

31 December 2025

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

FILE REF: SHA/ 26742

COMMISSIONER: BATH AND NORTH EAST
SOMERSET, SWINDON AND
WILTSHIRE ICB
("the Commissioner")

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

PHARMACIST: GORGEMEAD LTD T/A COHENS CHEMIST
(FRG60)
("the Applicant")

PREMISES: UNIT 19,
BOROUGHFIELDS SHOPPING CENTRE,
ROYAL WOOTTON BASSETT,
SN4 7AX

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

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

Outcome

- 1.1 In relation to Monday to Friday, based on the information provided, I am satisfied that maintaining the existing level of service provision is unnecessary but that a sustainable level of service provision is maintained for the people in the area or other likely users of the pharmacy premises.
- 1.2 In relation to Saturday, based on the information provided, I am satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours would maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises.
- 1.3 Therefore I substitute the decision of the Commissioner to reject the change of hours application with the decision to grant the change of hours application, without a direction.

A copy of this decision is being sent to:
Healthcare Plus Consulting Ltd on behalf of Gorgemead Ltd t/a Cohens Chemist (FRG60)
Bath and North East Somerset, Swindon and Wiltshire ICB

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

FILE REF: SHA/ 26742

COMMISSIONER: BATH AND NORTH EAST
SOMERSET, SWINDON AND
WILTSHIRE ICB
("the Commissioner")

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

PHARMACIST: GORGEMEAD LTD T/A COHENS CHEMIST
(FRG60)
("the Applicant")

PREMISES: UNIT 19,
BOROUGHFIELDS SHOPPING CENTRE,
ROYAL WOOTTON BASSETT,
SN4 7AX

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

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

1 Introduction

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

Rights of appeal

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

Opening hours

1.5 A pharmacy's opening hours may be categorised as:

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

Alteration of core opening hours

1.6 In accordance with paragraphs 1(7)(c) and 1(7)(d) of Schedule 2 of the Regulations, the pharmacy must provide, as part of an application for entry in the pharmaceutical list:

- 1.6.1 the proposed core opening hours in respect of the premises; and
- 1.6.2 the total proposed opening hours for the premises (having regard to both the proposed core opening hours and any supplementary opening hours).

1.7 The Commissioner maintains pharmaceutical lists that include the days on which and times at which, at those premises, the listed person is to provide those services during the core opening hours and any supplementary opening hours of the premises.

1.8 The days on which or times at which a pharmacy is obliged to provide pharmaceutical services at the premises may only be altered by the pharmacy on application under paragraph 26(1) of Schedule 4 of the Regulations, so long as the effect of that application is to reduce the total number of hours for which a pharmacy is obliged to provide, or keep the total number of hours the same.

Alteration of supplementary opening hours

1.9 Supplementary opening hours may be altered by the pharmacy giving notice to the Commissioner, in accordance with paragraph 23(6)(a) of Schedule 4 of the Regulations, without the need to make an application to the Commissioner.

1.10 There is no specific right of appeal to NHS Resolution in respect of notices given under paragraph 23(6)(a).

2. Application

In this case, the Applicant provided the following information in its application form and supporting information dated 16 July 2025:

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

Monday	09:00am-12:00pm 14:30pm-18:30pm
Tuesday	09:00am-12:00pm 14:30pm-18:30pm
Wednesday	09:00am-12:00pm 14:30pm-18:30pm
Thursday	09:00am-12:00pm 14:30pm-18:30pm
Friday	09:00am-12:00pm 14:30pm-18:30pm
Saturday	09:00am-11:00pm 14:30pm-17:30pm
Sunday	Closed

2.3 Proposed core opening hours for these premises:

Monday	09:00am-13:00pm 14:00pm-18:00pm
Tuesday	09:00am-13:00pm 14:00pm-18:00pm
Wednesday	09:00am-13:00pm 14:00pm-18:00pm
Thursday	09:00am-13:00pm 14:00pm-18:00pm
Friday	09:00am-13:00pm 14:00pm-18:00pm
Saturday	Closed
Sunday	Closed

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

2.4.1 20/10/2025

2.5 The Applicant confirmed that it wished its application to be determined on the basis of Paragraph 24(1), Schedule 4.

2.6 Please provide the information that demonstrates that your proposed core opening hours will:

2.6.1 either maintain as necessary the existing level of service provision for people in the area of the pharmacy, or other likely users of the pharmacy premises; or

2.6.2 maintain a sustainable level of adequate service provision for the people in the area of the pharmacy, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.

2.7 Background

2.8 This is an application to permanently change the current core opening hours for Cohens Chemist, located at Unit 19, Borough Fields Shopping Centre, Royal Wootton Bassett, Swindon, Wiltshire, SN4 7AX.

2.9 Please see below the current core opening hours for Cohens Chemist.

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
09:00am - 12:00pm 14:30pm-18:30pm	09:00am - 12:00pm 14:30pm-18:30pm	09:00am-12:00pm 14:30pm-18:30pm	09:00am - 12:00pm 14:30pm-18:30pm	09:00am - 12:00pm 14:30pm-18:30pm	09:00am-11:00pm 14:30pm-17:30pm	Closed

2.10 Please see below the proposed core opening hours for Cohens Chemist.

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
09:00am-13:00pm 14:00pm-18:00pm	09:00am-13:00pm 14:00pm-18:00pm	09:00am-13:00pm 14:00pm-18:00pm	09:00am-13:00pm 14:00pm-18:00pm	09:00am-13:00pm 14:00pm-18:00pm	Closed	Closed

2.11 This application seeks to keep the number of core opening hours the same (40 hours) while offering a different distribution of these hours during the week. We believe that granting this application will maintain as necessary the existing level of service provision for the people in the area and other likely users of the pharmacy, therefore satisfying Paragraph 24(1)(a) of Schedule 4 of the Regulations.

2.12 Cohens wish to change their current core opening hours to 09:00am-13:00pm and 14:00pm-18:00pm, Monday to Friday to meet the needs of existing and likely users of services.

2.13 This application also seeks to remove core opening hours from 18:00pm-18:30pm, Monday to Friday, and from 09:00pm-11:00pm/14:30pm-17:30pm on Saturdays.

2.14 We submit that the Saturday core opening hours currently provided by Cohens are fully covered by alternative pharmacies by way of core opening hours. The services provided by Cohens are also currently provided at these alternative pharmacies.

2.15 We submit that the core opening hours currently provided by Cohens from 18:00pm-18:30pm, Monday-Friday is unnecessary in maintaining the existing level of service provision, due to the lack of uptake for services during this time.

- 2.16 In determining patient demand, a survey was conducted to determine the usage of services within the Cohens Pharmacy during certain times of the day. This survey was conducted over a 4-week period and is highlighted in more detail further below.
- 2.17 Regulations
- 2.18 When considering whether an application meets the criteria for grant for a change in core hours, we note the provisions of Regulations 26(1) & 24(1): [quoted in full]
- 2.19 We note that despite the application being submitted under Regulation 26, but the criteria for grant of any application lies within Regulation 24. Both found within Schedule 4 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.
- 2.20 Interpretation of the Regulations
- 2.21 We submit when assessing the application, the Commissioner first needs to address Regulation 24(1)(a) and give particular thought to:
- 2.21.1 Whether the existing level of service provision is maintained by alternative pharmaceutical providers in the area.
- 2.21.2 Should the Commissioner determine that the existing level of service provision be sufficient then an application should be granted. We note that Regulation 24(2)(a) is clear in clarifying those services offered by alternative pharmaceutical providers constitute upholding existing levels of service provision, even if there is little uptake on these services. Regulation 24(2)(b) is also clear that services offered by alternative pharmaceutical providers during supplementary hours also constitute upholding existing levels of service.
- 2.22 Should the Commissioner determine that existing service provision is not being maintained, then attention should then be given to Regulation 24(1)(b) with thought given to whether a sustainable level of adequate provision is being maintained. This manifests itself in two parts:
- 2.22.1 Where it is unnecessary to maintain the existing level of provision.
- 2.22.2 We submit that an application should be granted if it is shown that there is no uptake for services during the hours that are to be changed, and thus clearly unsustainable and unnecessary to continue opening during this period.
- 2.22.3 Where maintaining the existing level of service provision is not a realistically achievable outcome.
- 2.22.4 We submit that an application should be granted if it is shown that the current opening hours are unsustainable dependant on either viability grounds due to low uptake, or operational unfeasibility in relation to working patterns.

2.23 In determining any application, we urge the ICB to adopt a pragmatic approach to permit amendments to changes of core opening hours. We submit that the standard of proof required is not “beyond a reasonable doubt” or “certain”. Instead, that it is “more likely than not” that the legal test has been met, i.e. the balance of probabilities.

2.24 Survey

2.25 To understand patient requirements, a survey was conducted to determine patient usage of pharmaceutical services on Monday-Friday, 18:00-18:30, and Saturday 09:00-17:30 over a 4-week period at Cohens Chemist. We remind the Committee that the hours provided by Cohens from 11:00-14:30 on Saturdays are not core opening hours. The 4 weeks that were surveyed are representative of normal demand which is consistent throughout the year (non-bank/public holiday weeks). Daily averages from 18:00-18:30 Monday-Friday, and weekly averages from Saturday 09:00-17:30 are shown in the tables below.

2.25.1 Monday-Friday: 03/03/2025 25/03/2025

Time	Collection of eps Rx	Walk-in Rx	Advanced Services	Advice/ Signposting	Covid Vaccinations	Retail	Total Customers
18:00-18:30	0	0	0	0	0	0	0

2.26 Saturdays: 08/03/2025 – 29/03/2025

Time	Collection of eps Rx	Walk-in Rx	Advanced Services	Advice/ Signposting	Covid Vaccinations	Retail	Total Customers
09:00-10:00	15.25	1.25	0	0	0	3.75	20.25
10:00-11:00	20.5	1.5	0	0.25	0	5.5	27.75
11:00-12:00	22.25	1.75	0	0	0	6.25	30.25
12:00-13:00	15.5	1.25	0	0	0	3.25	20
13:00-14:00	8	1	0	0	0	3.75	12.75
14:00-15:00	12.75	0.75	0	0	0	4	17.5

15:00-16:00	6.5	0.5	0	0	0	3.25	10.25
16:00-17:00	4.75	0	0	0	0	5.5	10.25
17:00-17:30	0.5	0.25	0	0	0	0.25	1
	106	8.25	0	0.25	0	35.5	150

2.27 Analysis of this data will be conducted further on within this document; however, we can draw the following initial conclusions:

2.27.1 No demand for NHS Services 18:00-18:30 Monday-Friday

2.27.2 No demand for NHS Advanced Services on Saturday

2.28 Services provided by Cohens Chemist

2.29 To assess whether the existing level of service provision will be maintained, we must first look at the services provided by Cohens Chemist (in addition to Essential Services).

2.29.1 Pharmacy First

2.29.2 Pharmacy Contraception Service

2.29.3 Hypertension Case-Finding Service

2.29.4 New Medicine Service (NMS)

2.29.5 Flu Vaccination Service

2.29.6 Lateral Flow Device Service (LFD)

2.29.7 Smoking Cessation Service

2.30 Access to Alternative Pharmaceutical Provision

2.31 The Cohens Chemist (SN4 7AX) is close to alternative pharmaceutical provision, by virtue of its siting in Royal Wootton Bassett town centre. There are two pharmacies located within a 0.2-mile radius of the Cohens site which are listed below: [map provided]

2.31.1 Boots, 133 High Street, Royal Wootton Bassett, Swindon, Wiltshire, SN4 7AY

2.31.2 Cohens, 102 High Street, Royal Wootton Bassett, Swindon, Wiltshire, SN4 7AU

- 2.32 Green Marker - depicts the location of Cohens Pharmacy, SN4 7AX
- 2.33 Blue marker - depicts alternative pharmaceutical provision
- 2.34 From the map we can see that alternative pharmaceutical provision is situated nearby within a 3–4-minute walk.
- 2.35 Core Opening Hours and Services provided by Alternative Pharmaceutical Providers
- 2.36 **Boots Pharmacy, SN4 7AY**
- 2.37 Boots Pharmacy is located 0.1 miles away from Cohens Chemist. It is very clear that patients who currently attend Cohens Chemist will be able to access pharmaceutical services at Boots Pharmacy.
- 2.38 The core opening hours of Boots Pharmacy are shown in the table below:

Monday - Friday	Saturday	Sunday
09:00-13:00 14:00-17:30	09:00-13:00 14:00-17:30	Closed

- 2.39 Boots Pharmacy is only a 3-minute walk away from Cohens Chemist. Should patients wish to travel by car, the pharmacy is only a 2-minute drive away with parking available directly outside the pharmacy. Both pharmacies are accessed via the same bus stop. Thus, patient access by foot, bus, and car is very good.
- 2.40 Below we have listed the Services provided by Boots Pharmacy:
- 2.40.1 Pharmacy First
- 2.40.2 Pharmacy Contraception Service
- 2.40.3 Hypertension Case-Finding Service
- 2.40.4 New Medicine Service (NMS)
- 2.40.5 Flu Vaccination Service
- 2.40.6 Lateral Flow Device Service (LFD)
- 2.40.7 Smoking Cessation Service
- 2.41 We can see that Boots Pharmacy provides adequate core hour coverage from 09:00-13:00/14:00-17:30 on Saturdays. It is also clear from the list above that Boots Pharmacy also provides the same services as Cohens Chemist.
- 2.42 Thus, Boots Pharmacy provides full coverage by way of core opening hours for all services currently provided by Cohens Chemist during Saturday core hours.

2.43 Given the short distance between the two sites, we conclude that the existing level of service provision will be maintained on Saturdays by the Boots pharmacy that remains open through its core proposition. Thus, we submit that Paragraph 24(1)(a) of Schedule 4 of the Regulations has been met with regard to Saturday opening hours for all services.

2.44 **Asda Pharmacy, SN5 7DL**

2.45 Asda Pharmacy is located 3.4 miles away from Cohens Chemist.

2.46 The core opening hours of Asda Pharmacy are shown in the table below:

Monday - Friday	Saturday	Sunday
09:00-12:30 13:00-16:30 17:00-21:00	09:00-12:30 13:00-16:30 17:00-21:00	10:00-16:00

2.47 Asda Pharmacy is a 14-minute drive away from Cohens Chemist. We note that for residents within the Wiltshire 006 Mid-layer SOA, which covers the majority of Wootton Bassett; 84.4% have at least one car per household, much higher than the national average of 76.5%. Thus, we can see that car ownership is high in the area and many are likely to be able to make this journey. For those who do not drive, public transport is also very good in Royal Wootton Bassett, with buses operating every 10-15 minutes from the High Street (c. 5 minutes away from Cohens). Thus, patient access by car and public transport is very good.

2.48 Below we have listed the Services provided by Asda Pharmacy:

2.48.1 Pharmacy First

2.48.2 Pharmacy Contraception Service

2.48.3 Hypertension Case-Finding Service

2.48.4 New Medicine Service (NMS)

2.48.5 Flu Vaccination Service

2.48.6 Lateral Flow Device Service (LFD)

2.48.7 Smoking Cessation Service

2.49 We can see that Asda Pharmacy provides coverage for all the services offered by Cohens Chemist, particularly for core opening hours:

2.49.1 Monday-Friday, 18:00pm-18:30pm

2.50 Immediately, we can see that the existing level of service provision will be maintained by way of core opening hours of Asda Pharmacy despite Cohens'

reduction of core hours from 18:00pm-18:30pm. Thus, Paragraph 24(1)(a) of Schedule 4 of the Regulations has been met with regard to opening hours provided by alternative pharmaceutical provision for all services Monday-Friday after 18:00.

2.51 **Summary**

2.52 We remind the Committee that Cohens Chemist provides the following services to the local population:

2.52.1 Pharmacy First

2.52.2 Pharmacy Contraception Service

2.52.3 Hypertension Case-Finding Service

2.52.4 New Medicine Service (NMS)

2.52.5 Flu Vaccination Service

2.52.6 Lateral Flow Device Service (LFD)

2.52.7 Smoking Cessation Service

2.53 All of the services listed above are fully covered by the Boots Pharmacy during core opening hours on Saturday.

2.54 All of the services listed above are fully covered by the Asda Pharmacy during 18:00-18:30 Monday-Friday.

2.55 Thus, we submit that adequate coverage is provided by local pharmacies to maintain the existing level of service provision, and Regulation 24(1)(a) has been met for all services during the removal of core hours.

2.56 Should the Committee not be comforted that the Asda provides accessible service coverage, then the provisions of Regulation 24(1)(b) need be considered. The committee must evaluate whether a sustainable level of adequate provision is being maintained.

2.57 *Where it is unnecessary to maintain the existing level of service provision*

2.58 From the independent survey carried out above, we can see that not a single patient accessed services between 18:00-18.30, Monday-Friday over the 4-week survey period. Thus, it is clear that it is unnecessary and financially unsustainable to maintain this existing service provision. Regulation 24(1)(b) has been met for advanced services between 18.00-18.30, Monday-Friday.

2.59 Regardless, coverage for all services is provided by Asda Pharmacy for 18:00-18:30 Monday-Friday is covered within Regulation 24(1)(a).

2.60 Conclusion

- 2.61 We are satisfied that the level of pharmaceutical service provision that would result from Cohens' proposed core opening hours would meet the needs of users (people in the NHS England area or other likely users of the pharmacy for pharmaceutical services) and therefore urge that Cohens' application to change its core opening hours is granted.
- 2.62 Patients who seek access to pharmacy provision after 18:00pm, Monday-Friday will have access to all the services currently provided by Cohens by way of core opening hours at an accessible, alternative provider. Regardless of this, there is evidently no patient demand during this time, and thus it is not necessary to maintain these opening hours.
- 2.63 Those who seek pharmaceutical services on Saturdays will have access to all the services currently provided by Cohens by way of core opening hours at the Boots Pharmacy which is only 0.1 miles away.
- 2.64 It is clear that the existing level of service provision will be maintained by virtue of alternative providers during core opening hours. This is in accordance with the guidance set out in Paragraph 24(1)(a) of Schedule 4 of the Regulations.
- 2.65 Thus, on the evidence outlined above, we conclude that Cohens' application to change core opening hours should be granted."

3. **The Decision**

In a letter to the Applicant dated 16 September 2025 the Commissioner decided to refuse the application. The Commissioner stated:

- 3.1 "Pharmacy ODS code: FRG60
- 3.2 Pharmacy name: Cohens Chemist
- 3.3 Premises address: Unit 19, Boroughfields Shopping Centre, Royal Wootton Bassett, SN4 7AX
- 3.4 I refer to the application received on 16th July 2025 to change the Core and Supplementary contractual opening hours for the above pharmacy. The application sought to redistribute Core hours Monday to Saturday from 09:00-12:00 & 14:30-18:30 Monday to Friday and 09:00-11:00 & 14:30-17:30 Saturdays, to 09:00-13:00 & 14:00-18:00 Monday to Friday.
- 3.5 The NHS South West Pharmaceutical Services Regulations Committee (PSRC) considered your request on 7th August 2025, which was made in accordance with NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, Schedule 4, Paragraph 24 and Schedule 4, Paragraph 26.
- 3.6 Please see details of the decision below:
- 3.7 **Consideration**
- 3.8 The SW Committee considered whether the proposed hours meet the requirements of Paragraph 24(1)(a) or (b).

- 3.9 The SW Committee considered that the "level" of service provision could also refer to other characteristics of the service, such as types and range of services provided, geographical access to services provided, other aspects of physical access aside from location, and the quality of services provided.
- 3.10 The SW Committee noted the Applicant seeks to change the days and times that services are provided by redistributing core hours Monday to Saturday from 09:00-12:00 & 14:30-18:30 Monday to Friday and 09:00-11:00 & 14:30-17:30 Saturdays, to 09:00-13:00 & 14:00-18:00 Monday to Friday. No core hours are proposed on Saturday. The SW Committee must determine if it is necessary to maintain the existing level of service provision and then, if deemed necessary, consider if the opening hours of other pharmacies mean that level is maintained.
- 3.11 The SW Committee noted the existing level of service provision has been outlined by the Applicant, in its own core hours provision and by an indication of the hours that pharmacies in the local area are open. The SW Committee noted that the following statements were presented by the Applicant regarding provision in the local area:
- 3.12 Services provided by Cohens Chemist
- 3.12.1 Pharmacy First
 - 3.12.2 Pharmacy Contraception Service
 - 3.12.3 Hypertension Case-Finding Service
 - 3.12.4 New Medicine Service (NMS)
 - 3.12.5 Flu Vaccination Service
 - 3.12.6 Lateral Flow Device Service (LFD)
 - 3.12.7 Smoking Cessation Service
- 3.13 The Cohens Chemist (SN4 7AX) is close to alternative pharmaceutical provision, by virtue of its siting in Royal Wootton Bassett town centre. There are two pharmacies located within a 0.2-mile radius of the Cohens site which are listed below.
- 3.13.1 Boots, 133 High Street, Royal Wootton Bassett, Swindon, Wiltshire, SN4 7AY
 - 3.13.2 Cohens, 102 High Street, Royal Wootton Bassett, Swindon, Wiltshire, SN4 7AU
- 3.14 A map provided for the SW Committee shows that alternative pharmaceutical provision is situated nearby within a 3–4-minute walk.
- 3.15 Boots Pharmacy, SN4 7AY

3.16 Boots Pharmacy is located 0.1 miles away from Cohens Chemist. It is very clear that patients who currently attend Cohens Chemist will be able to access pharmaceutical services at Boots Pharmacy.

3.17 The core opening hours of Boots Pharmacy are shown in the table below:

Monday – Friday	Saturday	Sunday
09:00 – 13:00 14:00 – 17:30	09:00 – 13:00 14:00 – 17:30	Closed

3.18 Boots Pharmacy is only a 3-minute walk away from Cohens Chemist. Should patients wish to travel by car, the pharmacy is only a 2-minute drive away with parking available directly outside the pharmacy. Both pharmacies are accessed via the same bus stop. Thus, patient access by foot, bus, and car is very good.

3.19 Below we have listed the Services provided by Boots Pharmacy:

3.19.1 Pharmacy First

3.19.2 Pharmacy Contraception Service

3.19.3 Hypertension Case-Finding Service

3.19.4 New Medicine Service (NMS)

3.19.5 Flu Vaccination Service

3.19.6 Lateral Flow Device Service (LFD)

3.19.7 Smoking Cessation Service

3.20 We can see that Boots Pharmacy provides adequate core hour coverage from 09:00-13:00/14:00-17:30 on Saturdays. It is also clear from the list above that Boots Pharmacy also provides the same services as Cohens Chemist.

3.21 Thus, Boots Pharmacy provides full coverage by way of core opening hours for all services currently provided by Cohens Chemist during Saturday core hours.

3.22 Given the short distance between the two sites, we conclude that the existing level of service provision will be maintained on Saturdays by the Boots pharmacy that remains open through its core proposition. Thus, we submit that Paragraph 24(1)(a) of Schedule 4 of the Regulations has been met with regard to Saturday opening hours for all services.

3.23 Asda Pharmacy, SN5 7DL

3.24 Asda Pharmacy is located 3.4 miles away from Cohens Chemist.

3.25 The core opening hours of Asda Pharmacy are shown in the table below:

Monday – Friday	Saturday	Sunday
09:00 – 12:30 13:00 – 16:30 17:00 – 21:00	09:00 – 12:30 13:00 – 16:30 17:00 – 21:00	10:00 – 16:00

- 3.26 Asda Pharmacy is a 14-minute drive away from Cohens Chemist. We note that for residents within the Wiltshire 006 Mid-layer SOA, which covers the majority of Wootton Bassett; 84.4% have at least one car per household, much higher than the national average of 76.5%. Thus, we can see that car ownership is high in the area and many are likely to be able to make this journey. For those who do not drive, public transport is also very good in Royal Wootton Bassett, with buses operating every 10-15 minutes from the High Street (c. 5 minutes away from Cohens). Thus, patient access by car and public transport is very good.
- 3.27 Below we have listed the Services provided by Asda Pharmacy:
- 3.27.1 Pharmacy First
 - 3.27.2 Pharmacy Contraception Service
 - 3.27.3 Hypertension Case-Finding Service
 - 3.27.4 New Medicine Service (NMS)
 - 3.27.5 Flu Vaccination Service
 - 3.27.6 Lateral Flow Device Service (LFD)
 - 3.27.7 Smoking Cessation Service
- 3.28 We can see that Asda Pharmacy provides coverage for all the services offered by Cohens Chemist, particularly for core opening hours:
- 3.28.1 Monday-Friday, 18:00pm-18:30pm
- 3.29 The SW Committee was satisfied that the applicant has described the existing level of service in the area.
- 3.30 Having determined that the applicant had described the existing level of service provision in the area, the SW Committee concluded it could move on to determining if it is necessary to maintain the existing level of service.
- 3.31 The SW Committee noted the information provided by the applicant that the applicant claims demonstrates that the proposed core opening hours would meet the requirements stated in Paragraph 24(1)(a) or (b).
- 3.32 The SW Committee noted that the following statements are provided within the application: [see 2.11 – 2.15, 2.25 – 2.27, 2.50 and 2.53 – 2.59 above].

- 3.33 The SW Committee noted that the application concludes there is “no demand for NHS Services 18:00-18:30 Monday-Friday”, which is consistent with the supplied data, however the next bullet states there is “No demand for NHS Advanced Services on Saturday”. Whilst there is no demand for NHS Advanced Services on a Saturday according to the survey data, the applicant did not refer to the overall demand as they did in the preceding statement, drawing an incomplete picture. The provided survey shows an average of 114.25 patients accessing NHS Services on a Saturday (Collection of EPS Rx and Walk-in Rx).
- 3.34 **24(1)(a) Is it necessary to maintain the existing level of service**
- 3.35 Based on the above evidence provided by the applicant, with regards to Paragraph 24(1)(a), ‘to maintain as necessary the existing level of service provision...’, the SW Committee was satisfied that insufficient evidence had been provided to demonstrate that it is NOT necessary to maintain the existing level of service.
- 3.36 The SW Committee was, therefore, of the opinion that it IS necessary to maintain the existing level of service. The SW Committee noted the levels of activity on Saturdays at the applicant’s site together with the possibility that the Boots may be able to reduce Saturday hours. The SW Committee was therefore of the opinion that the existing level of service would not be maintained.
- 3.37 Since the SW Committee was of the opinion that the existing level of service will not be maintained it went on to consider 24(1)(b).
- 3.38 **24(1)(b) Would the change maintain a sustainable level of service**
- 3.39 The SW Committee noted the information provided by the applicant particularly with regard to activity on Saturdays. The SW Committee was of the view that while there may be little advanced service activity on Saturdays there were around 114 patients collecting prescriptions and this was not insignificant. There was no data on how many prescription items in total this represented nor was there any other data to demonstrate why the Saturday opening was unsustainable. The SW Committee was not satisfied that sufficient evidence has been provided to meet the requirements of 24(1)(b).
- 3.40 **Decision**
- 3.41 **The SW Committee was of the opinion that the application has NOT met the requirements of Paragraph 24(1):**
- 3.41.1 *(a) maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises; or*
- 3.41.2 *(b) to maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.”*
- 3.42 **The SW Committee determined the application must be refused because it is necessary to maintain the current level of service and the application**

would not maintain it, nor is there evidence that maintaining the current level of provision is not a realistically achievable outcome.

3.43 Supplementary Opening Hours

3.44 As the changes to supplementary opening hours relied on changes to Core opening hours, we presume your notification for supplementary opening hours changes will not proceed. If any of the changes in Supplementary hour notification should still proceed, we will honour this from the original request date. Please contact the team at england.pharmacysouthwest@nhs.net if you would like to continue with any part of the Supplementary change notification.

3.45 As the Core application was refused, the contractual opening hours of the pharmacy have not changed, and are as followed:

Core		Supplementary	
Monday	09:00-12:00 & 14:30-18:30	Monday	12:00-13:00 & 14:00-14:30
Tuesday	09:00-12:00 & 14:30-18:30	Tuesday	12:00-13:00 & 14:00-14:30
Wednesday	09:00-12:00 & 14:30-18:30	Wednesday	12:00-13:00 & 14:00-14:30
Thursday	09:00-12:00 & 14:30-18:30	Thursday	12:00-13:00 & 14:00-14:30
Friday	09:00-12:00 & 14:30-18:30	Friday	12:00-13:00 & 14:00-14:30
Saturday	09:00-11:00 & 14:30-18:30	Saturday	11:00-13:00 & 14:00-14:30
Sunday	Closed	Sunday	Closed

3.46 Total Core hours: 40

3.47 Total Supplementary hours: 10

3.48 Please note that any variation to contractual opening hours, without prior consent, will be deemed a breach of terms of service. Performance related sanctions, as directed within the 2013 Regulations, may be imposed where a breach occurs.

3.49 You have a right of appeal against the decision not to allow the amendment to Core Hours. Any appeal must contain a concise statement of the facts and contentions on which you intend to rely and should be submitted in writing within 30 days to: nhsr.appeals@nhs.net or by post to: NHS Resolution, 8th Floor 10 South Colonnade, Canary Wharf London, E14 4PU.

3.50 If you wish to change the hours in the future, you will still need to complete and submit a further application form to NHS South West Collaborative Commissioning Hub.

3.51 If you have any queries, please do not hesitate to contact me.”

4. **The Appeal**

In a letter to NHS Resolution dated 7 October 2025 Healthcare Plus Consulting Ltd on behalf of the Applicant appealed against the Commissioner’s decision. The grounds of appeal are:

4.1 “Thank you for your letter dated 16th September 2025. Gorgemead 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 application to change core opening hours. We submit that the South West Committee have failed to understand our client’s application and properly assess its case in accordance with the Regulations.

4.3 Response

4.4 We note that a comprehensive report was provided at ICB level and are pleased that the SW Committee is satisfied that our client’s application correctly describes the existing level of service in the area. This includes the location, access, core opening hours and pharmaceutical services provided by Boots Pharmacy and Asda Pharmacy.

4.5 We have reattached this report for re-consideration by NHS Resolution. We also attach the ICB decision report for consideration by NHS Resolution.

4.6 Given the Committee accepted this, we do not understand why the application was refused due to “the levels of activity on Saturdays together with the possibility that the Boots may be able to reduce Saturday hours”. This reasoning for refusal is a clear misinterpretation of the Regulations.

4.7 The possibility of Boots reducing their core opening hours is not a consideration of the Regulations, thus no weight should be placed on this. We note that Boots have not submitted a request to change their current core opening hours and will be unable to do so under the provisions of Regulation 24 should our client’s application be granted.

4.8 As has been demonstrated in the report previously provided, the Boots Pharmacy which is located 0.1 miles or a 3-minute walk away maintains the existing level of service provision for all services that patients access at the Cohens store on the Saturday through all-day core opening provision, and thus Regulation 24(1)(a) is met with regard to Saturday core hours as Boots provides an accessible alternative.

4.9 As has also been demonstrated and not disputed by the ICB Committee, the Asda Pharmacy maintains the existing level of service provision between the

hours 18:00-18:30 Monday-Friday, and thus again Regulation 24(1)(a) has been met for these weekday evening hours.

- 4.10 Should NHS Resolution deem that the Asda Pharmacy is not accessible, something that the ICB with their local knowledge did not determine, then the application should still be granted under the provision of Regulation 24(1)(b) as there was no demand for services during this time – as per the survey results previously provided.
- 4.11 We would like to highlight that the SW Committee did not dispute that it is unnecessary to maintain the existing level of service provision with regard to 18:00-18:30, Monday-Friday.
- 4.12 Conclusion
- 4.13 We conclude that it is clear the SW Committee did not properly assess our client's application.
- 4.14 Based on the evidence above, and that previously provided, we submit our client has met the regulatory requirements and we invite NHS Resolution to grant our client's application."
- 4.15 [Enclosures provided]

5. **Representations**

In a letter to NHS Resolution dated 5 November 2025 the Commissioner stated:

- 5.1 "Thank you for your letter dated 13 October 2025, inviting representation in response to the appeal received against the decision made by the South West Pharmaceutical Services Regulations Committee (the Committee) on behalf of NHS Bath and North East Somerset, Swindon, Wiltshire Integrated Care Board, (the ICB) to refuse application to amend core opening hours at Cohens Chemist (FRG60) referred as the 'Contractor'.
- 5.2 Please can I ask you to treat the attached, as part of the ICBs representations on this appeal and fulfils the request providing a copy of all the paperwork relevant to this application and decision:
 - 5.2.1 Appendix 1 – FRG60 Core Hour Application
 - 5.2.2 Appendix 2 – FRG60 Supplementary Hour Notification
 - 5.2.3 Appendix 3 – FRG60 Application Supporting Information
 - 5.2.4 Appendix 4 – FRG60 PSRC Minutes
 - 5.2.5 Appendix 5 – FRG60 Decision Letter
- 5.3 The Committee, on behalf of the ICB, wishes to make the following comments on the appeal.

- 5.4 The Committee confirms that the decision to refuse the opening hour changes was made in accordance with NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, Schedule 4, Paragraph 24 and Schedule 4, Paragraph 26. As noted in your letter, the application was determined on the basis of paragraph 24(1) of the Regulations.
- 5.5 The Committee would respectfully suggest that the hours of opening at the pharmacy were put in place in order to support the delivery of the full range of pharmacy services to the local population of Royal Wootton Bassett.
- 5.6 In considering this request, the Committee takes the view that community pharmacies have a role in both the provision of advanced and essential services, including self-care advice, as part of the wider NHS provision of accessible services to patients. The role of Community Pharmacy is also rapidly growing through the pharmacy integration transformation programme and patients will need to access these services at the pharmacy on Saturday, as well as during the week.
- 5.7 Whilst the Committee appreciates the pressures facing community pharmacies, the Committee is of the view that securing sufficient access to pharmaceutical provision over the weekends is vital to ensure patients can access appropriate advice and care, including the expanding range of services, within a reasonable distance. This is an important role for Community Pharmacy within the wider ICB provision of services and is a critical integrated part of the management of urgent care services.
- 5.8 The Committee considered the application (Appendix 1) and supporting information (Appendix 3) with regards Paragraph 24(1)(a). In its own independent survey, the applicant has demonstrated that there is demand for pharmaceutical services during the core hours it proposed to close (09:00-11:00 & 14:30-17:30 Saturdays). As such, it is necessary to maintain service provision to those patients during those hours.
- 5.9 The applicant demonstrated the services provided by alternative community pharmacies. Boots Pharmacy in Royal Wootton Bassett is shown by the applicant to cover the Saturday opening hours that Cohens Chemist has applied to remove. The Committee does not dispute this. However, the Committee is of the view that a weekly Saturday average of 150 customers is not insignificant and that those customers were actively choosing to use Cohens Chemist rather than Boots Pharmacy for a reason. As such, it is necessary to maintain the existing level of service. The loss of core hours would reduce the resilience and accessibility in Royal Wootton Bassett by only having one pharmacy open on a Saturday.
- 5.10 The Committee then considered the application with regards to Paragraph 24(1)(b). The applicant noted in the appeal that the Committee did not dispute that it is unnecessary to maintain the existing level of service provision regarding 18:00-18:30 Monday to Friday. The Committee was in agreement due to the provided survey showing no activity during those times.
- 5.11 As no activity was shown between 18:00-18:30 in the provided survey, the Committee determined the existing level of service provision is adequate for

those times, as there is no level of service to maintain. The only references under 24(1)(b) in the application for determining adequate service provision where it is unnecessary or not a realistically achievable outcome are for the 18:00-18:30 Monday to Friday hours, which the Committee agrees with. The Saturday opening hours were not referenced under 24(1)(b).

- 5.12 The Committee would like to also address the comment on the appeal response regarding “the possibility of Boots reducing their core opening hours is not a consideration of the Regulations, thus no weight should be placed on this.” The referenced Boots Pharmacy is recorded as having over 40 core hours and no direction is in place. As such, it might not be possible to hold the pharmacy to keep those the additional core hours on a Saturday. The position of the Committee is that these additional Saturday core hours cannot, therefore, be relied on, and the level of service provision would not be maintained if an application from Boots UK Ltd is submitted. The ICB is committed to continuing to support patient access to clinical pathways in community pharmacy, working closely with general practice and NHS 111 to increase utilisation of these services.
- 5.13 Without adequate pharmaceutical provision being available patients may choose to access other providers such as out of hours services or minor injury units, increasing demand in other parts of the system for issues that can be dealt with at a Community Pharmacy.
- 5.14 The Committee respectfully requests that the decision to decline the application is upheld.”
- 5.15 [Enclosures provided].

6. **Observations**

In a letter received by NHS Resolution on 26 November 2025 the Applicant stated:

- 6.1 “Thank you for your letter dated 17th November 2025. We note the comments made from the SW Committee and respond accordingly here.
- 6.2 Monday-Friday, 18:00-18:30
- 6.3 First, we welcome the confirmation from the SW Committee that it is unnecessary to maintain the existing level of service provision from 18:00-18:30, Monday-Friday. This satisfies Paragraph 24(1)(b) of Schedule 4 of the Regulations thus we invite the Committee to place weight on this and remove these times as core opening hours.
- 6.4 Saturdays, 09:00-11:00/14:30-17:30
- 6.5 We submit that our client’s application satisfies the regulatory test required under Paragraph 24(1)(a) to maintain as necessary the existing level of service provision for Saturday core opening hours.
- 6.6 When determining this application, the Committee first need to determine whether it is necessary to maintain the existing level of service provision.

6.7 As per the 4-week patient survey carried out, we reiterate it recorded patient usage of NHS Services during the pharmacy's opening hours on Saturdays, and no uptake of Advanced Services.

6.8 As correctly pointed out by the Committee, the Saturday core hours which our client proposes to remove are 09:00-11:00 and 14:30-17:30. While the Saturday survey recorded 150 patients on average utilising the pharmacy from 09:00-17:30, we note this included patient usage during the pharmacy's supplementary hours. We also highlight that pharmacy retail services are not NHS commissioned, and thus no weight should be placed upon this. Thus, we have provided a more accurate representation of those who accessed pharmaceutical services during the pharmacy's core opening hours in the survey table below.

6.9 Patient Survey – Saturday Core Hours

Time	Collection of EPS Rx	Walk-in Rx	Advice/Signposting	Total Customers
09:00-10:00	15.25	1.25	0	16.5
10:00-11:00	20.5	1.5	0.25	22.25
14:00-15:00	12.75	0.75	0	13.5
15:00-16:00	6.5	0.5	0	7
16:00-17:00	4.75	0	0	4.75
17:00-17:30	0.5	0.25	0	0.75
	60.25	4.25	0.25	64.75

6.10 We can see that the average number of patients accessing the pharmacy for pharmaceutical services during its core opening hours is 64.75 – less than half of the total customers (150) during the total opening hours.

6.11 When looking at alternative pharmacies in the area, we reiterate that Boots is highly accessible, is open by way of core opening hours on Saturdays, and provides NHS Services that meets this demand. This is not disputed by the SW Committee. Thus, necessary services are maintained by the Boots for all services by way of Core opening hours on Saturdays as previously highlighted.

6.12 Boots Pharmacy Core Opening Hours

6.13 The SW Committee highlights that the Boots Pharmacy is recorded as having over 40 core hours without a direction in place. We reiterate that the core opening hours of the Boots Pharmacy on Saturdays are from 09:00-13:00/14:00-17:30 according to the FOI received from the ICB. We attach the FOI request and subsequent information received from the ICB in Appendix 1.

6.14 The ICB have suggested that since Boots lack a direction, their core hours cannot be relied on. This is incorrect.

6.15 We cite SHA/26091 and SHA/26128, where the Applicants applied to change their core opening hours, having more than 40 core opening hours without a direction (Appendix 2). We submit that the Committee considered all core hours as core opening hours, regardless of the lack of a direction. To change these core hours an application must be considered under Regulation 24.

6.16 Therefore, if Boots in Royal Wootton Bassett were to attempt to change their core opening hours, they would be required to make an application to NHS England and satisfy NHS England just the same as for other core hours. The same degree of reliance ought therefore to be placed on these hours as other core hours.

6.17 Conclusion

6.18 In conclusion, we submit that our client's application does meet the regulatory requirements.

6.19 We submit that the SW Committee are correct in accepting that it is unnecessary to maintain the existing level of service provision, with regard to 18:00-18:30, Monday-Friday.

6.20 We reiterate that the existing level of service provision will be maintained following the removal of core opening hours at our client's pharmacy on Saturdays. This is because the accessible Boots Pharmacy provides core opening hour coverage and provides the same services accessed at Cohens on Saturdays. Ultimately, this satisfies Paragraph 24(1)(a) of Schedule 4 of the Regulations.

6.21 Thus, based on the evidence above and that previously provided, we submit that our client has met the regulatory requirements and we invite NHS Resolution to grant our client's application."

6.22 [Enclosures provided]

7. Consideration

7.1 I note the following:

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

7.2 The Applicant proposes to:

7.2.1 Open until 1pm instead of 12pm Monday to Friday;

7.2.2 Re-open at 2pm instead of 2.30pm Monday to Friday;

7.2.3 Close at 6pm instead of 6.30pm Monday to Friday; and

7.2.4 Close on Saturday from 9am to 11am and 2.30pm to 5.30pm.

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

7.4 Paragraph 26(1) states:

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

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

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

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

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

7.6 I note the Applicant indicated that it wanted its application to be determined on the basis of paragraph 24(1).

7.7 Paragraph 24(1) reads as follows:

“24 (1) Subject to paragraph 26(2A), where NHS England issues a direction for setting any days or times for opening hours under this Part, or determines them without issuing a direction, it must in doing so seek to ensure that the days and times at which pharmacy premises are open for the provision of pharmaceutical services in the area in which the premises that are the subject of the direction are located are such as –

(a) to maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises; or

(b) to maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome.

7.8 Paragraph 24(2) states:

(2) In considering the matters mentioned in sub-paragraph (1), NHS England –

(a) must treat any local pharmaceutical services being provided in its area as if they were pharmaceutical services being so provided, and

(b) may have regard to any pharmaceutical services that are being provided in its area during supplementary opening hours.

7.9 I will start by considering the application of paragraph 24(1)(a) and whether the proposed hours are such as to maintain as necessary the existing level of

service provision for the people in that area or other likely users of the pharmacy premises. I will then consider the application of 24(1)(b) if that is required.

- 7.10 To properly assess the application against paragraph 24(1)(a), I need to determine the existing level of service provision. I then need to consider whether it is necessary to maintain the existing level of service provision. If it is necessary to maintain the existing level of service provision, I need to consider whether, despite the proposed change of hours, the existing level of service provision to people in the area or other likely users would be maintained, e.g. by nearby pharmacies being open and providing the same level of service provision.
- 7.11 If I consider it unnecessary to maintain the existing level of service provision or that it is necessary to maintain the existing level of service provision but doing so is not a realistically achievable outcome, then I need to consider paragraph 24(1)(b) and determine whether the proposed change of hours are such that a sustainable level of adequate service provision would be maintained.
- 7.12 I therefore need to be provided with sufficient information to understand a range of matters, starting with the existing level of service provision. The references to days and times in paragraph 24(1) leads me to consider that the reference to "level" of service provision in paragraph 24(1)(a) is mainly focused on the days and times services are provided. I would point out that "level" of service provision could also refer to other characteristics of the service, such as types and range of services provided, geographical access to services provided, other aspects of physical access aside from location, and the quality of services provided.
- 7.13 The existing level of service provision has been outlined by the Applicant, in its own core hours provision, and by an indication of the hours that pharmacies in the local area are open.
- 7.14 I have next considered whether it is necessary to maintain the existing level of service provision. It could be argued that as the Applicant is not looking to reduce the number of hours each week that services are provided, then from a pure "number of hours of service provision each week" perspective, the existing level of service provision is maintained such that consideration of whether it is necessary to maintain the level of service provision is not needed.
- 7.15 However, the Applicant is applying to change the days and times that services are provided. Taking Saturday as an example, the level of service provision at the Applicant's premises on a Saturday is not being maintained. I consider it appropriate to determine if it is necessary to maintain the existing level of service provision and then, if deemed necessary, consider if the opening hours of other pharmacies mean that level is maintained.
- 7.16 To determine whether it is necessary to maintain the existing level of service provision, I have had regard to the comments by the Applicant of those using the pharmacy. If I am satisfied that there is reliable evidence indicating no users of the pharmacy on/at the relevant days/times that the pharmacy wishes to

close, this might support an argument that maintaining the existing level of service provision is not necessary.

- 7.17 The Applicant provided with its application and appeal, the results of a survey which it carried out on Monday to Saturday in March 2025 to establish the number of people who visited the pharmacy at the times it proposes to close, together with what services they accessed.
- 7.18 To summarise the survey results, the Applicant states that *“No demand for NHS Services 18:00-18:30 Monday-Friday...No demand for NHS Advanced Services on Saturday”*.
- 7.19 In response to this point, the Commissioner states that *“the application concludes there is “no demand for NHS Services 18:00-18:30 Monday-Friday”, which is consistent with the supplied data, however the next bullet states there is “No demand for NHS Advanced Services on Saturday”. Whilst there is no demand for NHS Advanced Services on a Saturday according to the survey data, the applicant did not refer to the overall demand as they did in the preceding statement, drawing an incomplete picture. The provided survey shows an average of 114.25 patients accessing NHS Services on a Saturday (Collection of EPS Rx and Walk-in Rx).”*
- 7.20 From the information provided, it is apparent and undisputed that no people are using the pharmacy Monday to Friday between the times the Applicant is proposing to close, therefore I do not consider it necessary to maintain the existing level of service provision between these times. However, it is clear that there are some people using the pharmacy on a Saturday at the times the Applicant wishes to close, therefore I consider it is necessary to maintain the existing level of service provision on a Saturday.
- 7.21 As I have determined that maintaining the existing level of service provision Monday to Friday is unnecessary, I next consider if, taking into account the Applicant's amended hours, the days and times at which pharmacy premises are open for the provision of pharmaceutical services in the area are such that a sustainable level of adequate service provision is maintained for the people in that area or other likely users of the pharmacy premises.
- 7.22 The Applicant is not reducing its hours and is wanting to close when no-one accesses pharmaceutical services. There is no further reduction in service provision. I am therefore satisfied that taking into account the amended hours that adequate service provision is maintained. I consider it reasonable to presume that the level of service provision taking into account the amended hours are sustainable. No evidence has been provided to me that rebuts this presumption. I am therefore satisfied that, taking into account the Applicant's amended hours, the days and times at which Asda Pharmacy is open is such that a sustainable level of adequate service provision is maintained Monday to Friday for the people in that area or other likely users of the pharmacy premises.
- 7.23 As I have determined that maintaining the existing level of service provision on a Saturday is necessary, I now need to consider if, despite the changes to hours, there is maintenance of the existing level of service provision on a Saturday. The Applicant cannot maintain this as it is changing its hours but I

note the information from the Applicant with regard to Boots Pharmacy and Asda Pharmacy that, between them, have opening hours during the times on a Saturday that the Applicant is proposing to close. The Applicant made reference to another Cohens Chemist (SN4 7AU) however no information in relation to its opening hours has been provided, I have therefore not considered this pharmacy as an alternative to pharmaceutical provision further.

- 7.24 I note the comments from parties in relation to Boots Pharmacy's core opening hours. The Commissioner states that *"The referenced Boots Pharmacy is recorded as having over 40 core hours and no direction is in place. As such, it might not be possible to hold the pharmacy to keep those the additional core hours on a Saturday. The position of the Committee is that these additional Saturday core hours cannot, therefore, be relied on, and the level of service provision would not be maintained if an application from Boots UK Ltd is submitted"*. In response, the Applicant states that *"We reiterate that the core opening hours of the Boots Pharmacy on Saturdays are from 09:00-13:00/14:00-17:30 according to the FOI received from the ICB...The ICB have suggested that since Boots lack a direction, their core hours cannot be relied on. This is incorrect"*. The Applicant goes on to reference two previous appeals in support of its comments where it concludes that *"the Committee considered all core hours as core opening hours, regardless of the lack of a direction. To change these core hours an application must be considered under Regulation 24"*.
- 7.25 In this regard, paragraph 24(1) includes the following wording *"[...]or determines them without issuing a direction"* (complete extract at paragraph 7.7 above). The inclusion of this wording indicates to me that the Commissioner has a power to determine the days and times at which the 40 core opening hours are provided at Boots and this is without the need to issue a direction.
- 7.26 I note that the rest of paragraph 24(1) and the legal test that needs to be considered alludes to a direction. However, given the novel nature of the situation where a pharmacy is clearly operating outside of 40 hours without a direction, and where each of these hours appears to be core hours, it would make sense that the Commissioner is able to determine the 40 core opening hours without a direction.
- 7.27 I therefore consider that the Commissioner would be able to determine the core opening hours of the Boots pharmacy, without issuing a direction as per paragraph 24(1) and by applying the legal test set out in paragraph 24(1). I have therefore not considered this point further and have proceeded on the basis that this pharmacy is open at times the Applicant is wishing to close on a Saturday.
- 7.28 If I consider that the characteristics of other pharmacies e.g. where they are located, their access, the services they provide and the times they are open, means that the level of service provision is maintained for people in the local area or other likely users of the pharmacy, then I am able to grant the application under paragraph 24(1)(a).
- 7.29 It is worth noting that characteristics of the persons using the pharmacy might be relevant here as well as from where they start their journey to the pharmacy.

If they live close by, walk a few minutes to the pharmacy and walk back home, then even an additional walk to the next nearest pharmacy might be considered as not maintaining the level of service provision to users of the pharmacy. I do not consider that every single individual need should be considered at length in this regard but it would be helpful to have this information to be certain that the existing level of service provision would be maintained via local pharmacies.

- 7.30 I note that Boots Pharmacy is located 0.1 miles from the Applicant's pharmacy and would take 3 minutes to walk. Due to the short distance involved, I consider it reasonable to presume that patients who currently access the Applicant's pharmacy on foot, will also be able to access this pharmacy on foot. I note that Asda Pharmacy is located 3.4 miles away from the Applicant's pharmacy, therefore, due to the distance involved, I do not consider this to be a suitable alternative for patients who currently walk to the Applicant's pharmacy.
- 7.31 Turning to access by public transport, in relation to Boots Pharmacy, the Applicant states that *"Both pharmacies are accessed via the same bus stop"*. Whilst the Applicant has not provided information to demonstrate where this bus stop is located, I note that if it is located nearer to the Applicant's pharmacy as opposed to Boots Pharmacy, at most, it would be an additional 3 minutes walk. Noting my conclusion at 7.30 and that the bus service is the same, I consider that those who currently access the Applicant's pharmacy by bus would also be able to access Boots Pharmacy.
- 7.32 In relation to Asda Pharmacy, the Applicant states *"public transport is also very good in Royal Wootton Bassett, with buses operating every 10-15 minutes from the High Street (c. 5 minutes away from Cohens)"*. However, I note that the Applicant has provided no information to demonstrate where the High Street is located in relation to the Applicant's pharmacy nor has it provided information to outline the relevant bus routes or timetables. Without having this information, I do not consider that Asda Pharmacy is a suitable alternative for those who currently access the Applicant's pharmacy by bus.
- 7.33 The Applicant has provided information regarding car ownership for the *"Wiltshire 006 Mid-layer SOA, which covers the majority of Wootton Bassett"*. It states that *"84.4% have at least one car per household, much higher than the national average of 76.5%. Thus, we can see that car ownership is high in the area and many are likely to be able to make this journey"*. In terms of access by car, for Boots Pharmacy, the Applicant states that *"the pharmacy is only a 2-minute drive away with parking available directly outside the pharmacy...Thus, patient access by...car is very good"*. Noting the short driving time, I consider that patients who currently access the Applicant's pharmacy by car, will also be able to access this pharmacy. Turning to Asda Pharmacy, the Applicant states that *"Asda Pharmacy is a 14-minute drive away"*. I consider it likely that this pharmacy is located within a supermarket setting and therefore sufficient parking facilities will be available. However, I note that the Applicant has provided no information in relation to the routes required to be undertaken nor parking facilities available.
- 7.34 To conclude my findings, I consider that Boots Pharmacy is a suitable alternative for those who currently access the Applicant's pharmacy whether

by foot, car or public transport. However, due to the limited information in relation to Asda Pharmacy, I do not consider this to be a suitable alternative.

7.35 I note the Applicant has confirmed that it offers “*Pharmacy First, Pharmacy Contraception Service, Hypertension Case-Finding Service, New Medicine Service (NMS), Flu Vaccination Service, Lateral Flow Device Service (LFD) and the Smoking Cessation Service*” which “*are fully covered by the Boots Pharmacy during core opening hours on Saturday*” and has not been disputed by the Commissioner.

7.36 Based on the information provided, I am therefore satisfied that, on a Saturday, the existing level of service provision would be maintained by Boots Pharmacy.

7.37 Under paragraph 26(10) “*The Secretary of State may, when determining an appeal, either confirm the action taken by the NHS England or take any action that the NHS England could have taken under sub-paragraph (4).*”

7.38 Paragraph 26(4) states:

(4) When it determines the application, the NHS England must—

(a) issue a direction (which replaces any existing direction) which meets the requirements of sub-paragraphs (4A), (5) and (6) and which has the effect of either granting the application under this paragraph or granting it only in part;

(b) confirm any existing direction in respect of the times at which P must provide pharmaceutical services at the pharmacy premises, provided that the existing direction (whether issued under regulation 65, this Part, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations) would meet the requirements of sub-paragraphs (5) and (6); or

(c) either—

(i) revoke, without replacing it, any existing direction in respect of the times at which P must provide pharmaceutical services at the pharmacy premises (whether issued under regulation 65, this Part, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations), where this has the effect of granting the application under this paragraph or granting it only in part, or

(ii) in a case where there is no existing direction, issue no direction.

7.39 With regard to paragraph 26(4)(a) I note that a direction is not in place for the Applicant to provide 40 core hours as it was, and remains, a condition on inclusion for the Applicant to provide those hours.

7.40 For the above reasons, I am not confirming any existing direction in line with paragraph 26(4)(b).

7.41 Further, there is no direction to revoke in line with paragraph 26(4)(c).

- 7.42 The only option left to me is therefore to substitute the decision of the Commissioner to reject the change of hours application with the decision to grant the change of hours application, without a direction.

8. Determination

- 8.1 In relation to Monday to Friday, based on the information provided, I am satisfied that maintaining the existing level of service provision is unnecessary but that a sustainable level of service provision is maintained for the people in the area or other likely users of the pharmacy premises.
- 8.2 In relation to Saturday, based on the information provided, I am satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours would maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises.
- 8.3 Therefore, I substitute the decision of the Commissioner to reject the change of hours application with the decision to grant the change of hours application, without a direction.

**Head of Appeals
NHS Resolution**