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

REF: SHA/26857

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

APPEAL AGAINST SHROPSHIRE, TELFORD AND WREKIN ICB DECISION TO REFUSE AN APPLICATION BY RJR CHEM LTD FOR CONSOLIDATION ONTO THE SITE AT CHAPEL LANE, WELLINGTON, TELFORD, TF1 1SS, OF RJR CHEM LTD ALREADY ON THAT SITE AND WELLINGTON PHARMACY LTD CURRENTLY AT CHAPEL LANE, WELLINGTON, TF1 1PZ

1 Outcome

- 1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decision of the Commissioner and redetermines the application.
- 1.2 The Committee determined that the application should be granted.

A copy of this decision is being sent to:

Pharmaceutical Sales & Consultancy on behalf of RJR Chem Ltd
PCSE on behalf of Shropshire, Telford and Wrekin ICB
Telford and Wrekin HWB

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APPEAL AGAINST SHROPSHIRE, TELFORD AND WREKIN ICB DECISION TO REFUSE AN APPLICATION BY RJR CHEM LTD FOR CONSOLIDATION ONTO THE SITE AT CHAPEL LANE, WELLINGTON, TELFORD, TF1 1SS, OF RJR CHEM LTD ALREADY ON THAT SITE AND WELLINGTON PHARMACY LTD CURRENTLY AT CHAPEL LANE, WELLINGTON, TF1 1PZ

1 The Application

By application dated 1 August 2025, RJR Chem Ltd (“the Applicant”) applied to the Shropshire, Telford and Wrekin ICB (“the Commissioner”) in respect of a consolidation onto the site at Chapel Lane, Wellington, TF1 1SS, of RJR Chem Ltd already at that site and Wellington Pharmacy Ltd currently at Chapel Lane, Wellington, TF1 1PZ. The application was made pursuant to Regulation 26A of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”). In support of the application it was stated:

"Background

- 1.1 Our clients own two pharmacies in the Wellington area of Telford, approximately three miles to the north-west of the town centre. Whilst the two pharmacies are owned within two separate limited companies they are under the same group ownership.
- 1.2 The two premises are located 20m apart.
- 1.3 Wellington Pharmacy was established as a ‘100 hour pharmacy’ in 2013 and is located within the Wellington Medical Centre on Chapel Lane. The pharmacy is not only subject to high staffing costs, being an extended hours pharmacy, the rent costs are exceptionally high as well. These two factors place an unsustainable financial burden on the business.
- 1.4 The second pharmacy, Chapel Lane Pharmacy, was acquired by our clients from Lloyds Pharmacy in July 2023. It trades from good sized & modern premises, and is visible from the Wellington Medical Centre entrance.
- 1.5 Our client wishes to consolidate the pharmacy currently located in the medical centre into the Chapel Lane Pharmacy premises to protect the long-term security and viability of the business.

Regulatory test

- 1.6 When considering an application made under regulation 26a, the ICB is required to consider whether “it is satisfied that granting the application would not create a gap in pharmaceutical services provision that could be met by a routine application”.
- 1.7 Routine applications are made in respect of:
- a) Needs that have been identified within the prevailing PNA (regulations 13, 15 and 17) or;
 - b) Benefits that were not foreseen when the PNA was drafted (regulation 18).
- 1.8 In respect of the PNA, there are no needs identified within the current Telford & Wrekin PNA that would be met by granting an application in the area served by these two pharmacies.
- 1.9 It is likely, therefore, that any changes in provision that might result in an application being made would be considered as ‘unforeseen’ (as a result of the closure of one pharmacy) and therefore any application would be made under regulation 18. In fact, in the absence of any need identified in the PNA, the ICB would be required to refuse any application made under regulations 13, 15 or 17.
- 1.10 The ICB will therefore need to be satisfied that, should this consolidation application be approved, the requirements of an application made under regulation 18 would not be met.
- 1.11 The key matters the ICB would need to consider if such an application were made are as follows:

Is it satisfied that granting the application.....would secure improvements, or better access, to pharmaceutical services, in the area of the relevant HWB having particular regard to the desirability of:

(i) There being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB;

(ii) People who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access;

(iii) There being innovative approaches taken with regard to the delivery of pharmaceutical services

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

- 1.12 We have therefore provided information below which will satisfy the ICB that granting an application for a new pharmacy (following the closure of the

pharmacy at site 2) would not secure improvements or better access that were unforeseen in the PNA.

Context

- 1.13 The context of this application is the increased pressure felt by all pharmacy contractors since the funding cuts that were first introduced in December 2016. The combination of these cuts, high levels of inflation and pharmacist shortages has resulted in unprecedented difficulties, with some fairly substantial pharmacy businesses unable to remain profitable.
- 1.14 This has been brought into sharp focus by the recent closure of a significant number of pharmacies across the country.
- 1.15 Furthermore, premises located in medical centres typically have high rents so maintaining profitability is particularly challenging, particularly where they trade for extended opening hours.
- 1.16 The applicant wishes to address these financial challenges by consolidating the medical centre pharmacy into the Chapel Lane premises. This will ensure the long-term viability of pharmaceutical services in Wellington, which would be achieved by operating one profitable pharmacy rather than two with borderline profitability. This is entirely in keeping with the Department of Health's aims and expectations when Regulation 26A was introduced to facilitate consolidations.

Location & access to pharmaceutical services

- 1.17 The two consolidating pharmacies are located in the suburb of Wellington, to the north-west of Telford town centre. Telford is a thriving Shropshire town with a population of approximately 150,000 residents and an extensive range of amenities as would be expected within a town of this size. The pharmacies subject to this application are only 3 miles from the main town centre shopping centre.
- 1.18 Whilst Wellington has its own high street, it is clearly part of the Telford conurbation and residents access many of their daily needs across the wider Telford area.
- 1.19 Both pharmacies are located at the eastern end of the pedestrianised town centre area and, as discussed above, are within 20m of each other. These are shown in the images below [see Appendix A], where site 1 (the remaining site) is marked with a green star, and site 2 (the closing site) is marked with a red star.
- 1.20 Patients who access site 2 (the closing site) at present typically do so when they are visiting the medical centre. When doing so, they will walk within a few metres of site 1 (the remaining site), so it is clear that the closure of site 2 will not result in any physical reduction in accessibility.
- 1.21 Patients who currently access site 2 by car will generally park in the Victoria Street car park, located diagonally opposite the medical centre approximately

30m away. To access site 1 they can use exactly the same car park and the distance will be no different. Furthermore there are 3 dedicated parking spaces outside site 1 as well as two disabled parking spaces immediately outside the surgery entrance.

- 1.22 For patients who use public transport, the bus station is located 150m to the north of sites 1 and 2. Patients arriving by bus will use exactly the same stop and their journey to the remaining pharmacy will essentially be the same.
- 1.23 For anybody who currently lives in Wellington and walks to the medical centre pharmacy at present, the proximity of the two sites is such that their journey will not be materially different whichever part of Wellington they travel from. It is clear that their physical access to pharmaceutical services will not be diminished following the closure of site 2.
- 1.24 Excluding sites 1 & 2, there are 6 other pharmacies within a 1.5 mile radius of the pharmacy our client proposes to close. These are:

Name	Address	Distance from closing pharmacy	Opening hours
Boots	21-25 New Street, Wellington, Telford, TF1 1LU	0.1 miles	Monday – Saturday 9am to 5:30pm
Morrisons Pharmacy	Springhill, Wellington, Telford, TF1 1RP	0.5 miles	Monday – Friday 9am to 7pm Saturday 9am to 5pm Sunday 10am to 4pm
Leegomery Chemist	Leegomery Local Centre, Leegomery, Telford, TF1 6XQ	1 mile	Monday – Friday 9am to 1pm & 2pm to 6pm
Tesco Pharmacy	Tesco Superstore, The Retail Park, Arlestone, Wellington, TF1 2DE	1.1 miles	Monday – Saturday 8am to 8pm Sunday 10am to 4pm
Hadley Pharmacy	Unit 6, The Stirling Centre, High Street, Telford, TF1 5GQ	1.3 miles	Monday – Friday 9am to 5:30pm Saturday 9am to noon
Boots	2-3 Acorn Way, Shawburch, Telford, TF5 0LW	1.5 miles	Monday – Friday 9am to 6pm Saturday 9am to 5pm

- 1.25 In total, excluding the closing pharmacy, there are 7 pharmacies, two of which trade for 7 days/week, within a 1.5 mile radius of the closing site. They are operated by a variety of different contractors.
- 1.26 The nearest pharmacies to the closing pharmacy (marked with a red star) are shown on the map below. [see Appendix A]

- 1.27 As this map and the table above clearly show, there is good provision across the north-west of Telford, so patients will have no difficulties accessing alternative pharmacies in Wellington and the surrounding area, should they wish following the closure of site 2, notwithstanding the fact they will still have access to a pharmacy within 20m.
- 1.28 In terms of opening hours, the remaining pharmacy trades from 9am to 6pm from Monday to Friday, whereas the closing pharmacy trades from 9am to 1pm and 2pm to 9pm on weekdays, 3pm to 9pm on Saturdays and 9am to 8pm on Sundays, a total of 72 hours per week. It is important to bear in mind, however, that these opening hours reflect the obligations of the '100 hour contract' rather than the demand for pharmaceutical services during those times.
- 1.29 Wellington Medical Centre opens from 8.30am to 6pm Monday to Friday and 9am to 5pm on Saturdays (pre-booked appointments only). Chapel Lane Pharmacy is open for almost the same hours from Monday to Friday (bearing in mind patients rarely finish the first appointment before 9am) and Boots, 0.1 miles away, opens all day on Saturday. So there will still be pharmaceutical services provision provided within a very short distance during the surgery hours following the closure of site 2.
- 1.30 In terms of opening hours beyond the medical centre times, Morrisons opens until 7pm on weekdays and Tesco opens until 8pm, including on Saturday. Both pharmacies open from 10am to 4pm on Sundays.
- 1.31 It is clear, therefore, pharmaceutical services are provided nearby for all the times there is any meaningful demand for these services. It is certainly not the case that the need for pharmaceutical services provision in Wellington on weekdays or Saturdays after 8pm or on Sundays after 4pm is such that the ICB would be obliged to grant a new application offering these opening hours following that grant of this consolidation application.
- 1.32 Chapel Lane Pharmacy (site 1) has the capacity, resources, and expertise to absorb the patients of the closing pharmacy without a decline in service quality. The pharmacy benefits from a large dispensary that can comfortably accommodate the extra dispensing volume.
- 1.33 The services currently offered at site 2 will continue to be available at site 1, ensuring that patients will have no reason to seek alternative providers.
- 1.34 All prescription records and ongoing medication arrangements at site 2 will be carefully transitioned to site 1. This means patients will not experience any disruption to their prescription regimens, nor will they need to undertake any administrative tasks related to the move.
- 1.35 It is clear therefore, that the proposed consolidation will not result in a material reduction in choice or access for patients. Not only will there remain a pharmacy within 20m of the closing site but there are numerous pharmacies located a relatively short distance away. Between these pharmacies they open all the hours for which there is a meaningful demand for pharmaceutical services.

Securing improvements or better access

- 1.36 When considering an application under regulation 18 the fundamental test is whether granting the application will secure improvements or better access in respect of pharmaceutical services.
- 1.37 In respect of improvements, there is no evidence of any shortfall in current service provision by the consolidating pharmacies. Both pharmacies provide a comprehensive range of pharmaceutical services and the consolidated pharmacy is required to provide all of the pharmaceutical services offered by each of the pharmacies at present. Furthermore, there is no evidence of complaints regarding the service provided by either pharmacy. Therefore, there is no reason to believe that there will be any shortfall in the service provided by the consolidated pharmacy.
- 1.38 Additionally, there is no evidence of any improvements required in respect of the numerous other pharmacies located within the area.
- 1.39 It follows that, if service provision after Site 2 closes continues to meet the needs of the population, there is no reason to grant an application that would secure improvements as there is no evidence that improvements are required.
- 1.40 In terms of access to pharmaceutical services, it is clear, for the reasons we have provided earlier, that access to services across Telford is excellent given the number of pharmacies within a short distance.

Choice

- 1.41 When considering choice, as previously stated, there are 6 pharmacies (excluding the two in question) within a 1.5 mile radius of the closing pharmacy. These pharmacies are operated by a variety of different contractors including Boots, Tesco, Morrisons and independent owners. Patients will therefore continue to have choice of provider if this consolidation application is approved.
- 1.42 There is no evidence, therefore, that should this application be granted, there is a risk that a future application at this location would be granted on the basis of improved choice.

Patients sharing protected characteristics

- 1.43 Relevant protected characteristics in this case are those relating to the accessibility of pharmaceutical services. These are typically age and disability i.e. matters that affect physical accessibility. Given the proximity of the closing site and site 1, it is clear that patients who previously attended the closing pharmacy will have no difficulties attending other pharmacy regardless of their means of travel for the reasons we have provided previously.
- 1.44 As accessibility for these patients will be maintained there is no evidence that a future application made to secure improvements in access for these patient groups would be successful.

Innovation

- 1.45 There is no evidence of any gaps in pharmaceutical services provision in the area concerned that would be addressed through the provision of innovative pharmaceutical services.

The general area

- 1.46 Finally, to our knowledge there are no relevant changes planned within the area in the foreseeable future that would materially affect the demand for pharmaceutical services within this area.

Conclusion

- 1.47 Taking into account the number of pharmacies within close proximity and their accessibility, there is no evidence that a future application made at this location to improve access (either physically or in respect of opening hours) would be successful given that the closure of one pharmacy would have no material impact of access to pharmaceutical services.
- 1.48 In fact we would suggest that after the closure of site 2 it is inconceivable that any application made to the ICB to 'replace' this pharmacy would be approved. Given this is the relevant legal test, in our opinion there are no grounds to refuse this application.
- 1.49 In conclusion there is no reason to believe that any gaps will be created as a result of this consolidation."

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 29 December 2025 states:

- 2.1 "Shropshire and Telford and Wrekin ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning."

Decision report

- 2.2 "CAS Reference Number: CAS-377371-D5T9R3
- 2.3 Name of Applicant: RJR Chem Limited
- 2.4 Address of Consolidating Premises:
- 2.5 Site 1: the remaining site
- 2.5.1 Chapel Lane pharmacy, Chapel Lane, Wellington, Telford, TF1 1SS
- 2.6 Site 2: the consolidating site
- 2.6.1 Wellington Pharmacy, Chapel Lane, Wellington, Telford, TF1 1PZ

2.7 Committee Determination

2.8 The committee refused the application.

2.9 All of Regulation 26A has not all been met and it was determined that there would be a gap in pharmacy provision.

2.10 3rd Party Appeal Rights

2.11 Appeal rights to the applicant only.”

“Extract from the Pharmacy Services Regulations Committee

2.12 Applications to be determined

2.13 RJR Chem Ltd – Consolidation - Same Health and Wellbeing Board (Shropshire, Telford & Wrekin Integrated Care Board)

2.14 An excepted application under Regulation 26(A) for a consolidation within the Health and Wellbeing Board area of Telford and Wrekin that does not create a gap to the pharmaceutical services provision.

2.15 The applicant proposes to close the pharmacy at Wellington Medical Practice, Chapel Lane, Wellington, Shropshire, TF1 1PZ and move services to site 1 pharmacy at Chapel Lane, Wellington, Telford, Shropshire, TF1 1SS. Both pharmacies are currently situated around 0.9 miles from each other. The applicant confirms that the application also includes the change of ownership and that they are buying the closing pharmacy business on a debts and liabilities basis.

2.16 A detailed report was presented to the Committee.

2.17 The Committee noted and considered the following representations:

2.18 Boots Pharmacy - No significant comments made.

2.19 The Committee noted that no response to the representations has been provided by the applicant.

Deliberation

2.20 Granting the application would create a gap where there would be a loss of 67 core opening hours and access to pharmaceutical services weekday evenings between 17:00 – 21:00, Saturday between 16:30 – 21:00 and Sunday between 09:00 – 20:00.

PSRC Determination

26A.— (1) The Committee were satisfied that the person making the application is already included in the pharmaceutical list within the Telford & Wrekin Health and Wellbeing Board area

(2) does not apply to a consolidation application by a person already included in a pharmaceutical list for inclusion in respect of premises not already listed in relation to that person.

(3) (a) and (b) The Committee were satisfied that the application met the requirements

(4) (a) and (b) The Committee were satisfied that the application met the requirements to paragraph (4), a consolidation application

(5) The Committee were satisfied that granting the application would create a gap in pharmaceutical services provision that could not be met by a routine application to meet a current or future need, to secure improvements or better access to pharmaceutical services. The Committee noted that neither premise are distance selling premises or appliance contractor premises.

(6) (a) The Committee confirmed that it is satisfied that they are not intending to commission enhanced services at either premises so therefore do not need to refuse the application.

(b) The Committee were satisfied that both parties have consented to site 2 ceasing to be listed chemist premises as a consequence of the application

(7) The Committee were satisfied that there are not grounds to refuse this application under this regulation.

(8) This regulation is not relevant to this application

2.21 The Committee refused the application and as this consolidation will create a gap in Pharmaceutical Services provision that could not be met by a routine application.

2.22 The Committee determined that appeal rights are to be granted to the applicant.”

“Agenda item 5.1

2.23 Application for inclusion in a pharmaceutical list: Consolidation onto an existing site

Background information

2.24 This application is by RJR Chem Ltd to close site 2:

2.24.1 Wellington Pharmacy Ltd t/a Wellington Pharmacy at Wellington Medical Practice, Chapel Lane, Wellington, Telford, Shropshire, TF1 1 PZ,

2.25 and consolidate services onto remaining site 1:

2.25.1 RJR Chem Ltd t/a Chapel Lane Pharmacy, Chapel Lane, Wellington, Telford, Shropshire TF1 1 PZ.

2.26 The applicant confirms that the application also includes the change of ownership and that they are buying the closing pharmacy business on a debts and liabilities basis.

2.27 Both premises are included in the Telford and Wrekin Health and Wellbeing Board pharmaceutical list.

2.28 As per NHS.UK there are 3 other pharmacies within 1 mile of the remaining site 1 (listed below)

Pharmacy Name	Address 1	Address 2	Address 3	Post code	Contract type if not 40 hours	Distance from proposed site
Boots (09:00 – 17:30 Monday – Saturday)	21 – 15 New Street	Wellington	Telford	TF1 1LU	Community Pharmacy core until 16:30 Monday – Friday and 15:00 Saturday	0.1 miles
Morrisons Pharmacy (09:00 – 19:00 Monday to Friday, 09:00 – 17:00 Saturday, 10:00 – 16:00 Sunday)	Springhill	Wellington	Telford	TF1 1RP	Community Pharmacy Core until 17:00 Monday – Friday and 15:00 Saturday	0.5 miles
Leegomery Chemist (Monday – Friday 09:00 – 13:00 and 14:00 – 18:00)	Local Centre	Leegomery	Telford	TF1 6XQ	Community pharmacy Core hours	1 mile
Tesco Instore Pharmacy (Monday – Saturday 08:00 – 20:00; Sunday 10:00 – 16:00)	Wrekin Retail Park	Arleston	Telford	TF1 2DE	Community pharmacy Core until 17: 00 Monday – Tuesday and 16:30 Wednesday - Saturday	1.1 miles

2.29 In addition, there are 4 former 100 hour pharmacies within the HWB area with distances according to NHS.UK:

2.29.1 Asda Pharmacy, Malinsgate, Telford TF3 4HZ – 3.1 miles

2.29.2 Donnington Pharmacy, Medical Practice, Donnington, Telford TF2 8EA – 3.4 miles (notification received to withdraw from the pharmaceutical list)

2.29.3 Asda Pharmacy, Donnington Wood, Telford TF2 7RX – 3.4 miles

2.29.4 Late Night Pharmacy, Newport, Shropshire, TF10 7AN – 7.4 miles

2.30 Please see Appendix 1 within the supporting documentation on services provision data for the pharmacies included within this report.

Additional information provided by the applicant

2.31 The applicant has provided detailed and comprehensive, please see supporting information.

2.32 Opening Hours

2.33 Current core opening hours for Site 1

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	09:00 – 13:00 14:00 – 18:00	Closed	Closed	40 hrs

2.34 Current total opening hours for Site 1

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 18:00	09:00 – 18:00	09:00 – 18:00	09:00 – 18:00	09:00 – 18:00	Nil	Nil	45

2.35 Current core opening hours for Site 2

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 13:00 14:00 – 21:00	09:00 – 13:00 14:00 – 21:00	09:00 – 13:00 14:00 – 21:00	09:00 – 13:00 14:00 – 21:00	09:00 – 13:00 14:00 – 21:00	15:00 – 21:00	09:00 – 20:00	72 hrs

2.36 Current total opening hours for Site 2

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00 – 13:00 14:00 – 21:00	09:00 – 13:00 14:00 – 21:00	09:00 – 13:00 14:00 – 21:00	09:00 – 13:00 14:00 – 21:00	09:00 – 13:00 14:00 – 21:00	15:00 – 21:00	09:00 – 20:00	72 hrs

2.37 Floor plan showing consultation area [see Appendix B]

2.38 Please see table below with premises facilities available in both sites:

Details of premises facilities relevant to the applications	Currently provided at Site 1 (Y/N)	Currently provided at Site 2 (Y/N)	To be provided at Site 1 after consolidation (Y/N)
Access for wheelchair users	Y	Y	Y
Access without steps	Y	Y	Y
Toilet for wheelchair users	N	N	N
Induction loop	Y	N	Y
Signing service	N	N	N
Translation service	N	N	N
Parking	Y	Y	Y
Disabled parking	Y	Y	Y

2.39 Please see below services which are provided at both sites:

Service	Currently provided at Site 1 (Y/N)	Currently provided at Site 2 (Y/N)	To be provided at Site 1 after consolidation (Y/N)
NMS	Y	Y	Y
NHS Flu vaccinations	Y	Y	Y
Hypertension Service	Y	Y	Y
7 Day follow up	Y	Y	Y
Tier 1 – treatment of Acute bacterial conjunctivitis	Y	Y	Y
Tier 1 – treatment of simple UTI in Females 16 – 65 years	Y	Y	Y
Tier 2 – treatment of impetigo	Y	Y	Y
Tier 2 – treatment of infected eczema	Y	Y	Y
Tier 2 – treatment of infected bites	Y	Y	Y
Pharmacy first service	Y	Y	Y
Pharmacy contraception service	Y	Y	Y

2.40 Has the impact of the decision on those with protected characteristics under the Equalities Act 2010 been considered? Is this in accordance with NHS England's Public Sector Equality Duty? Has the impact of the decision on NHS England's duty on health inequality been considered? Have other statutory duties of NHS England been considered in making the decision?

- 2.40.1 Yes - All facilities currently in place at Site 2 (the closing site) are available at Site 1 (the remaining site)
- 2.40.2 The applicant has also confirmed that an induction loop will be made available at the remaining site
- 2.41 Work through Regulation 26A addressing each criterion, adding comments and arriving at an outcome on each.
 - 2.41.1 Would granting the application create a gap in pharmaceutical services that could be met by a current or future need, or improvements or better access, application? YES
 - 2.41.2 Will there be an interruption in service provision and if so has the applicant given reasons for this? NO

Representations

- 2.42 The Committee to note that paragraph 19(5) of Schedule 2 of the Regulations provides that, where a Health and Wellbeing Board is notified of a consolidation application, the Health and Wellbeing Board must make representations under paragraph 19(4) of Schedule 2 (representations in writing about the application) which, in addition to any other matter about which it may wish to make representations, indicate whether, if the application were granted, in the opinion of the Health and Wellbeing Board the proposed removal of premises from its pharmaceutical list would or would not create a gap in pharmaceutical services provision that could be met by a routine application:
 - 2.42.1 To meet a current or future need for pharmaceutical services; or
 - 2.42.2 To secure improvement, or better access, to pharmaceutical services.
- 2.43 The HWB had been invited to comment on the application during the consultation period but had not responded.
- 2.44 The Regulations are silent on the consequences of a Health and Wellbeing Board not providing comments as required by paragraph 19(5).
- 2.45 The Regulations only require the Health and Wellbeing Board to issue a supplementary statement saying that no gap that could be met by a routine application has been created if the Health and Wellbeing Board considers a gap would not be created. It is not the grant of the application that triggers this requirement; it is only if the Health and Wellbeing Board considers no gap has been created. In the current matter, the Health and Wellbeing Board has remained silent. If therefore the application is granted and the relevant pharmacy closes, there is no certainty for the Applicant that a new pharmacy will not open at or near the old site. It is possible that the Health and Wellbeing Board might issue a supplementary statement to update the PNA indicating that a gap has been created and so make it more likely that applications to open a pharmacy in that location would be made. (Source reference SHA/26057)

- 2.46 Committee to consider that if granting the application would not create a gap that could be met by a routine application where there would be a loss of core opening hours and access to pharmaceutical services weekday evenings between 17:00 – 21:00, Saturday between 16:30 – 21:00 and Sunday between 09:00 – 20:00.
- 2.47 For example, an application offering to secure better access or improvements.
- 2.48 The 2022/23-2025/26 PNA: In summary there is good pharmacy provision in Telford & Wrekin on weekdays, including in the evenings and also good Saturday daytime provision, with provision on Saturday evenings and Sundays across the central and north localities.
- 2.49 No supplementary statements have since been published
- 2.50 Boots UK Ltd
- 2.50.1 The information provided by the applicant suggests that no gap would be created as a result of a consolidation of these two pharmacies, however we trust that NHS England will ensure that the application meets all the criteria of Regulation 26A before approving this application.
- 2.50.2 We have no further comments to submit in relation to this application at this time but would be most grateful if you could inform us of the decision of NHS England in due course.

Representations received from circulation of first representations

- 2.51 The applicant responded that as no objections had been made to the application, they had no further comments to make.

Regulation 26A states:

1. A person already included in a pharmaceutical list may make an application pursuant to this paragraph (“a consolidation application”) in respect of the consolidation onto the site (S1) of listed chemist premises in the area of the relevant HWB (HWB1) of the provision of pharmaceutical services provided at or from S1 and other listed chemist premises (S2) in the area of HWB1.

- 2.52 The applicant is included in the pharmaceutical list, therefore this is satisfied.
2. Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to a consolidation application by a person already included in a pharmaceutical list for inclusion in respect of premises not already listed in relation to that person.
- 2.53 This is a statement of fact and does not require any determination.
3. Subject to paragraph (4), a consolidation application— (a) must be made by the person (P1) included in the pharmaceutical list in relation to S1; and (b) if

different persons are listed in relation to S1 and S2, must include as part of the application an application by P1 to change the ownership of S2.

- 2.54 The application includes a change of ownership application for RJR Chem Ltd to purchase the pharmacy business of Wellington Pharmacy Ltd who are the current owner of the closing site 2, therefore this is satisfied

4. If different persons are listed in relation to S1 and S2, and the person (P2) listed in relation to S2 is seeking to become the person listed in relation to S1, a consolidation application—

(a) must be made by P2; and

(b) must include as part of the application an application by P2 to change the ownership of S1.

- 2.55 The application was made by RJR Chem Ltd in relation to the continuing site and who is the current owner of the remaining site 1.

5. The NHSCB must refuse a consolidation application—

(a) if it is satisfied that granting the application would create a gap in pharmaceutical services provision that could be met by a routine application—

(i) to meet a current or future need for pharmaceutical services,
or

(ii) to secure improvements, or better access, to pharmaceutical services; or

- 2.56 The 2022 PNA: In summary there is good pharmacy provision in Telford & Wrekin on weekdays, including in the evenings and also good Saturday daytime provision, with provision on Saturday evenings and Sundays across the central and north localities.

- 2.57 There would be a loss of core opening hours and access to pharmaceutical services weekday evenings between 17:00 – 21:00, Saturday between 16:30 – 21:00 and Sunday between 09:00 – 20:00.

(b) if either S1 or S2 are distance selling premises or appliance contractor premises. Neither pharmacy is a distant selling premises or an appliance contractor premises and therefore there is no requirement to refuse the application under regulation 26A(5)(b)

6. In the case of an application to which paragraph (3) applies, the NHSCB must refuse the application unless it is satisfied—

(a) if the NHSCB intends to commission from P1 at or from S1 enhanced services which P2 provides at or from S2 but which P1 has not been providing at or from S1, that the provision of those services will not be

interrupted except for such period as the NHSCB may for good cause allow

(b) in the case of an application to which paragraph (3)(b) applies, that—

(i) P2 consents to the change of ownership of S2, and

(ii) P1 and P2 consent to S2 ceasing to be listed chemist premises as a consequence of the application; and

(c) in the case of an application to which paragraph (3)(b) does not apply, that P1 consents to S2 ceasing to be listed chemist premises as a consequence of the application.

2.58 The applicant states that the services currently provided are the same on both sites and that there will be no interruption in service provision, the current owner of closing site 2 consent to the premises ceasing to be listed, therefore there is no requirement to refuse the application under regulation 26A(6)

7. In the case of an application to which paragraph (4) applies, the NHSCB must refuse the application unless it is satisfied—

(a) that P2 is proposing to carry on at S1, in place of P1, the business in the course of which P1 is providing pharmaceutical services at S1;

(b) that P2 is undertaking to provide the same pharmaceutical services as those that P1 is providing (whether or not P2 is also to provide other services that P2 is providing at S2);

(c) that the provision of pharmaceutical services at S1 is not to be interrupted, except for such period as the NHSCB may for good cause allow;

(d) if the NHSCB intends to commission from P2 at or from S1 enhanced services which P2 provides at or from S2 but which P1 has not been providing at or from S1, that the provision of those services will not be interrupted except for such period as the NHSCB may for good cause allow; and

(e) that—

(i) P1 consents to the change of ownership of S1, and

(ii) P1 and P2 consent to S2 ceasing to be listed chemist premises as a consequence of the application.

2.59 Does not apply

8. If two or more consolidation applications are being considered together, as regards the issue of a gap in provision, as mentioned in paragraph (5)(a), each

application may be refused on the basis of the cumulative effect on provision of all the applications being considered together.

2.60 Does not apply

2.61 Recommendation It is recommended that the application is refused as the criteria of Regulation 26A have not all been met and this consolidation will create a gap in Pharmaceutical Services provision that could be met by a routine application.”

3 The Appeal

In a letter dated 15 January 2026 addressed to NHS Resolution, Pharmacy Sales & Consultancy Ltd on behalf of the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

3.1 “We act for RJR Chem Limited and have enclosed a letter of authorisation confirming our instructions in this matter.

3.2 Our client has been notified by the Telford and Wrekin HWB (“The ICB”) that the above application, made pursuant to Regulation 26a of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“The Regulations”) (as amended), has been refused. I have enclosed a copy of their decision letter and report for your information.

3.3 Our client wishes to appeal this decision and we set out the key grounds for appeal below.

3.4 Ordinarily we would address the specific reasons for refusal by the ICB within our letter of appeal, but as the Primary Care Appeals committee (“The Committee”) will note, the decision report does not provide any detailed reasoning for the refusal; it simply states:

“All of Regulation 26A has not all been met and is [sic] was determined that there would be a gap in pharmacy provision”.

3.5 In its guidance notes for parties involved in Market Entry Appeals, NHS Resolution comments:

“NHS Resolution notes the difficulties for appellants if the Commissioner has not provided reasons for any aspect of the original decision. In such circumstances, NHS Resolution will accept as a valid notice of appeal (subject to appeal rights and compliance with applicable time limits) comments which indicate that a person wishes to appeal and which sets out the appellant's reasons why a determination should have been made in their favour on that aspect (or does so by reference to earlier submissions). NHS Resolution will then consider whether the grounds of appeal are valid and reasonable in accordance with the Regulations”.

3.6 In this case the Commissioner has not provided reasons for its decision, so this appeal letter explains why our client asserts that the relevant tests have been

met and that the ICB was wrong to refuse the application. We note that the Committee will consider this matter afresh, rather than by reference to the ICB's decision.

- 3.7 We have enclosed a copy of our client's application, as well as the only representation received from third parties at the end of the 30-day consultation period, and we ask that the Committee takes these matters into account when determining this appeal. We draw the Committee's attention to the fact there were no objections to the application; the only comment received was from Boots who were supportive.

Legal tests

- 3.8 The Committee is clearly aware of the legal tests under regulation 26A, but we provide the wording below for ease of reference: [quoted in full]
- 3.9 It has not been disputed by any party that the Applicant is included in the pharmaceutical list, so 26(A)(2) does not require further consideration.
- 3.10 In relation to 26(A)(3) whilst the two pharmacies are owned by different legal entities, they are within the same group, so are under the same control. Our client has confirmed on the application form that the ownership of S2 will be changed if this application is approved.
- 3.11 In relation to Regulation 26A(5)(a), Primary Care Appeals must refuse a consolidation application if it is satisfied that granting the application would create a gap in pharmaceutical services provision that could be met by a routine application to:
- 3.11.1 meet a current or future need for pharmaceutical services, or
 - 3.11.2 secure improvements or better access to pharmaceutical services.
- 3.12 As the ICB decision report does refer to a gap of pharmacy provision resulting from this application, we assume the application was refused solely in respect of 26A(5)(a) rather than any other part of Regulation 26a. This appeal therefore focusses particularly on this test.
- 3.13 However, for the avoidance of doubt, in respect of the other parts of Regulation 26a:
- 3.13.1 Paragraph 5(b) – our client confirms that neither site is a distance selling premises or appliance contractor premises.
 - 3.13.2 Paragraph 6 – our client confirms that enhanced services provided at both sites will be provided at S1 without interruption should this application be approved.
 - 3.13.3 Paragraph 7 is not applicable, as the ownership of S1 will not change as a result of approving this application, so paragraph 4 does not apply.

3.13.4 Paragraph 8 – we are not aware that any other consolidation application is being considered at the same time as our client's application.

Background

- 3.14 Our client owns two pharmacies in the Wellington area of Telford, approximately three miles to the north-west of the town centre. Whilst the two pharmacies are owned within two separate limited companies they are under the same group ownership.
- 3.15 The two premises are located 20m apart. This was shown in the image provided within the supporting document to the application.
- 3.16 Wellington Pharmacy was established as a '100-hour pharmacy' in 2013 and is located within the Wellington Medical Centre on Chapel Lane. The pharmacy is not only subject to high staffing costs, being an extended hours pharmacy, the rent costs are exceptionally high as well. These two factors place an unsustainable financial burden on the business.
- 3.17 The second pharmacy, Chapel Lane Pharmacy, was acquired by our client from Lloyds Pharmacy in July 2023. It trades from good-sized & modern premises, and is visible from the Wellington Medical Centre entrance.

Regulation 26A(5)(a)

- 3.18 Applications to consolidate two pharmacies are unusual, in that they require the decision maker (in this case the PCA Committee), to put themselves in a hypothetical position where:
 - 3.18.1 Site 2 named in the application has closed and;
 - 3.18.2 An application is received for inclusion in the pharmaceutical list to meet a need that has arisen as a result of that closure.
- 3.19 Whilst this requires some speculation on the Committee's part, it is well versed in these applications. For the reasons set out in our client's application and below we believe it is impossible to imagine the ICB granting such an application. If the Committee agrees, then the consolidation application should be approved accordingly.

Telford and Wrekin PNA

- 3.20 We note that Telford and Wrekin HWB did not respond to our client's application.
- 3.21 The only information we have, therefore, that provides an indication of the HWB's views in respect of existing provision is the Pharmaceutical Needs Assessment ("PNA").

3.22 The current PNA for Telford and Wrekin is dated 2023 although we note that a draft PNA for 2026 has recently been sent out for consultation. It is due to take effect in March 2026.

3.23 When considering the provision of essential pharmaceutical services, the current PNA reached the following conclusion within the executive summary:

In summary dispensing provision overall has decreased slightly since the last PNA but remains adequate. There is good pharmacy provision in Telford & Wrekin on weekdays, including in the evenings and also good Saturday daytime provision, with provision on Saturday evenings and Sundays across the central and north localities. However, there is a comparatively lower level of provision in south Telford, with no opening on Saturday evenings or on Sundays. While pharmacy opening times do reflect the GP practice opening hours in south Telford, nevertheless the levels of deprivation are higher than average and car ownership is lower in this locality.

3.24 It is noteworthy, for the purposes of this appeal, that our client's pharmacy is located within the 'north locality'.

3.25 We can find no evidence that any supplementary statements have been published in relation to the current PNA.

3.26 In respect of the 2026 draft PNA, whilst this carries no legal weight at the time this appeal is being prepared, it does provide a preliminary indication of the HWB's current view on provision (subject to feedback). This is helpful in the absence of any specific comments from the HWB in respect of our client's application.

3.27 The executive summary of this draft document provides an update on the position since the 2023 PNA was published, and makes the following comment in respect of the provision of essential pharmaceutical services:

2023 Recommendation: Dispensing provision overall has decreased slightly since the last PNA but remains adequate - the six pharmacies in south Telford are encouraged to extend their opening times to cover Saturday evenings and on Sundays to improve the equity of provision in this locality.

2025 Progress: Although there is no Saturday evening or Sunday openings in the south of the borough, pharmacy services can be accessed at the Telford Town Centre during these times. It is reasonable to expect that patients may have to travel a little further to access services at times when local pharmacies may be closed.

3.28 The draft PNA does not, therefore, identify any gaps in provision.

3.29 Focussing specifically on opening hours, page 59 of the draft PNA states the following:

Extended Hours

- 3.30 Following the changes to regulations in 2023 there are no longer any '100 hour' pharmacies within Telford and Wrekin. There are, however, six pharmacies that offer extended hours with a minimum of 72 opening hours:
- 3.30.1 Asda Pharmacy Donnington (Central North locality)
 - 3.30.2 Asda Pharmacy Malinslee (Central South locality)
 - 3.30.3 Donnington Pharmacy (Central North locality)
 - 3.30.4 High Street Pharmacy Newport (North East locality)
 - 3.30.5 Wellington Pharmacy (Central North locality)
 - 3.30.6 Tesco Instore Pharmacy (Central North locality)
- 3.31 It is noteworthy that, with the exception of Asda in Malinslee these extended hours pharmacies are all located within one of the northern localities. This explains the HWB's conclusion that extended hours provision in the south would benefit from being extended. It is also noteworthy that despite the limited extended hours provision in the south, neither the current nor the draft PNAs conclude that this constitutes a gap in provision that would be met by the granting of an application for inclusion in the pharmaceutical list in the south.
- 3.32 This provides an indication of the HWB's view on what constitutes the reasonable provision of extended hours services.
- 3.33 Overall, in respect of pharmacy opening times and access, the draft PNA provides the summary below on page 75.

Assessment of Pharmacy opening times and access

- *There is good pharmacy provision across Telford and Wrekin with all parts of the borough within 20 mins average travel time by car of a community pharmacy during the day and evenings on weekdays, Saturdays and on Sundays during the day.*
- *The majority of the population are within 10 minutes average time by car of a community pharmacy on weekdays and Saturdays during the day. There is also good access to pharmacies from all parts of the borough using public transport on weekdays.*
- *Although there are only 2 pharmacies open on Sunday evenings, their central location means that they can be reached from all parts of the borough within 30 minutes.*
- *In the West locality the dispensing practice service in Newport reflects the GP surgery opening times.*
- *Despite being the most densely populated part of the borough, there are no pharmacies in the borough to the south of Telford Town*

Centre that are open in the evening or on Sundays. Neither are there any pharmacies in Shropshire that border this part of Telford and Wrekin that offer evening or Sunday opening.

- Although those pharmacies that are open can be easily accessed by car, this is potentially an area of concern given that levels of vehicle ownership are lowest in this part of Telford and Wrekin. However, the same is applicable for residents of this area accessing emergency hospital services that do not require an ambulance.*

Recommendations:

- Dispensing provision remains adequate and is expected to over the period of this PNA, given the pace of projected population growth predicted in this PNA*
- Supplementary statements may be required in the event of changes to the number of providers, opening hours or services provided.*

3.34 As we discuss later, there is alternative 'out of hours' pharmacy provision within a 10 minute drive of the closing pharmacy, including on Sundays, it is clear that the HWB's access criteria will still be comfortably met following the closure of site 2.

3.35 We have included copies of both the current and draft PNAs for the Committee's benefit. We note that the current PNA is titled "CONSULTATION DRAFT FINAL" on the front cover but as this is the document provided on the local authority's website at the bottom of the following page <https://www.telford.gov.uk/about-mycouncil/telford-and-wrekin-insight/pharmacy-needs-assessment-pna/>, we assume this is the current PNA.

Access to existing pharmaceutical services providers

3.36 When considering whether the closure of site 2 will 'create a gap in pharmaceutical services provision that could be met by a routine application', the Committee will consider various matters that relate to the tests set out in the Regulations relating to 'routine' applications.

3.37 Routine applications are made in respect of:

3.37.1 Needs that have been identified within the prevailing PNA (Regulations 13, 15 and 17) or;

3.37.2 Benefits that were not foreseen when the PNA was drafted (Regulation 18).

3.38 In respect of the PNA, there are no needs identified within the current Telford & Wrekin PNA that would be met by granting an application in the area served by these two pharmacies, as we have discussed already.

3.39 It is likely, therefore, that any changes in provision that might result in an application being made would be considered as 'unforeseen' (as a result of the closure of one pharmacy) and therefore any application would be made under regulation 18. In fact, in the absence of any need identified in the PNA, the decision-maker would be required to refuse any application made under regulations 13, 15 or 17.

3.40 The key matters the decision-maker would need to consider if such an application were made are as follows:

Is it satisfied that granting the application.....would secure improvements, or better access, to pharmaceutical services, in the area of the relevant HWB having particular regard to the desirability of:

(i) There being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB;

(ii) People who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access;

(iii) There being innovative approaches taken with regard to the delivery of pharmaceutical services

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

3.41 We have therefore provided information below which will satisfy the Committee that an application for a new pharmacy (following the closure of the pharmacy at site 2) would not secure improvements or better access that were unforeseen in the PNA.

Reasonable choice

3.42 In assessing whether there is reasonable choice, the decision-maker will usually have regard to matters such as physical access to alternative pharmacies, their opening hours and the services they provide. If it is deemed that the choice retained by patients following the closure of site 2 in respect of these matters is reasonable (taking into account local factors), then it can be said that these patients have reasonable choice.

Demographic profile of the area

3.43 Before addressing the question of choice, we have provided demographic information for the area, to assist the Committee.

3.44 The data below is sourced from www.nomisweb.co.uk and relates to the 2021 census for the 'College' electoral ward, within which the closing pharmacy is located. The boundaries of this ward are shown on the map below [see Appendix C].

- 3.45 The demographic characteristics most relevant to access to pharmaceutical services are as follows:
- 3.45.1 19.1% of residents were aged 65 or over, compared to the national average of 18.1%
 - 3.45.2 16.6% of residents were aged under 16 compared to the national average of 18.5%
 - 3.45.3 20.5% of residents classed their day to activities to be limited in accordance with the Equality Act, compared to the national average of 17.3%
 - 3.45.4 30.4% of households did not have a car or van compared to the national average of 23.5%
- 3.46 Looking at the first of these characteristics, the age profile of residents is not exceptional. Whilst there are slightly more residents aged over 65 than the national average, this difference is not significant. Similarly the number of residents under 16 is just a little lower than the national average.
- 3.47 Levels of disability are slightly higher than the national average, but notably approximately 4 in 5 residents are not considered to be disabled.
- 3.48 Levels of car ownership are lower than the national average but that is not in itself unusual within an urban area where residents are far more likely to be reliant on walking or using public transport to access the amenities they require. 7 out of 10 households do have access to at least one car or van. The levels of car ownership are not exceptionally low.

Geographical access to the nearest pharmacies

- 3.49 When the pharmacy at site 2 closes, patients will clearly need to access alternative pharmacy premises for the services they require. We have therefore considered the location of other pharmacies and the journeys to them.
- 3.50 As stated previously, site 1 for this application is located within 20 metres of site 2, and patients accessing the medical centre in which site 2 is located walk past the door of site 1 regardless of how they travel to the site. It is clear, therefore, that there will be no diminution in geographical access to pharmaceutical services as a result of granting this application.
- 3.51 We consider out of hours access later, but we submit that residents over the age of 65 are less likely than residents of working age to require access to services in the evening or at weekends given that they will not typically be out at work during weekdays on a full-time basis. In a similar vein, those who are out at work during the day are more likely to own a car or to use public transport to commute to their place of work. They will therefore find it easier to access other pharmacies further afield.

- 3.52 It is also noteworthy that a second pharmacy, Boots at 21-25 New Street, is located only 260m away from site 2 using the shortest practicable route on foot as shown on the map below [see Appendix C].
- 3.53 This walk takes no more than 3 minutes. Boots is located within the heart of the commercial centre of Wellington, close to local amenities, and the route benefits from wide paving, a dedicated light-controlled crossing over the only road that needs to be crossed and street lighting throughout the area. There are no barriers to movement.
- 3.54 We submit that these two alternative pharmacies will provide adequate choice once site 2 closes, but there is also a third additional pharmacy in Wellington, located at Morrisons supermarket, where many residents will do their regular shopping. Morrisons is also only 150m from Aldi, the only other supermarket in Wellington. This area of Wellington is therefore accessed by many residents when doing their grocery shopping.
- 3.55 The journey to Morrisons is shown below [see Appendix C].
- 3.56 The distance on foot is 900m, which takes 12 minutes to walk. This journey is straightforward, being over level ground and using pavements and dedicated crossing points, with street lighting provided. The railway is easy to cross with the bridges crossing the railway benefitting from protected pavements on both sides of the road.
- 3.57 There is a large, free, customer car park at Morrisons for any patient who wishes to drive to a pharmacy. This includes a significant number of dedicated disabled spaces. The drive from the closing pharmacy (site 2) would take less than 5 minutes.
- 3.58 There are bus stops on both sides of the road outside Morrisons, used by route 99c, with hourly buses serving areas both to the north and south of Wellington.
- 3.59 Whilst there is not a direct service from the closing pharmacy to Morrisons, it must be remembered that most residents will have no need to start their journey from the closing site.
- 3.60 Those patients who have accessed the medical centre co-located with the closing pharmacy and require pharmaceutical services will be able to access site 1 at essentially the same location, whose hours closely match the medical centre hours.
- 3.61 The Morrisons Pharmacy opens from 9am to 7pm Monday to Friday, 9am to 5pm on Saturday and 10am to 4pm on Sunday. Whilst there is no information in the public domain in respect of the core opening hours of this pharmacy, it has opened for 7 days a week for many years so there is no reason to believe this will change. This is relevant because it would be unusual, when considering an application submitted under the Regulation 18, to have regard only to the core hours of existing pharmacies.

Extended hours provision

- 3.62 Given that site 2 currently opens for 72 hours per week, we have also considered additional extended hours provision for any patient who requires pharmaceutical services 'out of hours'.
- 3.63 It is important to be mindful of the reasons site 2 opens until 9pm from Monday to Saturday and 8pm on Sundays.
- 3.64 This pharmacy opened as a '100 hour' pharmacy, using the exemption that existed within the 2005 Regulations. Applicants making an application to open a 100-hour pharmacy were not required to provide any evidence of need or demand for pharmaceutical services provided they committed to opening 100 hours per week.
- 3.65 Subsequently, following the amendments to the current regulations in May 2023, 100-hour pharmacies were permitted to reduce their hours to a minimum of 72 per week, provided that these pharmacies remained open until 9pm from Monday to Saturday and retained the total number of core hours on a Sunday. Our client therefore took the opportunity to reduce its opening hours when the regulations were amended.
- 3.66 Once again, the fact that the pharmacy now opens until 9pm from Monday to Saturday and 8pm on Sunday is not evidence that there is a demand for pharmaceutical services at that time. It is simply a contractual requirement that it opens until those times.
- 3.67 The reality is that the demand for pharmaceutical services at this location late in the evenings is minimal. There are no out of hours providers of medical services in this area and, other than takeaways, supporting businesses are closed in the evenings and most also close on Sundays. This is simply not an area with a thriving weekend or evening economy.
- 3.68 In our client's opinion, for the small number of patients who might have a genuine need for pharmaceutical services beyond the hours that the remaining pharmacy (site 1) trades, there are several options available to them.
- 3.69 It is important to be mindful that patient expectations in respect of the availability of pharmaceutical services in the evenings and at the weekend are very different to their expectations during normal trading hours, particularly where that pharmacy is located within a medical centre that does not open extended hours. Given the number of alternative pharmacies in the wider area, including several others with extended hours, we believe that patients will still have a reasonable choice in respect of access to pharmaceutical services following the closure of site 2.
- 3.70 As discussed earlier, the PNA highlights 5 pharmacies located within the northern localities of Telford and Wrekin. These pharmacies all have core hours of 72 or more per week, given that that are all former '100 hour pharmacies'.
- 3.71 The nearest of these to the closing pharmacy is Tesco Instore Pharmacy at Wrekin Retail Park, Arleston, Wellington, Shropshire, TF1 2DE. Notably this is

a Tesco Extra hypermarket, so it the largest supermarket serving the town of Telford and its surrounds.

- 3.72 This pharmacy has core hours from 8am to 8pm Monday to Saturday and from 10am to 4pm on Sundays.
- 3.73 The journey from the closing pharmacy to Tesco is shown on the map below [see Appendix C].
- 3.74 The distance on foot is 1.6 miles. The distance by road is slightly further at 1.9 miles. As the map shows, this pharmacy is located to the south-east of Wellington, whereas Morrisons Pharmacy provides out of hours services to residents in the north-west.
- 3.75 Whilst this journey may be a little further than most people would wish to walk, it is noteworthy that residents living to the south of Wellington, in Arleston, would find the journey to be significantly shorter.
- 3.76 For the 70% of residents who have access to a car, there is a large free customer car park at the Tesco store, as would be expected, and there is excellent provision of parking for blue-badge holders.
- 3.77 For residents who are reliant on public transport, bus route 4 travels from Wellington bus station, in the centre of the town, to within 350m (i.e. a 5 minute walk) of Wrekin retail park, with buses every 10-15 minutes on weekdays (from 6am to 9.37pm), every 20 minutes on Saturdays (from 6.30am to 9.30pm) and every 30 minutes on Sundays (from 9.07am to 6.37pm).
- 3.78 We maintain that the proximity of this pharmacy is such that, combined with the extended hours offered at Morrisons Pharmacy, the residents of Wellington will retain excellent access to pharmaceutical services 'out of hours'.
- 3.79 So, whilst the closure of site 2 would reduce the number of pharmacies offering extended core hours in Telford and Wrekin by one, we refer back to the comment made in the draft PNA in respect of extended hours, which stated:

Although there is no Saturday evening or Sunday openings in the south of the borough, pharmacy services can be accessed at the Telford Town Centre during these times. It is reasonable to expect that patients may have to travel a little further to access services at times when local pharmacies may be closed.

- 3.80 Whilst the HWB have not commented on this application to date, we submit that compared to the south of the borough, extended hours provision will remain excellent across the north of Telford and Wrekin. That being the case we do not believe there is any evidence that the HWB would conclude that a gap in provision would arise following the closure of site 2.

Services

- 3.81 It is a requirement of applications submitted under Regulation 26a, that the consolidated pharmacy provides all the NHS pharmaceutical services provided by the closing pharmacy. It is clear, therefore, that there will be no reduction in the range of services offered.
- 3.82 Given that both the current and draft PNAs conclude there are no gaps in provision at present, it follows that no gap will arise in respect of the range of services provided if this application is approved.

Conclusion

- 3.83 Going back to the principles of consolidation applications, the decision maker is required to refuse an application if the effect of granting it would be such as to result a gap in pharmaceutical services provision that is of sufficient magnitude that the commissioner would be obliged to grant an application made subsequently to 'replace' the closed pharmacy.
- 3.84 It is clear that there will still be two pharmacies located within 300m of the closed pharmacy, namely the consolidated pharmacy (at site 1) and Boots Pharmacy. It is inconceivable therefore that the ICB would grant a new application based on the need to improve geographical access to pharmaceutical services.
- 3.85 We suspect the point of contention, therefore, as far as the ICB is concerned, is the extent to which patients need, and will have access to, pharmaceutical services in the evenings and weekends.
- 3.86 It is our client's position that the demand for extended hours services during weekdays is very small. However, for those patients who do need these services, there are two alternative pharmacies within a short distance. Morrisons is located only a 12-minute walk away from the closing site and Tesco is located less than 2 miles away by car. Any patient without access to a car (as a driver or passenger) has the option of using the frequent bus service to access Tesco pharmacy until it closes at 8pm.
- 3.87 At the weekend, the demand for pharmaceutical services in the evening is even smaller. However, there are still two pharmacies that open until 8pm on Saturdays and 4pm on Sundays that can be accessed by car within less than 10 minutes.
- 3.88 Whilst the journey by public transport would take longer, there are buses that continue to run well beyond the closing time of the Tesco pharmacy.
- 3.89 The question for the Committee, therefore, is whether, if an application was made to open a new pharmacy in the hypothetical situation where site 2 had already closed, to cater for the needs of the negligible number of people who:
- 3.89.1 Have an urgent need for pharmaceutical services that cannot wait until their nearest pharmacy opens and;
- 3.89.2 Do not have access to a motor vehicle and;

- 3.89.3 Are unable to use public transport (including taxis) to access an extended hours pharmacy and;
- 3.89.4 Are unable to walk to an extended hours pharmacy
- 3.90 The decision maker would be obliged to grant an application in those circumstances to 'to secure improvements, or better access, to pharmaceutical services'.
- 3.91 If it would not grant a new application in those circumstances then there is no reason to refuse this consolidation application. In our opinion it is clear that an application to open a new pharmacy in that situation would not be approved.
- 3.92 In conclusion, in our opinion, all the requirements of Regulations 26a have been met in this case.
- 3.93 We believe there is enough evidence within our client's application and appeal for the Committee to grant the application based on the written evidence. However, should the committee wish to convene a hearing our client would wish to attend. We look forward to hearing the outcome of this appeal in due course."

4 **Summary of Representations**

This is a summary of representations received on the appeal.

4.1 HEALTH & WELLBEING BOARD

- 4.1.1 "I am responding to the consolidation application above on behalf of Telford & Wrekin Health & Wellbeing Board and our Chair Cllr Burford.
- 4.1.2 Our 2026/27 - 2028/29 PNA was approved by the Health & Wellbeing Board yesterday and published today <https://www.telford.gov.uk/about-my-council/telford-and-wrekin-insight/pharmacy-needsassessment-pna/>
- 4.1.3 Please see below for our HWB statement on the impact of this application in the context of the recently published PNA.
- 4.1.4 Observations on the proposed consolidation application SHA/26857 - RJR Chem Ltd.
 - 4.1.4.1 This consolidation would reduce provision in the Telford & Wrekin Central North PNA Locality by 72 hours or 7% of the current provision.
 - 4.1.4.2 Within the town of Wellington itself, the change from 5 pharmacies to 4 would reduce hours of provision in the town by 23%.

- 4.1.4.3 It would reduce the number of pharmacies open on Sunday evenings in the borough overall, to one (dependent on Parade Pharmacy taking on Donnington Pharmacy's existing opening hours in which case there would be none).
- 4.1.4.4 Although, this would not significantly alter travel times and access for the resident population.
- 4.1.5 Wellington Pharmacy delivers a significant volume of services within the locality, and as such the consolidation would have an impact on capacity which would need to be delivered elsewhere taking into account the current resident usage/demand.
- 4.1.6 Impact on dispensing capacity
 - 4.1.6.1 For the period considered by the PNA (May 2024 – April 2025) Wellington Pharmacy dispensed the highest number of items in the Central North Locality - 1.4 million items, 10% of all items in the locality and 27% of items dispensed in Wellington pharmacies.
- 4.1.7 Impact on advanced services capacity
 - 4.1.7.1 For the same period Wellington Pharmacy delivered:
 - 4.1.7.1.1 39% of Pharmacy Flu Vaccinations in the locality and 80% of those delivered in Wellington.
 - 4.1.7.1.2 33% of Community Pharmacy Blood Pressure checks in the locality and 68% of those delivered in Wellington.
 - 4.1.7.1.3 18% of New Medicine Services in the locality and 56% of those delivered in Wellington."

5 Observations

The following observations were received by NHS Resolution in response to the representations received on appeal.

5.1 PHARMACY SALES & CONSULTANCY LTD ON BEHALF OF THE APPLICANT

- 5.1.1 "Thank you for your letter dated 31st March enclosing third party representations in respect of this appeal. We continue to act for the applicant, RJR Chem Limited, and wish to make the following final observations in response. We note that comments on the appeal were received only from Telford and Wrekin HWB.

Email from HO, Director of Public Health, Telford and Wrekin Council - dated 20th March

5.1.2 As a preliminary point, we note that the HWB does not object to our client's application. It limits its observations to the provision of data by reference to the 2026/27 Telford and Wrekin PNA.

5.1.3 The HWB have provided a link to the recently published PNA. We have enclosed a copy of that document for the benefit of the Primary Care Appeals committee [see Appendix G] ("the Committee") and ask the Committee to note the following extracts:

5.1.4 Page 12

"There is no gap or need identified in the PNA, currently or in the lifetime of the document, which could only be met by the granting of an application to meet that need."

5.1.5 Page 57 – map showing pharmacy locations [see Appendix F].

5.1.6 This map shows that Wellington has the second highest concentration of pharmacies (5) of all locations with the HWB after Telford (6).

5.1.7 Page 58

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.

Extended Hours

Following the changes to regulations in 2023⁴ there are no longer any '100 hour' pharmacies within Telford and Wrekin. There are, however, six pharmacies that offer extended hours with a minimum of 72 opening hours:

- *Asda Pharmacy Donnington (Central North locality)*
- *Asda Pharmacy Malinslee (Central South locality)*
- *Donnington Pharmacy (Central North locality)*
- *High Street Pharmacy Newport (North East locality)*
- *Wellington Pharmacy (Central North locality)*
- *Tesco Instore Pharmacy (Central North locality)*

The following table shows a summary of the earliest and latest opening times for community pharmacies by locality.

A detailed list of opening times for individual pharmacies is available in appendix 1.

5.1.8 This page shows that four of the six pharmacies across the HWB area that have extended hours are located within the Central North Locality, where our client's closing pharmacy is situated. This locality will continue to have the largest provision of extended hours opening across the HWB area after the consolidation.

5.1.9 We go on to consider the specific comments made by the HWB in their email of 20th March, responding to each one in turn:

This consolidation would reduce provision in the Telford & Wrekin Central North PNA Locality by 72 hours or 7% of the current provision.

5.1.10 Whilst we do not dispute this data, as shown earlier, this reduction in provision would take place within an area that currently has amongst the highest concentration of pharmacy provision within the HWB. We submit, therefore, that this is not a material reduction in provision.

Within the town of Wellington itself, the change from 5 pharmacies to 4 would reduce hours of provision in the town by 23%.

5.1.11 Pharmaceutical services provision in Wellington is currently for the following hours:

5.1.11.1 Monday to Friday 9am to 9pm

5.1.11.2 Saturday 9am to 9pm

5.1.11.3 Sunday 9am to 8pm

5.1.12 This is a total of 83 opening hours.

5.1.13 If this consolidation application is approved, the total provision will be:

5.1.13.1 Monday to Friday 9am to 7pm

5.1.13.2 Saturday 9am to 5.30pm

5.1.13.3 Sunday 10am to 4pm

5.1.14 This is a total of 64.5 opening hours

5.1.15 Whilst it is mathematically correct to state that there will be a reduction in total opening hours of c. 23%, the hours that would no longer be provided are 7pm to 9pm on weekdays, 5.30pm to 9pm on Saturdays and 4pm to 8pm on Sundays.

5.1.16 When we also take into account Tesco Pharmacy, which is located only 1.6 miles away (as discussed within our client's appeal), the reduction in total opening hours is only 13%, as Tesco opens until 8pm Monday to Saturday.

5.1.17 The hours where services will no longer be provided are not hours when there is any notable demand for pharmaceutical services. There is no out of hours medical centre in Wellington, this cover is provided by the NHS 111 service on a largely telephone-based and call-out basis.

5.1.18 There will remain 7-day provision within the town following this consolidation and we submit this will be more than adequate in a town with a population of approximately 25,000 residents.

It would reduce the number of pharmacies open on Sunday evenings in the borough overall, to one (dependent on Parade Pharmacy taking on Donnington Pharmacy's existing opening hours in which case there would be none).

5.1.19 Our client cannot comment on what may happen elsewhere in the borough in respect of Parade Pharmacy and Donnington Pharmacy as this would be speculation. In any event, the key consideration for the decision-maker, in respect of regulation 26A(5) is whether:

"NHS England.....

(a)..... is satisfied that granting the application would create a gap in pharmaceutical services provision that could be met by a routine application—

*(i)to meet a current or future need for pharmaceutical services,
or*

(ii)to secure improvements, or better access, to pharmaceutical services".

5.1.20 In respect of "*current or future needs*", the recently published PNA does not identify any current or future needs in the HWB area.

5.1.21 In respect of "*improvements or better access*", the bar for approving an application is very high. Whilst pharmaceutical services will not be provided in Wellington between 4pm on Sundays and 9am on Mondays if this application is granted, we submit that this does not constitute a gap in provision that is so significant that an application submitted to secure improvements or better access based on the loss of these hours would be granted, not least because there is no evidence of demand for services at those times. Our client sees negligible patient footfall at these times.

5.1.22 When it is considered that Sunday evening provision is currently available elsewhere within the borough, and that Tesco Pharmacy opens at 8am on Mondays, there is no meaningful gap.

Although, this would not significantly alter travel times and access for the resident population.

- 5.1.23 The HWB accepts that geographical access to pharmaceutical services (during 'normal' opening hours) will be unaffected by this consolidation.

Wellington Pharmacy delivers a significant volume of services within the locality, and as such the consolidation would have an impact on capacity which would need to be delivered elsewhere taking into account the current resident usage/demand.

- 5.1.24 Site 1, for the purposes of this consolidation, is owned by our client and is located within a few metres of the closing pharmacy (site 2). The pharmacy benefits from a large dispensary and our clients have given very careful consideration to the operational measures that will need to be put in place to accommodate the additional dispensing and services volume. Our client is very confident that the volume can be absorbed without any reduction in service levels.

- 5.1.25 We note that the HWB makes a comment that "*Wellington Pharmacy dispensed the highest number of items in the Central North Locality - 1.4 million items, 10% of all items in the locality and 27% of items dispensed in Wellington pharmacies*".

- 5.1.26 To clarify, Wellington Pharmacy dispensed the following item number in the 12 months to April 2025:

5.1.26.1 May 24 – 12,323

5.1.26.2 June 24 - 11,980

5.1.26.3 July 24 – 11,527

5.1.26.4 Aug 24 – 15,895

5.1.26.5 Sept 24 – 10,257

5.1.26.6 Oct 24 - 12,279

5.1.26.7 Nov 24 – 12,194

5.1.26.8 Dec 24 – 11,896

5.1.26.9 Jan 25 – 13,222

5.1.26.10 Feb 25 – 10,947

5.1.26.11 Mar 25 – 11,460

5.1.26.12 Apr 25 – 12,447

- 5.1.27 This amounts to a total of 146,427. In the 12 months to December 2025, the total is estimated at c.150,000 items.

- 5.1.28 We assume, therefore, that the 1.4 million figure referred to by the HWB refers to the entire locality, and therefore the point being made by the HWB is that our client dispenses approximately 10% of those items.
- 5.1.29 Whilst this figure may be accurate, for the reasons we have provided previously, we do not believe that this will affect service levels given the measures our client plans to put in place, and the existence of several other pharmacies within the town.
- 5.1.30 The HWB then go in to list the other pharmaceutical services provided by the pharmacy that is proposed to close. Again, our client confirms that these services will all be provided by Chapel Lane Pharmacy (site 1) following the consolidation.
- 5.1.31 The figures for the Flu vaccinations and Blood pressure checks might appear higher than usual as this includes our client's offsite Covid vaccination programme. This programme has been conducted twice a year to date, and the site in question has been AFC Football Club in Telford. Patients that are booked in for their Covid vaccinations are also offered the Flu Vaccination and BP checks (if eligible and required). Following the consolidation our client will continue to conduct the Covid Vaccination Programme and the numbers will not be affected.
- 5.1.32 We have no further observations to make at this time and look forward to hearing the outcome of this appeal in due course."

6 Consideration

- 6.1 The Pharmacy Appeals Committee ("Committee") appointed by NHS Resolution, had before it the papers considered by the Commissioner.
- 6.2 It also had before it the responses to NHS Resolution's own statutory consultations.
- 6.3 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 6.4 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations").
- 6.5 Regulation 26A states:
- "1. A person already included in a pharmaceutical list may make an application pursuant to this paragraph ("a consolidation application") in respect of the consolidation onto the site (S1) of listed chemist premises in the area of the relevant HWB (HWB1) of the provision of pharmaceutical services provided at or from S1 and other listed chemist premises (S2) in the area of HWB1.*
- 2. Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to a consolidation application by a person already*

included in a pharmaceutical list for inclusion in respect of premises not already listed in relation to that person.

3. *Subject to paragraph (4), a consolidation application—*
 - (a) *must be made by the person (P1) included in the pharmaceutical list in relation to S1; and*
 - (b) *if different persons are listed in relation to S1 and S2, must include as part of the application an application by P1 to change the ownership of S2.*
4. *If different persons are listed in relation to S1 and S2, and the person (P2) listed in relation to S2 is seeking to become the person listed in relation to S1, a consolidation application—*
 - (a) *must be made by P2; and*
 - (b) *must include as part of the application an application by P2 to change the ownership of S1.*
5. *NHS England must refuse a consolidation application—*
 - (a) *if it is satisfied that granting the application would create a gap in pharmaceutical services provision that could be met by a routine application—*
 - (i) *to meet a current or future need for pharmaceutical services, or*
 - (ii) *to secure improvements, or better access, to pharmaceutical services; or*
 - (b) *if either S1 or S2 are distance selling premises or appliance contractor premises.*
6. *In the case of an application to which paragraph (3) applies, NHS England must refuse the application unless it is satisfied—*
 - (a) *if NHS England intends to commission from P1 at or from S1 enhanced services which P2 provides at or from S2 but which P1 has not been providing at or from S1, that the provision of those services will not be interrupted except for such period as NHS England may for good cause allow*
 - (b) *in the case of an application to which paragraph (3)(b) applies, that—*
 - (i) *P2 consents to the change of ownership of S2, and*
 - (ii) *P1 and P2 consent to S2 ceasing to be listed chemist premises as a consequence of the application; and*

- (c) *in the case of an application to which paragraph (3)(b) does not apply, that P1 consents to S2 ceasing to be listed chemist premises as a consequence of the application.*
7. *In the case of an application to which paragraph (4) applies, NHS England must refuse the application unless it is satisfied—*
- (a) *that P2 is proposing to carry on at or from S1, in place of P1, the business in the course of which P1 is providing pharmaceutical services at or from S1;*
 - (b) *that P2 is undertaking to provide the same pharmaceutical services as those that P1 is providing (whether or not P2 is also to provide other services that P2 is providing at S2);*
 - (c) *that the provision of pharmaceutical services at or from S1 is not to be interrupted, except for such period as NHS England may for good cause allow;*
 - (d) *if NHS England intends to commission from P2 at or from S1 enhanced services which P2 provides at or from S2 but which P1 has not been providing at or from S1, that the provision of those services will not be interrupted except for such period as NHS England may for good cause allow; and*
 - (e) *that—*
 - (i) *P1 consents to the change of ownership of S1, and*
 - (ii) *P1 and P2 consent to S2 ceasing to be listed chemist premises as a consequence of the application.*
8. *If two or more consolidation applications are being considered together, as regards the issue of a gap in provision, as mentioned in paragraph (5)(a), each application may be refused on the basis of the cumulative effect on provision of all the applications being considered together.”*

- 6.6 In relation to Regulation 26A(1), the Committee noted that, in its decision letter, the Commissioner was silent on this. In supporting information, the Commissioner had confirmed that they were satisfied that the person making the application is included in the pharmaceutical list for the Telford & Wrekin Health and Wellbeing Board. The Committee noted that this had not been disputed by any party.
- 6.7 In relation to Regulation 26A(2), the Committee noted that this was a statement of fact and did not require any determination.
- 6.8 In relation to Regulation 26A(3), the Committee noted that there is no dispute that the two pharmacies are within the same group ownership and that they own both premises in relation to the consolidation application. The Committee

therefore determined that this application was not an application to which Regulation 26A(3)(b) applied.

- 6.9 In relation to Regulation 26A(4), the Committee noted that it related to a situation where different persons were listed on the pharmaceutical list for each site. As the Applicant owned both sites, the Committee determined that this application was not an application to which Regulation 26A(4) applied.
- 6.10 In relation to Regulation 26A(5)(a), the Committee was mindful that it must refuse a consolidation application if it is satisfied that granting the application would create a gap in pharmaceutical services provision that could be met by a routine application to:
- 6.10.1 meet a current or future need for pharmaceutical services, or
 - 6.10.2 to secure improvements or better access to pharmaceutical services.
- 6.11 The Committee noted that paragraph 19(5) of Schedule 2 of the Regulations provides that, where a Health and Wellbeing Board (“HWB”) is notified of a consolidation application, the HWB must make representations under paragraph 19(4) of Schedule 2 (representations in writing about the application) which, in addition to any other matter about which it may wish to make representations indicate whether, if the application were granted, in the opinion of the Health and Wellbeing Board the proposed removal of premises from its pharmaceutical list would or would not create a gap in pharmaceutical services provision that could be met by a routine application:
- 6.11.1 to meet a current or future need for pharmaceutical services, or
 - 6.11.2 to secure improvements or better access to pharmaceutical services.
- 6.12 The Committee noted that Telford and Wrekin HWB had been invited by the Commissioner to comment on the application within the 30 day consultation period but had not responded. The Telford and Wrekin HWB had been invited to comment on the appeal and representations were received.
- 6.13 The Committee noted that in addition to the remaining pharmacy (site 1) there are 3 pharmacies located within 1 mile of the closing site with a total of 6 pharmacies located within 1.5 miles, of which 4 are former “100 hour” pharmacies which are all located within the HWB area.
- 6.14 The Committee noted the comments from the Commissioner in relation to site 1 at Chapel Lane and site 2 at Wellington Medical Practice that “...*both pharmacies are currently situated around 0.9 miles from each other*”. The Committee being mindful of the information provided by the Applicant as well as the photographs and maps, as provided by the Commissioner, was of the view that this was a typographical error from the Commissioner and that in actual fact the nearest pharmacy to the closing site is the remaining pharmacy which is located 20 metres away. The next nearest pharmacy is Boots which is located 260 metres away and is “...*within the heart of the commercial centre*”

of Wellington, close to local amenities...". The Committee noted that the information with regard to the location of Boots had not been disputed.

6.15 The Committee noted, from the supporting information provided, that:

6.15.1 the closing site was previously a 100 hour pharmacy which now has opening hours of 72, in accordance with the Regulations and is open 9am to 1pm and 2pm to 9pm Monday to Friday; 3pm to 9pm on a Saturday and 9am to 8pm on Sundays;

6.15.2 the consolidation site which is located 20 metres away from the closing site, currently provides 45 hours a week, 40 of which are core opening hours. The consolidation site is currently open 9am to 6pm Monday to Friday with core hours from 9am to 1pm and 2pm to 6pm.

6.16 The Committee noted that no substantive representations had been made by the Telford and Wrekin HWB, however in response to the appeal, the HWB had stated:

"Observations on the proposed consolidation application SHA/26857 – RJR Chem Ltd

This consolidation would reduce provision in the Telford & Wrekin Central North PNA Locality by 72 hours or 7% of the current provision.

Within the town of Wellington itself, the change from 5 pharmacies to 4 would reduce hours of provision in the town by 23%.

It would reduce the number of pharmacies open on Sunday evenings in the borough overall, to one (dependent on Parade Pharmacy taking on Donnington Pharmacy's existing opening hours in which case there would be none).

Although, this would not significantly alter travel times and access for the resident population."

6.17 The Committee noted that there was no disagreement that the closure of a former 100 hour pharmacy (now providing 72 hours a week) would result in a reduction of pharmacy opening hours, however the Committee noted that the above mentioned observations were statements of fact from the HWB.

6.18 The Committee noted the comments with regard to Parade Pharmacy and Donnington pharmacy, however no further information had been provided with regard to this and the Committee was mindful that the potential of another pharmacy contractor closing, whilst it could have an impact, was not a relevant consideration under the Regulations before it.

6.19 The Committee further noted the final observation from the HWB that whilst there would be a reduction in the number of pharmacies, this would not significantly alter travel times and access for the resident population.

- 6.20 The Committee noted that the HWB had not provided an opinion as envisaged by the Regulations as to whether, in its opinion the proposed premises removal from the pharmaceutical list would or would not create a gap in pharmaceutical services provision that could be met by a routine application:
- 6.20.1 To meet a current or future need for pharmaceutical services; or
- 6.20.2 To secure improvements, or better access, to pharmaceutical services.
- 6.21 The Committee noted the further information from the HWB with regard to the “Impact on dispensing capacity” and “Impact on advance services capacity”. The Committee noted that there was no dispute that the closing site (site 2) delivers a full range of services, which would have to be provided elsewhere.
- 6.22 The Committee noted the comments from the Applicant with regard to the advanced services which it offers, including the flu vaccinations and blood pressure checks and that these are not delivered at the pharmacy but at a third party venue. The Committee noted the assurances from the Applicant that this would continue and had not been provided with any information to the contrary.
- 6.23 The Committee noted the information provided with regard to the demographics of the area and that the age profiles were broadly in line with the national averages and whilst there was slightly lower car ownership in the area, there was nothing to demonstrate that those who did have access to private transport were unable to access other existing pharmaceutical provision in the area. The Committee was of the view that the general health of the local population was in line with the national average and that there was nothing to demonstrate that there was a high level of health inequality experienced by residents.
- 6.24 The Committee noted the information from the Applicant with regard to other provision in the area, including physical access to pharmacies as well as the opening times. In particular, the Committee noted the Applicant’s references to the PNA in which it is stated that there are 6 former “100 hour” pharmacies within the area of the HWB with four of these being located in the Central North Locality.
- 6.25 The Committee noted that there would be a loss of extended opening hours, and this was not disputed, however the Applicant had sought to argue that there was limited use of the extended hours due to the opening times of the medical centre as well as a lack of out of hours medical provision within the area which generates a need for pharmaceutical services at such times.
- 6.26 The Applicant had provided information showing the number of items dispensed for the period May 2024 to April 2025 which totalled 143,427 items, which is in line with the 10% of the 1.4 million items dispensed in the borough overall as quoted by the HWB. The Committee noted that the Applicant had not disputed this, but had instead sought to argue that these could be absorbed into the remaining site, as well as the other pharmacies in the locality, without disruption to patients. The Committee was mindful that, whilst it had not been provided with the dispensing figures for the continuing site, this was not a

relevant consideration to which it should have regard. The Committee has considered the application based on the criteria set out in the Regulations.

- 6.27 The Committee was mindful that the granting of the application would result in a loss of core hours during the week as well as on a weekend, however there is no information to show that patients are accessing pharmaceutical services at those times. Further, the Committee understood that no complaints have been received about pharmacy provision including any perceived gap in extended hours and there still remains accessible pharmacies in the locality within 1.5 miles of the proposed remaining site as outlined by the Applicant and the Commissioner.
- 6.28 The Committee noted the statement in the PNA that *“Despite being the most densely populated part of the borough, there are no pharmacies in the borough to the south of Telford Town Centre that are open in the evening or on Sundays ...”* however the PNA had concluded that *“There is no gap or need identified in the PNA, currently or in the lifetime of the document, which would only be met by the granting of an application to meet that need.”* and further *“Supplementary statements may be required in the event of changes to the number of providers, opening hours or services provided.”*
- 6.29 The Committee noted however that this had only been considered as a “may” and further that the HWB in response to the appeal had not stated that the closure of Wellington Pharmacy would lead to a potential gap which would require it to produce a supplementary statement. The Committee noted that the Applicant had sought to argue that if the HWB had been of the view that extended hours provision was so important and necessary then it would have been reflected in the PNA, providing a mechanism for such a gap to be filled as appropriate based on the relevant Regulation.
- 6.30 The Applicant refers to other pharmacies located within close proximity to the closing site and access to these pharmacies by foot, car and public transport. The Committee noted that there is no dispute that existing alternative provision is within easy access of the closing site and that this was further supported by the HWB in representations *“Although, this would not significantly alter travel times and access for the resident population.”*
- 6.31 The Committee considered that the HWB, whilst providing a mainly factual response to the appeal had not clearly stated that, if this consolidation application is granted, the closure of Wellington Pharmacy at the medical centre at Chapel Lane, Wellington would create a gap in pharmaceutical services provision in the area.
- 6.32 The Committee noted that there is no dispute that the consolidation application involves the closure of a pharmacy that was granted under the 100 hour exemption, which now offers 72 core opening hours per week, including Sunday opening, and such hours would not be replaced. However, the Committee was of the view, based on the information before it, that the Applicant had provided sufficient evidence to demonstrate that the closure of the pharmacy would not create a gap.

- 6.33 The Committee determined that it was not required to refuse the application under Regulation 26A(5)(a) on the basis that it was satisfied that granting the application would not create a gap in pharmaceutical service provision that could be met by a routine application to meet a current or future need for pharmaceutical services or to secure improvements, or better access, to pharmaceutical services.
- 6.34 The Committee was mindful that this could lead to potential complications in the future in that the HWB could, if the proposed consolidation did go ahead, be of the view that there would be a reduction in provision in the locality which could have an impact on capacity which would need to be delivered elsewhere as in (b) to secure improvements, or better access, to pharmaceutical services of a type set out in Regulation 26A(5)(a) and the HWB could issue a revised PNA in this regard. It would then be open for third parties to apply to open a pharmacy based on this identified gap. There was no statutory prohibition on this.
- 6.35 The Regulations only require the HWB to issue a supplementary statement saying that no gap that could be met by a routine application has been created if the HWB considers a gap would not be created. It is not the grant of the application that triggers this requirement; it is only if the HWB considers no gap has been created. If, therefore the application is granted and the relevant pharmacy closes, there is no certainty for the Applicant that a new pharmacy will not open at or near the old site. It is possible that the HWB might issue a revised PNA indicating that a gap has been created and so make it more likely that applications to open a pharmacy in that location would be made. The Committee considered that this is a consequence of the wording of the Regulations.
- 6.36 The Committee considered that this is ultimately a risk for the Applicant to take into account in deciding whether to proceed with the consolidation (knowing that it could result in another pharmacy opening in the area). The protection offered to a consolidation applicant in the Regulations that protects a pharmacy that has undergone a consolidation if the HWB agreed there was no gap does not apply to the Applicant's position.
- 6.37 In relation to Regulation 26A(5)(b), the Committee was mindful that it must refuse a consolidation application if either sites of the consolidation application are distance selling premises or appliance contractor premises.
- 6.38 The Committee noted that the Commissioner had not considered this aspect of the Regulations in its decision letter, however the Applicant had confirmed in their application form that neither pharmacy is a distance selling pharmacy or an appliance contractor and this had not been disputed. Therefore, the Committee determined that it was not required to refuse the application under Regulation 26A(5)(b).
- 6.39 In relation to Regulation 26A(6)(a) the Committee noted, from the application form that the advanced and enhanced services the Applicant currently provides are the same at both sites, which has not been disputed by any party. The Applicant, in their application form, has confirmed that there will not be any

interruption in service provision. Therefore, the Committee determined that it was not required to refuse the application under Regulation 26A(6)(a).

- 6.40 In relation to Regulation 26A(6)(b) and Regulation 26A(6)(c), the Committee was of the view that this criteria is not relevant as the Applicant owns both premises and consents to the pharmacy at Wellington Pharmacy, Chapel Lane ceasing to be listed chemist premises as a consequence of the application. The Committee determined that it was not required to refuse the application under Regulation 26A(6)(b) or 26A(6)(c).
- 6.41 In relation to Regulation 26A(7), the Committee noted that this only applies if Regulation 26A(4) applies. The Committee had already determined that this was not an application to which Regulation 26A(4) applied and so the Committee determined that it was not required to refuse the application under Regulation 26A(7).
- 6.42 In relation to Regulation 26A(8), the Committee noted that this application was not being considered with any other consolidation applications and therefore Regulation 26A(8) did not apply.
- 6.43 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 6.43.1 confirm the Commissioner's decision;
 - 6.43.2 quash the Commissioner's decision and redetermine the application;
 - 6.43.3 if it considers that there should be a further notification to the parties to make representations, quash the Commissioner's decision and remit the matter to the Commissioner.
- 6.44 As the Committee has reached a different conclusion to that of the Commissioner, the Committee determined that the decision of the Commissioner must be quashed.
- 6.45 The Committee went on to consider whether there should be a further notification to the parties detailed at paragraph 19 of Schedule 2 of the Regulations to allow them to make representations if they so wished (in which case it would be appropriate to remit the matter to the Commissioner) or whether it was preferable for the Committee to redetermine the application.
- 6.46 The Committee noted that representations on Regulation 26A had already been made by parties to the Commissioner, and these had been circulated and seen by all parties as part of the processing of the application by the Commissioner. The Committee further noted that when the appeal was circulated representations had been sought from parties on Regulation 26A.
- 6.47 The Committee concluded that further notification under paragraph 19 of Schedule 2 would not be helpful in this case.

7 Decision

- 7.1 The Pharmacy Appeals Committee (“Committee”), appointed by NHS Resolution, quashes the decision of the Commissioner, for the reasons given above, and redetermines the application.
- 7.2 The Committee determined that the application should be granted.

Case Manager
Primary Care Appeals