

22 January 2026

REF: SHA/26750

**APPEAL AGAINST DERBY AND DERBYSHIRE ICB
DECISION TO REFUSE AN APPLICATION BY
PRESCRIPTION HUB LIMITED FOR INCLUSION IN
THE PHARMACEUTICAL LIST OFFERING
UNFORESEEN BENEFITS UNDER REGULATION
18 AT BRECKLAND ROAD, CHESTERFIELD,
DERBYSHIRE, S40 3DD, S40 3LJ, S40 3DF**

8th Floor
10 South Colonnade
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1 Outcome

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

A copy of this decision is being sent to:

Healthcare Plus Consulting Limited on behalf of Prescription Hub Limited
PCSE on behalf of Derby and Derbyshire ICB
Gorgemead Limited (Cohens Pharmacies)
Peak Pharmacy
Derbyshire Health and Wellbeing Board
Hasland Pharmacy
Boots UK Ltd
Community Pharmacy Derbyshire

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1 The Application

By application dated 26 January 2025, Prescription Hub Ltd (“the Applicant”) applied to Derby and Derbyshire ICB (“the Commissioner”) for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Breckland Road, Chesterfield, Derbyshire, S40 3DD, S40 3LJ, S40 3DF. In support of the application it was stated:

- 1.1 In response to “In my/our view this application should not be refused pursuant to Regulation 31 for the following reasons:” the Applicant stated:
- 1.2 “N/A. There is no pharmacy trading from or adjacent to the proposed premises, so Regulation 31 does not apply.”
- 1.3 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:
- 1.4 **“Please see enclosed supporting Information**
- 1.5 Walton New Contract Supporting Information
- 1.6 Background
- 1.7 This application is in respect of opening a new pharmacy to provide better pharmaceutical access and choice for residents of Walton Ward, Chesterfield. The best estimate of the proposed site my client wishes to open up a new pharmacy is located on a communal parade of shops on Walton Close, S40 3LJ. There is currently no pharmacy situated within Walton and the next closest pharmaceutical provision is Peak Pharmacy, Chatsworth Road, S40 3JX, located 1.3 miles away by practicable means.
- 1.8 Walton falls under the Chesterfield local authority which covers a large area. Therefore, it is more prudent to consider the Lower-Layer Super Output Areas (LSOAs) to ascertain the population that are most likely to utilise the pharmacy at the proposed location. In the table below we can see the LSOAs and respective population figures:

LSOA	Population
Chesterfield 011B	1386
Chesterfield 011C	1331
Chesterfield 011D	1302
Chesterfield 011F	1110
North East Derbyshire 008B	1507

1.9 Table 1

1.10 We can see that c. 6600 residents from these LSOA's would benefit from a pharmacy located at the proposed site. Notably, the Walton ward and adjacent LSOAs have a high population of elderly residents which indicates a greater need for accessible pharmaceutical provision for this demographic. According to 2021 Census data the Walton Ward has a significantly higher proportion of elderly residents (31%) than both the national (18.3%) and local authority average (21.6%).

1.11 Additionally, we submit that those residents who travel to the area for their shopping needs and daily amenities, would also utilise a pharmacy at this location.

1.12 Proposed Location

1.13 The proposed site is situated centrally in Walton Ward, amongst a communal parade of shops. The site features a large, dedicated car park with free parking; a One Stop convenience store; a post office; a restaurant; and a hair salon. These are all amenities that resident's access as part of their daily lives.

1.14 The proposed site fills a gap in pharmaceutical provision within Walton Ward and the surrounding area, as demonstrated by the map below: [Map enclosed]

1.15 We note that whilst Peak Pharmacy may appear close when observed 'as the crow flies', the River Hipper serves as a barrier between the proposed site and the Peak Pharmacy. Thus, residents must currently travel around the river, resulting in a 1.3-mile one-way journey.

1.16 Site images [images enclosed]

1.17 Picture depicts proposed location featuring dedicated parking, convenience store, and bus stop with shelter.

1.18 Picture depicts post office, hair salon, restaurant, dropped curb, and defibrillator station.

1.19 Regulations

- 1.20 We are required by NHS England to address the overarching question in an Unforeseen Benefits application:
- 1.21 *“Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB area”.*
- 1.22 When considering the above question, the provisions of Regulation 18(2)(b) should be noted:
- 1.23 *(b) whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—*
- 1.23.1 *(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also the NHSCB’s duties under sections 13I and 13P of the 2006 Act(b) (duty as to patient choice and duty as respects variation in provision of health services)),*
- 1.23.2 *(ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also the NHSCB’s duties under section 13G of the 2006 Act(c) (duty as to reducing inequalities)), or*
- 1.23.3 *(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also the NHSCB’s duties under section 13K of the 2006 Act(a) (duty to promote innovation)),*
- 1.24 *granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published;*
- 1.25 We note that points on reasonable choice; protected characteristics; and innovation are desirable, however, they are merely supporting considerations when determining whether in fact the overarching test in regulation 18(2)(b) has been met: an application should be granted should it *provide improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB’s area.*
- 1.26 We have addressed these regulations overleaf.
- 1.27 **Patient Journeys**
- 1.28 When considering securing better access, we consider what a typical patient journey would look like.
- 1.29 We also consider the reasonable choice within these journeys, alongside how those with protected characteristics find those journeys.
- 1.30 Using the proposed site, S40 3LJ, as an arbitrary marker to represent these residents; we can see that the next nearest pharmacy is Peak Pharmacy (S40

3JX), which we reiterate is 1.3 miles away by practicable means. It must be noted that distance in itself is a barrier to access. For residents currently living near the proposed site, pharmaceutical provision is difficult to access by foot, car, and public transport. Again, we reiterate that there are a large number of elderly residents living near to the proposed site.

1.31 By foot to the Current Nearest Pharmacy (Peak Pharmacy, S40 3JX)

1.32 As can be seen from the map on the page below [map enclosed], the journey on foot is 1.3 miles or 28 minutes, equating to a 56-minute round-journey. It is noteworthy that Google Maps does not consider topography or mobility issues when calculating trips, so this journey could be even longer for the elderly, disabled, or those with young children. We cannot consider a 2.6-mile round walk to access pharmaceutical services as sufficient, nor can we consider this as having reasonable choice.

1.33 The proposed site is situated atop a hill, and Peak Pharmacy is situated at the bottom of this hill. Currently, on a return journey from visiting the Peak Pharmacy residents would have to walk up the full length of the hill up Walton Road. This hill is continuous for a length of around 200 metres, with the gradient averaging 8% or 1 in 12.5.

1.34 For context, guidance states that a disabled access ramp should have a gradient of no more than 1 in 20 for a maximum ramp length of 10 metres. Given this hill is significantly longer than such a ramp, and the gradient is much steeper, we submit that the hill is a clear barrier to access for those in a wheelchair/mobility scooter/or of impaired mobility. As there are no other practicable walking routes, the above factors are especially relevant when considering the demographics of residents in Walton Ward and the surrounding LSOAs. The table below shows the high proportion of residents aged over 65 in the proposed area.

LSOAs	% of population over 65 (2021)
Chesterfield 011B	26.1%
Chesterfield 011C	38.3%
Chesterfield 011D	32.7%
Chesterfield 011F	31.0%
NE Derbyshire 008B	31.5%

1.35 To reiterate, when we compare the figures in the table above to the national average of 18.3% and the local authority average of 21.6%, we can see that those residing near the proposed site are significantly more elderly than average. This highlights the greater need for pharmaceutical provision in close proximity to patients, allowing better access for these elderly residents who have higher health needs. It follows that alternative pharmaceutical provision is also not accessible by foot due to the greater distances involved, and thus

there is a lack of reasonable choice and access to pharmaceutical services for those travelling by foot.

1.36 **By Public Transport to the Current Nearest Pharmacy (Peak Pharmacy, S40 3JX)**

1.37 There is no direct bus service to Peak Pharmacy from the proposed site. In order to access Peak Pharmacy by public transport, patients must take a bus that alights at the Morrisons bus stop on Walton Road. From here residents have a 0.6-mile/ 14-minute walk to access the Peak Pharmacy. We do not consider an additional 14-minute walk on top of the initial bus journey as representing reasonable choice or access to pharmaceutical provision. Those groups who share protected characteristics will clearly find difficulty with this journey.

1.38 The bus journey itself takes approximately 4 minutes each way but runs every 30-minute's and thus is an infrequent service. When we account for bus journey time, walking time, and waiting time, a return journey from Peak Pharmacy could take 48-minutes. This is clearly not representative of reasonable choice or access. Such poor pharmaceutical access is especially felt by the elderly and disabled. These groups could struggle to walk the 0.6 miles to the nearest bus stop and then face having to wait 30 minutes for a return bus in the cold on a winter's day.

1.39 **By Car to the Current Nearest Pharmacy (Peak Pharmacy, S40 3JX)**

1.40 The journey by car to Peak Pharmacy from the proposed site involves driving 1.3 miles which can take approximately 8 minutes, equating to a 16-minute round-trip. We do not consider a 16-minute trip by car as sufficient access.

1.41 Additionally, finding parking can be challenging for patients. There is a car park close to Peak pharmacy, however it is shared with the local GP surgery and general public and has limited spaces.

1.42 This car park also requires patients to cross the busy Chatsworth Road to access the Peak Pharmacy.

1.43 The proposed site has a free dedicated car park on site, making it much more accessible for elderly or disabled patients.

1.44 **Conclusion**

1.45 We submit that there is currently a gap in pharmaceutical provision for the Walton Ward, specifically those residing in the aforementioned LSOAs. The community is isolated from the rest of Chesterfield by the geography of the area, which makes accessing the current pharmaceutical provision difficult for all residents and presents further access barriers to residents with protected characteristics.

1.46 Granting this application would secure better access to pharmaceutical services, especially when we consider the access difficulties by foot and bus. We must also consider the demographics of the localised population. As mentioned above, the large population of elderly residents are likely to find better access and choice to pharmaceutical provision from the proposed site.

We reiterate that there is a greater need for pharmaceutical provisions in areas with high populations of individuals with protected characteristics. The elderly, disabled, and wider population will find the proposed pharmacy significantly more accessible than the existing provision available to them.

- 1.47 We would like to note that granting this application would not cause significant detriment to access of current pharmaceutical services, as the nearest pharmacy to the proposed site is located 1.3 miles away by practicable means.
- 1.48 Based on the evidence outlined above, we submit that a new pharmacy contract should be granted.”

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 19 September 2025 states:

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

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

Decision report

- 2.4 “The unforeseen benefits application is proposed within the best estimate of Prescription Hub Ltd, Breckland Road, Chesterfield, Derbyshire, S40 3DD, S40 3LJ, S40 3DF which is not in a controlled locality or LPS designation thereby regulations 32, 40, 44 50 are not relevant and therefore have not been considered.
- 2.5 Fitness to practice [sic] was cleared for inclusion.
- 2.6 Relevant regulations
- 2.7 Regulations 18 and 19 – unforeseen benefits: additional matters and consequences. The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013

- 2.8 Regulation 31 – refusal: same or adjacent premises. The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013
- 2.9 Regulation 32 – deferral arising out of LPS designations. The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013
- 2.10 Regulations 40 to 44 – applications in a controlled locality. The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013
- 2.11 Regulation 50 – gradualisation for doctors The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013
- 2.12 Regulation 65 – core opening hours conditions The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013
- 2.13 Regulation 66 – conditions relating to providing directed services The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013
- 2.14 Paragraph 31, schedule 2 – conditional grant of applications where the address of the premises is unknown The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013
- 2.15 Regulation 31 - refusal: same or adjacent premises
- 2.16 As it is not yet known where the premises would be located if the application is granted, there are no grounds for the committee to refuse the application on the basis of regulation 31. If the applicant is granted, the successful applicant would, in due course, be required to notify the ICB of the address of its premises under paragraph 31, Schedule 2. Such a notification would not be valid if the address would, had it been known at that time, have led to the application being refused under regulation 31.
- 2.17 Regulation 32 – deferral arising out of LPS designations.
- 2.18 The application does not need to be deferred pursuant to regulation 32 as the relevant premises are not premises or part of premises, or are not located within an area, designated under regulation 99 for local pharmaceutical services.
- 2.19 Regulations 18 – unforeseen benefits: additional matters and consequences
- 2.20 Regulation 18(1)
- 2.21 The unforeseen benefits that Prescription Hub Ltd claims would be secured by the granting of the application are not included in the relevant PNA. It states that “Improved access and enhanced services in Chesterfield was not included in the pharmaceutical needs assessment and that there are currently no gaps in the provision of pharmaceutical services.”

- 2.22 It is to be noted that the improvements or better access that Prescription Hub Ltd claims would be secured by its application were not included in the relevant PNA in accordance with paragraph 4 of Schedule 1. This regulation is therefore satisfied.
- 2.23 In order to be satisfied in accordance with regulation 18(1), the committee is to have regard to those matters set out at regulation 18(2).
- 2.24 Regulation 18(2)(a)(i)
- 2.25 The Committee was satisfied that granting the application would not cause significant detriment to either the proper planning in respect of the provision of pharmaceutical services in the area of Derbyshire HWB or the arrangements in place for the provision of pharmaceutical services in that area.
- 2.26 Regulation 18(2)(a)(ii)
- 2.27 There is no evidence that granting the application would cause significant detriment to the arrangements that are currently in place for the provision of pharmaceutical services in the area of Derbyshire HWB.
- 2.28 Regulation 18(2)(b)(i) – Reasonable Choice
- 2.29 The Committee determined that the application would not significantly improve reasonable choice for pharmaceutical services. No additional improvements or better access has been demonstrated as existing services already meet identified needs.
- 2.30 Regulation 18(2)(b)(ii)
- 2.31 The applicant had provided no evidence of people sharing a protected characteristic having difficulty accessing services that meet their specific needs for pharmaceutical services other than general statements about older people needing to use services more, for example. Consideration that there is no evidence had been provided to conclude that granting the application would confer significant benefits on people within the area of Derbyshire HWB.
- 2.32 Regulation 18(2)(b)(iii)
- 2.33 The applicant has stated they propose to provide standard pharmacy services already offered by local providers, they have no plans to offer significant innovation.
- 2.34 Regulation 40, 44 and 50
- 2.35 Regulation 40, 44 and 50 are not applicable to this application as the proposed premises are not in a controlled locality.
- 2.36 Regulation 65 core opening hours conditions
- 2.37 Regulation 65 is not applicable to this application as this will be a 40-hour pharmacy.
- 2.38 Regulation 66 – conditions relating to providing directed services.

- 2.39 Regulation 66(4) applies if the application is to be granted, and the inclusion of the applicant and the pharmacy premises in the pharmaceutical list for the area of Derbyshire HWB would be subject to the condition set out in regulation 66(5).
- 2.40 The condition is that, at the pharmacy premises, the applicant must:
- 2.41 a) Provide the directed services mentioned in the application and
- 2.42 b) Not withhold agreement to a service specification for those services unreasonably
- 2.43 If the ICB commissions the services from the applicant within three years of the date of either the grant of the application or, if later, the listing in relation to the applicant of the pharmacy premises, unless thereafter the ICB ceases to commission the services (if it has commissioned them).
- 2.44 For the services commissioned by the ICB and NHS England, If the application is granted, the Committee is to consider whether or not to specify a date by which the condition to provide these services is to take effect.
- 2.45 Other Matters
- 2.46 This application should have no impact on those with protected characteristics under the Equalities Act 2010 and is in accordance with NHS England/the ICB's Public Sector Equality Duty or NHS England/the ICB's duty on health inequality.
- 2.47 Decision
- 2.48 The Committee determined to refuse the application."

3 The Appeal

In a letter dated 17 October 2025 addressed to NHS Resolution, Healthcare Plus Consulting Ltd on behalf of the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

- 3.1 "Thank you for your letter dated 19th September 2025. Prescription Hub Ltd have instructed us (Healthcare Plus Consulting Ltd) to act on their behalf for this appeal, please find an authorisation letter attached.
- 3.2 We would like to appeal the decision made in relation to the above unforeseen benefits application.
- 3.3 We submit that NHS England have failed to properly evaluate Regulation 18 and the fundamental question within the Regulation: does the application provide 'improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area.' In their decision, the ICB refused our client's application, and we believe they misdirected themselves in doing so.
- 3.4 We submit that this application does provide improvements and/or better access to pharmaceutical services, as set out in our client's original application and the comments previously provided by our client. We re-attach this correspondence for re-consideration by NHS Resolution.

- 3.5 We note that the ICB failed to properly apply the regulation, which concerns improved service and better access, and instead applied a ‘need’ test - contrary to regulations.
- 3.6 We believe that the ICB failed, in particular, to give due weight to the following matters:
- 3.6.1 The high proportion of elderly living at/near the proposed site
- 3.6.2 The difficulties in journeys to existing provision
- 3.7 We address these matters overleaf.
- 3.8 **Regulation 18**
- 3.9 The ICB failed to recognise the distinction between ‘need’ and ‘improvements, or better access’. We note that in the brief decision report the ICB stated:
- 3.9.1 *No additional improvements or better access has been demonstrated as existing services already meet identified needs.* (emphasis added)
- 3.10 In its reasoning, the ICB failed to distinguish between need and improvements, or better access. This is contrary to the legislation and regulations.
- 3.11 Section 129(2A) of the National Health Service Act 2006 is the source of the criteria considered in routine applications. That subsection states:
- 3.11.1 (2A) NHS England is satisfied as mentioned in this subsection if, having regard to the needs statement for the relevant area and to any matters prescribed by the Secretary of State in the regulations, it is satisfied that to grant the application would—
- 3.11.1.1(a) meet a need in that area for the services or some of the services specified in the application, or
- 3.11.1.2(b) secure improvements, or better access, to pharmaceutical services in that area
- 3.12 There is a clear distinction between ‘need’ and ‘improvements, or better access’ under this subsection.
- 3.13 The ICB therefore misdirected itself as to what was to be demonstrated. What is to be demonstrated is not ‘need’, but improvements or better access.
- 3.14 The ICB also seems to have only considered the three matters of particular importance detailed in regulations 18(2)(b)(i)-(iii) rather than the general question in regulation 18(1) of improved services or better access and general consideration in 18(2)(b) of significant benefit.
- 3.15 We also note that the current regulations do not apply an adequacy test. We submit that even if existing services are found to be adequate – which we dispute – improvements and better access are still possible. We emphasise that regulation 18(2)(b)(i) is not an adequacy test and rather underlines that competition can itself be a significant benefit.

3.16 While the regulation mentions ‘significant benefits,’ we note that this may be taken to mean more than *de minimis* or material. There is no reason to believe it is intended to be an onerous threshold nor that is more than a gloss of the standard laid down by Section 129(2A) of the act.

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

3.18 Localised Area and Population

3.19 The Walton area is geographically bounded by the River Hipper to the North and undeveloped land to the West and South.

3.20 The area provides a number of amenities which allow residents to fulfil their basic needs without being forced to rely on journeys out of the area. We note in particular the following amenities surrounding the proposed site:

3.20.1 One Stop store, selling groceries and fresh bread

3.20.2 Post Office

3.20.3 Hairdressers

3.20.4 Restaurant and takeaway

3.20.5 Church

3.21 Given the proximity of these essential services to the proposed site, we submit that a pharmacy at the proposed site would integrate into the daily routines of local residents.

3.22 We wish to reiterate that the localised population is disproportionately elderly.

3.23 Below we detail the high proportion of residents aged 65 and above in the Lower-layer Super Output Areas at/near the proposed site.

Lower-layer Output Area	Residents aged 65 or over
Chesterfield 011B	26.1%
Chesterfield 011C	38.3%
Chesterfield 011D	32.7%
Chesterfield 011F	31.0%

3.24 For comparison, we reiterate this is significantly higher than the average for England (23.5%) and for the Chesterfield Local Authority (23.9%). We note that no objector nor the ICB dispute this fact. It is therefore indisputable that the localised population is disproportionately elderly.

- 3.25 The ICB took the view that no evidence has been presented suggesting any person with protected characteristics faces particular difficulties in accessing pharmacy services. We strongly refute the suggestion that Census data is not sufficient evidence. Census data is an independent dataset obtained by the Office for National Statistics, which evidences household demographics in an area. Participation in the Census is compulsory for every household, and it is against the law not to participate and participate truthfully to that extent. The latest Census data was taken on 21st March 2021, so whilst not completely up to date it still provides a strong measure of the situation residents find themselves at “ground level” – and thus is highly relevant evidence.
- 3.26 It is also well known that the elderly have greater health needs than the general population as is their greater frailty and reduced mobility. We note in particular the elderly may avoid long drives and long journeys in adverse conditions. It is therefore a sound inference that such patients will be particularly impacted by the difficult journeys detailed below.
- 3.27 **Patient Journeys**
- 3.28 We wish to detail journeys to the closest pharmacies in practice.
- 3.29 We note that the Derby and Derbyshire PNA (2022-2025) states “In rush hour/peak traffic conditions a pharmacy should still be accessible within a 5-minute drive for more than 90% of people” (Derby and Derbyshire PNA 2022-2025, page 138). We believe that the standard produced by the local specialists at the Health and Wellbeing Board is correct and ought to be applied in the present appeal.
- 3.30 We also note that per the Derby and Derbyshire PNA (2025-2028), “During rush hour traffic, 99% of the population of Derby and 87% of the population of Derbyshire can still drive to their nearest pharmacy within 5 minutes, indicating good access for those with a vehicle” (Draft Derby and Derbyshire PNA 2025-2028, page 113). This travel time is referred to as “good access for those with a vehicle”, indicating that the inverse, i.e. journeys by car in excess of 5-minutes, do not meet this definition of “good access”. Therefore, it remains clear that the 2022 standard is still sound and any failure to meet it is unusual in Derbyshire. And similarly, any improvement which brings access up to this standard is likely to be significant.
- 3.31 We note that the Walton area is clearly neither rural nor scarcely populated, thus it is unreasonable that this area is among the underserved areas in Derbyshire. We note that the Chesterfield 011B LSOA, where the proposed site is located, has a population density of 2,675.7 residents per square kilometre, compared to 433.5 residents per square kilometre in England as a whole.
- 3.32 We note that the proposed pharmacy is centrally located within the Walton area and therefore would be within a 5 minutes’ drive of any part of the Walton area. Thus, a pharmacy at the proposed site would provide significantly better access within the understanding of the PNA.
- 3.33 All journeys are from S40 3LJ which represents the proposed site and is the centre of the area to be served. Naturally some will be closer and some will be further from this marker.

3.34 Peak Pharmacy (S40 3JX)

3.35 *Journeys by Foot*

3.36 We reiterate that the most practicable journey by foot is 28 minutes or 1.3 miles.

3.37 We also wish to emphasise that the journey through Hipper Valley trail is not suitable for residents - especially those who are elderly. The trail is largely unpaved and entirely unlit. Residents are therefore required to detour to a bridge to cross the River Hipper as seen below.

3.38 We also reiterate that on a return journey from visiting the Peak Pharmacy (S40 3JX), residents would have to walk up a hill on Walton Road. This hill is continuous for a length of around 200 metres, with the gradient averaging c. 8%. This is far in excess of the standard for wheelchair access which is 5% over 10 meters and may also act as a barrier for the many older residents of Walton. [map enclosed]

3.39 *Journey by Public Transport*

3.40 We note that there is no available bus journey to access this pharmacy which does not represent reasonable choice when accessing pharmaceutical services by public transport. This is not disputed by objectors and was not considered by the ICB at all.

3.41 We note that while the elderly do have access to bus passes, this is only useful if there is suitable bus service. Even where a bus is available, the present application offers significantly better access. We also note that bus passes only operate at off peak times making them less useful for accessing pharmacies, thus little weight should be placed on this.

3.42 *Journeys by Car*

3.43 [map enclosed]

3.44 As we have previously detailed, the journey by car is 1.3 miles and can take up to 8 minutes during peak times. This is in excess of the Derby and Derbyshire PNA's standard of 5 minutes. It is therefore reasonable to suggest that by the PNA's criteria, this is inadequate provision and that the proposed site would offer significantly better access than this journey.

3.45 We wish to reiterate that the Derby and Derbyshire PNA (2022-2025) applied an as the crow flies radius to estimate access. This approach overlooks the need to detour to cross the River Hipper.

3.46 We note that as pharmacy services such as Pharmacy First continue to expand, it is clear that ever greater access is necessary. The new NHS long term plan, 'Fit for the future: 10 Year Health Plan for England' (2025), states '*Pharmacy will have a vital role in the Neighbourhood Health Service – bringing health to the heart of the high street.*' We submit that the present application is in line with the vision of the NHS's long term plan and helps secure the future of health in Walton.

3.47 *Quality of service*

- 3.48 There are also concerns regarding the quality of service provided by Peak Pharmacy from this site. We note that in the last year the pharmacy has received overwhelmingly negative reviews on Google. Since reviews from NHS Choices have been removed this is likely the only way patients can communicate their experiences with the pharmacy.
- 3.49 We note that reviews within the past year are virtually all negative. Some are in respect of the pharmacy not answering the phone which was apparently due to a broken phone, but a local resident also reports that the pharmacy failed to open at its stated opening time of 9am and instead opened half an hour later, forcing a patient to wait outside. Another local resident also reports after being left waiting so long that she gave up on trying to get advice from the pharmacist. This is clearly an unacceptable level of service.
- 3.50 This poor service may further discourage patients from using the pharmacy, particularly pharmacy services, and calls into question whether the area has reasonable choice as is necessary to ensure fair competition and good services.
- 3.51 The proposed pharmacy therefore also offers improved service for the residents of the area through increasing healthy competition. [customer google reviews enclosed]
- 3.52 Peak Pharmacy (S40 2AB)
- 3.53 *Journey by Foot*
- 3.54 The journey by foot would be 30 minutes or 1.4 miles. We also note that residents would have to walk up the hill on Walton Road which is impractical for the reasons mentioned above. This journey is a clear barrier to access and makes access by foot to this pharmacy unreasonable. By contrast we note that our proposed site is significantly more accessible. We also note that local residents are likely to access the proposed site while accessing other amenities.
- 3.55 We also wish to note that since Peak Pharmacy operates both pharmacies they do not offer real competition or choice as is envisioned by regulation 18(2)(b)(i).
- 3.56 *Journey by Public Transport*
- 3.57 The journey from the proposed site to Peak Pharmacy (S40 2AB) on the number 90 or 90a bus typically takes 4 minutes, but this is not the whole story. Firstly, after alighting the patient must walk for around 4 minutes. Secondly, the bus is not frequent, only departing every 30 minutes. This means on average the total wait is likely to be at least 30 minutes, 15 minutes on the outbound journey and 15 minutes on the way back. Secondly the return journey is longer at 9 minutes. We conclude that residents living at/near the proposed site who rely on the bus would have significantly better access were the present application granted.
- 3.58 *Journey by Car*

- 3.59 The journey by car will generally take 6 to 8 minutes or 1.5 miles. We reiterate that this is more than the Derby and Derbyshire PNA's (2022-2025) standard of 5 minutes. It is therefore no better than the other Peak Pharmacy.
- 3.60 Cohens Chemists (S40 2HP)
- 3.61 *Journey by Foot*
- 3.62 The journey by foot is 38 minutes or 1.7 miles, equating to a 1-hour and 16-minute/3.4-mile round trip. When we consider that distance in itself is a barrier to access, this is plainly not a reasonable journey, and the proposed pharmacy offers significant better access.
- 3.63 *Journey by Public transport*
- 3.64 The only practical journey by public transport to the Cohens from the proposed site takes around 35 minutes. It requires catching the 90a to New Beetwell, in the city centre, before catching the 39 to Harehill Road, and then walking for 3 minutes to the pharmacy. This is clearly not a reasonable journey, and the proposed site clearly offers significantly better access.
- 3.65 *Journey by Car*
- 3.66 The journey by car from the proposed site to the Cohens Chemists is at least 7 minutes and can be up to 10 minutes at peak times. A journey of at least 7 minutes even at off-peak times is clearly in excess of the PNA criteria. Thus, the proposed site offers significantly better access.
- 3.67 While there are other pharmacies in Chesterfield, we submit that the three pharmacies above are the most accessible and any other pharmacy would require a greater journey. Therefore, since the proposed application offers better access than these three pharmacies, it offers even better access compared to all other pharmacies in Chesterfield.
- 3.68 **Conclusion**
- 3.69 We reiterate that the fundamental question for the Committee to decide is whether the present application offers improved services or better access. We have detailed above how the present application would offer significantly better access for the residents of Walton, and improved services.
- 3.70 The existing pharmaceutical network does not offer reasonable access, and the proposed pharmacy is clearly significantly more accessible than all existing pharmacies.
- 3.71 We also note that the ICB found no detriment would result from the grant of this application nor has detriment been suggested by any objector.
- 3.72 We also note that the Health and Wellbeing board has not objected to the present application and welcomed greater pharmacy services in the area.
- 3.73 For these reasons we believe that the application should be granted."

Letter enclosed with appeal from Applicant to PSCE dated 21 May 2025

- 3.74 “Thank you for your letter dated 9th May 2025. We would like to take this opportunity to respond on behalf of our client to comments made by interested parties in the area.
- 3.74.1 It is undisputed that there is a large population of elderly residents (aged 65 and over) living at/near the proposed site when compared to local authority and national averages.
- 3.74.2 It is undisputed that there is no direct bus service from the proposed location to the current nearest pharmacy.
- 3.74.3 It is notable that the Derbyshire Health and Wellbeing Board welcomes our client’s application to increase the number of pharmacies per head in Chesterfield.
- 3.75 Taking each representation in turn below.
- 3.76 **Derbyshire County Council**
- 3.77 In their representation, the Derbyshire County Health and Wellbeing Board have analysed our client’s application against the Derby and Derbyshire PNA 2022-2025 and concluded that granting the application will positively increase the number of pharmacies per head in Chesterfield. We are pleased to hear that the Derbyshire HWB, authors of the PNA, have no objections to our client’s application, and in light of this, invite the Committee to grant this application.
- 3.78 **Boots Pharmacy**
- 3.79 Boots suggest that our client’s application has provided no evidence to suggest that residents living at/near the proposed site, including those who share protected characteristics, experience difficulties when accessing current pharmaceutical provision. We would contest such assertions given the 2021 Census data clearly provides evidence highlighting that a significant proportion of the local population is of elderly age when compared to local authority and national averages.
- 3.80 It must be noted that distance in itself is a barrier to access and, as outlined in our client’s application, the only practicable route for all patients to access the nearest pharmacy requires a 1.3-mile journey. Thus, such onerous journeys for residents who do not drive or feel comfortable driving – especially those aged 65 and above – would indicate that groups with protected characteristics do not have sufficient access to pharmaceutical services.
- 3.81 **Cohens Chemist**
- 3.82 Cohens Chemist suggest that there are 5 pharmacies within 1 mile of the proposed site. This is clearly incorrect as there is only one pharmacy located within 1-mile of the proposed location ‘as the crow flies’ according to NHS Choices. When looking at practicable routes, there are no pharmacies within a mile of the proposed site.
- 3.83 Comments from Cohens note the PNA and the lack of identified need within the document. We highlight that an Unforeseen Benefits application is in its very nature, unforeseen, offering improvements or better access to

pharmaceutical services not captured within the PNA. Thus, comments by Cohens surrounding the PNA are widely irrelevant.

3.84 They also mention the availability of a delivery service, however, the Committee will be aware that delivery is not an NHS commissioned service and thus can be withdrawn at any time. Thus, no weight can be placed on this service.

3.85 Our understanding is that Cohens are incorrect in stating that this application was refused last year at appeal. However, we would welcome more details from Cohens regarding this application, if it does exist.

3.86 **Hasland Pharmacy**

3.87 In their representation, Hasland Pharmacy appear to take issue with the arbitrary marker provided in our client's application. While we understand that not all residents will start their journey at the proposed site, it is impractical to assess patient journeys from every single household. Some patients will have journeys that are longer, and some shorter than detailed in our client's original application, however, the proposed site represents a sensible place to evaluate these journeys.

3.88 Hasland Pharmacy suggest that there will be pharmacies closer to some residents in the LSOAs outlined in our client's application. By this logic, it would also be the case that there are residents living further away from pharmaceutical provision.

3.89 In light of the comments surrounding car ownership in the Chesterfield 011B LSOA, we reiterate that 26.1% of residents living in this LSOA are aged 65 and over. We also note that 38.3% of residents in the adjacent Chesterfield 011C LSOA are aged 65 and over – more than double the national average of 18.3%. An additional breakdown of this data from the 2021 Census reveals that 10.8% of residents in the 011B LSOA and 16.7% in the 011C LSOA of residents are aged 75 and above, compared to the national average of 8.5%. With this in mind, it is likely that these residents may choose to travel by foot or public transport.

3.90 We are pleased that Hasland Pharmacy acknowledge that local residents travelling to Peak Pharmacy have no choice but to travel around the river. Thus, when we consider that there is no direct bus service available to the current nearest pharmacy, and therefore residents who do not drive ultimately have no choice but to travel on foot for 2.6-miles in total, there is clearly a lack of reasonable choice for local residents – especially those groups with protected characteristics.

3.91 We wish to clarify that we highlighted patient journeys from the proposed site to Peak Pharmacy as it is the current nearest pharmacy for residents living in the Watton area.

3.92 Although mentioning town centre pharmacies, Hasland Pharmacy have failed to detail these journeys, perhaps because of the lengthy distances involved. It is of note that Chesterfield town centre is c. 2-miles away from the proposed location. We submit that patients should not be required to make special, repeated c. 4-mile round trips when travelling to access pharmaceutical provision at the town centre. Notably the 90/90a bus, which would be used to

access town-centre pharmacies, only frequents every 30 minutes. This is clearly not representative of sufficient access or choice to provision.

3.93 PCT Healthcare Ltd

- 3.94 PCT Healthcare Ltd disagree with the population figures provided in our client's application. We previously observed that residents living in the Chesterfield 011B; Chesterfield 011C; Chesterfield 011D; Chesterfield 011F; and North East Derbyshire 008B LSOAs are likely to access a pharmacy at the proposed site and thus provided their population figures according to 2021 Census data.
- 3.95 They have also provided a health profile from the 2011 Census of the Walton and West Electoral Division. We submit that this data is from 2011 and is clearly outdated, and thus little weight should be placed on this.
- 3.96 In their representation, PCT Healthcare Ltd refer to page 42 of the Derby and Derbyshire PNA 2022-2025. They included Figure 19 from this page, which depicts a map of pharmaceutical coverage in Chesterfield and the following quote; *"Figure 19 demonstrates that most of the population will be within 1.6km (a 1 mile walk of approximately 20 mins) of a pharmacy."* (Derby and Derbyshire PNA 2022, pg. 42).
- 3.97 They continue, stating that Peak Pharmacy is a 1.1-mile drive from the proposed site. We wish to correct this claim and assert that Peak Pharmacy is a 1.3-mile drive from the proposed site. This is shown in the image overleaf.
- 3.98 They also state that this journey is a 4-minute drive. We submit this while this may be the case with minimal traffic, they fail to consider this journey at all times of the day or in challenging weather conditions. As can be seen in the image above, this journey could take 8-minutes.
- 3.99 In light of this, we wish to draw attention to the Derby and Derbyshire PNA 2022-2025, which states;
- 3.100 *"In rush hour/peak traffic conditions a pharmacy should still be accessible within a 5-minute drive for more than 90% of people."* (Derby and Derbyshire PNA 2022-2025, Travel and Transport, Point 4.3.3, pg. 138). Thus, a journey of 8-minutes by car in rush hour/peak traffic conditions is clearly outside of the Derby and Derbyshire PNA criteria.
- 3.101 The bus services mentioned by PCT Healthcare Ltd are not as frequent as they claim. According to the Stagecoach bus timetable, the 90 and 90a buses operate hourly. We also note that the 91 bus service operates hourly in the evenings from 18:30 onwards. While the 90 and 90a buses overlap every 30 minutes, we do not consider a bus service every 30 minutes to be frequent.
- 3.102 When addressing the journey to the nearest pharmacy by foot, they suggest a route of 0.7-miles/15-minutes through the park. While evidence of this journey has not been provided, we understand that they are referring to the route displayed in the image below. [map enclosed]
- 3.103 From the images above [images enclosed], we can see that this journey first requires residents to walk along a narrow pathway, and then via Hipper Valley Trail to reach Peak Pharmacy. We have provided a zoomed in satellite image

of the narrow pathway residents must first travel along before turning left onto Hipper Valley Trail. We can clearly see that the path is narrow, and lighting is poor, and thus may prove both uncomfortable and challenging for local residents – especially the high elderly population. Indeed, patients may be deterred from utilising this route particularly during the dark winter months.

- 3.104 We submit that, when taking a closer look, this journey is quite obviously not representative of sufficient access or reasonable choice to pharmaceutical services for residents living at/near the proposed site. Thus, we reiterate that the only practicable route to access the nearest pharmacy for all patients by foot requires a 1.3-mile/28-minute journey, equating to a 2.6-mile/56-minute round trip.
- 3.105 Re-visiting the Derby and Derbyshire PNA criteria referred to by PCT Healthcare Ltd; *“most of the population will be within 1.6km (a 1-mile walk of approximately 20 mins) of a pharmacy.”* (Derby and Derbyshire PNA 2022, pg. 42). We can clearly see that the most practicable route to access pharmaceutical services is in excess of a 1-mile distance by foot and therefore we submit does not represent sufficient access or reasonable choice to pharmaceutical provision.
- 3.106 PCT Healthcare state that there are 11 pharmacies within 2 miles. We wish to correct this statement as while this may be the case ‘as the crow flies’, it does not reflect real-life Google Maps distances. As outlined above, there is not a single pharmacy within a mile of the proposed site.
- 3.107 While PCT Healthcare Ltd highlight GP patient capture areas, we note that patients do not always access pharmaceutical services after a visit to the GP. We agree with PCT Healthcare’s admission that patients access pharmaceutical provision where they live, work, and shop and are no longer tied to surgeries to collect their prescriptions. Thus, we stress the importance of having accessible pharmacies within communities – especially for c. 6,600 likely users living at/near the proposed site.
- 3.108 The proposed site is situated on a communal parade where residents will access a large amount of their day-to-day needs.
- 3.109 It is important to have pharmacies situated within communities, particularly when we consider the advent of Pharmacy First. We reiterate that the elderly have higher health needs; and given the significant local elderly population, we submit that the demand for pharmaceutical services will be correspondingly high. We also highlight that support for self-care/Pharmacist advice is an essential pharmaceutical service. Thus, we submit that pharmacies need to be realistically accessible in order for all patients to access these services.
- 3.110 **Conclusion**
- 3.111 In conclusion, granting this application would secure better access and improvements to pharmaceutical services for residents in Walton and the surrounding areas.
- 3.112 We welcome the conclusion from the Derbyshire County Health and Wellbeing Board, who have recognised that our client’s application will positively increase

the number of pharmacies in the locality and urge the Committee to consider this.

3.113 We submit that there is a need for a pharmacy in Walton when we consider the very elderly localised population and that the distance to alternative pharmaceutical provision is in excess of the criteria in the Derby and Derbyshire PNA. There is evidently a lack of reasonable choice and sufficient access to pharmaceutical provision for the local population who travel by foot, bus or car.

3.114 Granting this application would provide reasonable choice for these residents in Walton and enable better access to provision for those groups who share protected characteristics.

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

3.116 [please see paragraph 1.4 – 1.48 for application supporting information]

4 **Summary of Representations**

This is a summary of representations received on the appeal.

4.1 Boots UK Limited

4.1.1 “Thank you for your letter dated 7th November 2025 informing us of the above appeal.

4.1.2 We agree with the decision of the Derby and Derbyshire ICB and their reasoning to refuse the application as above.

4.1.3 Boots UK Ltd stand by our original comments submitted with regards to the application and we attach these with this letter.

4.1.4 We respectfully ask that NHS Resolution inform us of the decision in due course.”

Letter from Boots pharmacy dated 7 May 2025

4.1.5 “Thank you for your letters dated 24th March 2025 and the above application. Boots UK Limited have the following comments to make.

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

4.1.7 The applicant has provided no evidence to suggest that residents in this locality experience difficulties when accessing the existing provision nor has the applicant provided any indication that patients who share a protected characteristic do not have access to services to meet any specific needs.

4.1.8 Furthermore, there is no evidence to suggest patients do not currently have access to a reasonable choice of pharmaceutical services or that

the application is based on innovative approaches to the delivery of pharmaceutical services.

4.1.9 The Pharmaceutical Needs Assessment (PNA) for Derby and Derbyshire has documented distance and travel times to existing pharmacy providers and also the impact of population growth across the Chesterfield locality and concluded that there are no gaps. In fact, in the executive summary of the PNA, no gaps are identified for the whole of Derby and Derbyshire.

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

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

4.2 Peak Pharmacy

4.2.1 "Thank you for your letter dated 7 November 2025 regarding the above application. PCT Healthcare Limited wish to make the following written representations on this application.

4.2.2 Background

4.2.3 These pharmaceutical applications at the same location were refused:

4.2.3.1 in September 2001, NHS Litigation refused an application under the old regulations.

4.2.3.2 in 2018 SHA/19870 was refused by NHS Resolution.

4.2.4 Once again PCT Healthcare Limited does not believe that this application meets the requirements of the Pharmaceutical Regulations 2013 for an unforeseen benefits application.

4.2.5 PCT Healthcare Limited wish our representations sent to PCSE dated 7 May 2025 to be considered regarding this appeal; a copy is attached for convenience to these representations.

4.2.6 Applicants' locality

4.2.7 We dispute the population density quoted by the applicant. Our data is from the Chesterfield Borough Council State of the Borough 2024 June 2024: [link](https://www.chesterfield.gov.uk/media/tsmkhj2g/state-of-the-borough-2024.pdf) to document: <https://www.chesterfield.gov.uk/media/tsmkhj2g/state-of-the-borough-2024.pdf>

4.2.8 From page 15 of this document comparisons of population density changes in the Chesterfield Borough, none of the wards mentioned by this applicant show population density growth between 2011 to 2021: [table enclosed]

- 4.2.9 With regards to owner occupied properties the highest percentages are in Walton (88.9%) and West (86.5%) page 8.
- 4.2.10 Considering the postcode S40 3DD, a typical road is Moorland View Road the housing in this area is owner occupied, semi-detached or detached homes. These homes are well looked after with well-tended gardens and vehicles on the driveways.
- 4.2.11 Regarding postcode S40 3LJ these homes are typical of this postcode area on Breckland Road, owner occupied with vehicles and well-tended gardens [image enclosed].
- 4.2.12 Regarding postcode S40 3DF these homes are typical of this postcode area on Moorland View Road, owner occupied with vehicles and well-tended gardens. [image provided]
- 4.2.13 The PNA relevant to this application is Derbyshire Pharmaceutical Needs Assessment 2025 to 2028: https://observatory.derbyshire.gov.uk/wp-content/uploads/reports/documents/health/pharmaceutical_needs_assessment/PNA_2025_28.pdf#view=Fit
- 4.2.14 As stated on page 204
- 4.2.15 *"...it is considered that the current pharmacy provision adequately meets the pharmaceutical need in both Derby and Derbyshire."*
[image enclosed]
- 4.2.16 PCT Healthcare Limited believe that this statement is relevant to the applicant's described locality within the section "Localised Area and Population" on page 3 on the appeal document.
- 4.2.17 This area of Chesterfield is not a deprived area of Chesterfield, the majority of the properties are detached or semi-detached and are owner occupied, there are some privately rented properties.
- 4.2.18 All three proposed locations for this pharmacy; S40 3LJ, S40 3DF and S40 3DF are located within Chesterfield 011B (lower-layer Output area) which is not a deprived area.
- 4.2.19 [How deprived is Chesterfield 011B?](#)
- 4.2.20 New ward boundaries were drawn up in 2023 for Chesterfield data source the Chesterfield Borough Council State of the Borough 2024 June 2024: link to document Doc: <https://www.chesterfield.gov.uk/media/tsmkhj2g/state-of-the-borough-2024.pdf> (source Census 2021) on page 26.
- 4.2.21 Based on this figure 88.4% of the household have access to one or more vehicles.
- 4.2.22 The applicant in their appeal is concentrating on the number of elderly within the proposed locality, PCT Healthcare Limited with to reiterate

that the general health of those individuals aged 65+ in Walton and West (Electoral Division (ED_C09)) is healthier than the elderly population in Chesterfield and Derbyshire as a whole. As depicted on page 2 of our representations dated 7 May 2025.

- 4.2.23 For completeness the relevant details are updated below from the population as a whole from the 2021 Census: https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fukds-ckan.s3.eu-west-1.amazonaws.com%2F2021%2FONS%2FHealth-disability-and-unpaid-care%2FGeneral_Health%2FTS037-General-Health-2021-wd-ONS.xlsx&wdOrigin=BROWSELINK
- 4.2.24 In Walton (Chesterfield) – E05003340, 81% of the population is in good health or very good health.
- 4.2.25 In West (Chesterfield) – E05003341, 82% of the population is in good health or very good health.
- 4.2.26 The applicant has failed to consider that individuals requiring pharmaceutical services as part of their daily lives freely travel throughout Chesterfield to access pharmaceutical services. Many patients visit pharmacies as part of their shopping trips, leisure activities and work during their daily lives.
- 4.2.27 We dispute the applicants' statement that the shops at Walton are sufficient for daily living for the population in Walton, there are no large supermarkets, colleges, or leisure facilities within this area e.g. sports centres, swimming baths, cinemas etc.
- 4.2.28 Please see below details of the supermarkets available throughout Chesterfield. Households purchase from these supermarkets as the prices are lower, due to supermarkets larger buying power they are able to pass these savings onto customers. Typically, an average household spends £425 per month on food and drink, due to the amount spent households shop around for value for money. (Source NimbleFins – average UK household cost food 2025)
- 4.2.29 Map of supermarkets in Chesterfield [provided in Appendix]:
- 4.2.30 Source: [supermarket location in Chesterfield – Bing Maps](#)
- 4.2.31 Regulation 18(2)(b)(i)- we believe that there is a reasonable choice of existing pharmaceutical provision with regard to obtaining pharmaceutical services within the locality of south west Chesterfield as patients who access these services will have travelled from where they live, work or shop.
- 4.2.32 PCT Healthcare Limited disagree with the map provided in the application as only pharmacies located close to or co-located with GP surgeries are shown on this map.
- 4.2.33 Based on the Chatsworth Road Medical Centre (C81067) please see the attached map [map enclosed]:

4.2.34 Choice of pharmacies from proposed sites, patients may choose to access small independent pharmacies, national chemists, or larger family-owned chemist chains.

4.2.35 Peak Pharmacy on Chatsworth Road offers all essential, enhanced local services and advanced services. In addition, our pharmacies throughout Chesterfield offer a delivery service to housebound and disabled patients as do the other pharmacies locally.

4.2.36 Distances from NHS.uk <https://www.nhs.uk/service-search/pharmacy/find-a-pharmacy/results/S40%203DD>

On applicant's map	Pharmacy Name	Postcode	Distance from NHS.uk
1 - Yes	Peak Pharmacy	S40 3JX	0.4 mile
2 - Yes	Peak Pharmacy @ Wheatbridge	S40 2AB	1.0 mile
3 - Yes	Cohens Chemist	S40 2HP	1.1 miles
4 - Yes	Peak Pharmacy	S40 4AA	1.2 miles
5 – omitted on applicant's map	Peak Pharmacy	S40 1LG	1.3 miles
6 - omitted on applicant's map	Dents of Chesterfield	S40 1LE	1.3 miles
7- omitted on applicant's map	Holme Hall Pharmacy	S40 4SL	1.3 miles
8 - omitted on applicant's map	Boots	S40 1PB	1.3 miles
9 - omitted on applicant's map	Peak Pharmacy	S40 1PJ	1.4 miles
10 - omitted on applicant's map	Peak Pharmacy	S42 6PX	2.0 miles
11 - omitted on applicant's map	Dents of Chesterfield	S41 8DU	2.0 miles

4.2.37 Access to pharmacies

4.2.37.1Walking

4.2.38 For pedestrians' access please see our previous representations dated 7 May 2025 for ease this is attached.

4.2.39 The photo below [image enclosed] is the start of the section through Somersall Park which is part of the Hipper Valley Trail. Please note walkers in the park.

4.2.40 Second photograph with streetlamps [image enclosed]:

4.2.40.1Cyclists

- 4.2.41 There is also a cycle route via Somersall Park into Chesterfield town centre, and vice versa. The route which is part of the Hipper Valley Trail, is one of the “Cycle Routes around Chesterfield” from Chesterfield town centre described on the linked leaflet, Leaflet 2 produced by Chesterfield Cycle Campaign as:
- 4.2.42 Hipper Valley Trail, Grade Easy. <https://www.cyclechesterfield.org/wp-content/uploads/2019/05/Ride-Leaflet-2.pdf>
- 4.2.43 This cycle route contains Toucan Crossings which are a type of light-controlled pedestrian crossing designed for use by both pedestrians and cyclists. Unlike traditional pelican crossings, Toucan crossings do not have a flashing light phase, which enhances safety for cyclists. These crossings are typically wider, around four metres, to accommodate cyclists and pedestrians comfortably.
- 4.2.44 This evidence indicates that citizens who wish to cycle to access pharmaceutical services have this opportunity along an easy and safe cycle route.
- 4.2.45 Drivers
- 4.2.46 The applicant is concerned regarding the exact driving distance to Peak Pharmacy at 624 Chatsworth Road, Chesterfield. PCT Healthcare Limited reiterates the results from Google map directions starting at S40 3DD (one of the proposed locations) to Peak Pharmacy the distance is 1.1 miles = 4 minutes, as previously stated. Please see details below.
- 4.2.47 Website used:
https://www.google.co.uk/maps/dir/S40+3DD,+Moorland+View+Rd,+Chesterfield/Peak+Pharmacy,+624+Chatsworth+Rd,+Chesterfield+S40+3JX/@53.2290202,-1.4630308,17z/data=!4m14!4m13!1m5!1m1!1s0x48798573ba9d436b:0xfb3e9007e70406d9!2m2!1d-1.4595414!2d53.2271226!1m5!1m1!1s0x4879850accf42887:0x52ed6e0214c09bc8!2m2!1d-1.4670152!2d53.2307414!3e0?entry=ttu&q_ep=EgoyMDI1MTlwMS4wIKXMDS0ASAFQAw%3D%3D
- 4.2.48 This distance of four minutes for a car driver is not a barrier to access pharmaceutical services.
- 4.2.49 From the Derby and Derbyshire PNA 2025 – 2028 on page 140. https://observatory.derbyshire.gov.uk/wp-content/uploads/reports/documents/health/pharmaceutical_needs_assessment/PNA_2025_28.pdf#view=Fit
- 4.2.50 Accessibility
- 4.2.51 Almost all citizens are able to drive to their nearest pharmacy within 5-10 minutes.

- 4.2.52 Considering rush hour travel times from S40 3DD to Peak Pharmacy on Chatsworth Road at 8.30 am on a Friday the travel time is typically 4 minutes.
- 4.2.53 https://www.google.co.uk/maps/dir/S40+3DD,+Moorland+View+Rd,+Chatsworth+Road,+Chesterfield/@53.2295533,-1.4629503,17z/data=!4m18!4m17!1m5!1m1!1s0x48798573ba9d436b:0xfb3e9007e70406d9!2m2!1d-1.4595414!2d53.2271226!1m5!1m1!1s0x4879850accf42887:0x52ed6e0214c09bc8!2m2!1d-1.4670152!2d53.2307414!2m3!6e0!7e2!8j1764923400!3e0?entry=ttu&g_ep=EgoyMDI1MTIwMi4wIKXMDSoASAFQAw%3D%3D, once again this travel time is well within the PNA 2025-28 guidelines of five to ten minutes stated on page 140 of the PNA.
- 4.2.54 Regulation 18(2)(b)(i)
- 4.2.55 We wish the Appeals Authority to specifically consider the fact that there are 11 pharmacies within two miles of the applicants' proposed location (from NHS.uk), these pharmacies clearly offer choice for pharmaceutical provision and a choice of provider in the area to the local population. There is no evidence to show that these existing pharmacies are not meeting the pharmaceutical services needs of patients within the HWB area. There is no information provided in this application to show that patients are experiencing difficulties when accessing pharmacies.
- 4.2.56 Regulation 18(2)(b)(ii)
- 4.2.57 We do not believe the applicant has given sufficient evidence of need for those people who share a protected characteristic within the application. We are not aware of any specific complaints regarding access to pharmaceutical services within this area for these specific protected groups.
- 4.2.58 The applicant has failed to identify whether there are any people who share a protected characteristic who require access to a specific pharmaceutical service, who would benefit significantly from granting this application.
- 4.2.59 Regulation 18(2)(b)(iii)
- 4.2.60 The applicant is not offering any innovative approaches with regard to the delivery of pharmaceutical services, including the length of opening hours or services provision.
- 4.2.61 The proposed opening times are also shorter than most of the pharmacies within the locality. There are already many pharmacies within the existing network that provide additional hours during weekdays and weekends, compared to the applicant.
- 4.2.62 Regarding the PCT Healthcare Limited pharmacy t/a Peak Pharmacy at 624 Chatsworth Road, Chesterfield S40 3JX.

4.2.63 This pharmacy currently has over 8,100 nominations. In the last eight weeks, this pharmacy gained 55 patient nominations, patients are clearly moving to use this pharmacy in the locality and the pharmaceutical provision provided is meeting patient needs in the locality.

4.2.64 If the service at this pharmacy was poor, nominations would not be growing.

4.2.65 Data from NHS Digital: <https://digital.nhs.uk/services/electronic-prescription-service/statistics/nominations-archive-data#november-2025>

Nominations up to 28/11/2025

ODS Code	Store Name	Current Active Nominations	Nominations Last Week	4 Week Total	8 Week Total
FGX56	624 Chatsworth Road	8154	9	33	55

4.2.66 The applicant has chosen to share some comments from Google about our pharmacy FGX56, these were selected from the website specifically excluding the positive comments about our pharmacy team and the service we provide. These comments were from January 2025 until October 2025.

4.2.67 This pharmacy has over 8,000 nominations which is increasing evidenced above from NHS Digital.

4.2.68 The two most recent Google reviews are both 5 star reviews praising the pharmaceutical service and our trained pharmacy team at this Peak Pharmacy.

4.2.69 PCT Healthcare Limited t/a Peak Pharmacy across all our pharmacies this year introduced a new telephone system which enables callers to receive pre-recorded messages when they call outside the pharmacy trading hours.

4.2.70 Additionally, this telephone system produces reports which are reviewed by both our area managers and our senior leadership team regarding call answering. The new telephone system new system was installed at FGX56 on 15 May 2025.

4.2.71 We have in place at this pharmacy a pharmacy manager together with a Responsible Pharmacist our pharmacy manager is responsible for customer service and service provision.

4.2.72 In summary, PCT Healthcare Limited t/a Peak Pharmacy does not agree that this application meets the requirements of the Pharmacy Regulations for an unforeseen benefits application:

4.2.72.1 Regulation 18(2)(b)(i) -There is already a reasonable choice with regard to obtaining pharmaceutical services in Walton and Chesterfield.

4.2.72.2 Regulation 18(2)(b)(ii) -The applicant has not provided sufficient evidence of people sharing a protected characteristic who are having difficulty in accessing pharmaceutical services.

4.2.72.3 Regulation 18(2)(b)(iii) – within the application we do not believe there are innovative approaches taken with regard to the delivery of pharmaceutical services.

4.2.73 PCT Healthcare Limited would like to be informed of the outcome of this application, and we would wish to attend an Oral Hearing, should one be deemed necessary.”

Peak Pharmacy letter dated 7 May 2025

4.2.74 Thank you for your letter dated 24 March 2025 regarding the above application. PCT Healthcare Limited wish to make the following written representations on this application.

4.2.75 We operate five pharmacies on the distribution list:

Peak Pharmacy	25 Market Place	Chesterfield	FRG00
Peak Pharmacy	Wheatbridge Road	Chesterfield	FE635
Peak Pharmacy	92 Saltergate	Chesterfield	FGJ11
Peak Pharmacy	Ashgate Manor	Chesterfield	FHG30
Peak Pharmacy	624 Chatsworth Road	Chesterfield	FGX56

4.2.76 We do not believe that this application meets the requirements of the Pharmaceutical Regulations 2013 for an unforeseen benefits application.

4.2.77 PCT Healthcare Limited dispute the population figures submitted by the applicant, the data for the population of Walton indicates a population of 5,332 in the 2021 Census [screenshot enclosed].

- 4.2.78 The Derbyshire County Council 2011 census: Health Profile for Walton and West, shows that the elderly population in Walton and the West Electoral Division (ED_C09) is healthier than the elderly population in Chesterfield and Derbyshire as a whole.
- 4.2.79 Website: [2011 Census Profile Health v3.2.xlsx](#) [screenshot enclosed]
- 4.2.80 The PNA relevant to this application is Derby and Derbyshire Pharmaceutical Needs Assessment 2022 - 2025, from page 42 of this document: [screenshot enclosed]
- 4.2.81 *Accessibility*
- 4.2.82 *"There are two 100-hour pharmacies (10% of the total). Figure 19 demonstrates that most of the population will be within 1.6km (a 1 mile walk of approximately 20 mins) of a pharmacy"*
- 4.2.83 The closest pharmacy to the proposed location is Peak Pharmacy at 624 Chatsworth Road, Chesterfield which is 4 minutes drive time, a distance of 1.1 miles. It is possible to walk from the proposed site in Walton to our pharmacy located on Chatsworth Road a distance of 0.7 miles and 15 minutes. The walking route is via pavements and a section through the park which has street lighting along the path. The entrance to the park from the north end (Oakfield Avenue) is signposted as a pedestrian route for "Walton, Hipper Valley and town centre" and is a clearly a designated pedestrian route.
- 4.2.84 The applicant has failed to consider that the Walton locality is well served by a frequent bus service, the service numbers are 90, 90a, 91, these buses offer a bus service throughout the Yew Tree Estate and on into Chesterfield, which is well served by community pharmacies.
- 4.2.85 For residents within Derbyshire who qualify by age or disability can apply for a Gold Card which is valid for free travel on buses between 9.30am and 11pm on weekdays and all day at weekend.
- 4.2.86 Regardless of age, certain disabilities qualify for a Gold Card:
- 4.2.86.1 blind or partially sighted
 - 4.2.86.2 profoundly or severely deaf
 - 4.2.86.3 without speech
 - 4.2.86.4 without arms or have the long term loss of the use of both arms
 - 4.2.86.5 have a long-term disability which seriously impairs their ability to walk - this may include Blue Badge holders
 - 4.2.86.6 have a learning disability
 - 4.2.86.7 are disqualified from driving on medical grounds (this may include people with a severe mental disorder)

- 4.2.87 The applicant has failed to consider that individuals requiring pharmaceutical services as part of their daily lives have freely travelled throughout Chesterfield to access pharmaceutical services.
- 4.2.88 Regulation 18(2)(b)(i)- we believe that there is a reasonable choice of existing pharmaceutical provision with regard to obtaining pharmaceutical services within Walton and the Chesterfield locality, as patients who access these services will have travelled from where they live, work or shop.
- 4.2.89 There is evidence of a number of pharmacies within the Chesterfield area which are not only accessible from Walton but which are currently accessed by patients of the Chatsworth Road Medical Practice and patients from The Surgery @Wheatbridge.
- 4.2.90 We wish NHS England to specifically consider the fact that there are eleven pharmacies within two miles of the applicants proposed location (from NHS.uk), these pharmacies clearly offer choice for pharmaceutical provision and a choice of provider in the area to the local population. There is no evidence to show that these existing pharmacies are not meeting the pharmaceutical services needs of patients within the area. There is no information provided in this application to show that patients are experiencing difficulties when accessing pharmacies.
- 4.2.91 Regulation 18(2)(b)(ii) – we do not believe the applicant has given sufficient evidence of need for those people who share a protected characteristic within the application. We are not aware of any specific complaints regarding access to pharmaceutical services within this area for these specific protected groups.
- 4.2.92 The applicant has failed to identify whether there are any people who share a protected characteristic who require access to a specific pharmaceutical service, who would benefit significantly from granting this application.
- 4.2.93 Regulation 18(2)(b)(iii) - The applicant is not offering any innovative approaches with regards to the delivery of pharmaceutical services, including the length of opening hours or services provision.
- 4.2.94 The proposed opening times are also shorter than most of the pharmacies within the locality. There are already many pharmacies within the existing network that provide additional hours during weekdays and weekends, compared to the applicant.
- 4.2.95 Surgeries within Chesterfield
- 4.2.96 The application concentrates on the area of Walton, the two surgeries closest to this proposed location are Chatsworth Road Medical Centre and The Surgery @Wheatbridge.
- 4.2.97 Link to this page shown below.

4.2.98 New Patient Registration – Chatsworth Road Medical Centre, S40 3PT
([Join The Practice – Chatsworth Road Medical Centre](#))

4.2.99 With regards to this application please see below the practice catchment area of Chatsworth Road Medical Centre which indicates an area throughout the environs of Brampton, Old Brampton, Wadshelf, Eastmoor, Upper Loads, Holymoorside, Stonedge, this clearly indicates that patients are in the habit of freely accessing healthcare and pharmaceutical services throughout this locality of Chesterfield.

4.2.100 Families living within this area routinely visit Chesterfield for their pharmaceutical needs. Residents and patients as part of their daily lives visit Chesterfield due to the other facilities the town offers. Supermarkets, shops, banks, leisure centre with swimming pool, college, cafes and restaurants are available in this town.

[screenshot of map enclosed]

4.2.101 The Surgery @ Wheatbridge, the practice area includes Old Whittington, Newbold Moor, Whittington Moor, Tapton, Hasland, Wingerworth, Birdholme, Boythorpe, Walton, Holymoorside, Brookside, Old Brampton, Loundsley Green, Upper Newbold and Dunston.

4.2.102 [Catchment Viewer PUBLIC \(for embed\)](#)

4.2.103 We wish NHS England to specifically consider the fact that there are eleven pharmacies within 2 miles of the proposed site within Chesterfield (from NHS.uk). Patients access pharmaceutical provision where they live, work and shop with the advent of electronic prescriptions patients are no longer tied to surgeries to collect their prescriptions.

4.2.104 These pharmacies clearly offer choice for pharmaceutical provision and there is a choice of provider in the area defined by us to the local population. There is no evidence to show that these existing pharmacies are not meeting the pharmaceutical services needs of patients within the area. There is no information provided in the application to indicate that patients are experiencing difficulties when accessing pharmacies.

4.2.105 In summary, PCT Healthcare Limited t/a Peak Pharmacy, does not agree that this application meets the requirements of the Pharmacy Regulations for a unforeseen benefits application:

4.2.106 Regulation 18(2)(b)(i) - There is already a reasonable choice with regard to obtaining pharmaceutical services in Chesterfield.

4.2.106.1 Although the Walton area does not include its own pharmacy, services provided by other nearby pharmacies must be considered.

4.2.106.2 Indeed the Pharmaceutical Needs Assessment (PNA) for 2022 – 2025 has not identified any unmet needs nor any gaps in provision.

- 4.2.106.3 According to NHS Choices there are eleven pharmacies within a two mile radius of the proposed location.
- 4.2.106.4 The existing pharmacies are mainly conveniently located near medical practices and offer prescription collection and delivery services.
- 4.2.106.5 There are no GP practices in the Walton area and therefore people would have to travel to access medical services.
- 4.2.106.6 Walton is a relatively affluent area with a high proportion of car ownership
- 4.2.107 Regulation 18(2)(b)(ii) -The applicant has not provided sufficient evidence of people sharing a protected characteristic who are having difficulty in accessing pharmaceutical services.
- 4.2.107.1 As far as we aware there have been no indications of any complaints regarding the lack of pharmaceutical services in Walton.
- 4.2.108 Regulation 18(2)(b)(iii) – within the application we do not believe there are innovative approaches taken with regard to the delivery of pharmaceutical services.
- 4.2.109 We firmly believe that this application will not secure improvements or better access to pharmaceutical services and we urge NHS England to refuse this application.
- 4.2.110 PCT Healthcare Limited would like to be informed of the outcome of this application, and we would wish to attend an Oral Hearing, should one be deemed necessary.”

4.3 Community Pharmacy Derbyshire

- 4.3.1 “Thank you for sending the appeal documents received for the above unforeseen benefit application. Community Pharmacy Derbyshire committee reviewed the appeal information and would like to make the following comments:
- 4.3.2 Community Pharmacy Derbyshire stand by the points raised in our original response (copy attached).
- 4.3.3 The basis of the appeal is that the applicant says the application will provide improvements or better access to pharmaceutical services and that the ICB failed to apply the regulations correctly. CPD dispute that for the following reasons and therefore support the decision by the ICB to refuse the application.
- 4.3.3.1 The applicant asserts that the journey on foot from their proposed location to the next nearest pharmacy is 1.3 miles, saying that walking through the Hipper Valley Trail is not suitable for residents, especially the elderly – our LPC observations at

the time of the application disputed this saying it is lit and paved and a distance of 0.7miles taking around 14 minutes.

4.3.3.2 CPD also would like to put forward that residents won't necessarily walk from the proposed site to the existing Peak Pharmacy – they would walk from where they live or work or from their GP practice, if walking, to their preferred pharmacy.

4.3.3.3 If they are users of private vehicles, then there is relatively easy access to multiple pharmacies

4.3.3.4 And if using public transport are more likely to travel towards the town centre as they would be accustomed to for their other daily / weekly needs

4.3.3.5 They use a similar argument for those residents travelling by public transport and car – whereas in reality those travelling this way would likely find travelling to another pharmacy more convenient

4.3.3.6 The applicant picks up on the negative reviews on Google – many of which seem to be exacerbated by a faulty phone line – CPD understand this was a temporary IT issue which has now been resolved

4.3.3.7 Even accounting for this the ICB have not had any complaints about access to pharmaceutical services in the vicinity

4.3.3.8 The HWB's response was clearly misguided or confused because they contradict their own statements in their PNA

4.3.4 Community Pharmacy Derbyshire would like the opportunity should it arise, to be able to comment further and attend any hearings, as well as be kept informed of progress."

4.3.5 Letter from Community Pharmacy Derbyshire dated 8 May 2025

4.3.6 "Thank you for sending the documents received for the above unforeseen benefit application. Community Pharmacy Derbyshire committee reviewed the application and would like to make the following comments:

4.3.6.1 There have been no supplementary statements to the PNA issued by Derbyshire HWB for the area of Walton therefore no gaps have been identified by the Health and Wellbeing Board

4.3.6.2 The application does not detail any innovation regarding provision of the claimed unforeseen benefit

4.3.6.3 There have been applications and appeals for this vicinity several times over recent years and consistently the finding has been that an additional pharmacy is not required.

- 4.3.6.4 The distance stated on the application to Peak Pharmacy on Chatsworth Road is different to the information from Google maps and also that measured by Community Pharmacy Derbyshire. The distance is 0.7 miles by foot and took 15 mins walk. The route has street lighting and has no sign of flooding or other barriers.
- 4.3.6.5 The applicant references the access to the Peak Pharmacy on Chatsworth Road, yet many residents in the Walton area will find it more convenient to use other pharmacies, such as those towards or in Chesterfield along the main roads and bus routes.
- 4.3.6.6 Community Pharmacy Derbyshire are not aware of any complaints siting access to pharmaceutical services in that area.
- 4.3.7 Community Pharmacy Derbyshire would like the opportunity if it arises, to be able to comment further and attend any hearings, as well as be kept informed of progress. Thank you.”

5 Observations

- 5.1 Healthcare Plus Consulting Ltd on behalf of Prescription Hub Ltd
 - 5.1.1 “Thank you for your letter dated 8th December 2025. Below we respond to comments made by interested parties.
 - 5.1.2 **Boots**
 - 5.1.3 Boots makes no additional comments.
 - 5.1.4 **Peak Pharmacy (PCT Healthcare Ltd)**
 - 5.1.5 Peak does not comment on the support that the present application has received from the Health and Wellbeing Board. We wish to reiterate to the Committee that the Health and Wellbeing Board is responsible for writing the PNA and for setting strategic direction to improve health and wellbeing.
 - 5.1.6 Their judgement is of significant weight and should be considered closely by the Committee. We note that Peak Pharmacy does not dispute that the Walton area is disproportionately elderly.
 - 5.1.7 Peak appears to dispute the population density data we have provided but fails to provide units for the figures within the tables they include. We are unable to make detailed assessment of this data as it lacks units. We also do not believe that change in density is part of our case. Regardless, the document provided by Peak also states that *“Chesterfield is a predominantly urban area and therefore has a higher density of population than Derbyshire, the East Midlands and England.”* (State of the Borough 2024, Chesterfield Borough Council, pg. 5). We maintain that, given the density of the area and the fact it is not within a controlled locality, Walton is an urban area and there is no reason residents should have one-way journeys of 1.3 miles when accessing pharmaceutical services.

- 5.1.8 Peak Pharmacy include a number of images of streets. We do not believe this is a reliable method of profiling an area.
- 5.1.9 Peak also comment on the fact that the Derby and Derbyshire PNA (2025-2028) did not identify a need in this area. Firstly, we reiterate that an unforeseen benefit application by its nature considers benefit **not** included in the PNA. Secondly, we remind the Committee that the test is not one of need but one of improvements or better access. Thirdly, we note that although the PNA finds that existing provision “*adequately meets the pharmaceutical need*” – a claim we dispute – this is not sufficient to preclude any improvement or better access. The regulations have removed “*adequacy*” from the test and so this is no longer a decisive matter. We note that the 2025 PNA makes no conclusions on gaps in regard specifically to improvements or better access.
- 5.1.10 In considering the findings of the PNA, we do wish to make reference to the fact that the 2025 PNA found that “*During rush hour traffic, 99% of the population of Derby and 87% of the population of Derbyshire can still drive to their nearest pharmacy within 5 minutes, indicating good access for those with a vehicle.*” (Derby and Derbyshire PNA, 2025-2028, pg. 113) We reiterate that at peak times a journey from Walton can take up to 8 minutes. This would make Walton among the 13% worst served areas in Derbyshire - despite being an urban area. It seems quite clear that better access would be secured by the present application.
- 5.1.11 [google maps screenshot enclosed] Figure 1: Image showing the journey by car from the proposed site to the current nearest pharmacy in rush hour traffic.
- 5.1.12 While it is not disputed that the Walton area is not economically deprived, this is not a reason to reject an application. We note that while deprivation may be reason to redouble healthcare services, this is not to say non-deprived areas are not also entitled to and benefit from healthcare services.
- 5.1.13 We reiterate that there was a large over 65 population in Walton according to 2021 Census data, which will have no doubt increased with time. We emphasise that the NHS, at its heart, is a universal service which is free for all, regardless of economic background. Pharmacy is a part of this universal service and so should not be allowed to neglect an area merely because it is not economically deprived.
- 5.1.14 We reiterate that in fact many amenities are present in Walton. We also reiterate that the amenities which one needs to access as part of one’s **daily** life are all present, even if more occasional amenities such as swimming baths are not.
- 5.1.15 Peak wish the Committee to simultaneously accept that the area is not deprived and that residents are unlikely to use local shops due to additional expenses. This appears contradictory. We note that while there are no supermarkets in Walton there are a range of groceries available to meet one’s daily needs. A supermarket shop is likely to be

a weekly or fortnightly trip which may or may not coincide with the days when a pharmacy must be visited. We also do not believe that existing pharmacies are co-located with any supermarkets residents are likely to use. We note that the most accessible supermarket from Walton is the Morrisons on Chatsworth Road which has no pharmacy. A pharmacy in Walton is therefore still likely to provide a significant benefit even for those who use supermarkets outside of Walton.

- 5.1.16 We also submit that a pharmacy which can only be accessed during a planned trip remains a significantly less accessible pharmacy than one which can be accessed as part of one's daily life, for example during a lunch break while working from home.
- 5.1.17 In regard to the other pharmacies mentioned by Peak, we note that these are less accessible than the three that were detailed in the appeal, meaning if the present application offers better access than these three it also does so for all others. We also note that a large number of the pharmacies in Chesterfield are Peak Pharmacies. In the table provided, out of the 5 nearest pharmacies, 4 of these are Peak Pharmacies. This calls into question whether there is a suitable level of competition and reasonable choice in the area, particularly in light of the overwhelmingly poor reviews Peak has received over the last year.
- 5.1.18 In regard to the walk through the Hipper Valley, while we accept that the path through the Somersall Park is lit, we highlight that one must pass through an unlit, unpaved and secluded area to enter the trail from Walton. This area presents a clear psychological barrier. We therefore continue to insist that the trail be disregarded in considering journey times. We note that the disproportionately elderly population is likely to avoid a secluded and unlit area due to fear of accidents and crime.
- 5.1.19 We also note that the Somersall Park – seen in the pictures provided by Peak Pharmacy – remains a secluded area and has a poor reputation for crime and anti-social behaviour. We have attached three articles detailing public urination and sexual assault occurring within the park [image enclosed]. Given this background we hardly believe that residents should be expected to travel through this area, particularly in winter months where night can fall early. They are therefore likely to either to use the route previously detailed or avoid walking North all together.
- 5.1.20 Figure 2: Image showing the unpaved, secluded and unlit area needed to access the Hipper Valley Trail route.[image enclosed]
- 5.1.21 We note that no attempt is made to dispute the fact that other pharmacies are not accessible within 20 minutes by foot. This calls into question whether residents have reasonable choice, particularly when the Peak Pharmacy's (S40 3JX) poor reviews are considered. Indeed, the poor performance of the Peak Pharmacy (S40 3JX) causes us to ask whether those who walk have any real choice at all.
- 5.1.22 We do not believe a significant number of people cycle to the pharmacy, nor is likely an option for most people. Therefore, the section on cycling is of limited importance. It should also be noted that the cycling route

itself may be a barrier to access to those walking to the pharmacy as cyclists pose a threat to pedestrians. Cyclists are silent, fast, ride on pavements, unlicensed and are often less cautious than drivers. We note in particular the risks associated with ebikes. Therefore, cycle paths and nearby roads, which must be crossed to access the Peak Pharmacy (S40 2JX), may not be suitable for pedestrians, particularly the elderly and those who are already unwell, due to the risk of cyclists.

- 5.1.23 In regard to driving, we reiterate that the 2025 PNA found that 87% of the population was able to drive to a pharmacy within 5 minutes even **at peak times** (Derby and Derbyshire PNA, 2025-2028, page 112). Yet, at peak times in Walton it would take 8 minutes. This would make Walton's residents among the 13% least well served residents in Derbyshire despite being urban.
- 5.1.24 We note that we did **not** cherry pick reviews in the appeal. All reviews from the past year were included at the time of writing. It was simply a fact that the vast majority were very negative. Given Peak Pharmacy did not recognise their own reviews, they appear unaware of or disinterested in the dissatisfaction of their patients. We also submit that two recent positive reviews are of little weight compared to a year of very poor reviews.
- 5.1.25 The fact that, despite such negative reviews, the pharmacy continues to receive new nominations is indicative of a lack of competition and an environment in which patients are unable to leave poor performing pharmacies. This is precisely the reason that the regulations draw particular importance to reasonable choice and competition.
- 5.1.26 We also remind the Committee that "*difficulty*" is not a requirement of the regulations and that direct evidence from residents is not necessary - particularly where public comments are already available showing dissatisfaction as in this case. The Committee is entitled to make reasonable inferences from the evidence to determine if they believe that the proposed pharmacy will offer a significant benefit.
- 5.1.27 Peak also highlight delivery services provided by a few pharmacies, however, we note that delivery is not NHS commissioned and can be withdrawn at any time. Thus, we submit that the Committee should not put any weight on current delivery services.
- 5.1.28 **Community Pharmacy Derbyshire (CPD)**
- 5.1.29 We reiterate that the LPC is a body whose purpose is to represent existing contractors. It is therefore not an impartial body. Most points made by Community Pharmacy Derbyshire have already been addressed above.
- 5.1.30 Like Peak Pharmacy, CPD do not dispute that the area is disproportionately elderly. Regarding comments from CPD dismissing the representations received by the Health and Wellbeing Board, we reiterate that the 2025 PNA addressed need and adequacy but not improvements or better access, therefore the Health and Wellbeing Board is more than entitled to support the present application. We also

reiterate that the Health and Wellbeing Board is an impartial and specialist Committee deeply familiar with the local area and significant weight should be placed on its views.

5.1.31 In regard to where people start their journeys, while some may have shorter journeys, others will have even longer journeys. Moreover, it is clear that access in Walton itself is likely among the worst in Derbyshire, particularly when compared to urban areas, and the present application would resolve this issue.

5.1.32 We note that journeys by public transport were considered and the three pharmacies remain the most accessible by public transport.

5.1.33 We note that the negative reviews we referenced were over an entire year and were not limited to the phone line.

5.1.34 The ICB is unlikely to receive complaints as most people do not know that the ICB exists or that this is the appropriate channel for lodging complaints. We highlight that most residents are however aware of Google reviews and have made their views known there.

5.1.35 **Conclusion**

5.1.36 We wish to remind the Committee that the present application is one to secure benefits in the form of improvements or better access. Question of need and adequacy are not strictly relevant to this question. We also remind the Committee that there is no requirement for difficulty nor the demonstration of difficulty by testimony from witnesses.

5.1.37 The Committee will be aware that the regulations draw particular attention to the importance of competition, in the form of reasonable choice. Given the predominance of Peak pharmacies in Chesterfield, the poor reviews of these pharmacies and their growing patient lists, we must question whether reasonable choice exists in this area.

5.1.38 We remind the Committee that the local Health and Wellbeing Board supports the present application. The Committee will be aware that the Health and Wellbeing Board are responsible for writing the PNA and for setting strategic direction to improve health and wellbeing. We submit that significant weight should be placed on their judgement."

5.1.39 [news reports enclosed]"

5.2 Community Pharmacy Derbyshire

5.2.1 "Thank you for sending the appeal responses through for the above unforeseen benefit application. Community Pharmacy Derbyshire committee have reviewed these and would like to make the following comments:

5.2.1.1 Community Pharmacy Derbyshire stand by the points raised in our response and also agree with the comments made by both Boots UK Ltd and PCT Healthcare Ltd.

5.2.1.2 Community Pharmacy Derbyshire would like the opportunity should it arise, to be able to comment further and attend any hearings, as well as be kept informed of progress.”

6 Consideration

- 6.1 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.
- 6.2 It also had before it the responses to NHS Resolution’s own statutory consultations.
- 6.3 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 6.4 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”).

Regulation 31

- 6.5 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).

- 6.6 The Committee noted that the Applicant, in their application, had stated “*there is no pharmacy trading from or adjacent to the proposed premises, so Regulation 31 does not apply*”. The Committee further noted the comments from the Commissioner in its decision letter “*As it is not yet known where the premises would be located if the application is granted, there are no grounds for the committee to refuse the application on the basis of regulation 31. If the applicant is granted, the successful applicant would, in due course, be required to notify the ICB of the address of its premises under paragraph 31, Schedule 2. Such a notification would not be valid if the address would, had it been known at that time, have led to the application being refused under regulation 31.*” The Committee having noted the above and that this had not been disputed on

appeal, determined that it was not required to refuse the application under the provisions of Regulation 31.

- 6.7 The Committee noted that, if the application were granted, the successful applicant would - in due course - have to notify the Commissioner of the precise location of its premises (in accordance with paragraph 31 of Schedule 2). Such a notification would be invalid (and the applicant would not be able to commence provision of services) if the location then provided would (had it been known now) have led to the application being refused under Regulation 31.

Regulation 18

- 6.8 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)."

- 6.9 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").
- 6.10 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.
- 6.11 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).
- 6.12 The Committee noted that the Applicant had based its application on the 2022 PNA but that the Derby City and Derbyshire County Council had since published a 2025 version of the PNA, the Derby and Derbyshire Pharmaceutical Needs Assessment 2025-2028 (the "2025 PNA").
- 6.13 The Committee considered that the starting point as set out in Regulation 22 was that the relevant PNA was the PNA of the relevant HWB that is current at the time that the decision is taken.
- 6.14 The Committee considered the 2025 PNA prepared by the Derby City and Derbyshire County Council, 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 June 2025 and that no supplementary statements had been issued.
- 6.15 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.

- 6.16 There is no dispute that the 2025 PNA is the current PNA, with no dispute being raised by any of the parties. The Committee proceeded to consider the 2025 PNA.
- 6.17 The Committee noted under the heading of “Statements of pharmaceutical need”, it states: *“It is considered that the current provision of community pharmaceutical services adequately meets the pharmaceutical need in the Derbyshire Health and Wellbeing Board area.”* Further, under the heading Essential Services, it states: *“Essential services are well provided throughout Derby and Derbyshire, therefore there are no identified gaps in the provision of essential services across this area.”*
- 6.18 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients in the Walton area of Chesterfield. 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.
- 6.19 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)

- 6.20 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*”
- 6.21 The Committee noted the conclusion of the Commissioner in respect of Regulation 18(2)(a)(i) that *“The Committee was satisfied that granting the application would not cause significant detriment to either the proper planning in respect of the provision of pharmaceutical services in the area of Derbyshire HWB or the arrangements in place for the provision of pharmaceutical services in that area.”* The Committee noted that this had not been disputed either on appeal or in subsequent representations.
- 6.22 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.
- 6.23 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)

- 6.24 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"

6.25 The Committee noted the conclusion of the Commissioner in respect of Regulation 18(2)(a) in that *"There is no evidence that granting the application would cause significant detriment to the arrangements that are currently in place for the provision of pharmaceutical services in the area of Derbyshire HWB."* The Committee noted that no party had sought to dispute this either on appeal or in subsequent representations.

6.26 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.

6.27 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).

6.28 Regulation 18(2)(b)

6.29 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)

- 6.30 The Committee noted the proposed pharmacy is to be located in Walton, a suburban area of Chesterfield, located to the South West of the centre of Chesterfield as indicated by the green lines on the map provided by the Commissioner. The Committee also had regard to the location of existing pharmacies and GP surgeries in Chesterfield, which had not been disputed.
- 6.31 The Committee noted the location of the proposed pharmacy is in the centre of Walton, amongst a communal parade of shops. The Committee noted the Applicant's comments that the proposed pharmacy was offering to secure improvements and better access to pharmaceutical services to "*The high proportion of elderly living at/near the proposed site*" and improve access to pharmaceutical services due to "*The difficulties in journeys to existing provision*" for local residents in the Walton Ward of Chesterfield. The Committee was mindful that it must have regard to whether there is a reasonable choice in the area of the relevant HWB. The Committee noted the information provided by the Applicant that the proposed premises would be located in "proximity" to local amenities, where the local population go to meet their everyday needs such as a:
- 6.31.1 *"One Stop store, selling groceries and fresh bread,*
- 6.31.2 *Post Office,*
- 6.31.3 *Hairdressers,*
- 6.31.4 *Restaurant and takeaway,*
- 6.31.5 *Church."*
- 6.32 The Committee noted the various facilities available within the centre of Walton as well as the Applicant's comment that the available amenities integrate into the "*daily routines of local residents*" and that the inclusion of a pharmacy would complement this. However, the Committee considered that residents would need to travel outside of the area to access a wider range of services and amenities. In doing so, they may be able to access existing pharmaceutical services at the same time.
- 6.33 The Committee noted that the Applicant had provided census data that demonstrates that there is a disproportionately higher number of residents over the age of 65 within each of the LSOA's in Chesterfield. Further to this, the Applicant comments on the population density of the local area, stating that the LSOA closest to the proposed site, Chesterfield 011B, "*has a population density of 2,675.7 residents per square kilometre, compared to 433.5 residents per square kilometre in England as a whole.*" The Committee considered that the high proportion of elderly residents as well as the population density would need to be taken into account when considering access to existing pharmacies in the area.
- 6.34 The Committee observed that the closest pharmacies are reported to be approximately 0.4 miles and 1.2 miles from the proposed site. It also took into account the Applicant's comments that, although these distances may appear short, the actual journey to Peak Pharmacy on Chatsworth Road is lengthened by the need to travel around the east side of the River Hipper, which runs through the northern part of Walton. The Applicant comments that this

geographical barrier increases the travel time and complexity for local residents seeking pharmaceutical services, and they state: *“the only practicable route for all patients to access the nearest pharmacy requires a 1.3-mile journey.”* The Committee noted the comment from the Applicant that the most direct route to Peak Pharmacy through the Hipper Valley trail is *“largely unpaved and entirely unlit. Residents are therefore required to detour to a bridge to cross the River Hipper.”* However, the Committee noted the LPC’s comments that dispute this, in which they state:

6.34.1 *“The applicant asserts that the journey on foot from their proposed location to the next nearest pharmacy is 1.3 miles, saying that walking through the Hipper Valley Trail is not suitable for residents, especially the elderly – our LPC observations at the time of the application disputed this saying it is lit and paved and a distance of 0.7 miles taking around 14 minutes.”*

6.34.2 *CPD also would like to put forward that residents won’t necessarily walk from the proposed site to the existing Peak Pharmacy – they would walk from where they live or work or from their GP practice, if walking, to their preferred pharmacy.”*

6.35 The Committee noted the Applicant’s comments on the journey through the Hipper Valley Trail that states: *“while we accept that the path through the Somersall Park is lit, we highlight that one must pass through an unlit, unpaved and secluded area to enter the trail from Walton. This area presents a clear psychological barrier. We therefore continue to insist that the trail be disregarded in considering journey times. We note that the disproportionately elderly population is likely to avoid a secluded and unlit area due to fear of accidents and crime.”* The Committee noted the comments from Peak Pharmacy on the Hipper Valley Trail that the *“route is via pavements and a section through the park which has street lighting along the path. The entrance to the park from the north end (Oakfield Avenue) is signposted as a pedestrian [sic] route for “Walton, Hipper Valley and town centre” and is a clearly a designated [sic] pedestrian route.”* The Committee accepted the Applicant’s observations that travelling through a secluded or an unlit area might be unappealing for some patients. Given the information with regard to distances and from viewing the maps provided as well as the photographs, the Committee was of the view that whilst there were likely to be some that may make the journey to access existing services on foot, there may be others who were either unable or unwilling to do so.

6.36 The Committee also noted the comments from the Applicant regarding the journey on foot to Peak Pharmacy on Wheatbridge Road, which is described as 1.4 miles away by foot where residents *“would have to walk up the hill on Walton Road.”*

6.37 The Committee noted the Applicants comments that the proposed site is located at the top of a hill and that patients who are accessing alternative pharmaceutical provision at Peak Pharmacy would experience difficulties on their return journey due to the steep gradient, *“the hill is continuous for a length of around 200 meters, with the gradient averaging 8% or 1 in 12.5.”* According to the Applicant, this topography constitutes a tangible barrier for those with limited mobility. When this physical obstacle is considered alongside the

relatively high proportion of elderly residents in the Walton area, as evidenced by census data provided in the appeal, the Applicant contends that establishing a pharmacy at the proposed location would significantly enhance access for these older residents, who often have greater health needs, for those travelling by foot. The Committee accepted the Applicant's observations that travelling by foot may be challenging for the disproportionately high number of elderly residents in the Walton area. The Committee was of the view that difficulties of access on foot did not of itself indicate that there was not reasonable choice in obtaining pharmaceutical services. For those who chose not to access services on foot, or who are unable to access services on foot, for whatever reason, the Committee went on to consider the ease and level of access to pharmacies by private and public transport.

- 6.38 The Committee noted the information provided by the Applicant with regard to the bus services in the area, specifically the *"90/90a bus, which would be used to access town-centre pharmacies"* and run every 30 minutes. The Committee noted that there is no available bus journey from the proposed site to Peak Pharmacy on Chatsworth Road. The Committee noted that the journey from the proposed site to Peak Pharmacy on Wheatbridge Road, *"typically takes 4 minutes."* This is confirmed by the Applicant insofar as the outbound journey. The Committee also had regard to the comments from PCT Healthcare which states that *"residents within Derbyshire who qualify by age or disability can apply for a Gold Card which is valid for free travel on buses between 9.30am and 11pm on weekdays and all day at weekend."* Further, the Committee noted that there were frequent buses to and from the town centre where other amenities were located which those wishing to access pharmaceutical services may also be accessing at the same time. The Committee was of the view that for those reliant on public transport there was nothing provided by the Applicant to demonstrate that they were currently having difficulties in accessing the existing pharmaceutical provision in the area of the HWB.
- 6.39 In considering access by private transport, the Committee noted the comments from PCT Healthcare and from Hasland Pharmacy that the area of Walton is relatively affluent with a high level of car ownership. Whilst this is not disputed by the Applicant, the Committee noted the Applicant's comments that in light of the census data that *"26.1% of residents living in this LSOA are aged 65 and over"*, it is likely that *"these residents may choose to travel by foot or public transport."* The Committee considered this to be speculative. The Committee noted the Applicant's comments in the application that the nearest pharmacy, Peak Pharmacy on Chatsworth Road, is 1.3 miles and 8 minutes by car, with Peak Pharmacy on Wheatbridge Road being 6-8 minutes by car and Cohens Chemist being 7 minutes or *"up to 10 minutes at peak times."* With the exception of a passing reference to patients having to cross Chatsworth Road, the Committee noted that the Applicant had not provided any information to demonstrate that the routes required to access these pharmacies constitutes a barrier to accessing the existing pharmaceutical provision.
- 6.40 The Applicant states that *"finding parking can be challenging for patients"* when accessing Peak Pharmacy on Chatsworth Road, however the Committee noted that there is a car park shared with the local GP surgery available to patients should they choose to use it. Based on the lack of information, the Committee

was not persuaded that those who did have access to their own transport were currently experiencing difficulties in accessing the existing pharmacies.

- 6.41 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.
- 6.42 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.
- 6.43 The Committee noted the information provided by the Applicant, by way of general statistics for the ward as a whole. The Applicant referred to those who due to age share a protected characteristic, however they had not expanded this as to why they considered that this particular group were having difficulty in accessing pharmaceutical services in the area. The Applicant had concluded that *“the large population of elderly residents are likely to find better access and choice to pharmaceutical provision from the proposed site.”*
- 6.44 Whilst the Committee noted the information provided by the Applicant showed that there was a higher proportion of older residents and patients in the area surrounding their proposed location in Walton, the information regarding the pharmaceutical services they needed was limited. There was little or no evidence of specific pharmaceutical needs beyond the general presumption that older people need more services. If for the sake of argument, the Committee accepted that there were some specific needs, there was little or no evidence that there was particular difficulty in meeting such needs.
- 6.45 In short, beyond a general speculative reliance placed on age as supporting a conclusion that older people use more services and may be less mobile, no evidence to support a conclusion of specific needs or particular difficulties was presented by the Applicant.
- 6.46 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.
- 6.47 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.
- 6.48 The Committee noted that the Applicant had not proposed any innovation either in its original application or on appeal. The Committee was of the view that the Applicant did not seek to rely on innovation in this application. The Committee was 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

- 6.49 The Committee had regard to the application form and noted that the Applicant's proposed core hours are 9am to 1pm and 2pm to 6pm Monday to Friday. The Committee noted the comments from parties that there are already pharmacies in the area who are providing the same hours during the week as well as other pharmacies being open on a weekend. 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.
- 6.50 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.
- 6.51 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

- 6.52 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).
- 6.53 No deferral or refusal under Regulation 18(2)(f) was required in this case.
- 6.54 The Committee had regard to Regulation 18(2)(g) and found no reason that required it to refuse the application under this regulation.
- 6.55 The Committee considered whether there were any further factors to be taken into account and concluded that there were not.
- 6.56 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.
- 6.57 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 6.57.1 confirm the Commissioner's decision;
 - 6.57.2 quash the Commissioner's decision and redetermine the application;

- 6.57.3 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.
- 6.58 Given that the Committee had considered the 2025 PNA, it determined that the decision of the Commissioner must be quashed.
- 6.59 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.
- 6.60 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.
- 6.61 The Committee concluded that further notification under paragraph 19 of Schedule 2 would not be helpful in this case.

7 DECISION

- 7.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decision of the Commissioner, for the reasons given above, and redetermines the application.
- 7.2 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 7.3 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;
- 7.4 The Committee determined that the application should be refused on the following basis:
- 7.4.1 In considering whether the granting of the application would confer significant benefits, the Committee determined that –
- 7.4.1.1 there is already a reasonable choice with regard to obtaining pharmaceutical services;
- 7.4.1.2 there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and
- 7.4.1.3 there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services;

- 7.4.2 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