

9 January 2026

REF: SHA/ 26741

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

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

**APPEAL AGAINST KENT AND MEDWAY ICB
DECISION TO REFUSE AN APPLICATION BY
PHARMACY 1ST LTD FOR INCLUSION IN THE
PHARMACEUTICAL LIST OFFERING
UNFORESEEN BENEFITS UNDER REGULATION
18 AT RAINHAM HEALTHY LIVING CENTRE, 103-
107 HIGH STREET, RAINHAM, GILLINGHAM, ME8
8AA**

1 Outcome

- 1.1 The Pharmacy Appeals Committee (“Committee”), appointed by NHS Resolution, quashes the decision of the Commissioner and redetermines the application.
- 1.2 The Committee determined that the application should be refused.

A copy of this decision is being sent to:
Gordons Partnership Solicitors on behalf of Pharmacy 1st Ltd
PCSE on behalf of Kent and Medway ICB
Phoenix Pharmacy
Temple Bright LLP on behalf of Turpin Barker Armstrong

REF: SHA/ 26741

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

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

**APPEAL AGAINST KENT AND MEDWAY ICB
DECISION TO REFUSE AN APPLICATION BY
PHARMACY 1ST LTD FOR INCLUSION IN THE
PHARMACEUTICAL LIST OFFERING
UNFORESEEN BENEFITS UNDER REGULATION
18 AT RAINHAM HEALTHY LIVING CENTRE, 103-
107 HIGH STREET, RAINHAM, GILLINGHAM, ME8
8AA**

1 The Application

By application dated 23 April 2025, Pharmacy 1st Limited ("the Applicant") applied to Kent and Medway ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Rainham Healthy Living Centre, 103-107 High Street, Rainham, Gillingham, ME8 8AA. In support of the application it was stated:

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

1.1 "There is no pharmacy adjacent to or in close proximity of the proposed site."

In response to "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" the Applicant stated:

1.2 "Background"

1.3 This application is based on the benefits and better access it will offer to the HWB area and not solely on closures of other pharmacies. However it is important context that at the start of 2020 the centre of Rainham had three pharmacies and it now has one. In December 2020, the closure of Lloyds pharmacy at 2/3 Stanford House, Station Road, Rainham, ME8 7PH removed an important provision of pharmacy services near the proposed pharmacy location. This branch of Lloyds Pharmacy dispensed approximately 10,000 items per month. This left two pharmacies within the shopping centre. In May 2024 Jhoots Pharmacy took over the remaining Lloyds Pharmacy within the Rainham shopping precinct. In March 2024, the Boots situated at 21-22 Rainham Shopping Centre, ME8 7HW also closed. Patient choice of pharmacy has been reduced and the proposed pharmacy will be of significant benefit to the community to improve patient choice of pharmacy in the area.

1.4 Rainham's Jhoots Pharmacy has had to close on two separate occasions in 2024 due to ongoing landlord disputes. On the first occasion, in April, Jhoots closed for a week, before re-opening in the unit that previously was operated

by Boots Pharmacy. The second closure took place in October. It is unclear whether the issues are ongoing, and will result in further closures. The result of the closures was that the local community went without accessible provision of pharmaceutical services for the periods of closure.

- 1.5 In a Medway Council meeting on 13 March 2025, concern was raised over the “significant reduction in pharmacy provision in Rainham”. Pharmacy 1st will be able to provide consistent pharmaceutical services to the Rainham community, helping to address this growing issue.
- 1.6 **Reg 18(1)(b) –PNA**
- 1.7 The PNA indicated in 2022 that there was no gap in the provision of pharmaceutical services. At page 86 it says, “Overall, there is good pharmaceutical service provision in most of Medway from Monday to Friday. The majority of residents can access a pharmacy within a 20-minute walking distance and there is adequate choice of pharmacy.” Additionally, the PNA says at page 86 that “The current provision of “standard 40-hour” pharmacies should be maintained”. There has not been a supplementary statement since the publication of the PNA in 2022.
- 1.8 The closure of Boots Pharmacy and take over by Jhoots Pharmacy of Lloyds Pharmacy has reduced the pharmaceutical provision in the Rainham area. With the ongoing issues and uncertainty about whether there will be a permanent closure of the Jhoots Pharmacy, granting this application would demonstrate a significant improvement on the availability of services within Rainham.
- 1.9 **Reg 18(2)(a)(i) and (ii)– Would granting the application cause significant detriment to the proper planning of, or the arrangements for, the provision of pharmaceutical services in the HWB’s area?**
- 1.10 The proposed pharmacy would increase pharmacy provision back towards the position identified when the current PNA was drafted. Therefore, rather than causing detriment to either the planning or arrangements for the provision of pharmaceutical services in the area, the proposed pharmacy would make significant progress in restoring access to pharmaceutical services in Medway, and in particular in Rainham, ensuring that access to pharmaceutical services is consistent and reliable.
- 1.11 When considering the application, the NHSCB must have regard to the matters set out in paragraph (2) of the 2013 regulations. These include: -
- 1.12 **Reg 18(2)(b)(i) – there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB**
- 1.13 When Lloyds Pharmacy and Boots Pharmacy closed, there was a diminishment of ‘reasonable choice’ for patients. The effects of this have been worsened by the two unexpected closures of Jhoots Pharmacy in 2024. Whilst Jhoots Pharmacy was closed, the nearest Pharmacy was either a 29-minute walk (Tesco Pharmacy) or 33 minute walk away (Phoenix Pharmacy). Both fall outside of the often quoted one mile commute to access a pharmacy and would place a significant strain on patients with mobility issues or who are acutely unwell and in need of pharmacy medicine or a prescription.

1.14 [Google maps screenshot enclosed]

Pharmacy Name	Address	Distance from proposed location	Opening times
Jhoots Pharmacy	22 Rainham Shopping Centre, Rainham, Gillingham ME8 7HW	0.1 miles	Monday to Friday 09:00-17:30 Saturday 09:00-13:00
Phoenix Pharmacy	373 Maidstone Rd, Wigmore, Gillingham ME8 0HX	1.4 miles	Monday to Friday 09:00-18:00 Saturday 09:00-18:00
Tesco Pharmacy	Courteney Rd, Gillingham ME8 0GX	1.2 miles	Monday to Saturday 09:00-21:00 Sunday 10:00-16:00
Fenns Chemist	33-35 Park Wood Green, Gillingham ME8 9PW	1.4 miles	Monday to Thursday 09:00-17:30 Friday 09:00-18:00 Saturday 09:00-16:00

1.15 In terms of public transport, Tesco Pharmacy is a ten minute bus ride but this time does not include the time take to walk to the bus stop initially and to the pharmacy on arrival.

1.16 Although car ownership is relatively high, parking is not always easy at the other pharmacies and there are a proportion of households who will not have access to a vehicle when they need to travel to the pharmacy.

1.17 There are a number of nearby GP practices. The pharmacy will be co-located with the nearest at the Rainham Healthy Living Centre, 103-107 High Street, Rainham. The Rainham Healthy Living Centre houses two practices; Orchard Family Practice which is open from 8am to 6:30pm and The Church View Practice which opens from 8am to 6pm on Monday to Thursday and 8:00am to 6:30 pm on Friday.

1.18 The nearest GPs are:

GP Name	Address	Distance from proposed location	Opening times

Rainham Healthy Living Centre	103-107 High St, Rainham, Gillingham ME8 8AA	N/A – same location	Monday-Friday 08:00-18:30
Orchard Family Practice	103-107 High St, Rainham, Gillingham ME8 8AA	N/A – same location	Monday-Friday 08:00-18:30
Church View Practice	103-107 High St, Rainham, Gillingham ME8 8AA	N/A – same location	Monday-Friday 08:00-18:30
Thames Avenue Surgery	2 Thames Avenue, Rainham, Gillingham, ME8 9BW	0.3 miles	Monday-Friday 08:00-13:00 15:00-18:30
Maidstone Road Surgery	53A & B Maidstone Road, Rainham, Kent ME8 0DP	0.5 miles	Monday 08:00-12:30 and 15:00-19:00 Tuesday-Friday 08:00-12:30 and 15:00-18:30
Pump Lane Surgery	13 Pump Lane, Rainham, Gillingham ME8 7AA	1 mile	Monday-Friday 08:30-13:00 and 15:30-18:30
Eastcourt Lane Surgery	52 Eastcourt Lane, Gillingham ME8 6EY	1.6 miles	Monday-Friday 08:00-12:30 and 14:30-18:00
Wigmore Medical Centre	114 Woodside, Wigmore, Gillingham ME8 0PW	1.4 miles	Monday-Friday 08:30-18:00
Long Catlis Road Surgery	Long Catlis Road, Gillingham ME8 9PR	1.4 miles	Monday-Friday 08:00-18:00
Parkwood Family Practice	Parkwood Family Practice	Parkwood Family Practice	Parkwood Family Practice

- 1.19 The proposed pharmacy would increase diversity of choice, ensuring patients within the catchment area have ongoing access to pharmaceutical services, in case of further temporary or permanent closure of Jhoots Pharmacy. As the pharmacy will be independent it will be responsive to local needs. The usual Responsible Pharmacist will also be a director of the company owning the business and will have a personal interest in maintaining high standards and

excellent service. The directors of the company have a proven track record having run successful pharmacies in the Medway area for 12 years.

- 1.20 The pharmacies within the ME8 postcode (indicated below outlined in red) [map provided] currently dispense on around 45,000 items per month (December 2024 data) between 5 pharmacies.
- 1.21 <https://www.nhsbsa.nhs.uk/prescription-data/dispensing-data/dispensing-contractors-data>
- 1.22 In the Rainham (combined Rainham Central, North and South) constituencies, there is a population of around 35,000 people (2021 Census Data)
- 1.23 [Medway \(Unitary Authority, United Kingdom\) - Population Statistics, Charts, Map and Location](#)
- 1.24 This equates to 14.2 pharmacies per 100,000 population. The 2022 PNA uses ONS data to show that the Medway average is 19.3 Pharmacies per 100,000 population and the England average is 17.3 pharmacies per 100,000 population. This demonstrates that the provision in Rainham is far behind other areas of the country, and as such there is a need for additional pharmaceutical provision.
- 1.25 Given the overall lack of provision of pharmaceutical services in Medway, this application will provide a significant benefit in ensuring the level of choice with regards to obtaining pharmaceutical services is maintained and enhanced.
- 1.26 **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**
- 1.27 Providing services at the proposed location would have a significant benefit for patients, particularly those who may have difficulty in accessing other areas, such as the elderly, disabled or parents with young children.
- 1.28 The pharmacists who will be working at the proposed pharmacy speak fluent Punjabi and can communicate in three different languages of India and Pakistan. This is particularly important for the provision of essential services such as promotion of healthy lifestyles and support for self-care to the sector of the community who speaks these languages, but limited English. The 2022 PNA states that over two thirds of adults (71.6%) in Medway are classed as overweight, which is higher than the national average (62.8%) and regional average (61.5%), so there is a significant need for pharmacists to be able to communicate effectively with patients.
- 1.29 The pharmacy will aim to offer a free emergency delivery service of prescription medication to elderly, disabled and pregnant members of the community 7 days of the week within the ME8 and ME7 postcodes.
- 1.30 It will offer compliance aids in the form of 28-day blister packs for those eligible under the DDA, a service currently being reduced by many local contractors.

- 1.31 The applicant currently offers a private UTI clinic at one of our other branches overseen by the Prescribing Pharmacist. We propose to offer a similar service as a walk-in, tested and treated facility.
- 1.32 In August/September 2024, Medway HWB identified Rainham as an area lacking in provisions for the upcoming Autumn Covid Booster campaign, with no contractor able to fulfil patient needs. Pharmacy 1st successfully tendered for the service and undertook vaccinations as a temporary site from the Rainham Healthy Living Centre. This is a service the applicant would continuously maintain for ongoing campaigns, should this application be successful.
- 1.33 **Reg 18(2)(b)(iii) – Providing and innovative approach to the delivery of pharmaceutical services**
- 1.34 The UTI clinic is considered to be an innovative way of delivering essential services. It is the applicant's understanding that no other pharmacy in Medway, other than the applicant's existing pharmacy, is offering this service.
- 1.35 In summary, this applicant offers a combination of replacement of an important provider of services, and improved times of availability of services and improved services, and because of this will provide overall improvements and better access to pharmaceutical services in the HWB area.
- 1.36 **Conclusion**
- 1.37 In summary, this application will fill a gap in the provision of pharmaceutical services in Rainham and will provide better choice for patients, where at present there is no choice. The applicant will provide better access to pharmaceutical services in Medway and provide stability for pharmaceutical services in Rainham."

In response to "please explain how you intend to secure the unforeseen benefit(s)" the Applicant stated:

- 1.38 "By opening a pharmacy at the proposed location."

2 '14 day comments' to the Commissioner

2.1 Gordons Partnership Solicitors on behalf of the Applicant

- 2.1.1 "Thank you for your letter dated 8 July 2025 with enclosures. We are instructed to respond to the representations you have received:-
- 2.1.2 Medway Health and Wellbeing Board - email dated 30 June 2025
- 2.1.3 The comments of the Health and Wellbeing Board are at odds with the comments from the Medway Council meeting on 13 March 2025, where the three Rainham Councillors raised concerns about 'a significant reduction in pharmacy provision in Rainham.' At this meeting three Rainham councillors identified difficulties that their constituents were having in obtaining access to pharmacy services. The meeting was attended by a representative from the HWB who indicated that the problem could not be addressed because no relevant application had

been made. Our client's application was made very shortly after these comments and in light of this the position of the HWB is disappointing.

- 2.1.4 In relation to the remainder of the HWB letter –there is no “gap” identified in the Rainham PNA. A grant under regulation 18(1) b requires that the improvements or better access that would be secured were ... not included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”) and that is the case here.
- 2.1.5 It is our client's case that significant improvements and better access would be achieved by the application. There has recently been a significant reduction in effective pharmaceutical services in the Rainham area. This has been partly caused by closure of pharmacies; these are the closures of the Lloyds Pharmacy at 2/3 Stanford House and the Boots Pharmacy at 21-22 Rainham Shopping Centre. As highlighted in Pharmacy 1st's application, this has significantly reduced pharmacy provision in Rainham to just 14.2 pharmacies per 100,000 population, which falls behind the averages for England and Medway.
- 2.1.6 The closure of the Boots Pharmacy, leaving only one pharmacy in the centre of Rainham, was not foreseen when the 2022 PNA was prepared. Pharmacy 1st will be able to provide significant benefits to the Rainham community by being easily accessible to patients already accessing Rainham Healthy Living Centre for GP surgery services. The services provided by Pharmacy 1st including Pharmacy First, NHS Flu Vaccination Service, Pharmacy Hypertension Service and Pharmacy Contraception Service will also reduce pressures on local GP surgeries as the population of Rainham continues to increase. In addition to pharmacy closures and overall population increase, service issues have also caused problems with the provision of pharmaceutical services in Rainham.
- 2.1.7 In terms of travel time analysis, please see the below travel times from the proposed pharmacy location:
- 2.1.8 Pharmacies

Pharmacy Name	Address	Distance from proposed location	Travel times	Opening times
Jhoots Pharmacy	22 Rainham Shopping Centre, Rainham, Gillingham ME8 7HW	0.1 miles	Walk: 3 minutes Drive: 2 minutes Bus: N/A	Monday to Friday 09:00-17:30 Saturday 09:00-13:00
Phoenix Pharmacy	373 Maidstone Rd, Wigmore,	1.4 miles	Walk: 33 minutes Drive: 5 minutes	Monday to Friday 09:00-18:00 Saturday

	Gillingham ME8 0HX		Bus: 15 minutes	09:00-18:00
Tesco Pharmacy	Courteney Rd, Gillingham ME8 0GX	1.2 miles	Walk: 29 minutes Drive: 9 minutes Bus: 10 minutes	Monday to Saturday 09:00-21:00 Sunday 10:00-16:00
Fenns Chemist	33-35 Park Wood Green, Gillingham ME8 9PW	1.4 miles	Walk: 34 minutes Drive: 5 minutes Bus: 13 minutes	Monday to Thursday 09:00-17:30 Friday 09:00-18:00 Saturday 09:00-16:00

2.1.9 The Jhoots Pharmacy is the only pharmacy above that is within a reasonable walking distance of the proposed pharmacy location at Rainham Healthy Living Centre. The remaining three pharmacies are further than a twenty minute walk, which is a significant distance for patients to walk, especially if they are unwell or have mobility issues.

2.1.10 GP Surgeries

GP Name	Address	Distance from proposed location	Travel times	Opening times
Rainham Healthy Living Centre	103-107 High St, Rainham, Gillingham ME8 8AA	N/A – same location	N/A – same location	Monday-Friday 08:00-18:30
Orchard Family Practice	103-107 High St, Rainham, Gillingham ME8 8AA	N/A – same location	N/A – same location	Monday-Friday 08:00-18:30
Church View Practice	103-107 High St, Rainham, Gillingham ME8 8AA	N/A – same location	N/A – same location	Monday-Friday 08:00-18:30
Thames Avenue Surgery	2 Thames Avenue, Rainham, Gillingham, ME8 9BW	0.3 miles	Walk: 8 minutes Drive: 1 minute Bus: n/a	Monday-Friday 08:00-13:00 15:00-18:30

Maidstone Road Surgery	53A & B Maidstone Road, Rainham, Kent ME8 0DP	0.5 miles	Walk: 11 minutes Drive: 2 minutes Bus: 10 minutes	Monday 08:00-12:30 and 15:00-19:00 Tuesday-Friday 08:00-12:30 and 15:00-18:30
Pump Lane Surgery	13 Pump Lane, Rainham, Gillingham ME8 7AA	1 mile	Walk: 23 minutes Drive: 5 minutes Bus: 8 minutes	Monday-Friday 08:30-13:00 and 15:30-18:30
Eastcourt Lane Surgery	52 Eastcourt Lane, Gillingham ME8 6EY	1.6 miles	Walk: 36 minutes Drive: 8 minutes Bus: 16 minutes	Monday-Friday 08:00-12:30 and 14:30-18:00
Wigmore Medical Centre	114 Woodside, Wigmore, Gillingham ME8 0PW	1.4 miles	Walk: 34 minutes Drive: 5 minutes Bus: 16 minutes	Monday-Friday 08:30-18:00
Long Catlis Road Surgery	Long Catlis Road, Gillingham ME8 9PR	1.4 miles	Walk: 33 minutes Drive: 5 minutes Bus: 13 minutes	Monday-Friday 08:00-18:00
Parkwood Family Practice	119 Long Catlis Road, Gillingham ME8 9RR	1.7 miles	Walk: 41 minutes Drive: 7 minutes Bus: 16 minutes	Monday-Friday 08:00-12:30 and 14:30-18:30

2.1.11 Five GP surgeries are located within a twenty-minute walk of proposed pharmacy location, including three within the same building, providing easy access to pharmaceutical services. The remainder of the GP surgeries above are all less than a ten-minute drive and twenty minute bus journey away. The proposed pharmacy would therefore be accessible to patients registered at all of the above GP surgeries.

2.1.12 In terms of the concern raised about the “1 mile rule”, the NHS Business Services Authority Open Data Portal shows that only one GP surgery within the ME8 postcode area is a dispensing practice. This is Maidstone Road Surgery at 53A & B Maidstone Road, Rainham, Kent ME8 0DP. This surgery is a two-minute drive or eleven-minute walk away from the proposed pharmacy location, so patients at this surgery will be able to easily access the Healthy Living Centre to receive their prescriptions. They will also be able to receive the full range of

pharmaceutical services. It is accordingly difficult to see how patients would be negatively impacted.

2.1.13 Further, as the ICB will be aware,

2.1.13.1 The gradualisation process under regulation 50 of the Regulations could be applied to this surgery for the patients who would be affected.

2.1.13.2 The dispensing doctors will still dispense to patients outside the “one mile rule”

2.1.13.3 The patients in fact would have historically been within one mile from the closed Lloyds pharmacy so have not been receiving dispensing services from the GP surgery for any extended period.

2.1.14 In addition, the ICB was obliged to consult the LMC and any provider of primary medical services within 1.6 kilometres of a controlled locality who would have had significant interest in the application pursuant to paragraph 19 of schedule 2 of the Regulations. It would have been open to these consultees to make their own representations on this matter and no representations have been received.

2.1.15 The third bullet point of Medway HWB’s response concerns survey data received in preparation for the new PNA due later this year. We do not have access to the survey responses mentioned, so cannot comment on their substance. However, since 2020, the pharmacy provision in the centre of Rainham has reduced from three pharmacies to one pharmacy. At the same time, the population is increasing (please see the link on page 5 of the justification document), which strongly suggests that a reduction in pharmaceutical services will create insufficient provision and a lack of choice.

2.1.16 The pharmacies who would be most affected by the proposed pharmacy were circulated with the application and would have had the opportunity to provide verifiable evidence of any impact of this application on their viability. However, none of them have provided this information and the comment should be disregarded.

2.1.17 Phoenix Pharmacy – letter dated 30 June 2025

2.1.18 It should be noted that although Phoenix Pharmacy gives assurances about Jhoots’ long-term commitment to Rainham these are not repeated in Jhoots’ own representations. The comments regarding Jhoots Pharmacy that are not repeated in Jhoots’ representations should be disregarded.

2.1.19 Indeed, the data provided appear flawed as publicly available information from the NHS Business Services Authority website shows that in March 2025 70% of prescriptions dispensed by Jhoots were received from GP surgeries within the ME8 postcode. Since Jhoots Pharmacy consolidated the Lloyds Pharmacies in Rainham, this has consistently been between 67% and 72% of prescriptions. This is not in

line with the statement that Lloyds Pharmacy at 2/3 Stanford House was predominantly dispensing prescriptions for care homes outside of Rainham or that Jhoots has since stopped dispensing for care homes outside of the town.

- 2.1.20 The proposed pharmacy location has the benefit of being in a particularly convenient location for patients registered to the GP surgeries with the Healthy Living Centre or otherwise accessing the Centre's services. Pharmacy 1st's proposed opening times would allow patients to access pharmaceutical services until the same closing time as the Healthy Living Centre (18:30 from Monday to Friday). Jhoots Pharmacy closes at 17:30 from Monday to Friday, so patients with later afternoon and evening GP appointments at Rainham Healthy Living Centre would benefit from a pharmacy onsite that remains open later to dispense prescriptions and provide other pharmaceutical services.
- 2.1.21 In relation to paragraph four and the existing providers, each of the pharmacies mentioned in this list is a significant distance away from Rainham Healthy Living Centre, with walking times ranging from 29-38 minutes. For patients without access to a vehicle or with mobility issues, it will be difficult to access any of these pharmacies. The proposed pharmacy at the Healthy Living Centre would provide better choice to patients who need to access pharmacy services in the town centre.
- 2.1.22 Jhoots Pharmacy – letter dated 3 July 2025
- 2.1.23 It is accepted that Jhoots Pharmacy is located a short distance from the proposed location of this pharmacy. However, in 2020, Rainham had three pharmacies in the town centre, and at the beginning of 2024 there were still two pharmacies in the centre. As is known there is now only one which does not present reasonable choice for the HWB population. The proposed pharmacy at the Healthy Living Centre would return Rainham's pharmacy provision to the level it was in 2024 and consequently provide patient choice.
- 2.1.24 Jhoots states that Phoenix Pharmacy and Tesco Pharmacy are a little further away. Both of these pharmacies are over a mile away from Rainham Healthy Living Centre. Although there is parking available at these locations, for Rainham residents without access to a vehicle, this is a significant walk. It is important that residents with accessibility requirements or without access to a vehicle have access to pharmaceutical services within walking distance.
- 2.1.25 It is also noted that this letter did not address the comments in Pharmacy 1st's application regarding the temporary closures of Jhoots Pharmacy in Rainham and the uncertainty around the future of this issue. Granting our client's application now will secure consistent pharmaceutical services in the centre of Rainham.
- 2.1.26 In all the circumstances, we ask the ICB to grant our client's application."

3 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 8 September 2025 states:

- 3.1 “Kent and Medway ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.
- 3.2 You have a right of appeal to the Secretary of State against Kent and Medway ICB’s decision. Should you choose to appeal then you should either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:
- 3.3 Primary Care Appeals
- 3.4 NHS Resolution
8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU”.

PSRC Report

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

3.5 “Introduction and background

- 3.6 An unforeseen benefits application had been received from Pharmacy 1st Ltd, on 29th April 2025, Rainham Healthy Living Centre, 103-107 High Street, Rainham, Gillingham, ME8 8AA HWB. The Committee was now required to consider the application in accordance with Regulations 18 and 19 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.
- 3.7 Full details of the applicant’s proposal had been notified to the various interested parties in accordance with the regulations. Comments had been received from the following parties – Medway Health and Wellbeing Board (HWB), Phoenix Pharmacy and Jhoots Pharmacy Ltd. There were also follow up comments from the applicant.

3.8 Consideration by the Committee

- 3.9 The Committee had before it:

- 3.9.1 The NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.
- 3.9.2 Department of Health guidelines on market entry by means of pharmaceutical needs assessment – Chapter 8 – Unforeseen Benefits.
- 3.9.3 The Report which included:

- 3.9.4 the application form and information provided by the Applicant,
 - 3.9.5 letters from interested parties and a response to those comments from the Applicant,
 - 3.9.6 maps of the location,
 - 3.9.7 opening times and distances to surrounding pharmacies and GP Practices,
 - 3.9.8 a site visit report,
 - 3.9.9 Medway PNA extracts and a link to the full PNA,
 - 3.9.10 demographic information including population density,
 - 3.9.11 public transport information,
 - 3.9.12 prescription information,
 - 3.9.13 SHA 24564 appeal decision report and,
 - 3.9.14 the relevant Regulations (18, 19, 31 and 50).
- 3.10 In relation to the application, the Committee noted the following:
- 3.10.1 The Committee noted that the applicant's fitness information had previously been considered and approved.
 - 3.10.2 The Committee noted that the applicant was proposing to provide essential, enhanced and advanced services, if commissioned.
 - 3.10.3 The applicant also proposed core opening of 47.5 hours per week and total proposed opening of 47.5 hours per week.
 - 3.10.4 The applicant had also indicated which hours they proposed to be the 40 core hours, and which hours were proposed as additional core hours (the additional core hours/directed hours were 17:00-18:30 Monday to Friday).
- 3.11 The Committee considered the applicant's statement as to the unforeseen benefits it is offering. The Applicant has stated that *"This application is based on the benefits and better access it will offer to the HWB area and not solely on closures of other pharmacies. However, it is important context that at the start of 2020 the centre of Rainham had three pharmacies and it now has one. In December 2020, the closure of Lloyds pharmacy at 2/3 Stanford House, Station Road, Rainham, ME8 7PH removed an important provision of pharmacy services near the proposed pharmacy location. This branch of Lloyds Pharmacy dispensed approximately 10,000 items per month. This left two pharmacies within the shopping centre. In May 2024 Jhoots Pharmacy took over the remaining Lloyds Pharmacy within the Rainham shopping precinct. In March 2024, the Boots situated at 21-22 Rainham Shopping Centre, ME8 7HW also closed. Patient choice of pharmacy has been reduced and the proposed*

pharmacy will be of significant benefit to the community to improve patient choice of pharmacy in the area.

Rainham's Jhoots Pharmacy has had to close on two separate occasions in 2024 due to ongoing landlord disputes. On the first occasion, in April, Jhoots closed for a week, before re-opening in the unit that previously was operated by Boots Pharmacy. The second closure took place in October. It is unclear whether the issues are ongoing, and will result in further closures. The result of the closures was that the local community went without accessible provision of pharmaceutical services for the periods of closure.

In a Medway Council meeting on 13 March 2025, concern was raised over the "significant reduction in pharmacy provision in Rainham". Pharmacy 1st will be able to provide consistent pharmaceutical services to the Rainham community, helping to address this growing issue."

- 3.12 The Committee considered information from a site visit of the Rainham area that had been undertaken by a Pharmacy Commissioning Hub representative who was present at the meeting.
- 3.13 The Committee noted the decision made by NHS Resolution dated 8th July 2021 (SHA- 24564) to refuse an application offering to provide unforeseen benefits for the Rainham area. In considering whether the granting of the application would confer significant benefits, the NHS Resolution Committee determined that:
 - 3.13.1 *there is already a reasonable choice with regard to obtaining pharmaceutical services*
 - 3.13.2 *there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and*
 - 3.13.3 *there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services.*
- 3.14 The Committee considered the representations made by Medway HWB, Phoenix Pharmacy and Jhoots Pharmacy Ltd – and noted the comments made by the interested parties. The Committee noted that Medway HWB, Phoenix Pharmacy and Jhoots Head Office all opposed the application.
- 3.15 The applicant's response to the representations received during the consultation period was considered.
- 3.16 The Committee acknowledged the comments received from the Applicant on 4 August 2025 after the 14 day consultation period deadline. As the comments were received after the deadline the Committee noted them but placed no weight on the comments because they were not in response to representations submitted by another party.
- 3.17 **Regulation 31 – Refusal: same or adjacent premises**
- 3.18 The Committee first considered Regulation 31(2)(a)(i) and was of the view that Regulation 31(2)(a)(i) is not met as there is currently no person on the pharmaceutical list at the premises to which the application relates.

- 3.19 The Committee went on to consider paragraph (a)(ii) of Regulation 31(2); whether there is a person on the pharmaceutical list providing pharmaceutical services from adjacent premises.
- 3.20 The Committee was satisfied that there is no pharmacy providing pharmaceutical services within the area of the proposed premises. The application did not therefore need to be refused in accordance with Regulation 31.
- 3.21 **Regulations 40, 41 and 44**
- 3.22 The Committee noted that the proposed pharmacy location was not in a controlled locality, and therefore Part 7 of the Regulations (in particular Regulations 40, 41 and 44) did not have to be considered.
- 3.23 **Regulations 50**
- 3.24 There are 6 dispensing patients living within 1.6km radius of the proposed address, therefore the Committee noted that if the application was approved it would be required to consider the discontinuation of arrangements for the provision of pharmaceutical services by doctors to the affected patients under Regulation 50.
- 3.25 The Committee agreed that if the application is approved, it was inclined that the service provided by the dispensing doctors to the affected patients should be discontinued, and that the discontinuation should be postponed in order to give the doctors reasonable notice of the discontinuation, as follows –
- 3.25.1 Maidstone Road Rainham Surgery - for a period of one (1) month – (4 patients)
- 3.25.2 Sutton Valence Group Practice for a period of one (1) month – (1 patient)
- 3.25.3 Old School Surgery for a period of one (1) month – (1 patient)
- 3.26 **Oral Hearing**
- 3.27 The Committee decided that it was not necessary to hold an oral hearing before determining the application.
- 3.28 Regulation 18 – Unforeseen benefits application
- 3.29 The Committee noted that this was an application for “unforeseen benefits” and fell to be considered under the provisions of Regulation 18 which states: [Regulation 18(1) quoted in full].
- 3.30 The Committee considered that Regulation 18(1)(a) was satisfied in that it was required to determine whether it was satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB

- 3.31 The Committee went on to consider whether Regulation 18(1)(b) was satisfied, i.e. whether the improvements or better access that would be secured if the application was granted were or was included in the Pharmaceutical Needs Assessment (the 'PNA') in accordance with paragraph 4 of Schedule 1 of the Regulations.
- 3.32 The Committee had regard to the Medway PNA 2022-2025 (issue date 1st October 2022) (the 'PNA') and noted that 17 Supplementary Statements had been issued between October 2022 and May 2025 in the form of excel documents. The August 2024 Supplementary Statement includes information regarding the closure of Jhoots Pharmacy at 8 Rainham Shopping Centre, Rainham, Kent, ME8 7HW on 17th June 2024. Four of the Supplementary Statements include statements of fact regarding change of opening hours in the Rainham / Gillingham area.
- 3.33 The Committee also noted that, having considered the entire Medway locality including the area of Rainham, the HWB had reached the conclusions and final recommendations that,
- "1) Community pharmacy services play an important role in supporting the services provided by GP practices and the PCNs as reflected by the changes in the essential, advanced and locally commissioned services as described in this report*
- 2) Medway Health and Wellbeing Board also wishes to acknowledge the contribution that Community pharmacy services have made to the recent Covid Pandemic response. The majority of pharmacies in Medway provided support to the local community both in terms of maintaining essential medicine services and also in the delivery of medicines to those unable to leave their homes, supplying Lateral Flow Device testing kits and in the support and administration of the covid vaccination programme.*
- 3) Overall, there is good pharmaceutical service provision in most of Medway from Monday to Friday. The majority of residents can access a pharmacy within a 20- minute walking distance and there is adequate choice of pharmacy.*
- 4) In urban areas there is good provision of pharmaceutical services on Saturday mornings and adequate provision on Saturday afternoons and Sundays.*
- 5) Where the area is defined as rural by NHS England, there are dispensing practices to provide pharmaceutical services to the rural population from Monday to Friday. Most of the patients who live in the rural areas can access a community pharmacy within a 20-minute car drive if necessary.*
- a) Whilst evening opening during this time within the Peninsula area would improve access and choice, no specific need for additional pharmacies to open has been identified. Taking this into account, it is considered that the community pharmacies across Medway that open during weekday evenings supporting extended GP hours are accessible to people living in the more rural localities.*
- b) As the Peninsula is also recognised as an area of rural deprivation and is designated as a Controlled Locality it is considered that it is*

important that provision should not rely on the goodwill of the local pharmacies and dispensing doctor services.

6) The current provision of “standard 40-hour” pharmacies should be maintained, especially in rural/outlying areas.

7) The HWB recognises the importance of the supplementary hour provision by pharmacies within the area and the possible impact a change of these hours of delivery could have on access to pharmacy provision in Medway. The HWB will continue to be vigilant in monitoring the impact of changes of hours of community pharmacy providers.

8) Loss of any of the 100-hour pharmacies could cause significant gaps in access to both essential pharmaceutical services and locally commissioned services that respond to particular population health needs.

9) There are proposed future housing developments across Medway which will mean that these areas will need to be reviewed on a regular basis to identify any significant increases in pharmaceutical need.

10) The area is changing rapidly and as well as consulting this PNA, the PSRC at NHS England should carry out a rapid review of any area where there is an application, to ensure that the needs of this area have not changed in the lifetime of the PNA. This could include review of rural and urban classification and should be published alongside the PNA in the supplementary statements.

11) Any application must demonstrate that it is necessary, will provide value to the NHS and can improve on the availability of services across the specific area.

12) Out of area provision impacts not only the delivery of dispensing services but also the provision and accessibility of enhanced or locally commissioned services, especially where areas border each other. Commissioners should take cross border issues into account and consult with relevant stakeholders when they are reviewing, commissioning or decommissioning services, to avoid or mitigate against creating inequity of provision for the local population.

13) The Health and Wellbeing Board has the responsibility for publishing supplementary statements when the pharmaceutical need and services to an area change significantly. It is the responsibility of the organisation managing the GMS contracts to inform NHS England when a practice ceases to dispense as this could affect the overall provision of pharmaceutical services across an area. It is the responsibility of NHS England to inform the HWB of any changes to pharmaceutical service provision, including dispensing services, so that a decision can be made as to whether this change will affect access. This is particularly important where pharmacies are closing or consolidating due to the impact of recent funding cuts. The HWB has a duty to respond to all notifications under Regulation 26A (consolidation of pharmacies). It is proposed that the supplementary statements are issued every 3 months by NHS England (a member of the Board) as they hold all the relevant data. They will be published on the Medway Council website alongside the PNA.”

[Pages 86 & 87, Medway PNA, 2022-25].

- 3.34 The Committee noted that the HWB had considered access (distance, travelling times and opening hours') to assess how current service provisions will meet the needs of the population within the lifetime of the PNA.
- 3.35 The Committee noted that the Applicant had stated:
- 3.35.1 *"The PNA indicated in 2022 that there was no gap in the provision of pharmaceutical services. At page 86 it says, "Overall, there is good pharmaceutical service provision in most of Medway from Monday to Friday. The majority of residents can access a pharmacy within a 20-minute walking distance and there is adequate choice of pharmacy." Additionally, the PNA says at page 86 that "The current provision of "standard 40-hour" pharmacies should be maintained". There has not been a supplementary statement since the publication of the PNA in 2022."*
- 3.36 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 pharmaceutical needs' assessment in accordance with paragraph 4 of Schedule 1.
- 3.37 The Committee was satisfied that the unforeseen benefits claimed in the application were not identified in the PNA.
- 3.38 In order to be satisfied in accordance with Regulation 18(1), the Committee went on to consider those matters set out at Regulation 18(2).
- 3.39 **Regulation 18(2)(a)(i)** - *whether or not granting the application would cause significant detriment to the proper planning in respect of the provision of pharmaceutical services.*
- 3.40 The Committee was not aware of any plans that would be affected and concluded that granting the application would not have an adverse effect on any future plans. None of the submissions included any comment or evidence in regard to this matter. Therefore, the Committee concluded that granting the application would not cause significant detriment in this regard.
- 3.41 **Regulation 18(2)(a)(ii)** - *whether or not granting the application would cause significant detriment to the arrangements in place for the provision of pharmaceutical services.*
- 3.42 None of the submissions included any evidence on this question and the Committee found no proof to support the suggestion that if the application was to be granted, it would cause significant detriment to the arrangements in place for pharmaceutical services in the area.
- 3.43 The Committee did not find any significant detriment to proper planning or to the arrangements in place for the provision of pharmaceutical services and therefore was not obliged to refuse the application under Regulation 18(2)(a).
- 3.44 **Regulation 18(2)(b)(i)** – *whether notwithstanding that the improvements or better access were not included in the relevant PNA, it is satisfied that, having regard in particular to the desirability of – there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant*

HWB – granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.

- 3.45 On this point the Applicant has said: [see paragraphs 1.13 to 1.25 above].
- 3.46 The Committee noted the Phoenix Pharmacy representations that stated, *“Jhoots Pharmacy remains fully operational, dispensing to the local population and providing a range of services. Irrespective of this, Rainham is already well-served by multiple pharmacies with plenty of patient choice, all offering full NHS services:*

Phoenix Pharmacy is a short drive away and delivers an extensive list of NHS and private services including Pharmacy First, Blood Pressure Checks, Urgent Supply Clinics, Contraceptive Services, COVID-19 vaccinations, Flu vaccinations and Independent Prescribing. We operate six days a week, employ multi-lingual staff and are expanding our services further to include Weight Loss Clinic and Travel Clinic.

Tesco Pharmacy, open seven days a week with extended hours, provides further access and is co-located with Rainham’s main supermarket, serving where the population already does their weekly food shops.

J Spensley, open 6 days a week

Fenns Chemist Parkwood Rainham, open 6 days a week”

- 3.47 The Committee noted the Jhoots Pharmacy Ltd representations that stated, *“We submit that the application fails to meet the requirements set out in Regulation 18. There are already pharmaceutical services provided in Rainham a very short distance away by Jhoots Pharmacy and, also services provided by Pheonix Pharmacy and at Tesco a little further away to provide a choice of services over a range of opening hours. These also have car parking available.*

The applicant says “Given the overall lack of provision of pharmaceutical services in Medway, this application will provide a significant benefit in ensuring the level of choice with regards to obtaining pharmaceutical services is maintained and enhanced”. There are a wide range of pharmaceutical services in Medway therefore this application is not required.”

- 3.48 The representations from Medway HWB did not include comments relating to choice.
- 3.49 The Committee noted the comments from the Applicant with regards to the closed Lloyds Pharmacy and Boots Pharmacy *‘When Lloyds Pharmacy and Boots Pharmacy closed, there was a diminishment of ‘reasonable choice’ for patients’*. However, the Committee was mindful that no evidence had been provided to demonstrate there is a problem accessing a choice of pharmaceutical services in the area.
- 3.50 The Committee noted the points made in the supporting documentation about Jhoots Pharmacy in Rainham having to close on two separate occasions in

2024 due to ongoing landlord disputes *'The effects of this have been worsened by the two unexpected closures of Jhoots Pharmacy in 2024'*. The Committee reminded itself that performance management of existing pharmacies should be dealt with separately and directly with the pharmacy in accordance with the relevant Pharmaceutical Regulations and not through the market entry process.

- 3.51 The Committee noted the comments from the Applicant *'In December 2020, the closure of Lloyds Pharmacy at 2/3 Stanford Road, Station Road, Rainham, ME8 7PH removed an important provision of pharmacy services near the proposed pharmacy location'*. However, the Committee noted that since December 2020 there had been an unforeseen benefit application for the same area refused on appeal (SHA/24564) and a new PNA, which identified no gaps, had been published.
- 3.52 In order to determine if patients in the area already had a reasonable choice, the Committee considered access (distance, travelling times and opening hours) as an important factor in determining the extent to which the current pharmaceutical service provision meets the needs of the population in the Rainham area.
- 3.53 The Committee had regard to the current service provision in the immediate area of Rainham and noted that there are 15 pharmacies within 2.9 miles radius of the proposed address. This includes a mix of independent and multiple pharmacies. There is a Jhoots Pharmacy in the shopping centre over the road from the proposed address and the next three closest pharmacies, one of which is a Tesco pharmacy (previously 100 hour), are just over a mile away.
- 3.54 The opening hours of the 15 pharmacies range from 07:30 to 22:00 Monday to Friday, from 07:30 to 22:00 on Saturdays and from 07:30 to 22:00 Sundays.
- 3.55 The Committee noted that the Applicant had offered to open from 09:00 to 18:30 on Monday to Friday and to be closed on Saturdays and Sundays. There are already pharmacies in the area providing the same weekday hours and that are open on Saturdays and Sundays.
- 3.56 The Committee noted that the proposed core hours are 09:00-17:00 Monday to Friday, with proposed directed hours 17:00-18:30 Monday to Friday. The Applicant does not propose supplementary opening hours.
- 3.57 The Committee noted that there is a bus stop 16 yards from the proposed address. Bus routes from here include:
- 3.57.1 Chatham to Hempstead Valley Shopping Centre (where there are 4 pharmacies located in Chatham and 1 pharmacy at Hempstead Valley Shopping Centre).
- 3.57.2 Twydall to Maidstone (where there is 1 pharmacy in Twydall and 4 pharmacies located in Maidstone), and
- 3.57.3 Sittingbourne to Chatham (where there are 4 pharmacies located in Sittingbourne).

3.58 The Committee had regard to the previous Appeal decision (SHA/24564) which states on the matter of choice:

3.58.1 *“While the closure of any pharmacy clearly reduces choice in an area, it does not mean that there is not, post-closure, choice.”*

3.58.2 *On the information before it, 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.”*

3.59 Having considered the factors above, the Committee was satisfied that residents of Rainham already have reasonable choice with regard to obtaining pharmaceutical services in the area of the Health and Wellbeing Board.

3.60 **Regulation 18(2)(b)(ii)** - *whether notwithstanding that the improvements or better access were not included in the relevant PNA, it is satisfied that, having regard in particular to the desirability of – 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 - granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.*

3.61 The Committee reminded itself that it was required to address itself to people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access. The Committee was also aware of its duties under the Equality Act 2010 which include considering the elimination of discrimination and advancement of equality between patients who share protected characteristics and those within such characteristics.

3.62 The Applicant stated that *“Providing services at the proposed location would have a significant benefit for patients, particularly those who may have difficulty in accessing other areas, such as the elderly, disabled or parents with young children.*

The pharmacists who will be working at the proposed pharmacy speak fluent Punjabi and can communicate in three different languages of India and Pakistan. This is particularly important for the provision of essential services such as promotion of healthy lifestyles and support for self-care to the sector of the community who speaks these languages, but limited English. The 2022 PNA states that over two thirds of adults (71.6%) in Medway are classed as overweight, which is higher than the national average (62.8%) and regional average (61.5%), so there is a significant need for pharmacists to be able to communicate effectively with patients.

The pharmacy will aim to offer a free emergency delivery service of prescription medication to elderly, disabled and pregnant members of the community 7 days of the week within the ME8 and ME7 postcodes.

It will offer compliance aids in the form of 28-day blister packs for those eligible under the DDA, a service currently being reduced by many local contractors.”

- 3.63 The Committee noted that whilst these statements had been included by the Applicant there was no evidence provided that identified a group of patients in the Rainham area, sharing a protected characteristic who were having difficulty accessing services that meet a specific need.
- 3.64 The Committee, therefore, concluded that the application did not satisfy the test in this part of the Regulation.
- 3.65 **Regulation 18(2)(b)(iii)** - *whether notwithstanding that the improvements or better access were not included in the relevant PNA, it is satisfied that, having regard in particular to the desirability of – there being innovative approaches taken with regard to the delivery 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 relevant PNA was published.*
- 3.66 The Committee noted the Applicant stated that ‘*The UTI clinic is considered to be an innovative way of delivering essential services*’. However, it also noted that a UTI clinic is a private service not an NHS service and agreed that the applicant had not provided evidence that an innovative approach would be taken with regard to the delivery of pharmaceutical services.
- 3.67 Therefore, the Committee concluded that there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services.
- 3.68 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 relevant area of the HWB which were not foreseen when the PNA was published.
- 3.69 **Other Considerations**
- 3.69.1 **Regulation 18(2)(c)-(f)** - The Committee had previously determined that there was no need to defer the application under Regulation 18(2)(c) to (f).
- 3.70 **Decision**
- 3.71 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 3.72 The Committee had 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 was not satisfied that it would.
- 3.73 The Committee determined that the application should be refused on the following basis:

- 3.74 In considering whether the granting of the application would confer significant benefits, the Committee determined that –
- 3.74.1 there is already reasonable choice with regard to obtaining pharmaceutical services;
 - 3.74.2 there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and
 - 3.74.3 there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services.
- 3.75 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.
- 3.76 **Rights of appeal**
- 3.77 The application is refused so the applicant has the right to appeal.
- 3.78 The Committee decided not to grant third party rights of appeal to the decision to any of the parties that responded during the consultation period because the application had been refused.”

4 **The Appeal**

In a letter addressed to NHS Resolution received on 7 October 2025, Gordons Partnership Solicitors on behalf of the Applicant appealed against the Commissioner’s decision. The grounds of appeal are:

- 4.1 “We act for Pharmacy 1st Ltd and we are instructed by our client to appeal against the refusal of its application offering unforeseen benefits at Rainham Healthy Living Centre, 103-107 High Street, Rainham, Gillingham, ME8 8AA.
- 4.2 The application is made under regulation 18 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2014 (“the Regulations”).
- 4.3 The Decision
- 4.4 The Pharmaceutical Services Regulations Committees meeting in common for Kent & Medway ICB, Surrey Heartlands ICB & Sussex ICB determined that the application should be refused on the following basis:
- 4.5 *“In considering whether the granting of the application would confer significant benefits, the Committee determined that –*
- 4.5.1 *there is already reasonable choice with regard to obtaining pharmaceutical services;*
 - 4.5.2 *there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and*

- 4.5.3 *there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services.*
- 4.6 *On that basis, the Committee concluded that it was not satisfied that granting the application would confer significant benefits as outlined above that would secure improvements or better access to pharmaceutical services.”*
- 4.7 The Appeal
- 4.8 The ground of this appeal is that the committee misdirected itself and made an incorrect determination.
- 4.9 The decision to refuse the application was not based on Regulation 18(1)(a), Regulation 18(1)(b), Regulation 18(2)(a)(i) or Regulation 18(2)(a)(ii). It was accepted by the Committee that Regulation 31 is not applicable to this application. The appellant adopts the determination made in relation to these regulations and no appeal is made. The appellant challenges the decision made in relation to Regulation 18(2)(b)(i) to (iii).
- 4.10 Our position is that the final determination by the Committee was incorrect and the decision by the ICB should be quashed and redetermined with a grant of our client’s application.
- 4.11 Background
- 4.12 It may be helpful for Primary Care Appeals to understand the context of this application. Our client’s directors and superintendent pharmacist are familiar with the area, as they run two pharmacies in Gillingham, which neighbours Rainham. Pharmacy 1st Ltd made its application following an overall reduction in the number of pharmacies in the Rainham area including the closure of Lloyds Pharmacy at 2/3 Stanford House, Station Road, Rainham, ME8 7PH and Boots Pharmacy at 21-22 Rainham Shopping Centre, ME8 7HW.
- 4.13 Alongside the permanent closures of the Lloyds Pharmacy and Boots Pharmacy, there have been repeated temporary closures of Jhoots Pharmacy in Rainham, now located in the premises previously occupied by Boots Pharmacy. The closures in 2024 were outlined in the initial application, however, shortly after the 14-day deadline for comments on representations received, our client was made aware of further issues at the Jhoots Pharmacy. Representations on this matter were sent to PCSE one week after the 14-day deadline, but the Pharmaceutical Services Regulations Committees of the ICBs placed no weight on these comments. As this appeal will be a redetermination of the application, we would be grateful if these representations could be considered at this stage (Please see attached letter dated 29 July 2025 – PDF page 1).
- 4.14 It was open to the ICB to use their discretion to have regard to this matter. It was particularly important that they did so as the PNA makes it clear that the pharmaceutical provision in the area is fragile. The PNA states that:
- 4.14.1 *“b) As the Peninsula is also recognised as an area of rural deprivation and is designated as a Controlled Locality it is considered that it is important that provision should not rely on the goodwill of the local pharmacies and dispensing doctor services.*

4.14.2 6) *The current provision of “standard 40-hour” pharmacies should be maintained, especially in rural/outlying areas.”*

- 4.15 Although it is not suggested that the proposed location is a rural area, the reduction of services in central Rainham will have an effect on the availability of services for all that live in the area.
- 4.16 Turning to the specific regulatory criteria in relation to the application by our client that was considered by the ICB: -
- 4.17 Regulation 18(2)(b)(i)
- 4.18 There being reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB
- 4.19 In our client's application, it was explained that since the closures of the Lloyds Pharmacy, the Boots Pharmacy and the temporary closures of the Jhoots Pharmacy patients have had less choice with regard to obtaining pharmaceutical services.
- 4.20 On 9 September 2025, our client created a petition to 'Establish a New Pharmacy in Rainham, Kent Area'. This petition now has over 1,000 signatures in support: <https://www.change.org/p/establish-a-new-pharmacy-in-rainham-kent-area> We attach the comments made by some signatories at PDF pages 3 to 4. This demonstrates the public support for additional pharmaceutical services, suggesting that there is currently not reasonable choice.
- 4.21 Since the closure of Boots Pharmacy in Rainham Shopping Centre, Pharmacy 1st Ltd's branches in Gillingham have seen a significant increase in patients from the ME8 area (Rainham, Kent). Patients are increasingly having to travel further to access a pharmacy. However deliveries are also now increasing. We attach maps of the deliveries made by Woodlands Pharmacy and Pharmacy 1st in Gillingham showing a significant number of deliveries to Rainham and the ME8 postcode. (Gillingham is located in the centre cluster and Rainham is to the right.) These are at PDF pages 5 and 6. This number has increased from April 2025 when significant problems with the Rainham provision of pharmaceutical services developed. Whilst our client is happy to deliver to this group of patients the effect is that the patients are not receiving access to face-to-face pharmaceutical services nor opportunities for healthcare advice in the way that they would if they were able to access local services.
- 4.22 In relation to current provision in Rainham, the ICB noted that there are 15 pharmacies within a 2.9 mile radius of the proposed address. However the pharmacies serving Rainham itself are set out in the map below. It can be seen that only Jhoots Pharmacy serves the central part of Rainham.
- 4.23 As explained above, Jhoots Pharmacy has been subject to frequent closures since April 2024. It is understood that these are part of closures that have been seen across the Jhoots chain nationwide and may not be rectifiable by action from the local ICB. Although it is understood that a position often taken by the Primary Care Appeals committee (PCA) is to disregard service failures as matters that can be dealt with by the ICB, in a case where there are closures and service issues at a local level which are symptomatic of wider problems then it would be unreasonable for PCA to take the view that that the resumption

of a full service can be relied upon. The decision about unforeseen benefits should be taken on the basis of the service that the population have received this year. We attach news reports on country wide service issues, a photograph taken on 1 October 2025 showing that the shop signage for Jhoots has been removed and the various notices on display. This material is at PDF pages 7 to 19. In addition, the Jhoots Pharmacy when open, is located in the middle of a shopping centre. There are difficulties that arise from this:-

4.23.1 It is catering for shoppers and has a retail focus whereas our client's focus is on clinical services.

4.23.2 The parking is a walk away from the entrance to the pharmacy.

4.23.3 It does not have on-road signage (or currently any signage) so people not familiar with the area will have difficulty in locating it.

4.24 The ICB's decision states that the next nearest three pharmacies are just over a mile away. These pharmacies are:

Pharmacy Name	Address	Distance from proposed location
Tesco Pharmacy	Courteney Rd, Gillingham ME8 0GX	1.2 miles
Phoenix Pharmacy	373 Maidstone Rd, Wigmore, Gillingham ME8 0HX	1.4 miles
Fenns Chemist	33-35 Park Wood Green, Gillingham ME8 9PW	1.4 miles

4.25 *Transport options*

4.26 Pedestrian access

4.27 Primary Care Appeals will note that the Tesco Pharmacy, which is the next closest pharmacy after Jhoots Pharmacy, is a 29-minute walk away from the proposed pharmacy location. For the remaining pharmacies the walking distance is 33 to 34 minutes. This is a significant walk for many patients, but especially those who are unwell, have mobility issues or are using a pram. Having an additional pharmacy in the centre of Rainham would enable much easier access to pharmaceutical services for patients.

4.28 Public transport

4.29 The ICB correctly notes that there is a bus stop 16 yards away from the proposed address, which would make the proposed pharmacy accessible by bus. The nearest bus stops to Rainham Healthy Living Centre are Rainham adjacent to the White Horse and adjacent to The Cricketers. The picture below shows the close proximity from these bus stops to the proposed pharmacy location, with the bus stop locations marked by grey boxes with an image of a

bus. One of these bus stops is on the other side of the road, however, there are dropped curb pedestrian crossings on the route.

- 4.30 However, the ICB suggests alternative towns with pharmacies on the bus routes are accessible to the population of Rainham. This is unreasonable. In particular, the Twydall to Maidstone route is mentioned. From the stop on Rainham High Street to the first stop in Maidstone, not including walking time either end of the journey, the bus journey would take 52 minutes in each direction. A patient that is unwell, and perhaps looking to access the Pharmacy First service, is very unlikely to be able to travel so far to access pharmaceutical services. Additionally, a journey of this length would be difficult for patients working within usual working hours and would usually incur a charge.
- 4.31 Please find attached the timetables for the bus routes mentioned in the Committee's decision at PDF pages 20 to 26.
- 4.32 Access by car
- 4.33 Although there are parking options available at the Tesco Pharmacy, it like Jhoots, requires patients to walk into the superstore and locate the pharmacy. In contrast our client's proposed pharmacy has parking immediately adjacent to the proposed premises.
- 4.34 The proposed pharmacy is in the Rainham North ward and according to the 2021 census 17.9% of the households in this ward do not have a car or van. A further 43.9% have only one car or van and consequently if the car is used for commuting to work by one member of the household it will not be available to other members. It cannot be assumed that a patient in this area will have a vehicle to access pharmaceutical services as over 60% of this population may not have a car during standard working hours.
- 4.35 Access - hours
- 4.36 Pharmacy 1st Ltd have proposed opening hours of 09:00-18:30 Monday to Friday. When open, Jhoots Pharmacy's hours are from 09:00-17:30 Monday to Friday, so the proposed pharmacy would improve access to pharmaceutical services in the evenings. The ten nearest GP practices close between 18:00 and 19:00, so the proposed pharmacy would offer dispensing services to the patients receiving an acute prescription from their GP during that time.
- 4.37 Access from GP surgeries
- 4.38 It is of course important that patients that have been prescribed acute medicine have immediate access to dispensing services. Patients of Rainham Healthy Living Centre and the two GP practices located within this centre – Orchard Family Practice and Church View Practice - will particularly benefit as the proposed pharmacy would be located within the same building. Our client has been informed that currently the patients of these practices are experiencing difficulty in obtaining pharmaceutical services at all and consequently have no choice in services. Please see attached letter from the Orchard Family Practice at PDF pages 27 to 28.
- 4.39 Regulation 18(2)(b)(ii)

- 4.40 Regard to the desirability of people who share a protected characteristic have access to services that meet specific needs for pharmaceutical services that, in the area of the HWB, are difficult for them to access.
- 4.41 17.4% of Medway's population have a disability under the Equality Act, which is similar to the national average of 17.3%. As mentioned previously, when Jhoots Pharmacy has been closed, the nearest pharmacy is Tesco Pharmacy which is a 29-minute walk away. It is difficult for patients with mobility issues to access an alternative pharmacy that would be almost an hour round trip.
- 4.42 The letter from Orchard Family Practise highlights the closures of Jhoots has "left elderly and vulnerable patients without their necessary medications". The conclusion of the letter is that there is an "URGENT and pressing need for an additional pharmacy in this region".
- 4.43 Pharmacy 1st Ltd will not only offer an accessible fact to face service but as a supplement to this service will offer free deliveries of prescriptions for acute or urgent medication to elderly, disabled and pregnant members of the community located in ME8 and ME7 postcodes. This will enable these patients to access pharmaceutical services even when it would be difficult to travel into the pharmacy whilst still having the support of a very local service.
- 4.44 In summary, this application will provide significant benefits to the provision of pharmaceutical services in the area. We ask NHS Resolution to allow our client's appeal and to quash the decision by NHS England and redetermine and grant our client's application. If an oral hearing is arranged our client would want to attend and be represented."
- 4.45 [Enclosures provided]

5 **Summary of Representations**

After reviewing the paperwork provided by the Commissioner, it was noted that the Commissioner had relied on documentation, including a site visit to make its determination and comments made by the Applicant in response to the representations on the application [see 2.1.1 to 2.1.26 above] had not been circulated or seen by parties. NHS Resolution therefore applied its discretion under Schedule 3, Part 3, paragraph 7 and allowed parties the opportunity to make comments on these documents. This is a summary of representations received.

5.1 **Phoenix Pharmacy**

- 5.1.1 "I write as the owner of Phoenix Pharmacy, to formally object to the appeal submitted by Pharmacy 1st Ltd against the decision of the Kent & Medway ICB to refuse their unforeseen benefits application at Rainham Healthy Living Centre.
- 5.1.2 Phoenix Pharmacy is an established, locally owned community pharmacy serving the residents of Rainham, and the surrounding areas. We are open Monday to Saturday, providing a full range of NHS services including Pharmacy First, vaccinations, blood pressure monitoring, minor ailment support, medication reviews, and home deliveries, particularly for elderly and vulnerable patients.

5.1.3 **Grounds of Objection**

5.1.4 **1. Existing Reasonable Access and Choice**

5.1.5 Even disregarding Jhoots, there is already comprehensive and convenient access to pharmaceutical services in Rainham and the wider ME8 area.

5.1.6 Within a short radius of the proposed site, several pharmacies; including Phoenix Pharmacy, Tesco Pharmacy (Courteney Road), and Fenns Chemist (Parkwood Green) provide full pharmaceutical services with generous opening hours.

5.1.7 In particular, Tesco Pharmacy offers extended hours, including evenings and weekends, and is located within the same retail destination where many local residents undertake their weekly shopping. This ensures easy, routine access to pharmacy services without requiring a separate journey.

5.1.8 **2. Jhoots Pharmacy Remains on the Pharmaceutical List**

5.1.9 The applicant places significant emphasis on the operational challenges faced by Jhoots Pharmacy. While those issues have been well publicised, Jhoots remains on the pharmaceutical list and has a clear plan in place to remedy the problems and resume comprehensive service in the near future.

5.1.10 It is inappropriate to treat temporary service disruptions as justification for establishing a new permanent contract. The ICB and NHS England have established processes to ensure that existing contractors meet their obligations and restore full service delivery.

5.1.11 **3. Local Accessibility – Transport and Car Ownership**

5.1.12 The appeal overstates any alleged access difficulties.

5.1.12.1 Levels of car ownership in Rainham are high, meaning that the majority of residents can easily travel to existing pharmacies.

5.1.12.2 For the relatively small number of people without access to a car, there is a very regular bus service along London Road directly serving Rainham and connecting conveniently to Tesco and nearby pharmacies.

5.1.12.3 In addition, Phoenix Pharmacy provides a home delivery service to elderly and vulnerable patients, ensuring that no patient is left without timely access to medicines or advice.

5.1.13 **4. No Significant Benefit under Regulation 18**

5.1.14 The application does not meet the test under Regulation 18(2)(b)(i)–(iii) of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

5.1.14.1 Reasonable choice already exists for obtaining pharmaceutical services, even if we disregard Jhoots Pharmacy

5.1.14.2 There is no evidence that any group sharing a protected characteristic faces difficulty accessing services.

5.1.14.3 Existing pharmacies, including Phoenix Pharmacy, already provide innovative and patient-centred services such as Pharmacy First consultations, vaccinations, and same-day deliveries.

5.1.15 Approving this application would not secure improvements or better access, it would simply duplicate existing provision and threaten the viability of well-performing, long-standing providers.

5.1.16 **5. Impact on Existing Pharmacies and Community Provision**

5.1.17 Granting another contract so close to several established pharmacies risks fragmenting demand and undermining financial stability across the local network. This would weaken rather than strengthen patient care, particularly for those dependent on personalised, continuous relationships with their local pharmacy teams.

5.1.18 **Conclusion**

5.1.19 The Kent & Medway ICB made the correct and evidence-based decision in refusing this application. The alleged service gaps are either temporary or overstated, and there is no unmet need that would justify an additional pharmacy under the unforeseen benefits provisions.

5.1.20 I respectfully urge Primary Care Appeals (NHS Resolution) to dismiss the appeal by Pharmacy 1st Ltd and uphold the ICB's original refusal."

5.1.21 "Further to my letter from 16th October 2025, Allied Pharmacy have now taken over Jhoots Pharmacy in Rainham and are fully operational. Therefore, the applicant's significant emphasis on Jhoots operational issues have now been fully resolved and comprehensive service resumes.

5.1.22 In conclusion, there is no need for a second pharmacy in Rainham."

5.2 The Commissioner

5.2.1 "Thank you for your letter of the 14 October 2025 advising us that an appeal has been lodged against the decision to refuse the application by Pharmacy 1st Ltd for inclusion in the Pharmaceutical List for the area of the Medway Health and Wellbeing Board offering unforeseen benefits at Rainham Healthy Living Centre, 103 -107 High Street, Rainham, Gillingham ME8 8AA.

5.2.2 The Pharmaceutical Services Regulations Committee for Kent and Medway ICB would like to make the following comments on the appeal.

5.2.3 In relation to circulation of the 14-day comments, the process set out in the [NHS England Pharmacy Manual](#) is followed. Page 110 covers that part of the process for unforeseen benefits applications and does not include circulation of the 14-day comments. The template letter ([Chapter 15 Annex 21 on page 738](#)) that is sent to the applicant and interested parties includes the following wording:

5.2.4 *If you wish to make any comments on these representations they should be sent to me at the above address within 14 days of the date of this letter i.e. by [insert date]. Please note that any new information that you submit at this stage will have little or no weight placed upon it unless it can be demonstrated that you are presenting it in response to representations submitted by another party that you believe are not true or are incorrect.*

5.2.5 The applicant referred in the appeal to comments that were submitted after the 14-day period. It is this letter that is referred to in the decision report. In line with the principle above and the fact that the comments were after the 14-day period, little weight was placed on them as part of the decision making. It should be noted that the implication was that the pharmacy was closed at the time. However, it was open.

5.2.6 At the time the decision was made, the following temporary suspensions of service were recorded for 2025:

Date	Time
2 July 2025	09:00-14:00; 15:00-18:00
3 July 2025	09:00-14:00; 15:00-18:00
4 July 2025	09:00-14:00; 15:00-18:00
6 August 2025	09:00-14:00; 15:00-18:00
8 August 2025	09:00-14:00; 15:00-18:00

5.2.7 We note that additional information has been provided as part of the appeal, but that much of it relates to the general performance of Jhoots pharmacies across the country. As referred to in the decision report, performance management of existing pharmacies should be dealt with separately and directly with the pharmacy in accordance with the relevant Pharmaceutical Regulations and not through the market entry process.”

5.3 Gordons Partnership Solicitors on behalf of the Applicant

5.3.1 “Thank you for your letter of 14 October and the opportunity to comment on the site visit conducted by the commissioner and associated documentation, and the PNA.

5.3.2 Site visit and associated documentation

- 5.3.3 Our client has a number of comments on the documentation forwarded from the commissioner.
- 5.3.4 The first is an overall comment; the annexes we have are not consecutive and start at annex C with the next being annex I. We should be grateful if it could be confirmed whether we have a complete set of the material which was considered.
- 5.3.5 In relation to the detail of the reports:
- 5.3.6 PDF page 8 - in relation to the list of GP practices Church View Practice is missing part of the Maritime Health Group but from a 2022 report (under DMC Healthcare) practice list size was approximately 6000 <https://www.cqc.org.uk/location/1-10983656589/inspection-summary>. This means that the number of people accessing primary medical services very close to the proposed site was higher than the commissioner calculated.
- 5.3.7 PDF page 10 - The site visit is stated to have been conducted via google maps but this cannot be correct in respect of the entire site visit as, for example, the reporter describes the inside of the Rainham Healthy Living Centre.
- 5.3.8 Also on PDF page 10 - the site visit description of the location is inaccurate as it refers to a "small shopping centre" and "a few major shops". In fact, the full list of shops is at PDF page 13 and it can be seen that Rainham is well served with shops and services. It has all the amenities that people living in the vicinity would require including many GP practices, dentists, opticians, banks, churches, schools, a library and many other outlets.
- 5.3.9 PDF page 12 – a comment is made that the GP practices waiting areas were empty when the site visit took place. The site visit started at 11:45 so it assumed that by the time the waiting area was visited it was lunchtime. It should be noted that our client's experience is that these are busy GP surgeries.
- 5.3.10 PDF pages 14 and 15 – the list of new housing developments show that the immediate local area will experience an increase in population once the newly built houses are occupied.
- 5.3.11 PDF page 15 - Regarding the availability of Jhoots Pharmacy, no comments are made on the low level of stock on the shelves when it is known there were problems with stock at that time. The pharmacy has now been closed continually since 27 August 2025 with periods of closure prior to that. We attach a letter dated 29 October 2025 from the MP for Gillingham and Rainham expressing her concern about the provision of pharmaceutical services in the centre of Rainham.
- 5.3.12 PDF page 18 - the population figures are given for Rainham North Ward only. The map shown on the same page covers all Rainham ward areas (Rainham North, Rainham Central and Rainham South) with a total population of 35,180. We attach a map showing the ward boundaries.

5.3.13 PDF page 20 - the driving times and walking times are predicated on the Jhoots Pharmacy being open and providing a full service. In the absence of a service from Jhoots the maps demonstrate difficulties with access to pharmaceutical services for the areas of Rainham with the densest population.

5.3.14 PNA

5.3.15 Our client is aware that you are required to have regard to the PNA that is current at the time we make our decision unless the only way to determine the matter justly is with regard to an earlier assessment. The 2025 PNA does not deal with the developing issue of lack of reasonable choice and difficulties in accessing services in the locality. Our client's position is that whichever PNA is considered, the improvements or better access that would be secured by its application are not included in the pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1 of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. Accordingly they do not wish to make submissions that the only way to deal with the matter justly is to have regard to the 2022 PNA.

5.3.16 In summary, this application will provide significant benefits to the provision of pharmaceutical services in the area. We ask NHS Resolution to allow our client's appeal and to quash the decision by NHS England and redetermine and grant our client's application. If an oral hearing is arranged our client would want to attend and be represented."

5.3.17 [Enclosures provided]

5.3.18 [Further to the comment at 5.3.4 above, it was confirmed to parties that the annexes from the Commissioner's documentation that were intended to be circulated (i.e. C, I, J, K and L), were circulated to the statutory interested parties on 13 October 2025. The other annexes were excluded to avoid duplication of information previously received or were referenced in the decision letter].

6 Observations

Following instruction from administrators of SNJ Health Limited (Jhoots Pharmacy, Rainham) advising that all correspondence relating to this appeal should be sent to Temple Bright LLP on its behalf, Temple Bright LLP were invited to make observations in response to the representations received. This is a summary of the observations received.

6.1 The Commissioner

6.1.1 "I am writing to inform you that on 11 November 2025 Kent & Medway ICB was informed that SNJ Health Limited had entered administration on 6 November 2025.

6.1.2 The Company's businesses and assets were sold by way of pre-pack sale to Allied Pharmacies on 6 November 2025. This includes SNJ

Health Ltd, T/A Jhoots Pharmacy, Units 21 -22 Rainham Shopping Centre, Gillingham, Kent ME8 7HW.

6.1.3 The pharmacy reopened on 10 November 2025.

6.1.4 Allied Pharmacies is operating the pharmacy under a management agreement pending the NHS change of ownership process. The SNJ Health Limited directors' powers ceased upon appointment of the administrators, who have advised that the following individuals may be contacted in relation to the administration:

6.1.4.1 [redacted by NHSR]

6.1.4.2 [redacted by NHSR]".

6.2 Phoenix Pharmacy

6.2.1 "Thank you for your letter dated 18th November, inviting final observations in respect of this appeal.

6.2.2 On behalf of A De Souza Ltd t/a Phoenix Pharmacy I wish to make the following comments in response to the letters circulated on 18th November.

6.2.3 NHS England

6.2.4 I note that NHS England has provided clarification in respect of the process followed when considering comments made during the 14-day period. I have nothing to add in respect of that process.

6.2.5 I also note that NHS England confirmed that the Jhoots Pharmacy referred to by the appellant was not closed at the time of those 14-day comments. They have clarified the dates of several temporary suspensions and confirmed that these were taken into account when they made their decision. They also correctly state in their letter that there are separate procedures in place for NHS England to deal with performance issues and that it is not appropriate to deal with these through the market entry system.

6.2.6 It is clear that the Jhoots Pharmacy concerned was included on the pharmaceutical list at time NHS England made their decision in respect of the application by Pharmacy 1st Limited. It is also clear that it remains on the pharmaceutical list today. As I discuss below, the situation in respect of that pharmacy has changed significantly, and the pharmacy is now open under new management.

6.2.7 I therefore ask NHS Resolution to note that the gap in pharmaceutical services provision that the appellant claims exists as a result of the well-publicised issues faced by the Jhoots group does not, in fact, exist at all.

6.2.8 Gordons Partnership on behalf of Pharmacy 1st

- 6.2.9 I respond to the points made by Gordons in the same order they are covered in their letter dated 13th November.
- 6.2.10 Site visit and associated documentation
- 6.2.11 I note that NHS Resolution has clarified the position in respect of the annexes circulated previously, and there was no missing information.
- 6.2.12 In respect of the appellant's comments on medical services provision, it is correct that Church View Practice is part of the Maritime Health Group. This surgery is located within the Rainham Healthy Living Centre at "Yellow Suite, Rainham Healthy Living Centre, 103-107 High Street, Rainham, ME8 8AA", as shown below in a screen print from the Maritime Health Group website [provided].
- 6.2.13 This shows that the group operates 4 surgery premises.
- 6.2.14 The Rainham Healthy Living site was noted by NHS England in their visit report as the location for The Orchard Practice. It also notes (on page 12 of its site visit report) that there are two practices within the centre. There is no suggestion, therefore, that NHS England were not aware that medical services are provided from that site.
- 6.2.15 I note the comment made by the appellant that the practice list size was "approximately 6,000" (in 2022) however, no up to date information is provided in respect of the list size, as published data only provides the list size for the entire group.
- 6.2.16 Of more relevance is the dispensing data for Jhoots Pharmacy in respect of patients registered with the Maritime Group. In the 7 months to July 2025, Jhoots dispensed an average of 1,341 prescription items from this surgery per month. The range during that period was 1,146 to 1,682. So, regardless of what the patient list size for that practice may be it is clear that relatively few prescriptions generated by that practice were dispensed by Jhoots, suggesting that demand was not high.
- 6.2.17 The appellant questions whether or not the visit was carried out using 'google maps'. It suggests that the author of the report must have visited because the inside of the centre is described. The relevance of this comment is not clear. The commissioner made its decision based on various considerations, one of which was the site visit report. How this site visit was conducted appears to be irrelevant.
- 6.2.18 In terms of the shops and services listed in the decision report, this list appears to be correct so, again, it is clear that NHS England took this into account when making their decision. Whether the commercial area is described as a "small shopping area" or not appears to be of little relevance.
- 6.2.19 The appellant suggests that the GP surgery waiting rooms may have been empty because it was 'lunchtime'. I respectfully suggest that no reasonable person would describe 11.45am as lunchtime. In fact most GP practices would consider this as being part of their morning

appointment times. Whilst the appellant's view may be that these are "busy GP surgeries" I note that it has not actually provided any additional evidence of this.

- 6.2.20 It may be, of course, that patients were receiving telephone appointments at that time so were not physically present within the surgery building. If that is the case, then for many patients it is unlikely they would need to travel into the centre of Rainham anyway to receive pharmaceutical services. They will typically receive these from whichever pharmacy is located closest to their home.
- 6.2.21 In respect of the new housing developments listed, I note that one of these is located 4 miles away from the proposed site and that the developments listed are very modest. It is for the appellant to provide evidence that these houses will significantly increase the demand for pharmaceutical services, but it has failed to do so.
- 6.2.22 In respect of the stock availability at Jhoots, subsequent closures and the letter from the local MP, I comment on this matter generally below.
- 6.2.23 In respect of ward boundaries, I note the map provided by the appellant. This covers a very large area and is not limited to the immediate area of the proposed pharmacy. It is clear that patients living in the areas shown would have to travel a reasonable distance to the proposed location. That being the case it is clearly the appellant's assumption that these residents are mobile. They will therefore be able to access the choice of pharmacies already.
- 6.2.24 Again, in respect of the availability of pharmaceutical services from Jhoots, I comment on this further below.
- 6.2.25 *PNA*
- 6.2.26 In respect of the PNA, I have no further comments to make.
- 6.2.27 *Jhoots*
- 6.2.28 I note that the core of the appellant's argument relates to the service levels at Jhoots Pharmacy, including a number of unplanned closures of the pharmacy. The letter from Naushabah Khan MP cites these issues as the reason for supporting the "reinstatement of a functioning pharmacy".
- 6.2.29 It is noteworthy that the letter from the MP does not specifically support the application from Pharmacy 1st Limited, rather it expresses concerns about the shortfalls in service provision and a wish for these to be addressed.
- 6.2.30 As the committee will be aware, there has been significant publicity around the issues faced by Jhoots nationally, including a lengthy debate within the House of Commons. As a result of these issues there have been some very significant and relevant developments.

- 6.2.31 The Jhoots Pharmacy in Rainham is owned by SNJ Health Limited, one of a number of companies that operated under the Jhoots brand. On 6th November 2025, this company was placed into administration as a result of the significant financial challenges it faced. At the same time, agreement was reached with the Allied Pharmacy group to take over these pharmacies under a management agreement pending the approval, by NHS England, of the change of ownership of the pharmacy to one of several new companies set up by Allied.
- 6.2.32 I have included a copy of that management agreement for the committee's benefit.
- 6.2.33 Following this agreement, Allied have worked incredibly hard to reopen the pharmacy in Rainham to restore the provision of services for patients. The pharmacy re-opened on 10th November, within 24 hours of Allied receiving the keys to the premises. Since that date the pharmacy has re-stocked, re-staffed, and added a new temporary fascia. It has also open fully for its contractual hours since that date.
- 6.2.34 As evidence of this I have included copies of photographs taken earlier this week, as well as several comments on a local Facebook page confirming not only that the pharmacy has opened, but the commitment of local residents to support the pharmacy in the future.
- 6.2.35 So whilst it is my case that there was not a need for a new pharmacy in Rainham regardless of the status of the Jhoots pharmacy, it is highly relevant consideration that this pharmacy is now fully open and its future has been secured. That being the case ask the committee to determine this application in the context of the ongoing existence of a pharmacy within the shopping centre.
- 6.2.36 [enclosures provided].

6.3 Medway Health and Wellbeing Board

- 6.3.1 "Having reviewed the appeal by Pharmacy 1st Ltd against the decision to refuse the application offering unforeseen benefits at Rainham Healthy Leaving Centre, 103-107 High Street, Rainham, Gillingham, ME8 8AA, Medway HWB has no further observation to add for review by the Pharmacy Appeals Committee relating to the information already provided.
- 6.3.2 The Board is, however, aware of a report from the Council's Health and Adult Social Care Overview and Scrutiny Committee responding to dissatisfaction amongst residents with pharmacy services in the centre of Rainham. Concerns have also been expressed by the local MP for Gillingham and Rainham, Naushabah Khan. The issues raised relate to access to pharmacy services and an inconsistent service by the previous occupant."

6.4 Temple Bright LLP on behalf of Turpin Barker Armstrong

- 6.4.1 "I am instructed to act by the administrators of SNJ Health Limited which is included in the Medway Health and Wellbeing Board's

pharmaceutical list for premises trading as Jhoots Pharmacy, Units 21-22 Rainham Shopping Centre, Rainham, Gillingham, Kent, ME8 7HW.

- 6.4.2 On behalf of my client I write further to your letter of 18th November 2025 and in order to respond to representations received on an appeal by Pharmacy 1st Limited against a decision of NHS England to refuse its application for inclusion in the pharmaceutical list offering unforeseen benefits at Rainham Healthy Living Centre, 103-107 High Street, Rainham, Gillingham, ME8 8AA.
- 6.4.3 It is noted that this application relies heavily (if not entirely) upon the intermittent closure of the Jhoots Pharmacy in Rainham. By way of example, the applicant's representative's letter of 13th November, states relevantly as follows:
- 6.4.3.1 *"PDF page 15 - Regarding the availability of Jhoots Pharmacy, no comments are made on the low level of stock on the shelves when it is known there were problems with stock at that time. The pharmacy has now been closed continually since 27 August 2025 with periods of closure prior to that. We attach a letter dated 29 October 2025 from the MP for Gillingham and Rainham expressing her concern about the provision of pharmaceutical services in the centre of Rainham.*
- 6.4.3.2 *PDF page 20 - the driving times and walking times are predicated on the Jhoots Pharmacy being open and providing a full service. In the absence of a service from Jhoots the maps demonstrate difficulties with access to pharmaceutical services for the areas of Rainham with the densest population."*
- 6.4.4 The applicant's letter of appeal also relied heavily on the Jhoots Pharmacy closures in support of the application, with the appeal enclosures referring exclusively to Jhoots Pharmacy for example.
- 6.4.5 Whilst no comment is made in respect of any historic closures of the Jhoots Pharmacy, my client is able to confirm that the Jhoots Pharmacy has now reopened (trading as Allied Pharmacy Rainham) and is providing pharmaceutical services in accordance with its terms of service obligations. This is particularly relevant to NHS Resolution's consideration of this appeal since NHS Resolution is considering the application afresh having regard to the situation as exists at the time that the appeal is being determined. It is therefore submitted that even if there were historic closures of the Jhoots Pharmacy, the current situation is that the pharmacy is open and providing services, and it is the current situation which is relevant, particularly in circumstances where NHS Resolution can be assured that service provision will continue.
- 6.4.6 As NHS Resolution may be aware, SNJ Health Limited was placed into administration on 6th November 2025. On the same day, the assets of SNJ Health Limited were sold to the Allied Pharmacies group; this included the sale of the Jhoots Pharmacy in Rainham.

- 6.4.7 Following the sale, Allied Pharmacies has taken over the management and running of Jhoots Pharmacy, Rainham. The pharmacy was reopened on 10th November 2025 and, since that day, has been providing pharmaceutical services in accordance with its terms of service obligations. The pharmacy is fully staffed and fully stocked. My client assures NHS Resolution that the pharmacy will remain open going forward.
- 6.4.8 Allied Pharmacies anticipates submitting a change of ownership application to transfer the inclusion in the pharmaceutical list to Allied Pharmacies shortly.
- 6.4.9 With the re-opening of Jhoots Pharmacy, my client asserts that the factual basis upon which this application has been made no longer applies such that the regulatory test is not met.
- 6.4.10 Jhoots Pharmacy is located approximately 200m from the applicant's proposed site as shown in the google maps image below [provided] (NHS Resolution will note that this has now been branded "Allied Pharmacy Rainham"). Jhoots Pharmacy is located within the Rainham shopping centre.
- 6.4.11 As NHS Resolution will note from the above map, there is a large car park immediately adjacent to the Jhoots Pharmacy which has 193 spaces. There is also a bus stop on Station Road immediately to the east of the pharmacy and a bus stop on the High Street immediately to the south.
- 6.4.12 Following the re-opening of the Jhoots Pharmacy, it is submitted that the application offers no significant benefit in terms of physical access to pharmaceutical services. In particular, it is asserted that existing pharmacies are not difficult to access, and that my client's pharmacy is easily accessible both to the local community and for those who require access to pharmaceutical services after a visit to the Rainham Healthy Living Centre.
- 6.4.13 In terms of whether patients have a reasonable choice, it is submitted that the existing pharmacy network secures a reasonable choice, with my client's pharmacy located within Rainham shopping centre close to the proposed premises, and Tesco Pharmacy, Phoenix Pharmacy and Fenns Chemist also located in the wider Rainham locality.
- 6.4.14 The applicant asserts (in its letter of appeal) that my client's pharmacy "has a retail focus whereas our client's focus is on clinical services". It is difficult to understand what is being asserted by the applicant since it is not clear what is meant by "focus" but, in any event, as NHS Resolution will be aware, this is not part of the relevant regulatory test, since all pharmacies must provide essential pharmaceutical services and may provide advanced services. Certainly it does not appear that the applicant is asserting that the "focus" of its pharmacy offers any significant benefits in terms of innovation in service delivery, for example.

6.4.15 In conclusion, for the reasons given above and those given both by NHS England and interested parties in their representations on the appeal, on behalf of my client I invite NHS Resolution to dismiss the appeal and refuse this application.

6.4.16 I look forward to hearing from you.”

6.5 Gordons Partnership Solicitors on behalf of the Applicant

6.5.1 “Thank you for your letter of 18 November enclosing representations received in relation to this application.

6.5.2 We are writing to address the comment in Kent and Medway ICB’s representations that “the implication was that the pharmacy was closed at the time. However, it was open”. In our letter dated 29 July 2025 to Primary Care Support England, we included a screenshot that indicated that Jhoots Pharmacy Rainham was described as closed on Google. We wished to direct Primary Care Support England to this information on Google as it indicated the information available to members of the public about the status of the pharmacy which was importantly uncorrected by the company. There was no intention to mislead Primary Care Support England with our representations. In fact, we gave information at the start of that letter about the dates that the pharmacy had actually been observed to be closed.

6.5.3 We note that Jhoots branches nationally have been taken over by another legal entity, but it remains to be seen whether a company assuming responsibility for a large chain in substantial difficulties will be able to provide the level of service required by the Rainham population. In contrast our client is familiar with the locality and offers a service tailored to the needs of this population.

6.5.4 In all the circumstances we ask that PCA allows the appeal and grants our client’s application.”

7 Further comments

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 seek comments on the observations received. No further comments were made.

8 Consideration

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

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

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

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

Regulation 31

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

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

(2) This paragraph applies where -

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

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

(ii) adjacent premises; and

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

- 8.6 The Committee noted that in response to the question on the application form on this point, the Applicant had stated “*There is no pharmacy adjacent to or in close proximity of the proposed site*”. The Commissioner in its decision letter stated that “*there is no pharmacy providing pharmaceutical services within the area of the proposed premises. The application did not therefore need to be refused in accordance with Regulation 31*”. The Committee noted that this finding had not been disputed.

- 8.7 The Committee was not required to refuse the application under the provisions of Regulation 31.

Regulation 18

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

“(1) If—

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

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

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

(2) Those matters are—

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

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

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

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

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

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

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

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

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

(d) whether it is satisfied that another application offering to secure the improvements or better access has been submitted to it, and

it would be desirable to consider, at the same time as the applicant's application, that other application;

- (e) *whether it is satisfied that an appeal relating to another application offering to secure the improvements or better access is pending, and it would be desirable to await the outcome of that appeal before considering the applicant's application;*
 - (f) *whether the application needs to be deferred or refused by virtue of any provision of Part 5 to 7.*
 - (g) *whether it is satisfied that the application presupposes that a gap in pharmaceutical services provision has been or is to be created—*
 - (i) *by the removal of chemist premises from a pharmaceutical list as a consequence of the grant of a consolidation application, and*
 - (ii) *since the last revision of the relevant HWB's pharmaceutical needs assessment other than by way of a supplementary statement.*
- (3) *NHS England need only consider whether it is satisfied in accordance with paragraphs (2)(c) to (e) if it has reached at least a preliminary view (although this may change) that it is satisfied in accordance with paragraph (2)(b)."*

- 8.9 The Committee considered that Regulation 18(1)(a) was satisfied in that it was required to determine whether it was satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant Health and Wellbeing Board ("HWB").
- 8.10 The Committee went on to consider whether Regulation 18(1)(b) was satisfied, i.e. whether the improvements or better access that would be secured if the application was granted were or was included in the Pharmaceutical Needs Assessment ("the PNA") in accordance with paragraph 4 of Schedule 1 of the Regulations.
- 8.11 Paragraph 4 of Schedule 1 requires the PNA to include: "*a statement of the pharmaceutical services that the HWB had identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied (a) **would** if they were provided....secure improvements or better access, to pharmaceutical services... (b) **would** if in specified future circumstances they were provided...secure future improvements or better access to pharmaceutical services...*" (emphasis added).
- 8.12 The Committee considered the PNA prepared by Gillingham 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 2025 and no supplementary statements had been issued.

8.13 Regulation 22 of the Regulations states that the relevant PNA for the purpose of determining a pharmacy application is the PNA that is current at the time the Committee 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 HWB regularly. The Committee noted that the original decision of the Commissioner in this matter was taken in relation to an earlier PNA and therefore invited comments on this matter when the appeal was circulated.

8.14 The Committee considered that the starting point as set out in Regulation 22 was that the relevant PNA is the PNA of the relevant HWB that is current at the time that the decision is taken. There is no dispute that the 2025-2028 PNA is the current PNA, with the Applicant stating that *"Our client's position is that whichever PNA is considered, the improvements or better access that would be secured by its application are not included in the pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1 of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. Accordingly they do not wish to make submissions that the only way to deal with the matter justly is to have regard to the 2022 PNA"*. The Committee proceeded to consider the 2025-2028 PNA.

8.15 The Committee noted that under section 6 "Analysis of health needs and pharmaceutical service provision", for the Gillingham locality, it concludes:

"No gaps in the provision of Necessary Services have been identified for Gillingham locality..."

... No gaps in the provision of other relevant services have been identified for Gillingham locality..."

... No gaps have been identified in either the necessary services or any other relevant services that if provided either now or in the future (next three years) would secure improvements or better access to the essential or specified advanced and enhanced services across Gillingham..."

8.16 Further, the Executive Summary concludes *"NHS pharmaceutical services are well distributed across Medway, serving all the main population centres. There is adequate access to a range of NHS services commissioned from pharmaceutical service providers. As part of this assessment, no gaps have been identified in provision either now or in the next three years for pharmaceutical services deemed necessary by the Medway HWB"*.

8.17 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients of Rainham, Gillingham. 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.

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

Regulation 18(2)(a)(i)

- 8.19 The Committee had regard to

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

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

- 8.20 The Committee noted the Commissioner's finding on this point that *"The Committee was not aware of any plans that would be affected and concluded that granting the application would not have an adverse effect on any future plans. None of the submissions included any comment or evidence in regard to this matter. Therefore, the Committee concluded that granting the application would not cause significant detriment in this regard"* and that no party had sought to dispute this.

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

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

Regulation 18(2)(a)(ii)

- 8.23 The Committee had regard to

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

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

- 8.24 The Committee noted the Commissioner's finding on this point that *"None of the submissions included any evidence on this question and the Committee found no proof to support the suggestion that if the application was to be granted, it would cause significant detriment to the arrangements in place for pharmaceutical services in the area"*. Even though no party had sought to dispute this finding in particular, the Committee noted the following comments from Phoenix Pharmacy who state that *"Granting another contract so close to several established pharmacies risks fragmenting demand and undermining financial stability across the local network. This would weaken rather than strengthen patient care, particularly for those dependent on personalised, continuous relationships with their local pharmacy teams"*.

- 8.25 The Committee considered that Regulation 18(2)(a)(ii) relates to significant detriment to arrangements in place for the provision of pharmaceutical services if an application is granted. The reference to "arrangements in place for provision of pharmaceutical services" is very broad in scope. It is not limited to detriment to a particular person, class of person, patient, patient group or provider of pharmaceutical services whether this is a dispensing practice or community pharmacy.
- 8.26 The Committee therefore concluded that a finding that granting the application would cause significant detriment to arrangements in place for the provision of pharmaceutical services can only be achieved after a consideration of all the consequences of granting the application, both positive and negative, benefits and detriment, provided that these consequences were all linked to the broad concept of arrangements in place for the provision of pharmaceutical services.
- 8.27 The Committee considered that the evidence before it was not enough to persuade it that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of an application. More robust evidence would be needed to satisfy the Committee of this finding.
- 8.28 The Committee was therefore not satisfied that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of the application.
- 8.29 In the absence of any significant detriment as described in Regulation 18(2)(a), the Committee was not obliged to refuse the application and went on to consider Regulation 18(2)(b).

Regulation 18(2)(b)

- 8.30 The Committee had regard to

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

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

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

- 8.31 The Applicant states that the *"application is based on the benefits and better access it will offer to the HWB area and not solely on closures of other pharmacies. However it is important context that at the start of 2020 the centre of Rainham had three pharmacies and it now has one."* The Committee noted that Lloyds Pharmacy and Boots Pharmacy closed in December 2020 and March 2024 respectively. The Committee was mindful that the closure of Lloyds Pharmacy occurred approximately five years ago and that the closure of one or more pharmacies does not automatically mean that there is a need for a pharmacy to open in their place.
- 8.32 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. In response to the site visit, the Applicant disputed the Commissioner's conclusion that Rainham *"has a small shopping area, including the Rainham Shopping Centre with a few major shops"*. The Applicant states that *"In fact, the full list of shops is at PDF page 13 and it can be seen that Rainham is well served with shops and services. It has all the amenities that people living in the vicinity would require including many GP practices, dentists, opticians, banks, churches, schools, a library and many other outlets"*. The Committee noted that the Commissioner had not responded to this point and, as a result, the Committee did not consider the Commissioner's conclusion in its site visit to be accurate.
- 8.33 The Applicant provided information on its location in comparison to the GP surgeries in the area by stating that *"Five GP surgeries are located within a twenty-minute walk of proposed pharmacy location, including three within the same building, providing easy access to pharmaceutical services. The remainder of the GP surgeries above are all less than a ten-minute drive and twenty minute bus journey away. The proposed pharmacy would therefore be accessible to patients registered at all of the above GP surgeries"*. However, the Committee was mindful that a pharmacy being located in close proximity of a GP surgery is not as crucial as it once was in particular following the introduction of services like Pharmacy First and the establishment of electronic prescribing.
- 8.34 The Applicant states that, according to the 2021 census, the population of Rainham is approximately 35,000 by combining the central, north and south wards. In its documentation, the Commissioner provides the population data for the north ward only, which the Applicant highlights and provides a map to demonstrate the ward boundaries. The Committee noted that the proposed site is located on the border of the north and central ward. The Applicant highlights that Rainham is below the threshold highlighted in the 2022 PNA for the number of pharmacies per 100,000 however the Committee was of the view that it would consider access to existing pharmacies based on the information before it and not with regard to standards used for other purposes. In response to the new housing developments highlighted in the Commissioner's site visit, the Applicant states that *"the immediate local area will experience an increase in*

population once the newly built houses are occupied” however the Committee, whilst acknowledging the sizeable population of Rainham, was mindful that one development is located 4 miles away from the proposed site and an increase in population, does not automatically lead to the requirement to grant an application.

- 8.35 The Committee noted that the application and appeal focus on the temporary closures of the Jhoots Pharmacy in Rainham. The Committee noted that as of 6 November 2025, the company that owned this pharmacy was placed into administration and on 10 November 2025, Allied Pharmacies re-opened this pharmacy as Allied Pharmacy. The Commissioner confirmed that Allied Pharmacies operates the pharmacy “*under a management agreement pending the NHS change of ownership process*”.
- 8.36 The Committee noted that there is no dispute that the former Jhoots Pharmacy, now Allied Pharmacy, is the closest to the proposed site at a distance of 0.1 miles and would take three minutes to walk. Given the short distance and noting that the Commissioner in its site visit described the streets surrounding the proposed site as “*well used*” with a “*a mix of wide with paving on either side*” and that no information had been provided to demonstrate that any residents were having difficulty in accessing this pharmacy on foot, the Committee considered this pharmacy to be accessible on foot.
- 8.37 According to the Commissioner’s documentation, the next nearest pharmacies are; Phoenix Pharmacy, Tesco Pharmacy and Fenns Chemist at a distance of 1.2 miles. The Applicant does not dispute this but the Committee noted that the Applicant outlines the distance to Phoenix Pharmacy and Fenns Chemist as 1.4 miles. Further, the Commissioner’s site visit report states the distance to Phoenix Pharmacy as 1.4 miles. The reason for the variation was unclear to the Committee however given the small disparity, it did not consider this to be a material point. The Commissioner’s site visit states that it would take 30 and 33 minutes to walk to Tesco Pharmacy and Phoenix Pharmacy respectively with the pavements surrounding these pharmacies to be “*wide and continuous*”, containing street lights and “*flat*” with a “*slight incline walk along the A2 London Road in a straight long road*” to reach Tesco Pharmacy. The site visit also noted that some parts of this road are along dual carriageways with crossing bridges and the roads leading to the pharmacy have traffic light crossing points. The Committee noted that no information had been provided to illustrate the routes required to access Fenns Chemist. The Applicant describes the walks to these pharmacies as “*significant*” and makes reference to the distance falling “*outside of the often quoted one mile commute to access a pharmacy*” however the Committee was of the view that it would consider access to existing pharmacies based on the information before it and not by taking a blanket approach. Further, the Committee noted that no information had been provided to demonstrate that those who are willing and able were having difficulty accessing these pharmacies on foot however, the Committee appreciated that due to the distance involved, some may not make this journey.
- 8.38 From the Commissioner’s documentation, the Committee had regard to the distances to the pharmacies located further away, with distances ranging from 1.4 miles to 2.9 miles, and accepted that patients were less likely to undertake the journey to these pharmacies on foot. The Committee proceeded to consider public transport provision in the area.

- 8.39 The Applicant disputes the “*Twydall to Maidstone route*” highlighted by the Commissioner in its decision report due to the journey length required to access pharmacies located in Maidstone however the Committee noted that the nearest existing pharmacies are located in either Gillingham or Rainham. In its 14 day comments to the Commissioner, the Applicant provides the journey lengths to these pharmacies which, the Committee noted, are between 10 and 15 minutes. The Applicant comments that the journey time to Tesco Pharmacy of 10 minutes “*does not include the time take [sic] to walk to the bus stop initially and to the pharmacy on arrival*” however no further information is provided to demonstrate why this walk would constitute a barrier to access and the Committee observed the flat terrain surrounding the Tesco superstore from the image in the Commissioner’s site visit report.
- 8.40 The Committee had regard to the “Medway Bus and Railway Network Map” on page 27 of the Commissioner’s documentation, which can also be accessed via the link on page 21 as well as the “Bus route maps | Bus timetables | Medway Council” link on the same page. The Committee noted that bus 783 (salmon/orange) and 113 (grey) pass Phoenix Pharmacy, with 783 operating at peak times Monday to Friday and 113 operating hourly Monday to Saturday daytime. The 783 also passes in close proximity to Fenns Chemist along with 116 and 132 (green) and 130 (brown). 116 operates every 30 minutes Monday to Saturday daytime along with one evening journey. 132 operates every 15 minutes Monday to Saturday daytime, every 30 minutes Monday to Saturday evening and every 20 minutes Sunday daytime along with one Sunday evening journey. The 116 calls specifically at Tesco Pharmacy along with the 120/124, 132 and 326/327 (dark blue). The 120/124 operates three journeys Monday to Friday daytime. The 326/327 operates hourly Monday to Friday daytime along with four journeys on a Saturday daytime. The Committee also noted that the Applicant has provided a copy of the full timetable for 132 in its appeal.
- 8.41 Given the short walking distance to Allied Pharmacy, the Committee considered that it would be unnecessary for patients to use a bus to access this pharmacy and noted that in its 14 day comments to the Commissioner, the Applicant itself considers access by bus as “*not applicable*”.
- 8.42 Based on the information before it, in particular, noting that no information had been provided by the Applicant to demonstrate that patients were experiencing difficulties in accessing the existing pharmaceutical services as a result of the public transport provision in the area, the Committee did not consider the bus provision in the area to be a barrier to access.
- 8.43 In considering access by private transport, in its application, the Applicant states that “*Although car ownership is relatively high...there are a proportion of households who will not have access to a vehicle when they need to travel to the pharmacy*”. From the Commissioner’s documentation, the Committee noted that 82.1% own a car/van in the area, which had not been disputed by the Applicant. The Committee noted the comment from a member of the public in the petition organised by the Applicant regarding not having access to a car and whilst appreciating the point made, the Committee did not consider this provided a robust body of evidence demonstrating widespread difficulty in access.

- 8.44 The Committee noted that the Applicant and Commissioner had provided journey times to Allied Pharmacy, Tesco Pharmacy and Phoenix Pharmacy, with the Applicant also providing the journey time to Fenns Chemist. Whilst not commented on by any party, the Committee noted a minor disparity in the journey times provided however due to the slight variation, the Committee merged the figures. It would take 2/3 minutes to drive to Allied Pharmacy, 5 minutes to drive to Phoenix Pharmacy and Fenns Chemist and 9 minutes to drive to Tesco Pharmacy. The Committee noted that the Applicant had not provided any information to demonstrate that the routes required to access these pharmacies would constitute as a barrier to accessing the existing pharmaceutical provision.
- 8.45 The Applicant states that *“parking is not always easy at the other pharmacies”* but acknowledges that there are parking options available at Tesco Pharmacy and Phoenix Pharmacy although states that Tesco Pharmacy *“like Jhoots, requires patients to walk into the superstore and locate the pharmacy”*. From the Commissioner’s site visit report, the Committee observed the large, flat car park at Tesco Pharmacy as well as the reasonably sized, level parking available at Phoenix Pharmacy. Further, the Committee noted the map provided by Temple Bright LLP where it can be seen that *“there is a large car park immediately adjacent to the Jhoots Pharmacy [Allied Pharmacy] which has 193 spaces”*. The Committee did not concur with the Applicant’s view that the fact that patients have to locate the pharmacy via a superstore/shopping centre constitutes a barrier to access. The Committee also noted that the Applicant’s proposed site is within Rainham Healthy Living Centre so using this same logic, the Applicant’s location would be considered a barrier. The Committee noted that no information had been provided to demonstrate the parking provision at Fenns Chemist but without evidence to the contrary and noting that the Applicant had not provided any information to demonstrate that patients were experiencing any difficulties in accessing any of the existing pharmacies, the Committee concluded that patients had a reasonable choice of access by car.
- 8.46 The following comment from the Applicant *“Pharmacy 1st Ltd’s branches in Gillingham have seen a significant increase in patients from the ME8 area (Rainham, Kent). Patients are increasingly having to travel further to access a pharmacy”*. The Committee considered that this increase might have been in the context of the historic Jhoots Pharmacy closures..
- 8.47 The Committee considered the petition created by the Applicant on 9 September 2025 to *“Establish a New Pharmacy in Rainham, Kent Area”* which had been signed by 1000 signatories and had received seven comments from members of the public. The Committee noted that the majority of the comments are in relation to issues at the former Jhoots Pharmacy. Further, the petition does not highlight access issues to current pharmaceutical services nor does it indicate that services provided from the proposed site would be a significant benefit in the area of the relevant HWB.
- 8.48 The Committee considered the letter from the local MP headed *“Concerns regarding pharmacy provision in Rainham, Kent”* and from Orchard Family Practice as well as the issues and media articles highlighted by the Applicant. The Committee noted that the issues and concerns surround the former Jhoots Pharmacy, however it was alive to the fact that at the time they were written,

Jhoots was the operating pharmacy. The Applicant states *“Although it is understood that a position often taken by the Primary Care Appeals committee (PCA) is to disregard service failures as matters that can be dealt with by the ICB, in a case where there are closures and service issues at a local level which are symptomatic of wider problems then it would be unreasonable for PCA to take the view that that the resumption of a full service can be relied upon”*. The Committee remained of the view that it is the Commissioner’s role to act on reports of negative service however it was also mindful that it must have regard to the situation as it is known now. Whilst not disputing that issues and problems occurred, given that they relate to a previous pharmacy, the Committee considered them to be outdated and weight could not be placed on them. It also noted that Phoenix Pharmacy provide screenshots from Facebook depicting positive engagement from patients following the opening of Allied Pharmacy which, whilst in some respects could be perceived as premature, indicated to the Committee that some of the issues have now be resolved. Temple Bright LLP also state that Allied Pharmacy *“is fully staffed and fully stocked”*, which has not been disputed by the Applicant.

- 8.49 In its application, the Applicant relies on a meeting held on 13 March 2025 by Medway Council where *“concern was raised over the significant reduction in pharmacy provision in Rainham”* however this was not supported by the HWB’s response to the application, which the Applicant has commented on. In its observations, the HWB provides no comments in relation to the appeal but highlights *“a report from the Council’s Health and Adult Social Care Overview and Scrutiny Committee responding to dissatisfaction amongst residents with pharmacy services in the centre of Rainham”* and states that *“the issues raised relate to access to pharmacy services and an inconsistent service by the previous occupant”*. Due to the date this comment was made (25 November 2025) and as a result of the recent pharmaceutical changes in Rainham, the Committee took the reference to *“previous occupant”* to mean the former Jhoots Pharmacy.
- 8.50 Based on the information before it, the Committee was not satisfied that, having regard to there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits by way of physical access on persons.
- 8.51 Overall, the Committee was of the view that there is already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, such that it was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits on persons.
- 8.52 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 states that *“Providing services at the proposed location would have a significant benefit for patients, particularly those who may have difficulty in accessing other areas, such as the elderly, disabled or parents with young children”* and goes on to provide data demonstrating that *“17.4% of*

Medway's population have a disability under the Equality Act, which is similar to the national average of 17.3%". The Applicant also highlights a comment made by Orchard Family Practice that *"the closures of Jhoots has "left elderly and vulnerable patients without their necessary medications"* and the fact that the Applicant is fluent in Punjabi and can communicate in different languages. However, the Committee considered that the information regarding those who share a protected characteristic and the pharmaceutical services they needed was limited. The Committee was of the view that there was little or no evidence of specific pharmaceutical needs. The issue of access and choice as might apply to these persons was dealt with in the assessment of reasonable access discussed above and the Committee was mindful that there are always people in an area who share a protected characteristic.

- 8.53 The Committee was therefore not satisfied that, having regard to the desirability of people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access, granting the application would confer significant benefits on persons.
- 8.54 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.
- 8.55 The Applicant states that *"The UTI clinic is considered to be an innovative way of delivering essential services. It is the applicant's understanding that no other pharmacy in Medway, other than the applicant's existing pharmacy, is offering this service"*. In its decision report, the Commissioner states that *"a UTI clinic is a private service not an NHS service and agreed that the applicant had not provided evidence that an innovative approach would be taken with regard to the delivery of pharmaceutical services"*. Notwithstanding the Commissioner's comment, the Committee considered that due to the fact that the Applicant was already providing this service at its existing pharmacy, it could not be perceived as innovative.
- 8.56 The Committee was therefore not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting the application would confer significant benefits on persons.

Regulation 18(2)(b) generally

- 8.57 As confirmed in the Commissioner's decision report, the Committee noted the Applicant's proposed core hours which are, 9am to 5pm Monday to Friday, with proposed directed hours 5pm to 6.30pm.
- 8.58 In its appeal, the Applicant states that *"When open, Jhoots Pharmacy's hours are from 09:00-17:30 Monday to Friday, so the proposed pharmacy would improve access to pharmaceutical services in the evenings. The ten nearest GP practices close between 18:00 and 19:00, so the proposed pharmacy would offer dispensing services to the patients receiving an acute prescription from their GP during that time"*. However, from the Commissioner's documentation, the Committee noted that the existing pharmacies are open at times the Applicant is proposing to open, in particular, Tesco Pharmacy is open until 9pm

Monday to Saturday. Notwithstanding this, the Committee was of the view that there was no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore it was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits (in relation to opening hours) on persons.

- 8.59 The Committee has considered whether there are any other factors that would confer significant benefits including on patients who share protected characteristics. The Committee had regard to the need to eliminate discrimination and advance equality of opportunity and foster good relations between these patients and those who do not share their protected characteristics.
- 8.60 The Committee was of the view that in accordance with Regulation 18(2)(b) the granting of this application would not confer significant benefits on persons in the area of the HWB which were not foreseen when the PNA was published.

Other considerations

- 8.61 Having determined that Regulation 18(2)(b) had not been satisfied, the Committee did not need to have regard to Regulation 18(2)(c) to (e).
- 8.62 No deferral or refusal under Regulation 18(2)(f) was required in this case.
- 8.63 The Committee had regard to Regulation 18(2)(g) and found no reason that required it to refuse the application under this regulation.
- 8.64 The Committee considered whether there were any further factors to be taken into account and concluded that there were not.
- 8.65 The Committee was not satisfied that the information provided demonstrates that there is difficulty in accessing current pharmaceutical services such that a pharmacy at the proposed site would provide better access to pharmaceutical services.
- 8.66 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 8.66.1 confirm the Commissioner's decision;
 - 8.66.2 quash the Commissioner's decision and redetermine the application;
 - 8.66.3 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.
- 8.67 Given that the Committee had considered the 2025-28 PNA, it determined that the decision of the Commissioner must be quashed.
- 8.68 The Committee went on to consider whether there should be a further notification to the parties detailed at paragraph 19 of Schedule 2 of the Regulations to allow them to make representations if they so wished (in which

case it would be appropriate to remit the matter to the Commissioner) or whether it was preferable for the Committee to redetermine the application.

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

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

9 DECISION

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

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

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

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

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

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

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

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

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

**Case Manager
Primary Care Appeals**