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APPEAL AGAINST HUMBER AND NORTH YORKSHIRE ICB DECISION NOT TO GIVE THIRD PARTY APPEAL RIGHTS TO BOOTS UK 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 Boots UK 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
Boots UK Ltd
Brocklehurst Chemists 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 Boots UK Ltd in a letter dated 21 November 2025 (i.e. within 45 days as set out in the Regulations):

- 2.1 “Thank you for your letter dated 9th October 2025 regarding the above application.
- 2.2 Boots UK LTD wish to make the following comments and object to the proposal.
- 2.3 The distance between the current and the proposed locations is 850metres. It is of note that the applicant states 750 metres on page 4 of their supporting documents, but then on page 5 clearly shows a map stating 850 metres. We submit that it is 850 metres.
- 2.4 On page 12 of the supporting document the applicant states:
- 2.5 *In our opinion it is clear that granting this application will not result in a significant change to the arrangements currently in place. The proposed relocation is such a **short** distance that it is unlikely to have a material effect on the provision of pharmaceutical services by other contractors on the area.*
- 2.6 *The existing and proposed premises are within a **short** distance of each other, and the existing services and opening hours will be maintained.*

- 2.7 *As the distance between the sites is **short** there is no reason to believe that dispensing patterns in the area will be affected in any significant way as a result of this relocation.*
- 2.8 We do not submit that this is a short, or “such a short” distance as stated and that many patient groups would find an additional journey of such a distance in fact quite considerable. Therefore, a significant one. The fact that there is such emphasis on the belief by the applicant that the distance is short and appears to be insignificant to them, suggests otherwise.
- 2.9 We can see that The Kingston Medical Group have asked for comments on the proposed relocation of their surgery on their website. It would seem that at this stage nothing is confirmed so is somewhat speculative currently. Interestingly, as part of their consultation and survey, they have acknowledged that should this relocation take place, there would be an impact on patients that live closer to their current premises and therefore near the current pharmacy location.
- 2.10 They say:
- 2.11 *We are proposing a move to a spacious, purpose-built surgery, 0.8 miles away on Calvert Lane. While the move would impact those patients living close to our current site more, it would mean we could improve services for all in the future.*
- 2.12 They go on to say:
- 2.13 *All patients currently registered with us will have the option of moving with us or of changing to one of the other surgeries in their area.*
- 2.14 This clearly acknowledges that the relocation of the surgery would have an impact on some of its patients and that it is also moving out of the area for some of them. It can therefore be concluded that it will have a significant impact on some of the patients utilising the pharmacy too, a patient group accustomed to accessing services at its current location.
- 2.15 We are aware that GP surgeries do not have restrictions on where they can relocate to, but pharmacies close to them do. As the use of triage systems, telephone consultations and electronic prescriptions become more of the norm, patients no longer have to visit their surgery every time they need a consultation or require medication. This means that the co-location of a pharmacy and a GP practice become less important. The relocation of a GP practice does not mean that a supporting pharmacy should be permitted to move with it. A pharmacy offers so much more than the dispensing of a prescription and we must consider those who access the pharmacy for other reasons, like services, including Pharmacy First, advice and over the counter medicines. We believe that an additional journey, away from the area where a patient currently accesses a supermarket and other day to day amenities, will be a significant one for many patient groups. There are no other facilities near the Calvert Lane Medical Practice, so a journey to it would be for the sole purpose of a medical appointment.

- 2.16 For those who travel by car, they will not find access to parking any better at the proposed premises, as there is ample parking near to the existing pharmacy premises on the nearby retail park.
- 2.17 The Calvert Lane area has a very different feel to that of the Anlaby Road area where the current pharmacy is located. Whilst visiting the area, it is clear that those who reside in and around Calvert Lane, do not consider themselves to be neighbours of those on Anlaby Road. The housing styles are different and there is a very busy road and junction, that would have to be negotiated by pedestrians should they be walking the route, that divides the two.
- 2.18 Whilst we appreciate that some patients will not start their journey at the current pharmacy premises and some will live closer to the proposed premises, it would seem that no consideration has been given to the patients who actually live or start their journeys further away, in particular, those to the south or east. Their journey for these patients will be even more significant and should be considered.
- 2.19 We do not believe that all patient groups will not find the proposed premises significantly accessible and for the reasons above we submit that this relocation would result in a significant change to patients and should therefore be refused.
- 2.20 We look forward to the decision of the ICB in due course and we would be willing to attend an oral hearing should one be deemed necessary.”

3 The Decision

The Commissioner considered and decided to grant the application. The decision letter to Boots UK 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 a letter dated 27 February 2026 and addressed to NHS Resolution, Boots UK Ltd appealed against the decision of the Commissioner not to give them third party rights of appeal. The grounds of appeal are:

- 4.1 “Boots UK Ltd wishes to appeal the decision of the Humber and North Yorkshire ICB to grant the above relocation application.
- 4.2 **Procedural Grounds**
- 4.3 Our initial grounds of appeal were that the ICB failed to grant us the appeal rights to which we were entitled. We received a decision letter dated 3 February 2026 from PCSE stating that no appeal rights were awarded because no contractor had submitted an objection. This was incorrect. Boots UK Ltd submitted a timely letter of objection to PCSE, well within the period set out in Schedule 3, Part 1, Paragraph 1 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.
- 4.4 The ICB did not comply with Schedule 3, Part 2, Paragraph 3(b) of the Regulations. As a contractor who submitted representations, we were required to be notified of the decision and provided with the information necessary to exercise our right of appeal. The original decision letter failed to grant appeal rights to any interested party and was dated 29 November 2025, a date that appears to be incorrect.
- 4.5 After this error was raised, PCSE issued a further letter on 17 February 2026 acknowledging third-party appeal rights. However, this second letter did not include an official letter from PCSE and therefore did not specify any appeal time limits, creating uncertainty as to whether the 30-day period restarted or was intended to run from the original, defective notification.
- 4.6 We have now received a further revised letter from PCSE dated 23 February 2026, accompanied by a new ICB decision letter dated 24 February 2026. Both were received together on 24 February. This inconsistency in dates further added to the confusion created by the earlier notification errors.
- 4.7 Although the most recent letter finally confirmed our right of appeal—suggesting a deadline of 25 March 2026—we are submitting this appeal within

the original timeframe ending 5 March 2026 to avoid any uncertainty arising from the ICB's incorrect and inconsistent notification process.

4.8 Substantive Grounds

- 4.9 We believe the ICB's decision is flawed because the committee did not properly consider the application or the regulatory criteria set out in Regulation 24 of the 2013 Regulations.
- 4.10 The decision report, presented as a short letter, makes no reference to the points raised by the LPC or by interested parties, including Boots UK Ltd. This strongly suggests that these representations were not taken into account and that the impact on existing contractors was not properly considered. The report is extremely brief and does not demonstrate how the ICB reached its decision, falling short of the requirement to consider all relevant representations and provide clear, reasoned justification.
- 4.11 Patient groups, despite the applicant considering them within their application, are not referred to within the decision, and there is no evidence to lead us to believe that all these patient groups will not find the new location significantly less accessible.
- 4.12 The failure to reference our comments regarding the distance between the current and proposed premises—850 metres, compared with the applicant's inconsistent distances of 750 and 850 metres—is significant and the distance should have been agreed in order to go on to determine the application. We do not accept the applicant's assertion that this constitutes "such a short distance." For many patient groups, including older people, those with mobility issues, parents with young children, and those reliant on public transport, an additional 850-metre journey is considerable. The applicant's repeated emphasis that the distance is "short" underestimates the real impact on patients who currently rely on the pharmacy at its existing location.
- 4.13 The failure to acknowledge our comments regarding Kingston Medical Group's patient feedback exercise also suggests that these points were dismissed. The consultation materials explicitly state that the proposed surgery move "would impact those patients living close to our current site more," and that some patients may choose to register elsewhere. This is a clear admission that the relocation will significantly affect certain patient groups. It follows that relocating the pharmacy away from the same community will also have a significant impact on those patients who currently access both services in the Anlaby Road area.
- 4.14 The decision report states that some committee members initially raised concerns about affected patient groups and that additional clarification was provided following a meeting on 17 December 2025, including further evidence and "Appendix 1a." We are not aware of any such additional information being submitted, nor was any of it circulated to interested parties as required. The initial application consisted of 13 pages of additional information, yet some members raised concerns regarding patient groups. What additional

information could have been provided to quickly satisfy these, when substantial information had already been provided?

- 4.15 We also question the nature of the referenced meeting and whether any stakeholders—particularly the applicant—were invited to attend. Is this reference to the PSRC meeting? The lack of transparency around this meeting and the undisclosed material raises serious concerns about the fairness and completeness of the decision-making process.
- 4.16 If any additional stakeholder evidence was provided, it should have been circulated to all interested parties for comment, particularly as it appears to have influenced the views of some committee members. If the applicant was invited to, and attended, a meeting where such information was discussed, this should have been conducted as a formal ICB hearing and open to all parties. The failure to disclose this material or provide equal opportunity to participate raises serious concerns about procedural fairness. Interested parties may have been able to provide evidence to the contrary, and the committee's decision may have been different.
- 4.17 **Conclusion**
- 4.18 NHS Resolution guidance note in relation to Regulation 24(1) of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 states the following:
- 4.19 When considering the application of Regulation 24(1)(a), the Committee should:
- 4.19.1 a. ensure that all comments on patient groups (whether or not the term patient group is used) and any comments on accessibility are considered and given appropriate weight.
 - 4.19.2 b. 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; and
 - 4.19.3 c. set out clear reasoning why the Committee is or is not satisfied that for a particular patient group the test in Regulation 24(1)(a) is met.
- 4.20 The Committee is required to give reasons for its decision. The determination must therefore explain whether the Committee is satisfied, acting reasonably and on the basis of the information provided by all parties, that the test in Regulation 24(1)(a) is met.
- 4.21 We believe that the above has not been considered, in particular that relating to giving full reasoning for its decision.
- 4.22 Boots UK Ltd submit that the relocation, if granted, would result in a significant change for patients accustomed to accessing the pharmacy at its current location, and that the criteria set out in Regulation 24(1)(a) has not been fully

considered or satisfied. We therefore respectfully request that this appeal be upheld and the original application refused.

- 4.23 Should an oral hearing be held in connection with this appeal, we would wish to attend. We look forward to the decision of NHS Resolution in due course.”

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 Boots UK Ltd was a person to whom sub-paragraph 30(3)(a) applied.
- 5.4 I note that it is not disputed that Boots UK Ltd is included on the pharmaceutical list for premises at 912 Spring Bank West, Hull and 763 Hessle Road, Hull and I have not been provided with any information to the contrary. I am, therefore, of the view that Boots UK Ltd has met the requirements of sub-paragraph 30(3)(a).
- 5.5 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 Boots UK Ltd on 9 October 2025. Further, I note Boots UK Ltd state that "Boots UK Ltd submitted a timely letter of objection to PCSE, well within the period set out in Schedule 3, Part 1, Paragraph 1 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013." I note that according to the papers supplied to me by the Commissioner, Boots UK Ltd submitted representations which were received by the Commissioner on 21 November 2025 in accordance with paragraph 19(4) of Schedule 2.
- 5.6 I therefore am of the view that Boots UK Ltd is a person to whom sub-paragraphs 30(3)(a) and (b) apply.
- 5.7 The Commissioner, in its decision letter dated 3 February 2026 did not give third party rights of appeal to Boots UK 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.*"
- 5.8 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:
 - 5.8.1 Boots UK Ltd made a reasonable attempt to express their grounds for opposing the application, and
 - 5.8.2 that these grounds

5.8.2.1 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

5.8.2.2 are not vexatious or frivolous.

- 5.9 I am of the view that Boots UK Ltd is a person to whom sub-paragraph 30(3) (a), (b) and (c) applies and that it should have been given third party rights of appeal in accordance with the Regulations.
- 5.10 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 Boots UK Ltd has complied with both of the above.
- 5.11 Finally, I note that Boots UK Ltd in their appeal advise that they have received two further letters from the Commissioner. They state that “... *PCSE issued a further letter on 17 February 2026 acknowledging third-party appeal rights. However, this second letter did not include an official letter from PCSE and therefore did not specify any appeal time limits, creating uncertainty as to whether the 30-day period restarted or was intended to run from the original, defective notification. We have now received a further revised letter from PCSE dated 23 February 2026, accompanied by a new ICB decision letter dated 24 February 2026. Both were received together on 24 February. This inconsistency in dates further added to the confusion created by the earlier notification errors.*” 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.

6 Decision

- 6.1 Boots UK 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).
- 6.2 The appeal will proceed in accordance with the provisions of Part 2 of Schedule 3 to the Regulations.

**Head of Appeals
NHS Resolution**