.43 We have already detailed that the Boots Pharmacy is 1.8 miles away as per our client's supporting information.

4.44 This journey by foot would take at least 42-minutes one way, equating to a 1-hour and 24 minute round trip. We also highlight that there are no designated pedestrian walkways along this journey, including along Bicknacre Road, The Common, and Penny Royal Road, which ultimately renders the journey as impracticable by foot.

4.45 [See map page 1 Appendix C for Committee]

4.46 The journey by public transport first requires a 3-minute walk to The White Swan bus stop, then residents must travel along the 336 Essex Bus service for approximately 5-minutes with an additional 2-minute walk when alighting the bus. The journey itself takes approximately 10-minutes, equating to a 20-minute round trip. However, we reiterate that the 336 bus service operates hourly, and is thus highly infrequent. When we consider the return trip and waiting time, we reiterate that the total trip could take up to 1-hour and 20-minutes. Such a journey is clearly excessive and does not represent reasonable choice or sufficient access to pharmaceutical provision for residents of Bicknacre. It must be noted that this is the only available bus service, and thus residents have no choice but to utilise an infrequent bus service.

4.47 The journey by car can take up to 14-minutes. We reiterate that there is a high elderly population living at/near the proposed site aged 65 and above, particularly those aged 75 and above. This is especially pertinent when we consider that the surrounding roads such as Bicknacre Road to the north and the B1418 to the south are narrow and poorly lit, which can be an unpleasant journey for local residents especially in cold and dark winter months.

4.48 **Village Pharmacy (CM3 5NG)**

4.49 The next nearest pharmacy is the Village Pharmacy, which is located in South Woodham Ferrers, 3.5 miles away from our client's proposed site. To navigate to this pharmacy, patients must travel out of Bicknacre and along the Main Road/B1418, which also does not have any pedestrianised walkways. Thus, we cannot consider this pharmacy as practicable when assessing patient journeys by foot.

4.50 The journey by public transport can take up to 14-minutes one way, equating to a 28-minute round trip. Again, we reiterate that the 336 Essex Bus service is

the only available bus for residents living in Bicknacre. These residents could face having to wait up to 1 hour in the shivering cold on a winter's day – a daunting proposition for the high localised elderly population especially if already feeling unwell.

4.51 By car, the journey is 3.6-miles and can take up to 14-minutes at peak travel times. The B1418 road is unlit for large portions between Bicknacre and South Woodham Ferrers. This may deter some residents, particularly the elderly, from driving.

4.52 The pharmacy premises itself is small and not well signposted by virtue of its siting inside a One Stop Convenience Store, which may further reduce utilisation of the pharmacy. We submit that our client's application offers clear significant benefits in terms of access compared to this pharmacy.

4.53 **Govani Chemist (CM3 5TD)**

4.54 The Govani Chemist is also located in South Woodham Ferrers, 4.3 miles away from the proposed location. The journey by foot is 1 hour and 30 minutes one way, equivalent to a 3-hour round trip.

4.55 By public transport, the journey is up to 26-minutes along the hourly 336 Essex Bus service.

4.56 By car, the drive is 4.4-miles/14-minutes, equating to a 28-minute round trip. We do not consider these journeys as representative of sufficient access or reasonable choice to pharmaceutical services.

4.57 **Allied Pharmacy (CM3 5XB)**

4.58 Allied Pharmacy is nearby the Govani Chemist in South Woodham Ferrers; also 4.3 miles away from the proposed location. The journey by foot is 1 hour and 33-minutes one way, equivalent to over a 3-hour trip.

4.59 By public transport, the journey would take at least 23-minutes, and with the 336 bus leaving approximately every hour, this journey could take up to 1-hour and 23-minutes one way.

4.60 By car, the journey is 4.9-miles and can take up to 14-minutes, equating to a 28-minute drive in total.

4.61 **Summary of Patient Journeys**

4.62 We therefore reiterate that the current provision of pharmacy services fails to offer reasonable choice to the residents of Bicknacre due to the excessive distances involved. Granting our client's application would offer significant benefits in the form of better access to a full suite of pharmacy services.

4.63 We submit that accessible pharmacies within communities are important, now more than ever. With the advent 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. Pharmacies situated within communities among amenities that resident's

access as part of their daily lives, ultimately improve access to these services and reduce the burden on other parts of the health care network. We submit for Pharmacy First to be successful; pharmacies need to be accessible within communities.

4.64 For residents of Bicknacre, access to local pharmacies is difficult due to the distances involved and infrequent buses. This ultimately deprives the community of the potential for opportunistic healthcare.

4.65 **Dispensing Doctors**

4.66 We note that the ICB stated in their decision report that:

4.67 *"The overall provision of pharmaceutical services in Bicknacre is through an established pharmacy in Danbury and a dispensing practice in both Bicknacre and Danbury."*

4.68 However, The ICB failed to consider the fact that dispensing doctors are unable to offer the full range of pharmacy services.

4.69 As we have previously highlighted, the following services cannot be replicated by GPs:

4.69.1 Sale of P Meds and OTC medication

4.69.2 New Medicine Service (NMS)

4.69.3 Pharmacy First

4.69.4 Emergency Supply

4.69.5 Prescribing of medication under Patient Group Directions

4.70 We note that the inability to supply P Meds and OTC medications deprives the local population of important access to healthcare medicines. It also reduces the opportunity for wider clinical conversations with a pharmacist following the need for a P med – this is especially pertinent with the advent of Pharmacy First.

4.71 As the Essex PNA highlights, patients may also prefer to access these services at a pharmacy as opposed to their local GP; *"Community pharmacy is a socially inclusive healthcare setting providing a convenient and less formal environment for those who do not choose to access other kinds of health service"* (Essex PNA 2022-2025, pg. 75)

4.72 We also note that the lack of a community pharmacy has detrimental knock-on effects on GP services. As the Essex PNA (2022-2025) states:

4.73 "Community pharmacy is well placed to provide accessible screening services, support patients at earlier stages and provide interventions that will reduce the burden of these conditions on the person and health and social care services." (Essex PNA 2022-2025, pg. 59)

4.74 This move to clinical services and the sharing of health burdens with GPs has only progressed further over time. We note that in a recent press release on the new CPCF the government stated:

4.75 The greater range of services provided will not only improve access for patients, but also free up GP time and cut waiting lists by avoiding the need for people to book in to see their GP (https://www.gov.uk/government/news/new-services-for-patients-under-record-pharmacyfunding-deal)

4.76 This approach is also accepted by the GP groups which are objecting to our client's application. We note that the Beacon Health Group website signposts patients to Pharmacy First services and the Greenwood and Wyncroft Surgery website signposts patents to the pharmacy to obtain over the counter ear drops. This is demonstrative of the importance of NHS pharmacies within the local healthcare network (see attached webpages).[Pages 2- 4 of Appendix C for Committee]

4.77 Community pharmacy has moved beyond merely dispensing and instead offers a wider range of services and is directly aimed at easing pressure on GPs. Needless to say, dispensing doctors do not reduce the burden on GPs.

4.78 To dismiss these matters fails to recognise the full range of pharmacy services. For these reasons we do not believe that it is appropriate to consider a dispensing doctor as being entirely relevant to the question of access to pharmacy services.

4.79 For completeness we also wish to note some further limitations of the current dispensing doctors.

4.80 Wyncroft Surgery

4.81 The Wyncroft Surgery is located in Bicknacre but for the reasons outlined above is not able to provide the full range of pharmacy services or achieve all the aims of community pharmacy.

4.82 This surgery is located in a converted house in an otherwise residential area. We believe that any patient attending this site would be making a special journey merely to have medication dispensed.

4.83 By contrast, we highlight that our client's proposed site is near retail, postal and cosmetic services.

4.84 We add that this surgery is closed on Saturdays. Our client's application offers Saturday core opening hours. We submit that granting our client's application would enable pharmaceutical services, and indeed any healthcare services, to be accessed on Saturdays, which is particularly important for those residents who work, thus ensuring better access. This can be particularly important, when an emergency supply of medication is required.

4.85 **Danbury Medical Centre**

4.86 The journey to the Danbury dispensing doctor is longer than the journey to the Boots in Danbury. It takes around 44 minutes one way to walk and 14 minutes by bus, including 9 minutes of walking. We reiterate that this bus is hourly

making an average round trip journey of 1 hour 28 minutes. By car, the journey is 2 miles and takes up to 14 minutes.

4.87 From prior correspondence, we note that 1044 residents of Bicknacre are dispensing patients of the Danbury surgery. This is a sizeable minority of Bicknacre residents. We submit that as a consequence of the lack of appropriate healthcare capacity at Wyncroft Surgery, residents are forced to utilise the Danbury surgery, which is quite a journey away. This is further seen in a patient experience survey for the Greenwood & Wyncroft surgery where only 18% of surveyed users stated that they were able to speak to their preferred healthcare professional compared to the 38% average locally and 40% nationally(https://gp-patient.co.uk/patientexperience/results?code=F81674).

4.88 We also submit that this extra burden on the Danbury Surgery may also contribute to the 1.9 star rating on Google. We note that the common complaint appears to be that it is difficult to get appointments. We hypothesize that a contributing factor to this issue may well be that the surgery is overburdened by having to support out of town patients from Bicknacre where residents are unable to adequately access healthcare services at the Wyncroft surgery.

4.89 **Conclusion**

4.90 To conclude, the fundamental legal test of Regulation 18 is whether an application would secure better access or improvements to pharmaceutical services. On the evidence outlined above, we submit that granting our client's application would provide better access for those residents living in Bicknacre.

4.91 We reiterate that there are 2,859 patients within a 1.6km radius of our client's proposed location – surpassing the reserved location threshold of 2,750. This indicates that the local population is sufficiently large to warrant pharmaceutical services. Furthermore, the completion of housing developments is expected to bring the total number of residents to c. 3,500, further increasing the demand for pharmaceutical provision in Bicknacre.

4.92 As detailed above, patient journeys to pharmacies is not demonstrative of reasonable choice or sufficient access, especially when we consider that the nearest pharmacy is 1.8-miles away. Residents have no choice but to travel out of Bicknacre when seeking access to pharmaceutical services.

4.93 There is no pharmacy accessible by foot as both the Bicknacre Road to the north and the B1418 to the south lack any pedestrian walkways. When travelling by public transport, residents have no choice but to utilise the 336 Essex Bus service, which operates hourly. An hourly service is highly infrequent and does not represent reasonable choice to those reliant on public transport. Patient journeys by car to access pharmaceutical services require at least a 28-minute drive in total. The high localised elderly population, especially those aged 75 and above, may no longer drive or feel comfortable driving – especially along the poorly lit and narrow surrounding roads.

4.94 Dispensing doctors cannot replace the full range of services that Community Pharmacies offer. We also reiterate that reducing the burden on GPs is now a core role of Community Pharmacies, with clinical services within pharmacy becoming increasingly more important.

4.95 Granting this application would provide reasonable choice for residents of Bicknacre and enable better access to pharmaceutical provision for those groups who share protected characteristics.

4.96 We submit that Regulation 18 has been met and we invite NHS Resolution to grant our client's application."

4.97 [Enclosures:

4.97.1 Supporting information [see paragraphs 1.5 – 1.35 in the Application section above.]

4.97.2 Letter in response to 45 day comments to the Commissioner [see paragraphs 3.1 to 3.1.11 in Comments to Commissioner section above.]

5 Summary of Representations 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 representations.

This is a summary of representations received on the appeal.

5.1 NORTH AND SOUTH ESSEX LMCs

5.1.1 "Thank you for your letter dated 22nd September 20025, inviting representations on the appeal for the above pharmacy application for unforeseen benefits in Bicknacre.

5.1.2 Essex Local Medical Committee's (The LMCs) note that a significant proportion of the Applicant's appeal rests on its assertion that the ICB misdirected itself in its criterion to assess the application against Regulation 18.

5.1.3 In its consideration of the application (Regulation 18 (2)(b), the ICB concluded that:

5.1.3.1 There was no evidence that there is not already a reasonable choice regarding obtaining pharmaceutical services in the area of Essex HWB

5.1.3.2 There was no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services that meet their need in the area of Essex HWB.

5.1.3.3 There was no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services in the area and that granting of the application would not confer significant benefits to the area, which were not foreseen in the Essex 2022 -2025 PNA.

5.1.4 Bicknacre is in the Chelmsford locality of the Essex HWB. The 2025 - 2028 PNA, published in September 2025, identified there are no gaps in the provision of necessary or pharmaceutical services nor in the provision of necessary or relevant services in the HWB. The HWB were satisfied that the current provision of pharmaceutical services will be sufficient to meet the likely future needs of the residents during the three-year lifetime of the current pharmaceutical needs assessment:

5.1.5 *No gaps in the provision of necessary pharmaceutical services have been identified in the Chelmsford locality. No gaps in pharmaceutical services have been identified that if provided either now or in the future would secure improvements or better access to relevant services across the Chelmsford locality*

5.1.6 *Access to pharmaceutical services for the residents of Essex is good and the main conclusion of this PNA is that there are no gaps in the provision of necessary or relevant pharmaceutical services.*

5.1.7 *The PNA also looked at changes which are anticipated within the lifetime of the document, for example the predicted population growth. Given the current population demographics, housing projections and the distribution of service providers across the HWB area, this document concludes that the current provision will be sufficient to meet the likely future needs of the residents during the three-year lifetime of the pharmaceutical needs assessment.*

5.1.8 *The HWB has not identified any services that would secure improvements, or better access, to the provision of pharmaceutical services either now or within the 3-year lifetime of the pharmaceutical needs assessment.*

5.1.9 The LMC agrees with the conclusions reached by the ICB.

5.1.10 The appeals panel will have noted in previous submissions that medical services are provided to residents of Bicknacre from The Beacon Health Group and The Greenword and Wyncroft Surgery, both of which provide a dispensing service. Additionally, patients can access a range of services:

5.1.10.1 Full dispensing service

5.1.10.2 Dosette Box service for safe medication compliance

5.1.10.3 Delivery service of medications

5.1.10.4 A team of clinical pharmacists who provide expert medication management and support to patients

5.1.10.5 Annual medication review face to face

5.1.10.6 Full minor illness management, including all the services offered by Pharmacy First

5.1.10.7 Complete NHS vaccination service

5.1.11 Bicknacre is a typical rural village, with a limited range of amenities and employment opportunities. The application states that travelling 1.8km (around 1 mile) to the nearest pharmacy is difficult, but it is likely that residents will routinely travel outside of the area to access work, education and larger retail outlets.

5.1.12 The best estimate location of the pharmacy is in a controlled locality. In reaching a decision whether to refuse or grant the application, the Panel will need to consider if granting the application will prejudice the provision of medical services.

5.1.13 It is the view of the LMC that granting the application will prejudice the provision of medical services in Bicknacre, incurring a significant loss of dispensing patients to the practices, and resulting in significant loss of income. This will impact the delivery of essential medical services in the area, to the detriment of people living in Bicknacre.

5.1.14 There is no substantive evidence that residents of Bicknacre have difficulty in accessing pharmaceutical services or a range of other services outside of the village. The view of the LMC remains that there is no gap in the provision of pharmaceutical services in the area and the application for unforeseen benefits should be refused.

5.1.15 If the application is granted, the ICB will need to consider a period of gradualisation and the LMC would suggest a period of 12 months, to allow affected practices time to make whatever alterations to their working practices may be necessary, such as reducing stock holdings, possible redundancies and altering staff duties."

5.2 COMMUNITY PHARMACY ESSEX

5.2.1 "Thank you for inviting the committee's representations in respect of the above appeal. The committee notes that deadline for representations is 22nd October 2025 and trust that you will confirm safe receipt of this correspondence within the above deadline.

5.2.2 We append separately our initial comments to Mid and South Essex ICB with regard to this application, acknowledging that the information provided about bus routes is no longer current as some services have been decommissioned.

5.2.3 Our representations below are therefore solely in respect of the appeal document submitted by the appellant.

5.2.4 Population of Bicknacre

5.2.5 We welcome and acknowledge clarification that the population of Bicknacre exceeds that which would lead to consideration of a reserved location.

5.2.6 The appellant states that "… A loss of 'reserved location' status often invites unforeseen benefits applications under Regulation 18 due to there no longer being reasonable choice to provision"

5.2.7 However Bicknacre has not previously had 'reserved location' status therefore there is no loss.

5.2.8 Bicknacre is still a controlled locality, and pharmaceutical services provided by dispensing doctors are relevant in considering access: However the controlled locality has not been reviewed since August 2014.

5.2.9 We have therefore requested that the ICB conduct a review to determine whether Bicknacre is still rural in nature and should remain a controlled locality, or whether, as suggested by the appellant, this is no longer the case.

5.2.10 We would request that NHS Resolution await the outcome of this review prior to determining the appeal.

5.2.11 Patient journeys

5.2.12 The Essex Health and Wellbeing Board Pharmaceutical Needs Assessment (PNA) details travel times across the county, both driving and public transport journeys from Bicknacre to the nearest pharmacy are within the shorter (20 minute) acceptable duration.

5.2.13 The PNA acknowledges that walk times from rural villages to a pharmacy is likely to exceed 30 minutes and has mapped access to dispensing doctors in such locations. Again, Bicknacre has such access within a 20-minute walk.

5.2.14 The 5-mile radius referred to likely identifies pharmacies within the 20 minute drive/public transport journey described above, rather than a specific distance, however we note that "as the crow flies" is used for other distance purposes such as eligibility for dispensing doctor services.

5.2.15 Community Pharmacy Essex/ Essex Local Pharmaceutical Committee

5.2.16 We refute the allegation made by the appellant that we are "…inherently obliged to contest unforeseen benefits applications, in order to fulfil their responsibilities to current contractors.

5.2.17 Objection by the LPC is obligatory and thus comments should be read in such context" Community Pharmacy Essex considers all applications to the pharmaceutical list against the relevant regulations and the current Pharmaceutical Needs Assessment, and as a committee submits comments on applications. Committee members who may be affected directly or indirectly by an application are excluded from

discussions. Our suggestion that this application should be refused was on the basis that the applicant had not provided any evidence that residents in Bicknacre had any difficulty accessing pharmaceutical services.

5.2.18 Our comment regarding the provision of services relates to the specific information requested on the application form with regard to Advanced and Enhanced services, which has a footnote 5 (our emphasis) “Please note that enhanced services are those commissioned by NHS England or the relevant delegated integrated care board. Do not include services which are commissioned by the local authority/council or any other commissioner. “

5.2.19 The supervised consumption service, NHS Healthchecks service, needle exchange, emergency hormonal contraception and sexual health services are all local authority-commissioned services and should not therefore have been included in the table. We brought this to the attention of the Mid and South Essex ICB, however it was for them to consider whether this inaccuracy in completion of the form was a simple administrative error or a more concerning failure to follow written instructions.

5.2.20 We acknowledge our error in including a previous bus route which has now been decommissioned but feel the comment that “the LPC have already been incorrect on a few issues here” is at best inaccurate and is somewhat discourteous in tone.

5.2.21 We would again like to request that the outcome of the controlled locality review is awaited and made available in considering this appeal, and would wish to attend any oral hearing if so called.”

5.2.22 [Enclosed copy of letter to Commissioner dated 29 April 2025. See para 2.90 to 2.90.23 above.]

5.3 BOOT UK LTD

5.3.1 “Thank you for your recent correspondence regarding the above case.

5.3.2 We agree with the NHS ICBs decision to refuse this application. We stand by our comments originally submitted, a copy of which is enclosed.

5.3.3 With regard to the publication of the Essex 2025 PNA, we agree that this is the correct PNA to have regard to when determining this appeal.

5.3.4 Please be aware that Boots UK Ltd may wish to attend any Oral Hearing that may be required in connection with this application.”

5.3.5 [Enclosed copy of letter to Commissioner dated 23 April 2025. See para 2.88 to 2.88.9 above]

5.4 THE COMMISSIONER

5.4.1 “Please note that from the 1 April 2023, community pharmacy contracting and commissioning has been delegated to Integrated Care Boards (ICBs). Hertfordshire and West Essex (HWE) ICB are hosting the function on behalf of the six East of England ICBs. The six ICBs have formed one Pharmaceutical Services Regulation Committee (PSRC) which is also hosted by HWE ICB.

5.4.2 Having reviewed the grounds of appeal made by Healthcare Plus Consulting Ltd on behalf of Marra Healthcare Ltd (the Appellant), for premises at Monks Mead, Bicknacre, Chelmsford, CM3 4EU (Best Estimate), the HWE ICB remains of the opinion that this application should be refused.

5.4.3 The Appellant appears to be appealing on the following grounds:

5.4.3.1 The ICB misdirected itself as to Regulation 18 by failing to distinguish between need and better access

5.4.3.2 The ICB failed to consider the evidence showing a lack of access and reasonable choice

5.4.3.3 The ICB wrongly considered dispensing doctor services as interchangeable with that of a community pharmacy

5.4.4 In considering and determining the application and subsequent appeal, the ICB is of the opinion that the appeal should be heard with regard to the 2025-2028 Essex PNA as no grounds have been presented by the appellant to support an opinion that the only way its application can be determined, or its appeal heard justly, is by having regard to the 2022-2025 PNA.

5.4.5 The link to the latest PNA can be found here Pharmaceutical Needs Assessment (PNA) 2025-2028 | Essex Open Data

5.4.6 The ICB note that the 2025-2028 Essex PNA does not identify any gaps in the provision of pharmaceutical services, either within normal working hours or outside of them. It does not articulate any current or future needs for, or current or future improvements or better access to, a particular pharmaceutical service or pharmaceutical services in general. It states that “*Access to pharmaceutical services for the residents of Essex is good and the main conclusion of this PNA is that there are currently no gaps in the provision of necessary or relevant pharmaceutical services”*.

5.4.7 The PNA also looked at the predicted population growth and states: *“Given the current population demographics, housing projections and the distribution of service providers across the HWB area, this document concludes that the current provision will be sufficient to meet the likely future needs of the residents during the three-year lifetime of this pharmaceutical needs assessment.*

5.4.8 *The HWB has not identified any services that would secure improvements, or better access, to the provision of pharmaceutical*

services either now or within the 3-year lifetime of this pharmaceutical needs assessment". (PNA, Executive Summary, pages 11-13)

5.4.9 The ICB note that Bicknacre is within the Chelmsford Locality. In regard to the Chelmsford Locality the 2025-2028 Essex PNA states:

5.4.10 *"No gaps in the provision of necessary pharmaceutical services have been identified in the Chelmsford locality. No gaps in pharmaceutical services have been identified that if provided either now or in the future would secure improvements or better access to relevant services across the Chelmsford locality"*. (PNA, Chapter 6, page 62)

5.4.11 The Appellant states that "*the ICB misdirected itself as to Regulation 18 by failing to distinguish between need and better access*" and has provided two examples taken from the decision report, noting that the ICB asked *"does the **need** on which the applicant based its application satisfy the elements of Regulations 18(1)? (emphasis added)"* and "*There is no information provided to support a finding that pharmaceutical services are not currently provided at such times as **needed** and therefore the Committee were not satisfied that, having regard to the desirability of there being a reasonable choice with regards to obtaining services, granting the application would confer significant benefits (in relation to opening hours) on persons. (emphasis added)*". The ICB note that the wording used by the ICB in their decision is consistent with that used by NHS Resolution.

5.4.12 Regulation 18(1) and the NHS Act 2006 clearly states "improvements or better access" not "improvements and better access" or "better access and improvements".

5.4.13 **Population of Bicknacre**

5.4.14 The ICB note the comments made by the Appellant in regard to the patient figures of 2,859 exceeding the threshold of 2,750 of a reserved location resulting in the loss of the 'reserved location' status. (Page 3 of appeal document). As there is currently no pharmacy in Bicknacre there can be no reserved location. The ICB is therefore not sure of the relevance of this comment. As the number of individuals residing in the area within 1.6km of the relevant location, who are on a patient list, is more than 2,750 no reserved location can be determined.

5.4.15 The Appellant states "*We highlight that Bicknacre is not a rural area when we look at its population density. The Chelmsford 016A LSOA, which captures most of Bicknacre, has a population density of 847.4 residents per square kilometre. When we compare this to the population density for England (433.5 residents per square kilometre), we submit that Bicknacre is nearly twice as densely populated as England. Given its population density, there is no reason as to why the residents of Bicknacre should not have a pharmacy within walking distance."* (Page 4, appeal document).

5.4.16 Bicknacre is within a larger controlled locality. On 20 October 2025, the ICB received a request from Community Pharmacy Essex to review whether or not Bicknacre is to be, or to be part of, a controlled locality.

5.4.17 **Population Growth & New Housing Developments**

5.4.18 The ICB note the comments made by the Appellant in regard to new developments and proposals in Bicknacre which will '*ultimately increase the reliant population'*. The Appellant states that there are 42 new homes nearing completion as part of the Hawthorn Close development and a further proposed development on land west of Barbrook Way. The Appellant also states that 730 additional residents will be living in Bicknacre upon completion of the developments. (Page 3, appeal document).

5.4.19 The ICB considered the situation as it is now, not what the population size may be when (if) any new housing is completed and occupied.

5.4.20 As noted above, Bicknacre is included within the Chelmsford locality. The PNA takes into consideration the population of the Chelmsford locality as well as future population growth and future housing development and states: '*The impact of local housing development plans on provision of pharmaceutical services has been considered but has not identified any gaps in pharmaceutical services provision in the area during the lifetime of this PNA'*. (PNA, Chapter 6, page 62) Appendix G of the PNA, Housing Analysis Statement identifies a development in Chelmsford at the former Runwell Hospital site and then goes on to state that "*All significant developments have access to existing pharmaceutical services either in the locality or in the neighbouring localities and no gaps in the provision of pharmaceutical services are identified".*

5.4.21 As mentioned previously, the PNA states that *"No gaps in the provision of necessary pharmaceutical services have been identified in the Chelmsford locality. No gaps in pharmaceutical services have been identified that if provided either now or in the future would secure improvements or better access to relevant services across the Chelmsford locality". (PNA, Chapter 6, page 62).*

5.4.22 ***Current Service Provision***

5.4.23 *The Appellant states that 'there is currently no community pharmacy within Bicknacre. The nearest pharmacy is 1.8 miles away from our client's proposed site in Danbury. As previously highlighted, distance in itself is a barrier to access. Thus, we cannot consider a 3.6 mile round trip to access pharmaceutical provision as representative of reasonable choice or sufficient access'.*

5.4.24 *The Appellant also states, 'when we consider that the nearest pharmacy is a 42-minute walk away, we submit that residents of Bicknacre do not have an accessible pharmacy by foot, despite exceeding the reserved location threshold". The ICB note that the relevance of this statement is unclear. (Page 3, appeal document)*

5.4.25 *The ICB note the travel distance and time from the proposed best estimate within Bicknacre to the nearest pharmacy, Boots Pharmacy, Eves Corner, Maldon Road, Danbury, CM3 4QF by car, bus, and walking which is set out below:*

Method of Transport	Distance	Time taken
Car	1.8 miles	5 mins
Bus	1.8 miles	10 mins
Walking	1.7 miles	41 mins

5.4.26 **Appendix 1** provides illustrated maps of these journeys. [See page 4 – 5 of Appendix D for Committee.]

5.4.27 Access to pharmaceutical services was considered within the PNA 2025-2028 and travel times analysed. (PNA, Chapter 6, page 53). The Essex Health and Wellbeing Board (HWB) noted the following:

5.4.27.1 99.9% of the Essex population could get to a pharmacy in a 20-minute drive.

5.4.27.2 93% (Weekday Morning) within a 30-minute public transport journey.

5.4.27.3 83% within a 20-minute walk. Residents have to travel for longer if they walk.

5.4.27.4 12% over 30-minute walk away.

5.4.27.5 Chelmsford residents can drive to a pharmacy within 20 minutes.

5.4.27.6 Most residents can get to a pharmacy within a 20-minute journey on public transport in most districts. However, some districts see a relatively high % of their population having to travel for longer (Braintree, Maldon, Uttlesford 20-30 minutes; Braintree, Epping Forest, Uttlesford over 30 minutes.)

5.4.27.7 Most residents can get to a pharmacy within 20-minute walk in most districts. Some districts however see a relatively higher % of their population that'd have to walk further (Braintree, Brentwood, Uttlesford 20-30 minutes; Braintree, Maldon, Uttlesford over 30 minutes).

5.4.28 The PNA states *"Travel time to access pharmaceutical services are no longer than journey times to access key services as shown in section 6 of this report".*

5.4.29 *From the results of the public survey (Appendix E) 82% of residents stated that they had a less than 20 minutes travel to the pharmacy, 12% had travelled between 20-30 minutes, and 4% had travelled between 30-45 minutes.*

5.4.30 *60% made the trip by car, and 51% had travelled on foot—only 5% travelled by bicycle, 3% by public transport and 1% by taxi.*

5.4.31 *Chelmsford residents also have access to dispensing doctors, pharmacies in neighbouring HWB areas and distance selling pharmacies in England. Analysis of dispensing flows in the Mid Essex CCG area shows that 89% of prescriptions generated in the CCG are dispensed within the area and 11% out of area including distance selling pharmacies. (PNA, Chapter 6, page 53).*

5.4.32 The residents of Bicknacre currently receive medical services from local GP practices in the surrounding area. Dispensing data from the nearest pharmacy (Boots in Danbury) suggest that patients are being prescribed medicines from Beacon Health Group, Danbury and Wyncroft Surgery in Bicknacre. As patients are travelling to these GP practices for medical services, they are likely to be able to access pharmaceutical services on route to or from their GP Surgery or anywhere else they may be travelling from.

5.4.33 The data below for June 2025 shows the top 10 dispensers for prescriptions dispensed by three of the four pharmacies that are within 5.1* miles of the proposed estimated site. No information was available on the SHAPE tool for Village Pharmacy FR792.

5.4.34 [Data (taken from SHAPE tool) – see page 1 of Appendix D for Committee.]

5.4.35 For Boots, Danbury, 81.0% of their dispensing activity is generated from Beacon Health Group Danbury and 13.6% from Wyncroft Surgery, Bicknacre. For Giovanni Chemist, 1.2% of their dispensing activity is generated from Beacon Health Group Danbury and 37.2% from Wyncroft Surgery, Bicknacre. For Allied Pharmacy, 1.2% of their dispensing activity is generated from Beacon Health Group and 38.3 % from Wyncroft Surgery.

5.4.36 In June 2025, the Wyncroft Surgery dispensed 12.4% of the 14,354 items it prescribed; the Danbury Medical Centre (Beacon Health Group) dispensed 17.9% of the 42,519 items prescribed.

5.4.37 [Data (taken from SHAPE tool) – see page 1 of Appendix D for Committee.]

5.4.38 From the data above, Govanni Chemist and Allied Pharmacy in South Woodham Ferrers and Boots in Danbury remain the top dispensers of prescriptions of the Beacon Health Group and Wyncroft Surgery.

5.4.39 The data above shows that patients are accessing a number of different pharmacies including distance selling pharmacies (DSPs). Whilst the ICB recognises that DPSs are not the preference for all patients, some residents will choose to obtain their services from this type of contractor as not all essential services and advanced services require face to face contact at the pharmacy premises.

5.4.40 The ICB notes that the test is whether or not those living in Bicknacre have reasonable choice with regard to obtaining pharmaceutical services in the area of Essex HWB, not in the village of Bicknacre. There is no evidence to suggest that patients in Bicknacre are having difficulty

accessing pharmaceutical services. Overall, the data demonstrates that the residents of Bicknacre are exercising their right to choose where they have their medications dispensed and how they access wider pharmaceutical services which may be closer to where they live, work, go for their weekly food shopping, participate in leisure facilities, take their children to school or for other reasons. Some patients may choose to access pharmaceutical services in a neighbouring HWB.

5.4.41 The Appellant states that the ICB failed to consider the infrequency of buses in their decision and goes on to state *"this is especially important in Bicknacre, where the only service available; the 336 Essex Bus, runs approximately once every hour"*. (Page 4, appeal document)

5.4.42 The ICB note the public transport provision as shown on SHAPE: [See Map (taken from *SHAPE Atlas, © Copyright HM Government. 2023)*) – see page 2 of Appendix D for Committee.]

5.4.43 The Bicknacre area has one main provider of bus services to Danbury, Maldon and South Woodham Ferrers. Buses stop in the near vicinity, i.e. between 6 and 9 minutes' walk from the proposed estimated location. The buses run hourly throughout the day in both directions linking Danbury, Chelmsford and South Woodham Ferrers from Monday to Sunday each week. See **Appendix 2** for timetable. [See timetable - see page 6 of Appendix D for Committee.]

5.4.44 [See map (Taken from FirstBus Essex website 2025) © 2025) – see page 3 of Appendix D for Committee.]

5.4.45 The Appellant states that they do not consider car access to the nearest pharmacy, Boots in Danbury CM3 4QF, approximately 7 minutes each way (14 minutes round trip) as sufficient access. The ICB notes that the Essex PNA uses a 20-minute one way car journey as acceptable, and these journeys are well within this.

5.4.46 Census data shows car ownership is high in Bicknacre with 6.8% of households who do not have access to a car compared to 23.5 nationally, and 65.3% of households who have access to two or more vehicles compared to 35.2% nationally.

5.4.47 **Patient Journeys**

5.4.48 The Appellant states that "*it must be noted that all pharmacy provision is in excess of a 3.6-mile round trip, which we cannot consider as representative of reasonable choice or sufficient access to pharmaceutical services for the residents of Bicknacre"*. (Page 4, appeal letter).

5.4.49 The ICB is satisfied that 99.9% of the population is within a 20-minute drive of a pharmacy and 93% within 30 minutes by public transport. This appeal seems to be a challenge to the reasonableness of the PNA and the ICB invites NHS Resolution to determine the appeal by dismissing it under paragraph 2, Schedule 3.

5.4.50 Regulation 18(2)(i) requires the ICB to have regard to the desirability of there being a reasonable choice with regard to obtaining pharmaceutical services in the area of Essex HWB. It is therefore appropriate to consider the location of other pharmacies within Essex HWB's area.

5.4.51 The Appellant has provided information on patient journeys by foot, public transport and car to the nearby pharmacies and has made statements such as:

5.4.51.1"*we reiterate that there is a high elderly population living at/near the proposed site aged 65 and above, particularly those aged 75 and above. This is especially pertinent when we consider that the surrounding roads such as Bicknacre Road to the north and the B1418 to the south are narrow and poorly lit, which can be an unpleasant journey for local residents especially on cold and dark winter months*".

5.4.51.2"*We reiterate that the 336 Essex Bus service is the only available bus for residents living in Bicknacre. These residents could face having to wait up to 1 hour in the shivering cold on a winter's day – a daunting proposition for the high localised elderly population especially if already feeling unwell*".

5.4.51.3*"This journey by foot would take at least 42-minutes one way, equating to a 1-hour and 24 minute round trip. We also highlight that there are no designated pedestrian walkways along this journey, including along Bicknacre Road, The Common, and Penny Royal Road, which ultimately renders the journey as impracticable by foot".* (Pages 5 and 6 appeal document).

5.4.52 The ICB note that having a longer journey on foot, or an hourly bus service does not equate to the conclusion the Appellant has made that this means there is not reasonable choice. The HWB has noted within the PNA, the time it takes to access the pharmacies on foot, by car and by public transport and was of the opinion that there are no current or future gaps in the provision of pharmaceutical services.

5.4.53 For people travelling by public transport there are services available. Bus services may not be frequent however for people who use public transport, they will be aware of the services and times. The Appellant has not provided any evidence to demonstrate that those who use public transport are currently experiencing difficulty in accessing the existing pharmaceutical provision in the area of the HWB.

5.4.54 The ICB is aware that the number 36 First Essex bus service that used to run through Bicknacre appears to have been discontinued sometime after 2020. When in service the 36 and current 336 bus routes offered a total of 29 buses a day Monday to Friday between 9am and 6pm and 5 buses on Saturday between 9am – 1pm. The ICB is not aware of why the 36 First Essex bus service is no longer operational however it might be assumed that 29 buses a day was considered excessive due to lack of need and/or not commercially viable.

5.4.55 In their summary of patient journeys, the Appellant states "*For residents of Bicknacre, access to local pharmacies is difficult due to the distances involved and infrequent buses. This ultimately deprives the community of the potential for opportunistic healthcare.*" (Page 7, appeal document) The ICB note that no evidence has been provided to support this statement.

5.4.56 Whilst it is accepted that there would be people with protected characteristics living in the Bicknacre area and that some may need pharmaceutical services as a result, there is no evidence that any specific groups have any difficulty accessing such services. Patients are exercising their choice of where to have their prescriptions dispensed as identified in the dispensing activity within this document. Those people who do not or cannot travel by foot have the choice to access pharmaceutical services via private transport (e.g. car) or by public transport (e.g. bus) or a mixture of both.

5.4.57 People accessing pharmaceutical services are accustomed to not having a pharmacy in the proposed estimated location and there is no evidence that they are unable to access alternative pharmaceutical services or are struggling to access pharmaceutical services from other pharmacies. Patients are more likely to access pharmaceutical services either after a visit to their GP surgery from their home or work or whilst going about their daily activities. The ICB has not received any concerns, reports or complaints from patients who are unable to access pharmaceutical services or their medication.

5.4.58 It is to note that the test is whether there is reasonable choice with regards to pharmaceutical services in the area of the relevant HWB. It is not reasonable choice within one small part of the HWB.

5.4.59 **Dispensing doctors**

5.4.60 The Appellant states that "the ICB wrongly considered dispensing doctor services as interchangeable with that of a community pharmacy". (Page 1, appeal letter).

5.4.61 When assessing if there is reasonable choice, regulation 18(2)(b) requires the ICB to have regard to the pharmaceutical services provided by those included in the relevant pharmaceutical list, and not by those included in the relevant dispensing doctor list.

5.4.62 The ICB note that there is a dispensing practice in Bicknacre and Danbury but this was not a factor in the decision to refuse the application.

5.4.63 The Appellant states that the ICB failed to consider the fact that dispensing doctors are unable to offer the full range of pharmacy services. (Page 7, appeal document).

5.4.64 The ICB note that patients have access to services that are similar to the new medicines service and Pharmacy First which are provided under the medical contract.

5.4.65 **Regulation 18(1)(b)**

5.4.66 The ICB agreed that the improvements or better access that the applicant is claiming would be secured by its application, were not included in the relevant PNA in accordance with paragraph 4 of schedule 1.

5.4.67 The ICB further agreed that in order to be satisfied in accordance with Regulation 18(1), regard is to be had to those matters set out at Regulation 18(2).

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

5.4.69 The ICB noted that there are no reports of people being unable to obtain their medicines or access pharmaceutical services.

5.4.70 The ICB considered all the information and data presented to it and noted that patients are using a wide range of pharmacies for their pharmaceutical needs, and therefore patients are exercising their choice. The overall provision of pharmaceutical services was through using those established pharmacies already being utilised by those living in the Bicknacre area.

5.4.71 No evidence had been provided to demonstrate that those living in Bicknacre, are currently unable to exercise a choice in obtaining pharmaceutical services across the HWB.

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

5.4.73 The ICB were 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 in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published.

5.4.74 Whilst it was accepted that there would be people with protected characteristics living in Bicknacre and that some may need pharmaceutical services as a result, there was no evidence that any specific groups had any difficulty accessing such services or that services specific to their needs are not being provided by existing pharmacies.

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

5.4.76 The ICB noted the applicant provided no evidence regarding innovative approaches in the delivery of pharmaceutical services, therefore were 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 in the area of the relevant HWB which were not foreseen when the Essex PNA 2025-2028 was published.

5.4.77 **Conclusion**

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

5.4.79 There is no evidence to suggest that there is a gap in pharmaceutical services for Bicknacre and that patients are having difficulties in accessing pharmaceutical services.

5.4.80 We appreciate there may be some convenience in having a new pharmacy, however this is different to one conferring significant benefit. Our priority is ensuring patients can access pharmaceutical services.

5.4.81 The regulatory requirements to identify an unforeseen benefit not in the PNA accompanied by the significant benefit considerations is a high threshold. We respectfully suggest that this appeal is without any substantive new or compelling evidence. We petition NHS Resolution to refuse the application as granting it will not confer significant benefits that were not foreseen when the PNA was published."

6 Observations

6.1 NORTH AND SOUTH LMCS

6.1.1 "Thank you for your letter dated 3rd November 2025, inviting any further comments regarding the appeal of the above application.

6.1.2 The LMC has no additional comments at this stage but notes that Community Pharmacy Essex (CPE) has requested the ICB to review the rurality status of Bicknacre, which is currently classified as "controlled in character." The ICB has advised that, due to organisational restructuring, it is unlikely to complete the rurality review within the six-month regulatory timeframe and anticipates that the process may take up to twelve months from the date of the request.

6.1.3 In its submission to the appeal, CPE has asked that NHS Resolution defer its determination pending the outcome of the ICB's rurality review of Bicknacre. This would be consistent with both the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 and the associated NHS England guidance, which require that routine applications potentially affected by a controlled locality determination be deferred until that determination (and any appeals arising from it) are complete. Although this duty formally applies to NHS England as the commissioner, NHS Resolution generally follows the same principle to ensure that appeal decisions are based on the correct locality classification.

6.1.4 It is therefore unusual and concerning that an ICB should defer a rurality decision for such an extended period. The LMC supports CPE's position that no determination should be made on the appeal until the ICB has concluded its review of Bicknacre's rurality."

6.2 THE COMMISSIONER

6.2.1 “Thank you for your letter of 3 November 2025.

6.2.2 Mid & South East Essex ICB have nothing to add in relation to the refusal of the application. The ICB has demonstrated in our representations that there is no evidence to suggest that there is a gap in pharmaceutical services for Bicknacre. There is no evidence that patients are having difficulties in accessing pharmaceutical services. The ICB remain of the opinion that the application should be refused.

6.2.3 In regard to the request from Community Pharmacy Essex (CPE) to undertake a controlled locality review you asked for an indication as to when such a decision could be made. We provided the following response:

6.2.4 “*On 20 October 2025, the ICB received a request from Community Pharmacy Essex to review whether or not Bicknacre is to be, or to be part of, a controlled locality. In line with the regulations, we are required to make a determination 6 months after notifying interested parties however, noting the request was only made on 20th October, and we are also going through a restructure which will impact on resources, the timeframe is likely to be significantly longer. By the time it is considered and reviewed by our PSRC, and all of the necessary preparation completed it could potentially be 12 months before the review is completed*.”

6.2.5 We would like to provide an example of a recent request for a controlled locality review made by CPE to highlight the timeframe involved in determining a controlled locality.

6.2.6 The ICB received a letter from CPE on 5 June 2024 requesting a review of controlled localities within three areas in Essex following the submission of an unforeseen benefits application. As a result of this request the application, which was received on 21 February 2024, was deferred pending the outcome of the review. The controlled locality review of all three areas was completed on 3 September 2025. The application is being heard at the Pharmaceutical Services Regulation Committee on 19 November 2025, some twenty one months after submission to the ICB. We hope this provides some context in terms of timings for the review of a controlled locality.”

6.3 HEALTHCARE PLUS CONSULTING LTD REPRESENTING THE APPLICANT

6.3.1 “Thank you for your letter dated 3rd November 2025. We note the responses made by interested parties on my client’s appeal and respond accordingly here.

6.3.2 **Boots**

6.3.3 Boots have not provided any further comments on our client’s application. While they have reattached their previous comments, we submit that these were addressed in our client’s previous correspondence and have not been disputed since.

6.3.4 For clarity, they did not dispute that the current population of Bicknacre is 2,859 patients, and therefore exceeds that of a reserved location.

6.3.5 They did not dispute that their pharmacy in Danbury is 1.8 miles away from our client's proposed site.

6.3.6 They did not dispute that the dispensing GP practice does not offer the full range of pharmaceutical services that a community pharmacy provides and thus cannot be considered as a reasonable choice to pharmaceutical provision.

6.3.7 We also reiterate that patient testimonies are not required, rather the legal test to meet Regulation 18 is whether NHS England is satisfied that granting the application *"would secure improvements, or better access, to pharmaceutical services"*. We submit that the regulations explicitly emphasise the *"desirability of"* the considerations of Regulation 18(2)(b)(i), (ii), and (iii), 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.

6.3.8 In light of this, we reiterate that granting our client's application would indeed secure improvements or better access to pharmaceutical services, particularly when considering that Bicknacre is deprived of a community pharmacy.

6.3.9 **Patient Survey** [Appendix E for Committee]

6.3.10 Nevertheless, our client has conducted a patient survey among the local population to gain a better understanding regarding access to pharmaceutical services. The initial findings are as follows:

6.3.10.1 75% agreed that a pharmacy is needed in Bicknacre

6.3.10.2 81% would support the opening of a pharmacy in Bicknacre

6.3.10.3 44% walk to their GP Surgery, compared to 22% to the pharmacy

6.3.11 From the findings above, we submit that the majority of those surveyed both support a new pharmacy and agree that a pharmacy is needed within Bicknacre.

6.3.12 We highlight that the main difficulties that patients are currently experiencing when accessing pharmaceutical provision are:

6.3.12.1 Capacity issues at pharmacies and GP surgeries

6.3.12.2 Parking difficulties at pharmacies and GP surgeries

6.3.13 We submit that residents also highlight concerns surrounding the growing population and pressures on existing services that will undoubtedly increase directly as a result of this growth.

6.3.14 **Capacity Issues**

6.3.15 **Boots Pharmacy**

6.3.16 We submit that the Boots Pharmacy in Danbury is not only serving its own population, of which there are c. 5,200 residents, but also the reliant populations of the surrounding areas – including Bicknacre (2,859 residents). It is therefore unsurprising that the pharmacy is described as below:

6.3.16.1 *"I can't bear going in there, it's so busy and you wait ages to be seen."* – Survey 3

6.3.16.2 *"The wait for prescriptions and appointments in Danbury is unacceptable. When needed most, the pharmacist is busy with other customers needing his attention. The staff also have this issue and always have to deal with long queued waiting for assistance, most probably due to serving those who do not live in Danbury."* – Survey 16

6.3.16.3 *"Because the people in Bicknacre have to travel to Danbury to our Boots it is very small, the parking is awful, if another pharmacy where to take some of the load this would only be a good thing"* – Survey 28

6.3.17 We can see that the pharmacy is described as *"so busy"* with long queues, and wait times are *"unacceptable"*. Even the fact that a resident states *"I can't bear going in there"* cannot be deemed acceptable within a community pharmacy setting, and therefore does not constitute a reasonable choice to pharmaceutical provision. Clearly, the Boots Pharmacy in Danbury is unable to cope with serving the reliant population. Thus, as concluded by the resident in Survey 28, granting our client's application would reduce the burden on this pharmacy and provide better access to pharmaceutical services. This directly meets the criteria of Regulation 18.

6.3.18 **GP Surgery**

6.3.19 We also submit that the reasons given for opening a pharmacy within Bicknacre reveal the increasing pressures on the GP Surgery.

6.3.19.1 *"Local service could help the load of the GP surgery"* – Survey 1

6.3.19.2 *"Take pressure of the doctors"* – Survey 6

6.3.19.3 *"The support and advice available from a pharmacist. Relieving the Dr's somewhat…"* – Survey 12

6.3.20 As a result of the distance to current pharmaceutical provision, we submit that residents are more likely to rely on accessing healthcare provision by utilising GP services. In turn, this increases pressures on GPs. This does not align with the vision of the NHS Long Term Plan, which seeks to increase the role of community pharmacies to alleviate pressures on GPs. This is especially pertinent in the context of Pharmacy First. Pharmacies are no longer just dispensers but are being tasked with providing a number of minor ailments services through the Pharmacy First scheme and playing an important role in accessing professional advice so people can lead healthier lives. Thus, we submit that, while some patients may do so, they are no longer exclusively accessing clinical services through GP visits due to the wider range of services offered by community pharmacies. Hence, granting this application would confer significant benefits within Bicknacre.

6.3.21 Notably, there is a 50% reduction in the number of residents walking to the pharmacy compared to those walking to their GP. This clearly indicates that residents have no choice but to travel by car when accessing pharmaceutical services. In fact, this is also supported by the responses received:

6.3.21.1 *"whilst I don't need it now in the future if unable to drive it would be extremely difficult to access Danbury or south woodham with the appalling public transport offering the village has."* – Survey 15

6.3.21.2 *"Need to drive car as impossible to walk or go by public transport"* – Survey 33

6.3.21.3 *"Have to drive and park which is difficult*" – Survey 35

6.3.22 We do not consider being forced to drive to access pharmaceutical services as constituting a reasonable choice. When we consider that Bicknacre is a densely populated area, there is no reason as to why a pharmacy should not be accessible by foot, public transport and car, we submit that two of these methods of transport being described as *"impossible"* does not represent a reasonable choice by way of accessing pharmaceutical provision.

6.3.23 We also note that one patient noted the lack of OTC and other pharmacy products at the GP:

6.3.23.1 *"Ease, save on travel/petrol, ability to purchase other products that may be needed for children in particular."* – Survey 24

6.3.24 This further highlights the inability of GPs to act as a replacement for a pharmacy.

6.3.25 **Parking Difficulties**

6.3.26 Not only are residents forced to drive to access pharmaceutical provision, but when reaching the pharmacy, the patient survey reveals residents expressing difficulties with parking at both the pharmacy and GP surgeries.

6.3.26.1 *"Danbury pharmacy also has parking issues."* – Survey 12

6.3.26.2 *"I only have one option to go to boots pharmacy in Danbury where parking is dismal."* – Survey 21

6.3.26.3 *"Parking is very limited to an extent where I've had to go back home and try again."* – Survey 21

6.3.26.4 *"My GP is bicknacre/south woodham sometimes I have to drive back home and walk to the pharmacy as parking is terrible..."* – Survey 27

6.3.27 We highlight that the Boots Pharmacy in Danbury is considered to be the *"one option"* for not only the above resident, but 78% of residents as per the survey. In fact, the parking is so dire, that the scenario of driving to the pharmacy, then driving back home and going back to the pharmacy is in fact a real-life problem. When we consider that this situation has occurred on more than one occasion for more than one resident, we submit this cannot be considered as acceptable access nor constitute reasonable choice to pharmaceutical provision. It is therefore very evident that a pharmacy at the proposed site would provide better access to pharmaceutical services.

6.3.28 When residents were asked if they struggle in any way to access their GP, they also added:

6.3.28.1 *"never any car parking spaces"* – Survey 5

6.3.28.2 *"Parking capacity is often a problem. Especially when just picking up medication"* – Survey 12

6.3.29 The resident from Survey 12 highlights parking difficulties *"especially when just picking up medication*". While it is simple for one to dismiss the provision for a new pharmacy due to the presence of a dispensing GP practice, the survey reveals that there is indeed an underlying need for better access to pharmaceutical services.

6.3.30 Therefore, while residents may be travelling by car, we submit that such limited parking poses significant difficulties when accessing pharmacy and GP services. We would also like to reiterate that our client's proposed location has ample free parking availability directly outside.

6.3.31 **Growing Population & Housing Developments**

6.3.32 We submit that local residents have expressed concerns regarding the population growth driven by new housing developments in Bicknacre and the resulting implications for the capacity and of local services.

6.3.32.1 *"The village is growing each year and our services are stretched already without more houses being built"* – Survey 5

6.3.32.2 *"Growing population not sufficiently served"* – Survey 8

6.3.32.3 *"Provide closer service for an expanding village"* – Survey 33

6.3.33 At present, patients reveal that the growing population is *"not sufficiently served"* and the *"services are stretched already without more houses being built"*.

6.3.34 It is undisputed that 42 homes were built as part of the Hawthorn Close development – with the majority of these now occupied. It is also undisputed that Welbeck Land have proposed a development of up to 250 new homes within Bicknacre, which will increase the reliant population to c. 3,500 residents upon completion.

6.3.35 When we consider the large reliant population currently accessing pharmacy and GP services in and around Bicknacre, we submit that it would not be unreasonable to conclude that an increase in housing developments will ultimately place further pressure on these existing services. Thus, the need for a new pharmacy will only increase, and we urge the Committee to grant our client's application to support the needs of Bicknacre's growing community.

6.3.36 **Patient Survey Summary**

6.3.37 To summarise, we submit that the above insights clearly reveal that Bicknacre's population require better access to pharmaceutical provision.

6.3.38 We submit that, when combined with the growing population, the strain on existing pharmacy and GP services, the limited parking availability, and the absence of an accessible pharmacy within walking distance or via public transport, this situation does not constitute a reasonable choice for pharmaceutical provision.

6.3.39 We can see that 78% of patients surveyed utilise pharmaceutical services at the Boots Pharmacy in Danbury, and thus reiterate that this pharmacy is undoubtedly under pressure due to serving a large reliant population. As per the Commissioner's documents detailing the distances and opening hours of alternative pharmacies, we submit that the next nearest pharmacy from our client's proposed site after the Boots in Danbury is more than double the distance to the Boots – Village Pharmacy, 3.7 miles away.

6.3.40 Therefore, based on the evidence presented alone, we submit that our client's application would provide better access to pharmaceutical services, and therefore should be granted.

6.3.41 **Community Pharmacy Essex**

6.3.42 In response to there being no evidence of difficulty, we reassert that it is not a regulatory requirement to present patient testimonies, however, we echo the findings from the survey above.

6.3.43 We are pleased that the LPC also accept that Bicknacre is not within a reserved location.

6.3.44 The Committee will be aware that an area is typically classified as a 'reserved location' if the number of individuals on all patient lists within

a 1.6km radius of the proposed pharmacy premises is less than 2,750 people.

6.3.45 As Bicknacre's population was 2,270 as per 2011 Census, we can see this figure was well within the reserved location threshold. However, now that Bicknacre has a population of 2,859 patients residing within a 1.6km radius of our client's proposed location, we submit that that [sic] it is no longer classified as a 'reserved location'. We reiterate that a loss of 'reserved location' status often invites unforeseen benefits applications under Regulation 18 due to there no longer being reasonable choice to provision.

6.3.46 While not all said applications will necessarily be granted, there is a clear population and distance criteria which would prompt an application under Regulation 18.

6.3.47 We disagree with the suggestion that pharmaceutical services provided by dispensing doctors are relevant in considering access as per previous correspondence. To reiterate, the LPC did not dispute that the following services cannot be replicated by GPs:

6.3.47.1 Sale of P Meds and OTC medication

6.3.47.2 New Medicine Service (NMS)

6.3.47.3 Pharmacy First

6.3.47.4 Emergency Supply

6.3.47.5 Prescribing of medication under Patient Group Directions

6.3.48 We reiterate that the inability to supply P Meds and OTC medications deprives the local population of important access to healthcare medicines. It also reduces the opportunity for wider clinical conversations with a pharmacist following the need for a P med.

6.3.49 We are pleased that the LPC also acknowledge the error made with regard to the public transport service. While they assert that the service is still adequate, we echo the responses received from the patient survey above which describe public transport in Bicknacre as both *"appalling"* and *"impossible"*. This is also reflected in the survey which revealed that no residents use public transport to access pharmaceutical services, clearly indicating that this service does not represent a choice at all among the local population when accessing pharmaceutical services.

6.3.50 **Hertfordshire and West Essex (HWE) ICB**

6.3.51 In response to the comment of there being no evidence of difficulty, we assert that it is not a regulatory requirement to present patient testimonies, however, we echo the findings from the patient survey above.

6.3.52 In response to the difference between 'need' and 'better access', the ICB state they are using the wording consistent with NHS Resolution. We reiterate Section 129(A) of the NHS Act 2006 below:

> *(2A) NHS England is satisfied as mentioned in this subsection if, having regard to the needs statement for the relevant area and to any matters prescribed by the Secretary of State in the regulations, it is satisfied that to grant the application would—*
>
> *(a)meet a need in that area for the services or some of the services specified in the application, or*
>
> *(b)secure improvements, or better access, to pharmaceutical services in that area*

6.3.53 While we reassert that the Regulation 18 ultimately speaks to *'improvements'* **or** *'better access'*, we highlight that 75% of respondents agreed that a pharmacy is *needed* within Bicknacre. For the avoidance of doubt, we submit that this question is distinct from merely asking if residents would be *supportive* of the application. The question of whether residents would support the application was asked separately, to which 81% of respondents answered that they would. Thus, it is very clear from the patient survey that a pharmacy is indeed needed in Bicknacre in addition to the opportunity to provide better access to pharmaceutical services.

6.3.54 Despite the ICB citing levels of car ownership, it is very clear from the findings of the patient survey that regardless of car ownership, some residents find it difficult to access pharmaceutical provision due to the lack of parking availability at both pharmacies and GP surgeries.

6.3.55 We refute the ICB's suggestion that our client's application should be dismissed under paragraph 2, Schedule 3 of the Regulations. We note that at no point is the reasonableness or legality of the Pharmaceutical Needs Assessment called into question. We also note that the Appeals Committee has already proceeded to notification of the appeal.

6.3.56 With regard to the new PNA, the Committee will be aware that Regulation 22(2) defines the relevant PNA in certain circumstances.

> *22(2)(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;*

6.3.57 We note that representations in the present application and the ICB decision have been made in light of the Essex PNA 2022-2025. Therefore, to the extent that the Appeals Committee considers the new PNA, it would be making a first instance determination without the benefit of the ICB's thoughts or full representations from all parties.

6.3.58 However, we note that Regulation 18(1) is satisfied as the proposed pharmacy providing better access or improvement remains unforeseen in the Essex PNA (2025-2028). Furthermore, we submit that all matters discussed in previous representations remain relevant and sufficient to demonstrate improvements or better access to pharmaceutical services as required by Regulation 18.

6.3.59 Briefly we note the following key points which remain relevant:

6.3.59.1 The overarching question remains whether the application would secure improvements or better access

6.3.59.2 Bicknacre has exceeded the population of a reserved location

6.3.59.3 Bicknacre's population growth is set to continue

6.3.59.4 Current journeys are not representative of reasonable choice and would be significantly improved upon by the present application

6.3.59.5 Dispensing doctors are unable to replace the full range of pharmacy services

6.3.60 For these reasons, notwithstanding the patient survey conducted, we submit that in any case the present application must be granted.

6.3.61 **North & South Essex Local Medical Committee (LMC)**

6.3.62 In response to there being no evidence of difficulty, we assert that it is not a regulatory requirement to present patient testimonies, however, we echo the findings from the patient survey above.

6.3.63 As outlined above, we reiterate that dispensing doctors are unable to offer the full range of pharmaceutical services. Further, the patient survey indicates that existing GPs are under significant pressure. We reiterate that community pharmacies have evolved beyond merely dispensing to provide a wider range of services designed to alleviate strain on GPs. In contrast, dispensing doctors do not contribute to reducing the burden on GPs.

6.3.64 We disagree with the LMC's view that Bicknacre is a typical rural village. As highlighted in previous correspondence, Bicknacre has a population density of 847.4 residents per square kilometre – nearly twice as densely populated as England (433.5 residents per square kilometre). This is undisputed among all parties. We also highlight that Danbury is served by a community pharmacy while having a population density of 438.2 residents per square kilometre – only slightly above England. When we consider that the population density of Bicknacre is nearly double the average for England and Danbury, we reiterate that there is no reason as to why a pharmacy should not be accessible by foot, public transport and car within Bicknacre.

6.3.65 We also disagree that Bicknacre has a limited range of amenities. We submit that our client's proposed site is amongst a communal row of

shops and amenities that residents are accustomed to accessing as part of their day-to-day lives. These are listed below:

6.3.66 **Amenities at Proposed Site**

6.3.66.1 Post Office

6.3.66.2 Barber's and Hairdresser's

6.3.66.3 Nail Salon

6.3.66.4 Premier Convenience Store

6.3.66.5 ATM

6.3.67 We also submit that there are a range of amenities within Bicknacre itself which currently serve the local population.

6.3.68 **Amenities within Bicknacre**

6.3.68.1 Tearoom (The Cygnet Room)

6.3.68.2 Jesters Nursery & Pre-school

6.3.68.3 Jesters Kids Club

6.3.68.4 Bicknacre Pre-School (26 places)

6.3.68.5 Priory Primary School (210 places)

6.3.68.6 Greenwood and Wyncroft Surgery

6.3.68.7 Bicknacre St Andrew's Church

6.3.68.8 The Drunken Dragon Public House

6.3.68.9 UPS Access Point

6.3.68.10 White Elm Garden Centre & Tearoom – includes over 15 businesses at premises Shopping Village, for example:

6.3.68.10.1 Fresh Fruit and Veg store

6.3.68.10.2 Butchers

6.3.68.10.3 Hair Studio

6.3.68.10.4 Florists

6.3.68.10.5 Pet and Country Supplies

6.3.68.10.6 White Elm Petting Farm

6.3.68.10.7 Pet Shop

6.3.68.10.8 Dog Grooming

6.3.69 We can clearly see that Bicknacre is an area with many facilities and services. We do not believe that granting the present application will prejudice the provision of medical services in Bicknacre.

6.3.70 We also reiterate that our client's application proposes to open on Saturdays by way of core opening hours. When we consider that GP surgeries are closed on Saturdays, we submit that granting our client's application would provide better access to not just pharmaceutical services, but any healthcare services, especially for those residents in employment.

6.3.71 **Conclusion**

6.3.72 To conclude, we reiterate that our client's application satisfies the fundamental legal test of Regulation 18 in securing improvements or better access to pharmaceutical services. This is due to the resident population of Bicknacre (2,859) exceeding the threshold for a reserved location (2,750), *and* the excessive distances involved when travelling to access current pharmaceutical provision.

6.3.73 In addition, our client has gathered evidence from the local community via a patient survey [See Appendix E for Committee] which reveals a clear need for better access to pharmaceutical services in Bicknacre – even though such evidence is not mandated by the Regulations. The patient survey strongly indicates that there is a need for pharmaceutical services within Bicknacre due to the lack of capacity at other pharmacies, pressures on GP surgeries, the lack of parking availability, and the growing population.

6.3.74 We reiterate that dispensing doctors cannot replicate the full range of services that Community Pharmacies offer. We also reiterate that reducing the burden on GPs is now a core role of Community Pharmacies, with clinical services within pharmacy becoming increasingly important.

6.3.75 We maintain that granting this application would provide reasonable choice for residents of Bicknacre and enable better access to pharmaceutical provision for those groups who share protected characteristics.

6.3.76 We submit that Regulation 18 has been met and we invite NHS Resolution to grant our client's application."

7 Consideration

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

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

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

7.4 The Committee acknowledged the request from Community Pharmacy Essex, supported by the North and South LMCs, to await the outcome of the review requested by Community Pharmacy Essex regarding whether Bicknacre remains rural in character and should continue to be designated a controlled locality. It was further noted that relevant parties had been invited to provide comments on this matter, and that the Commissioner indicated it may take approximately 20 months to issue a determination. Additionally, the Committee recognised the Applicant's view that a potential change in rurality status to a non-controlled area would not impact the current application. Consequently, the Committee proceeded to consider the application based on the existing circumstances.

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

7.6 Currently, Bicknacre is in a controlled locality and the application was based on securing improvements or better access to pharmaceutical services in that controlled locality.

7.7 The Committee considered that the correct course was to first consider if the application must be refused pursuant to Regulation 31. The Committee will then consider if the application must be refused pursuant to Regulation 40. If the Committee is not so required to refuse the application, it will consider the issue of reserved location pursuant to Regulation 41. The Committee will then consider the application under Regulation 18. If the Committee has determined that the Applicant is seeking the listing of pharmacy premises which are in a part of a controlled locality that is not in a reserved location, it will consider the issue of prejudice under Regulation 44 last. The reason for this staged approach and in particular for dealing with prejudice last is that if the application does not meet the requirements of Regulation 18 the Committee is required to refuse it and prejudice cannot arise. The potential for prejudice only arises if the Committee has concluded that the application meets the requirements of Regulation 18 and may be granted. Depending on the determinations of the Committee in respect of the above as well as taking into consideration of whether the Commissioner has considered Regulation 50(1), the Committee will then consider Regulation 50(1) Discontinuance of arrangements for the provision of pharmaceutical services by doctors.

Regulation 31

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

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

(2) This paragraph applies where -

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

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

(ii) adjacent premises; and

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

7.9 In its application, the Applicant stated that "*there is no pharmacy trading from or adjacent to the proposed premises, so Regulation 31 does not apply."* The Committee further noted that no party had sought to argue that the application should be refused under the provisions of Regulation 31. Therefore, the Committee determined that it was not required to refuse the application under the provisions of Regulation 31.

7.10 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 40

7.11 The application (which is made under Regulation 18 of the Regulations) must be assessed against the provisions of Part 7 of the Regulations and, in particular Regulation 40 which reads:

(1) This paragraph applies to all routine applications—

(a) for inclusion in a pharmaceutical list as an NHS pharmacist; or

(b) from an NHS pharmacist included in such a list—

(i) to relocate to different pharmacy premises in the area of the relevant HWB, or

(ii) to open, within the area of the relevant HWB, additional pharmacy premises at or from which to provide pharmaceutical services,

where the applicant is seeking the listing of pharmacy premises which are in a controlled locality.

(2) If NHS England receives an application (A1) to which paragraph (1) applies, it must refuse A1 (without needing to make any notification of that application under Part 3 of Schedule 2), where the applicant is seeking the listing of premises at a location which is—

(a) in an area in relation to which outline consent has been granted under these Regulations, the 2012 Regulations or under the 2005 Regulations within the 5 year period—

(i) starting on the date on which the proceedings relating to the grant of outline consent reached their final outcome, and

(ii) ending on the date on which A1 is made; or

(b) within 1.6 kilometres of the location of proposed pharmacy premises (other than proposed distance selling premises), in respect of which—

(i) a routine application under these Regulations or the 2012 Regulations, or

(ii) an application to which regulation 22(1) or (3) of the 2005 Regulations (relevant procedures for applications) applied,

was refused within the 5 year period starting on the date on which the proceedings relating to the refusal reached their final outcome and ending on the date on which A1 is made,

unless NHS England is satisfied that since the date on which the 5 year period started, there has been a substantial and relevant change of circumstances affecting the controlled locality.

(3) For the purposes of paragraphs (1) and (2), if no particular premises are proposed for listing in A1, the applicant is to be treated as seeking the listing of pharmacy premises at the location which is the best estimate that NHS England is able to make of where the proposed listed pharmacy premises would be, having regard to the best estimate given by the applicant under paragraph 1(7)(a)(ii) of Schedule 2.

(4) Paragraph (2)(b) does not apply where NHS England is satisfied that there are reasonable grounds for believing the person making the refused application was motivated (wholly or partly) by a desire for that application to be refused.

(5) The refusal of an application pursuant to paragraph (2)(b), or regulation 40(2)(b) of the 2012 Regulations (applications for new pharmacy premises in controlled localities: refusals because of preliminary matters), is to be ignored for the purposes of the calculation of a 5 year period pursuant to paragraph (2)(b).

7.12 The Committee noted that there was no information to suggest that the instant application was in respect of a location where outline consent had been granted or there had been a refusal for a previous application within the last 5 years.

Regulation 41

7.13 Based on its conclusion above, the Committee went on to consider the application in light of the remainder of Part 7 of the Regulations and, in particular, Regulation 41 which reads:

(1) This paragraph applies to any routine application—

(a) for inclusion in a pharmaceutical list as an NHS pharmacist; or

(b) from an NHS pharmacist included in such a list—

(i) to relocate to different pharmacy premises in the area of the relevant HWB, or

(ii) to open, within the area of the relevant HWB, additional pharmacy premises at or from which to provide pharmaceutical services,

where the applicant is seeking the listing of pharmacy premises which are in a controlled locality and NHS England is required to notify the application under Part 3 of Schedule 2.

(2) If paragraph (1) applies to an application (referred to in this regulation and regulation 42 as "A1"), subject to paragraph (5), NHS England must determine whether or not the "relevant location", that is—

(a) the location of the premises for which the applicant is seeking the listing; or

(b) if no particular premises are proposed for listing in A1, the location which is the best estimate that NHS England is able to make of where the proposed pharmacy premises would be, having regard to the best estimate given by the applicant under paragraph 1(7)(a)(ii) of Schedule 2,

is, on basis of the circumstances that pertained on the day on which A1 was received by NHS England, in a reserved location.

(3) Subject to regulation 43(2), the area within a 1.6 kilometre radius of a relevant location is a "reserved location" if—

(a) the number of individuals residing in that area who are on a patient list (which may be an aggregate number of patients on more than one patient list) is less than 2,750; and

(b) NHS England is not satisfied that if pharmaceutical services were provided at or from the relevant location, the use of those services would be similar to, or greater than, the use that might be expected if the number of individuals residing in that area who are on a patient list were 2,750 or more.

(4) Before making a determination under paragraph (2) (referred to in this regulation and regulation 42 as "D1"), NHS England must—

(a) notify the persons notified under Part 3 of Schedule 2 about A1 that NHS England is required to make D1 (and it may make this notification at the same time as it notifies those persons about A1); and

(b) invite them, within a specified period of not less than 30 days, to make representations to NHS England with regard to D1 (and the period

specified must end no earlier than the date by which the person notified needs to make any representations that they have with regard to A1).

(5) NHS England must not make a determination under paragraph (2) in respect of A1 in circumstances where an earlier application which was in respect of the relevant premises and to which paragraph (1), regulation 44 of the 2012 Regulations (prejudice test in respect of routine applications for new pharmacy premises in a part of a controlled locality that is not a reserved location) or regulation 18ZA of the 2005 Regulations (refusal: premises which are in a controlled locality but not a reserved location) applied was refused—

(a) for the reasons relating to prejudice in—

(i) regulation 44(3),

(ii) regulation 44(3) of the 2012 Regulations, or

(iii) regulation 18ZA(2) of the 2005 Regulations; and

(b) within the 5 year period starting on the date on which the proceedings relating to the refusal reached their final outcome and ending on the date on which A1 is made,

unless NHS England is satisfied that since the date on which the 5 year period started, there has been a substantial and relevant change of circumstances affecting the controlled locality.

(6) For the purposes of paragraph (5), the "relevant premises" are—

(a) the premises which are proposed for listing; or

(b) if no particular premises are proposed for listing in A1, premises at the location which is the best estimate that NHS England is able to make of where the proposed listed pharmacy premises would be, having regard to the best estimate given by the applicant under paragraph 1(7)(a)(ii) of Schedule 2.

7.14 The Committee considered the issue of reserved location for premises described in the application.

7.15 Community Pharmacy Essex noted that the proposed premise overlaps with a 1.6 km radius of Boots pharmacy at Eve's Corner, Danbury (CM3 4QF), and recommended excluding patients from this overlap in the count, which may impact Bicknacre's designation as a reserved location.

7.16 The Commissioner found 2,859 patients within a 1.6 km radius of CM3 4EU, exceeded the reserved location threshold of 2,750, and therefore determined it is not a reserved location.

7.17 The Committee determined that the Community Pharmacy Essex proposal to exclude patients within the "overlap" does not form part of the relevant assessment criteria. Since the area continues to be classified as controlled for the purposes of this application, the Committee found no justification to deviate from the Commissioner's calculation. Therefore, the Committee determined

that as a threshold exceeding 2,750 had been established by the Commissioner, it was improbable that this figure would subsequently decline to below 2,750. Accordingly, the Committee concluded that Bicknacre is not a reserved location.

7.18 The Committee was aware that, given its view on reserved location, it may then need to deal with prejudice. However, the Committee considered that prejudice could only arise if the application meets the requirements of Regulation 18 and may therefore be granted. It therefore next considered whether the application met the requirements of Regulation 18.

Regulation 18

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

"(1) If—

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

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

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

(2) Those matters are—

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

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

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

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

(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also NHS England's duties under

sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)),

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

(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),

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

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

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

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

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

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

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

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

(3) NHS England need only consider whether it is satisfied in accordance with paragraphs (2)(c) to (e) if it has reached at least a preliminary view

(although this may change) that it is satisfied in accordance with paragraph (2)(b)."

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

7.21 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 PNA in accordance with paragraph 4 of Schedule 1 of the Regulations.

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

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

7.24 The Committee considered that there were two related issues that it needs to determine in relation to the PNA. It needed to determine which PNA was the relevant PNA for the purposes of Regulation 22 and whether the relevant PNA had identified the improvements or better access that the application was looking to secure.

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

7.26 However, the Applicant, in its observations stated "*to the extent that the Appeals Committee considers the new PNA, it would be making a first instance determination without the benefit of the ICB's thoughts or full representations from all parties. However, we note that Regulation 18(1) is satisfied as the proposed pharmacy providing better access or improvement remains unforeseen in the Essex PNA (2025-2028). Furthermore, we submit that all matters discussed in previous representations remain relevant and sufficient to demonstrate improvements or better access to pharmaceutical services as required by Regulation 18*." The Committee was mindful that all parties, including the Applicant were invited to make comments on this issue, stating in its letter "*Please note that we are required to have regard to the PNA that is current at the time we make our decision unless in our opinion the only way to determine the matter justly is with regard to an earlier assessment*." The Committee noted that the Applicant agrees that all matters it has raised remain

relevant. The Committee therefore concluded that the 2025 PNA is current at the time of its decision and is therefore the correct PNA to consider regarding this application.

7.27 The Committee considered the PNA prepared by Essex HWB 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 September 2025 and that no supplementary statements had been issued.

7.28 Under the Heading Chapter 8: Conclusion, the PNA states:

7.28.1 "*Access to pharmaceutical services for the residents of Essex is good and the main conclusion of this PNA is that there are no gaps in the provision of necessary or relevant pharmaceutical services*.

7.28.2 *The PNA also looked at changes which are anticipated within the lifetime of the document, for example the predicted population growth*.

7.28.3 *Given the current population demographics, housing projections and the distribution of service providers across the HWB area, this document concludes that the current provision will be sufficient to meet the likely future needs of the residents during the three-year lifetime of this pharmaceutical needs assessment*.

7.28.4 *The HWB has not identified any services that would secure improvements, or better access, to the provision of pharmaceutical services either now or within the 3-year lifetime of this pharmaceutical needs assessment*."

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

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

Regulation 18(2)(a)(i)

7.31 The Committee had regard to

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

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

7.32 The Committee noted the Commissioner's finding on this point that "*there was no evidence to suggest granting the application would cause significant detriment to proper planning in the area*".

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

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

Regulation 18(2)(a)(ii)

7.35 The Committee had regard to

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

7.36 The Committee noted the Commissioner's finding on this point that "*there was no evidence to suggest granting the application would cause significant detriment to … any arrangements the ICB has in place for the provision of services in the area*."

7.37 The Committee reviewed the comments from Beacon Health Group and Greenwood and Wyncroft Surgery, which emphasised that their dispensaries are key to sustaining their practices, with revenue supporting patient care and additional services. They were of the opinion that an external pharmacy could reduce dispensing volume, undermining financial stability and primary care provision. However, the Committee determined that without more detailed financial and patient information, it could not conclude that granting the application would lead to the closure of these practices.

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

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

Regulation 18(2)(b)

7.40 The Committee had regard to

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

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

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

(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),

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

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

7.41 The Committee had regard to the proposed location of the pharmacy, as identified by the map provided by the Commissioner, which had not been disputed by any party. There are a number of villages surrounding Bicknacre including Danbury and South Woodham Ferrers where existing pharmacies are established.

7.42 The LMC identifies Bicknacre as a rural village, equipped with standard amenities and local medical facilities, while noting that residents frequently travel outside the area for employment, education, and access to larger retail outlets in neighbouring locations. The Appellant identifies that the area has a population density of 847.4 residents per square kilometre, exceeding the national average, and argues that this may indicate a lesser degree of rurality than previously suggested. The Applicant, in its observations listed the amenities available in Bicknacre. The Committee was of the view that this list in fact supported the LMC's view that the local population would leave Bicknacre in order to access larger retail outlets. The Applicant cited recently completed housing developments and further proposals which expected to increase the dependent population. However, in the Committee's view these were relatively small scale and there were no specific timelines regarding the latest proposal. The Committee concurred that, at present, residents would be required to travel elsewhere to obtain certain services.

7.43 The Committee went on to consider access to existing pharmaceutical services by foot, by car and using public transport.

7.44 The Applicant had produced a survey in its Observations. The Committee observed that there were 36 participants in total. Survey data was gathered over a 25-day period, from Tuesday, 23 September to Friday, 17 October 2025, with 27 of the 36 responses collected on the first day. An additional seven responses were recorded between 24 and 27 September, one on 1 October,

and one on 17 October. While the Committee noted the comments provided by the participants, the methodology for data collection was unclear—specifically, how many residents were approached for input and why only on certain days within the 25 day window. The Committee was mindful that given that the population within a one-mile radius of the proposed site is 2,859, participation represented approximately 1.3% of the immediate community. As such, the Committee was of the view that it was not possible to draw meaningful conclusions from this data, as it cannot be considered truly representative of the Bicknacre population.

7.45 For residents of Bicknacre, the closest pharmacy is located 1.8 miles away in Danbury. The Applicant stated, "*We cannot consider a 3.6-mile round walk to access pharmaceutical services as sufficient*." The Committee acknowledged that there is no dispute with the Applicant's statement that "*both the Bicknacre Road to the north and the B1418 to the south lack any pedestrian walkways*" and the distance to the nearest pharmaceutical service was also undisputed. The Committee determined that given the distance and lack of footpaths, access on foot would be unreasonable, particularly for the elderly, people with disabilities, or those caring for young children. The Committee was of the view that difficulties with access on foot is not in itself an indication that there is not a reasonable choice in obtaining pharmaceutical services. The Committee therefore went on to consider the ease and level of access to the existing pharmacies by other means.

7.46 The Applicant describes the journey by car to the nearest pharmaceutical service in Danbury as a journey taking 7 minutes equating to a 14 minute round trip. In relation to three other pharmacies within a five mile radius, the Applicant stated that "*patients who share protected characteristics may not be able to drive or even may not feel comfortable driving in winter conditions*." The Committee considered these comments speculative and no further information has been provided to support this finding. The Committee noted the LPC describes "*census data shows car ownership/access is high in Bicknacre, only 6.8% of households do not have access to a car compared to 23.5% nationally*" meaning 93.2% of the population have access to a private vehicle. The Committee noted the Applicant's survey included comments that indicated a very small proportion of patients, from a small sample, were unhappy with car parking at Boots in Danbury. Whilst of concern, in the Committee's view there was not a robust body of evidence that these issues were all the time and affected a large number of patients. The Committee concluded that for those who did have access to private transport, there was nothing provided by the Applicant to demonstrate that they were currently having difficulties in accessing the existing pharmaceutical provision in the area of the HWB.

7.47 The Applicant reports that travel by bus involves a 10-minute journey, which includes 5 minutes of walking—potentially presenting challenges for patients with mobility issues or for elderly individuals. Additionally, the Applicant highlights the infrequency of the bus service, noting it operates on an hourly basis. The Commissioner provided bus timetables indicating that "*the Bicknacre area has one main provider of bus services to Danbury, Maldon, and South Woodham Ferrers. Buses stop in the near vicinity (between 6 and 9 minutes' walk from the proposed estimated location) and run hourly throughout the day in both directions, linking Danbury, Chelmsford, and South Woodham Ferrers from Monday to Sunday each week*." The Committee acknowledged

comments from Community Pharmacy Essex regarding two bus services, but recognised that currently only one service, the 336, is operational. The Applicant also expressed concern about residents possibly waiting up to an hour for a bus during cold winter conditions. However, the Committee considered these concerns to be speculative and noted that local residents are likely to be aware of the bus schedule, thereby minimising waiting times. Furthermore, there is no indication as to numbers using the bus service given the high car ownership levels in Bicknacre. The Committee concluded that an hourly bus service operating Monday to Sunday is sufficient within a rural area, and observed that no evidence was submitted by the Applicant to demonstrate that individuals reliant on public transportation are experiencing difficulties in accessing the existing pharmaceutical provision within the HWB area.

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

7.49 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 Applicant, in its application makes reference to "*a large number of elderly residents living near the proposed site*." The Committee considered that the information regarding those who share a protected characteristic and the pharmaceutical services they needed was limited. There was little or no evidence of specific pharmaceutical needs. The issue of access and choice as might apply to these persons was dealt with in the assessment of reasonable access discussed above and the Committee was mindful that there are always people in an area who share a protected characteristic.

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

7.51 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.

7.52 The Committee noted the Commissioner's finding, quoting from the application form "*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."*

7.53 The Committee was therefore not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of

pharmaceutical services, granting the application would confer significant benefits on persons.

Regulation 18(2)(b) generally

7.54 In its application, the Applicant proposes 40 core hours as detailed in the table at section 2.64 above, which includes four core hours on Saturdays from 9am to 1pm. The Committee reviewed the core hours offered by the four nearest pharmacies to the proposed location. Although the existing pharmacies do not currently provide core hours on Saturdays, the Committee was mindful that the Commissioner retains the authority to direct these pharmacies to open on Saturdays should it be deemed necessary. 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.

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

7.56 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.

Regulation 44 – Prejudice

7.57 Having considered the matter of reserved location and, having considered the application under Regulation 18, the Committee next considered the question of prejudice under Regulation 44.

7.58 The Committee has already indicated that if the application does not meet the requirements of Regulation 18 then the Committee is required to refuse it and prejudice cannot arise. The potential for prejudice only arises if the Committee has concluded that the application meets the requirements of Regulation 18 and may be granted. As indicated above, the Committee has determined that the application does not meet the requirements of Regulation 18 and therefore the Committee considered that consideration of prejudice was not required.

Other considerations

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

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

7.61 The Committee had regard to Regulation 18(2)(g) and found no reason that required it to refuse the application under this regulation.

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

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

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

7.64.1 confirm the Commissioner's decision;

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

7.64.3 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 DECISION

8.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of the Commissioner.

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

8.3 The Committee concluded that Bicknacre is in a controlled locality and that the site of the application is not in a reserved location.

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

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

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

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

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

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

8.5.2 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.

8.6 Having determined that the application should be refused, it was unnecessary for the Committee to make a decision upon whether granting the application would prejudice the proper provision of relevant NHS services in the area of (a) the relevant HWB; or (b) a neighbouring HWB of the relevant HWB.

Case Manager
Primary Care Appeals