

25 March 2026

FILE REF: SHA/ 26887

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

COMMISSIONER: BUCKINGHAMSHIRE,
OXFORDSHIRE AND
BERKSHIRE WEST ICB
("the Commissioner")

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

PHARMACIST: JARDINES (U.K.) LTD
T/A JARDINES PHARMACY (FH707)
("the Applicant")

PREMISES: 136 LONDON ROAD
ASTON CLINTON
AYLESBURY
BUCKINGHAMSHIRE
HP22 5LB

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

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

Outcome

- 1.1. Based on the information provided, I am not satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours are likely to benefit the people who are accustomed to accessing pharmaceutical services at the pharmacy premises such that they would be more likely to access services during the proposed hours.
- 1.2. The action taken by the Commissioner to refuse the application is confirmed.

A copy of this decision is being sent to:
Pharmacy Sales & Consultancy on behalf of Jardines (UK) Ltd t/a Jardines Pharmacy
Buckinghamshire, Oxfordshire and Berkshire West ICB

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

1 Introduction

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

Rights of appeal

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

Opening hours

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

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

Alteration of core opening hours

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

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

Alteration of supplementary opening hours

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

2 Application

In this case, Pharmacy Sales & Consultancy on behalf of the Applicant provided the following information in its application form and supporting information dated 20 November 2025:

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

Monday	08:30 – 13:30; 15:00 – 18:30
Tuesday	08:30 – 13:30; 15:00 – 18:30
Wednesday	08:30 – 13:30; 15:00 – 18:30
Thursday	08:30 – 13:30; 15:00 – 18:30
Friday	08:30 – 13:30; 15:00 – 18:30
Saturday	09:30 – 12:00
Sunday	None

2.3 Proposed core opening hours for these premises:

Monday	08:30 – 13:30; 14:30 – 18:30
Tuesday	08:30 – 13:30; 14:30 – 18:30
Wednesday	08:30 – 13:30; 14:30 – 18:30
Thursday	08:30 – 13:30; 14:30 – 18:30
Friday	08:30 – 13:30; 14:30 – 18:30
Saturday	None
Sunday	None

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

2.5 “26 January 2026.”

2.6 The Applicant confirmed that it wished its application to be determined on the basis of Paragraph 26(2ZB), Schedule 4.

2.7 Please provide the information that demonstrates that your proposed core opening hours will ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises listed above are likely to benefit from the changes because, overall, they would be more likely to access those services at the pharmacy premises during the proposed core opening hours than during the existing core opening hours.

2.8 “See enclosed supporting information.”

2.9 **“Supporting Information:**

2.10 **Application to amend core opening hours at Jardines Pharmacy, 136 London Road, Aston Clinton, Aylesbury, Buckinghamshire, HP22 5LB**

2.11 We act for Jardines (UK) Ltd, trading as Jardines Pharmacy. Our client has instructed us to submit an application to NHS England to amend the core hours for its pharmacy located at: *136 London Road, Aston Clinton, Aylesbury, Buckinghamshire, HP22 5LB.*

2.12 **Regulatory context**

2.13 The introduction of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2023 in May 2023 brought in changes to the legal tests to be considered by the NHS

Commissioning Board when a pharmacy contractor wishes to change core opening hours for an NHS Pharmacy.

- 2.14 Further changes were introduced in June 2025 by way of Paragraph 26(2ZB) to Schedule 4 of the Regulations. This introduced an additional route for pharmacy contractors to seek the redistribution of their core opening hours.
- 2.15 The context of this most recent amendment is the contractual settlement for 2025/26 between the Department of Health and Social Care (DHSC) and Community Pharmacy England (CPE). In the negotiations of this settlement there was a general recognition by DHSC that some pharmacies are contractually obliged to open at certain times which are not economically viable as the NHS fees received for providing pharmaceutical services during those times do not cover the operating costs.
- 2.16 Furthermore, the DHSC accepted the principle that, at quiet times, out-of-hours or on Bank Holidays, it is reasonable that patients and likely users of the pharmacy may have to travel further to a pharmacy, for example, to one of the pharmacies that were permitted to open if they provided longer opening hours. Usually, these 100-hour pharmacies (now often open for only 72 hours) are open 5 – 9 pm Monday to Saturday and 11 – 4 pm on Sunday.
- 2.17 There was also a recognition there can be circumstances where a contractor's core hours are distributed in such a way that they do not necessarily serve the best interests of patients. If a pharmacy contractor feels obliged, as a result of financial pressures, to reduce its supplementary opening hours to save costs, these closures might be at times where there is a greater need for patients to access pharmaceutical services than the quieter core hours.
- 2.18 Previous regulatory tests may have made it difficult for contractors to distribute these hours differently in these circumstances, so further amendments have been made. We discuss the new regulatory test in more detail below.
- 2.19 *Preliminary matter*
- 2.20 The Regulations now require the applicant to specify the basis on which it wishes the application to be determined. Paragraph 26(1A) states:
- 2.21 *On or after 23rd June 2025, if P makes an application under paragraph (1)(b), P must state in the application whether P wishes the application to be determined on the basis of paragraph 24(1) or sub-paragraph (2ZB).*
- 2.22 In this case we can confirm that our client wishes this application to be determined on the basis of sub-paragraph (2ZB).
- 2.23 *New regulatory test*
- 2.24 The new test the ICB is required to consider is set out in sub-paragraph (2ZB) as follows:
- 2.25 *In the case of an application under sub-paragraph (1)(b) which is based on the matters that NHS England must seek to ensure pursuant to this sub-paragraph, where NHS England—*

- 2.25.1 (a) issues a direction under sub-paragraph (4) for setting any days or times for opening hours; or
- 2.25.2 (b) determines the application under sub-paragraph (4) without issuing a direction,
- 2.26 ***it must in doing so seek to ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises are likely to benefit from the changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours.***
- 2.27 It is worth considering the wording of this test further to understand its intentions:
- 2.27.1 i) The wording refers to “*people who are accustomed to accessing pharmaceutical services at the pharmacy premises*”.
- 2.27.2 The decision maker is not required to consider people who are not already patients receiving services from the pharmacy in question. Nor is it required to consider the wider provision of pharmaceutical services in the area.
- 2.27.3 ii) The wording also invites the decision maker to consider whether patients “*are likely to benefit from the changes **because**, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours*”.
- 2.28 The word ‘because’ is crucial here. The decision maker is not asked to consider the broader question of patient benefits but rather the very specific question of whether patients are more likely overall to access services during the proposed core hours than the existing core hours.
- 2.29 If the ICB reaches the conclusion that, on the balance of probabilities, patients are more likely to visit during the proposed hours than the current hours then it may approve the application.
- 2.30 The proposal
- 2.31 As set out in the attached application form, the core hours for the pharmacy as present are as follows:
- 2.31.1 Monday to Friday 8.30am -12.30pm and 3pm-6.30pm
- 2.31.2 Saturday: 9.30am -12pm
- 2.32 It is proposed that the core hours for a Saturday will be redistributed on Monday to Friday between 2.30pm-3pm to maintain the pharmacy’s core hours as 40.
- 2.33 It is our client’s position that the demand for pharmaceutical services during the proposed core hours is clearly greater than during the current core hours. That being the case it is clear that *overall* patients will benefit from the proposed changes.

- 2.34 Patient survey
- 2.35 In order to help the ICB with this assessment, our client carried out a patient survey for a 4-week period starting 29th September 2025. We have enclosed a copy of that survey with this application.
- 2.36 The intention of the survey was to measure the number of patients attending each day for the hours it is proposed to close and to capture what services they attended for and how they travelled. Our client also asked those patients if they would have been able to attend at a different time if the pharmacy had been closed when they attended.
- 2.37 Additionally, our client captured footfall data during the hours it is proposed to move the core hours to i.e. between 2.30pm-3pm Monday, to Friday. The pharmacy currently opens during these times as supplementary hours. This information helps to establish the demand for services during those hours.
- 2.38 The data is summarised as follows:
- 2.39 The average **weekly** demand for the current core hours it is proposed to close based on the outcome of the survey is summarised as follows:
- 2.39.1 4 patients accessed the pharmacy for an acute prescription,
 - 2.39.2 5 patients accessed the pharmacy to collect a prescription already dispensed,
 - 2.39.3 1 patient accessed the pharmacy to purchase an over-the-counter product,
 - 2.39.4 2 patients accessed the pharmacy for advice,
 - 2.39.5 0 patients accessed the pharmacy for an advanced or enhanced service.
- 2.40 Of the patients attending on Saturdays during the hours it is proposed to close, 69% stated they could have attended during the proposed opening hours instead.
- 2.41 In terms of method of transport, 100% of patients travelled by car, 0% walked and 0% used public transport.
- 2.42 The average **weekly** demand, for the proposed core hours based on the outcome of the survey is summarised as follows.
- 2.42.1 43 patients accessed the pharmacy for an acute prescription,
 - 2.42.2 23 patients accessed the pharmacy to collect a prescription already dispensed,
 - 2.42.3 3 patients accessed the pharmacy to purchase an over-the-counter product,
 - 2.42.4 2 patients accessed the pharmacy for advice,

- 2.42.5 17 patients accessed the pharmacy for an advanced or enhanced service, which included NMS, Flu Vaccinations and Covid vaccinations.
- 2.43 In terms of method of transport, 97% of patients travelled by car, 2% walked and 1% patients used public transport.
- 2.44 Mindful that the regulatory test does not ask the decision maker to consider whether patients could have attended different pharmacies during the hours it is proposed to close, we have not carried out further detailed analysis of methods of transport or services received. These are more relevant to the '2023 tests'.
- 2.45 It is very clear from this data that the demand for services is substantially greater on weekdays between 2.30pm-3pm than on a Saturday between 9.30am – 12pm. This is not a surprise given that patients would have a greater level of expectation that a pharmacy would open during the weekday.
- 2.46 Other relevant information
- 2.47 We have also considered whether there are any other factors that might be relevant in respect of the question around when patients might be most likely to attend the pharmacy.
- 2.48 *Medical Services*
- 2.49 There is a medical centre adjacent to the pharmacy, Aston Clinton Surgery, which is located at 136 London Road, Aston Clinton, Aylesbury, HP22 5LB.
- 2.50 This surgery opens from 8am to 6.30pm from Monday, Tuesday and Thursday, 8am to 8pm Wednesday and 7.30am – 6.30pm on Friday.
- 2.51 With the surgery being closed on Saturdays, the proposed reduction in Saturday hours has no relevance to patients attending the surgery.
- 2.52 *The local area*
- 2.53 The pharmacy is set back from the main road and is located adjacent to a Medical Centre with no supporting retail businesses in the immediate vicinity which would attract patients to the area on a Saturday. The pharmacy and surgery build is surrounded by residential houses.
- 2.54 *Alternative extended hours provision*
- 2.55 Whilst not strictly speaking relevant, for the reasons we have provided, on Saturday mornings pharmaceutical services are provided elsewhere as follows (sourced through the NHS website):
- 2.55.1 Pyramid Pharmacy, 66 High Street, Tring, Hertfordshire, HP23 4AG (**2.1 miles away**). Open 9am, to 6pm Monday to Friday and 9am to 5.30pm Saturday.

- 2.55.2 Rooney Chemist, 4 Dolphin Square, Tring, Hertfordshire, HP23 5BN (**2.2 miles away**). Open 9am to 6.30pm Monday to Friday and 9am to 5.30pm Saturday.
- 2.55.3 Wendover Pharmacy, 28 High Street, Wendover, Aylesbury, HP22 6EA, (**2.8 miles away**). Open 9am to 6.30pm Monday to Friday 9am to 5.30pm Saturday.
- 2.56 Residents with access to a car can easily drive to, and park at these locations should they require services out of hours. Those without access to a car can use the public transport network.
- 2.57 It is important to remember, however, that this new regulatory test does not require the ICB to consider access to alternative pharmacies. Instead, it is required to consider whether the proposed hours better meet the needs of patients at the existing premises.
- 2.58 *Financial Viability*
- 2.59 The financial performance of the pharmacy with the current trading hours is that the branch has lost £12,840 in the last 12 months. Please see attached the Profit and Loss statement for the last 12 months.
- 2.60 The current cost of staffing the pharmacy on Saturdays is £12,360 per annum. This is the cost of employing a locum pharmacist and two support staff based on current pay rates. Additionally, there will be energy cost savings to be made by not opening on a Saturday.
- 2.61 Moving the core hours from Saturday to weekday hours between 2.30pm-3pm, would mitigate the financial losses for the pharmacy and bring the pharmacy into a break-even position in addition to better meeting the needs of patients.
- 2.62 **Conclusion**
- 2.63 In conclusion, and referring back to the legal test, it is clear that the pharmacy is much busier for all services during the proposed new core hours than the existing ones our client proposes to move. It is also clear that there are no specific local factors that create specific demand during proposed closure hours.
- 2.64 In contrast, the pharmacy is busy in the afternoon period after lunch on weekdays so securing these hours as core hours would ensure that patients will benefit from these proposed changes.
- 2.65 We therefore ask the ICB to approve this application accordingly.”
- 2.66 [Information regarding profit and loss account and survey data provided].

3 The Decision

In a letter to the Applicant dated 5 January 2026 the Commissioner decided to refuse the application. The Commissioner stated:

- 3.1 “I write with reference to your application to permanently change the Core hours for Jardines (UK) Ltd t/a Jardines Pharmacy (FH707), 136 London Road, Aston Clinton, Aylesbury, Buckinghamshire, HP22 5LB received on 20 November 2025.
- 3.2 Buckinghamshire, Oxfordshire & Berkshire West Integrated Care Board (ICB), has considered the above application and I am writing to confirm that it has been refused.
- 3.3 **REASON FOR THE DECISION**
- 3.4 Your application has been refused on the grounds that you have not met the requirements set out in paragraph 26(2ZB), Schedule 4 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.
- 3.5 Consideration
- 3.6 The Committee notes that part of the Applicant's motivation for the change appears to be financial, referring to the pharmacy's viability. Whilst this reason is important to the pharmacy, it is not relevant to paragraph 26(2ZB). Paragraph 26(2ZB) is concerned with a situation whereby hours are being redistributed for the benefit of pharmacy users, rather than the pharmacy itself.
- 3.7 There was no information as part of the application to describe how the people accustomed to accessing pharmaceutical services on Saturday mornings, are likely to benefit from the proposed changes.
- 3.8 The Committee was therefore in agreement that the Applicant had not demonstrated that people accustomed to accessing pharmaceutical services are likely to benefit from the proposed changes because, overall, they would be more likely to access those services at the premises during the proposed core opening hours than during the existing core opening hours.
- 3.9 Decision
- 3.10 The application to change core hours was therefore refused.
- 3.11 The Committee noted that the proposed change to supplementary hours were affected by the proposed core hour changes. As the core hours application had been refused the changes to supplementary hours could not take effect.
- 3.12 Following the refusal of the core hours application, the supplementary hours notification will be recorded as withdrawn.
- 3.13 **RIGHT OF APPEAL**
- 3.14 You have a right of appeal to the Secretary of State against the decision of Buckinghamshire, Oxfordshire & Berkshire West Integrated Care Board (ICB). Should you choose to appeal then you should send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to:

- 3.15 NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU or email: nhsr.appeals@nhs.net
- 3.16 If you have any questions, please contact (EC) using the contact details at the top of this letter.”

4 The Appeal

In a letter to NHS Resolution dated 3 February 2026, Pharmacy Sales & Consultancy on behalf of the Applicant appealed against the Commissioner’s decision. The grounds of appeal are:

- 4.1 “We act for Jardines (UK) Limited and have enclosed a letter of authorisation confirming our instructions in this matter.
- 4.2 Our client has been notified by Southeast Pharmaceutical Services Regulations Committee (“PSRC”) that the above application has been refused. We have enclosed a copy of their decision letter for your information and a copy of the initial application, which includes the supporting documentation.
- 4.3 Our client wishes to appeal this decision, and we set out the key grounds for appeal below by reference to the PSRC letter dated 5th January 2026.
- 4.3.1 The PSRC has failed to fully consider all of the information provided by our client and stated that there was “no information as part of the application to describe how the people accustomed to accessing to pharmaceutical service on Saturday mornings, are likely to benefit from the proposed changes”. Our client provided detailed evidence in the supporting information document explaining why the test set out in Paragraph 26(2ZB) of Schedule 4 to the Regulations has been satisfied along with a copy of the survey results.
- 4.3.2 The PSRC also have disregarded the information provided by the applicant that financial pressures are a consideration to the application. This is contrary to the intentions of the Regulations as part of the national negotiations.
- 4.4 Regulatory context
- 4.5 The introduction of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2023 in May 2023 brought in changes to the legal tests to be considered by the NHS Commissioning Board when a pharmacy contractor wishes to change core opening hours for an NHS Pharmacy.
- 4.6 Further changes were introduced in June 2025 by way of Paragraph 26(2ZB) to Schedule 4 of the Regulations. This introduced an additional route for pharmacy contractors to seek the redistribution of their core opening hours.
- 4.7 The context of this most recent amendment is the contractual settlement for 2025/26 between the Department of Health and Social Care (DHSC) and Community Pharmacy England (CPE). In the negotiations of this settlement there was general recognition by DHSC that some pharmacies are

contractually obliged to open at certain times which are not economically viable, as the NHS fees received for providing pharmaceutical services during those times do not cover the operating costs.

- 4.8 Furthermore, the DHSC accepted the principle that, at quiet times, out-of-hours or on Bank Holidays, it is reasonable that patients and likely users of the pharmacy may have to travel further to a pharmacy, for example, to one of the pharmacies that were permitted to open if they provided longer opening hours. Usually, these 100-hour pharmacies (now often open for only 72 hours) are open 5 – 9 pm Monday to Saturday and 11 – 4 pm on Sunday.
- 4.9 There was also recognition that there can be circumstances where a contractor's core hours are distributed in such a way that they do not necessarily serve the best interests of patients. If a pharmacy contractor feels obliged, as a result of financial pressures, to reduce its supplementary opening hours to save costs, these closures might be at times where there is a greater need for patients to access pharmaceutical services than the quieter core hours.
- 4.10 Previous regulatory tests may have made it difficult for contractors to distribute these hours differently in these circumstances, so further amendments have been made. We will discuss the new regulatory test in more detail below.
- 4.11 Community Pharmacy England in their core hours guidance, which can be found at <https://cpe.org.uk/quality-and-regulations/terms-of-service/opening-hours/> have stated the following:
 - 4.11.1 *"As part of the national negotiations, it was agreed that for both new and existing applications, ICBs would be required to take into consideration the business needs of the pharmacy, as part of the decision-making process on opening hours applications, where these have been cited by the applicant pharmacy owner."*
 - 4.11.2 *The Pharmacy Manual (Chapter 36) will be amended to reflect these changes, and in the meantime, NHS England has confirmed, from 23 June, ICBs should apply this."*
- 4.12 The full article has been included in Appendix 1. [See paragraphs 4.66 to 4.133 below].
- 4.13 It is worth noting that NHS England (NHSE) have not, as of 27th January 2026, provided any guidance to PSRCs in their decision-making process, nor have they updated Chapter 36 of the Pharmacy Manual to include the changes to existing route of applications to include financial considerations where this has been mentioned as part of the application.
- 4.14 Preliminary matter
- 4.15 The Regulations now require the applicant to specify the basis on which it wishes the application to be determined. Paragraph 26(1A) states:

- 4.15.1 *On or after 23rd June 2025, if P makes an application under paragraph (1)(b), P must state in the application whether P wishes the application to be determined on the basis of paragraph 24(1) or sub-paragraph (2ZB).*
- 4.16 In this case we can confirm that our client wishes this application to be determined on the basis of sub-paragraph (2ZB).
- 4.17 New regulatory test
- 4.18 The new test the ICB is required to consider is set out in sub-paragraph (2ZB) as follows:
- 4.18.1 *In the case of an application under sub-paragraph (1)(b) which is based on the matters that NHS England must seek to ensure pursuant to this sub-paragraph, where NHS England—*
- 4.18.2 *(a) issues a direction under sub-paragraph (4) for setting any days or times for opening hours; or*
- 4.18.3 *(b) determines the application under sub-paragraph (4) without issuing a direction, it must in doing so seek to ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises are likely to benefit from the changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours*
- 4.19 It is worth considering the wording of this test further to understand its intentions:
- 4.19.1 i) The wording refers to “people who are accustomed to accessing pharmaceutical services at the pharmacy premises”.
- 4.20 When considering these ‘people’ the wording of 26 (2ZB) is **not** limited to those people who access pharmaceutical services during the core hours the applicant is seeking to change. Had the regulations intended the decision maker to consider the specific requirements of those people attending only during the proposed closure hours, this would have been explicit in the wording.
- 4.21 Furthermore, the decision maker is not required to consider people who are not already patients receiving services from the pharmacy in question. Nor is it required to consider the wider provision of pharmaceutical services in the area.
- 4.21.1 ii) The wording also invites the decision maker to consider whether patients “are likely to benefit from the changes **because, overall**, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours”.
- 4.22 The words ‘because’ and ‘overall’ are crucial here.
- 4.23 As discussed above, the decision maker is firstly required to consider “people who are accustomed to accessing pharmaceutical services”. As it does not specify only those people attending during the proposed closure hours, it must

refer to **all** people attending the pharmacy across the current opening hours **throughout the week**. [emphasis added by Applicant's Representative].

- 4.24 When the word 'overall' is added to the test, the logical approach is to consider whether more people would benefit from the proposed core hours than the current core hours i.e. the proposed hours would be beneficial overall when considering all the people attending the pharmacy, even if this means some people currently attending when it is proposed the pharmacy will close will not benefit.
- 4.25 It is impossible to disregard the word 'overall' when considering the application against the intention of the changes to the Regulations to make the test "easier" in the event that the test in paragraph 24(1) does not apply. If the word 'overall' is disregarded when considering the people who currently access the pharmacy, every application would fail under this test if there were a single patient who is unable to access the pharmacy during the proposed core hours. This is contrary to the intentions of the regulatory changes and the introduction of the new test.
- 4.26 Furthermore, looking at the background to the introduction of this new test, the decision maker may consider whether, as a result of financial constraints, the applicant may choose to make the difficult decision to reduce the supplementary hours at times where pharmaceutical services are accessed in a greater number to achieve financial viability, such as closing for period in the middle of the day. This would have a greater impact on patients overall than the impact of the approval of the core hour application under consideration.
- 4.27 So whilst the new test does not specifically discuss financial viability, in its interpretation the decision maker should consider the context of the regulatory changes.
- 4.28 If the applicant can clearly demonstrate that more patients are able to access pharmaceutical services during the proposed core hours than the current core hours, there is an overall benefit and the application may be approved.
- 4.29 The proposal
- 4.30 As set out in the attached application form, the core hours for the pharmacy as present are as follows:
- 4.30.1 Monday to Friday 8.30am -12.30pm and 3pm-6.30pm
- 4.30.2 Saturday: 9.30am -12pm
- 4.31 It is proposed that the core hours for a Saturday will be redistributed on Monday to Friday between 2.30pm-3pm to maintain the pharmacy's core hours as 40.
- 4.32 It is our client's position that the demand for pharmaceutical services during the proposed core hours is clearly greater than during the current core hours. That being the case it is clear that *overall* patients will benefit from the proposed changes.
- 4.33 Patient survey

- 4.34 In order to help the decision makers with this assessment, our client carried out a patient survey for a 4-week period starting 29th September 2025. We have enclosed a copy of that survey with this appeal.
- 4.35 The intention of the survey was to measure the number of patients attending each day for the hours it is proposed to close and to capture what services they attended for and how they travelled. Our client also asked those patients if they would have been able to attend at a different time if the pharmacy had been closed when they attended.
- 4.36 Additionally, our client captured footfall data during the hours it is proposed to move the core hours to i.e. between 2.30pm-3pm Monday, to Friday. The pharmacy currently opens during these times as supplementary hours. This information helps to establish the demand for services during those hours and any benefit accrued due to the proposed changes.
- 4.37 The data is summarised as follows:
- 4.38 The average **weekly** demand for the current core hours it is proposed to close based on the outcome of the survey is summarised as follows:
- 4.38.1 4 patients accessed the pharmacy for an acute prescription,
 - 4.38.2 5 patients accessed the pharmacy to collect a prescription already dispensed,
 - 4.38.3 1 patient accessed the pharmacy to purchase an over-the-counter product,
 - 4.38.4 2 patients accessed the pharmacy for advice,
 - 4.38.5 0 patients accessed the pharmacy for an advanced or enhanced service.
- 4.39 Of the patients attending on Saturdays during the hours it is proposed to close, 69% stated they could have attended during the proposed opening hours instead.
- 4.40 In terms of method of transport, 100% of patients travelled by car, 0% walked and 0% used public transport.
- 4.41 The average **weekly** demand, for the proposed core hours based on the outcome of the survey is summarised as follows:
- 4.41.1 43 patients accessed the pharmacy for an acute prescription,
 - 4.41.2 23 patients accessed the pharmacy to collect a prescription already dispensed,
 - 4.41.3 3 patients accessed the pharmacy to purchase an over-the-counter product,
 - 4.41.4 2 patients accessed the pharmacy for advice,

- 4.41.5 17 patients accessed the pharmacy for an advanced or enhanced service, which included NMS, Flu Vaccinations and Covid vaccinations.
- 4.42 In terms of method of transport, 97% of patients travelled by car, 2% walked and 1% patients used public transport.
- 4.43 Mindful that the regulatory test does not ask the decision maker to consider whether patients could have attended different pharmacies during the hours it is proposed to close, we have not carried out further detailed analysis of methods of transport or services received. These are more relevant to the '2023 tests'.
- 4.44 It is very clear from this data that the demand for services is substantially greater on weekdays between 2.30pm-3pm than on a Saturday between 9.30am – 12pm. This is not a surprise given that patients would have a greater level of expectation that a pharmacy would open during the weekday.
- 4.45 Car ownership in Aston Clinton & Weston Turville Ward is significantly higher than England as a whole as only 5.8% of households do not own a car or a van when compared to 23.5% of the rest of England. This is supported by the results of the survey which shows the number of patients that access our client's pharmacy by private transport being 97% on weekdays and 100% on Saturday morning.
- 4.46 Furthermore, patients who access pharmaceutical services on a Saturday morning have reduced accessibility to public transport compared to the weekdays. Route 61 and 62 operate twice an hour on weekdays but only hourly on Saturdays. This is supported by the survey carried out where no patients used public transport to access the pharmacy on a Saturday but 1% of patients used public transport to access the pharmacy during the proposed core hours on weekday afternoons. There is an overall benefit to patients for having greater accessibility.
- 4.47 Other relevant information
- 4.48 We have also considered whether there are any other factors that might be relevant in respect of the question around when patients might be most likely to attend the pharmacy.
- 4.49 *Medical Services*
- 4.50 There is a medical centre adjacent to the pharmacy, Aston Clinton Surgery, which is located at 136 London Road, Aston Clinton, Aylesbury, HP22 5LB.
- 4.51 This surgery opens from 8am to 6.30pm from Monday, Tuesday and Thursday, 8am to 8pm Wednesday and 7.30am – 6.30pm on Friday.
- 4.52 With the surgery being closed on Saturdays, the proposed reduction in Saturday hours has no relevance to patients attending the surgery.
- 4.53 *The local area*

- 4.54 The pharmacy is set back from the main road and is located adjacent to a Medical Centre with no supporting retail businesses in the immediate vicinity which would attract patients to the area on a Saturday. The pharmacy and surgery build is surrounding by residential houses.
- 4.55 *Alternative extended hours provision*
- 4.56 Whilst not strictly speaking relevant, for the reasons we have provided, on Saturday mornings pharmaceutical services are provided elsewhere as follows (sourced through the NHS website):
- 4.56.1 Pyramid Pharmacy, 66 High Street, Tring, Hertfordshire, HP23 4AG (**2.1 miles away**). Open 9am, to 6pm Monday to Friday and 9am to 5.30pm Saturday.
- 4.56.2 Rooney Chemist, 4 Dolphin Square, Tring, Hertfordshire, HP23 5BN (**2.2 miles away**). Open 9am to 6.30pm Monday to Friday and 9am to 5.30pm Saturday.
- 4.56.3 Wendover Pharmacy, 28 High Street, Wendover, Aylesbury, HP22 6EA, (**2.8 miles away**). Open 9am to 6.30pm Monday to Friday 9am to 5.30pm Saturday.
- 4.57 Residents with access to a car can easily drive to, and park at these locations should they require services out of hours. Those without access to a car can use the public transport network.
- 4.58 It is important to remember, however, that this new regulatory test does not require the decision maker to consider access to alternative pharmacies. Instead, it is required to consider whether the proposed hours better meet the needs of patients at the existing premises.
- 4.59 *Financial Viability*
- 4.60 The financial performance of the pharmacy should not be disregarded outright when considering a core hour application as stated previously. The financial performance of the pharmacy with the current trading hours is that the branch generated a loss of £12,840 in the last 12 months. Please see attached the Profit and Loss statement for the last 12 months.
- 4.61 Removing the Saturday staffing costs would provide a financial saving of £12,360. This saving is made up of a locum pharmacist and two support staff. Additionally, there will be further energy cost savings to be made by not opening on a Saturday.
- 4.62 Moving the core hours from Saturday to weekday hours between 2.30pm-3pm, would mitigate the financial losses for the pharmacy and bring the pharmacy into a break-even position in addition to better meeting the needs of patients.
- 4.63 Conclusion
- 4.64 In conclusion and referring back to the legal test and the intention of the DHSC in creating the new regulation, it is clear that this application fully satisfies the

regulatory test. The pharmacy is much busier for all services during the proposed new core hours than the existing ones that our client proposes to move and there is an overall benefit to people who use the pharmacy as a result of these proposed changes.

4.65 We therefore ask NHS Resolution to set aside the decision of the PSRC to refuse the application and to approve this application accordingly.

4.66 **Appendix 1**

4.67 *Community Pharmacy England Website* <https://cpe.org.uk/quality-and-regulations/terms-of-service/opening-hours/>

4.68 **Opening hours (including Core, Supplementary, Rest Breaks & Temporary Suspensions)**

4.69 Published on: 11th July 2013 | Updated on: 19th January 2026

4.70 **Pharmacy opening hours** are part of pharmacies' Terms of Service for providing NHS pharmaceutical services.

4.71 Most pharmacies must open for **40 core contractual hours** (this includes Distance Selling Premises (DSP) pharmacies).

4.72 Some pharmacies must open between 72-100 core contractual hours (called 100-hour pharmacies for those that have opened under the former exemption from the control of entry test).

4.73 All pharmacies may open for additional **supplementary hours**.

4.74 Pharmacies are not required to open (to provide core contractual hours) on, for example, Bank holidays but some may be directed by the NHS to provide Bank holiday opening hours.

4.75 On occasion, pharmacies may have to close. This may be a **planned temporary closure**, for example, for the refurbishment of the premises, or an **unplanned temporary closure**, if, for example, that morning the pharmacist reports they are ill and unable to work.

4.76 **Latest Updates**

4.77 On Monday, 31st March 2025, the details of the [contractual settlement for 2025/26 were announced](#), which included changes to regulations around core opening hours.

4.78 On Monday, 2nd June 2025, regulatory changes were laid before parliament, including the additional application route to amend core opening hours. See our news story [here](#).

4.79 **Regulatory Changes**

4.80 **2025**

- 4.81 In 2025, regulations were laid to make changes to the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 around core opening hours, with an additional regulatory test to change the days and/or times of core opening hours.
- 4.82 The existing application route (24(1)) remains and a new route (26(2ZB)) is introduced. The new route gives more scope for pharmacy owners to apply to change the dates and times of their core opening hours. For an application to be granted, the proposed new core opening hours must better meet the needs of their patients and users of the pharmacy. More information is available in the ***Changing core contractual hours*** section below. [Emphasis by Applicant's Representative].
- 4.83 **2023**
- 4.84 In 2023, regulations were laid to make changes to the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 that added provisions for rest breaks, reduction of core hours for 100-hour pharmacies, requirements to change core opening hours, and local hours plans. More information on these changes can be found on the [PLPS Regulations May 2023 Amendment](#) page.
- 4.85 We have also produced a [Community Pharmacy England Briefing 012/23: DHSC's changes to the Pharmaceutical Regulations](#), which outlines information about the changes.
- 4.86 *Click on a heading below for more information.*
- 4.87 2025/26 contractual settlement changes
- 4.88 Pharmacy opening hours
- 4.89 Changing core contractual hours
- 4.90 Pharmacy owners who want to change their core contractual hours (core opening hours) must apply to the ICB.
- 4.91 Pharmacy owners have no right to change core opening hours, but must apply for any changes. This is not a notification procedure. Consequently, applications to change core opening hours may be granted or refused. An ICB is required to consider and determine applications within 60 days, and any changes, if approved, may be implemented only after 30 days (from the date of approval).
- 4.92 In June 2025, Regulations were laid which introduced an additional application route for amending core opening hours. Both routes are explained below and pharmacy owners wishing to amend core opening hours must specify which application route they are applying under.
- 4.93 **Existing application route**

- 4.94 The existing application route is defined in para 24(1) of Schedule 4 of the PLPS regulations, which applies to applications to reduce the total number of core opening hours, or to rearrange the existing number.
- 4.95 This route is a 2-part regulatory test, which is:
- 4.95.1 First, whether the proposed changes to core opening hours maintain as necessary the existing level of service provision and, if not,
 - 4.95.2 Second, whether they will maintain a sustainable level of adequate provision in circumstances where this is unnecessary or unrealistically achievable.
- 4.96 This application route considers the needs of people in the area, and the opening hours and provision of pharmacy services by the applicant's pharmacy and other pharmacies in the area.
- 4.97 **New application route**
- 4.98 The new application route is defined in para 26(2ZB) of Schedule 4 of the PLPS regulations, which applies to applications to rearrange the existing number of core opening hours (the total number of weekly hours must remain the same).
- 4.99 This route has a single regulatory test, which states that NHSE (in practice, the ICB) must: *'... seek to ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises are likely to benefit from the changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours.'*
- 4.100 This application route considers the needs of people who are accustomed to accessing pharmacy services at the applicant's pharmacy, and the opening hours and provision of pharmacy services by the applicant's pharmacy.
- 4.101 For an application under the new application route to be granted, people accustomed to using the pharmacy must be likely to benefit from the changes because, overall, they are more likely to access pharmacy services at the premises during the proposed hours than during the existing hours. An application could be about moving a set number of core hours or a broader change to core opening hours.
- 4.102 As part of the national negotiations, it was agreed that for both new and existing applications, ICBs would be required to take into consideration the business needs of the pharmacy, as part of the decision-making process on opening hours applications, where these have been cited by the applicant pharmacy owner.
- 4.103 The Pharmacy Manual (Chapter 36) will be amended to reflect these changes, and in the meantime, NHS England has confirmed, from 23 June, ICBs should apply this.
- 4.104 **What to include with applications**

- 4.105 With both the new and existing application routes, pharmacy owner applicants will need to:
- 4.105.1 Specify which application route applies, otherwise, the application will be invalid.
 - 4.105.2 Provide the ICB with such information as may reasonably be requested (i.e., provide all relevant information when the application is made).
 - 4.105.3 Consider what evidence is relevant to their application, and depending on the application route, this could include, for example:
 - 4.105.3.1 Any changes to local GP practice hours and the opening hours of nearby pharmacies.
 - 4.105.3.2 Information about the demand for and use of the pharmacy's services – patient surveys, levels of use – for prescriptions/requests for advice/OTC medicines sales – for the relevant days/times. (e.g. the proposed core opening hours and the existing core opening hours and other relevant hours – if Saturday afternoon is quiet with few patients, as well as showing another time in the week better meets the needs of patients, you may need to show that some of the small number of patients in the afternoon could have come in the morning).
 - 4.105.3.3 The distance from the applicant's pharmacy to nearby pharmacies, including any 100 (72) – hour pharmacies, or other pharmacies, their opening days and times, the services they offer, and how patients can travel to them.
 - 4.105.3.4 Evidence of the economic viability of the current opening hours, which can be considered alongside evidence of patient demand for the pharmacy's services during these hours (the Pharmacy Manual will be amended to state this or something similar).
 - 4.105.3.5 Other evidence relevant to the regulatory test.
- 4.106 Appeal cases (which can be found on the [Primary Care Appeals decisions](#) website) for the existing application route identify key evidence as the distance from the pharmacy to nearby pharmacies, how patients could travel to them, the opening hours of them and the services those pharmacies offer. Applications could also include survey data, for the hours change applied for, to show how patients are traveling to the pharmacy and the reason for their visit (e.g. dispensing services).
- 4.107 Providing evidence to show that maintaining the existing level of provision is not realistically achievable is more problematic for applicants with the appeals decisions noting 'this sets a fairly high bar as to the level of difficulty that the Applicant must find themselves in'. Therefore if an application is relying on this provision they must show sufficient evidence to indicate that the economic and practical viability of the current opening hours has been compromised.
- 4.108 There [sic] template application forms for changing core opening hours:

- 4.108.1 [Application form to reduce core opening hours](#) (existing application route)
- 4.108.2 [Application form to redistribute core opening hours](#) (existing and new application routes)
- 4.109 Applicants must specify which application route the application relies on, if it is an application to redistribute core opening hours. The relevant application form must be submitted to ICBs, ICB email address can be found on the [pharmacy contract teams' web page](#).
- 4.110 If an application is not granted the applicant has the right of appeal and must be made to an officer or employee of the NHS Litigation Service or a committee established in accordance with the Directions to the [Primary Care Appeals Service](#). The Primary Care Appeals service, may confirm the decision of the ICB or set aside the decision and grant the application.
- 4.111 If an application is successful, the pharmacy may change the core opening hours but not earlier than 30 days after the approval has been received. Pharmacy owners will also need to update their opening hours on their NHS website profile and Directory of Services (DoS) profile using the [NHS Profile Manager](#) tool, to reflect the revised opening hours.
- 4.112 Changing supplementary hours
- 4.113 Rest Breaks
- 4.114 Multiple applications/notifications
- 4.115 100-hour pharmacy opening hours reduction
- 4.116 Planned temporary suspensions/closures
- 4.117 Unplanned temporary suspensions/closures
- 4.118 Bank holiday opening hours
- 4.119 Local Hours Plans
- 4.120 FAQs
- 4.121 **Community Pharmacy England resources**
- 4.122 [Briefing 022/24: Pharmacy opening hours in 2025 and the remainder of 2024](#)
- 4.123 This Briefing provides guidance for community pharmacy contractors on the Terms of Service opening hours requirements around bank holidays for 2025 and for the remainder of 2024.
- 4.124 [Briefing 023/23: Business Continuity Plan for Temporary Suspensions](#)

4.125 This Briefing provides guidance for community pharmacy owners and their teams on the requirements for a Business Continuity Plan for Temporary Suspensions.

4.126 [Briefing 024/22: Emergency closure checklist for community pharmacy](#)

4.127 This Briefing explains the contractual, IT and other actions needed if a contractor is faced with a risk of a short-term closure of their pharmacy because of COVID-19 or for another reason.

4.128 **Other resources**

4.129 [NHS England: Pharmacy Manual](#)

4.130 [NHS England: Pharmacy Manual – List of annexes](#)

4.131 [NHS England: Pharmacy Manual – Template application forms](#)

4.132 [ICB contact email addresses](#)

4.133 [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) Regulations 2013](#)”

4.134 [Enclosures:

4.134.1 Copy of survey and copy of profit/loss account as already provided in Appendix A.

4.134.2 Copy of application form (see paragraphs 2.1 to 2.8 above).

4.134.3 Copy of supporting information (see paragraphs 2.9 to 2.65 above).

4.134.4 Copy of decision letter (see paragraphs 3.1 to 3.16 above).]

5 **Representations**

In an email to NHS Resolution dated 5 February 2026 the Commissioner stated:

5.1 “Please find attached the PSRC Committee Report (this includes a Patient Survey in excel workbook saved separately) and Decision Letter.

5.2 I’ve shared the appeal with the Committee and will come back to you by 6th March if they have any representations to make.”

In a second email to NHS Resolution dated 5 February 2026 the Commissioner stated:

5.3 “I can confirm that Buckinghamshire, Oxfordshire & Berkshire West ICB has no comments to make in relation to the above appeal.”

6 **Consideration**

6.1 I note the following:

- 6.1.1 The Applicant's core opening hours total 40 hours and the Applicant proposes to redistribute those 40 core opening hours pursuant to paragraph 26 of Schedule 4.
- 6.2 The Applicant proposes to:
- 6.2.1 Have core hours Monday to Friday between 2.30pm and 3pm (currently supplementary hours) and no longer provide core hours on Saturday between 9.30am and 12 noon.
- 6.3 The Regulations, which came into force on 1 April 2013, have been amended a number of times. Certain amendments, relating to pharmacy premises opening hours, came into force with effect from 25 May 2023. Further amendments to paragraph 26, Schedule 4, Part 3 of the Regulations came into force on 23 June 2025.
- 6.4 Paragraph 26(1) states:
- 26.— (1) An NHS pharmacist (P) may apply to NHS England for it to change the days on which or times at which P is obliged to provide pharmaceutical services during core opening hours at P's pharmacy premises in a way that—*
- (a) reduces the total number of hours for which P is obliged to provide pharmaceutical services at those premises each week ...; or*
- (b) keeps that total number of hours the same.*
- 6.5 I have first considered paragraph 26(2ZA) of Schedule 4 of the Regulations, which reads as follows:
- Where P makes an application under sub-paragraph (1)(b), as part of that application P must provide NHS England with such information as NHS England may reasonably request in respect of the matters that NHS England must seek to ensure pursuant to sub-paragraph (2ZB) or paragraph 24(1) (depending on the basis of the application).*
- 6.6 I note the Applicant indicated that it wanted its application to be determined on the basis of Paragraph 26(2ZB), Schedule 4.
- 6.7 Paragraph 26(2ZB) reads as follows:
- In the case of an application under sub-paragraph (1)(b) which is based on the matters that NHS England must seek to ensure pursuant to this sub-paragraph, where NHS England—*
- issues a direction under sub-paragraph (4) for setting any days or times for opening hours; or*
- determines the application under sub-paragraph (4) without issuing a direction,*
- it must in doing so seek to ensure that the people who are accustomed to accessing pharmaceutical services at the pharmacy premises are likely to*

benefit from the changes because, overall, they would be more likely to access those services at those premises during the proposed core opening hours than during the existing core opening hours.

- 6.8 I will consider the application of paragraph 26(2ZB) and whether the proposed hours are likely to benefit the people who are accustomed to accessing pharmaceutical services at the pharmacy premises, such that they would be more likely to access those services during the proposed opening hours.
- 6.9 To properly assess the application against paragraph 26(2ZB), I need to determine the level of demand for pharmaceutical services at the pharmacy premises. I then need to consider whether patients accustomed to accessing those services would be more likely to access services at the pharmacy premises during the proposed opening hours rather than the existing opening hours.
- 6.10 I therefore need to be provided with sufficient information to understand a range of matters. I consider a core question to be the benefit created because of increased availability to existing users. This can be broken down into three key elements: the first being that the change must be beneficial; the second being that the new hours are more accessible, and the last, which unpins both aspects, is that this must be measured by the impact on people who are accustomed to accessing the pharmacy, not new users.
- 6.11 As a starting point I note that the language of paragraph 26(2ZB) relates to why a change in hours is being requested. The reason for the change must at the very least include that those individuals who already use the pharmacy will be more likely to do so during the changed hours. The Regulations do not explain how this should be established but I consider that it must form at least part of the explanation and evidence provided by the Applicant.
- 6.12 Having reviewed the application and the appeal I note that part of the Applicant's motivation for the change appears to be financial, referring to the pharmacy's viability. Whilst I consider that these reasons are important to the pharmacy, they are not relevant to paragraph 26(2ZB). I note that paragraph 26(2ZB) is concerned with a situation whereby hours are being redistributed for the benefit of pharmacy users, rather than the pharmacy itself.
- 6.13 I have had regard to the comments by the Applicant of those using the pharmacy. If I am satisfied that there is reliable evidence indicating no users of the pharmacy on/at the relevant days/times that the pharmacy wishes to close, this might support an argument that those accustomed to accessing pharmaceutical services would be more likely to access those services during the proposed opening hours.
- 6.14 In its application and repeated in its appeal, the Applicant's representative provided a spreadsheet which recorded how many people accessed the Applicant's pharmacy from 29 September 2025 for a 4 week period on Monday to Friday between 2.30pm and 3pm, the hours the Applicant wishes to make core hours, (currently supplementary hours) and on a Saturday between 9.30am and 12 noon, the core hours which the Applicant wishes to close. I consider this is helpful as the data collected is a true reflection of the current

movement of patients at the specific times during the existing opening hours at the specific times in question. It was also helpful to have the data formulas to see where the totals had come from as some totals did not match the data provided.

- 6.15 For ease, I have consolidated some of the pertinent data provided by the Applicant's representative into the table below. I have added further columns with my own calculations as the Applicant's calculations appear to be incorrect as, for example, the formulas provided by the Applicant's representative had not included data collected on a Monday in the "total" rows.

Day	Time	Script dispensed	Script collect	OTC purchase	Advice	Other service (NMS / Flu / Covid)	Could visit at a different time of the week	Drove	Walk	Public Transport
Mon	2.30pm to 3pm	43	30	2	1	18 (17)*	[Left blank]	25	1	1
Tues	2.30pm to 3pm	39	28	1	2	12	[Left blank]	21	1	0
Wed	2.30pm to 3pm	51	27	4	1	16	[Left blank]	26	1	1
Thu	2.30pm to 3pm	41	22	1	3	16 (11)*	[Left blank]	19	0	0
Fri	2.30pm to 3pm	40	16	4	0	11	[Left blank]	19	0	0
Sat	9.30am to 12pm	15	21	4	6	0	22	32	0	0
Applicant Total patients Monday to Friday		171	93	10	6	67	[Left blank]	110	2	1
My total patients Monday to Friday		214	123	12	7	73	–	110	3	2
Applicant Average no of patients Monday to Friday		43	23	3	2	17	[Left blank]	97%	2%	1%

My Average no of patients Monday to Friday	54	31	3	2	18	—	96%	3%	1%
Applicant Total patients Saturday	15	21	4	6	0	22	32	0	0
My total patients Saturday	15	21	4	6	0	22	32	0	0
Applicant Average no of patients Saturday	4	5	1	2	0	69%	100%	0	0
My Average no of patients who drove on Saturday	4	5	1	2	0	48%	100%	0	0

*Note the figures in () above supplied by the Applicant

- 6.16 The Applicant's representative states in the appeal: *"Of the patients attending on Saturdays during the hours it is proposed to close, 69% stated they could have attended during the proposed opening hours instead."* However, my review of the underlying data suggests a different interpretation. According to the spreadsheet, this percentage was derived from the subset of 32 patients who drove in, of whom 22 indicated availability during the proposed opening hours, which calculates as 69%. However, when considering the total number of patients attending on Saturdays during the referenced period (46 in total), as only 22 affirmed they could attend during the proposed opening hours, this represents 48%, which differs notably from the 69% cited by the Applicant's representative. Conversely, it might be the case that only 32 patients attended to access multiple services but I have carefully reflected on the Applicant's representative's reference in the application and appeal to the average number of *patients* as opposed to the average number of *services* provided.
- 6.17 I am mindful that patients were not asked if it would be more beneficial to attend Monday to Friday between 2.30pm and 3pm, rather if they "could" come at a different time of the week. I also noted that the average weekly demand for pharmaceutical services is also higher than stated by the Applicant's representative as the data on Monday's had not been included in their calculations.
- 6.18 I acknowledge that the Applicant has provided the operating hours for the medical centre adjacent to the pharmacy, and it is noted that the surgery remains closed on Saturdays. Nevertheless, I am mindful that pharmaceutical services extend beyond the issue of acute prescriptions. The data indicates that 21 individuals collected a prescription, while 10 either purchased over-the-counter goods or received advice, meaning that 31 of the 46 (67%) of Saturday

users visited the pharmacy without the need to consult the GP surgery beforehand.

- 6.19 Based on the information provided, I consider that the survey shows that there is a demand for pharmaceutical services on a Saturday.
- 6.20 I now need to consider if, the changes to hours are likely to be beneficial for those accustomed to accessing pharmaceutical services at the pharmacy premises because they are more likely to access services at those times. It is worth noting that evidence to demonstrate the actual level of demand might be relevant here.
- 6.21 Whilst changing the hours on a Saturday would not be problematic for 48% [my calculation] of Saturday users this still leaves 52% who did not confirm that attending at other times between Monday to Friday would be of benefit to them. I consider that this makes it difficult to establish any potential benefit of removing opening hours on a Saturday to existing patients who use the pharmacy on a Saturday. I am therefore unclear from both the application and the appeal whether the new hours will benefit these people in any meaningful way.
- 6.22 I consider that evidence of demand would only form one part of the overall picture required to be established under paragraph 26(2ZB). I am mindful of the use of the phrase "*people who are accustomed*" in the Regulations. I consider such language to be indicative of the fact that if there is demand, no matter how small, and if those individuals are likely to cease to use the pharmacy as a result of the changes, then this would be strongly indicative that the requirements of paragraph 26(2ZB) would not be met. My interpretation of the data as above leads me to the conclusion that patients would not be more likely to access those services at those premises during the proposed core opening hours.
- 6.23 I note that the Applicant has in its appeal mentioned alternative provision of pharmaceutical services stating "*Whilst not strictly speaking relevant, for the reasons we have provided, on Saturday mornings pharmaceutical services are provided elsewhere.*" I agree with the Applicant on this point, noting that this information is more relevant to the considerations under paragraph 24(1), which the Applicant has opted not to rely on. I consider that in the context of paragraph 26(2ZB), however, such information is detrimental to the Applicant. When read contextually, the inclusion of this information suggests that the proposal is not aimed at providing better access to services at the pharmacy for those that are accustomed to use the pharmacy during the hours which it is proposed to closed and instead the intention appears to be that they will seek the provision of services elsewhere.
- 6.24 I am of the view that I have not been provided with sufficient information to demonstrate how the proposed opening hours are likely to benefit those accustomed to accessing pharmaceutical services at the pharmacy premises.

7 Determination

- 7.1 Based on the information provided, I am not satisfied that the pharmaceutical services provision that would result from the Applicant's proposed hours are likely to benefit the people who are accustomed to accessing pharmaceutical services at the pharmacy premises such that they would be more likely to access services during the proposed hours.
- 7.2 The action taken by the Commissioner to refuse the application is confirmed.

Head of Appeals
NHS Resolution