NHS Resolution

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6 March 2026

REF: SHA/26794

APPEAL AGAINST HERTFORDSHIRE AND WEST ESSEX ICB DECISION TO REFUSE AN APPLICATION BY ORGAN HALL PHARMA LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT NEW MEDICAL CENTRE, BOREHAMWOOD, WD6 4DG

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 Ltd on behalf of Organ Hall Pharma Ltd
Boots UK Ltd
Community Pharmacy Hertfordshire
PCSE on behalf of Hertfordshire and West Essex ICB

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1 The Application

By application dated 4 June 2026, Organ Hall Pharma Ltd ("the Applicant") applied to Hertfordshire and West Essex ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at New Medical Centre, Borehamwood, WD6 4DG. In support of the application it was stated:

1.1 "New Medical Centre, Borehamwood, WD6. Map covering estimated area depicted below [see Appendix A], with proposed best estimate sites located inside the blue box [sic].

1.2 The area where the new medical centre will be built in Borehamwood.

1.3 Sites include from Theobald street to the railway line, across.

1.4 Just above 1&8 Watersplash Mews, up to 12 Theobald Street, Borehamwood, WD7 7LU, from bottom to top.

1.5 Please use satellite image above [see Appendix A] as reference with red marking."

1.6 In response to why the application should not be refused pursuant to Regulation 31, the Applicant stated "n/a".

Borehamwood New Contract Supporting Information

"Background

1.7 This application is in respect of opening up a new pharmacy in order to provide better access for patients requiring access to pharmaceutical services in Borehamwood and the surrounding areas, particularly for those residing in North West Borehamwood.

1.8 Outline planning permission has been granted for 110 new homes (of which 44 are allocated to social housing), and a Medical Centre adjacent to land already developed by Griggs Homes, WD6 4DG. It is anticipated that a pharmacy at this location will significantly improve patients access to pharmaceutical

provision, especially in connection with a visit to the medical centre and associated clinical facilities.

1.9 The New Medical Centre, which is due to be completed in Summer 2026, is to be built not only as a Doctor's Surgery, but as a wider health hub. The Doctor's Surgery in itself will employ:

1.9.1 Doctor's

1.9.2 Nurse's

1.9.3 Pharmacists

1.9.4 Mental Health Workers

1.9.5 Paramedic

1.9.6 Dieticians

1.9.7 Social Prescribers

1.10 These professionals will work collaboratively to improve health outcomes for those residing in the local area through a number of dedicated work spaces. The Medical Centre will consist of:

1.10.1 10 Consultation Rooms

1.10.2 3 Treatment Rooms

1.10.3 1 Counselling Room

1.10.4 2 Training Rooms

1.10.5 1 Meeting Room

1.11 Notably, the dedicated counselling room will be the first of its kind for a Doctor's Surgery within Borehamwood, allowing those who suffer from mental health issues access to face-to-face consultations. Such consultations are currently undertaken remotely in Borehamwood.

1.12 In addition to the offerings from the Doctor's Surgery it is anticipated that an Optometrist will be present on site, and it is hoped that both a Pharmacy and Dental practice will also be present - subject to NHS licensing. It is clear that the new Medical Centre will be quite a significant health hub, which will not only be utilised by local residents, but also by residents all over Borehamwood and the surrounding areas.

1.13 We submit that such a healthcare hub would directly meet the targets outlined in Section 1.1 of the NHS Long Term Plan; in ensuring that healthcare is fully integrated, and community based.

Proposed Location

1.14 The proposed location is situated amongst the new housing developments in the North West of Borehamwood. The most accurate location we have at this time is the current GRIGGS new housing development, WD6 4DG.

1.15 A Community healthcare hub and additional housing is to be erected adjacent to this land all with ample free parking and wide walkways to access local services. [see Appendix A].

Regulations

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

"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".

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

(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 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)),*
>
> *(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*
>
> *(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)),*

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;

1.18 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.

1.19 We have addressed these regulations overleaf.

Wider Population

1.20 Borehamwood has experienced rapid population growth in recent years. From 2011 to 2021, overall population growth was 12%. For context, the UK usually sees a 0.3% annual growth rate for the population; thus, 12% growth over a decade represents a sizeable change in population.

1.21 Despite this rise in population, pharmaceutical provision has not increased. Notably, this uptick in population has placed significant strain on housing in Borehamwood. Such is the need for new housing in Borehamwood, that 70% of forecast housing sites in Hertsmere over the next 15 years are to be constructed in Borehamwood. (2024 Draft Hertsmere Local Plan).

1.22 It is evident that housing within Hertsmere is to be concentrated in Borehamwood for years to come. This in addition to the 800 homes built as part of the Elstree Way Corridor Development. We submit that the population in Borehamwood has grown and will continue to grow. Once the healthcare hub has been developed, it is likely that much of the Borehamwood population will seek to access their healthcare needs at this site. We submit that the absence of a pharmacy at what will ultimately be an important community healthcare hub does not represent reasonable choice nor sufficient access to pharmaceutical provision.

1.23 The Committee will be aware that pharmacies are no longer just dispensers but also provide number of other services such as blood pressure checks and Pharmacy First. Thus, it is important that pharmacies are sited where patients are likely to access them. We submit that a Pharmacy sited within this healthcare hub will enable patients to access a number of services together, making them more likely to interact with the whole range of Pharmacy services. From a psychological standpoint, we submit that patients are more likely to interact with pharmaceutical provision when it is part of a wider healthcare hub and associated as part of a wellness setting.

1.24 We also submit that the interaction with other healthcare professionals within the hub will encourage patients to use all facets of pharmaceutical provision, especially through close collaboration with the doctors.

1.25 A Pharmacy at the proposed site will allow healthcare providers across the spectrum to work together in accordance with the vision of the NHS long term plan.

Localised population

1.26 In addition to providing reasonable choice to provision as part of a destination healthcare hub, a pharmacy at the proposed site will significantly improve health outcomes for local residents.

1.27 As previously mentioned, outline planning permission has been granted for 110 new homes (of which 44 are reserved for social housing) to be built. Assuming an occupation rate of 2.5 people per home, there will soon be 275 additional residents in the area.

1.28 We note that the Proposed Location is situated in the Hertsmere 007E Lower Layer Super output Area (LSOA). The proposed pharmacy will also be the local

pharmacy for those residing in the Hertsmere 007A LSOA. Taking a look at latest census population data figures from the 2011 census, we can see that there are approximately 3000 local residents that would utilise a pharmacy at the proposed site. When we include residents of the new development, this would total approximately 3300 local residents.

1.29 We submit that these residents do not currently have reasonable choice or access to current pharmaceutical provision. When considering securing better access, we must consider what a typical patient journey would look like. We also consider the reasonable choice within these journeys, alongside how those with protected characteristics find those journeys.

1.30 Using the adjacent GRIGGS development, WD6 4DG, as an arbitrary marker to represent these residents; we can see that the next nearest pharmacy is Metro pharmacy, WD6 4EB, which is 0.8 miles away. It must be noted that distance in itself is also a barrier to access. For residents currently residing near the proposed site, current pharmaceutical services are difficult to access by foot, car, and public transport.

By Foot from Proposed site to current nearest pharmacy (Metro Pharmacy, WD6 4EB)

1.31 As can be seen from the map on the following page [see Appendix A], this journey is 0.8 miles or 17 minutes; equating to a 34-minute round-journey.

1.32 We cannot consider a 1.6-mile round walk to access pharmaceutical services as sufficient access, nor can we consider this as having a reasonable choice to pharmaceutical services. In fact, for residents near the proposed site, we would consider this as no pharmaceutical choice at all, much less than the threshold of ‘reasonable choice’.

1.33 Additionally, such an extended journey may prove difficult for the elderly, disabled, or parents with young children. Groups with protected characteristics do not have sufficient access by foot.

1.34 It follows that alternative pharmaceutical provision is also not accessible by foot on account of the greater distances involved, and thus there is a lack of reasonable choice and access to pharmaceutical services for those travelling by foot.

By Car from Proposed site to current nearest pharmacy (Metro Pharmacy, WD6 4EB)

1.35 The journey by car to Metro Pharmacy, WD6 4EB, is currently a 4-minute drive from the proposed site.

1.36 However, it must be noted that residents who live near the proposed site do not have the same access to a car as others may do in surrounding areas. Per the 2011 Census, 25.3% of households in Hertsmere 007E LSOA did not have access to a car or van. Residents in the adjacent Hertsmere 007A LSOA also had poor vehicular access with 21.8% of households not having access to a car or a van.

1.37 When we compare these figures to the 17.0% no car/van figure for Hertsmere, we can see that access to a car/van is extremely low for these residents.

1.38 It is clear that many residents do not have access to a car and thus this mode of transport is not an option for them. Hence, it cannot be determined that residents have reasonable choice in access to pharmaceutical services by car.

1.39 A pharmacy at the proposed site would encourage those without access to a car to walk to access pharmaceutical provision. We submit that a Pharmacy at the proposed site would encourage residents to interact with services above and beyond dispensing, such as Pharmacy First – ultimately leading to better health outcomes for the population.

By Public Transport from Proposed site to current nearest pharmacy (Metro Pharmacy, WD6 4EB)

1.40 For the journey by bus to Metro Pharmacy, WD6 4EB, patients would obtain the 292 bus from the RC Church bus stop. This part of the journey is only 2-minutes; however, residents would still need to walk half a mile to reach the RC Church bus stop in the first instance.

1.41 Clearly such access by bus is inadequate, especially when we consider that the elderly, disabled, and infirm may not be able to walk this half mile distance. Those groups that share protected characteristics clearly do not have a reasonable choice and access to pharmaceutical services by bus.

1.42 We note that the 361 bus can be caught to access pharmacy provision in Borehamwood town centre, however, this bus only frequents every half an hour. Feasibly, an elderly resident could be waiting half an hour in cold, inclement weather when waiting for a return bus. We do not consider this as constituting sufficient choice and access to pharmaceutical provision, especially for those groups who share protected characteristics.

Conclusion

1.43 We conclude that a pharmacy situated within the medical complex development would provide significantly greater access to pharmaceutical provision for the Borehamwood population, especially in connection with visits to other medical facilities. A pharmacy at the proposed site would directly meet the targets of the NHS long term plan of fully integrated, community-based care.

1.44 Granting this application would also secure better access to pharmaceutical services for the localised population. The elderly, disabled, and the wider population are likely to find the proposed pharmacy significantly more accessible than alternative choices. It would also introduce reasonable choice of pharmaceutical provider for those in the local area, when we consider that the nearest pharmacy is 0.8 miles away.

1.45 We would like to note that granting this application would not cause significant detriment to access of pharmaceutical services, due to the fact that the nearest pharmacy to the proposed site is located 0.8 miles away.

1.46 On the evidence outlined above, we believe that a new pharmacy contract should be granted."

2 Comments to the Commissioner

On reviewing the paperwork provided by PCSE, it was noted that the comments made by the Applicant and interested parties to the representations on the application, had not been circulated or seen by parties.

In the interests of transparency and fairness, NHS Resolution sought to rely on the discretion afforded in paragraph 7 of Schedule 3 of the Regulations to vary the normal procedures and circulate these comments to parties for them to make observations on them if they so wished.

2.1 HEALTHCARE PLUS CONSULTING LTD ON BEHALF OF THE APPLICANT

2.1.1 "Thank you for your letter dated 29th July 2025. We would like to take this opportunity to respond on behalf of our client to comments made by interested parties in the area. We note that:

2.1.1.1 It is undisputed that there will be a new Medical Centre and 110 new homes to the north of Borehamwood.

2.1.1.2 It is undisputed that the population of Borehamwood has increased by 12% from 2011-2021.

2.1.1.3 It is undisputed that 70% of forecast housing sites in Hertsmere over the next 15 years are to be constructed in Borehamwood.

2.1.2 We would like to note that Metro Pharmacy (WD6 4EB), Wellswood Pharmacy (WD6 1PU), Care Chemist (WD6 1AG), Manor Pharmacy (WD7 7LB), and Careplus Pharmacy (WD6 4RZ) have chosen not to provide representation. We can only infer that this is because they have no objections to the application.

2.1.3 Taking each representation in turn below:

Community Pharmacy Hertfordshire (CPH)

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

2.1.5 We reiterate that the new Medical Centre is expected to be completed next year, forming a wider health hub for residents across Borehamwood. While CPH noted that residents in Borehamwood typically access amenities at the retail park, they failed to consider that residents also access pharmaceutical services in connection with a visit to the GP. Thus, a pharmacy located with the new Medical Centre would significantly boost integrated care within Borehamwood and the surrounding areas and align with the goals of the NHS Long Term Plan.

2.1.6 CPH also state that the reliant population residing in the Brookmeadow Ward is 8,836 residents.

2.1.7 According to the attached article below [see Appendix B], we highlight that "*Manor View Practice's existing Borehamwood location can only serve 9,000 patients and needs to move*". Thus, it is likely that the population reliant on GP services in Borehamwood is more than the ward's population. We highlight that Griggs Homes are constructing a health centre with enough capacity to accommodate 21,000 patients. Thus, we can see that the new Medical Centre will be a significant health hub widely utilised by residents in Borehamwood and the surrounding areas. It would not be unreasonable to interpret it is likely that the reliant population will access pharmaceutical services in connection with GP services at the proposed site.

2.1.8 CPH mention that Hertsmere Local Authority is not deprived according to the 2019 Index of Multiple Deprivation. We note this is the local authority area, which captures over 100,000 people over a large area and does not accurately represent the local population living at/near the proposed site.

2.1.9 When looking at the localised population, we highlight that residents living in the LSOA adjacent to the proposed site (Hertsmere 006C LSOA) live within the top 10% most deprived areas in the country according to the 2019 IMD. It is well documented that higher levels of deprivation are linked with poorer health outcomes, and thus local residents are likely to be more reliant on GP and pharmaceutical services.

2.1.10 We are pleased that CPH accept that access to one or more cars in the Borehamwood Brookmeadow Ward is lower than the East of England average according to 2021 Census data. However, CPH fail to acknowledge the 12% population increase in Borehamwood from 2011-2021. Instead, they compare the population increase of the Borehamwood Brookmeadow Ward with the East of England. When we consider that the East of England's population increased by 8.3% between 2011 and 2021, which is the highest growth rate among all English regions, and that Borehamwood increased by 12% within this period, it is clear that the local population has experienced significant growth. This is even more pertinent when we consider that the UK sees an average 0.3% population growth rate annually.

2.1.11 We also reiterate that, upon completion, there will be a further 110 new homes of which 44 are designated for social housing. Thus, assuming an occupancy rate of 2.5 people per household, Borehamwood will see an additional influx of 275 residents in the area. This is notwithstanding the completion of 800 new homes as part of the Elstree Way Corridor development. We submit that both the existing and new communities will access services at the new healthcare hub and thus the absence of a pharmacy at this site does not represent reasonable choice or sufficient access.

2.1.12 When considering Borehamwood's current pharmaceutical provision, we note that CPH have provided distances 'as the crow flies', and not in reality. Therefore, we wish to correct the CPH and assert that there are only two pharmacies located less than 1.5-miles away from the proposed site, with the other five being further than 1.5-miles away according to Google Maps distances. In light of this, we submit that the distances in the table provided by CPH are ultimately incorrect and do not align with Google Maps.

2.1.13 When we look at the current nearest pharmacy, Metro Pharmacy (WD6 4EB), we highlight this is 0.8- miles away from the proposed location – not 0.6 miles. We can also see that CPH note the availability of the 292 and 601 bus services, without including the frequency of the buses within this table. While we have previously detailed the 292-bus route, we highlight that the 601-bus service does not operate consistently, but approximately between 30-minutes and 1-hour and 15 minutes. This is a highly infrequent service and does not represent sufficient access or reasonable choice to pharmaceutical services.

2.1.14 Clearly such access is inadequate, especially when we consider that the elderly, disabled, and infirm may not be able to walk the 1.6-mile distance distances or stand waiting for prolonged periods of time. Without pharmaceutical provision at the new Health Hub, we submit that residents must travel first to the new Medical Centre, then at least another 0.8-miles to a pharmacy, and then back to their homes. Such a journey is clearly excessive and could prove especially difficult for groups with protected characteristics and those who are already feeling unwell.

2.1.15 We also highlight that GP surgeries can refer patients to Pharmacy First services, which requires clear communication between the GP and pharmacy. It is common that patients could be referred back to the GP after this consultation, which would then require the patient to embark on multiple journeys back and forth between the GP and pharmacy. Thus, a Medical Centre and a pharmacy located together will work seamlessly without requiring patients to make additional journeys.

2.1.16 The CPH note that the 2022 PNA does not highlight the need for a new pharmacy. We submit 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 the CPH surrounding the PNA are not entirely relevant.

Boots

2.1.17 We acknowledge the representations submitted by Boots UK Ltd in response to the above application. Boots state that no evidence has been provided to suggest that residents in Borehamwood, including those who share protected characteristics, experience difficulties when accessing the existing pharmaceutical provision.

2.1.18 We highlight that the overarching legal test to meet Regulation 18 is whether NHS England is satisfied that granting the application "*would secure improvements, or better access, to pharmaceutical services*".

We submit that the regulations explicitly state that they have "desirability of" the considerations of Regulation 18(2)(b)(i),(ii), and (iii). However, they are merely supporting considerations when determining whether in fact the overarching test in Regulation 18(2)(b) has been met; an application should be granted should it provide "*improvements or better access*" to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area. In light of this, we reiterate that granting our client's application would indeed secure improvements or better access to pharmaceutical services, particularly within the new integrated health hub.

2.1.19 We submit that granting this application would improve access to pharmaceutical provision as residents can access pharmaceutical services at the proposed site in connection with a visit to the new medical centre and other healthcare services.

Conclusion

2.1.20 In conclusion, granting this application would secure better access and improvements to pharmaceutical services and provide reasonable choice for residents living in Borehamwood and the surrounding areas.

2.1.21 Residents across Borehamwood and the surrounding areas would attend the pharmacy in connection with a visit to the integrated Health Hub, enabling patients to access to medical and pharmaceutical services together. We submit this would directly meet the targets of the NHS long term plan of fully integrated, community-based care.

2.1.22 When we consider that the new Medical Centre can accommodate 21,000 patients and the nearest pharmacy is 0.8 miles away, it is evident that this will be a major health hub and the lack of pharmacy provision does not represent reasonable choice or sufficient access to pharmaceutical services.

2.1.23 The elderly, disabled, and the wider population are likely to find the proposed pharmacy significantly more accessible than alternative choices.

2.1.24 Granting this application would provide reasonable choice for these residents in Borehamwood and the surrounding areas and enable better access to provision for those groups who share protected characteristics.

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

3 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 24 October 2025 states:

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

3.1 “Hertfordshire and West Essex ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.”

Extract from the decision report

3.2 “Organ Hall Pharma Ltd - UB - Best Est WD6 - CAS-366512-J5W4S5

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

3.4 Application for inclusion in a pharmaceutical list: routine application offering to secure unforeseen benefits: Organ Hall Pharma Ltd: New Medical Centre, Borehamwood, WD6 4DG.

3.5 The Committee considered a routine application offering unforeseen benefits in the area of the Hertfordshire Health and Wellbeing Board (HWB) under Regulation 18 of the Regulations.

3.6 The Committee first considered Regulation 31.

3.7 The Committee noted that the applicant had provided a best estimate address of New Medical Centre, Borehamwood, WD6 for the location of the pharmacy premises within its application and included a map. The applicant’s representative had provided a more exact location as part of their supporting information and stated this as being adjacent to land already developed by Griggs Homes, WD6 4DG. The Committee noted both maps which were embedded within the Committee report.

3.8 The Committee noted the nearest pharmacies which were embedded within the report. The Committee noted that there are no existing services being provided by anyone on the pharmaceutical list from the proposed premises or at adjacent premises.

3.9 The Committee agreed that it is not required to refuse the application under the provisions of Regulation 31.

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

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

3.11 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.

3.12 The Committee agreed that as it is not yet known where the premises would be located there were no grounds for the Committee to refuse the application under Schedule 2, on the basis of Regulation 31.

Regulation 32 – Is the application to be deferred?

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

Regulation 40 to 44 - Applications in a controlled locality

3.14 The Committee noted that the proposed location is not within a controlled locality or reserved locality, so these Regulations do not apply.

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

3.15 The Committee considered if Regulation 18(1)(a) is satisfied in that it is required to determine whether it is satisfied that granting the application or granting it in respect of some of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB.

Regulation 18(1)(b)

3.16 The Committee considered whether Regulation 18(1)(b) is satisfied i.e. whether the improvements or better access that would be secured if the application was granted were or were not included in the relevant pharmaceutical needs assessment (PNA) in accordance with paragraph 4 of Schedule 1.

3.17 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).*

3.18 The Committee considered the applicant's full supporting evidence, which was embedded within the Committee report, but noted that the applicant's representative had provided the following background:

"The proposed location is situated amongst the new housing developments in the North West of Borehamwood. The most accurate location we have at this time is the current GRIGGS new housing development, WD6 4DG. A Community healthcare hub and additional housing is to be erected adjacent to this land all with ample free parking and wide walkways to access local services."

3.19 The Hertfordshire PNA 2025 – 2028, states Hertfordshire has a population of 1,210,534, a 1% increase from 2022, with 29% aged 55 and over.

3.20 Borehamwood is located in the Hertsmere locality in the PNA. Within the Hertsmere locality, this is 12.6% between age 66 and 80, 5.1% age 80 or over. The Hertfordshire PNA goes on to show that the population is projected to increase over the next 5 years "*Between 2024 and 2030, the overall population of Hertfordshire is projected to grow by 10,726 (0.87%).*"

3.21 The applicant's representative continues to describe the best estimate location:

"Outline planning permission has been granted for 110 new homes (of which 44 are allocated to social housing), and a Medical Centre adjacent to land already developed by Griggs Homes, WD6 4DG. It is anticipated that a pharmacy at this location will significantly improve patient's access to pharmaceutical provision, especially in connection with a visit to the medical centre and associated clinical facilities.

The New Medical Centre, which is due to be completed in Summer 2026, is to be built not only as a Doctor's Surgery, but as a wider health hub."

3.22 The Hertfordshire PNA states that there are 218 community pharmacies across Hertfordshire (plus 5 Distance Selling Pharmacies and 2 Distance Appliance Contractors).

3.23 The Committee noted that the overall number of providers of pharmaceutical services increases when combined with dispensing GP practices present in Hertfordshire, of which there are 7 plus 9 satellite sites.

3.24 The Committee noted the current Hertfordshire PNA notes in its Executive Summary:

"As part of this assessment, no gaps have been identified in provision either now or in the future (over the next three years) for pharmaceutical services deemed Necessary."

3.25 The PNA states that Necessary Services are Essential Services.

3.26 In its supporting statement the applicant's representative stated that:

"It is evident that housing within Hertsmere is to be concentrated in Borehamwood for years to come. This in addition to the 800 homes built as part of the Elstree Way Corridor Development. We submit that the population in Borehamwood has grown and will continue to grow. Once the healthcare hub has been developed, it is likely that much of the Borehamwood population will seek to access their healthcare needs at this site. We submit that the absence of a pharmacy at what will ultimately be an important community healthcare hub does not represent reasonable choice nor sufficient access to pharmaceutical provision"

3.27 However, in its summary, the Hertfordshire PNA states that for Necessary Services

"No gaps have been identified in the need for pharmaceutical services in Hertfordshire across the next three years."

3.28 The Committee noted that no supplementary statements had been produced which relate to major housing sites/developments in that locality since the publication of the Hertfordshire PNA 2025 -2028.

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

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

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

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

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

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

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

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

Regulation 18(2)(b)(i)

3.34 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Hertfordshire PNA, 2025 - 2028, 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 the [ICB's] duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services))

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

3.35 The Committee noted that the applicant's representative states the following points:

"In addition to providing reasonable choice to provision as part of a destination healthcare hub, a pharmacy at the proposed site will significantly improve health outcomes for local residents.

As previously mentioned, outline planning permission has been granted for 110 new homes (of which 44 are reserved for social housing) to be built. Assuming an occupation rate of 2.5 people per home, there will soon be 275 additional residents in the area.

We note that the Proposed Location is situated in the Hertsmere 007E Lower Layer Super output Area (LSOA). The proposed pharmacy will also be the local pharmacy for those residing in the Hertsmere 007A LSOA. Taking a look at latest census population data figures from the 2011 census, we can see that there are approximately 3000 local residents that would utilise a pharmacy at the proposed site. When we include residents of the new development, this would total approximately 3300 local residents"

3.36 The Committee noted that in the current Hertfordshire PNA 2025 -2028 there is no mention of additional needs in this area of Hertfordshire, and this takes into account the current and potential future population number of the Hertsmere area.

3.37 The applicant's representative goes on to further state:

"Using the adjacent GRIGGS development, WD6 4DG, as an arbitrary marker to represent these residents; we can see that the next nearest pharmacy is Metro pharmacy, WD6 4EB, which is 0.8 miles away. It must be noted that distance in itself is also a barrier to access. For residents currently residing near the proposed site, current pharmaceutical services are difficult to access by foot, car, and public transport"

3.38 The Committee noted there are 40 (40 hour) community pharmacies (including 2 Distance Selling Pharmacies) within 5 miles of the proposed location and within the 20 minute one way journey, as used by Hertfordshire HWB to determine acceptable access to pharmaceutical services.

3.39 The nearest pharmacy, Metro Pharmacy (FD707), WD6 4EB is in Borehamwood, which is to the east of the proposed location. The Committee noted the next nearest pharmacies indicated on the map embedded into the Committee report and shared prior to the meeting.

3.40 The nearest pharmacy, Metro Pharmacy, (FD707), Borehamwood currently provides the following services:

3.40.1 Medication review service

3.40.2 NHS Seasonal flu vaccination service (at risk groups)

3.40.3 Emergency contraception

3.40.4 Gluten-free food service

3.40.5 Vaccination service

3.40.6 Supervised consumption of medicines

3.40.7 Needle and syringe exchange

3.40.8 Head lice management

3.40.9 Healthy start vitamins

3.1.1 Inhaler technique service

3.1.2 Stop smoking voucher service

3.1.3 (Non-NHS) Blood pressure monitoring

3.1.4 (Non-NHS) Seasonal flu vaccination service (not at risk groups)

3.1.5 (Non-NHS) Travel Clinic

3.1.6 COVID-19 lateral flow tests (eligible NHS patients)

3.1.7 NHS Hypertension Case Finding Service / Blood Pressure Checks

3.1.8 NHS Blood Pressure Check Service

3.1.9 NHS Pharmacy Contraception Service

3.1.10 NHS Pharmacy First Service

3.1.11 Inhaler Recycling

3.1.12 Prescription collection from local General Practices

3.1.13 Repeat Prescription Service

3.1.14 Prescription delivery Service

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

3.41.1 Supervised consumption

3.41.2 Needle Syringe Programme including take-home naloxone

3.41.3 Chlamydia and Gonorrhoea screening

3.41.4 Smoking Cessation

3.41.5 Emergency Hormonal Control

3.41.6 Flu Vaccination

3.41.7 Pharmacy Contraception Service

3.41.8 Hypertension Case Finding

3.41.9 New Medicine Service

3.1.15 Pharmacy First

3.1.16 Sexual Health Service

3.1.17 Chlamydia Treatment

3.1.18 NHS Health Checks

3.1.19 Stop smoking service

3.1.20 Varenicline PGD

3.1.21 Immediate access to emergency medicines

3.42 The Committee noted the data showing the top 10 prescribing locations for prescriptions dispensed by the five closest community pharmacies to WD6 4DG, the proposed site and within a 2km radius of the proposed site. One of the nearest pharmacies is Careplus Pharmacy Ltd which is a Distance Selling Pharmacy. The Committee noted the embedded screen shots from SHAPE within the Committee report which was also shared prior to the meeting.

3.43 For Metro Pharmacy, 49% of their dispensing activity is generated from Manor View Practice, Bushey and 27.5% from The Grove Medical Centre Borehamwood. For Boots Pharmacy, 45.8% of their dispensing activity is generated from The Grove Medical Centre Borehamwood and 18% from Manor View Practice, Bushey. For Wellswood Pharmacy, 63.3% of their dispensing activity is generated from Fairbrook Medical Centre Borehamwood and 13.2% from The Grove Medical Centre Bushey. For Care Chemist, 46.7% of their dispensing activity is generated from The Grove Medical Centre Borehamwood, and 17.2% from Manor View Practice, Bushey.

3.44 The Committee noted there are three GP practices and one branch surgery within 1.5 miles of the proposed site. These being Fairbrook Medical Centre, Borehamwood, Manor View Practice, Bushey (branch at Theobald), The Grove Medical Centre, Borehamwood and The Red House Group, Radlett.

3.45 The Committee was also aware that 77% of all prescriptions dispensed in England are repeat prescriptions, so a GP visit prior to a pharmacy may not be necessary.

3.46 In the applicant's representative response to 45 day representations, information was included that indicated that it would be the Theobald branch of Manor View Practice (currently serving approx. 9339 patients (from CQC Inspection Report – Manor View Practice at Theobald 2018) that would relocate to the proposed site of development.

3.47 Dispensing activity for these practices was embedded into the Committee Report and shared prior to the meeting. The Committee noted that there is a wide choice of pharmacies utilised for dispensing of prescriptions issued.

3.48 For Fairbrook Medical Centre, Borehamwood, 17641 prescriptions are dispensed by 90 pharmacies; for Manor View Practice, 48251 prescriptions are dispensed by 308 pharmacies; The Grove Medical Centre, Borehamwood 15923 prescriptions are dispensed by 86 pharmacies; The Red House Group, Radlett, 20139 prescriptions are dispensed by 141 pharmacies.

3.49 Patient choice is therefore facilitated by 40 other pharmacies that are located within five miles and within a 20 minute drive, determined as an acceptable distance as set out in the Hertfordshire PNA.

3.50 The Committee reminded itself that the test is whether or not those living in Borehamwood have reasonable choice with regard to obtaining pharmaceutical services in the area of Hertfordshire HWB, not in Borehamwood.

3.51 The Committee agreed that no evidence had been provided to demonstrate that those living in Borehamwood are currently unable to exercise a choice in obtaining pharmaceutical services.

3.52 The Committee noted the core and supplementary hours that are provided by Metro Pharmacy (FD707):

	Current								40:00	16:00
	S1		C1		S2		C2		S3	
Monday			9:00	13:00			13:00	17:00	17:00	18:30
Tuesday			9:00	13:00			13:00	17:00	17:00	18:30
Wednesday			9:00	13:00			13:00	17:00	17:00	18:30
Thursday			9:00	13:00			13:00	17:00	17:00	18:30
Friday			9:00	13:00			13:00	17:00	17:00	18:30
Saturday	9:00	13:00			13:00	17:30				
Sunday										

3.53 Based on the information presented, the Committee noted that it was satisfied that there is already reasonable choice with regard to obtaining pharmaceutical services in the area of Hertfordshire HWB. 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 in the area of the relevant HWB which were not foreseen when the Hertfordshire PNA 2025-2028 was published.

3.54 Reg 18(2)(b)(ii) - people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access.

3.55 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Hertfordshire PNA 2025-2028, it is satisfied that, having regard in particular to the desirability of—

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

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

3.56 The applicant's representative states that:

"When considering securing better access, we must consider what a typical patient journey would look like. We also consider the reasonable choice within these journeys, alongside how those with protected characteristics find those journeys. Using the adjacent GRIGGS development, WD6 4DG, as an arbitrary marker to represent these residents; we can see that the next nearest pharmacy is Metro pharmacy, WD6 4EB, which is 0.8 miles away. It must be noted that distance in itself is also a barrier to access. We cannot consider a 1.6-mile round walk to access pharmaceutical services as sufficient access, nor can we consider this as having a reasonable choice to pharmaceutical services. In fact, for residents near the proposed site, we would consider this as no pharmaceutical choice at all, much less than the threshold of 'reasonable choice'.

Additionally, such an extended journey may prove difficult for the elderly, disabled, or parents with young children. Groups with protected characteristics do not have sufficient access by foot "

3.57 The Committee noted the embedded table and maps within the report to show the travel time and distance from the proposed site within Borehamwood to the nearest pharmacy, Metro Pharmacy (FD707). These documents were shared with the Committee prior to the meeting.

3.58 The Committee noted the embedded information within the Committee report to show the public transport provision to the 40 pharmacies within a 5 miles radius.

3.59 It was noted that Borehamwood has a number of bus providers that travel to Borehamwood including the town centre, Radlett, Welwyn Garden City and beyond. The bus stop close to the proposed location is on Theobald Street /Wetherby Road and is 0.3 miles and a 6-minute walk from the proposed location.

3.60 The Committee noted the applicant had provided the following information as evidence to meet the criteria of Regulation 18(2)(b)(ii):

3.61 The applicant's representative stated:

"By Foot from Proposed site to current nearest pharmacy (Metro Pharmacy, WD6 4EB)

……., this journey is 0.8 miles or 17 minutes; equating to a 34-minute round journey."

…..such an extended journey may prove difficult for the elderly, disabled, or parents with young children. Groups with protected characteristics do not have sufficient access by foot"

3.62 The applicant's representative stated:

"By Public Transport from Proposed site to current nearest pharmacy (Metro Pharmacy, WD6 4EB) For the journey by bus to Metro Pharmacy, WD6 4EB, patients would obtain the 292 bus from the RC Church bus stop. This part of the journey is only 2-minutes; however, residents would still need to walk half a mile to reach the RC Church bus stop in the first instance.

Clearly such access by bus is inadequate, especially when we consider that the elderly, disabled, and infirm may not be able to walk this half mile distance. Those groups that share protected characteristics clearly do not have a reasonable choice and access to pharmaceutical services by bus.

We note that the 361 bus can be caught to access pharmacy provision in Borehamwood town centre, however, this bus only frequents every half an hour. Feasibly, an elderly resident could be waiting half an hour in cold, inclement weather when waiting for a return bus.

By Car from Proposed site to current nearest pharmacy (Metro Pharmacy, WD6 4EB)

The journey by car to Metro Pharmacy, WD6 4EB, is currently a 4-minute drive from the proposed site.

However, it must be noted that residents who live near the proposed site do not have the same access to a car as others may do in surrounding areas. Per the 2011 Census, 25.3% of households in Hertsmere 007E LSOA did not have access to a car or van. Residents in the adjacent Hertsmere 007A LSOA also had poor vehicular access with 21.8% of households not having access to a car or a van.

When we compare these figures to the 17.0% no car/van figure for Hertsmere, we can see that access to a car/van is extremely low for these residents."

3.63 The Committee noted that the representative had quoted car ownership statistics from the 2011 Census, rather than the 2021 Census. The latter shows lower figures for those without car or van ownership.

3.64 The Committee noted that the Hertfordshire PNA 2025-28 states:

"Census 2021 data shows that the overall percentage of households who have access to a car or van is 84.4% in Hertfordshire compared to 76.5% in England"

3.65 Furthermore, with regard travel time in summary the Hertfordshire PNA 2025 - 2028 states:

"- 100% of the population in Hertfordshire can get to a pharmacy within 20 minutes when choosing to drive, whether this is off peak or on peak.

- 84% of the population are able to walk to the pharmacy within 20 minutes.

- 45% are able to travel via public transport to a pharmacy within 20 minutes; 97% are able to within 30 minutes."

3.66 The applicant's representative focused on the journey from the proposed location to the nearest pharmacy and did not mention the access to pharmacy services with regard to public transport, from the bus stop located on Theobald Street/Wetherby Road junction into the town centre of Borehamwood, where there are a number of pharmacies offering services. This is a journey time of 14 minutes, with buses every 30 minutes.

3.67 The Committed noted that whilst it is accepted that there would be people with protected characteristics living in the Borehamwood area and that some may need pharmaceutical services as a result, there was no evidence submitted that any specific groups have any difficulty accessing such services.

3.68 The Committee were not satisfied that, having regard to the desirability of people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published.

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

3.69 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Hertfordshire PNA 2025-2028, it is satisfied that, having regard in particular to the desirability of—

• there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also the NHSCB'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 Hertfordshire HWB that were not foreseen when the PNA was published.

3.70 The applicant had not provided any specific supporting information with regard to an innovative approach to the delivery of pharmaceutical services. Rather stating that:

"We conclude that a pharmacy situated within the medical complex development would provide significantly greater access to pharmaceutical provision for the Borehamwood population, especially in connection with visits to other medical facilities. A pharmacy at the proposed site would directly meet the targets of the NHS long term plan of fully integrated, community-based care."

3.71 As the applicant has not provided any evidence regarding innovative approaches in the delivery of pharmaceutical services, the Committee were not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the Hertfordshire PNA, 2025 - 2028 was published.

Representations

3.72 During the 45-day notification period, representations was received from:

3.72.1 Community Pharmacy Hertfordshire

3.72.2 Boots the Chemist Head Office

3.73 The full representations were embedded into the Committee report and shared prior to the meeting.

Regulation 18(2)(b) generally

3.74 The Committed noted that the embedded document showing the opening hours of those pharmacies that are closest to the proposed postcode and noted that supplementary hours can be withdrawn at any time in line with the Regulations.

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

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

Regulation 65 – Core opening hours conditions

3.77 The applicant is proposing 53.5 core hours, 13.5 of which would be directed.

3.78 The directed hours would be 08:30-09:00, 13:00-14:00, 18.00–19:00 Monday, Tuesday, Wednesday and Friday with 08:30-09:00, 13:00-14:00, 18.00–20:00 on Thursday.

3.79 The Committee noted the confirmation of the core and directed opening hours that were shown within the report.

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

3.80 The Committee agreed that this would not be affected in granting this application. The Committee discussed travel times and close proximity to other pharmaceutical services.

3.81 The Committee noted that, in general, most people no longer visit the GP practice before visiting a pharmacy, therefore a pharmacy nearer to housing would be considered more useful.

3.82 The Committee noted that this application was proposing to open on the outskirts of Borehamwood. It was noted within the application that there was a suggestion that people would be unable to travel which contradicts the need for a pharmacy to open on the outskirts.

Decision:

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

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

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

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

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

3.84 For all the above reasons and in accordance with Regulation 18(2)(b), the Committee determined that the granting of this application would not confer significant benefits on persons in the area of the Hertfordshire HWB which were not foreseen when the Hertfordshire 2025 - 2028 PNA was published.

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

3.86 The Committee agreed that the applicant, Organ Hall Pharma Ltd, New Medical Centre, Borehamwood, WD6 4DG, has rights of appeal.

Regulation 50: Discontinuation of arrangements for the provision of pharmaceutical services by doctors

3.87 The Committee noted that Regulation 50 does not apply as the application was not granted.

Regulation 66 – directed services conditions.

3.88 The Committee noted that Regulation 66 does not apply as the application was not granted."

4 The Appeal

In a letter dated 22 November 2026 addressed to NHS Resolution, Healthcare Plus Consulting Ltd on behalf of the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

4.1 "Thank you for your letter dated 24th October 2025. Organ Hall Pharma Ltd have instructed us, Healthcare Plus Consulting Ltd, to act on their behalf for this appeal, please find an authorisation letter attached. We would like to appeal the decision made in relation to the above unforeseen benefits application.

4.2 We note that in their decision to refuse our client's application the ICB remarked that; "*no evidence had been provided to demonstrate that those living in Borehamwood are currently unable to exercise a choice in obtaining pharmaceutical services*." However, NHS Resolution will note that this is in fact not the correct regulatory test. The correct test is whether an application provides '*improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area*.'

4.3 We highlight that there is not necessarily a need to submit evidence as such, but rather a reasonable interpretation of the regulations be made. We believe 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. [see Sections 1 and 2 above].

4.4 In particular, we submit that the ICB placed undue weight on the findings within the PNA; given that the PNA explicitly did not consider the findings of the NHS 10-year plan.

4.5 We also highlight that the ICB did not consider the full range of reasoning presented in our client's application, failing to give due consideration to the following:

4.5.1 Organ Hall Farm Development

4.5.2 New Medical Centre

4.5.3 NHS 10-Year Plan

4.5.4 Local Population

4.5.5 Current Pharmaceutical Provision

4.5.6 Patient Journeys

4.6 We also note that Metro Pharmacy (WD6 4EB), the only pharmacy within a mile of the proposed site, did not object to this application; we can only infer that this is because they have no objections.

4.7 This also holds for several other local operators who did not provide representation: Wellswood Pharmacy (WD6 1PU), Care Chemist (WD6 1AG), Manor Pharmacy (WD7 7LB) and Careplus Pharmacy (WD6 4RZ).

Organ Hall Farm Development

4.8 As per the attached press release, Griggs Homes has submitted a reserved matters planning application for the next stage of the Organ Hall Farm development. The Committee will be aware that this development includes:

4.8.1 New Medical Centre

4.8.2 110 new homes (40% affordable housing)

4.8.3 Open Spaces

4.9 We highlight that the medical centre is prioritised for delivery early in the construction programme, with Manor View Practice exchanging on the lease – thus giving legal commitment to the new premises. Manor View Practice (MVP) envision opening at the Organ Hall Farm Site in Summer 2026, which at 1,000 square metres is 72% larger than the current site. The Committee noted that the patient list size of MVP was approximately 9,339 patients in 2018, however, this has since grown to c.13,000 patients.

4.10 In a letter to Wes Streeting, which has been attached below, Hertsmere Borough Cllr Newmark raised the issue with the growing population and increasingly strained health service within Hertsmere: "*Under the recent revised National Planning Policy Framework (NPPF) targets, Hertsmere Borough Council, as the local planning authority, is required to deliver 1,034 homes annually, which is a 41% increase over the existing housing delivery target. This growth will lead to a substantial increase in the local population, placing further pressure on an already stretched health service infrastructure*." (Appendix A, Cllr Newark Letter to Health Secretary, pg.1,2) [see Appendix C].

4.11 When we consider the growing population in the locality and the 72% increase in capacity that Manor View Practice will soon have (Appendix B, Griggs Homes press release) [see Appendix C]; it would not be entirely implausible to suggest that the patient list should swell by a similar percentage to c. 22,000 patients upon relocation to the Organ Hall Farm site, particularly when we appreciate the new development's positioning as a health hub.

4.12 Consequently, the demand for pharmaceutical services would be great at the new health hub; especially when we consider that pharmacies are now being increasingly engaged by the government in providing minor ailments services, currently through the Pharmacy First scheme, to aid struggling primary care networks; who are picking up the slack from overcrowding within A&E departments.

4.13 We note that the requirement for community-based healthcare has even been explicitly acknowledged by NHS Hertfordshire & West Essex ICB through a tender published in 2024 seeking uptake of an ANP minor illness service by a Borehamwood GP Practice. Within the tender, the ICB acknowledge that "*Low acuity A&E activity from Hertsmere could increase by approximately 27% over the next 2-3 years additionally same day primary care appointments account for between 45% and 56% of all Hertsmere's primary care activity, with this activity set to increase over the next 5 years*." (Appendix C, Minor Ailments tender) [see Appendix C].

4.14 It is clear that the need for minor ailments services, and in particular Borehamwood as this was the location for tender, is great within Hertsmere. This is all compounded by the fact that Hertsmere lacks its own A&E facility and thus is increasingly reliant upon community-based healthcare.

4.15 Thus, given the ICB is patently aware of these issues; it is puzzling that due weight was not given to the importance of the Pharmacy First service particularly through co-location with MVP at the Organ Hall site. As MVP shoulder the ever-increasing burden of primary care activity and low acuity A&E activity, it is essential that a Pharmacy be co-located to ensure the proper utilisation of Pharmacy First.

4.16 The Committee will be aware that patients can now be referred to the pharmacy by the GP for several minor conditions that a Pharmacist is clinically trained to deliver, with the vision that Pharmacies will deliver more and more of these services over the next five years as outlined in the new NHS 10-year plan: "*Over the next 5 years, we will transition community pharmacy from being focused largely on dispensing medicines to becoming integral to the Neighbourhood Health Service, offering more clinical services. As community pharmacists increasingly become able to independently prescribe, we will increase their role in the management of long-term conditions, complex medication regimes, and treatment of obesity, high blood pressure and high cholesterol*." (Fit for the future: 10 Year Health Plan for England. 2025, pg. 37) [see Appendix C]

4.17 However, we submit that for Pharmacy First to be effective close working alongside the GP is required to deliver the service. In particular, co-location is important as should any patient be required to go back and forth between the GP and Pharmacy there is no significant journey here.

4.18 This is significant for predominantly two reasons:

4.19 The first reason is that the GP will be more comfortable leaning on a Pharmacy for the wider clinical pathway; not just the 7 headline conditions of the Pharmacy First service. For example, should a patient present for back pain then they will be comfortable referring to the Pharmacy for an initial consultation, in the knowledge that if the condition is outside the Pharmacy's scope, then it is simple for the patient to return to the GP. Clearly, this is an entirely different consideration when the nearest Pharmacy is 0.8 miles away, and we submit that any GP would be highly unlikely to refer to the wider Pharmacy First clinical pathway in this scenario due to the distances involved.

4.20 The second reason is that should a patient be referred to a Pharmacy 0.8 miles away, present at that Pharmacy, and then be told that they need to return to the GP, not only is this frustrating but we submit that there are a number of residents that would simply give up at this stage and not return to the GP for any treatment. This is clearly an issue; and could lead to worsening health outcomes causing further pressures on the primary and secondary care networks. There will also be cases where the GP refers a patient to a Pharmacy this distance away and the patient simply does not present at the Pharmacy.

4.21 Thus, we submit that it is clear that a Pharmacy at the proposed location would secure much better access and choice to healthcare provision in the locality. Given the significant benefits of a Pharmacy at the proposed site, NHS Resolution will be aware that there are, in the main, two levers to try and achieve this:

4.21.1 Unforeseen Benefits application under Regulation 18 – this is the regulation that the present application has been submitted under

4.21.2 Relocation application under Regulation 24

4.22 Our client seeks to secure this better access through Regulation 18 through this submission for a 'new contract application'. We submit that Regulation 24 is also a pathway to secure better access at the new health hub; however, Metro Pharmacy situated 0.8 miles away is the only pharmacy that could

plausibly attempt to relocate. Even so, there is no guarantee that this relocation would be granted, especially when we consider the poor transport links that have been detailed in prior correspondence. Regardless, Metro Pharmacy, as an interested party, would have had the opportunity to give an undertaking for attempt of a relocation however this has clearly not been the case and thus it is relatively safe to assume that Metro Pharmacy will not be attempting relocation to the new health hub. Hence, it is clear that the only credible pathway for securing the required better access to pharmaceutical provision at the new health hub is through the grant of our client's unforeseen benefits application.

4.23 Again, the urgent and pressing need for local healthcare services in Hertsmere is reflected in Cllr Newmark's letter stating that "serious risk that the health infrastructure system will not be able to meet demand without adequate and urgent action" (Appendix A, Cllr Newmark's Letter to Health Secretary, pg.1,2) [see Appendix C].

New Medical Centre

4.24 In their decision report, we also submit that the Committee failed to give due consideration to the importance of the new health hub within Borehamwood, which is 72% larger than the existing surgery (Manor View Practice), and will include:

4.24.1 Minimum 20 consultation and treatment rooms

4.24.2 1 Counselling Room

4.24.3 2 Training Rooms

4.24.4 1 Meeting Room

4.25 We reiterate that the hub will comprise a multidisciplinary team of doctors, nurses, pharmacists, mental health professional, paramedics, dieticians and social prescribers, all dedicated to improving health outcomes for the local population.

4.26 The developer, Griggs Homes, also highlights the inclusion of pharmacists within the Medical Centre: "*The new centre will provide capacity for thousands more patients, and will feature in excess of 20 consulting and treatment rooms, 47% more than currently available, together with a* ***wide range of primary care services including pharmacists****, paramedics, physiotherapists, and mental health practitioners.*" (emphasis added). (Appendix B, Key Milestone Reached as Reserved Matters Application Submitted for Organ Hall Farm, pg.1) [see Appendix C].

4.27 It is very clear that pharmacists and by extension, pharmacies will meet this vision by providing integrated and accessible health services. We do note that GP Practices do currently employ Pharmacists through ARRS funding; however, this funding is not specifically set aside for a pharmacist and can be withdrawn at any time – thus without a Pharmacy there is no guarantee that a pharmacist will be present on site. We also note that a pharmacist operating under the GP umbrella is more restricted in terms of the scope of services that can be delivered. Hence, the only way to secure long-term better access is

through grant of our client's application; where presence of a Pharmacist will be compulsory under the NHS's terms of service.

4.28 We reiterate that the Medical Centre is being built to serve c. 22,000 patients, indicating a significant hub with a large capacity. Thus, it is expected that residents across Borehamwood, particularly in the North and surrounding areas, will access the hub for their health needs.

4.29 Despite better access to pharmaceutical services at the new health hub being one of the main drivers behind our client's application, we do not understand why the only consideration given to the hub by the ICB was:

"most people no longer visit the GP practice before visiting a pharmacy, therefore a pharmacy nearer to housing would be considered more useful."

4.30 It is not clear why the Committee state that "*a pharmacy nearer to housing would be considered more useful*" yet fail to consider that the proposed pharmacy will be situated amongst a new development of 110 homes. Further, the area surrounding the proposed site is already residential in nature.

4.31 Also, it is evident that the Committee did not give due consideration to the full-range of services that a Pharmacy can provide, particularly the Pharmacy First service as detailed above.

NHS 10-Year Plan

4.32 We submit that the improvements or better access our client's application intends to secure were not foreseen within the Hertfordshire PNA, as it did not consider the 10-year plan and the proposed Neighbourhood Health Service. The PNA explicitly states that:

"The 10-Year Health Plan for England has now been published, with community pharmacy recognised as a key part of primary care and its future potential outlined. Due to the timing of publication, ***this plan has not yet been fully analysed within this PNA"*** *(Hertfordshire PNA 2025-2028, pg. 36). (emphasis added)*

4.33 In light of this, we highlight that the new NHS Long Term Plan states "*Our aim is to establish a Neighbourhood Health Centre (NHC) in every community. … Once open, NHCs will be a 'one stop shop' for patient care and the place from which multidisciplinary teams operate*" and that "*Pharmacy will have a vital role in the Neighbourhood Health Service*." (Fit for the future: 10 Year Health Plan for England. 2025, pg. 36-7) It is clear that the new Health Hub is in line with the NHS' long-term vision, thus a pharmacy at the proposed site would ensure that Borehamwood's community has its very own Neighbourhood Health Centre.

4.34 We reiterate that the question with regard to Regulation 18 is whether the present application would secure improvements or better access to pharmaceutical services not foreseen in the PNA. In this case, co-locating a pharmacy with the new Health Hub clearly offers better access for patients accessing pharmacy services in connection with GP visits. The greater coordination and access between services will also improve the overall quality of pharmacy services offered.

4.35 The Committee also regularly note throughout the decision report that the 2025 Hertfordshire PNA does not highlight the need for a new pharmacy. We submit 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 the Committee surrounding the PNA are not entirely relevant, especially when considering that it does not fully encompass the 10-year plan.

Local Population

4.36 Below is a map from the Hertfordshire PNA (2025-2028), depicting population density in Hertsmere, with the red arrow pointing to the proposed site. [see Appendix F]

4.37 As can be seen in the image above, the proposed site is amongst the most densely populated areas in the locality. The table below reveals the population densities of the two nearest Wards, The Brookmeadow and Cowley Hill Wards, using data from the 2021 census. We highlight that the proposed site is within the Brookmeadow Ward.

Location	Brookmeadow Ward	Cowley Hill Ward	Hertsmere Local Authority	England
Population Density (residents per sq. km)	4,917.4	4,665.8	1,065.9	433.5

4.38 When compared to the averages for Hertsmere and England; we can see that the population density of the local area is over 10 times the England average. In light of the ICB's statement that "*a pharmacy nearer to housing would be considered more useful*", we submit that the proposed site will be situated amongst both a densely populated area and a new Medical Centre. When we also consider the 110 homes to be built, we submit that these population densities will increase even further. We also highlight that the Lyndhurst Farm development will see 186 homes built in the North of Borehamwood, which will comprise of 100% affordable housing. This will further increase the demand for pharmaceutical services within the area and ultimately place more strain on Metro Pharmacy (WD6 4EB) - the only pharmacy in North Borehamwood.

4.39 The decision report also states that Hertfordshire's population is expected to grow by 0.87% between 2024 and 2030. We are unsure as to where the figure of 0.87% has originated from; figures suggested by the Hertfordshire Growth Board (HGB) predict a population increase of up to 175,000 residents by 2031. Whilst this figure is an estimate, it's clearly indicative that local bodies expect a much larger population increase than that suggested by the ICB. The estimate presented by the HGB equates to a population growth of 14.6% by 2031.

4.40 We highlight the letter from Cllr Newmark, which states that "*under the recent revised National Planning Policy Framework (NPPF) targets, Hertsmere Borough Council, as the local planning authority, is required to deliver 1,034 homes annually*" (Appendix A, Cllr Newmark's Letter to Health Secretary, pg.2) [see Appendix C]. In addition to this, it was previously undisputed that 70% of

forecasted housing sites in Hertsmere over the next 15 years are to be constructed in Borehamwood. Consequently, population growth will be concentrated in Borehamwood and the demand for pharmaceutical services will only continue to increase.

4.41 It is also undisputed that the neighbouring LSOA to the proposed site (Hertsmere 006C) is in the 1st decile according to the Indices of Multiple Deprivation 2025, therefore amongst the top 10% most deprived areas in the country. Whilst the Hertsmere Local Authority could be considered affluent, localised populations must be individually assessed in order to understand localised health needs.

4.42 From the image above [see Appendix F], we can see that the entirety of the North Borehamwood area is relatively deprived. NHS Resolution will be aware that pharmaceutical provision should be doubly concentrated in areas of higher deprivation due to greater health needs, however, currently pharmaceutical provision is half the national average in North Borehamwood with approximately 9.5 pharmacies per 100,000 population compared to the national average of 18.1 per 100,000 population. This is clearly not representative of reasonable access or choice to provision, and an argument could be made for not just one, but three additional pharmacies given the deprivation in the area.

4.43 The ICB themselves have formerly identified the higher levels of deprivation in the locality, within their Hertsmere Minor Illness tender document from 2024 they stated that "*Hertsmere is home to some of HWE most deprived communities*." (Appendix C, Minor Ailments tender) [see Appendix C].

4.44 The letter by Cllr Newmark also addresses the deprivation in Borehamwood, stating that "*three GP practises in Borehamwood are amongst the nine most deprived GP practises across Hertfordshire and West Essex*" (Leader's Letter to Health Secretary, pg.1) [see Appendix C].

4.45 We submit that residents would access the services within the Health Hub, as well as utilising the pharmacy in connection to this. This would also provide better access by avoiding costs incurred by double journeys between the pharmacy and GP, reducing patients spend on transport, which may be unaffordable for residents especially those in more deprived areas. Instead, by utilising a pharmacy at the proposed site, both the GP and pharmacy could be visited within one journey.

4.46 Cost barrier to access is especially pertinent in the context to those residing near the proposed site when we consider that a large proportion of residents in Lower-Layer Super Output Area (LSOAs) near the proposed site reside in socially rented accommodation, as can be seen in the table below.

LSOA	% residents in social rented accommodation (2021)
Hertsmere 007E	31.3%
Hertsmere 007A	30.5%
Hertsmere 006C	69.0%
Hertsmere 006B	32.9%

4.47 When we compare these figures to the 17.1% average for England, we can see that local residents are far more economically deprived and thus in need of greater access to pharmaceutical provision locally.

Current Pharmaceutical Provision

4.48 The Committee noted the opening hours of Metro Pharmacy, the nearest pharmacy to the proposed site, have core hours between 09:00 and 17:00 Monday to Friday. Our client's proposed core opening hours are between 08:30 and 19:00 Monday through to Friday, and 08:30 till 20:00 on Thursdays.

4.49 We highlight that the hours proposed in our client's application align with the hours offered by the Manor View Practice. MVP is open until 18:30, with extended hours being offered until 20:00. Having the proposed pharmacy hours aligned with the opening times of the local GP will ensure a seamless service as envisioned within the 10-year plan. Currently patients in North Borehamwood are unable to attend a local pharmacy following a visit to the GP outside of the current 09:00-17:00 opening offered by Metro Pharmacy. Our client also proposes to open from 08:30 to provide better access to those residents who have appointments with MVP from 08:00 onwards.

4.50 Metro Pharmacy's core hours only align with the traditional working day, and therefore residents in employment may struggle to access a pharmacy in North Borehamwood. We submit that a pharmacy at the proposed site would be open until 19:00 or 20:00 on weekdays and from 8:30 in the morning, offering employed residents the choice to access to a pharmacy before or after work, which is currently unavailable in North Borehamwood. We submit that the proposed location will not only provide access to a pharmacy that can be used in connection to the new Medical Centre but also provides opening hours that can meet the needs of local residents. The next nearest pharmacy that opens outside of working hours is the Boots located in Borehamwood Retail Park (WD6 4PR).

4.51 However, journeys to this location can prove to be difficult as will be discussed later.

Metro Pharmacy (WD6 4EB)

4.52 As per our previous correspondence, we have addressed patient journeys to Metro Pharmacy (WD6 4EB). We reiterate that this is the only pharmacy located in the North of Borehamwood and is located 0.8 miles away from the proposed site with limited public transport availability.

4.53 We also highlight recent Google Reviews below [see Appendix F] which reveal issues with the service provided by the pharmacy.

4.54 First, we can see that a patient stated: "*don't bother coming here for pharmacy first*". It is concerning to read that a local resident is advising other patients to avoid accessing the pharmacy for such an important service. The significance of Pharmacy First cannot be understated and for Pharmacy First to be effective, the service must be accessible within communities. We reiterate that a local resident advising other patients to avoid Metro Pharmacy for these services does not represent reasonable choice and clearly indicative of the pressures that Metro Pharmacy is under.

4.55 One patient also stated, "*ever since we lost the other pharmacy, this one now has the monopoly*". Immediately, we can see that this resident feels they do not have reasonable choice of pharmacy provision in North Borehamwood. They also highlight the loss of a pharmacy, which we note closed in 2019. We submit that a pharmacy at the proposed location would introduce a reasonable choice for patients and provide better access to pharmaceutical provision.

4.56 The other two reviews received within the past year allude to general poor service. Clearly, there are issues with the level of service being provided to the point where patients do not feel they have a reasonable choice, and therefore granting this application for a pharmacy in the new medical centre would restore reasonable choice in North Borehamwood.

Patient Journeys

4.57 Throughout the decision report, the ICB references patients' journey times to pharmacies.

4.58 With regard to public transport, it was stated that; "*At least 98% of the population could reach a pharmacy by public transport in peak times in 30 minutes, and 93% in off-peak times in 30 minutes*." While a criterion may have been outlined for public transport journey times, there was no mention of the frequency of the transport, which we submit is an important metric when assessing a patient's ability to access a pharmacy. We also note that the table of bus journeys previously provided by CPH does not detail the frequency of the buses. We highlight that services such as the 361, 306, and 601 that were mentioned could require patients to wait at least 30 or 60 minutes for return journeys. We do not consider this as representative of reasonable choice.

4.59 We also note that local bus services have been under threat following a series of budget cuts from the county council. This has affected local routes such as the aforementioned 306 bus service, which faced timetable changes and service reduction. More recently, as of August 31st, 2025, the 601-bus service has been withdrawn altogether, further limiting patients' ability to access pharmaceutical services. This service was described as a "*crucial lifeline*" within a Change.Org initiative that gained over 750 signatures against removing the service. We have included this petition within appendix D [see Appendix C], which also highlights that "The lack of viable public transport alternatives means removing the 601 service will leave massive gaps in access". There is no guarantee that further significant changes will not take place in the near future, therefore, we submit that patients cannot rely on public transport in order to access pharmaceutical provision. Inherently, this is not indicative of good access or reasonable choice for residents in the locality.

4.60 It has previously been recognised that access to one or more cars in the Borehamwood Brookmeadow Ward is lower than the East of England average according to 2021 Census data. Inherently, we submit that these households with only one car may not always have access to it due to being used by another household member for work purposes. Given that the nearest pharmacy is only open during working hours we can see that this poses an access issue for both the household member at home and the member at work. For those groups with protected characteristics, including the elderly or those

with children, this scenario can force residents to walk or utilise public transport, both of which may prove difficult due to the extended journeys.

4.61 Other than Metro Pharmacy, the next nearest pharmacy is the Boots Pharmacy (WD6 4PR) located in the retail park. The journey from the proposed site to the retail park is 1.3 miles by foot or 30 minutes, equating to a 60-minute round trip. We cannot consider this as reasonable choice when accessing pharmaceutical provision.

4.62 The bus route only operates once every 30 minutes and still involves a total of 11 minutes or 0.5 miles walking, despite only being a 2-minute bus journey. When we consider that patients must endure travelling on foot for longer than they are travelling by bus, we submit this undermines the use of the service and does not represent reasonable choice by way of public transport. The return journey is 15 minutes with 9 minutes of walking; therefore, the complete journey could be up to 58 minutes, not including any time spent waiting for the departing journey.

4.63 Feasibly, an elderly resident could be waiting 30 minutes in cold, inclement weather when waiting for the outward or return bus. We do not consider this as constituting reasonable choice nor good access to pharmaceutical provision, especially for those groups who share protected characteristics.

4.64 When we consider the infrequent public transport service and the high concentration of population in the North of Borehamwood, we submit that a 1.6-mile round trip for residents surrounding the proposed site does not represent reasonable choice to pharmaceutical provision. Granting our client's application would therefore provide better access for these residents which could be used in connection to the new Health Hub, especially for those residents with protected characteristics and poorer economic outcomes.

Innovative Approaches

4.65 In addition to the Hypertension Case Finding Service our client will also be providing a new proprietary technology capable of assessing patients cardiovascular risk using retinal imaging and blood vessels analysis by Reti-CVD. This technology is not provided in any other pharmacy and our client is the sole UK software provider of this. It achieves the aspiration of the 10-Year Plan by integrating community providers (including optometrists, GPs and pharmacists). Using ordinarily available retinal images with no radiation and no contrast injections, the technology analyses retinal vessels using proprietary AI to give risk insights into cardiovascular disease on par with CT scans and at much higher accuracy than the current standard. We have attached a document in Appendix E [see Appendix C] detailing this new technology and how it will be beneficial in improving health outcomes within the locality, particularly how it is more accurate than the current standard-of-care that uses Qrisk2. Our client is also exploring a partnership with Abbott Pharmaceuticals to bring a point-of-care lipid and hba1c tool to complete the patient journey within a pharmacy setting, thereby reducing the pressures in primary care and still achieving the Government's aspiration of reducing cardiovascular deaths by 25% by 2030.

Conclusion

4.66 We disagree with the Committee's reasoning for refusal, as they failed to consider our client's application in detail.

4.67 In particular, the Committee did not fully acknowledge the new housing and substantial new Health Hub, as well as the explicit goals of the NHS long term plan. The Committee heavily relied upon the PNA, in which the 10-year plan was not fully analysed, many of the improvements and better access met by this application would therefore have not been included.

4.68 Throughout the decision report the Committee applied a radius of 5 miles and used demographic data of the Hertsmere Ward, neither of these are representative of the population our client's application intends to serve. Consequently, local demographic data such as the deprivation in the neighbouring LSOA were not properly assessed, particularly the economic deprivation in the area.

4.69 For the reasons outlined above, we do not consider there to be a reasonable choice to pharmaceutical services.

4.70 We therefore maintain that granting this application would secure better access and improvements to pharmaceutical services for local residents. We submit that Regulation 18 has been met, and we invite the Committee to grant our client's application."

4.71 The Applicant's representative also submitted:

4.71.1 Supporting information as set out at Section 1 above;

4.71.2 Comments to PCSE in response to the representations received as set out at section 2 above;

4.71.3 Decision report from the Commissioner as set out at section 3 above; and

4.71.4 Further supporting information see Appendix C.

5 Summary of Representations

This is a summary of representations received on the appeal.

5.1 THE COMMISSIONER

5.1.1 "Please note that from the 1 April 2023, community pharmacy contracting and commissioning has been delegated to Integrated Care Boards (ICBs). Hertfordshire and West Essex (HWE) ICB are hosting the function on behalf of the six East of England ICBs.

5.1.2 As requested in your letter, the most recent Hertfordshire Pharmaceutical Needs Assessment (PNA) can be found at Pharmaceutical Needs Assessment 2025. Please note that no supplementary statements have been published.

5.1.3 Please find below information we wish to be considered in relation to Organ Hall Pharma Ltd in respect of the above unforeseen benefits application.

5.1.4 Having reviewed the grounds of appeal made by Healthcare Plus Consulting Ltd on behalf of Organ Pharma Ltd (the "Appellant"), HWE ICB remains of the opinion that this application should be refused.

5.1.5 The main grounds for the appeal appear to be:

5.1.5.1 That the ICB placed undue weight on findings from the PNA.

5.1.5.2 The ICB did not consider the full range of reasoning presented in the Appellant's application.

5.1.6 The Appellant opens its appeal (appeal document, page 2) by stating that no objections were raised during the 45-day notification period. Whilst it is acknowledged that most of the nearest pharmacies did not submit representations, responses were received from Community Pharmacy Hertfordshire (CPH) and Boots Support Office, both of whom outlined the reasons they believed the Appellant's application lacked sufficient information in line with the NHS Pharmaceutical and Local Pharmaceutical Regulations 2013, as amended ("the Regulations")

Organ Hall Farm Development and current service provision

5.1.7 On page 2 of the appeal document, the Appellant provides details on the proposed new medical centre, 110 new homes and open spaces. The Appellant states *"Consequently, the demand for pharmaceutical services would be great at the new health hub; especially when we consider that pharmacies are now being increasingly engaged by the government in providing minor ailments services, currently through the Pharmacy First scheme, to aid struggling primary care networks; who are picking up the slack from overcrowding within A&E departments",* (page 2, appeals document).

5.1.8 Although the new development includes additional homes, these will not be fully occupied straight away, so the anticipated population increase will occur gradually, giving pharmacy contractors within the area ample time to adapt to any increase in footfall that may occur.

5.1.9 The Appellant further states *"Thus, given the ICB is patently aware of these issues; it is puzzling that due weight was not given to the importance of the Pharmacy First service particularly through co-location with MVP at the Organ Hall site. As MVP shoulder the ever-increasing burden of primary care activity and low acuity A&E activity, it is essential that a Pharmacy be co-located to ensure the proper utilisation of Pharmacy First,"* (page 3 appeals document).

5.1.10 The Appellant's application was considered under the required Regulations. There is no requirement to place greater weight on particular NHS advanced services. Consideration was also given to the information contained within the Hertfordshire Pharmaceutical Needs Assessment (Herts PNA), which states:

6.2.4.1 - Necessary Services: current provision - There are 23 community pharmacies (including two DSPs) in this district; this number has not changed since the last 2022 PNA. The estimated average number of community pharmacies per 100,000 population is 19.3 without DSP and 21.2 with DSP, both above the England average of 18.1 and the Hertfordshire average of 18.4" (Herts PNA, page 112).

5.1.11 The PSRC further noted when making its decision that there are already nine pharmacy contractors who have registered to provide the Pharmacy First service within the Hertsmere locality:

Table 1

Name of Pharmacy		Address
FG233	Boots Pharmacy	Unit 3B, Shopping Park, Boreham Wood, WD6 4PR
GRW10	Careplus Pharmacy	Unit 2, 49 Theobold Street, Borehamwood, WD6 4RZ
FVF26	Village Pharmacy	7 Howard Drive, Borehamwood, WD6 2NY
FF839	Greenlight Pharmacy	148 Manor Way, Borehamwood, WD6 1QX
FFE46	Med Mart	2 Imperial Place, Maxwell Road, Borehamwood, WD6 1JN
FD707	Metro Pharmacy	11 Leeming Road, Borehamwood, WD6 4EB
FWM59	Care Chemist	87-89 Shenley Road, Borehamwood, WD6 1AG
FL491	Wellswood Pharmacy	Wellswood House, Fairway Avenue, Borehamwood, WD6 1PU
FKE08	Tesco In Store Pharmacy	Shenley Road, Borehamwood, WD6 1GJ

5.1.12 The Appellant states *"we submit that for Pharmacy First to be effective close working alongside the GP is required to deliver the service. In particular, co-location is important as should any patient be required to go back and forth between the GP and Pharmacy there is no significant journey here"* (appeals document, page 3).

5.1.13 The NHS Pharmacy First service already allows for close working between GP and community pharmacy colleagues – it is not reliant on a community pharmacy being co-located with a GP practice. NHS Pharmacy First is already integrating pharmacies in a pharmaceutical list into the urgent care pathway through the referral of people to pharmacies by NHS 111, GP practices and urgent care. In addition, the service supports people being referred to a pharmacy of their choice, which may not be the pharmacy nearest their GP practice.

5.1.14 The Appellant continues…*"should a patient be referred to a Pharmacy 0.8 miles away, present at that Pharmacy, and then be told that they need to return to the GP, not only is this frustrating but we submit that there are a number of residents that would simply give up at this stage*

and not return to the GP for any treatment. This is clearly an issue; and could lead to worsening health outcomes causing further pressures on the primary and secondary care networks. There will also be cases where the GP refers a patient to a Pharmacy this distance away and the patient simply does not present at the Pharmacy."(appeals document, page 3).

5.1.15 Currently those who are registered with Manor View Practice (MVP) at Theobald are already accustomed to travelling a minimum of 0.8 miles should they choose to visit a pharmacy who is providing the Pharmacy First service. No evidence was submitted with the Appellants application or within its appeal to demonstrate that the granting of this application would result in improved or better access to pharmaceutical services that were not identified within the current PNA.

5.1.16 It is unclear if any patient engagement has taken place either before the application was submitted or as part of this appeal. There is no evidence by means of a patient survey or patient complaints to show that patients are struggling to access pharmaceutical services therefore it cannot be assumed that pharmaceutical choice is limited within the area.

5.1.17 The proposed new medical centre, which would also house the community pharmacy, would be situated on the outskirts of the residential area therefore meaning that patients would have to travel further should they wish to attend either a GP appointment or the pharmacy in person.

5.1.18 Within its appeal, the Appellant makes reference to the new medical centre serving around 22,000 patients and "*despite better access to pharmaceutical services at the new health hub being one of the main drivers behind our client's application, we do not understand why the only consideration given to the hub by the ICB was:*

"most people no longer visit the GP practice before visiting a pharmacy, therefore a pharmacy nearer to housing would be considered more useful," (appeal document, page 5)

5.1.19 Within the appeal, the Appellant references the health hub comprising of multidisciplinary teams detailing *"the developer, Griggs Homes, also highlights the inclusion of pharmacists within the medical centre."* (appeal document, page 4).

5.1.20 Whilst the ICB commends the integration of clinicians and notes the aims of the developer in creating a health hub, this cannot bypass the strict regulatory market entry processes. The application must be assessed against the Regulations.

5.1.21 The Appellant estimates an increase in list size at the new medical centre to approximately 22,000 registered patients. This is an estimate only, based on a housing delivery target. The current registered list size is 13,000. Any decisions need to be made in line with the Regulations based on the circumstances at the time. There may be an increase or fluctuation in list size going forward however this does not automatically translate into equivalent usage of the on-site pharmacy. Registered

patients are already accessing pharmaceutical services from a provider of their choice.

5.1.22 Patient choice remains a key principle under NHS regulations, and individuals are free to access pharmaceutical services from any provider, including existing community pharmacies. Factors such as convenience, personal preference, established relationships, and closeness to home or work will continue to influence where patients choose to have their prescriptions are dispensed. Therefore, the proposed patient list size should not be assumed to ensure demand for the proposed pharmacy.

5.1.23 NHS 10 Year plan

5.1.24 The Appellant has referred to the statement within the latest Hertfordshire PNA (appeal document, page 5) but has not quoted the conclusion from this statement. For clarity, the Hertfordshire PNA states:

"2.3 The 10 Year Health Plan

The 10-Year Health Plan for England has now been published, with community pharmacy recognised as a key part of primary care and its future potential outlined. Due to the timing of publication, this plan has not yet been fully analysed within this PNA; however, this does not materially affect the conclusions or findings of the current assessment for 2025-2028" (Hertfordshire PNA, page 36).

5.1.25 Therefore, the Hertfordshire Health and Wellbeing Board (HWB) did not envisage the 10 Year Health Plan would materially affect the conclusions of the latest PNA.

5.1.26 The Appellant references the Neighbourhood Health Centres, which according to the 10 Year NHS Plan ("plan") is an alternative model to integrated care for patients. Within the plan, the scope for community pharmacy is detailed, some of which includes:

5.1.26.1 increase the role of community pharmacy in the management of long-term conditions and link them to the single patient record (plan, page 12),

5.1.26.2 have a vital role in the Neighbourhood Health Service – bringing health to the heart of the high street (plan, page 39),

(source: https://assets.publishing.service.gov.uk/media/6888a0b1a11f859994409147/fit-for-the-future-10-year-health-plan-for-england.pdf)

5.1.27 From the above bullet points, it is clear that the proposal is not to have a pharmacy in every GP practice but to improve the integration of pharmaceutical services. Through the plan there is a clear distinction between a neighbourhood health centre and a community pharmacy, for example:

"In others, it might direct to a community pharmacy, to general practice, a neighbourhood health centre or to emergency care" (plan, page 51).

Local Population

5.1.28 Whilst the Appellant has provided statistics on the population density of the Brookmeadow, Cowley Hill and Hertsmere Local Authority Ward in comparison to the England National figure (appeal document, page 6), it should be noted that England's average covers a larger area when compared with much smaller wards. It should further be noted that a ward being above a national average does not automatically give reason for an Unforeseen Benefits application to be granted.

5.1.29 The Appellant highlights the proposed housing development at both Organ Hall and Lyndhurst Farm which will generate just under 300 new homes. The Appellant states *"This will further increase the demand for pharmaceutical services within the area and ultimately place more strain on Metro Pharmacy (WD6 4EB) - the only pharmacy in North Borehamwood"* (page 7, appeals document).

5.1.30 The latest Herts PNA confirms that it took into consideration planned housing developments when the PNA was being developed as well as confirming *"Hertfordshire HWB will continue to monitor pharmaceutical service provision in specific areas within the district where major housing developments are planned, to ensure there is the capacity to meet potential increases in service demand"* (page 115, Herts PNA). This section within the Herts PNA concluded that *"No gaps have been identified that if provided either now or in the future (next three years) would secure improvements or better access to services across Hertsmere"* (Herts PNA, page 116).

5.1.31 The Appellant has questioned data provided within the decision report stating *"The decision report also states that Hertfordshire's population is expected to grow by 0.87% between 2024 and 2030. We are unsure as to where the figure of 0.87% has originated from"* (appeals document, page 7). To confirm, the figure was taken directly from the latest Hertfordshire PNA, where it reports the predicted population growth across Hertfordshire over 6 years:

Districts	2024	2025	2026	2027	2028	2029	2030
Hertfordshire	1,210,534	0.19%	0.17%	0.14%	0.14%	0.12%	0.11%

(*Source: Hertfordshire PNA, Table 5, page 42)*

5.1.32 Whilst the Appellant has highlighted the predicted population growth and concerns raised by Cllr Newmark (appeals document, page 7), the latest Herts PNA considered population growth and states:

"*Future need. The district population growth is expected to increase over the next six years to 2030 only by 0.66% and the number of dwellings has increased from 2022 to 2024 by 0.65%; in line with the small population growth, only 214 new housing units are planned for completion in the next five years; this can be easily absorbed by the*

existing community pharmacy network. The current community pharmacy network is well placed to meet the predicted population and housing growth across the district for the lifetime of this PNA. No new or future gaps in provision have been identified as a result of planned developments during the lifetime of this PNA" (Herts PNA, page 114) and "*with projected increases in population and housing growth, there will be an increased corresponding demand. Pharmacies, particularly sole providers, may experience increased footfall and service pressures. However, the current assessment concludes that the community pharmacy network is currently able to accommodate this growth, supported by pharmacies' ability to adjust staffing levels and service delivery models where necessary. Hertfordshire HWB will continue to monitor pharmaceutical service provision in specific areas within the district where major housing developments are planned, to ensure there is the capacity to meet potential increases in service demand,"* (page 115).

5.1.33 On reviewing the letter from Councillor Newmark to The Rt Hon Wes Streeting (appeals document, page 41), it is evident that the content primarily highlights the challenges Hertsmere faces in relation to GP appointment availability. While these concerns are important for the wider health economy, they are not directly relevant to the Regulations that need to be considered to determine this application.

5.1.34 The Appellant states "*we can see that the entirety of the North Borehamwood area is relatively deprived. NHS Resolution will be aware that pharmaceutical provision should be doubly concentrated in areas of higher deprivation due to greater health needs, however, currently pharmaceutical provision is half the national average in North Borehamwood with approximately 9.5 pharmacies per 100,000 population compared to the national average of 18.1 per 100,000 population. This is clearly not representative of reasonable access or choice to provision, and an argument could be made for not just one, but three additional pharmacies given the deprivation in the area,"* (appeals document, page 8). It should be noted that whilst deprivation was considered by the PSRC, deprivation alone does not provide evidence of a lack of service provision within the Hertsmere locality nor is it a requirement of the Regulations to grant the opening of one or more pharmacy premises.

5.1.35 The Appellant makes the following assumption: *"We submit that residents would access the services within the Health Hub, as well as utilising the pharmacy in connection to this"* and *"we can see that local residents are far more economically deprived and thus in need of greater access to pharmaceutical provision locally"* (appeals document, page 8).

5.1.36 This is speculative and there is no evidence presented on appeal that people are in need of additional pharmaceutical provision locally. There will be some patients who may choose to use a pharmacy that is connected to a GP practice, there are a number of patients that will choose to continue accessing pharmaceutical services from their existing provider. No evidence has been submitted to substantiate that

local residents who are economically deprived are in a greater need of access to pharmaceutical services within the Hertsmere locality.

Current pharmaceutical provision

5.1.37 The Appellant refers to the core opening hours as declared in its application and how these hours will align with the medical practice (appeals document, page 8) when it is operational in the proposed timeframe of summer 2026.

5.1.38 The Appellant states that *"Currently patients in North Borehamwood are unable to attend a local pharmacy following a visit to the GP outside of the current 09:00-17:00 opening offered by Metro Pharmacy"* (appeals document, page 8).

5.1.39 This statement is incorrect. As evidenced in Appendix 1, the 4 pharmacies within the Borehamwood area are open in line with the hours the GP practice is open. The Appellant notes that if the application were granted it would *"provide access to a pharmacy that can be used in connection to the new Medical Centre but also provides opening hours that can meet the needs of local residents"* (appeals document, page 9). Again, no evidence has been provided to demonstrate that the pharmaceutical needs of the local residents are not being met by the current provision within the area.

5.1.40 The Appellant highlights the service provision of Metro pharmacy by means of Google Reviews. It is noted that since the Metro pharmacy entered the Pharmaceutical List of the Hertfordshire HWB in August 1989, there have been a total of 25 reviews on Google (Google reviews) . Of these 25 reviews, it can be seen that there are:

Number of stars	Number of reviews
5	11
4	3
3	2
2	1
1	8

5.1.41 It can be concluded that this small number of reviews is not a robust body of evidence, particularly noting there are more 5* reviews than 1* reviews. Considering the 36 years that Metro pharmacy has been providing pharmaceutical services to the residents of the Hertsmere locality, it is suggested that little weight should be placed on reviews.

5.1.42 The ICB is always concerned to read feedback from patients who have not had a good experience when attending a community pharmacy. When the ICB are made aware of concerns, matters are dealt with by the ICB in line with the contractual framework. The ICB have not been made aware of poor service that the patients have received by way of patient complaints/concerns.

5.1.43 The latest Herts PNA reports that there is *"equitable access to the essential services provided by all community pharmacies,"* (Herts PNA, page 114) as well as showing those who have registered to participate in Enhanced and Advanced services by percentage (Herts PNA, page 115):

"access to Advanced Services:

Pharmacy First: 100% (23) of pharmacies offer this service.

Pharmacy Contraception Service: 17% (4) of pharmacies offer this service.

Hypertension Case Finding Service: 100% (23) of pharmacies offer this service.

Smoking Cessation Service: 26% (6) of pharmacies offer this service.

LFD Service: 78% (18) of pharmacies offer this service.

Flu Vaccination service: 87% (20) of pharmacies offer this service.

New Medicine Service: 87% (20) of pharmacies dispensed this service.

Appliance Use Review: no pharmacies dispensed this service.

Stoma Appliance Customisation: 4% (1) of pharmacies dispensed this service.

access to Enhanced Services:

COVID-19 Vaccination Service: 43% (10) of pharmacies signed up to the campaign.

Bank Holiday Service: 30% (7) of pharmacies signed up to open."

Patient Journeys

5.1.44 Whilst the Appellant provides a synopsis of the public transport from page 10 of the appeals document, there is a bus service in place for those local residents who choose to use this mode of transport to visit a pharmacy of their choice. This was highlighted within the Committee Report that was presented at the PSRC meeting, it stated:

"The applicant's representative focuses on the journey from the proposed location to the nearest pharmacy however does not mention the access to pharmacy services with regard public transport, from the bus stop located on Theobald Street/Wetherby Road junction into the town centre of Borehamwood where there are a number of pharmacies

offering services. This is a journey time of 14 minutes, with buses every 30 minutes", (Committee report, page 13).

5.1.45 The Appellant makes reference to residents of Borehamwood Brookmeadow Ward having a car ownership of one or more cars lower than the East of England average (appeals document, page 11). As already highlighted within this representation, as wards are a smaller scale than England, it is not always an accurate comparison. According to the Office for National Statistics (ONS), data from the 2021 census shows that car ownership of more than one car or van for this Ward is at 79%:

5.1.46 The latest Herts PNA states within the Hertsmere section that *"The number of households that own a car or van is 84.5%, nearly the same as Hertfordshire and higher than England*

> *Between 88%-96% of the population can reach a pharmacy walking in 20-30 minutes.*
>
> *100% of the population can reach a community pharmacy by private transport in 20 minutes in peak and off-peak times.*
>
> *At least 98% of the population could reach a pharmacy by public transport in peak times in 30 minutes, and 93% in off-peak times in 30 minutes."*
>
> (Herts PNA, 6.2.4, page 112)

5.1.47 Whilst the ICB notes that there will be people in the area of the proposed site that do not have a car or are of a certain age or who have a disability, this does not mean they cannot access pharmaceutical services and/or do not have a choice. Services can be accessed via public transport or on foot. Some patients may choose to access services from a distance selling premises (DSP) and whilst the ICB recognises that DSPs are not the preference for all patients, some residents will choose to obtain their services from this type of contractor as not all essential and advanced services require face to face contact at the pharmacy premises.

5.1.48 The Appellant refers to those who may share a protected characteristic stating, *"For those groups with protected characteristics, including the elderly or those with children, this scenario can force residents to walk or utilise public transport, both of which may prove difficult due to the extended journeys"* (appeals document, page 11).

5.1.49 The demographics for the Borehamwood Brookmeadow Ward according to the 2021 ONS census maps 2021, show that there is a small minority of residents who are recognised as disabled under the Equality Act and are limited with their day to day activities. It should however be noted that these maps do not specify the ages of individuals and therefore it cannot be assumed that only the elderly are represented in these demographics, and there is no evidence to suggest that those fitting these criteria have difficulties accessing pharmaceutical services. The Appellant has not

5.1.50 provided any evidence demonstrating how individuals in these groups are unable to access pharmaceutical services.

Innovative Approaches

5.1.51 In its application, the Appellant stated "*We conclude that a pharmacy situated within the medical complex development would provide significantly greater access to pharmaceutical provision for the Borehamwood population, especially in connection with visits to other medical facilities. A pharmacy at the proposed site would directly meet the targets of the NHS long term plan of fully integrated, community-based care,"* (Committee report, page 14).

5.1.52 The ICB asserts that there is nothing innovative about a pharmacy being co-located with a GP practice; there are many already in existence. In any case, the test is whether the application offers innovative approaches with regard to the delivery of pharmaceutical services rather than the services themselves being innovative.

5.1.53 Within its appeal, the Appellant states *"In addition to the Hypertension Case Finding Service our client will also be providing a new proprietary technology capable of assessing patients cardiovascular risk using retinal imaging and blood vessels analysis by Reti-CVD,"* (appeals document, page 12). Whilst this could be considered as an innovative approach, it should be noted that according to Health Technology, this remains in development or limited to eye-clinic or research settings. It has not yet been widely deployed in pharmacies or included in formal CVD screening guidelines. Furthermore, there are no records on the NICE website or in official NICE publications indicating they have evaluated or provided guidance on Reti-CVD.

5.1.54 The Appellant further states that it "*is also exploring a partnership with Abbott Pharmaceuticals to bring a point-of-care lipid and hba1c tool to complete the patient journey within a pharmacy setting, thereby reducing the pressures in primary care and still achieving the Government's aspiration of reducing cardiovascular deaths by 25% by 2030",* (appeals document, page 12).

5.1.55 Whilst this is a commendable aim, it appears speculative. It could also be questioned whether this falls into the remit of ICB's when considering the delivery of pharmaceutical services to patients. It is noted that there are test pilots for this in other regions of the country.

Conclusion

5.1.56 While the ICB acknowledges that the Appellant has submitted additional evidence relating to innovative approaches, this does not alter the original determination of the application. The Appellant has not provided any new information that would change the view of the ICB regarding the decision made by the PSRC. Furthermore, the Appellant has not demonstrated that residents do not have a reasonable choice when accessing pharmaceutical services in accordance with Regulation 18 of the Regulations. On this basis, the ICB maintains its position that the application should be refused.

The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013

5.1.57 The Appellant states that *"the correct test is whether an application provides 'improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area," (appeals document, page 1).*

Regulation 18(1)(a) and 18(1)(b)

5.1.58 The PSRC considered Regulation 18(1)(a) and were satisfied in that it was required to determine whether granting the application or granting it in respect of some of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB.

5.1.59 When the PSRC considered Regulation 18(1)(b), it acknowledged that the latest Herts PNA reflected the position at the time of its publication. It was also noted that the Applicant sought to deliver unforeseen benefits not identified in that PNA, in line with paragraph 4 of Schedule 1 to the 2013 Regulations, particularly regarding access and choice.

5.1.60 Following a review of the latest Herts PNA, published in August 2025, it confirms the presence of 21 community pharmacies and 2 DSPs within the district.

5.1.61 PSRC noted that the hours the Appellant is proposing to undertake and noted that a direction would have to be in place if the application were granted.

Regulation 18(2)(a) (i) and (ii)

5.1.62 PSRC were satisfied there was no evidence to suggest that granting the application would cause significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of Hertfordshire HWB or the arrangements in place for the provision of pharmaceutical services in that area.

Regulation 18(2)(b)(i)

5.1.63 Based on the information PSRC had at the time of the meeting, it was of the view that there is reasonable choice with the Hertfordshire HWB.

5.1.64 PSRC noted that the latest Hertfordshire PNA does not identify gaps in the provision of pharmaceutical services, the travel distances and times set out in the PNA were considered, and they were deemed to be reasonable. PSRC were of the view that granting this application would not provide better access to pharmaceutical services.

Regulation 18(2)(b)(ii)

5.1.65 PSRC considered whether those people who share a protected characteristic have difficulty accessing services that meet specific needs for pharmaceutical services in the Hertfordshire HWB.

5.1.66 PSRC noted there was no evidence to meet the criteria of Regulation 18(2)(b)(ii). Whilst it is accepted that there would be people with protected characteristics living in the Borehamwood area and that some may need pharmaceutical services as a result, there was no evidence submitted that any specific groups have any difficulty accessing such services.

5.1.67 Pharmacies are expected to continue offering reasonable adjustments, such as accessible premises, language support, and home delivery, ensuring compliance with the Equality Act 2010. No gaps in access or choice for these groups were highlighted in the Herts PNA.

Regulation 18(2)(b)(iii)

5.1.68 PSRC noted the supporting statement provided by the Appellant:

"We conclude that a pharmacy situated within the medical complex development would provide significantly greater access to pharmaceutical provision for the Borehamwood population, especially in connection with visits to other medical facilities. A pharmacy at the proposed site would directly meet the targets of the NHS long term plan of fully integrated, community-based care."

5.1.69 PSRC noted that the Appellant had not provided any evidence regarding the use of innovative approaches in the delivery of pharmaceutical services. Therefore, PSRC could not be satisfied that granting the application would confer significant benefits on persons within the Hertfordshire HWB that were not foreseen within the latest Herts PNA.

Regulation 31

5.1.70 PSRC agreed that as it is not yet known where the premises would be located there were no grounds for the Committee to refuse the application under Schedule 2, on the basis of Regulation 31.

Conclusion

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

5.2 BOOTS

5.2.1 "Thank you for your correspondence informing us of the above appeal. Boots UK Limited wish to make the following comments:

5.2.2 The appellant has not provided any evidence to suggest that residents experience difficulties when accessing the existing pharmaceutical provision. They haven't provided any indication that patients who share

a protected characteristic do not have access to services or that there are specific needs not being met.

5.2.3 Our pharmacy at Borehamwood Retail Park, WD6 4PR is open 8am - 7pm Monday to Friday, 9am - 6pm Saturday and 10.30am – 4.30pm on Sundays.

5.2.4 There is no evidence to suggest that there is an unmet need in terms of opening hours. The appellant has not provided any evidence of a specific time of day or week that patients have identified that they are unable to access pharmaceutical provision. There is also no evidence to suggest patients do not currently have access to a reasonable choice of pharmaceutical services. There are seven pharmacies within 1.5 miles of the application site.

5.2.5 The appellant appears to believe that the PNA findings are not relevant to an unforeseen benefits application. However, the Organ Hill Farm development and the relocation of the Medical Centre have been known about for quite some time, certainly well before the most recent assessment of pharmaceutical provision across the Health & Wellbeing Board and subsequent production of the Hertfordshire PNA.

5.2.6 The Health and Wellbeing Board (HWB) have concluded in its recent assessment that there is no gap in pharmaceutical provision in Borehamwood.

5.2.7 Much of the information provided by the appellant is predicated on the new Medical Centre development. It is important to note that not all patient journeys start at the G.P Surgery and not all patients who are registered with this practice will live on the new housing development. Many of the Medical Centres existing patients will live closer to where it is currently located and will therefore need to travel the surgery if and when it opens in the new location.

5.2.8 Not all patients who access pharmaceutical provision do so after a visit to their G.P. Many will access a pharmacy for the services they offer, or to purchase over the counter products and/or for advice. The appellant has not provided any evidence that the existing contractors are not providing services such as Pharmacy First or that there is no capacity to within the existing network to cope with any increase in demand. Nor have they provided any evidence to substantiate their clam that patients "*would simply give up and not return to their G.P if referred back*" following a Pharmacy First consultation.

5.2.9 For patients who do require a prescription following a visit to their G.P, EPS allows patients nominate a pharmacy which is in a convenient location for them, this is not always the one closest to the G.P practice. It may be one that is closer to where they work, where they live or somewhere they travel regularly to, for example, where they access other amenities.

5.2.10 We believe that residents moving into the new housing will still have to leave the area to access other amenities such as larger shops/supermarkets, and other healthcare facilities.

5.2.11 We note that the appellant has provided external reviews on Metro Pharmacy and are using this unvalidated information to support their appeal. We do believe any weight should be given to this information as it does not form part of the regulatory test. Any issues raised regarding service delivery is a matter that should be dealt with between the relevant ICB and the contractor.

5.2.12 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.

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

5.3 COMMUNITY PHARMACY HERTFORDSHIRE

5.3.1 "Community Pharmacy Hertfordshire (CPH) provides this representation in response to the appeal submitted by Organ Hall Pharma Ltd.

Introduction regarding Local Contractor Representations

5.3.2 CPH has engaged with the existing pharmaceutical contractors in Borehamwood regarding this application. We wish to inform the Appeals Unit that local contractors have prepared individual responses to formally indicate their objections to this application. These responses (appendix 2) further demonstrate that the existing network has ample capacity and that there is no identified gap in service provision that would necessitate a new contract.

The Statutory Role and Objectivity of CPH

5.3.3 The appellant characterises CPH's participation in the consultation process as a pre-determined or "obligatory" objection. This is a misunderstanding of our role. CPH is a statutory consultee under the 2013 Regulations. We examine every application against the specific requirements of the pharmaceutical regulations to ensure a stable and sustainable network for patients. Our representations are based on an analysis of whether an application genuinely secures improvements or better access; where an application fails to meet these criteria, it is our responsibility to highlight those deficiencies to the Committee. We are not obliged to refuse an application if a strong need for a pharmacy is identified.

Relevance of the 2025–2028 Pharmaceutical Needs Assessment (PNA)

5.3.4 The appellant suggests that PNA findings are not relevant to an unforeseen benefits application. However, the 2025–2028 PNA for Hertfordshire was published after the plans for the Organ Hall Farm development and the Medical Centre relocation were established and publicly known. The Health and Wellbeing Board (HWB) concluded in this recent assessment that there was no requirement for additional

pharmaceutical services in Borehamwood. Therefore, the developments cited by the appellant were not "unforeseen" by the health system; they were considered and determined not to create a gap in provision.

Inappropriateness of Comments Regarding Existing Contractors

5.3.5 The appellant includes several anecdotal criticisms and external reviews concerning Metro Pharmacy to support their case for a new contract. CPH maintains that such comments are immaterial to a pharmaceutical contract application. The quality-of-service delivery by an existing contractor is a private contractual matter between the Commissioner (the ICB) and that specific contractor. It is not a valid regulatory metric for determining “unforeseen benefits” or “better access” under Regulation 18. Regulatory decisions must be based on the objective adequacy of the pharmaceutical network, not on unverified third-party reviews.

Clarification of Evidentiary Requirements under Regulation 18

5.3.6 Rather than critiquing the rationale of statutory consultees or the performance of existing contractors, the appellant must provide objective evidence to satisfy the legal tests of Regulation 18. To date, the following remains unproven:

5.3.6.1 Reasonable Choice: There is no evidence that those living in Borehamwood are currently unable to exercise a choice in obtaining pharmaceutical services. There are currently seven pharmacies within 1.5 miles of the site.

5.3.6.2 Protected Characteristics: No evidence has been submitted demonstrating that specific groups sharing a protected characteristic have difficulty accessing existing services or have special needs that are not being met.

5.3.6.3 Innovative Approaches: The applicant has not provided specific supporting information regarding an innovative approach to the delivery of pharmaceutical services that would confer significant benefits not already available.

5.3.6.4 Opening Hours: The available evidence indicates that the local population’s requirements are already met by the current pharmacy network’s opening hours. The appellant has not identified a specific time-of-day or day-of-the-week where patients are currently unable to access pharmaceutical services.

Methodological Concerns regarding Appellant’s Public Survey

5.3.7 It has come to our attention that in late December 2025, the appellant posted on several Borehamwood community Facebook pages (screenshots taken on 29 December 2025 are attached [see Appendix C]). CPH wishes to highlight the following factual points regarding this activity:

5.3.7.1 Inducement for Participation: The appellant is offering a £50 Amazon voucher prize draw for those who complete their survey. In a regulatory context, providing an inducement for participation can introduce bias into the data. Respondents may feel encouraged to support the Appellant's stated aim (the opening of a pharmacy) to ensure the survey's success or to participate in the draw.

5.3.7.2 Contextual Accuracy: The posts suggest the pharmacy was refused because there wasn't enough "local evidence." This oversimplification does not accurately reflect the regulatory framework of Regulation 18 or the comprehensive assessment performed within the PNA.

5.3.7.3 Reliability of Evidence: Data gathered through a self-selecting, incentivised social media survey lacks the objective rigour required for a pharmaceutical contract appeal. The public is being asked to provide views based on a representation of service gaps that contradicts the current PNA.

5.3.8 CPH suggests that any information gathered via this methodology should be viewed with caution by the Appeals Unit, as it may not reflect a truly objective assessment of pharmaceutical need.

5.3.9 The relocation of a GP surgery and the construction of new housing do not automatically equate to a need for a new pharmacy contract under Regulation 18. CPH invites the Appeals Unit to focus on the established regulatory requirements and notes that the burden of proof remains with the appellant to demonstrate a genuine gap in service that was not foreseen in the current PNA.

[Contained within the representations from Community Pharmacy Hertfordshire were letters from other contractors:]

5.4 CARE CHEMIST

5.4.1 "Thank you for your letter dated 4th December 2025 regarding the above application being appealed to NHS Resolution.

5.4.2 I have seen an email dated 12th August 2025 to PCSE Market Entry. This stated that Metro Pharmacy (WD6 4EB), Wellswood Pharmacy (WD6 1PU), Care Chemist (WD6 1AG), Manor Pharmacy (WD7 7LB) and Careplus Pharmacy (WD6 4RZ) have chosen not to provide representation.

5.4.3 I have only been made aware of this application on Monday 29th December 2025. I would like to know if this application was actually sent to the contractors in the area. If so, when was this sent and can you please provide evidence (copy) of this?

5.4.4 I believe we only came to know about this application due to several social media postings from Organ Hall Pharma Ltd which are inducing participation from residents with a £50 Amazon voucher prize draw. Is

this type of conduct acceptable by NHS England or GPhC standards? In my opinion, it is absurd and preposterous.

5.4.5 Care Chemist (WD6 1AG), has been providing pharmaceutical services serving the Borehamwood community since the 1980s and formally object to the above application and request the appeal be dismissed.

5.4.6 At the moment in Borehamwood (WD6), we currently have 7 pharmacies serving the community. There is absolutely no need for another one.

5.4.7 We are providing Pharmaceutical Services 6 days per week. We have 3 consulting rooms.

5.4.8 Boots Pharmacy in the retail park (WD6 4PR) is open 7 days per week.

5.4.9 Tesco Pharmacy in Borehamwood (WD6 1JG) is open 7 days per week too.

5.4.10 So, there is no lack of providing pharmaceutical services, nor would there be better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area.

5.4.11 The current Hertsmere Pharmaceutical Needs Assessment concluded there is no requirement for additional pharmaceutical provision in Borehamwood.

5.4.12 According to the letter dated 12th August 2025:

5.4.13 Griggs Homes are constructing a health centre with enough capacity to accommodate 21,000 patients. However, this does not mean that Manor View Practice will have 21,000 patients, since I believe they may have 9000 patients at their current site (Borehamwood). However, this is hard to tell since they have 4 different locations.

5.4.14 Organ Hall Farm development by Griggs Homes will have 110 new homes. This will equate to an additional 275 resident based on applying standard PNA planning assumption of 2.5 persons per household. This increase is not significant to create a gap in pharmaceutical services in the Borehamwood area. It can be easily absorbed by the current contractors in the area.

5.4.15 Organ Hall Pharma Ltd should not be included in the pharmaceutical list at the New Medical Centre, Borehamwood, WD6 4DG, since there is absolutely no need for it. There is no gap in pharmaceutical services. The Griggs Homes development will not create a significant gap in pharmaceutical services which cannot be absorbed by the current contractors in Borehamwood. There are no benefits in having Organ Hall Pharma Ltd included in the pharmaceutical list.

5.4.16 This appeal should be dismissed and the original decision of refusing Organ Hall Pharma Ltd to be included in the pharmaceutical list at the New Medical Centre, Borehamwood, WD6 4DG should be upheld."

5.5 MANOR PHARMACY

5.5.1 “On behalf of Manor Pharmacy in Radlett I write to ask NHS resolution [sic] to uphold Hertfordshire and West Essex ICB’s decision to reject the unforeseen benefits application by Organ Hall Pharma Ltd to open a new pharmacy in Borehamwood WD6 4AG.

5.5.2 Our objection is on the basis that the application fails to satisfy any of the three arguments contained in regulation 18(2)b of the 2013 NHS Pharmaceutical Services Regulations that the ICB must consider as the legal test.

5.5.3 The applicant itself suggests that its application fails to satisfy any of these three tests, and it errs in law by claiming that they “are desirable, however, they are merely supporting considerations”. This is not correct and case law and previous determinations by NHS Resolution have established that one of the three tests must be satisfied and the other conditions of regulation 18 met before an application can be approved.

5.5.4 The application contains many factual errors including on the annual growth of population of the UK which was 5.9% from 2011 to 2021 as per the ONS, not 0.3% annually as the applicant claimed. The applicant has not established why population growth is linked to a need for a new pharmacy, when this rationale is not present in any of the regulations. The number of pharmacies across England has fallen over the past ten to fifteen years, but this is in line with the stated wish of ministers, and the existing pharmacy network including in Borehamwood and Hertsmere are able to and expected to absorb these natural increases in local populations. In fact, an increase in the number of pharmacies will cause detriment to the provision of pharmaceutical services which NHS resolution must consider as in the regulations – see below:

Regulation 18 (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

5.5.5 The applicant makes the strange claim that the closest pharmacy from the proposed site is 0.8 miles away yet four minutes by car, but “an extremely low number” of residents drive locally. It then presents the number of residents that do not drive at 17%, below the national average, meaning 83% have access to car and can reach the closest pharmacy very quickly, which cannot be considered low by any interpretation of the word. Bus routes are also available and reliable.

5.5.6 Furthermore, the proposed site is surrounded entirely to the north by green space, where no houses exist. So naturally there will be no need for a pharmacy there as there are no buildings or residences. The number of new homes being built is comparatively small and their need can very easily be supported by the local network. Any pharmacy being opened to support the needs of 110 new homes will be very unviable.

5.5.7 The size of the proposed new GP surgery has no bearing on pharmacy services in the area, and there is no requirement in the regulations for every GP surgery to host a community pharmacy. In fact, this is not a new GP practice but one that is seeking to relocate and whose patients are already served by existing pharmacies locally.

5.5.8 Accordingly, the Appellant's reliance on the supporting considerations in Regulation 18(2)(b)(i)–(iii) is misplaced. In the absence of evidence demonstrating a genuine, significant, and unforeseen improvement or better access to pharmaceutical services, the statutory test is not met.

5.5.9 For these reasons, the original decision to refuse the application was correct and the appeal should be dismissed."

5.6 METRO PHARMACY

5.6.1 "I write to you with regard to the recent application for an inclusion in the pharmaceutical list on the basis of unforeseen benefits, proposed at the new medical centre in Borehamwood, WD6 4DG.

5.6.2 I am a pharmacist of over forty years and have been the owner and pharmacist at Metro Pharmacy, Borehamwood, WD6 4EB since 1989; Metro Pharmacy has been in existence for over fifty years, serving the Borehamwood community.

5.6.3 I write to formally and strongly object to the application to establish Organ Hall Pharma Ltd. and would like to expand as follows:

5.6.4 The grounds of the application are weak and unfounded. To establish a pharmacy on the basis of unforeseen benefits is invalid, particularly when the application is read alongside the Hertsmere Pharmaceutical Needs Assessment. Borehamwood's pharmaceutical provision is more than adequately presently met by existing pharmacies serving the community.

5.6.5 Metro Pharmacy is also undergoing a consideration of plans to expand; looking to provide additional private pharmaceutical services under the umbrella of and in partnership with a private GP surgery - ECGs, weight loss clinic, blood tests, travel clinic.

5.6.6 Metro Pharmacy already expanded its premises to twice its previous size, having bought Safedale Pharmacy, in 2018. We have three workstations with the capacity for five workstations, two dispensaries and private consultation rooms.

5.6.7 For the last two years we have been providing a phlebotomy service.

5.6.8 There is good car parking capacity within the parade and parking behind the pharmacy.

5.6.9 The pharmacy is located on various bus routes and is easily accessible from many parts of Borehamwood. We provide a free delivery service for patients unable to easily reach the pharmacy.

5.6.10 Since 2023 Metro Pharmacy has proactively and successfully been involved in delivering Pharmacy First services and in addition providing blood pressure monitoring services for many years, reporting blood pressure checks back to the doctors' surgeries.

5.6.11 We presently employ two pharmacists, two dispensers and three counter staff. There are eight well trained, professional staff members in total.

5.6.12 Much of the above relates to Metro Pharmacy and Metro Pharmacy's comprehensive service offering to the community because I would like to emphasise to you that my pharmacy is absolutely more than able to meet the pharmaceutical needs of the community in which it serves.

5.6.13 The population of Borehamwood has expanded since I bought the pharmacy in 1989 and I do not foresee that the small rise in Borehamwood residents with the establishment of the Organ Hall Farm development makes for the necessity of a new pharmacy within the area.

5.6.14 The application rests on the premise that the population will expand exponentially but the argument is weak and fails to recognise that Metro Pharmacy and other pharmacies within the area are successfully serving Borehamwood residents.

5.6.15 We concur entirely with the content of DR of Wellswood Pharmacy's email of 31st December 2025 and would also like to highlight that the criticism based around Google reviews aimed at Metro Pharmacy, used to promote the need for an additional pharmacy in the area, is uncalled for, unprofessional and does not take into account the strong, loyal and extremely satisfied client base we serve. A few, hand picked Google reviews, that have been addressed, does not strengthen the argument.

5.6.16 Furthermore I would like it to be noted that I, and certainly at least one other fellow Borehamwood pharmacist if not more, was not made aware of this application and came across it quite by chance on Facebook. As a pharmacy that will be directly affected should the appeal succeed an opportunity to offer comments and grounds of objection would have been reasonable and, I would have thought, of value as the application is considered."

5.7 WELLSWOOD PHARMACY

5.7.1 "I write on behalf of Wellswood Pharmacy (WD6 1PU), an established NHS pharmaceutical contractor that has served the Borehamwood community continuously since 1984, to formally object to the above application and to request that the appeal be dismissed.

5.7.2 This objection is submitted pursuant to the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, with particular reference to Regulation 18, and addresses the specific matters identified by NHS Resolution for determination.

Failure to Demonstrate Unforeseen Benefits under Regulation 18(1)

5.7.3 The applicant has failed to demonstrate that granting the application would secure improvements or better access to pharmaceutical services that were not already identified within the Pharmaceutical Needs Assessment (PNA). The current Hertsmere Pharmaceutical Needs Assessment explicitly concludes that there is no requirement for additional pharmaceutical provision in Borehamwood. No supplementary statement identifies any gap arising from the proposed medical centre or surrounding development.

5.7.4 The applicant relies on planned housing growth, predictable population increases, and GP relocation; all of which were foreseeable at the time of the PNA and therefore fail to meet the statutory test for unforeseen benefit.

Griggs Homes Development – Population Increase Does Not Create a Pharmaceutical Gap

5.7.5 The Organ Hall Farm development by Griggs Homes comprises 110 new dwellings. Applying standard PNA planning assumptions of 2.4–2.5 persons per household, this equates to an additional circa 260–275 residents.

5.7.6 This increase is modest, incremental, and foreseeable. It does not represent a scale of growth capable of creating a gap in pharmaceutical provision and can be readily absorbed by the existing pharmacy network in Borehamwood.

Existing and Planned Capacity Expansion at Wellswood Pharmacy

5.7.7 Wellswood Pharmacy is actively investing in expanded capacity to meet foreseeable demand. A premises extension is underway, enabling additional clinical and provisioned services within the next 12 months. In parallel, the installation of a dispensing robot will significantly increase dispensing throughput, improve efficiency and accuracy, and release pharmacist time for patient-facing clinical care.

5.7.8 These investments ensure that Wellswood Pharmacy can continue to safely and sustainably serve an expanding local population without the need for additional pharmaceutical premises.

No Evidence of Improved Access or Patient Detriment

5.7.9 The applicant asserts that proximity to the proposed site would improve access. This assertion is unsupported by evidence. Patients in Borehamwood routinely access pharmaceutical services independently of GP attendance, supported by extended opening hours, delivery services, and walk-in clinical availability across existing pharmacies.

5.7.10 There is no evidence that patients, including those with protected characteristics, experience difficulty accessing pharmaceutical services.

Accessibility, Parking, and Delivery Services

5.7.11 The appellant places disproportionate emphasis on physical proximity and travel time. This argument fails to reflect modern pharmacy access models and is weak in evidential and practical terms. Existing pharmacies in Borehamwood, including Wellswood Pharmacy, benefit from adequate on-site or nearby parking provisions, enabling convenient access for patients who attend by car. This is complemented by good pedestrian access and public transport connectivity across the area. For patients who face mobility, health, or transport barriers, free home delivery services are routinely provided. These services are specifically designed to ensure equitable access for elderly, disabled, housebound, or clinically vulnerable patients.

5.7.12 By way of illustration, Wellswood Pharmacy alone delivers prescriptions to approximately 70–80 patients per day across Borehamwood, Elstree, Shenley and Radlett, ensuring continuity of care irrespective of distance, parking availability, or physical accessibility. When considered collectively, adequate parking provision, delivery services, and extended opening hours - existing pharmacies already provide effective, inclusive, and patient-centred access. Physical proximity to the proposed site therefore does not equate to better access, nor does it demonstrate unmet need within the meaning of Regulation 18.

Pharmacy First Does Not Require Co-location with GP Premises

5.7.13 The applicant's assertion that Pharmacy First requires co-location with a GP surgery is incorrect. Pharmacy First is designed to operate from community pharmacy premises, with patients self-presenting or being referred digitally via NHS 111. There is no contractual, regulatory, or policy requirement for physical co-location.

5.7.14 Existing pharmacies in Borehamwood already deliver Pharmacy First effectively without colocation. Accepting the Appellant's position would undermine the PNA framework by implying that every new or relocated GP surgery justifies a new pharmacy.

No Innovation or Service Differentiation

5.7.15 Claims of innovation are unsubstantiated. All services cited by the applicant, including Pharmacy First, extended hours, travel services and deliveries are already provided comprehensively by existing contractors.

5.7.16 No material, additional, or demonstrably innovative service offering has been identified.

Detriment to Proper Planning and Existing Provision

5.7.17 Granting this application would cause significant detriment to the proper planning of pharmaceutical services by fragmenting demand, undermining sustainability, and diluting workforce capacity, contrary to the objectives of the PNA.

GP Relocation Does Not Create Automatic Need

5.7.18 The relocation or expansion of GP premises does not automatically justify a new pharmacy. Regulation 18 provides no presumption in favour of pharmacy co-location.

Inappropriate Criticism of Existing Providers

5.7.19 Unsubstantiated criticism of existing pharmacies has been advanced without evidence and should be afforded no weight.

Opening Hours and Accessibility of Existing Pharmacies

5.7.20 Existing community pharmacies in Borehamwood already provide comprehensive access to pharmaceutical services through extended and overlapping opening hours. Several pharmacies operate late weekday hours, ensuring availability outside standard working times. In addition, pharmacy provision is maintained throughout the weekend, with pharmacies open on Saturdays and Sundays – this includes both independent contractors and multiples. Collectively, these opening arrangements ensure continuous and adequate access to pharmaceutical services for the local population across weekdays and weekends.

5.7.21 As such, the current network of pharmacies demonstrably meets patient need in terms of accessibility and availability, and the introduction of an additional pharmacy would not deliver any meaningful added value or address an unmet need in relation to opening hours.

Conclusion

5.7.22 In summary:

3.1.1.1 The application fails the Regulation 18 test

3.1.1.2 No unforeseen benefits have been demonstrated

3.1.1.3 The Griggs Homes development does not create a pharmaceutical gap

3.1.1.4 Existing pharmacies are expanding capacity and services

3.1.1.5 Parking and delivery services already ensure equitable access

3.1.1.6 Pharmacy First does not require GP co-location

3.1.1.7 The appellant's proximity-based arguments are weak

5.7.23 For these reasons, Wellswood Pharmacy respectfully submits that the appeal should be dismissed and the original decision upheld."

6 Observations

6.1 HEALTHCARE PLUS CONSULTING LTD ON BEHALF OF THE APPLICANT

6.1.1 “Thank you for your letter dated 7th January 2026. Below we respond to comments made by interested parties.

Statute and Regulations

6.1.2 All routine applications must address the overarching question, as defined in Section 129(2A) of the National Health Service Act 2006:

“s. 129(2A) NHS England is satisfied as mentioned in this subsection if, having regard to the needs statement for the relevant area and to any matters prescribed by the Secretary of State in the regulations, it is satisfied that to grant the application would—

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

(b) ***secure improvements, or better access, to pharmaceutical services in that area****.” (Emphasis added)*

6.1.3 We submit that the present application will “secure improvements, or better access, to pharmaceutical services” and so should be granted.

6.1.4 It is of particular importance to note that “need” is a distinct question to that of improvements or better access and the questions should not be conflated. Need is not required for present application to be accepted. To apply a test based on “need” would be an error of law.

6.1.5 We note that the regulations describe certain considerations relevant to the above question, where the improvements or better access are not included in the relevant PNA.

6.1.6 When considering the above question, the provisions of Regulation 18(2)(b) are relevant and asks the Committee to consider:

“18(2)(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 the NHSCB’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 the NHSCB’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 the*

NHSCB'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;"

6.1.7 We note that while reasonable choice, protected characteristics, and innovation are desirable, they are only a short list of matters to which the Committee ought to have regard. They are not exhaustive of the matters that are relevant to significant benefits. To mistake these considerations for the either the sole considerations or as criteria would be an error of law.

6.1.8 We note that where the regulations reference 'significant benefits,' we do not believe that this is intended to alter or heighten the standard of improvements or better access.

6.1.9 We also note that the inclusion of 'reasonable choice' is not intended to change the test into one of whether current provision is adequate, as a previous iteration of the market entry test required, or whether current provision is reasonable. Rather it is meant to recognise even where pharmacy services are already available, the addition of a new pharmacy may offer significant improvements by fostering competition. This was confirmed in the case of *R (on the application of Assura Pharmacy Ltd) v E Moss Ltd (t/a Alliance Pharmacy*) [2008] EWCA (Civ) 1356, where it was accepted that the inclusion of reasonable choice in the previous iteration of the regulations was intended to foster competition between pharmacies, but was at that time frustrated in this purpose by the adequacy test. The adequacy test was abolished in 2012. It would be perverse to allow the abolished adequacy test to return as a revenant possessing the very reasonable choice consideration it once frustrated.

6.1.10 Even where the present provision is adequate, reasonable or sufficient – which we dispute – there remains scope for improvements and better access. Use of adequacy, reasonableness or sufficiency as a test or criteria, or misunderstanding the reasonable choice consideration as an adequacy, reasonableness or sufficiency test, would be an error of law.

6.1.11 We also note that evidence of patient 'difficulties' is not necessary. We note that no such requirement is included in the regulations. Difficulties are not a prerequisite for improvements or better access. Use of difficulties as a standard or prerequisite to the decision would be an error of law.

6.1.12 We emphasize that the regulations are not intended to prevent any improvement or better access beyond the bare minimum. Rather any improvement or better access is welcomed. The Committee must look both to deficiencies in current provision and any advantages the proposed pharmacy offers. The regulations are not concerned with merely filling deficiencies but facilitating a high standard of care.

6.1.13 We also note that NHS Resolution is not a court of record and is entirely unable to bind itself through precedent, though it may be entitled or required to consider previous decisions.

6.1.14 We have addressed the requirements of the statute and regulations below.

Patient Survey

6.1.15 We note that the responses from all parties requested 'evidence' be provided as to the difficulties faced by residents in Borehamwood. We highlight that there is not a need to present direct 'evidence' as such. Rather the Committee may apply a reasonable interpretation be made of the facts presented with consideration of their expertise and common sense.

6.1.16 However, our client has conducted a patient survey via Facebook Community Groups, receiving 47 responses. To provide the Committee with context regarding the methodology for this data collection, the survey was available to anyone who saw it online. A prize draw of £50 was offered for a random survey participant to encourage participation amongst a broad demographic, with the aim to not limit responses to those with strong positive or negative views. This will be expanded upon further below in the response to the LPC.

6.1.17 Please find the survey questions in Annex 4 [see Appendix D].

6.1.18 Again, whilst not a requirement of the Regulations, we note this was conducted in order to gain a better understanding regarding current access to pharmaceutical services, and whether the present application will provide better access to pharmaceutical provision in Borehamwood.

6.1.19 The initial findings are as follows:

6.1.19.1 91.5% of participants would access the New Health Hub/Manor View Practice at the new location

6.1.19.2 91.5% of participants would utilise a pharmacy at this location

6.1.19.3 93.6% of participants think a pharmacy is needed at the New Medical Centre

6.1.19.4 95.7% of participants would support the opening of a pharmacy at the New Medical Centre

6.1.20 The statute and regulations require decision-makers to specifically consider whether granting an application "*would secure improvements, or better access, to pharmaceutical services*". We therefore urge the Committee to place weight on the fact that 93.6% of those surveyed agree that a pharmacy is needed at the New Medical Centre, and 91.5% of participants would utilise a pharmacy in this location.

6.1.21 We emphasise that this is a significant proportion of responses and clearly indicates that a pharmacy at the proposed site would secure

improvements and better access to pharmaceutical services, as will be demonstrated further below.

6.1.22 We also trust that the Committee will place weight on the evidence presented from the patient survey which supports our previous correspondence and directly addresses the concerns raised by interested parties within prior correspondence.

Hertfordshire and West Essex ICB

6.1.23 Many of the comments made by the Hertfordshire and West Essex ICB are centred around the argument that there is no evidence provided within the application, for example on page three of the response it is stated that "*There is no evidence by means of a patient survey*". We reiterate that a survey is not a requirement of the Regulations, nevertheless, a survey has been provided to offer greater clarity.

6.1.24 The ICB state that "*patient choice remains a key principle under NHS regulations*", we assume this is referencing consideration 18(2)(b)(i): there being reasonable choice with regard to obtaining pharmaceutical services. The ICB then list factors which they believe will continue to influence where patients choose to have their prescriptions dispensed, the following four factors were listed:

6.1.24.1 Convenience

6.1.24.2 Personal preference

6.1.24.3 Established relationships

6.1.24.4 Closeness to home or work

6.1.25 We wish to reiterate the reasonable choice consideration is not intended to import a reasonableness, sufficiency or adequacy test; rather it is solely intended to ensure that even when there is pharmacy access currently, improvements or better access can be secured by the introduction of competition.

6.1.26 Nonetheless, we do agree that these factors are relevant to the actual statutory test of improvements or better access.

6.1.27 The proposed site is co-located with the new Manor View Practice (MVP) site, 91.5% of survey participants stated they would access this location. Many of these participants will have established relationships with the MVP and therefore a pharmacy alongside the practice will not only help build on these established relationships but also provide 'convenience' in the form of a one trip visit. It is also clear from the views of survey respondents that they have a 'personal preference' for the proposed site given their overwhelming support.

6.1.28 We also reiterate that the closest pharmacy to the proposed site is over 0.8 miles away, so for many patients the proposed site may be closer to their homes or work. The following quotes from the patient survey emphasis [sic] these points and are indicative of personal preference:

"You can collect prescription straight from visiting a doctor" – Survey 2

"No other pharmacy close by for people who have difficulty travelling" – Survey 6

"I would easily be able to collect my prescription without travelling to the other side of town where I may not be able to get parked and might not get my medication right away." – Survey 10

"Convinience for patients when seeing the gp" – Survey 14 [sic]

"It will be more convinient next to the surgery" – Survey 22 [sic]

"To have all in one place makes life easier" – Survey 31

"There is only one small pharmacy in this location and to have to use the new health centre a pharmacy on site would be advantageous" – Survey 32

"Better access for patients requiring continuous medication and able to get prescription medication sooner , less need for travelling for some of older or disabled people." – Survey 33

"Closer to access" – Survey 36 [sic]

"Serve local community better" – Survey 41

"This would allow for a "one stop" experience and cut down on miscommunication." – Survey 42

"Convenience, if I have to get antibiotics I have to travel from the doctors to the pharmacy and then look for a parking space. If this is happening during the day then I am out of my work office for a long time. Not a pleasant experience if you are ill" – Survey 45

"Absolutely, patients can get their medication onsite saving them both time and money, as some people aren't mobile. Would be more beneficial having a pharmacy on site." – Survey 47

6.1.29 These are just a few examples of responses from local residents; we urge the Committee to read through the categorised survey responses in Annex 1 to get a full understanding of patients' opinions. These statements clearly conform with the ICB's criteria, it is clear that a pharmacy at the proposed site would provide better access to patients in the locality by being highly accessible from the GP, which appears to be a common use case.

6.1.30 We also highlight that these views are shared by Dr HK, a partner at Manor View Practice, who is highly supportive of the application and has provided a letter of support (Annex 2) [see Appendix D]. The letter particularly notes "*the ability for a patient to walk physically from a GP consult to the pharmacist for a minor ailment check can drastically improve uptake and reduce pressure on GP appointments*". It is very clear that the present application would increase uptake of

pharmaceutical services and is therefore clearly representative of better access and reasonable choice for patients. We urge the committee to read this supporting letter in full.

6.1.31 Within their response the ICB frequently refer to the Hertfordshire 2025 PNA. We would like to remind the Committee that the present application is one for Unforeseen Benefits and is consequently considered with regard to Regulation 18. Inherently, the relevant improvements and better access are therefore not included in the relevant PNA. We note that Regulation 18 does not invite the Committee to consider the PNA in such applications, except to ensure that the improvements or better access are not included in the PNA. Furthermore, we note that if the PNA is allowed to sway the Committee it would destroy the purpose of Regulation 18. Therefore, we submit that placing significant weight on the PNA in the present application would be an error.

6.1.32 The ICB claim that the Hertfordshire 2025 PNA took into consideration the planned housing developments when assessing pharmaceutical coverage in the area. However, we note that the Hertfordshire 2025 PNA does not include the planned developments – Organ Hall and Lyndurst Farm – on figure 15 of the PNA, indeed no developments are included in Hertsmere (Hertfordshire 2025 PNA, pg 45).

6.1.33 The housing developments at Organ Hall and Lyndurst Farm will generate just under 300 homes. Without considering any other housing developments across the Hertsmere Ward this already exceeds the planned housing levels assessed within the PNA (see Figure 1). We also reiterate that Lyndurst will be entirely affordable housing. It is reasonable to assume that the planned housing in the Hertsmere Ward over the next five years is not limited to only these two developments. For example, there are 300-350 proposed units to be built in Bushey. Therefore, the PNA has not encompassed the full level of developments in the Ward and limited weight can be placed on the PNA's consideration of housing and population growth. We fear the ICB have placed a lot of weight within their response on just this consideration.

Table 9: Number of planned housing units and project population growth per district

Area	Housing units	Projected population growth in the next five years
Broxbourne	4,172	-0.14%
Dacorum	2,570	1.51%
East Hertfordshire	6,699	2.22%
Hertsmere	241	0.66%
North Hertfordshire (inc Royston)	1,474	1.01%
St Albans	1,265	-0.48%
Stevenage	2,921	0.64%
Three Rivers	505	-0.14%
Watford	4,715	-0.31%
Welwyn Hatfield	3,133	2.85%

Hertfordshire	**27,668**	**0.87%**

Figure 1 – Number of planned housing units within each Ward over the next 5 years per the Hertfordshire PNA 2025 (pg 46)

6.1.34 In regard to the Hertfordshire 2025 PNA we also note that it states:

"the PNA does not assess individual pharmacy capacity, staffing, or internal processes, as these are outside the scope of the assessment" (Hertfordshire PNA 2025, pg 201)

6.1.35 This means that to the extent that the proposed pharmacy secures improvements or better access through additional capacity or ameliorating performance of existing pharmacies this benefit is clearly unforeseen.

6.1.36 We also note that the new medical centre and the relocation of MVP does not appear to factor into the deliberations of the PNA. Therefore, the improvements or better access that are secured due to the new health centre or the relocation of MVP are unforeseen. Both factors are central to this application.

6.1.37 Given these factors were not included in the PNA's analysis, while not in any way challenging the overall legality or reasonableness of the PNA, we do believe that limited weight can be placed on its gap analysis in these circumstances.

6.1.38 The ICB also claim that "*No evidence has been submitted to substantiate that local residents who are economically deprived are in a greater need of access to pharmaceutical services within the Hertsmere locality*." We cannot understand why this is an issue that would need to be evidenced, considering it is a widely accepted fact, nonetheless it is stated in the Hertfordshire 2025 PNA that:

"Long-term conditions are more prevalent in people over the age of 60 (58%) compared with people under the age of 40 (14%), and in people in more deprived groups, with those in the poorest social class having a 60% higher prevalence than those in the richest social class and 30% more severity of disease" (Emphasis added) (Hertfordshire 2025 PNA, pg 62)

6.1.39 It is clear that populations containing higher levels of deprivation have greater health needs and therefore require greater access to pharmaceutical services. It remains undisputed that the neighbouring LSOA to the proposed site (Hertsmere 006C) is in the 1st decile of deprivation in the Indices of Multiple Deprivation 2025. It is therefore amongst the top 10% most deprived areas in the country. We remind the Committee that the ICB themselves have formerly identified the higher levels of deprivation in the locality, within their Hertsmere Minor Illness tender document from 2024, as highlighted in previous correspondence.

6.1.40 With deprivation levels being high in North Borehamwood it is important that patients are able to access a wide variety of services to meet their health needs. Regarding access to Advanced Services, the PNA states

that 100% of pharmacies in the locality offer Pharmacy First. Despite the service being available at pharmacies, only 14.9% of patients that responded to our client's survey were aware that Pharmacy First existed. This is clearly demonstrative that the Pharmacy First Service is not being effectively deployed within the locality. By having a pharmacy co-located with the Medical Centre, it will increase the level of integration and thus offer the opportunity to increase awareness of services such as Pharmacy First. We reiterate that this is part of the vision encompassed within the NHS long term plan.

6.1.41 Within their response the ICB highlight the levels of car ownership in the locality, providing a map based on 2021 census data that illustrates the Brookmeadow Ward having 79% of households with 1 or more cars or vans. We submit that this still leaves 21% of the local population without a car; that is more than 1 in 5 residents. Many residents may struggle therefore with the extended journeys, particularly if needing to attend a pharmacy following a visit to the GP surgery.

6.1.42 Both the ICB and the PNA gave little consideration to parking, the survey data highlights multiple issues surrounding parking at the current pharmacies, with some making particular reference to disabled parking. We have included some of these comments below for the ease of the Committee:

"*Parking very difficult" – Survey 3*

"when a prescriltion is given from GP is handy to go straight away to the pharmacy and not to drive to another one and gaving to find parking" – Survey 5 [sic]

"We have difficulties parking" – Survey 7

*"There's always traffic in Theobald Street and **difficulty finding a disabled parking space is getting more and more impossible**" – Survey 8*

"Parking can be a problem" - Survey 9

"Parking sometimes meaning I have to leave and come back so I dont get my pain relief" – Survey 10

"I would easily be able to collect my prescription without travelling to the other side of town where I may not be able to get parked and might not get my medication right away." – Survey 10

*"**Terrible and bad parking for blue badge**" – Survey 15*

"Ok ,parking sometimes an issue" – Survey 19

"Journey ok, parking is a nightmare" – Survey 21

"Stressful, because of parking." – Survey 27

"Parking Lack of" – Survey 32

"Can be stressful, depending on time of day. Parking can present problems in Disabled space availability" – Survey 33

"Parking is very hard" – Survey 40

"Always go after work, so it's always in busy times, trouble finding parking sometimes" – Survey 45 (emphasis added)

6.1.43 Clearly, a significant number of patients have experienced difficulties with parking and traffic when attempting to access a pharmacy in Borehamwood. We emphasise that multiple patients highlight difficulties with accessing disabled parking, with survey 8 stating that "*finding a disabled parking space is getting more and more impossible*". The proposed site will contain a car park with 10 designated disabled spaces, significantly improving access for patients with protected characteristics, as well as providing ample parking for all patients.

6.1.44 Only 4.7% of respondents said they access a pharmacy by public transport, this clearly shows that public transport in the local area is not highly utilised. By contrast, 70.2% of respondents claimed to access a pharmacy by car, and 46.8% stated that they walk. Thus, the improvements and better access offered by the proposed site should predominantly be assessed in regard to patient's travelling by car and foot, with limited emphasis placed on public transport. We emphasise that the proposed site will have designated parking, which will assist in improving access for patients that experience difficulties parking at their current pharmacy.

6.1.45 It is also noteworthy that 23.4% of survey respondents stated that the cost of transport/parking to their current pharmacy had discouraged them from accessing services. This is clearly not representative of good access, an issue that would be remedied by a pharmacy at the proposed site which would have ample free parking. This is itself demonstrative of better access.

6.1.46 The ICB suggest that patients are already accustomed to traveling 0.8 miles to a pharmacy. We note that this is not the case prior to the relocation of the GP, with Metro Pharmacy being 0.5 miles from MVP's old site. We also note that even if such a journey was necessary previously, this does not prevent the present application securing better access.

6.1.47 The ICB discussed the reviews of Metro Pharmacy, noting the total number of reviews and that 5-star reviews outnumber 1-star reviews. However, the ICB does not consider the time at which these were posted, for example 6 of these 5-star reviews were from at least 7 years ago. The reviews provided within previous correspondence contained all reviews that were posted within a year of the time the appeal was written.

6.1.48 The ICB have recognised that our client will be providing "*a new proprietary technology capable of assessing patients cardiovascular risk using retinal imaging and blood vessels analysis by Reti-CVD*". The ICB subsequently state that "*this could be considered an innovative*

approach" but then continue to express concerns that it has not been widely deployed in pharmacies and that it remains in development.

6.1.49 The ICB's concerns regarding the lack of deployment of this technology establish that this technology is in fact an innovative approach. We emphasise that the proposed technology will be implemented according to relevant medical regulations and testing. The plans to implement Reti-CVD technology is also not merely speculative. We note that it has been shown to be comparable to a CT scan in the leading medical journal The Lancet (Rim, T.H. et al. (2021) 'Deep-learning-based cardiovascular risk stratification using coronary artery calcium scores predicted from retinal photographs', The Lancet Digital Health, 3(5). doi:10.1016/s2589-7500(21)00043-1).

Boots Pharmacy

6.1.50 Similarly to the Hertfordshire and West Essex ICB, a large proportion of Boots' response was based around the lack of evidence of difficulties. We reiterate that providing evidence of patient difficulties is not a requirement under the regulations. Difficulties are not a prerequisite for improvements or better access, as such the use of difficulties as a standard or prerequisite to the decision would be an error. However, despite not being a requirement of the regulations, the attached survey assists in providing evidence of difficulties patients currently face. We have previously highlighted the issues surrounding parking, and provide some further quotes below which illustrate alternative difficulties patients face:

"It takes extra time for them to process my prescription also there's typically a queue at the pharmacy counter" – Survey 8

"Medication not always ready in time" – Survey 11

"Long queues, occasional delays in prescription" – Survey 13

"Not a lot of stock, underfunded?" – Survey 14

"Small pharmacy never in stock" – Survey 20

"Not open before I go to work" – Survey 31

"Prescriptions are often not sent from the surgery in time stated and therefore wait for meds increases" – Survey 33

"Sometimes they don't always have stock of what I need and I travel to Borehamwood regularly it would be good to have one at the Dr Surgery." – Survey 34

"Always understaffed leading to queues." – Survey 35

"It can take a few days for me to get my prescriptions after my GP has sent them to the pharmacy" – Survey 37

"Communication between my GP can be patchy." – Survey 42

"They take about 4 to 5 days to process the prescription. They don't answer the phone. If they can't get hold of medication they don't tell you untill they have said you can collect medication, then you have to wait a few more days and that sometimes means I may not have any tablets to take for a few days." – Survey 45 [sic]

6.1.51 These patient experiences bring attention to a number of issues within the current pharmaceutical network including long queues/waiting times, lack of stock, lack of communication, and a lack of morning opening hours. We submit that our client's application offers hours before 09:00 am and would provide patients with an alternative choice of pharmacy in North Borehamwood, which is currently only served by Metro Pharmacy (WD6 4EB). We also reiterate that the Hertfordshire PNA 2025 did not consider capacity or internal procedures of pharmacies.

6.1.52 We note that the reviews which were included in the appeal concerning Metro Pharmacy were not cherry picked. Rather, they were all the reviews of the pharmacy from the last year at the time that the appeal was written. Therefore, they are indeed representative of public opinion of the pharmacy.

6.1.53 We reiterate that one review found that since the closure of another pharmacy (presumably Safedale Pharmacy), Metro Pharmacy has enjoyed a "monopoly". This is exactly the reason that the regulations specifically draw attention to reasonable choice.

6.1.54 Boots claim there is no evidence to suggest an unmet need in terms of opening hours. We reiterate that a need is not necessary to secure improvements or better access. Regardless, we have already discussed the lack of hours in North Borehamwood outside of 09:00 – 17:00. A large proportion of survey participants do not appear to have access to a pharmacy in these hours, particularly before 09:00 and after 18:00, evidenced in the graph below (Figure 2) [see Appendix E]. This application aims to address those hours, not only filling a gap in hours in North Borehamwood but also providing hours that align with the GP surgery. The hours offered within our client's application are between 08:30 and 19:00 on Monday to Friday, and 08:30 to 20:00 on Thursdays. We reiterate that the only pharmacy in North Borehamwood currently (Metro Pharmacy), offers core hours between 09:00 and 17:00, thus a significant number of patients in North Borehamwood are unable to access the pharmacy outside of these hours.

6.1.55 Within Boots' response they also claim that "*there are seven pharmacies within 1.5 miles of the application site*". However, when measuring the practicable journeys patients would undertake there are only two pharmacies that are less than 1.5 miles from the proposed site, and only one within a mile. The other 5 pharmacies are all 1.5 or more miles away. Not only is this figure incorrect, but we also submit that distance alone is a crude metric.

6.1.56 The new Medical Centre is a destination hub and the "unforeseen benefits" that this application meets are not just about distance, but also

about integration. The current requirement for a sick patient (potentially without a car, as 21% of residents do not drive according to the ICB) to leave a Medical Centre, travel 1.5 miles into a congested town centre, find parking again, and queue at a different location is a barrier to access.

6.1.57 This exact scenario is also echoed within the Manor View Practice's letter of support (Annex 2) [see Appendix D]:

"1. Immediate Access for Acute Conditions: When we treat patients for acute infections or pain, "next day delivery" or travel to a town-centre pharmacy (even 1.5 miles away) can be a barrier especially if we are open late into the evening. An on-site pharmacy can ensure immediate commencement of treatment.

2. Pharmacy First & Integration: The objectors claim co-location is not required for Pharmacy First services. However, there are instances where the ability for a patient to walk physically from a GP consult to the pharmacist for a minor ailment check can drastically improve uptake and reduce pressure on GP appointments.

3. Vulnerable Cohorts: A significant portion of our patient base is elderly or has limited mobility. For these patients, a "one-stop-shop" is not a luxury but a necessity. Requiring them to make two separate journeys (one to us, one to a pharmacy) places an undue burden on them."

6.1.58 Patients would be able to attend a pharmacy at the proposed site in connection with a visit to the GP rather than being forced to travel to access alternative pharmaceutical provision. This would be especially difficult for elderly patients or those with limited mobility who would particularly benefit from having a "*one-stop-shop*" as stated above, we note that this was described as a "*necessity*" for this patient group.

6.1.59 It is vital that the Committee look not only at the inadequacy of current provision but also the possibility of improvements. Having a pharmacy in the Medical Centre clearly offers better access to the patient group of those who access a pharmacy after using the GP.

6.1.60 The objectors have clearly ignored the friction created by these extensive patient journeys. Within the survey patients recognised the improvements offered by locating a pharmacy within the new Medical Centre, we reiterate that 91.5% of patients would utilise a pharmacy at this location. This is also demonstrated by the quotes below:

"when a prescriltion is given from GP is handy to go straight away to the pharmacy and not to drive to another one and gaving to find parking" – Survey 5 [sic]

"I would easily be able to collect my prescription without travelling to the other side of town where I may not be able to get parked and might not get my medication right away." – Survey 10

"Easier for disabled people or those with children with sen pharmacies in area are poor and widespread" – Survey 20

"Having to go else when you have just seen the doctor just delays treatment. Plus not everyone can drive into borehamwood and when you are not well who any to wait for a bus. If you have to go in work time it just means more time out of your work day." – Survey 30

"My father-inlaw has many medical issues and having the pharmacy next to the doctors would make things so much easier. He could ask the pharmacist questions and if they think he needs to see a doctor they'd be right there." – Survey 30

"There is only one small pharmacy in this location and to have to use the new health centre a pharmacy on site would be advantageous" – Survey 32

"Better access for patients requiring continuous medication and able to get prescription medication sooner , less need for travelling for some of older or disabled people." – Survey 33

"As I often need to attend appts and as I get older having one next to the Surgery would be so convenient." – Survey 34

"This would allow for a "one stop" experience and cut down on miscommunication." – Survey 42

"It would help the elderly, disabled and patients without transportation" – Survey 43

"Convenience, if I have to get antibiotics I have to travel from the doctors to the pharmacy and then look for a parking space. If this is happening during the day then I am out of my work office for a long time. Not a pleasant experience if you are ill" – Survey 45

"Absolutely, patients can get their medication onsite saving them both time and money, as some people aren't mobile. Would be more beneficial having a pharmacy on site." – Survey 47

6.1.61 These were just a select few quotes, but the opinion was widely spread amongst most participants, clearly demonstrating the improvements and better access provided by a pharmacy at the proposed site. We submit that patients needing to make one journey to the new Health Hub is much more efficient than patients being forced to travel to the Medical Centre, then to the Pharmacy at least 0.8 miles away, before returning back home (assuming they are not referred back to the Medical Centre following a visit to the pharmacy).

6.1.62 In regard to whether patient of MVP will continue to use the practice after it relocates, we note that 91.5% of participants said they would access the New Health Hub/Manor View Practice at the new location. We also note that on relocation the patient list of a GP is transferred automatically.

6.1.63 As we have stated the reviews of Metro Pharmacy were the entirety of the reviews of the pharmacy in the year prior to the writing of the appeal and clearly demonstrated dissatisfaction with the pharmacy and its

market position. We believe that Google Reviews are in practice the only recordable way that the public know to complain about a pharmacy.

Community Pharmacy Hertfordshire (LPC)

6.1.64 We have attached the interested parties list in Annex 3, which contains all contractors which provided letters through the LPC. These contractors were clearly given the opportunity to respond when the application was initially circulated and chose not to provide representations. We emphasise that all letters provided by the LPC are by contractors that are included on the interested parties list. We note that Schedule 2 Paragraph 3 of the 2013 regulations clearly limits notification and the right to make representations at appeal to those parties "*who made representations in writing about the application*" having been notified at the ICB level. Since those who wrote these letters chose not to make written representations, they are not entitled to make representations at appeal. Thus, the letters provided by the LPC are a subversion of the regulations and no weight should be placed on them.

6.1.65 The LPC suggest that the poor performance of existing contractors is "*immaterial*." Such a view is very disappointing. Improvements must include improved service quality through better performance. We also note that poor performance by existing contractors may indicate a lack of competition – that is reasonable choice – and in the case of Metro Pharmacy we remind the committee that one member of the public directly attributed Metro Pharmacy's poor performance to their 'monopoly' status. We believe that granting the present application will not only allow the proposed pharmacy to offer state of the art pharmacy services but make existing contractors improve in response to newfound competition.

6.1.66 Within their response the LPC claim that the Amazon Voucher offered to a random survey participant introduces bias. Offering a nominal prize draw is a recognized standard in legitimate market research to encourage participation across a broad demographic, not just those with strong negative or positive views. We note that The Economic and Social Research Council's report on "The use of incentives" found that "*it has become common practice to use prize draws to encourage participation in web surveys*" (Nicolaas et al., The use of incentives, pg 10, https://www.ukri.org/wp-content/uploads/2020/06/ESRC-220311-NatCen-UseOfIncentivesRecruitRetainHardToGetPopulations-200611.pdf). This does not invalidate the data. Respondents were in no way required to respond in a certain way to access the prize. The prize draw was randomised and thus survey participants were eligible to win no matter their survey response. The LPC's attempt to dismiss the voice of the community suggests they are aware the community supports and would benefit from the proposed pharmacy.

6.1.67 Comments on the 2025 Hertfordshire PNA have already been addressed above within the response to the ICB.

6.1.68 We also reiterate it is not a requirement to provide evidence by the form of patient difficulties and that the information provided throughout previous correspondence are demonstrative of improvements and better access. Nevertheless, evidence has been provided above, via the attached survey, regarding patient experiences. The LPC have also failed to acknowledge the innovative approaches that have been included within previous correspondence.

6.1.69 We also note that comments concerning the availability and high utilisation of the delivery service are indicative of an existing service model which has been bent to accommodate a lack of accessible pharmacies. Patients are now given access to a mere fraction of the totality of pharmacy services through delivery because they cannot access pharmacies in person. Furthermore, delivery is of little value to patients who wish to use a pharmacy in connection with a GP visit. Delivery is also not NHS commissioned and so can be withdrawn at any time. Delivery can therefore not be said to provide secure access, by contrast the present application would secure access.

Conclusion

6.1.70 We remind the Committee that the present application is one to secure benefits in the form of improvements or better access. We submit that our client's application satisfies this regulatory test in securing better access to pharmaceutical services for Borehamwood's population and the surrounding areas.

6.1.71 It is clear that our client's application will provide pharmaceutical services to the residents of North Borehamwood, particularly for those visiting the new Medical Centre. We submit that the demand for pharmaceutical services in North Borehamwood is higher considering the deprivation in the locality.

6.1.72 In order to evidence that a pharmacy at the proposed site would indeed secure better access to pharmaceutical services, our client has gone above that expected of the Regulations and conducted a patient survey among those reliant on pharmaceutical services in Borehamwood. We reiterate that the findings from the survey reveal that:

6.1.72.1 91.5% of participants would access the New Health Hub/Manor View Practice at the new location

6.1.72.2 91.5% of participants would utilise a pharmacy at this location

6.1.72.3 93.6% of participants think a pharmacy is needed at the New Medical Centre

6.1.72.4 95.7% of participants would support the opening of a pharmacy at the New Medical Centre

6.1.72.5 Patients currently experience difficulties parking at alternative pharmacies in Borehamwood, particularly those requiring disabled parking

6.1.72.6 Patients are facing difficulties within the current pharmaceutical network including long queues/waiting times, lack of stock, lack of communication, and a lack of morning/evening opening hours

6.1.72.7 Very few patients use public transport to access a pharmacy

6.1.73 We submit that the above findings evidence the statements included as part of our client's previous correspondence. We therefore trust that the Committee will consider the robust body of evidence before it, and grant the application based on the facts of the case.

6.1.74 We also highlight that the innovative approaches provided by our clients were either ignored or overlooked by the respondents. We reiterate that our client proposes to integrate a cutting-edge technology into pharmacy care in line with the NHS Long Term plan which aims to encourage the adoption of new technologies.

6.1.75 On the evidence outlined above, we believe that a new pharmacy contract should be granted."

7 Consideration

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

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

7.3 The Committee noted the comments, submitted by Community Pharmacy Hertfordshire on behalf of local contractors, and further noted that some pharmacies stated that they had not been aware of the application and had not been afforded the opportunity to provide representations in accordance with the Regulations. The Committee noted, from the paperwork provided by PCSE on behalf of the Commissioner, that all of the local pharmacies within a 2km radius of the proposed site had been provided with the opportunity to make representations within the relevant time period but that not all of those entitled to make representations had done so. Therefore, as set out in the Regulations, these pharmacies were not considered to be statutory interested parties in accordance with the Regulations and had not been provided with a copy of the appeal.

7.4 The Committee was however mindful that Community Pharmacy Hertfordshire, as the representative of the local contractors, had provided a response to both the application and subsequent appeal and had also provided, within its response to the appeal, unsolicited comments from local pharmacies. The Committee was of the view that the application and subsequent appeal had been processed in accordance with the Regulations and proceeded to consider the information before it which had been received in response to NHS Resolution's own statutory consultations.

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

7.6 The Committee noted the information provided in the survey had been provided within the observations period. The Committee noted that no explanation had been given as to why this information had not been able to be provided earlier in the process.

7.7 In the Committee's view if patient experience is of importance to the Applicant and its application, then it was unclear why a survey had not been undertaken sooner. Having been presented with the survey, the Committee considered that it would consider it, applying whatever weight it deemed necessary.

Regulation 31

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

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

(2) This paragraph applies where -

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

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

(ii) adjacent premises; and

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

7.9 The Committee noted that in the application form the Applicant had responded "*n/a*" to the question of Regulation 31. In its decision letter the Commissioner had concluded "*the Committee agreed that it is not required to refused the application under the provisions of Regulation 31".* The Committee noted that this had not been disputed either on appeal or in subsequent representations and determined that, on the basis of the information before it, it was not required to refuse the application under the provisions of Regulation 31.

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

Regulation 18

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

"(1) If—

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

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

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

(2) Those matters are—

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

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

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

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

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

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

(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into

account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),

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

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

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

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

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

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

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

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

(3) NHS England need only consider whether it is satisfied in accordance with paragraphs (2)(c) to (e) if it has reached at least a preliminary view (although this may change) that it is satisfied in accordance with paragraph (2)(b)."

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

7.13 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.

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

7.15 The Committee noted that Regulation 22 states:

"*Refusal of routine applications that are based on neither a pharmaceutical needs assessment nor unforeseen benefits*

(1) If NHS England receives a routine application to which regulation 19(6) does not apply, NHS England must refuse it unless granting it, or granting it in respect of some only of the services specified in it, would–

> *(a) meet a current or future need for pharmaceutical services, or a pharmaceutical services of a specified type, in the area of the relevant HWB that has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 2 of Schedule 1; or*
>
> *(b) secure (including in the future) improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB that have or has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1.*

(2) For the purposes of paragraph (1), the relevant pharmaceutical needs assessment is–

> *(a) the pharmaceutical needs assessment of the relevant HWB that is current at the time that NHS England takes it decision to grant or refuse the application, unless in the opinion of NHS England (or on appeal the Secretary of State) the only way to determine the application justly is with regard to an earlier pharmaceutical needs assessment, in which case the relevant pharmaceutical needs assessment is that earlier assessment, or*
>
> *(b) if the relevant HWB has not published a pharmaceutical needs assessment, the pharmaceutical needs assessment of a Primary Care Trust (as extended by regulation 7(1)) that relates to the locality in which the location or premises to which the application relates is or are situated.*

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

7.17 The Committee considered that there were two related issues that it needs to determine in relation to the PNA. It needed to determine which PNA was the

relevant PNA for the purposes of Regulation 22 and whether the relevant PNA had identified the improvements or better access that the application was looking to secure.

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

7.19 The Committee considered the 2025 PNA which had been produced by Soar Beyond who had been contracted by Hertfordshire County Council. The production of the 2025 PNA had been overseen by the PNA Steering Group for Hertfordshire Health and Wellbeing Board with authoring support from Soar Beyond Ltd. the Committee was conscious that the document provides an analysis of the situation as it was assessed at the date of publication. The Committee bears in mind that, under Regulation 6(2), the body responsible for the PNA must make a revised assessment as soon as reasonably practicable unless to do so appears to be a disproportionate response to those changes. Where it appears disproportionate, the responsible body may, but is not obliged to, issue a supplementary statement under Regulation 6(3). Such a statement then forms part of the PNA. The Committee noted that the PNA was dated 2025 and was published in September 2025 and that no supplementary statements had been issued.

7.20 The 2025 PNA had determined that Hertfordshire would be split into different localities as the majority of data was available at district or borough council level. The Committee noted that the proposed site is to be located within the Hertsmere locality which had been considered in the PNA as one of the “PNA localities (districts)” under Section 6 “Analysis of health needs and pharmaceutical service provision”

7.21 The Committee noted the conclusions of the 2025 PNA at 6.2.4.2 “Necessary services: gaps in provision” which states:

“Based on the spread and number of community pharmacies across the district, there is equitable access to the essential services provided by all community pharmacies.

This conclusion is based on:

- *Comprehensive coverage across the district: There are 23 community pharmacies across Hertsmere, with an average of 21.2 community pharmacies per 100,000 population, higher than national and local average.*

- *Adequate access during normal and extended hours: There are 10 community pharmacies open on weekdays after 6 pm, 21 open on Saturdays and four open on Sundays. These opening patterns ensure that access is maintained during and outside of normal working hours.*

- *Accessibility via transport: Individuals are able to travel to a pharmacy within reasonable times. Although it may take longer for*

some residents in less populated areas, this would be similar to accessing other healthcare services or out of hours services in person at evenings and weekends. At least 88% of the population can reach a pharmacy in 20 minutes walking, 100% by private transport and 82% by public transport.

- *Utilisation of pharmacies in bordering districts and local authorities: Residents are able to access services from pharmacies across the border in each direction."*

7.22 The 2025 PNA had gone on to consider "Future need" which stated:

"The district population growth is expected to increase over the next six years to 2030 only by 0.66% and the number of dwellings has increased from 2022 to 2024 by 0.65%; in line with the small population growth, only 214 new housing units are planned for completion in the next five years; this can be easily absorbed by the existing community pharmacy network. The current community pharmacy network is well placed to meet the predicted population and housing growth across the district for the lifetime of this PNA. No new or future gaps in provision have been identified as a result of planned developments during the lifetime of this PNA."

7.23 And further:

"With projected increases in population and housing growth, there will be an increased corresponding demand. Pharmacies, particularly sole providers, may experience increased footfall and service pressures. However, the current assessment concludes that the community pharmacy network is currently able to accommodate this growth, supported by pharmacies' ability to adjust staffing levels and service delivery models where necessary.

Hertfordshire HWB will continue to monitor pharmaceutical service provision in specific areas within the district where major housing developments are planned, to ensure there is the capacity to meet potential increases in service demand."

7.24 The 2025 PNA at section 6.2.4 "Hertsmere" had concluded that "*No gaps in the provision of necessary services have been identified for Hertsmere. … No gaps have been identified that if provided either now or in the future (next three years) would secure improvements or better access to services across Hertsmere."*

7.25 The Committee further noted the overall conclusion of the 2025 PNA that:

"Necessary Services – normal working hours

There is no gap in the provision of Necessary Services during normal working hours across Hertfordshire to meet the needs of the population.

Necessary Services – outside normal working hours

There are no gaps in the provision of Necessary Services outside normal working hours across Hertfordshire to meet the needs of the population.

Future provision of necessary services

No gaps have been identified in the need for pharmaceutical services in Hertfordshire across the next three years."

7.26 The Committee noted that the Applicant seeks to provide unforeseen benefits to the residents of Organ Hall Farm development as well as the patients of the relocating medical centre. The Committee noted that the improvements or better access that the Applicant was claiming would be secured by its application were not included in the relevant PNA in accordance with paragraph 4 of Schedule 1.

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

Regulation 18(2)(a)(i)

7.28 The Committee had regard to

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

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

7.29 The Committee noted the statement from the Commissioner in respect of Regulation 18(2)(a) that "*there was no evidence to suggest granting the application would cause significant detriment to proper planning in the area … for the provision of services in the area*."

7.30 The Committee noted the unsolicited comments from parties in subsequent representations that "*an increase in the number of pharmacies will cause detriment to the provision of pharmaceutical services which NHS resolution must consider as in the regulations …"* The Committee whilst being mindful of the Regulations and the need to consider this aspect, noted that apart from this statement no further information has been provided by parties to support this assertion.

7.31 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.

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

Regulation 18(2)(a)(ii)

7.33 The Committee had regard to

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

7.34 The Committee noted the statement from the Commissioner in respect of Regulation 18(2)(a) in that "*there was no evidence to suggest granting the application would cause significant detriment to … any arrangements the ICB has in place for the provision of services in the area.*" The Committee noted that no party had sought to dispute this either on appeal or in subsequent representations.

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

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

Regulation 18(2)(b)

7.37 The Committee had regard to

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

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

7.38 The Committee had regard to the location of the existing pharmacies and GP surgeries as provided on the map by the Commissioner, which had not been disputed by any party.

7.39 The Committee noted that the application had been based on the 2022 PNA however the Committee was mindful that the PNA had been replaced with a new PNA with a publication date of 3 September 2025 and that no gaps in pharmaceutical provision had been identified.

7.40 The Committee noted that the Applicant had sought to argue that the 2025 PNA was not relevant as it has not included reference to the NHS 10 year plan. The Committee was of the view that this did not amount to a challenge of the PNA as set out in the Regulations so took no view on whether or not the NHS 10 year plan should or should not be referenced. However, the Committee was of the view that the 2025 PNA had been produced in line with the relevant Regulations and that it was the current PNA to which it should have regard when considering the application.

7.41 The Committee sought to understand, from the information before it, the nature of the population of the area. The Committee noted that it had been provided within information relating to the proposed developments in the area and from the information before it, was of the view that the site was still in the early stages of development and that "*outline planning permission*" had been granted in October 2024.

7.42 The Committee was of the view that whilst outline planning permission had been granted, it was unclear as to the actual current status of the development and that the Applicant had not provided sufficient information to provide clarity in this regard. The Committee further noted that there was very little information provided as to the actual proposed site of the pharmacy or to demonstrate how the buildings in the area were progressing.

7.43 The Committee was unsure of what, if any, other amenities were to be included in the development which would be used by those resident there. The Committee was of the view that the application is to some extent speculative given the status of the development and the time constraints as set out in the Regulations. Nevertheless, the Committee recognised that the application was intended to serve the residents to the north west of Borehamwood and not just those in the proposed new houses near the application site.

7.44 The Committee, whilst seeking to understand the nature of the area of Borehamwood as a whole, which is located within the Hertsmere locality, noted the comments in the PNA that "*This district is generally affluent, but there are pockets of deprivation in the area compared to Hertfordshire and England values. Hertsmere is largely rural with population density increasing closer to the border with London*."

7.45 The Committee noted that the Applicant had included the new medical centre within its best estimate address and had placed the existence of the medical centre as a central theme to its application. The Committee was mindful that a pharmacy being located in close proximity of a GP Surgery is not as significant as it once was, in particular following the introduction of electronic prescribing. The Committee was of the view that the building of a new medical centre, which in this case appeared to involve the relocation of one of the existing medical

practices in the area, did not automatically lead it to the conclusion that a new pharmacy should be granted.

7.46 The Committee was of the view that the relocation of a medical centre together with proposed housing developments did not of itself justify granting a new pharmacy application. The Committee needed to assess whether the demand for pharmaceutical services is capable of being met by the existing pharmacies. Further and in line with the Regulations, the Committee was mindful that it is reasonable choice within the area of the HWB that it must have regard to and not just a specific location of the proposed pharmacy, taking into account the accessibility of existing pharmaceutical services. .

7.47 The Committee noted the comments from parties that there are 7 pharmacies within 1.5 miles of the proposed site as well as 3 GP practices and a branch surgery. In addition, the Committee noted that there are a total of 40 pharmacies within 5 miles of the proposed site which also included 2 distance selling pharmacies.

7.48 The Committee further noted the comments from the Commissioner that the 48,251 prescriptions that originate from Manor View Practice are dispensed by 308 pharmacies. The Committee was of the view that this demonstrated that those who were registered at Manor View Practice already exercise considerable choice with regard to pharmaceutical services.

7.49 The Committee considered access to existing pharmacies on foot. The Committee noted that the distances to the nearest pharmacies had been disputed as they had been given as a radial distance rather than an actual distance. The Committee noted however, that due to the early stages of the development, it was difficult to be accurate as to the location of the proposed site. Further, the Committee was mindful that there was limited, if any, infrastructure such as pavements etc in place for those who were at the development and chose to walk to the nearest pharmacy. Given the status of the development, the Committee was unsure as to whether there would be any patient currently at the development who would require access to pharmaceutical services. However, with the exception of its observations above, the Committee noted that there was nothing provided to demonstrate that there were physical barriers to accessing existing pharmaceutical services on foot in the area in general and also noted the conclusion of the 2025 PNA which stated "*Between 88%-96% of the population can reach a pharmacy walking in 20-30 minutes"* which the HWB had considered was acceptable. The Committee noted some of the survey comments with regard to access and the ease of having a pharmacy in the area which they could walk to but the Committee was of the view that, for persons who are able and willing to access the existing pharmacies on foot, there was nothing provided to demonstrate that they were currently experiencing any difficulties in doing so.

7.50 The Committee was mindful that there would be some who would choose not to access services on foot, or who are unable to access services on foot, for whatever reason. The Committee therefore went on to consider the ease and level of access to existing pharmacies by private and public transport.

7.51 The Committee noted the various comments from parties with regard to the affluence of the area as well as car ownership. The Committee noted the PNA

had stated "*The number of households that own a car or van is 84.5%, nearly the same as Hertfordshire and higher than England. Travel analysis (Appendix F) across Hertsmere showed: … 100% of the population can reach a community pharmacy by private transport in 20 minutes in peak and off-peak times."* The Committee noted the Applicant had quoted the 2021 census data for Borehamwood which stated that 79% of households own a car or van. The Committee was mindful that the census data was a few years older than that of the PNA and whilst it was lower than the county average, this was not significant.

7.52 The Committee was again of the view that there was very limited information able to be provided, due to the current status of the development, to demonstrate the ease or otherwise of access around the area, however the Committee noted that there was limited information provided by the Applicant with regard to actually accessing the existing pharmacies by car. There were survey comments about parking issues but the Committee was unclear as to whether this applied at only one pharmacy or many. The Committee concluded that for those who did have access to private transport, being mindful of the comparatively high car ownership in the area, there was nothing provided by the Applicant to demonstrate that patients were currently having difficulties in accessing the existing pharmaceutical provision in the area of the HWB.

7.53 The Committee noted the comments from the Applicant with regard to bus services in the area as well as the frequency of some of the bus services. The main thrust was it required a walk although the Committee noted journey time and frequency was reasonable. Again, given the progress of the development, it was hard to access how bus services would be accessed given that this would be something to be considered later in the development. The Committee noted the PNA had stated "*At least 98% of the population could reach a pharmacy by public transport in peak times in 30 minutes, and 93% in off-peak times in 30 minutes."*

7.54 The Committee was mindful that those who did use public transport, especially if they were using it to access other amenities and facilities in the area, which given the status of the development would be a necessity at present, would be aware of the services and times. The Committee, noting the high car ownership in the area, considered that the bus services offered were reasonable. The Committee found it difficult to assess the extent of usage but was of the view that there was nothing provided to demonstrate that for those who were reliant on public transport they were currently having difficulties in accessing the existing pharmaceutical provision in the area of the HWB.

7.55 The Committee noted the survey comments from those in the area as well as the Google reviews provided by the Applicant regarding the existing provision of pharmaceutical services in the area. The Committee considered that selective poor reviews as well as performance issues should not be a reason to completely discount the existence of pharmacies in the area. The Committee was of the view that it is the ICB's role as commissioner of pharmaceutical services to act on reports of negative service.

7.56 The Committee further noted the comments from parties with regard to the offer of a "prize draw" for those who completed the survey and the response from the Applicant's representative. Whilst the use of incentives is not prohibited to

encourage people to complete web surveys, the Committee was of the view that within the context of a patient survey regarding NHS services that the added incentive may not provide a true indication of the views of the population and affects its credibility.

7.57 However, the Committee noted the comments from residents, which for the large number of people in the area, was a comparatively small sample. The Committee noted the lack of explanation by the Applicant and therefore was of the view that it was unclear if this was representative of those residing in the area as a whole and where the respondents had come from, given the current status of the development. Whilst the Committee noted the comments from the Applicant as to how they had obtained the views of the residents, as well as the added incentive that had been offered, it placed limited weight on the views mindful of the relatively small sample of those whose views had been sought and how this information had been obtained. The Committee further noted that whilst the Applicant had split each of the comments down into various sections so that they looked voluminous, the overall responses remained a very relatively small sample of the population.

7.58 The Committee noted the comments from the Applicant with regard to the new development in the area. The Committee was mindful that the PNA had considered new developments but that the Organ Hall Farm development had not been referred to specifically in the PNA. The Committee noted that the PNA had considered if pharmaceutical provision was sufficient and noted "*…The current community pharmacy network is well placed to meet the predicted population and housing growth across the district for the lifetime of this PNA. No new or future gaps in provision have been identified as a result of planned developments during the lifetime of this PNA*." The Committee was of the view that the new developments which were planned for this area had been taken into account when the PNA was drafted and that there was nothing provided by the Applicant which demonstrated that the instant application was required at present to fulfil any perceived gap in provision.

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

7.60 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. Whilst the Committee noted the general comments from the Applicant with regard to those in the area who might be elderly, disabled or infirm as well as comments from patients in the survey, it was of the view that given the small sample size, there was not a sufficient robust body of evidence relating to patients and specific pharmaceutical needs and there was no information on specific services which meet specific needs.

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

7.62 In considering Regulation 18(2)(b)(iii) the Committee had regard to the desirability of innovative approaches to the delivery of pharmaceutical services. In doing so, the Committee would consider whether there was something more over and above the usual delivery of pharmaceutical services that might be expected from all pharmacies, some 'added value' on offer at the location.

7.63 The Committee noted that the Applicant, in its original application form, had not sought to rely on innovation and no information in this regard had been included. The Committee noted the conclusion of the Commissioner that "*There is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services in the area of Hertfordshire HWB. The granting of this application would not offer significant benefits to people within the area of Hertfordshire HWB."*

7.64 The Committee noted that the Applicant, on appeal, had sought to rely on innovation and had stated "*In addition to the Hypertension Case Finding Service our client will also be providing a new proprietary technology capable of assessing patients cardiovascular risk using retinal imaging and blood vessels analysis by Reti-CVD*." The Committee also noted the conclusion of the PNA:

"Hypertension case-finding service

> *The service has two stages. The first is identifying people at risk of hypertension and offering them blood pressure measurement (a 'clinic check'). The second stage, where clinically indicated, is offering ambulatory blood pressure monitoring. The blood pressure test results will then be shared with the patient's GP to inform a potential diagnosis of hypertension. The health of the Hertfordshire population, where CHD is a lower risk, would benefit from full implementation of the service. Over half the community pharmacies in Hertfordshire have signed up to the service."*

7.65 The Committee was of the view that hypertension case-finding is already provided in the NHS community pharmacy setting, but recognised new technology has been proposed by the Applicant to support future implementation of this service. However, the Commissioner has raised concerns about both the readiness of the technology and its deployment in community pharmacy The Committee further noted the vast quantity of information provided by the Applicant but there was very little narrative actually provided by the Applicant as to how this innovation would benefit those who accessed pharmaceutical services at this specific location.

7.66 In light of the above, the Committee did not accept the Applicant's proposed approach to be "innovative".

7.67 Taking all of the information before it into account, 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

7.68 The Committee noted that the Applicant was proposing to open for 53.5 hours a week, of which all of these were to be core opening hours. The Committee noted that there would be provision of pharmaceutical services from 8:30am to 7pm on a Monday, Tuesday, Wednesday and Friday and from 8:30am to 8pm on a Thursday. The Committee noted that the Applicant was not proposing to offer any hours, either core or supplementary, on a Saturday afternoon or on a Sunday.

7.69 The Committee was mindful of the comments from parties with regard to the provision of pharmaceutical services in the area and that both Boots and Tesco had extended opening hours, which had not been disputed. The Committee further noted the comments in the PNA with regard to the provision of hours and noted that no gap had been identified and that the Applicant was not proposing to offer any additional hours over and above what were already being offered by existing pharmacies in the HWB area. The Committee was of the view that there was no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore it was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits (in relation to opening hours) on persons.

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

7.71 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

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

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

7.74 The Committee had regard to Regulation 18(2)(g) and found that it did not apply in this case.

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

7.76 The Committee was not satisfied that the information provided demonstrates that there is difficulty in accessing current pharmaceutical services such that a

pharmacy at the proposed site would provide better access to pharmaceutical services.

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

7.77.1 confirm the Commissioner's decision;

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

7.77.3 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.

7.78 Although the Committee has reached the same decision as the Commissioner, it was mindful that it had been provided with more information on appeal. In those circumstances the Committee determined that the decision of the Commissioner must be quashed.

7.79 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.

7.80 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.

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

8 DECISION

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

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

8.3 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;

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

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

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

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

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

8.4.2 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