NHS Resolution

4 June 2026

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REF: SHA/26885

APPEAL AGAINST NORTH EAST AND NORTH CUMBRIA ICB DECISION TO GRANT AN APPLICATION BY QUAYSIDE PHARMACY LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST AT CRUDDAS PARK SHOPPING CENTRE, WESTMORLAND ROAD, NEWCASTLE UPON TYNE, NE4 7QY WITH REGARD TO CURRENT NEED UNDER REGULATION 13

1 Outcome

1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, quashes the decision of the Commissioner and redetermines the application.

1.2 The Committee determined that the application should be refused.

A copy of this decision is being sent to:
Gordons Partnership Solicitors on behalf of Quayside Pharmacy (the Applicant)
Rushport Advisory on behalf of Farah Chemists (the Appellant)
PCSE on behalf of North East and North Cumbria ICB

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1 The Application

By application dated 16 August 2025, Quayside Pharmacy Ltd, ("the Applicant") applied to North East and North Cumbria ICB ("the Commissioner") for inclusion in the pharmaceutical list at Cruddas Park Shopping Centre, Westmorland Road, Newcastle Upon Tyne, NE4 7QY with regard to Current Need under Regulation 13. In support of the application it was stated:

1.1 In response to Section 5 "Applications in relation to premises that are in close proximity to other listed chemist premises", the Applicant left this box blank.

1.2 In response to Section 6 "Information in support of the application", the Applicant stated:

1.3 "The location of the proposed pharmacy is within a shopping centre that is adjacent to high rise apartments and so is a densely populated area. The Boots Pharmacy at Unit 10 Cruddas Park, Westmoreland Road, Tyne and Wear, NE4 7QY closed on 2 March 2024. It is roughly estimated that this pharmacy dispensed 8,000 to 10,000 items per month.

1.4 The applicant proposes to replace the pharmaceutical services provided by the Boots Pharmacy and more generally, the reduction in the provision of pharmaceutical services across Cruddas Park and accordingly, provide a significant benefit to the community.

1.5 The Supplementary Statement to the Newcastle Health and Wellbeing Board Pharmaceutical Needs Assessment 2022-25 was issued on 15 May 2024) and reports the closure of the Boots on Cruddas Park and confirms the services offered as the following: NHS Essential Services:

1.5.1 Discharge Medicines Service

1.5.2 Dispensing Appliances

1.5.3 Dispensing Medicines

1.5.4 Disposal of Unwanted Medicines

1.5.5 Healthy Living Pharmacies

1.5.6 Public Health (Promotion of Healthy Lifestyles)

1.5.7 Repeat Dispensing and eRD

1.5.8 Signposting

1.5.9 Support for Self Care

1.5.10 NHS Advanced Services:

1.5.11 Community Pharmacist Consultation

1.5.12 Service (CPCS)

1.5.13 Flu Vaccination Service

1.5.14 Hypertension Case-Finding Service

1.5.15 New Medicine Service (NMS)

1.6 The statement also gives the times the services were offered.

1.7 The proposed pharmacy would offer all services listed at the times identified in the statement.

1.8 It would also hope to be commissioned to provide the additional services listed in this application and has offered an increase in the times it would provide services."

1.9 In the box below please explain how you intend to meet the identified current need either in whole or in part.

1.10 "By commencing the provision of pharmaceutical services at the proposed location."

Information in support of the application

1.11 "In making this application we are seeking to meet the current need identified on page 90 of the draft 2025 HWB's pharmaceutical needs assessment.

1.12 Background

1.13 The location of the proposed pharmacy is Westmorland Road and Cruddas Park Shopping Centre that is adjacent to high rise apartments and so is a densely populated area. The Boots Pharmacy at Unit 10 Cruddas Park, Westmoreland Road, Tyne and Wear, NE4 7QY closed on 2 March 2024. It is roughly estimated that this pharmacy dispensed 8,000 to 10,000 items per month.

1.14 The applicant proposes to replace the pharmaceutical services provided by the Boots Pharmacy and more generally, the reduction in the provision of pharmaceutical services across Cruddas Park and accordingly, provide a significant benefit to the community.

1.15 Reg 6(3) – PNA

1.16 The improvements and better access that would be secured were not included in the original Pharmaceutical Needs Assessment (PNA) 2022-2025 as the PNA does not cover the closure and loss of service of the Boots Pharmacy nor other pharmacies in the area. The Supplementary Statement (issued on 15 May 2024) confirms that the closure of the Boots on Cruddas Park does create a significant gap in pharmaceutical services, hence this application.

1.17 In the area, the proposed pharmacy would preserve the status quo and ensure that access to pharmaceutical services is consistent and reliable.

1.18 The proposed location, within the Elswick ward, falls within the most deprived 10% of LSOAs nationally. Since the closure of the Boots Pharmacy in Cruddas Park, the nearest pharmacy to the proposed location will be 0.5km away. This pharmacy does not offer weekend opening and caters for a different population to those visiting the proposed site, as it is located on a standalone plot of land and unlike the proposed pharmacy, is not in a predominately retail area.

1.19 Currently, there are no pharmacies between the river and the south of Cruddas Park so if there are no replacement pharmaceutical services for the Boots Pharmacy, a patient living near the river, perjaps [sic] at Essex Close, will have to walk 1km or more to access pharmaceutical services. This is significant gradiant [sic] which will be a barrier to access for those who are unwell or have a disability. Many people living around Cruddas Park are reliant on having access to a pharmacy to which they can walk.

1.20 The proposed pharmacy will offer morning Saturday opening and consequently will be accessible at times when existing pharmacies within 1km of the area are not offering services.

1.21 Please explain how you intend to meet the identified current need either in whole or in part.

1.22 The applicant pharmacy will match the opening hours of Elswick Family Practice on Saturdays.

1.23 There are two GP practices within a kilometre of the proposed location:

GP Surgery name	Address	Distance to Cruddas Park	Opening Times
Cruddas Park Surgery	178 Westmorland Road, Cruddas Park, NE4 7JT	0.2 miles 350m	Mon-Fri 8:30 to 6pm

Elswick Family Practice	Meldon Street, NE4 6SH	0.3 miles 0.5km	Mon-Fri 8am-6pm Sat: 9am-12:30pm Sun: Closed

1.24 The GP surgery close to the Cruddas Park Shopping Centre, Cruddas Park Surgery, was served by the now closed Boots Pharmacy at Cruddas Park. The applicant's pharmacy will be open from 9am to 5.30pm on Mondays to Fridays and 9am to 1pm on Saturday, which are the hours that were offered by the now closed Boots Pharmacy.

1.25 The pharmacy will offer accessible services for the patients of Cruddas Park Surgery and will also cover the Saturday opening hours of Elswick Family Practice, as Whitworth Pharmacy does not open on a Saturday.

1.26 Reg 6(2)(b) – 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.

1.27 Providing services at the proposed location would have a significant benefit for patients, particularly those who may have difficult in accessing services in other localities, such as the elderly, disabled or people who have the protected characteristics of race or gender. The closure of the Boots Pharmacy means that people living in this deprived area who are accustomed to accessing services from the shopping centre location now have difficulty in accessing services.

1.28 The proposed location is a significantly deprived area. Accordingly, there are likely to be a high level of health needs in the area, including a need for substance misuse services, services specifically for women and for people who share the protected characteristic of disability.

1.29 The location is also adjacent to Newcastle College, Rye Hill Campus, meaning that there will be a group of young students who may have specific needs for pharmaceutical services that they will find difficult to access elsewhere.

1.30 The area also houses a number of refugees and asylum seekers who may have a high need of accessible healthcare advice which they may find difficult accessing elsewhere.

1.31 The applicant wishes to provide all essential services, advanced services and commissioned services. The applicant wishes to provide these in place of those provided by the closed Boots Pharmacy and increase the number of services provided and the quality of provision.

1.32 The applicant will also arrange a free collection and delivery service. This service was offered by the Boots Pharmacy with a charge for some deliveries."

2 Comments to the Commissioner

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

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

2.1 Letter from Applicant dated 3 November 2025

2.1.1 Thank you for your letter of 20 October 2025 enclosing representations on our client's application.

2.1.2 Representations were made in relation to whether a current need was identified in the PNA and we wish to clarify our client's position. This application was made whilst the Pharmaceutical Needs Assessment (PNA) for 2025 - 2028 was still in draft form. This PNA has now been published and confirms a current need for a pharmacy in Cruddas Park. At page 91 of the Newcastle PNA for 2025 – 2028 it is concluded that:

2.1.3 *There is a current need for a pharmacy located in Cruddas Park within Elswick ward, to provide Essential Services, Monday to Friday between 9.00 and 17.00.*

2.1.4 *It is noted that an application to open a new pharmacy in this location was initially refused but is currently under appeal through NHS Resolution. Should the appeal be successful and a new pharmacy subsequently open, then this gap in current provision would be filled.*

2.1.5 Regulation 22 of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations")

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

2.1.7 *meet a current or future need for pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB that has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 2 of Schedule 1; or*

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

2.1.9 *(2) For the purposes of paragraph (1), the relevant pharmaceutical needs assessment is—*

2.1.10 *the pharmaceutical needs assessment of the relevant HWB that* ***is current at the time that [NHS England] takes its decision to grant or refuse the application,*** *unless in the opinion of [NHS England] (or on appeal the Secretary of State) the only way to determine the application justly is with regard to an earlier pharmaceutical needs assessment, in which case the relevant pharmaceutical needs assessment is that earlier assessment;" (*emphasis added*)*

2.1.11 The PNA for 2025 - 2028 has now been published and will be the current PNA at the time that a decision is made in relation to this application. It is our position that this application can be dealt with justly under the current PNA as although the application was made whilst the new PNA was in draft form the content was widely circulated. The HWB identified the difficultly caused by the closure of Boots in the deprived Cruddas Park area in a supplementary statement to the 2022 -2025 PNA but was limited by DHSC guidance in the extent to which it could identify a gap in provision. The PNA for 2022 -2025 has now expired and the current PNA identifies an existing gap in the provision of pharmaceutical services which can be met by granting this application. It is in the interests of the population that rely on pharmacy provision in the Cruddas Park area for the current PNA to be relied upon.

2.1.12 Newcastle Health and Wellbeing Board

2.1.13 Newcastle Health and Wellbeing Board's letter confirms that the PNA identifies a current need for a pharmacy in Cruddas Park, and that 'this application aligns with the identified need in terms of location, opening hours, and provision of Essential Services.' We strongly support the HWB position and agree that our client's application meets this identified current need.

2.1.14 Community Pharmacy North of Tyne

2.1.15 Community Pharmacy North of Tyne notes that NHS Resolution considered a previous Regulation 13 application for the Cruddas Park area in July 2025 and refused this application. The PNA for 2025 – 2028 states that if this application had been successful, the gap in current provision would have be filled. Therefore, as the application was not successful because of the limitations of the PNA and supplementary statement in place at the time, there is still a current need for a pharmacy in Cruddas Park.

2.1.16 Community Pharmacy North Tyne's letter also states that the PNA that was in place at the time of the NHS Resolution decision in July is the same as that in place at the time that this application was made, so this application must also be refused on the same grounds. This is not correct. As outlined towards the beginning of this letter, Regulation 22 provides that the relevant PNA for the application is the PNA that is in

force at the time that NHS England makes its decision ie: the 2025 – 2028 PNA. The PNA that was in force when NHS Resolution considered the appeal in July was the 2022 – 2025 PNA. Therefore, the ICB can grant this application as the new PNA identifies a current need in Cruddas Park.

2.1.17 Well Pharmacy

2.1.18 As outlined previously, the 2025 – 2028 PNA concluded that there is a gap in current provision in Cruddas Park. It is, of course, accepted that the closure of a pharmacy does not automatically mean that a gap has been created. However page 90 of the PNA confirms that recent pharmacy closures in this area are a factor in this gap.

2.1.19 The provision of evidence to illustrate current needs is not required in this application as the gap in provision has been set out in the PNA. This is not an application under Regulation 18 of the Regulations. We provided details as background to our application, but the assessment of need has already been carried out and confirmed in the PNA.

2.1.20 At page 20 of the PNA, it is stated that the Inner West, which contains Cruddas Park/Elswick, has the highest proportion of residents aged 0-15 years old, who make up almost a quarter of the population in this area. Additionally, Census data from 2021 confirms that Elswick has a higher than average proportion of residents who have a disability under the Equality Act, with 18.7% classing themselves as disabled (compared to the England average of 17.3%).

2.1.21 Page 47 of the PNA recognises the importance of local pharmaceutical services for residents in higher areas of deprivation who are less likely to have vehicle access, for those with disabilities and for children. As highlighted above, Elswick has higher percentages of residents with these characteristics, and as such has a significant need for a local pharmacy. In addition, there are also higher levels of residents with poor health, who may also not be able to travel far to access a pharmacy and may use these services more frequently than others. Travel distances to the nearest pharmacies now exceed 1 kilometre for some residents in Elswick (PNA page 90), which is likely to be too far for patients with these characteristics, as well as patients who are unwell.

2.1.22 Page 91 of the PNA addresses Well Pharmacy's comments about access issues and evidence that opening hours and/or services do not meet the needs of patients. It is confirmed that there is a need for a pharmacy in Cruddas Park that provides essential services from 09:00–17:00 from Monday to Friday. The ICB will note that our client is offering to provide essential, advanced and enhanced services from 09:00 – 17:30 from Monday to Friday, plus 09:00 – 13:00 on Saturday. These opening hours match the previous opening hours of the now closed Boots Pharmacy, therefore, restoring the pharmacy services in this area.

2.1.23 Farah Chemists Ltd

2.1.24 Representations from Farah Chemists Ltd state that Quayside Ltd has an existing business for sale. This is not relevant to this application and is not correct. We ask that the ICB disregards this comment.

2.1.25 The remainder of the comments from Farah Chemists Ltd relate to the previous PNA and a Supplementary Statement, which are no longer relevant due to the publication of the PNA for 2025 – 2028. For the avoidance of doubt, the current need is, as referred to above, set out at page 91 of the 2025 – 2028 PNA.

2.1.26 We also note the neutral comments made by Boots UK Ltd and do not have any specific comments to make in response to this letter.

2.1.27 In all the circumstances, we ask that our client's application is granted. We look forward to hearing from you in due course."

3 The Decision

The Commissioner considered and decided to grant the application. The decision letter dated 29 January 2026 states:

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

3.2 The applicant is required to notify the address of the premises from which they will provide pharmaceutical services to us within six months of the date of this letter or six months from the date of determination of any appeal to the Secretary of State.

3.3 You have a right of appeal to the Secretary of State against North east and North Cumbria ICB's decision. Should you choose to appeal then either complete the online form available on the NHS Resolution website or send a concise and reasoned statement of the grounds for your appeal within 30 days of the date of this letter to nhsr.appeals@nhs.net or:

3.4 Primary Care Appeals, NHS Resolution , 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU."

PSRC report

3.5 "The PSRC considered the application at its meeting of 27th January 2026.

3.6 All the evidence provided by the applicant, the committee report and the regulations were considered and discussed by the committee. It was agreed that the application should be **Granted** on the basis that the relevant Regulations were met:

3.7 In light of the information contained within this report and its appendices, the PCM recommends that this application is granted on the following grounds:

3.7.1 **Regulation 13(1) (a) and (b)** is met as the PNA identifies a gap or current need.

3.7.2 **Regulation 13(2) (a) and (b)** is met as the application should not be delayed to be heard with other applications as they arrived more than 30 days later.

3.7.3 **Regulation 13(2)(d)** is met therefore is not met, therefore granting is correct. • **Regulations 13(2)(gii)** Granting the application would result in the increase of essential services

3.7.4 **Regulation 13(2)(h)** – the identified need has not yet been met by another applicant

3.7.5 **Regulation 14(5)** is met.

3.8 Regulations **to be considered by PSRC but deemed not applicable to this application.**

3.9 The following Regulations are also to be considered by PSRC, but are deemed by the PCM not to be relevant to this application:

3.9.1 Regulation 13(2)(c) • Regulations 13(2)(e,f & gi)

3.9.2 Regulation 13(2)(i)

3.9.3 Regulation 14(1 a,b,c)(2)&(3)(4)

3.9.4 Regulation 31.

3.9.5 Regulation 32.

3.9.6 Regulations 40 to 44.

3.9.7 Regulation 50

3.9.8 Regulation 65

3.9.9 Regulation 66

Paragraph 31, schedule 2

3.10 **Appeal rights:** Farah Chemist and Well."

4 The Appeal

In a letter dated 2 February 2026, Farah Chemist ("the Appellant") through its representative Rushport Advisory LLP appealed against the Commissioner's decision. The grounds of appeal are:

4.1 "I act for Farah Chemists Ltd in the above application and am submitting this appeal on behalf of my client against the decision of the Commissioner to

approve the above listed application submitted by Quayside Pharmacy Ltd ("Quayside"). The decision was communicated to my client by EMAIL dated 29 January 2026.

4.2 **Commissioner's Decision Report**

4.3 The Decision Report is of little assistance in this case as it provides no intelligible reasons for approving the application (other than stating that the legal test has been met), nor does it address or discuss the objection submitted by my client.

4.4 **The Appeal Grounds**

4.5 To understand the basis of this appeal it is important to set out a timeline of relevant events.

4.5.1 May 2025 – **DRAFT** version of the 2025 - 2028 Newcastle PNA published for the purposes of consultation (confirmation of draft publication is found at 2.7.3 of final PNA – SEE APPENDIX 1)

4.5.2 16 August 2025 – Date on Quayside application form – APPENDIX 2

4.5.3 3 September 2025 – Quayside application circulated to interested parties for comment – APPENDIX 3

4.5.4 1 October 2025 - New 2025–2028 Version of Newcastle PNA published – APPENDIX 1

4.5.5 16 October 2025 – Farah Chemists Ltd submits an identified need application for Cruddas Park, and bases their application on the newly published PNA that properly identifies the need for the pharmacy. – APPENDIX 4

4.5.6 16 October 2025 – my client objects to the application from Quayside pointing out that Quayside has not identified any need included within the relevant PNA.

4.5.7 APPENDIX 5

4.5.8 6 November 2025 – PCSE writes to parties stating that

4.5.9 *We are writing to inform you that a new Pharmaceutical Needs Assessment (PNA) has been published since the original 45-day notification period for the pharmacy application referenced below:*

4.5.10 *Application Reference: CAS-380979-V1P4P6*

4.5.11 *Applicant: Quayside Pharmacy Limited*

4.5.12 (SEE APPENDIX 6)

4.5.13 6 November 2025 my client replies and states "*The ICB will see that this PNA was only approved after the application from Quayside Pharmacy Ltd was submitted.*

4.5.14 *Therefore the application should be judged against the previous version of the PNA which did not identify any need for this pharmacy*." APPENDIX 7

4.5.15 27 January 2026 – Commissioner approves Quayside application

4.5.16 29 January 2026 – PCSE notifies interested parties of approval.

4.6 **Content of the Quayside Application**

4.7 Section 6 of the Application Form requires the Applicant to set out the need identified in the PNA and provide page numbers / references. Quayside did not do this. Instead, Quayside referenced a Supplementary Statement to the PNA from 15 May 2025 that simply stated that Boots at Cruddas Park had closed and listed the services Boots previously provided (APPENDIX 8).

4.8 The Applicant is represented by Gordons Partnership ("Gordons"). Gordons has represented the same Applicant in a number of NHS pharmacy application as well as Applicants in other cases.

4.9 Gordons website states:

4.10 *We act only on behalf of pharmacy professionals and pharmacy businesses: our clients include individual pharmacists, independent pharmacies, local and national multiples and representative bodies. Our level of expertise makes us a leading law firm in this area of healthcare law.*

4.11 Both Quayside and Gordons would have been perfectly well aware that the Supplementary Statement (APPENDIX 8) that they had referenced did not identify any need for a pharmacy at Cruddas Park and certainly not to the standard that is required under the Regulations.

4.12 The question, therefore, is why would Gordons advise a client to submit such an application, knowing full well that the Supplementary Statement did not identify any need for a pharmacy to the standard required by the Regulations?

4.13 The answer is that the need for a pharmacy in Cruddas Park had been identified within the DRAFT version of the 2025-2028 Newcastle PNA published in May 2025. The Committee may conclude that the Applicant was advised that with a new PNA to be published in October 2025, they should submit their application before this so that they would be first in time and hopefully have their application considered before any other party could react. As applications take many months to be considered, it would have been almost a certainty that the Draft PNA would be finally published prior to the end of any appeal process.

4.14 Indeed, Gordons was cognisant of the risk of competing applications and specifically addressed this in their cover letter when it submitted its client's application (APPENDIX 9). In the cover letter Gordons stated;

4.15 *We would be grateful if Mr Arun Jassal could be notified of any applications made for the same or similar location, pursuant to Schedule 2 Paragraph 19(1)(c) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.*

4.16 *If another application has been made, we would ask that this application is considered at the same time and in relation to the other application.*

4.17 **Why this Matters**

4.18 Regulation 22 states that the relevant Pharmaceutical Needs Assessment ("PNA") for the purpose of determining a pharmacy application is the PNA that is current at the time [NHS Resolution] make [their] determination unless in [NHS Resolution's] opinion the only way to determine the application justly is with regard to an earlier PNA.

4.19 The Regulations require consideration of what is "just". In a legal context, "just" describes actions, decisions, or laws that are fair, impartial, reasonable, and in conformity with the law.

4.20 It implies a standard of correctness or moral righteousness, ensuring that rights are respected, and results are deserved or equitable.

4.21 In this case the Committee may conclude that the Applicant and its legal advisors engaged in a strategy that relied on the new PNA coming into force by the time of the Commissioner's decision being made or any appeal being determined so that they could be judged against a different PNA from that which was in force when their application was made. The entire strategy seeks to gain an advantage for the early Applicant by acting unfairly and to the detriment of other parties.

4.22 An Applicant that engages in this type of strategy must also accept the risks that go along with it. As Primary Care Appeals may already be aware, multiple such applications based on draft PNAs have been submitted in other parts of the country (Rushport is currently instructed on 6 such applications).

4.23 In this case, and in other cases, Applicants have taken deliberate strategic risks to try to gain an advantage over those who properly waited for the publication of the relevant PNAs in order to have their applications considered first in time. This is unjust.

4.24 **The Applicant has Relied Upon the Unjust Advantage**

4.25 The Applicant may of course claim that they were not acting unjustly, but any such claim is disproven by Gordons own response to my client's application that was submitted after the new 2025-2028 PNA was published.

4.26 Quayside was properly notified about my client's application as an interested party. Gordons on behalf of Quayside replied to the notification by letter dated 23 December 2025 and stated. (SEE APPENDIX 10)

4.27 *Quayside Pharmacy Ltd's application was notified to interested parties on 3 September 2025 and Farah Chemists Ltd's application is dated 16 October 2025.*

4.28 *Therefore, the gap between the two applications is greater than 30 days. It would be unfair to consider Quayside Pharmacy Ltd's application alongside Farah Chemists Ltd's application and it appears to be a clear case where the two applications should be considered separately.*

4.29 No doubt Quayside would have preferred if their application had been notified to interested parties a full 30 days prior to the new PNA being published instead of only 28 as the Gordons letter also shows their awareness of the importance of timing as it states.

4.30 *It is our position that Quayside Pharmacy Ltd's application should not be heard with Farah Chemists Ltd's application. At paragraph 41 of Chapter 29, the Pharmacy Manual states that:*

4.31 *"It is usually reasonable and fair to adopt a cut-off time after which a received application will not be considered together with a previously received application.* ***If a second application is received after 30 days of the date that the first application was notified to interested parties, then the commissioner will usually consider that it is not appropriate to hear the applications together****."*

4.32 (Gordons own emphasis)

4.33 This shows a clear and predetermined strategy where the sole aim was to steal an advantage over any contractor that properly made their application after the new PNA was published. The strategy is clearly unjust, and it is one that we have advised clients against using in other applications that will no doubt come before Primary Care Appeals in coming months.

4.34 **Precedent**

4.35 Quayside and Gordons are not the first Applicants to have come up with this strategy. When draft PNAs are published the same thing happens. This is not the only time that Primary Care Appeals has had to specifically consider whether it is “just” to consider an application based on a previous PNA or a new PNA.

4.36 In **SHA/19906** and **SHA/19940** the same issue was considered (SE APPENDICES 11 AND 12). We reference these cases as Rushport represented the successful party in each case, but we believe there were other cases decided on the same basis.

4.37 Relevant paragraphs from SHA/19906 are quoted below with the full decisions attached (APPENDICES 11 AND 12).

4.38 *6.11 The Committee considered that even if the 2018 PNA had come into force by the time NHS England took its decision, if Regulation 22(2)(a) applied, such that in the Committee's opinion the only way to determine the application justly*

was with regard to an earlier PNA, then the relevant PNA against which to assess the application would be the 2015 PNA. The Committee therefore decided to consider this issue first and then conclude which PNA was the relevant PNA for the purpose of Regulation 22.

4.39 *6.12 The Committee noted the comments from Kamal Enterprises Ltd that it would not be just or fair to allow an applicant to make an application on the basis of a draft PNA that has only been made public for the purposes of consultation. The Committee agreed with this view. It considered that such an applicant is attempting to "jump the queue" by making an application before the PNA is finalised whilst other potential applicants behave properly in waiting until a final version has been made public.*

4.40 *6.13 The Committee considered that draft PNAs, by their very nature, are subject to amendment. The Committee considered that if numerous parties made applications on the basis of a draft PNA which was later amended, this would lead to a large amount of wasted public resources in assessing applications that are not well made.*

4.41 *6.14 The Committee considered that if the Applicant had been judged against the new PNA then NHS England would effectively have allowed it to have a "head start" against other applicants. This would give the Applicant an unfair advantage as it would allow their application to be considered before others, potentially leading to them receiving approval instead of others who have applied against an authorised PNA.*

4.42 *6.15 The Committee therefore determined that the only just way to determine the application was with regard to the 2015 PNA. The Committee therefore confirmed the position of NHS England that the application should be considered against the 2015 PNA.*

4.43 As a result of these decisions, applications made on the basis of draft PNAs were withdrawn or refused and this allowed Applicants that had behaved properly to have their applications approved.

4.44 **Consistency in Approach**

4.45 In *North Wiltshire DC v Secretary of State for the Environment*, (1993) 65 P. & C.R. 137 the Court of Appeal stated (SEE APPENDIX 13 BOTTOM OF PAGE 7 AND START G PAGE 8).

4.46 *In this case the asserted material consideration is a previous appeal decision. It was not disputed in argument that a previous appeal decision is capable of being a material consideration. The proposition is in my judgment indisputable. One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency in the appellate process. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system. I do not suggest and it would be wrong to do so, that like cases must be decided alike. An inspector must always exercise his own judgment.*

He is therefore free upon consideration to disagree with the judgment of another but before doing so he ought to have regard to the importance of consistency and to give his reasons for departure from the previous decision.

4.47 *To state that like cases should be decided alike presupposes that the earlier case is alike and is not distinguishable in some relevant respect. If it is distinguishable then it usually will lack materiality by reference to consistency although it may be material in some other way. Where it is indistinguishable then ordinarily it must be a material consideration. A practical test for the inspector is to ask himself whether, if I decide this case in a particular way am I necessarily agreeing or disagreeing with some critical aspect of the decision in the previous case? The areas for possible agreement or disagreement cannot be defined but they would include interpretation of policies, aesthetic judgments and assessment of need. Where there is disagreement then the inspector must weigh the previous decision and give his reasons for departure from it. These can on occasion be short, for example in the case of disagreement on aesthetics. On other occasions they may have to be elaborate.*

4.48 There are many other court judgments that highlight the need for consistency in decision making by public bodies.

4.49 There is no reason to depart from the very clear findings in **SHA/19906** and **SHA/19940** and we ask that the application from Quayside is considered against the PNA that was in force at the time that it made its application and on that basis (as the PNA does not identify any need for a pharmacy in Cruddas Park) is refused. There is no requirement to remit the application to the Commissioner as the Commissioner has already requested comments in relation to the publishing of the new PNA and my client replied to that letter, correctly noting that the relevant PNA did not identify any need for a pharmacy in Cruddas Park and that the application should be refused.

4.50 My client's application is currently with the Commissioner for a decision and will therefore meet the need that has been identified in the 2025 PNA so that patients are not inconvenienced.

4.51 We look forward to hearing from you in due course."

5 Summary of Representations

In the interests of transparency and fairness, NHS Resolution sought to rely on the discretion afforded in paragraph 7 of Schedule 3 of the Regulations to vary the normal procedures and to circulate the documentation relied upon by the Commissioner to make its determination as well as the Applicant's '14 day comments' received in response to the representations made to the Commissioner as these had not been seen by parties prior to the decision being made by the Commissioner. This is a summary of the representations received.

5.1 Rushport Advisory LLP on behalf of the Appellant

5.1.1 "I act for Farah Chemists Ltd in the above application and am submitting this letter in response to your letter and attachments of 2 March 2026.

5.1.2 I note that in their letter of 3 November 2025, Gordons Partnership confirms that their client's application "*was made whilst the Pharmaceutical Needs Assessment (PNA) for 2025 - 2028 was still in draft form*."

5.1.3 I note that in their letter of 20 November 2025 Gordons Partnership makes a number of comments on which PNA should be considered the relevant PNA for the purposes of their client's application. I respond to the relevant parts below.

5.1.4 *Accordingly the starting point is that the relevant PNA is that which is in force at the time that NHS England makes its decision to grant or refuse the application. In relation to this application, the 2025 PNA is now in force and will be at the time that NHS England makes a decision on this application, so the starting point is that the 2025 PNA is the relevant PNA for this application.*

5.1.5 *This position should not be departed from unless the only way to justly determine this application would be to determine the application under a previous PNA. Our client's case is this application can only be dealt with justly under the current PNA. As already outlined in our response to the 14-day consultation letter, although the application was made whilst the new PNA was in draft form, the content was widely circulated. To determine this application under the 2022 PNA would not be appropriate, as the need has changed significantly over the course of the previous three years. The 2025 PNA establishes the current state of pharmaceutical services in the Cruddas Park area and therefore is the correct PNA to be relied upon when NHS England decides whether to grant this application.*

5.1.6 Our letter of appeal dated 2 February 2026 sets out in detail only way to justly determine this application would be to determine the application under the PNA that was in force when the application was submitted.

5.1.7 *The Pharmacy Manual*

5.1.8 *The Pharmacy Manual supports the regulatory position and clarifies the circumstances under which the there may be a suggestion that the application should be determined against the previous PNA.*

5.1.9 *At Paragraph 5 of Chapter 3: Market entry matters, the Pharmacy Manual reads "…the Regulations require the commissioner to have regard to 'the relevant PNA', which is defined as the PNA that is current at the time the decision is made. It should however be noted that there may be occasions where the applicant has prepared their submission in accordance with a PNA that has subsequently been replaced by a new PNA but the applicant will expect their application to be determined against the previous PNA. Where this doesn't happen, the applicant could claim that their application has not been dealt with justly."*

5.1.10 *This is not the case here: our client made its application fully aware that the relevant PNA at the time the application was decided would be the 2025 PNA, having already had a decision refused under the 2022 PNA and consequently the application can only be dealt with justly if the default position in Regulation 22 is followed.* [emphasis added]

5.1.11 The Committee will note the admission that the application was submitted with the explicit tactic of having a new PNA in force prior to the application being decided.

5.1.12 *Previous decision*

5.1.13 *Our client's position is supported by the NHS Resolution decision SHA/25768. This was an appeal against NHS England (South West Area Team) decision to grant an application by Magna Healthcare Ltd for inclusion in the pharmaceutical list at the new development of Locking Parkland Village, located in the local centre of the village, within 300 metres of the Parklands Educate Together Primary School BS24 7NH with regard to future need under Regulation 15.*

5.1.14 *In this decision made in January 2023, the Pharmacy Appeals Committee had to determine which PNA was relevant to the decision. Whilst the 2018 PNA had been in place at the time of the application, the 2022 – 2025 PNA was in place at the time of this decision. In relation to this issue, the decision states that:*

5.1.15 *"The Committee was of the view that it would be unjustifiable to rely upon a document that was now out of date in order to decide whether or not existing pharmaceutical services were able to meet the current and future needs of the population. Therefore the Committee was not persuaded by the reasons given by the Applicant that it should determine that the only way to determine the application justly is with regard to the earlier PNA. The Committee concluded that it was more prudent to rely upon an up to date document which had considered the present existing situation in order to consider the existing, the current and the future need of pharmaceutical services in the HWB area." (Paragraph 6.31)*

5.1.16 *This decision is relevant to Quayside Ltd's current need application, as Newcastle's 2022 PNA is now an out-of-date document and it would not be appropriate to rely upon this document now that the 2025 PNA is in force. Additionally, the 2025 PNA is the correct reflection of the current situation relating to pharmaceutical services in Newcastle generally and Cruddas Park more specifically.*

5.1.17 The decision in SHA/25768 in no way supports Quayside Pharmacy Ltd's position with respect to which PNA should be considered. In SHA/25768 the Applicant based its application on a need that was identified in the PNA that was in force when their application was submitted. The new PNA did not identify the need and therefore, by implication, the need no longer existed. It was therefore just to consider

the new PNA. This is entirely different from the position in this case where the Applicant has sought to gain an unfair advantage and admits as much in their own representations.

5.1.18 Further, Gordons Solicitors has failed to mention the explicit guidance issued on the Primary Care Appeals website which deals with the question of which PNA should be considered in circumstances such as these. The Guidance Note (attached for reference) states;

5.1.19 *3.2 The Committee was concerned that the applicant had based their application on a draft PNA. The Committee considered that it would not be just or fair to allow an applicant to make an application on the basis of a draft PNA that had only been made public for the purposes of consultation. The Committee considered that such an applicant is attempting to "jump the queue" by making an application before the revised PNA is finalised whilst other potential applicants may be waiting until a final version has been made public before submitting applications.*

5.1.20 *3.3 The Committee considered that draft PNAs, by their very nature, are subject to amendment. This was supported by the fact that in this specific case NHS England, in determining the application, identified different or additional wording that had been included in the final PNA but not in the draft PNA.*

5.1.21 *3.4 The Committee also noted that the applicant had indicated in its appeal letter that as the revised PNA had been published by the time of the appeal, there were certain different page numbers that it considered were relevant to its application and which it relied on in its appeal. The Committee noted that while the applicant's original application referred to pages 9, 127, 131 and 143 of the draft PNA, in its appeal it was relying on pages 9, 128, 132 and 144.*

5.1.22 *3.5 The Committee considered that if numerous parties made applications on the basis of a draft PNA which was later amended on appeal, as had clearly happened in this case, this would lead to a large amount of wasted public resources in assessing applications that are not well made.*

5.1.23 *3.6 The Committee considered that judging the application against the 2018 PNA and allowing the Applicant, for the purpose of a redetermination of the application on appeal, to rely on different and additional provisions of the published 2018 PNA, could allow the Applicant to have a "head start" against other applicants. This could give the Applicant an unfair advantage as it would allow its application to be considered before others, potentially leading to the Applicant's application being granted either by NHS England or, if refused by NHS England, by the Committee on appeal, instead of other applicants who had submitted an application on the basis of the final published PNA.*

5.1.24 *3.7 The Committee therefore determined that, in its opinion, the only way to determine the application justly was with regard to the 2015 PNA.*

5.1.25 There is no reason to depart from the very clear findings in SHA/19906 and SHA/19940 and Primary Care Appeals own published guidance and we ask that the application from Quayside is considered against the PNA that was in force at the time that it made its application and on that basis (as the PNA does not identify any need for a pharmacy in Cruddas Park) is refused. There is no requirement to remit the application to the Commissioner as the Commissioner has already requested comments in relation to the publishing of the new PNA and my client replied to that letter, correctly noting that the relevant PNA did not identify any need for a pharmacy in Cruddas Park and that the application should be refused.

5.1.26 My client's application is currently with the Commissioner for a decision and will therefore meet the need that has been identified in the 2025 PNA so that patients are not inconvenienced.

5.1.27 We look forward to hearing from you in due course."

5.2 Gordons Partnership LLP on behalf of the Applicant

5.2.1 "Thank you for your letter of 2 March 2026 enclosing the appeal by Farah Chemists Ltd against our client's previously granted application. We are instructed to respond to the appeal and our representations are outlined below.

5.2.2 Before addressing the detail of the appeal, it is important to set out the comprehensive timeline of events rather than the selective version set out in the appeal.

Date	Event	Comment
22 January 2024	Application made under Regulation 18 by Quayside Pharmacy Ltd following notification of planned closure of Boots Unit 10 Cruddas Park Shopping Centre.	The director of Quayside Pharmacy Ltd ("Quayside") who has lived in Newcastle for most of his life was aware that the Cruddas Park area was extremely deprived and had a high need for pharmacy services.
2 March 2024	Boots Cruddas Park closes	
20 June 2024	Farah Chemist Ltd ("Farah") makes comments opposing the application	Their comments focus on the financial effect to contractors and not the need for pharmaceutical services in the locality. *"Over saturation of pharmacies in the*

		area poses a financial threat to the existing contractors which are already facing significant financial strain." (Full letter **attached**)
18 December 2024	Application refused on appeal SHA/26335	
20 September 2024	Application made for current need under Regulation 13	
9 January 2025	Comments in support of the current need application from Newcastle HWB	*"This closure of this pharmacy was reviewed by the Newcastle Health and Wellbeing Board at their meeting on 15th May 2024. The Board determined that, had this pharmacy not been open when the Newcastle Pharmaceutical Needs Assessment (PNA) 2022-25 was originally written, it would have been identified as a gap in pharmaceutical services.* *Consequently, the HWB issued a supplementary statement, which updates the PNA with the fact that the pharmacy has closed and reflects that the closure has created a gap in the provision of pharmaceutical services in this area."*
25 July 2025	Application refused on appeal SHA/26602	
20 August 2025	Further application made under Regulation 13	

5.2.3 It can be seen that over the last two years our client has made a sustained and committed effort to open a pharmacy in the Cruddas Park area. From May 2024 the HWB have indicated that the closure of the Boots pharmacy created a gap. It cannot be reasonably suggested that the current application by our client is an opportunistic application in response to the draft PNA.

5.2.4 **Basis of second application**

5.2.5 Quayside Pharmacy Ltd's identified current need application was made initially on the basis of a Supplementary Statement dated 15 May 2024 to the 2022 – 2025 Newcastle PNA. The Supplementary Statement is a one-page document, and so a page number was not necessary and the relevant content was included in our client's application at Section 6 of the application form. Once the PNA was published Quayside advised PCSE of the relevant page number and provision in the PNA.

5.2.6 From our letter to PCSE of 3 November 2026 [sic]:

5.2.7 *"Representations were made in relation to whether a current need was identified in the PNA and we wish to clarify our client's position. This application was made whilst the Pharmaceutical Needs Assessment (PNA) for 2025 - 2028 was still in draft form. This PNA has now been published and confirms a current need for a pharmacy in Cruddas Park. At page 91 of the Newcastle PNA for 2025 – 2028 it is concluded that:*

5.2.8 *"There is a current need for a pharmacy located in Cruddas Park within Elswick ward, to provide Essential Services, Monday to Friday between 9.00 and 17.00.*

5.2.9 *It is noted that an application to open a new pharmacy in this location was initially refused but is currently under appeal through NHS Resolution. Should the appeal be successful and a new pharmacy subsequently open, then this gap in current provision would be filled."*

5.2.10 Our client was also aware that the statement was to be expressly set out in the revised PNA. The HWB had expressly stated this and that they were constrained by the Department of Health Guidance. Please see correspondence **attached** in relation to the first application under Regulation 13. This was publicly available information which was circulated to Farah and which in fact Rushport had referenced in other applications that they made.

5.2.11 **Competing applications**

5.2.12 It is important to point out at this stage that Quayside Pharmacy Ltd's application was notified to interested parties on 3 September 2025. Following this, Farah Chemists Ltd made an identified current need application, which is dated 16 October 2025, for inclusion in the pharmaceutical list at 146 – 148 Westmorland Road, Cruddas Park Shopping Centre. This strongly suggests that it was Farah Chemists Ltd's application which was an opportunistic application following the circulation of Quayside Pharmacy Ltd's application. As already highlighted in our representations to PCSE on Farah Chemists Ltd's application, Farah Chemist Ltd currently operates the pharmacies closest to the proposed site and has a known history of challenging applications in the proposed location despite now making an application at the same location. Given their emphasis on the commercial concerns about competing applications in our client's first application, quoted above and their statement that *"I believe there are already sufficient*

pharmaceutical provisions in the area to accommodate the local needs of the population. The provisional sphere of influence of the existing pharmacies in the area sufficiently serve the local community." it is at least possible that Farah Chemists Ltd have made the application as device to ensure that no competing pharmacy opens in the vicinity and has no true intention to open a pharmacy. It is at the least unclear why Farah Chemists Ltd's position has changed and the company now believes there is need for an additional pharmacy in the Cruddas Park area. Quayside Pharmacy Ltd has consistently argued that there is a need for additional pharmaceutical services in this area following the closure of Boots and will be well placed to open a pharmacy here.

5.2.13 Rushport place reliance, at Page 3 of the appeal document, on the suggestion that we thought there would be a competing application: *"Indeed, Gordons was cognisant of the risk of competing applications and specifically addressed this in their cover letter when it submitted its client's application (APPENDIX 9). In the cover letter Gordons stated;*

5.2.14 *We would be grateful if Mr Arun Jassal could be notified of any applications made for the same or similar location, pursuant to Schedule 2 Paragraph 19(1)(c) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. If another application has been made, we would ask that this application is considered at the same time and in relation to the other application."*

5.2.15 The above passage included in our covering letter is a standard comment that we often include to cover the possible situation of another application being made for the same area. This is not specific to this application. In fact, there had been no competing applications for either of the previous two applications in the Cruddas Park area that our client made.

5.2.16 **Application timing**

5.2.17 Our client's application was made on the back of a disappointing refusal where we reiterate that in the previous two applications no competing applications were made. However, there is nothing in fact in the Regulations or the Pharmacy Manual that prevents an application being submitted whilst a PNA is in draft form and being considered with reference to that PNA as the more up to date position when the draft is published. At the time of Quayside Pharmacy Ltd's application and throughout the consultation process, the content of the 2025-2028 Newcastle PNA was widely publicized, and the final form was published shortly after the Quayside application was made. It was not unexpected that the application would be determined under this PNA and that is the default regulatory position as set out below.

5.2.18 **Relevant PNA**

5.2.19 Rushport have attempted to argue that the relevant PNA for this application is the 2022-2025 PNA rather than the 2025-2028 PNA. We refer the Committee to our representations on the relevant PNA which we sent to PCSE on 20 November 2025 and attach to this letter. The key points in relation to this matter are that the starting point in the Regulations is that the relevant PNA is the PNA in force at the time of the decision:

5.2.20 Regulation 22 of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013

5.2.21 *(2) For the purposes of paragraph (1), the relevant pharmaceutical needs assessment is—*

5.2.22 *(a) the pharmaceutical needs assessment of the relevant HWB that* ***is current at the time that [NHS England] takes its decision to grant or refuse the application****, unless in the opinion of [NHS England] (or on appeal the Secretary of State) the only way to determine the application justly is with regard to an earlier pharmaceutical needs assessment, in which case the relevant pharmaceutical needs assessment is that earlier assessment;" (emphasis added)*

5.2.23 The PSRC considered Quayside Pharmacy Ltd's application on 27 January 2026, as confirmed in the decision report. At this time, the 2025-2028 PNA for Newcastle was in force and had been for a number of months. Therefore, the starting point for any decision on Quayside Pharmacy Ltd's application is that the 2025-2028 PNA is the relevant PNA.

5.2.24 Rushport have argued that it would be unjust to determine the application under the new PNA. However, this is not the case and the only just outcome is deciding Quayside Pharmacy Ltd's application under the 2025-2028 PNA.. Boots Pharmacy closed over two years ago on 2 March 2024, which has left a gap in pharmaceutical provision for a significant period of time. This was first identified in 15 May 2024 in the Supplementary Statement referred to in Quayside Pharmacy Ltd's application, so the need for a pharmacy has been generally recognised since this point.

5.2.25 Appendix 7 of the appeal documents contains Farah Chemists Ltd's representations on the relevant PNA for the purpose of Quayside Ltd's application. The representations state that "*The ICB will see that this PNA was only approved after the application from Quayside Pharmacy Ltd was submitted. Therefore the application should be judged against the previous version of the PNA which did not identify any need for this pharmacy."* As outlined above, this is not the relevant test, and in fact the starting point is that the PNA that is in place at the time of the decision will be the relevant PNA.

5.2.26 **Precedent**

5.2.27 Although Rushport refers to precedent, Mr Daly will know that there is no binding rule of precedent in these applications; instead each application is decided on a case-by-case basis as the facts of each case can differ materially. Even if there were such a rule, the “precedents” referred to in Farah Chemists Ltd’s appeal can be distinguished from Quayside Pharmacy Ltd’s application on a number of grounds:-

5.2.28 Firstly, the application in SHA/19906 and SHA/19940 were under Regulation 17 for identified improvements or better access under Regulation 17and not current need. This is important. If a PNA has determined that there is a current need for pharmaceutical services, as there is in this application, then this is a population that has not got the pharmaceutical services that it needs in any respect. The population does not have essential services at core times of the day and there is an immediate need for these. It is particularly significant for this population which is highly deprived and has a high need for pharmaceutical services. In contrast the applications under Regulation 17 dealt mainly with additional services that could be offered on a Sunday or for evening opening.

5.2.29 Secondly, the cases can further be distinguished on the basis this was not a draft PNA that was going to be amended on this issue. In SHA/19906 the committee reasoned that if the application was made on the basis of a PNA that was later amended this would lead to a large amount of wasted public resources. Here it has been the fixed position of the Newcastle HWB since 2024 that there was a gap in the provision of pharmaceutical services. The statement of the gap in the draft PNA was unlikely to change. We **attach** the minutes of the Newcastle HWB meeting of May 2024. [Copy provided to Committee]

5.2.30 Thirdly, the process in SHA/19906 and SHA/19940 was quite different to that in the Quayside application. The application was initially not made with reference to the draft PNA. When the 2025-2028 PNA was published, PCSE was updated on the identified current need within the new PNA. The ICB then carried out a further process of inviting comments on the appropriate PNA and accepted our client’s position that it was appropriate and just to use the PNA in force at the time. This element of further consultation was missing from the cases cited by Rushport.

5.2.31 Fourthly, the implementation of the PNA and timing of the ICB decision was different in the 2018 cases to the current application. In that application was made in December 2017, the decision by NHS England was made on 5 April 2018 and the PNA was published in the day later. The application therefore was made against the earlier PNA as the later PNA had not been published. In the instant application the PNA was available and was live when the application was circulated for comments

5.2.32 The two Primary Care Appeals precedents are both from September 2018, over 7 years ago. We refer the Committee to our **attached** letter

of 20 November 2025, where we set out that the NHS Resolution decision SHA/25768, from January 2023, is comparable to our client's application. The identified current need in SHA/25768 was contained in the 2018 PNA, which was current at the time of the application.

5.2.33 By the time a decision was made on this application, the 2022-2025 PNA was in force. In deciding to determine the application under the new PNA, the Committee held that:

5.2.34 *"The Committee was of the view that it would be unjustifiable to rely upon a document that was now out of date in order to decide whether or not existing pharmaceutical services were able to meet the current and future needs of the population. Therefore the Committee was not persuaded by the reasons given by the Applicant that it should determine that the only way to determine the application justly is with regard to the earlier PNA. The Committee concluded that it was more prudent to rely upon an up to date document which had considered the present existing situation in order to consider the existing, the current and the future need of pharmaceutical services in the HWB area."* (Paragraph 6.31)

5.2.35 The full decision is attached. It would be more consistent with recent decision making and similar cases, if the Committee determines that the relevant PNA for Quayside Pharmacy Ltd's application is the 2025-2028 PNA. For this reason, it was correct that the application was determined under the new PNA and the decision should not be overturned.

5.2.36 **Determining the application justly**

5.2.37 If looking for justice in the context of correctness or moral righteousness and results which are deserved, then determination of this application under the 2025 -2028 PNA is the correct course of action. Using the Rushport language, in this case the committee may well feel that the current opposition by Farah, in the light of their previously stated concern about the commercial effect of a pharmacy opening in Cruddas Park, and the timing of their own application once they realised that an application by our client was made, is a device to ensure that no competing pharmacy opens in the vicinity.

5.2.38 In contrast, our client made both an application under regulation 18 for an unforeseen benefit and under regulation 13 for a current need under the now obsolete PNA. The Regulation 18 application was refused on the basis there was already reasonable choice with regard to obtaining pharmaceutical services and other criteria; the Regulation 13 application was refused on the basis the gap was not identified in the PNA. It now appears clear that there was a gap in pharmaceutical services and had been since the closure of Boots in March 2024 and hindsight would suggest one of the previous applications may have been wrongly decided. This is to the detriment of the local population who could already have had a pharmacy available to them. We would

now urge the PAC to dismiss this appeal so that a pharmacy can be put in place without further delay. Given the history of the applications on this site there is a strong argument for the justice, in the sense of the "moral righteousness", of our client's application being determined under the current PNA. It would not be just for the PAC to depart from the default position that the PNA currently in force should be the PNA under which this application is determined.

5.2.39 We ask that NHS Resolution refuses this appeal, allowing the Commissioner's decision to stand. If an oral hearing is arranged our client would want to attend and be represented."

6 Summary of Observations

This is summary of observations received.

6.1 Rushport Advisory LLP on behalf of the Appellant

6.1.1 "I act for Farah Chemists Ltd in the above application and am submitting these final comments further to you letter of 7 April 2026 and the letter from Gordons Partnership ("Gordons") on behalf of Quayside Pharmacy Ltd ("Quayside") dated 31 March 2026.

6.1.2 Gordons sets out details of previous applications submitted by its client that were refused and we comment briefly on those refusals below.

6.1.3 It is notable that Gordons again accepts that their client's application was made on the basis of a supplementary statement. That statement makes no mention of any need for a pharmacy at Cruddas Park.

6.1.4 Gordons refers to its client's previous application under regulation 13 that was refused at appeal (SHA/26602). The Committee will note that in SHA/26602 it provided specific and correct reasons for refusing the application and set out exactly what was required for an application under regulation 13 to be successful. Despite this, Quayside submitted another regulation 13 application that also did not, and still does not, meet the legal test.

6.1.5 With respect to competing applications, Gordons is correct to say that their client's application was notified to interested parties on 3 September 2025. My client properly waited until after the PNA was published before submitting its own application and cannot be criticised for this. My client had every right to object to previous applications submitted by Quayside and it is of note that primary Care Appeals refused each of Quayside's previous applications. However, once the HWB published their PNA stating that there was a need for a pharmacy at Cruddas Park, my client's opinion on whether or not there was a need became irrelevant and my client is now seeking to meet the need identified by submitting its own application in the correct manner and at the proper time.

6.1.6 Gordons makes a number of comments about which PNA should be considered as the relevant PNA. We disagree with the comments Gordons has made and stand by our previous submissions.

6.1.7 In relation to "precedent", Godons [sic] is correct that each case must be decided on its own merits. However, it is likewise important for any public body to have consistency in its approach to decision making as per *North Wiltshire DC v Secretary of State for the Environment*, (1993). It is notable that Gordons does not address this point at all.

6.1.8 Gordons then seeks to differentiate its client's application from previously decided cases (and the NHS Resolution Guidance Note that we have already provided). We stand by our comments already made and rely on NHS Resolutions' own Guidance Note on this matter.

6.1.9 Gordons claims that the decision in SHA/25768 is more relevant to this case. That claim is clearly wrong. In SHA/25768 the new PNA that was in force at the time of the appeal decision did not mention any need for a pharmacy. It is implicit in this that there was no longer any need for a pharmacy and it would have been wrong to approve the opening of a pharmacy that was not identified as needed.

6.1.10 The argument in this case is quite different. Quayside has sought to gain an unjust advantage of over Applicants by relying on a draft document and hoping that it would be published prior to the determination of its application.

6.1.11 Quayside's strategy has caused wasted public resources and significant cost to parties. My client has now received the attached "Notification to Defer" letter. Had Quayside applied in the proper manner this delay would not be required.

6.1.12 In summary, Gordons seeks sympathy for their client despite having had two previous applications refused and one of those refusals clearing stating the requirements for a successful application under regulation 13. Gordons client failing to wait for the final PNA to be published before submitting their latest application. None of these actions should be cause for sympathy.

6.1.13 In contrast, my client has acted properly and waited until the PNA was published before making its own application and is now facing a delay to their application being approved due to the actions of Quayside and as a result, patients will face a delay to receiving pharmaceutical services."

Gordons Partnership on behalf of the Applicant

6.1.14 "Thank you for your letter of 7 April 2026 enclosing the comments on the appeal by Farah Chemists Ltd against our client's previously granted application.

6.1.15 We note that Rushport makes submissions on their own appeal. These submissions appear to be a clear attempt to circumvent the requirement that the appeal contains a complete statement of the grounds of appeal which is surprising conduct from a party who wishes to claim that they have acted equitably.

6.1.16 Dealing with the matters raised by Rushport in the order they are made:

6.1.16.1 Rushport say that this firm stated the application was made while the PNA was in draft form. It is evident that the PNA was in draft form when the application was made but the draft PNA was not cited in our client's application form.

6.1.16.2 Regarding the point on the awareness of the draft PNA - in the letter quoted our client is addressing the example given in the Pharmacy Manual where a person relying on the "old" PNA would find unjust if that PNA was not used in the determination of the application. We were pointing out that there was no expectation by Quayside that the application had be considered with regard to the older PNA.

6.1.16.3 Rushport, of course, suggest that SHA/25768 should be disregarded. This is a case that does fall within the example given the Pharmacy Manual [sic] in that *"the applicant has prepared their submission in accordance with a PNA that has subsequently been replaced by a new PNA but the applicant will expect their application to be determined against the previous PNA. Where this doesn't happen, the applicant could claim that their application has not been dealt with justly.*" But even in that case NHS Resolution decided to determine the application with reference to the current PNA so there are strong ground to prefer a current PNA.

6.1.16.4 What makes that our case even more striking is that that case was an area of no history of need. Rushport again ignore the history of this matter in that the Cruddas Park area has been consistently identified as an exceptionally deprived area that urgently needs a pharmacy. Our client has shown a clearly evidenced intention to provide services into the area for over two years.

6.1.17 Guidance note

6.1.18 The guidance note does not give guidance in relation to the particular circumstances of this case for the following reasons:

6.1.19 The guidance note sets out the circumstances that it covers at 1.3

6.1.20 "This guidance note sets out:

6.1.20.1 *1.3.1 different approaches taken by NHS Resolution when a new PNA has been issued after the application was determined*

by the Commissioner but before the appeal was determined by NHS Resolution; and

6.1.20.2*1.3.2 the approach adopted by the Committee where an application has been made on the basis of a draft new PNA that has been issued for comments and the final version of the PNA has been published by the time the Commissioner makes its decision."*

6.1.21 Accordingly 1.3.1 does not apply as the PNA was issued before the determination and 1.3.2 does not apply as the application was not drafted with reference to the draft PNA.

6.1.22 Notwithstanding this there are many other areas on which the guidance note is not relevant to the circumstances of this case

6.1.23 It is clear in this case the commissioner extensively considered the application of regulation 22 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations") and the issue of which PNA to apply as they requested additional representations on the point.

6.1.24 The guidance note refers to unfairness arising from "queue jumping" (3.2 of the note) but far from there being a "queue" of applications, no applications have previously been made in this site except those by our client. As already documented our client had made two previous applications. The local pharmacy community was well aware of the closure of Boots pharmacies across Newcastle and there had been no other competing applications. This was in contrast to other areas of Newcastle where Boots pharmacies had closed and eight or more applications were made for some sites.

6.1.25 Further in relation to competing application; the application by Farah was not made immediately on publication of the PNA. Had they independently formed a view that they would apply for an application it is suggested that they would have done so as soon as it was published. Instead, the competing application appears to have been made on sight of our client's application and with precisely the same details. There is an injustice to the local population if a pharmacy who is a commercial competitor and who has previously framed their response in commercial terms stating *"Over saturation of pharmacies in the area poses a financial threat to the existing contractors"* can prevent the opening of a much-needed pharmacy.

6.1.26 The guidance note refers to wasted resources from "applications that were not well made" (paragraph 3.5). It is clear that our client's application is an application that is well made; as the comments by the HWB and now in the PNA demonstrate there is a need for the provision of pharmaceutical services in the area.

6.1.27 The circumstances of this application are exceptional in that it is unlikely there will be another where an applicant has made three applications and demonstrated such a commitment to serving the population. We urge NHS Resolution to take the equitable step of refusing the appeal and granting our client's application.

6.1.28 We ask that NHS Resolution refuses this appeal, allowing the Commissioner's decision to stand. If an oral hearing is arranged our client would want to attend and be represented."

7 Regulation 22

Regulation 22 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations") states that the relevant Pharmaceutical Needs Assessment ("PNA") for the purpose of determining a pharmacy application is the PNA that is current at the time NHS Resolution makes the determination unless the only way to determine the application justly is with regard to an earlier PNA. Regulations 5 and 6 envisage there will be a revised PNA published by each Health and Wellbeing Board regularly. NHS Resolution noted that the original decision of the Commissioner in this matter was taken in relation to an earlier PNA. In the interests of transparency and fairness, NHS Resolution sought to rely on the discretion afforded in paragraph 7 of Schedule 3 of the Regulations to vary the normal procedures and to add an additional round of observations on this matter. The following comments were received.

7.1 Gordons Partnership Solicitors on behalf of the Applicant

7.1.1 "Thank you for your letter of 5 May 2026 with enclosures inviting comments on Regulation 22. You will be aware that the appeal by the Farah Chemist's representative is based solely on which PNA should have been used to determine the application. Our client's position is that the PNA current at the time of the determination (the 2025–2028 PNA) is the correct PNA to be used for the consideration of this application and that the appellant's unsupported allegations are not sufficient to rebut the default position as set out in Regulation 22. This is the only ground of appeal and should our position be upheld the appeal falls away.

7.1.2 We would also like to correct a comment in relation to the Rushport representations. It is said that we did not comment on the principle of consistency in decision-making in our first letter. For the avoidance of doubt we do, of course, accept the concept of consistency of decision-making. We apologise if we were not clear but our underlying position is that the refusal of this appeal would not show inconsistency of decision making. On the contrary it is suggested that it would uphold consistency in decision making.

7.1.3 As we set out in our section headed "Precedent" in our letter of 31 March, the key consideration is that there is a more recent decision than those quoted by Rushport showing that a more recent PNA could and should, in line with regulation 22, be preferred. Both that application and

the current application are alike in that they deal with the need, or lack of it, for complete pharmacy provision. This is unlike the 2018 applications cited by Rushport which dealt with the nuances of the provision already present in the area.

7.1.4 Even if NHS Resolution do not consider that they should follow the decision SHA/25768, this does not indicate a lack of consistency in decision making. The overriding consideration is that appeals under the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 are decided individually and on a case-by-case basis. NHS Resolution should not constrain its decision making by having regard to previous cases and/or guidance which do not apply to the particular facts of the case.

7.1.5 Further for the avoidance of doubt regarding the Rushport comment on waste of public resources: even on the appellant's case there would have always been two applications and dealing with two competing applications is something that NHS Resolution does routinely as part of its proper decision-making function and that cannot be regarded as a waste of public resources.

7.1.6 We again ask that NHS Resolution refuses this appeal."

8 Consideration

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

8.2 It also had before it the responses to NHS Resolution's own statutory consultations.

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

8.4 The Committee dealt with the appeal by way of consideration of all the issues.

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

Regulation 31

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

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

(2) This paragraph applies where -

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

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

(ii) adjacent premises; and

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

8.7 The Committee noted that the Applicant had not provided any information in the application form on this point but the Committee noted that the wording of the application form only required the Applicant to include information in the relevant section if the proposed premises were adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises. The Committee considered it reasonable to determine that the lack of information in the application form on this point when read with the wording of the application form allowed it to be reasonably satisfied that the Applicant considered that the proposed premises were not adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises.

8.8 The Committee noted that in its decision letter the Commissioner had stated, "*The following Regulations were considered by PSRC, but deemed not to be relevant to this application: Regulation 31*." This has not been disputed by any party.

8.9 The Committee therefore determined that it was not required to refuse the application under the provisions of Regulation 31.

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

Regulation 13

8.11 The application (which was to be determined in accordance with the procedures in Schedule 2) was submitted by the Applicant based on addressing a current need for pharmaceutical services.

8.12 The Committee considered whether the need on which the Applicant based its application satisfied the elements of Regulation 13(1) which reads as follows:

"(1) If - —

(a) NHS England receives a routine application and is required to determine whether granting it, or granting it in respect of some only of the services specified in it, would meet a current need for pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and

(b) the current need has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 2(a) of Schedule 1,

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

8.13 Paragraph 2(a) of Schedule 1 reads as follows:

"A statement of the pharmaceutical services that the HWB has identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied—

(a) need to be provided (whether or not they are located in the area of the HWB) in order to meet a current need for pharmaceutical services, or pharmaceutical services of a specified type, in its area"

8.14 The Committee had before it a copy of the 2025-2028 Newcastle Pharmaceutical Needs Assessment ('PNA') prepared by Newcastle City Council, which had been provided by the Commissioner. The Commissioner advised that there have been no further updates or Supplementary Statements to the PNA.

8.15 The Committee noted that the Applicant is proposing to meet a current need in the Cruddas Park area of Newcastle upon Tyne.

8.16 The Committee noted that the Applicant's proposed best estimate address includes the location of a former Boots Pharmacy which closed in March 2024. The Committee noted the Applicant's comment that:

"*The location of the proposed pharmacy is Westmoreland [sic] Road and Cruddas Park shopping centre that is adjacent to high rise apartments and so is a densely populated area. The Boots Pharmacy at Unit 10 Cruddas Park, Westmoreland Road, Tyne and Wear, NE4 7QY closed on 2 March 2024. It is roughly estimated that this pharmacy dispensed 8,000 to 10,000 items per month.*

The applicant proposes to replace the pharmaceutical services provided by the Boots Pharmacy and more generally, the reduction in the provision of pharmaceutical services across Cruddas Park and accordingly, provide a significant benefit to the community."

8.17 The Committee noted that the application offering to meet a current need was submitted by Quayside Pharmacy on 16 August 2025. The Committee noted the Applicant's comments that the application was submitted in response to the

"*Supplementary Statement (issued on 15 May 2024) [which] confirms that the closure of Boots on Cruddas Park does create a significant gap in pharmaceutical services, hence this application*." The Committee noted that the PNA in force at the time of the Applicant's application was the 2022–2025 PNA. The Committee further noted that the subsequent (and current) PNA was published on 1 October 2025, and that this was the PNA under which the Commissioner made the decision to grant the application. The Committee noted the Applicant's comments to the Commissioner dated 20 November 2025, which state that "*the 2025 PNA establishes the current state of pharmaceutical services in the Cruddas Park area and therefore is the correct PNA to be relied upon when NHS England decides whether to grant this application*."

8.18 The Committee noted the Appellant's comments that Quayside Pharmacy submitted its application before the 2025–2028 Newcastle PNA came into force and had therefore acted unjustly and unfairly by pre-empting the inclusion of an identified current need for pharmaceutical services in the Cruddas Park area of Newcastle in the updated PNA.

8.19 The Committee noted that in the Applicant's representations, they had provided an extract from a letter sent to the Commissioner highlighting the relevant page number of the PNA after the 2025-2028 Newcastle PNA had been published. It stated:

"*This PNA has now been published and confirms a current need for a pharmacy in Cruddas Park. At page 91 of the Newcastle PNA for 2025 – 2028 it is concluded that: "There is a current need for a pharmacy located in Cruddas Park within Elswick ward, to provide Essential Services, Monday to Friday between 9.00 and 17.00. It is noted that an application to open a new pharmacy in this location was initially refused but is currently under appeal through NHS Resolution. Should the appeal be successful and a new pharmacy subsequently open, then this gap in current provision would be filled."*

8.20 The Committee had regard to Regulation 22 which states:

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

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

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

(a) the pharmaceutical needs assessment of the relevant HWB that is current at the time that the NHSCB takes its decision to grant or refuse the application, unless in the opinion of the NHSCB (or on appeal the Secretary of State) the only way to determine the application justly is with regard to an earlier pharmaceutical needs assessment, in which case the relevant pharmaceutical needs assessment is that earlier assessment; or

(b) if the relevant HWB has not published a pharmaceutical needs assessment, the pharmaceutical needs assessment of a Primary Care Trust (as extended by regulation 7(1)) that relates to the locality in which the location or premises to which the application relates is or are situated."

8.21 The Committee was of the view that Regulation 22 required it to specifically consider whether the only way to determine the application justly is to have regard to an earlier PNA, i.e. the 2022-2025 PNA.

8.22 The Applicant applied to meet an identified need based on its knowledge of the Supplementary Statement dated May 2024 regarding the Boots (Cruddas Park) closure and by its own admission on the basis of a draft 2025-2028 PNA *"In making this application we are seeking to meet the current need identified on page 90 of the draft 2025 HWB's pharmaceutical needs assessment."* Therefore, as the date of the application (16 August 2025) was at the time that the 2022-2025 PNA was still live, the Applicant cannot now rely on the findings in the 2025-2028 PNA.

8.23 The Committee was of the view that the Applicant cannot use the process to their advantage and "jump the queue", even if no queue existed at the time or exists now, by relying on the published 2025-2028 PNA during the later stages of the application process.

8.24 The Committee therefore determined that, in its opinion, the only way to determine the application justly was with regard to the 2022-2025 PNA.

8.25 The Committee noted that the 2022-2025 PNA states the following at page 75:

"The conclusion of this PNA is that people in the city have very good access to community pharmacy services. The only exceptions have been noted in Dinnington village, where a recent pharmacy application was granted following appeal to NHS Resolution. On that basis, until the new pharmacy opens, we conclude that there remains a gap in provision in this area".

8.26 The Committee determined that the need in question was not included in the PNA dated 2022-2025 in accordance with paragraph 2(a) of Schedule 1.

8.27 In this case, the provisions of Regulation 13(1) were not met

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

8.28.1 confirm the Commissioner's decision;

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

8.28.3 quash the Commissioner's decision and, if it considers that there should be a further notification to the parties to make representations, remit the matter to the Commissioner.

8.29 As the Committee has reached a different decision to that of the Commissioner, the Committee determined that it must quash the original decision and redetermine the application.

8.30 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.

8.31 The Committee noted that representations on Regulation 13 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 13.

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

9 Decision

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

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

9.3 The Committee has determined that the application should be refused as the 2022-2025 PNA has not identified a current need which this application could meet.

Case Manager
Primary Care Appeals