

6 March 2026

REF: 26893

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APPEAL AGAINST HUMBER AND NORTH YORKSHIRE ICB DECISION NOT TO GIVE THIRD PARTY APPEAL RIGHTS TO BROCKLEHURST CHEMISTS LTD IN RESPECT OF THE DECISION TO GRANT AN APPLICATION BY SUTTON MANOR PHARMA SERVICES LTD FOR A NO SIGNIFICANT CHANGE RELOCATION FROM 633 ANLABY ROAD, HULL, HU3 6SX TO 61 CALVERT LANE, HULL, HU4 6BL

1 Outcome

- 1.1 Brocklehurst Chemists Ltd is a person with third party appeal rights against the decision of Humber and North Yorkshire ICB set out in its letter dated 29 November 2025 (and notified to the appellant by letter dated 3 February 2026).

A copy of this decision is being sent to:

Sutton Manor Pharma Services Ltd
Brocklehurst Chemists Ltd
Boots UK Ltd
Humber LPC
PCSE on behalf of Humber and North Yorkshire ICB

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1 The Application

By application dated 26 September 2025, Sutton Manor Pharma Services Ltd (“the Applicant”) applied to the Humber and North Yorkshire ICB (“the Commissioner”) for a no significant change relocation from 633 Anlaby Road, Hull, HU3 6SX TO 61 Calvert Lane, Hull, HU4 6BL.

2 Process

The Commissioner gave notice of the notifiable application in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”) by cover letter dated 9 October 2025. This is a summary of representations made to the Commissioner by Brocklehurst Chemists Ltd in an undated letter received by the Commissioner on 13 October 2025 (i.e. within 45 days as set out in the Regulations):

- 2.1 “I am the Director and Superintendent Pharmacist of Brocklehurst Chemist who have two branches located in the Derringham Ward at 214 Willerby Road and 801 Hotham Road South. (NB Brocklehurst Chemist, Willerby Road is currently temporarily relocated to Calvert HC).
- 2.2 In response to the application, which was submitted by Sutton Manor Pharma Services (trading as Mackenzies Pharmacy), we would like to appeal this application for the following reasons.
 - 2.2.1 The pharmacy will be relocating to a different ward serving a different population of patients which will affect existing local pharmacies and leave a gap in the ward that they currently serve.
 - 2.2.2 The pharmacy is requesting to locate to the West Hull Hub health centre which houses Modality GP Practice which is not the primary source of prescriptions for Mackenzies Pharmacy (Pharmdata for May 2025 which they refer to in their application demonstrates that Modality

prescriptions accounts for only 5% of their total monthly items). We feel this will significantly increase if co-located in the same building with this GP practice, which will have a significant impact on Brocklehurst Chemists.

2.2.3 For the month of May 2025, Modality GP practice prescriptions accounted for 65.8% of our total monthly items at Hotham Road and 55.8% of our total monthly items at Willerby Road. If we see a significant decrease in our items from Modality, which we are concerned will occur if this relocation is granted, then this will impact the financial viability of our pharmacy business.

2.2.4 In terms of the pharmacy services Brocklehurst Chemists currently provide, again the majority of our referrals are received from Modality GP Practice, for example Hypertension screening service. If Mackenzie Pharmacy are co-located with Modality then there is significant risk that patients may be referred to this pharmacy instead, again impacting the potential income for our pharmacy business.

2.3 I would be grateful if our objections can be considered and you can update me with the outcome of the committee's decision.

2.4 Please can you confirm receipt of this email as I have had a message failed delivery so have resent."

3 The Decision

The Commissioner considered and decided to grant the application. The decision letter to Brocklehurst Chemists Ltd dated 3 February 2026 did not give them a right of appeal.

3.1 "Humber and North Yorkshire ICB has considered the above application and I am writing to confirm that it has been granted. Please see the enclosed report for the full reasoning."

Enclosed letter dated 29 November 2025

3.2 **"Applicant Name:** Sutton Manor Pharma Services Limited t/a Mackenzies Pharmacy

3.3 **Proposed Premises:** 61 Calvert Lane, Hull, East Riding of Yorkshire, HU4 6BL

3.4 Following the review of **Sutton Manor Pharma Services Limited's** application to relocate its pharmacy from **633 Anlaby Road** to **61 Calvert Lane, Hull**, the Pharmaceutical Services Regulations Committee (PSRC) concluded that the proposal meets the requirements of **Regulation 24**, with *no significant change* to patient access or pharmaceutical service provision. The Committee noted that essential and advanced services would be maintained, the new premises include a compliant consultation room, no nearby pharmacies would be adversely affected, and accessibility remains satisfactory with good transport links.

- 3.5 While some members initially raised concerns regarding the identification of affected patient groups and the assessment of impacts, additional clarification was subsequently provided following the meeting of **17 December 2025**, including further evidence from stakeholder representations and Appendix 1a. Upon this additional assurance, PSRC members confirmed virtually that the criteria were met and therefore **approved the NSCR relocation application**, subject to the expectation that continuity of access and minimal service disruption are maintained throughout the transition
- 3.6 As the application was granted, and those who submitted representations were in support of the application, there are no appeal rights.”

4 The Appeal

In letters dated 3 February 2026 and 1 March 2026 and addressed to NHS Resolution, Brocklehurst Chemists Ltd appealed against the decision of the Commissioner not to give them third party rights of appeal. The grounds of appeal are:

Letter dated 3 February 2026

- 4.1 “Thank you for your letter which I received into the pharmacy branch email on 3rd February 2026 to confirm that the above application had been granted. I note that your letter is dated 29th November 2025 yet refers to a decision made on the 17th December 2025.
- 4.2 The letter states that the application above was granted and those who submitted representations were in support of the application and therefore there are no appeal rights. I would like to question why the Pharmaceutical Services Regulations Committee (PSRC) confirmed that the submitted representations were in support of the application. I received an email from PCSE on 24th November detailing the three representations submitted and none were in support of the application.
- 4.3 LPC feedback was that there was not enough descriptive information to make a definitive endorsement either way
- 4.4 Boots UK wished to object to the proposal
- 4.5 Brocklehurst Chemist requested to object the application
- 4.6 As none of the representations supported the application, then I wish to request the right to appeal. I note that further evidence was provided to the committee from stakeholder representations in Appendix 1a, however there is no information attached to the letter.
- 4.7 I look forward to your reply.”

Letter dated 1 March 2026

- 4.8 “Thank you for your letter dated 13th February 2026. Brocklehurst Chemist wishes to appeal the decision by Humber and North Yorkshire ICB to grant the above relocation.

- 4.9 In your letter dated 13th February 2026, I was informed that there is a 30-day window to appeal, counting from the initial notification received on 3rd February 2026. This means the deadline for appeal is 5th March 2026.
- 4.10 Subsequently, I received two further letters from Humber and North Yorkshire ICB. The first, dated 17th February 2026, advised that Brocklehurst Chemist had been granted appeal rights, but did not specify any timescales. The second, dated 24th February 2026, confirmed that appeal rights had been granted and that there is a 30-day period to appeal from the 24th February 2026.
- 4.11 Given these conflicting timescales for appeal, I am submitting this letter prior to the 5th March 2026 to avoid any confusion regarding the appeal process.
- 4.12 All three letters received from Humber and North Yorkshire ICB contain a short paragraph stating that the Pharmaceutical Services Committee (PSRC) concluded that no nearby pharmacies would be adversely affected and that patient accessibility remains satisfactory with good transport links.
- 4.13 When considering the application of Regulation 24(1)(a), the Committee should:
- 4.13.1 Ensure that all comments relating to patient groups (regardless of whether the term "patient group" is specifically used) and any comments on accessibility are considered and given appropriate weight.
- 4.13.2 Be satisfied that the information before it is sufficient to enable the Committee to assess and be satisfied as to the effects of relocation on different patient groups.
- 4.13.3 Provide clear reasoning for whether the Committee is or is not satisfied that, for a particular patient group, the test in Regulation 24(1)(a) is met.
- 4.14 The Committee is required to give reasons for its decision. The determination must therefore explain whether the Committee is satisfied, acting reasonably and based on the information provided by all parties, that the test in Regulation 24(1)(a) has been met.
- 4.15 There is no reasoned justification provided to confirm that the Committee considered all patient groups, nor is there evidence that concerns raised in the representations submitted by ourselves, the LPC and Boots UK were taken into account, including the impact on patient groups and existing contractors.
- 4.16 In fact, the letter states that some members of the PSRC raised concerns regarding the identification of affected patient groups and the assessment of impacts. Further evidence was then shared from stakeholder representations "Appendix 1a", which allowed the Committee to agree virtually that the criteria were met. However, this further evidence has not been made available to parties who submitted representation or justification provided for how this evidence ensured that the test in Regulation 24(1)(a) was then met.

- 4.17 Brocklehurst Chemist submit that the criteria set out in Regulation 24(1)(a) has not been fully satisfied and request that this appeal is upheld.”

5 Consideration

- 5.1 The Secretary of State for Health and Social Care has directed NHS Resolution to exercise the function of determining whether certain persons have rights of appeal on their behalf. I, as an authorised officer of NHS Resolution, have determined this appeal.

- 5.2 I have had regard to the Regulations, and in particular paragraphs 30(3) and (6) of Schedule 2 which state (so far as is relevant):

(3) P1 is a person to whom this sub-paragraph applies if—

- (a) P1 was a person whom NHS England was required to notify about the decision on the application by virtue of P1 being a person whose interests might, in the opinion of NHS England, be significantly affected by the decision, and also being—*
 - (i) included in a pharmaceutical list ...*
 - (b) in the case of a notifiable application, P1 made representations in writing about the application under paragraph 19(4); and*
 - (c) in the case of a notifiable application but subject to sub-paragraph (6), NHS England is satisfied, having regard to those representations in writing and any oral representations made in accordance with paragraph 25, that P1—*
 - (i) made a reasonable attempt to express P1’s grounds for opposing the application adequately in P1’s representations, and*
 - (ii) has grounds for opposing the application, which—*
 - (aa) do not amount to a challenge to the legality or reasonableness of a pharmaceutical needs assessment, or to the fairness of the process by which a HWB or Primary Care Trust undertook that assessment, and*
 - (bb) are not vexatious or frivolous.*
- (6) A person to whom sub-paragraph (3)(a) and (b) applies (P2) who is not notified by NHS England that they are person with third party appeal rights may appeal to the Secretary of State against the determination (D1) by NHS England that it is not satisfied as mentioned in sub-paragraph (3)(c), provided that P2—*

(a) *notifies the Secretary of State within 30 days of the date on which that person was notified of NHS England's decision under paragraph 28 (D2) that P2 wishes to appeal against D1 and D2; and*

(b) *includes within that notification concise and reasoned statements of P2's grounds of appeal against both D1 and D2,*

and if the appeal against D1 is successful, P2 is a person with third party appeal rights in relation to D2 for the purposes of this Schedule."

5.3 I first considered whether Brocklehurst Chemists Ltd was a person to whom sub-paragraph 30(3)(a) applied.

5.4 I note that it is not disputed that Brocklehurst Chemists Ltd is included on the pharmaceutical list for premises at 214 Willerby Road and 801 Hotham Road South. I note Brocklehurst Chemists Ltd's comment that the premises at Willerby Road are temporarily relocated to Calvert Health Centre. I have not been provided with any information to the contrary. I am, therefore, of the view that Brocklehurst Chemists Ltd has met the requirements of sub-paragraph 30(3)(a).

2.1 I note that the original application from Sutton Manor Pharma Services Ltd is a notifiable application under the provisions of paragraph 18 of Schedule 2 and that the Commissioner gave notice of the application to Brocklehurst Chemists Ltd on 9 October 2025. Further, I note the comments from Brocklehurst Chemists Ltd that it had received confirmation from the Commissioner by email dated 24 November 2025 that representations had been received from Brocklehurst Chemists Ltd, Boots UK Ltd and Humber LPC. I note that according to the papers supplied to me by the Commissioner, Brocklehurst Chemists Ltd submitted undated representations which were received by the Commissioner on 13 October 2025 in accordance with paragraph 19(4) of Schedule 2.

2.2 I therefore am of the view that Brocklehurst Chemists Ltd is a person to whom sub-paragraphs 30(3)(a) and (b) apply.

2.3 The Commissioner, in its decision letter dated 3 February 2026 did not give third party rights of appeal to Brocklehurst Chemists Ltd. The enclosed letter dated 29 November 2026 stated "*As the application was granted, and those who submitted representations were in support of the application, there are no appeal rights.*"

2.4 I note that at 30(3)(c)(i) the Regulations state that a party should have "made a reasonable attempt to express P1's grounds for opposing the application adequately..." I am of the view that:

2.4.1 Brocklehurst Chemists Ltd made a reasonable attempt to express their grounds for opposing the application, and

2.4.2 that these grounds

2.4.2.1 did not amount to a challenge to the legality or reasonableness of the PNA nor to the fairness of the process by which a HWB or PCT undertook the assessment, and

2.4.2.2 are not vexatious or frivolous.

- 2.5 I am of the view that Brocklehurst Chemists Ltd is a person to whom subparagraph 30(3) (a), (b) and (c) applies and that it should have been given third party rights of appeal in accordance with the Regulations.
- 2.6 I note the wording of paragraph 30(6) and that, to exercise those rights properly, the appeal should include a concise and reasoned statement of the grounds of appeal against both the decision not to be given third party rights of appeal and against the substantive decision of the Commissioner to grant the application. I am of the view that Brocklehurst Chemists Ltd has complied with both of the above.
- 2.7 Finally, I note that Brocklehurst Chemists Ltd in their letter dated 1 March 2026 advise that they have received two further letters from the Commissioner. They state that *“The first, dated 17 February 2026 advised that Brocklehurst Chemist had been granted appeal rights, but did not specify any timescales. The second, dated 24th February 2026, confirmed that appeal rights had been granted and that there is a 30-day period to appeal from the 24th February 2026.”* I note that the Commissioner has provided, amongst the papers supplied, a revised copy of its letter dated 29 November 2025, now dated 12 February 2026, and stating *“Appeal rights were granted to those who submitted representations due to the comments submitted in relation to the relocation.”* There has clearly been some confusion caused by the letters issued by the Commissioner, however I consider that this can now be rectified by this determination.

3 Decision

- 3.1 Brocklehurst Chemists Ltd is a person with third party appeal rights against the decision of the Commissioner set out in its letter dated 29 November 2025 (and notified to the appellant by letter dated 3 February 2026).
- 3.2 The appeal will proceed in accordance with the provisions of Part 2 of Schedule 3 to the Regulations.

Head of Appeals NHS Resolution