

4 February 2026

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FILE REF: **SHA/26776**

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COMMISSIONER: **Suffolk and North East Essex
ICB
("the Commissioner")**

PHARMACIST: **Waterton Pharmacy
("the Applicant")**

PREMISES: **Framfield Medical Centre
Ipswich Road
Woodbridge
IP12 4FD**

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

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

Outcome

- 1.1 Based on the information provided, I am not satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours would maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises. I am satisfied that maintaining the current level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b).
- 1.2 The action taken by the Commissioner to refuse the application is confirmed.

A copy of this decision is being sent to:

Waterton Pharmacy (FC241)
Suffolk and North East Essex ICB

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

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

1 Introduction

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

Rights of appeal

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

Opening hours

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

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

Alteration of core opening hours

- 1.6 In accordance with paragraphs 1(7)(c) and 1(7)(d) of Schedule 2 of the Regulations, the pharmacy must provide, as part of an application for entry in the pharmaceutical list:
 - 1.6.1 the proposed core opening hours in respect of the premises; and
 - 1.6.2 the total proposed opening hours for the premises (having regard to both the proposed core opening hours and any supplementary opening hours).
- 1.7 The Commissioner maintains pharmaceutical lists that include the days on which and times at which, at those premises, the listed person is to provide those services during the core opening hours and any supplementary opening hours of the premises.
- 1.8 The days on which or times at which a pharmacy is obliged to provide pharmaceutical services at the premises may only be altered by the pharmacy on application under paragraph 26(1) of Schedule 4 of the Regulations, so long as the effect of that application is to reduce the total number of hours for which a pharmacy is obliged to provide, or keep the total number of hours the same.

Alteration of supplementary opening hours

- 1.9 Supplementary opening hours may be altered by the pharmacy giving notice to the Commissioner, in accordance with paragraph 23(6)(a) of Schedule 4 of the Regulations, without the need to make an application to the Commissioner.
- 1.10 There is no specific right of appeal to NHS Resolution in respect of notices given under paragraph 23(6)(a).

2. Application

In this case, the Applicant provided the following information in its application form and supporting information dated 18 August 2025:

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

Monday	09:00 – 11:00 15:00 – 19:30
Tuesday	09:00 – 11:00

	15:30 – 19:30
Wednesday	09:00 – 11:00 15:30 – 19:30
Thursday	09:00 – 11:00 15:30 – 19:30
Friday	09:00 – 19:30
Saturday	08:00 – 13:00
Sunday	

2.3 Proposed core opening hours for these premises:

Monday	09:00 – 12:00 14:00 – 18:00
Tuesday	09:00 – 12:00 14:00 – 18:30
Wednesday	09:00 – 12:00 14:00 – 18:00
Thursday	09:00 – 12:00 14:00 – 18:00
Friday	09:00 – 12:00 14:00 – 18:30
Saturday	09:00 – 13:00
Sunday	

2.4 If this is a permanent change, please state below the date from which you would like the change to take effect: 6 October 2025

2.5 I wish this application to be determined on the basis of:

2.5.1 Paragraph 24(1), Schedule 4

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

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

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

2.7 Pharmacies in England have been redistributing their opening hours due to several factors, funding cuts, workforce, and workload pressures are restricting pharmacies from delivering what the Government wants them to deliver. This is the inevitable result following a toxic combination of government funding cuts, rising rents, rising costs across the board, increased costs of staff, staff shortages and supply problems in general, as well as an increased workload.

Late evening opening is placing financial strain on the business while providing limited patient benefit, as there is demonstrated demand earlier in the day.

- 2.8 We are not on the High Street or in a residential area, the vast majority of our patients arrive either by car or taxi, there is not a heavy reliance on public transport.
- 2.9 The Pharmacy is integrated into the Framfield Medical Centre. It is not a separate building. The final clinic at the GP Surgery is at 17.45, we see an influx of patients from this time up to about approximately 18.15. After this clinic finishes the surgery closes. We have a roller shutter between our premises and the surgery premises which we close at 18.00.
- 2.10 A dispensing activity audit carried out at the premises between the hours of 18:00 – 19:30 during the period of 21st July – 15th August 2025. Analysis of the audit shows.
 - 2.10.1 Over the 4 weeks between the hours of 18:00 & 18:30 (22) Scripts and 18:30 & 19:30 (7) were collected.
 - 2.10.2 Over the 4 weeks between the hours of 18:00 & 19:30 (8) OTC purchases took place.
- 2.11 We have also asked our patients which core hours they would prefer, our current [sic] or the proposed new. We ran a petition asking our patients and we accrued over 600 signatures supporting our decision.
- 2.12 Both parties have shown their interest in supporting our decision to redistribute our core hours, thus maintaining our original existing level of service for our patients and people in our area.
- 2.13 We will attach the supporting letter from Framfield Surgery and the signatures we collected from our patients.”

3. The Decision

In a letter to the Applicant dated 13 October 2025 the Commissioner decided to refuse the application. The Commissioner stated:

- 3.1 “The Pharmaceutical Services Regulations Committee (hereafter referred to as “the Committee”) considers all pharmaceutical services applications on behalf of all six ICBs in the East of England region, in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as “the Regulations”). The Committee is hosted by Hertfordshire and West Essex ICB.
- 3.2 In line with an amendment to the Regulations, confirmation was sought from the you [sic] as to whether you wished your application to be determined in line with the tests of paragraph 24(1) or 26(2ZB), Schedule 4 of the Regulations. An updated application form was subsequently received, confirming you wished the application to be considered under the 24(1) test.

- 3.3 The Committee considered your application to redistribute core hours under paragraph 24(1), Schedule 4 of the Regulations.
- 3.4 The Committee first considered Regulation 65 – Core opening hours conditions.
- 3.5 The Committee noted that no direction under Regulation 65 is in existence.
- 3.6 The Committee moved on to consider paragraph 24(1)(a), of Schedule 4 – are the proposed core opening hours such as to maintain as necessary the existing level of service provision for the people in the area of the pharmacy, or other likely users of the pharmacy premises?
- 3.7 The Committee noted that the applicant's current and proposed core opening hours of the pharmacy premises were as follows:
- 3.8 Current core and supplementary opening hours:

Current							40:00	0:00
	S1	C1		S2	C2		S3	C3
Monday		9:00	11:00		15:00	19:30		
Tuesday		9:00	11:00		15:30	19:30		
Wednesday		9:00	11:00		15:30	19:30		
Thursday		9:00	11:00		15:30	19:30		
Friday		9:00	11:00		13:00	19:30		
Saturday		8:00	13:00					
Sunday								

- 3.9 Proposed core and supplementary opening hours:

Opening hours							40:00	0:00
	S1	C1		S2	C2		S3	C3
Monday		9:00	12:00		14:00	18:00		
Tuesday		9:00	12:00		14:00	18:30		
Wednesday		9:00	12:00		14:00	18:00		
Thursday		9:00	12:00		14:00	18:00		
Friday		9:00	12:00		14:00	18:30		
Saturday		9:00	13:00					
Sunday								

- 3.10 The Committee agreed that you are seeking to maintain the total number of core hours while redistributing them throughout the week. This would result in the pharmacy closing at 18:00 on Monday, Wednesday, Thursday and 18:30 on Tuesday and Friday, as opposed to 19:30 Monday to Friday. There would also be a loss of 1 hour on a Saturday.
- 3.11 The Committee noted that in support of your application you provided the following information on the usage of the pharmacy at the time(s) it is proposing that the pharmacy will close and/or now open. [as set out at section 2 above]

- 3.12 The Committee noted the supporting documents that were included in the application and shared with the Committee prior to the meeting.
- 3.13 The Committee noted that you referred to a dispensing activity audit in support of your application which was carried out during the period 21st July – 15th August 2025. The outcome of the audit identified that patients were utilising the pharmacy between the hours of 18:00 – 19:30, which is when you are proposing to remove some of the core hour provision.
- 3.14 The Committee noted your proposed core opening hours will not maintain the existing level of service provision at the pharmacy premises. The total number of core hours per week would remain the same at 40, however, you are proposing to redistribute the hours by closing over the lunchtime period for 2 hours as opposed to 4 hours on a Monday and 4.5 hours Tuesday – Thursday, and close at 18:00 Monday, Wednesday and Thursday and 18:30 on Tuesday and Friday as opposed to 19:30 Monday – Friday.
- 3.15 The Committee noted that you provided no information regarding the existence of other pharmacies in the area at times when you are proposing to close.
- 3.16 The Committee noted that you did not provide any information on how people travelled to the pharmacy premises at the times the pharmacy would be open if the application was granted.
- 3.17 The Committee noted that you did not provide any information regarding the provision of advanced and enhanced services by the nearest pharmacies.
- 3.18 Taking into account that you have not provided any information regarding the provision of pharmaceutical services during core opening hours by other pharmacies in the area, the Committee were not satisfied that patients would be able to access the same services from the alternative pharmacies if the application was granted, and therefore it had to conclude that the existing level of service provision cannot be maintained by those other pharmacies.
- 3.19 The Committee noted that maintaining the existing level of service provision was necessary, therefore the reference in paragraph 24(1)(b) stating “in circumstances where maintaining the existing level of service provision is either unnecessary,” was not relevant.
- 3.20 The Committee noted that you did not provide any evidence to support the rationale that maintaining the existing levels of service provision would not be realistically achievable were the current provision, in terms of core hours, to remain in place. There was no evidence to suggest that the proposed core opening hours were such as to maintain a sustainable level of adequate service provision for the people in the area of the pharmacy or other likely users of the pharmacy premises.

Decision

- 3.21 The Committee refused the application.
- 3.22 The rationale for the Committee’s decision was as follows:

- 3.22.1 You did not provide any information/evidence regarding how people travel to the pharmacy.
- 3.22.2 You did not provide information/evidence to support the view that other local pharmacies would be able to maintain the existing level of service provision.
- 3.22.3 You did not provide details around who is using the service and what services they require.
- 3.23 The Committee agreed that you, Waterton Pharmacy Ltd t/a Waterton Pharmacy (FC241), Framfield Medical Centre, Ipswich Road, Woodbridge, IP12 4FD has the right of appeal.
- 3.24 You therefore have the right of appeal to the Secretary of State against our decision. Should you choose to appeal, you should send in writing 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 NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU.”

4. **The Appeal**

In an email to NHS Resolution dated 12 November 2025 the Applicant appealed against the Commissioner’s decision. The grounds of appeal are:

- 4.1 “I would like to appeal against the refusal to redistribute my core opening hours.
- 4.2 We would like to ask the commissioners [sic] to reconsider our application by looking at the following evidence which the committee said was missing from our original application.
- 4.3 85% of our patients are patients at the adjacent surgery so when they close at 18.30 we see a significant reduction in patients using our service.
- 4.4 Waterton Pharmacy are not part of CPAF, so we do not offer Pharmacy First service, flu or Covid vaccinations or any other advance services due to lack of manpower and financial difficulties.
- 4.5 In a 3 mile radius there is a Supermarket Pharmacy which is open until 8pm who are part of CPAF, and therefore provide advanced services. Therefore the existing level of service can be maintained.
- 4.6 Also within a 1mile radius there are two other Pharmacies who offer the Pharmacy First service and other advanced services. Boots Pharmacy who close at 17.30 and Woodbridge Pharmacy who close at 18.00.
- 4.7 We are in an area of predominantly elderly people, who access our pharmacy during the daytime, and it is extremely rare that my patients would be requiring Pharmacy First Advanced services and Contraception services in the evening.
- 4.8 In respect of the survey – my patients would not have supported the redistribution in hours if they considered it to be detrimental to themselves – there was therefore no need to specifically question if they would or could

access services from an alternative pharmacy – if it was a concern they would not have been supportive.

- 4.9 We are not on the High Street or in a predominantly residential area, the vast majority of our patients arrive either by car, taxi or on foot – if needed my patients could make the short journey to the other pharmacies as I have referenced – there is not a heavy reliance on public transport.
- 4.10 We are set back from the road so as such we do not have passing traffic. Most patients drive to the pharmacy, use a taxi or a mobility scooter and do not venture out when it is dark. We are on a bus route, and there is a bus-stop outside the medical centre, but the service is not very frequent, and our patients do not tend to use this service.
- 4.11 There is a garden centre next door to us that closes at 17.30 and our customers tend to use this during the day and visit us at the same time.
- 4.12 If my appeal to redistribute my core opening hours is granted, I would then reinstate my supplementary opening hours, thus meaning the pharmacy would be open for much longer each day. To bring our day completely in line with the surgery opening hours.
- 4.13 Therefore, the overall opening hours will be:
- 4.13.1 Monday: 08:00 – 13:00 and 14:00 – 18:30
- 4.13.2 Tuesday: 08:00 – 13:00 and 14:00 – 18:30
- 4.13.3 Wednesday: 08:00 – 13:00 and 14:00 – 18:30
- 4.13.4 Thursday: 08:00 – 13:00 and 14:00 – 18:30
- 4.13.5 Friday: 08:00 – 13:00 and 14:00 – 18:30
- 4.13.6 Saturday: 08:00 – 12:00
- 4.14 Please find attached the bus timetable for the route that serves the surgery, as you can see it is very irregular.”

5. Representations

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

- 5.1 “Please note that from the 01 April 2023, community pharmacy contracting and commissioning has been delegated to Integrated Care Boards (ICBs). Hertfordshire and West Essex (HWE) ICB are hosting the function on behalf of the six East of England ICBs.
- 5.2 Please find below information we wish to be considered in relation to Waterton Pharmacy Ltd T/A Waterton Pharmacy.

- 5.3 Having reviewed the grounds of the appeal and the information provided by [FC] on behalf of Waterton Pharmacy Ltd (the Appellant), we remain of the opinion that this application should be refused.
- 5.4 The grounds for the appeal appear to be that the Appellant “would like to ask the commissioners to reconsider our application by looking at the following evidence which the committee said was missing from our original application”. As NHS Resolution will be aware, the ICB cannot reconsider the decision made and will make comments on the evidence submitted.
- 5.5 Having reviewed the notice of appeal, HWE ICB would like to make the following representations on behalf of Suffolk and North East Essex ICB.
- 5.6 In line with an amendment to the Regulations, confirmation was sought from the Appellant as to whether they wished their application to be determined in line with the tests of paragraph 24(1) or 26(2ZB), Schedule 4 of the Regulations. An updated application form was subsequently received, confirming that the Appellant wished the application to be considered under the 24(1) test.

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

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

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

- 5.7 In their application the Appellant stated the following: [as set out in section 2 above].
- 5.8 The ICB has reviewed the additional information submitted and maintains that the decision to refuse the application was correct.

Paragraph 24(1)(a), Schedule 4

- 5.9 It is first necessary to identify the existing level of service provision for people in the area of Waterton Pharmacy or other likely users of the pharmacy.
- 5.10 The current and proposed core hours are set out in Appendix 1. The Appellant is proposing to maintain the total number of core hours while distributing them throughout the week. The existing level of service provision would therefore not be maintained as the proposed change will see the pharmacy close at 18:00 on Monday, Wednesday and Thursday and 18:30 on Tuesday and Friday, as

opposed to 19:30 Monday to Friday. There would be a loss of 2 core hours on a Friday and 1 core hour on a Saturday.

- 5.11 It is therefore necessary to identify whether there are other providers of pharmaceutical services in the area, when they are open and whether when considered, they would maintain the existing level of service provision.
- 5.12 When assessing the existing level of service provision by these other pharmacies, the ICB has only considered core opening hours Monday to Saturday.
- 5.13 The Appellant notes that *'in a 3 mile radius there is a Supermarket Pharmacy which is open until 8pm who are part of CPAF and therefore provide advanced services. Therefore the existing level of service can be maintained'*.
- 5.14 The Appellant also notes that *'Within a 1 mile radius there are two other Pharmacies who offer the Pharmacy First service and other advanced services. Boots Pharmacy who close at 17:30 and Woodbridge Pharmacy who close at 18:00'*
- 5.15 The ICB notes that Tesco In-Store Pharmacy is within 3.2 miles* of Waterton Pharmacy which has core hours until 17:00 Monday to Saturday. There are two other pharmacies within a 1 radius* that provide pharmaceutical services. Woodbridge Pharmacy, 11 Thoroughfare, Woodbridge has core hours until 17:30 Monday to Saturday and Boots, 58 Thoroughfare, Woodbridge has core hours until 17:30 Monday to Friday and 15:30 on Saturday.

*Distances taken from google maps

- 5.16 The opening hours of the nearest pharmacies are set out in Appendix 2.
- 5.17 On appeal the Appellant states that *"85% of patients are patients at the adjacent surgery so when they close at 18:30 we see a significant reduction in patients using our service"*. (Page 1, Appeal document).
- 5.18 The ICB notes the dispensing activity audit carried out by the Appellant during the period of 21 July – 15 August 2025. This shows that 29 scripts were collected and 8 over the counter purchases were made between the hours of 18:00 – 19:30 which is when the Appellant is proposing to remove core hours. This is evidence that there are some people using the pharmacy at the time the Appellant wishes to close therefore it can be concluded that it is necessary to maintain the existing level of service provision. There is no evidence to suggest where the prescriptions were generated from noting that the pharmacy dispenses to patients from other GP surgeries, not just the adjacent surgery.
- 5.19 It is acknowledged that the provision of pharmaceutical services is more than the dispensing of prescriptions or the provision of over-the-counter sales. It encompasses a range of essential services in line with the Terms of Service, advice and advanced services. The ICB note that the Appellant states that:

"Waterton Pharmacy are not part of CPAF, so we do not offer Pharmacy First service, flu or Covid vaccinations or any other advanced services due to lack of manpower and financial difficulties"

- 5.20 The ICB notes that the Appellant is registered to provide Advanced Services namely, Pharmacy First, Contraception and the Hypertension Case-Finding service. (Information taken from NHS Business Services Authority data).
- 5.21 The Appellant also states that:
- “We are in an area of predominantly elderly people, who access our pharmacy during the daytime, and it is extremely rare that my patients would be requiring Pharmacy First Advanced Services and Contraception services in the evening”,* (page 1, Appeal document).
- 5.22 The ICB notes that this is an assumption made by the Appellant as there is no evidence to substantiate this statement.
- 5.23 As previously mentioned above, the Appellant has provided details of nearby pharmacies who they state provide Advanced Services, mentioning only the Pharmacy First service provided at Boots Pharmacy and Woodbridge Pharmacy. There is no evidence as to what other services are provided by the other pharmacies at the times the pharmacy is seeking to close. Therefore, in the absence of evidence, the conclusion of the ICB is that the existing level of service provision would not be maintained.
- 5.24 The ICB note the additional information provided by the Appellant with regards to ‘the survey’ and the number of patients who signed the petition. (Pages 7 and 12, Appeal document). The Appellant states that patients were asked:
- ‘Please sign the below petition to support our application to redistribute our Core Opening Hours. We need to provide evidence that we are maintaining a sustainable level of service with the proposed hours, and that we are trying to run the business without causing disruption to our patients and to the surgeries that we support’.*
- 5.25 There is no evidence to suggest that the survey was extended to ask people whether they would be [sic] or could access pharmaceutical services from an alternative pharmacy should the pharmacy close earlier and how they would access those pharmacies i.e. by car, on foot or public transport.
- 5.26 On appeal the Appellant states:
- ‘In respect of the survey – my patients would not have supported the redistribution in hours if they considered it to be detrimental to themselves – there was therefore no need to specifically question if they would or could access services from an alternative pharmacy – if it was a concern they would not have been supportive’. (page 1, Appeal document).*
- 5.27 The ICB notes that this is an assumption made by the Appellant.
- 5.28 The Appellant has provided a letter of support from Framfield House Surgery which is adjacent to Waterton Pharmacy. The ICB notes that as the GP Surgery closes at 18:30 it is particularly important to maintain cover until 19:30 to ensure that the public, not only the patients from Framfield House Surgery, can continue to access health care services, including those that extend beyond an acute prescription i.e. advanced services, advice, signposting.

- 5.29 The Appellant has stated the following in their appeal response (page 1, Appeal document):

We are not on the High Street or in a predominantly residential area, the vast majority of our patients arrive either by car, taxi or on foot – if needed my patients could make the short journey to the other pharmacies as I have referenced – there is not a heavy reliance on public transport.

We are set back from the road so as such we do not have passing traffic. Most patients drive to the pharmacy, use a taxi or a mobility scooter and do not venture out when it is dark. We are on a bus route, and there is a bus-stop outside the medical centre, but the service is not very frequent, and our patients do not tend to use this service.

There is a garden centre next door to us that closes at 17:30 and our customers tend to use this during the day and visit us at the same time.

- 5.30 It is unclear how the Appellant has reached the conclusions above as no evidence has been provided to substantiate this. Bus timetables have been provided for the route that services the surgery (pages 3-5, Appeal document) however, the Appellant states above that “*the service is not very frequent, and our patients do not tend to use this service*”.

- 5.31 The ICB remains of the opinion that the proposed core opening hours do not satisfy paragraph 24(1)(a), Schedule 4.

Paragraph 24(1)(b), Schedule 4

- 5.32 As the ICB remains of the opinion that:

5.32.1 It is necessary to maintain the existing level of service provision,

5.32.2 The Appellant’s proposed opening hours would not achieve that, and

5.32.3 that there is no evidence that other providers of pharmaceutical services would maintain the existing level of service provision,

the ICB now considers paragraph 24(1)(b), Schedule 4 with regard to the Appellant’s representations.

- 5.33 The Appellant has not provided any evidence to demonstrate that the current users of Waterton Pharmacy who can access services from 18:00 to 19:30 Monday to Friday, and 8:00 to 13:00 on Saturdays, would not be affected should the change in hours be granted. In light of this, it has to be considered that the service is necessary.

- 5.34 As no evidence has been provided to demonstrate where patients who usually attend Waterton Pharmacy after 18:00 Monday to Friday would travel to and the services they could access on arrival, it cannot be determined that service provision is maintained, and it has to be considered that the opening hours currently provided by Waterton Pharmacy are necessary.

- 5.35 The ICB is not persuaded by the Appellant's representations that there are any circumstances where maintaining a sustainable level of adequate service provision for people in the area or other likely users of the pharmacy is either unnecessary or not a realistically achievable outcome. The Appellant in the their [sic] application states that "*late evening opening is placing financial strain on the business while providing limited patient benefit, as there is demonstrated demand earlier in the day*". There is no evidence to demonstrate that there is a demand earlier in the day and at what times. It is also unclear how the conclusion has been reached in view of "*limited patient benefit*." This suggests there is some patient benefit and it is unclear how people who may have accessed services in the evening, would access alternative pharmaceutical services.
- 5.36 The ICB notes that the Appellant removed all of their supplementary hours in 2025. The removal of 11:00 – 13:00 Monday to Friday, 14:00 – 15:00 Monday and 14:00 – 15:30 Tuesday to Thursday took effect on 31st March 2025. The removal of the remaining supplementary hours of 08:00 – 09:00 Monday to Friday took effect on 1st July 2025.
- 5.37 Consequently, the PSRC is of the view that the proposed core opening hours do not satisfy paragraph 24(1)(b), Schedule 4 and remains of the opinion that the application should be refused.
- 5.38 The ICB notes that the Appellant submitted a change of core hours application which was refused by the ICB in November 2024. The decision was appealed by the Appellant and the action taken by the ICB to refuse the application was confirmed by NHS Resolution (SHA/26417). There is no new substantial information in this appeal that was not provided in SHA/26417.

Conclusion

- 5.39 In summary, we remain of the opinion that the application should be refused."

6. Observations

No observations were received in response to the representations.

7. Consideration

- 7.1 I note the following:
- 7.1.1 The Applicant's core opening hours total 40 hours and the Applicant proposes to redistribute those 40 core opening hours pursuant to paragraph 26 of Schedule 4.
- 7.2 The Regulations, which came into force on 1 April 2013, have been amended a number of times. Certain amendments, relating to pharmacy premises opening hours, came into force with effect from 25 May 2023. Further amendments to paragraph 26, Schedule 4, Part 3 of the Regulations came into force on 23 June 2025.
- 7.3 Paragraph 26(1) states:

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

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

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

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

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

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

7.6 Paragraph 24(1) reads as follows:

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

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

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

7.7 Paragraph 24(2) states:

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

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

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

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

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

- 7.9 To properly assess the application against paragraph 24(1)(a), I need to determine the existing level of service provision. I then need to consider whether it is necessary to maintain the existing level of service provision. If it is necessary to maintain the existing level of service provision, I need to consider whether, despite the proposed change of hours, the existing level of service provision to people in the area or other likely users would be maintained, e.g. by nearby pharmacies being open and providing the same level of service provision.
- 7.10 If I consider it unnecessary to maintain the existing level of service provision or that it is necessary to maintain the existing level of service provision but doing so is not a realistically achievable outcome, then I need to consider paragraph 24(1)(b) and determine whether the proposed change of hours are such that a sustainable level of adequate service provision would be maintained.
- 7.11 I therefore need to be provided with sufficient information to understand a range of matters, starting with the existing level of service provision. The references to days and times in paragraph 24(1) leads me to consider that the reference to "level" of service provision in paragraph 24(1)(a) is mainly focused on the days and times services are provided. I would point out that "level" of service provision could also refer to other characteristics of the service, such as types and range of services provided, geographical access to services provided, other aspects of physical access aside from location, and the quality of services provided.
- 7.12 The existing level of service provision has been outlined by the Applicant, in its own core hours provision, and by an indication of the hours that pharmacies in the local area are open. The Commissioner has also provided information regarding the opening times of other pharmacies in the area.
- 7.13 I have next considered whether it is necessary to maintain the existing level of service provision. It could be argued that as the Applicant is not looking to reduce the number of hours each week that services are provided, then from a pure "number of hours of service provision each week" perspective, the existing level of service provision is maintained such that consideration of whether it is necessary to maintain the level of service provision is not needed.
- 7.14 I note the Applicant's comments that the total number of hours are not changing and that the level of service provision will remain the same. However, I am mindful that whilst the overall total number of hours the pharmacy will be open is remaining the same, the arrangement of these hours is changing. I further note that the Applicant does not currently offer any supplementary hours, however the Applicant has stated that, if this application is granted, it will then look to reinstate supplementary hours. I am mindful that, as set out in paragraph 23(6)(a) of Schedule 4 of the Regulations, the Applicant is able to alter supplementary hours by giving notice to the Commissioner, without the need to made an application to the Commissioner. It is open to the Applicant to amend, or introduce, supplementary hours by giving the requisite notice. As

a result of this, I have placed no weight on the potential offer of supplementary hours that the Applicant has indicated it may offer in the future, conditional upon the grant of this instant application, and have proceeded to consider the application for the change of core hours only.

- 7.15 The Applicant is applying to change the days and times that services are provided. Taking Friday as an example, the level of service provision at the Applicant's premises on a Friday is not being maintained. I consider it appropriate to determine if it is necessary to maintain the existing level of service provision and then, if deemed necessary, consider if the opening hours of other pharmacies mean that level is maintained.
- 7.16 To determine whether it is necessary to maintain the existing level of service provision, I have had regard to the comments by the Applicant of those using the pharmacy. If I am satisfied that there is reliable evidence indicating no users of the pharmacy on/at the relevant days/times that the pharmacy wishes to close, this might support an argument that maintaining the existing level of service provision is not necessary.
- 7.17 The Applicant states that a *"dispensing activity audit [was] carried out at the premises between the hours of 18:00 – 19:30 during the period of 21st July – 15th August 2025."* Whilst I have not been provided with any information as to how the audit was carried out or provided with any of the raw data for the audit, I note the analysis of the audit as provided by the Applicant, which states:
- 7.17.1 *"Over the 4 weeks between the hours of 18:00 & 18:30 (22) Scripts and 18:30 & 19.30 (7) were collected;*
- 7.17.2 *Over the 4 weeks between the hours of 18:00 & 19:30 (8) OTC purchases took place."*
- 7.18 I also note the petition which has been provided by the Applicant however I have no information as to how this was carried out, how people were selected or what times those that signed the petition are currently using the pharmacy. I am therefore unsure as to whether this is indicative of the number of people who do use the pharmacy, on a regular basis, at the times that the Applicant is proposing to close or if this was carried out in general for those who use the pharmacy at any time of the week. Overall, the petition is limited in terms of quality as there is no indication of total patient volume, when patients specifically accessed the pharmacy and over what period and therefore I have placed very little weight on the survey.
- 7.19 I am mindful that the provision of pharmaceutical services is more than just the provision of prescriptions and OTC sales. I have no information before me as to the number of patients who may be visiting the pharmacy for general advice which does not fall to be recorded under any of the schemes which a pharmacy may sign up for.
- 7.20 It is clear, from the Applicant's own information, that there are people using the pharmacy at the times the Applicant wishes to close. I consider that it is relevant to have information as to why persons are using the pharmacy at these times. It is difficult to draw conclusions about the necessity of maintaining the existing

level of service provision if there is no information on what specific services, if any, are being provided at those times.

- 7.21 Without more detailed information it is difficult to make an assessment of whether it is necessary to maintain the existing level of service provision and this in turn makes it difficult to apply paragraph 24(1)(a). I consider it reasonable to take the position that unless I am provided with evidence to the contrary, I should consider that it is necessary to maintain the existing level of service provision.
- 7.22 Having determined that it is reasonable to assume that maintaining the existing level of service provision is necessary, I now need to consider if, despite the changes to hours, there is maintenance of the existing level of service provision. The Applicant cannot maintain this as it is changing its hours but I note the undisputed information from the Applicant with regard to other pharmacies in the area that, between them, have opening hours during the times that the Applicant is proposing to close, namely a supermarket pharmacy, Boots pharmacy and Woodbridge Pharmacy.
- 7.23 The Commissioner has provided information regarding the nearest pharmacies to the Applicant setting out the addresses of these pharmacies, the distance to the Applicant and the core and supplementary hours that these pharmacies currently offer. The Applicant has provided me with a bus timetable, highlighting the location of its pharmacy as well as the location of other pharmacies in Woodbridge.
- 7.24 If I consider that the characteristics of other pharmacies, e.g. where they are located, their access, the services provided and the times they are open, means that the level of service provision is maintained for people in the local area or other likely users of the pharmacy, then I am able to grant the application under paragraph 24(1)(a).
- 7.25 It is worth noting that characteristics of the persons using the pharmacy might be relevant here as well as from where they start their journey to the pharmacy. I do not consider that every single individual need should be considered at length in this regard but it would be helpful to have this information to be certain that the existing level of service provision would be maintained via local pharmacies.
- 7.26 The Applicant, states *“the vast majority to our patients arrive either by car, taxi or on foot - if needed my patients could make the short journey to the other pharmacies as I have referenced – there is not a heavy reliance on public transport.”* The Applicant goes on to state *“We are set back from the road so as such we do not have passing traffic. Most patients drive to the pharmacy, use a taxi or a mobility scooter and do not venture out when it is dark. We are on a bus route, and there is a bus-stop outside the medical centre, but the service is not very frequent, and our patients do not tend to use this service.”*
- 7.27 Whilst the Applicant has made these statements, the information in support is limited which could have been remedied via the patient survey, however as one would expect, those accessing the pharmacy do so by walking or using a mobility scooter, using public transport or driving. The Applicant has not

provided any information as to the location of the alternative pharmacies (except for distance, as confirmed by the Commissioner) or how people would be able to physically access these pharmacies via crossing points, whether the terrain is flat etc. The information for those who do use public transport is also limited and also speculative without data to support the claim about lack of use. I note the claim that patients will mostly drive to the pharmacy but again, there is no data in this regard. There is an absence of information regarding physical access to alternative pharmacies for those who currently access the Applicant's pharmacy.

- 7.28 I note the comments from the Applicant with regard to other services and that as they are not part of CPAF they do not offer any services through Pharmacy First (Urgent supply, minor illness, acute sore throat, impetigo etc), flu or Covid vaccinations or any other advance services. However, this has been disputed by the Commissioner and it is noted that *"the Appellant is registered to provide Advanced Services namely, Pharmacy First, Contraception and the Hypertension Case Finding service (Information taken from NHS Business Services Authority data)."*
- 7.29 I have not been provided with any information to support either of the assertions made, however I note that the Commissioner states that they have taken the list of advanced services provided from NHS BSA data. Turning to the core opening hours offered by alternative pharmacies, none cover the hours beyond 6pm on Monday, Wednesday and Thursday and 6.30pm on Tuesday and Friday which is when the Applicant proposes to close. The Applicant has not explained how patients will access pharmaceutical services after the above hours.
- 7.30 I am therefore struggling to be satisfied that the existing level of service provision would be maintained by virtue of the existence of other local pharmacies.
- 7.31 I have decided that it is necessary to maintain the current service provision but, due to the cumulative effect of the petition not assuring me that it is representative of the use of the pharmacy and a lack of information about the access to alternative pharmacies in the area, I am not satisfied that there will be maintenance of the existing level of service provision, whether by virtue of other pharmacies in the area.
- 7.32 I therefore next consider if I need to have regard to paragraph 24(1)(b) which states that I must seek to ensure that the changed hours are such as to:
- "maintain a sustainable level of adequate service provision for the people in that area or other likely users of the pharmacy premises, in circumstances where maintaining the existing level of service provision is either unnecessary or not a realistically achievable outcome".*
- 7.33 I have already determined that it is necessary to maintain the existing level of service provision so reference in paragraph 24(1)(b) to *"in circumstances where maintaining the existing level of service provision is ... unnecessary"* is not relevant.

- 7.34 I note the general comments from the Applicant with regard to reasons why pharmacies in England have been applying to redistribute their opening hours. I further note the comments about the financial strain that is being placed on pharmacies. I consider that the Applicant is effectively relying on the second part of paragraph 24(1)(b), that maintaining the existing level of service provision is not a realistically achievable outcome. I consider that I need to determine if it is or is not a realistically achievable outcome and if I determine that it is, then I need to consider if the amended hours are such as to maintain a sustainable level of service provision.
- 7.35 On the point of whether maintaining the existing level of service provision is not a realistically achievable outcome, whilst I am sympathetic to the challenges being faced by pharmacies, and aware of the general pressures within the industry, I consider that no evidence has been put forward to support the Applicant's statements with regard to their particular circumstances in respect of this criteria.
- 7.36 The wording of paragraph 24(1)(b) is such that maintaining existing service levels must not be realistically achievable before considering a sustainable level of adequate provision. I consider that this sets a fairly high bar as to the level of difficulty that the Applicant must find themselves in. I do not consider that sufficient evidence has been provided to indicate that the economic and practical viability of the current opening hours has been compromised. I therefore consider that maintaining the existing level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b).
- 7.37 I am mindful that the provision of pharmaceutical services is greater than the dispensing of prescriptions and that maintaining a level of service provision includes all services that the pharmacy may offer, including additional enhanced and advanced services that may be commissioned. I am of the view that I have not been provided with sufficient information to demonstrate how the proposed change of hours would maintain, as necessary, the existing levels of service provision.

8. Determination

- 8.1 Based on the information provided, I am not satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours would maintain as necessary the existing level of service provision for the people in that area or other likely users of the pharmacy premises. I am satisfied that maintaining the current level of service is a realistically achievable outcome and therefore the Applicant cannot rely on paragraph 24(1)(b).
- 8.2 The action taken by the Commissioner to refuse the application is confirmed.

Head of Appeals, NHS Resolution