NHS Resolution

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

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

29 June 2026

REF: SHA/26905

APPEAL AGAINST BUCKINGHAMSHIRE, OXFORDSHIRE AND BERKSHIRE WEST ICB DECISION REGARDING MEASURES TO REDUCE ADVERSE CONSEQUENCES FOLLOWING THE GRANT OF HETHERBY LTD'S APPLICATION FOR INCLUSION IN THE PHARMACEUTICAL LIST AT 201 - 209 HALLS ROAD (ODD NUMBERS AND LETTERS ONLY), CALCOT, READING, RG30 4PT

1 Outcome

1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of the Commissioner.

A copy of this decision is being sent to:

Healthcare Plus Consulting Ltd, on behalf of Hetherby Ltd
Theale Medical Centre
PCSE, on behalf of Buckinghamshire, Oxfordshire and Berkshire West ICB
Goring & Woodcote Medical Practice
Swallowfield Medical Practice
Mortimer Surgery
Chapel Row Surgery
Triangle Pharmacy
Thames Valley LPC
Berks, Bucks & Oxon LMC
West Berkshire HWB
West Berkshire Healthwatch
Reading HWB
Healthwatch Reading
Pharmacy Sales & Consultancy, on behalf of Calcot Row Ltd
Sutton Chase Ltd t/a Kamsons Pharmacy
Tilehurst Pharmacy
Asda Pharmacy Ltd
Medway Pharmacy
Pottery Road Pharmacy

NHS Resolution

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

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

REF: SHA/26905

APPEAL AGAINST BUCKINGHAMSHIRE, OXFORDSHIRE AND BERKSHIRE WEST ICB DECISION REGARDING MEASURES TO REDUCE ADVERSE CONSEQUENCES FOLLOWING THE GRANT OF HETHERBY LTD'S APPLICATION FOR INCLUSION IN THE PHARMACEUTICAL LIST AT 201 - 209 HALLS ROAD (ODD NUMBERS AND LETTERS ONLY), CALCOT, READING, RG30 4PT

1 Background

Buckinghamshire, Oxfordshire and Berkshire West ICB ("the Commissioner") considered the discontinuation of arrangements for the provision of pharmaceutical services by dispensing doctors, following the decision to approve Hetherby Ltd's application to open a pharmacy at 201 - 209 Halls Road (odd numbers and letters only), Calcot, Reading, RG30 4PT.

2 The Decision

The Commissioner's decision letter dated 19 February 2026 states:

2.1 "Buckinghamshire, Oxfordshire and Berkshire West 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.

2.2 You are required to notify the address of the premises from which you 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. Please find enclosed the relevant form for you to use for this purpose."

Decision report

2.3 "**Introduction and background**

2.4 A current need application had been received from Hetherby Ltd, on 28 July 2025. From the best estimate address of 201-209 Halls Road (Odd numbers and letters only), Calcot, Reading, RG30 4PT

2.5 The Committee was now required to consider the application in accordance with Regulations 13 and 14 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.

2.6 Full details of the Applicant's proposal had been notified to the various interested parties in accordance with the regulations. Comments had been

received from the following parties Pottery Road Pharmacy, Thames Valley LPC & West Berks HWB.

2.7 Unsolicited comments were received from Kamsons Pharmacy and Southcote Pharmacy.

2.8 There were also follow up comments from the Applicant and Kamsons Pharmacy.

2.9 **Consideration by the Committee**

2.10 The Committee had before it:

2.10.1 The NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.

2.10.2 Department of Health guidance on Market Entry by means of pharmaceutical needs assessment – Chapter 5 – Current needs

2.10.3 The Report and annexes prepared by Primary Care Support England (PCSE) and NHS England:

2.10.4 The application form provided by the Applicant.

2.11 In relation to the application, the Committee noted the following:

2.11.1 The Applicant's fitness to practise was approved on 25 September 2025.

2.11.1.1 It was noted that the Applicant's best estimate had been previously agreed.

2.11.2 The Committee noted that the Applicant was proposing to provide essential, enhanced and advanced services, if commissioned.

2.11.3 The Applicant also proposed core opening of 50.25 hours per week and total proposed opening of 50.25 hours per week.

2.12 The Applicant had also confirmed which hours they proposed the 40 core hours to be, and which hours were proposed as additional core hours (the additional core hours/directed hours were 13:00-14:00 & 18:00-18:15 Monday to Friday and 09:00-13:00 on Saturdays)

2.13 The Committee considered the Applicant's statement as to the current need it is offering to meet. The Applicant stated that

2.13.1 "*In making this application the Applicant is seeking to meet the current need identified in the 2025 West Berkshire Pharmaceutical Needs Assessment for essential services.*

2.13.2 *The Calcot population do not have a community pharmacy within a 20-minute/1-mile walk, despite being an urban area. Additional services have also been provided as per above."*

2.14 The Applicant also stated, "*Need will be met in full by opening a pharmacy within the best estimate location providing all required services and providing them when they are needed.*"

2.15 All additional information, including location, opening times and distances of surrounding pharmacies and GP Surgeries were noted and considered by the Committee.

2.16 The Committee considered information from a virtual site visit of the Calcot area that had been undertaken by a Pharmacy Commissioning Hub representative.

2.17 The Committee considered the representations made by Pottery Road Pharmacy, West Berks HWB & Thames Valley LPC and noted the comments made by the interested parties. The Committee noted that Pottery Road Pharmacy & Thames Valley LPC opposed the application.

2.18 Unsolicited comments were received from Kamsons Pharmacy and Southcote Pharmacy, both parties objected to the application.

2.19 The Applicant's response to the representations received during the consultation period was also considered.

2.20 **Regulation 31 – Refusal: same or adjacent premises**

2.21 The Committee first considered Regulation 31(2)(a)(i) and was of the view that Regulation 31(2)(a)(i) is not met as there is currently no person on the pharmaceutical list at the premises to which the application relates.

2.22 The Committee went on to consider paragraph (a)(ii) of Regulation 31(2); whether there is a person on the pharmaceutical list providing pharmaceutical services from adjacent premises.

2.23 The Committee was satisfied that there is no pharmacy providing pharmaceutical services at the same or adjacent premises. The application did not therefore need to be refused in accordance with Regulation 31.

2.24 **Regulations 40,41 and 44**

2.25 The Committee noted that the proposed pharmacy location was not in a controlled locality, and therefore Part 7 of the Regulations (in particular Regulations 40, 41 and 44) did not have to be considered.

2.26 There are 61 dispensing patients living within 1.6km radius of the proposed best estimate address, therefore the Committee noted that if the application was approved it would be required to consider the discontinuation of arrangements for the provision of pharmaceutical services by doctors to the affected patients under Regulation 50.

2.27 The Committee agreed that if the application is approved, it was inclined that the service provided by the dispensing doctors to the affected patients should be discontinued, and that the discontinuation should be postponed in order to give the doctors reasonable notice of the discontinuation, as follows –

2.27.1 for a period of one (1) month – Goring & Woodcote Medical Practice (1 Patient)

2.27.2 for a period of one (1) month – Theale Medical Centre (55 Patients)

2.27.3 for a period of one (1) month – Swallowfield Medical Practice (1 Patient)

2.27.4 for a period of one (1) month – Mortimer Surgery (1 Patient)

2.27.5 for a period of one (1) month – Chapel Row Surgery (3 Patients)

2.28 **Oral Hearing**

2.29 The Committee decided that it was not necessary to hold an oral hearing before determining the application.

2.30 **Regulation 13 – Current need**

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

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

2.33 Paragraph 2(a) of Schedule 1 reads as follows: [quotes Paragraph 2(a) of Schedule 1]

2.34 The Committee noted that the Applicant is offering to meet a current need in Calcot, Reading.

2.35 The Committee had regard to the West Berkshire PNA 2025 (issue date 1 October 2025) (the 'PNA') and noted that no supplementary statements had been issued.

2.36 The Applicant, in its application form, states that it is seeking to meet the current need identified in the PNA.

2.37 The Applicant stated, "*In making this application the Applicant is seeking to meet the current need identified in the 2025 West Berkshire Pharmaceutical Needs Assessment for essential services.*"

2.38 The Committee considered whether the references in the PNA should be considered a current need for the purposes of Regulation 13.

2.39 The Committee considered whether the HWB was satisfied that the pharmaceutical services indicated needed to be provided to meet a current need or would, if they were provided, secure improvements or better access as indicated by the wording of paragraphs 2 and 4 of Schedule 1. The Committee was of the view that it needed to be satisfied that it could reasonably determine that the HWB considered that the services needed to be provided to meet a current need in order for the references in the PNA to amount to a current need.

2.40 The Committee noted the wording in section 9, Conclusion and Statements of the PNA on Page 111-112. “The PNA has identified a gap in the provision of pharmaceutical services to the population of Calcot. There is therefore a current need for a pharmacy in Calcot providing essential services, Monday to Friday between 09:00 and 17:00, and Saturday 09.00 and 13.00.”

2.41 The Committee considered the wording on page 111-112 of the PNA and was in agreement that the PNA clearly identified that there was a Current Need in Calcot for the provision of essential service and the opening times required to meet a local need.

2.42 In this case, the provisions of Regulation 13(1) were met.

2.43 The Committee also noted the wording in the PNA on Page 113. “The PNA has identified Pharmacy First as a service is provided to the population of Calcot, but which the HWB is satisfied if were provided would secure improvements or better access to pharmaceutical services.”

2.44 The Committee noted from the application form that the Applicant intends to provide the Pharmacy First Service. The Committee was in agreement that if this application was granted then it would also secure the improvements or better access to pharmaceutical services identified in the PNA.

2.45 **Regulation 13(2)**

2.46 The Committee therefore went on to consider the application having regard to those matters set out at 13(2) which reads as follows; [quotes Regulation 13(2)]

2.47 **13(2)(a)(b) & (c)**

2.48 The Committee noted that no other application had been received for inclusion in the pharmaceutical list offering to meet the current need that the Applicant is offering to meet.

2.49 **13(2)(d)**

2.50 The Committee noted that there had been no changes to the PNA since its publication in October 2025 and had determined that the application could not be refused under this provision. The Committee noted that this had not been disputed by any party. The Committee was therefore not satisfied that such changes have occurred and considers that it is not required to refuse the application under Regulation 14(4).

2.51 **13(2)(e)**

2.52 The Applicant has proposed to provide opening hours, and core hours, of 09:00-18:15 Monday to Friday and 09:00-13:00 on Saturdays.

2.53 The PNA stated the opening hours required were “Monday to Friday between 09:00 and 17:00, and Saturday 09.00 and 13.00.”.

2.54 The Committee was satisfied from the information provided to it that granting the application would meet the current need included in the PNA in full. The

Committee considered therefore that it was not required to refuse the application under Regulation 14(4).

2.55 **13(2)(f)**

2.56 The Committee was satisfied from the information provided to it that granting the application would meet the current need included in the PNA in full. The Committee considered therefore that Regulation 14(5) was not relevant in respect of Regulation 13(2)(f).

2.57 **13(2)(g)**

2.58 The Committee was satisfied that—

2.58.1 granting the application would result in an increase in the availability of essential services in the area of the HWB.

2.59 The Committee considered therefore that Regulation 14(5) was not relevant in respect of Regulation 13(2)(g).

2.60 **13(2)(h)**

2.61 The Committee had no information to show that, since the publication of the PNA, the current need included in the PNA has been met by another person who is providing, or is due to be met by another person who has undertaken to provide, either in the area of the relevant HWB or in the area of another HWB, NHS services. The Committee was therefore not satisfied that the need had been or was due to be met and considered that Regulation 14(5) was not relevant in respect of Regulation 13(2)(h).

2.62 **13(2)(i)**

2.63 The Committee noted that no information had been provided to indicate that the application needed to be deferred or refused by virtue of any provision of Part 5 to 7.

2.64 The Committee was therefore satisfied that it was not required to defer or refuse the application under Regulation 13(2)(f).

2.65 **Decision**

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

2.67 The Committee determined that the application should be Granted on the following basis:

2.67.1 The PNA has identified a current need which this application could meet.

2.67.2 granting the application would result in an increase in the availability of essential services in the area of the HWB.

2.68 **Core opening hours conditions**

2.69 The Applicant undertakes to provide pharmaceutical services at the proposed pharmacy premises for more than 40 core opening hours per week,

2.70 The Applicant and NHS England have agreed that pharmaceutical services are to be provided at the proposed pharmacy premises during those additional opening hours that exceed the 40 core opening hours at set times and on set days, and

2.71 The application was granted having regard to that undertaking and that agreement.

2.72 The Applicant has confirmed that the 40 core opening hours are 09:00-13:00 & 14:00-18:00 Monday to Friday.

2.73 The Applicant and NHS England have agreed that the additional opening hours are 13:00-14:00 & 18:00-18:15 Monday to Friday and 09:00-13:00 on Saturdays.

2.74 **Rights of appeal**

2.75 The application is granted so the Applicant does not have appeal rights.

2.76 The Committee decided that the following parties that should have third party rights of appeal as they had expressed their grounds for opposing the application adequately in their representations.

2.76.1 Swiftmeds Ltd t/a Pottery Road Pharmacy (FVF36), 2a Tylers Place, Pottery Road, Reading, Berkshire, RG30 6BW

2.77 The Committee noted the unsolicited comments received from Kamsons Pharmacy and Southcote Pharmacy and decided they should not have a third party right of appeal as they do not meet the requirements of paragraph 30(3)(a) Schedule 2 - they were not included in the IP list as it was not deemed that their interests might be significantly affected if the application was granted. Both pharmacies are further from the proposed site than the 2km radius set out in the Pharmacy Manual for areas that are not controlled."

3 The Appeal

In an undated letter received by email dated 20 February 2026 addressed to NHS Resolution, Theale Medical Centre ("the Appellant") appealed against the Commissioner's decision. The grounds of appeal are:

3.1 "I write on behalf of Theale Medical Centre in relation to the Committee's decision to grant the above application and its stated intention to discontinue dispensing arrangements for 55 of our patients.

3.2 This appeal relates specifically to the financial and service sustainability implications of that discontinuation.

3.3 Theale Medical Centre is a dispensing practice serving approximately 1,300 dispensing patients.

3.4 Dispensing income is a core component of the practice's financial model and directly supports the infrastructure required to deliver safe and effective primary care services to our rural population.

3.5 The removal of 55 dispensing patients represents a reduction in dispensing income that contributes towards:

3.5.1 Employment of trained dispensary staff

3.5.2 Medicines management and governance systems

3.5.3 Premises and storage requirements compliant with regulatory standards

3.5.4 Investment in digital prescribing systems

3.5.5 Clinical time dedicated to medication reviews and prescribing oversight

3.6 Dispensing income does not operate in isolation.

3.7 It supports the wider practice model. A reduction in dispensing numbers reduces economies of scale and increases the per patient cost of maintaining a compliant and safe dispensing service.

3.8 If dispensing numbers progressively reduce across the locality, the impact extends beyond a single practice.

3.9 Other local dispensing doctors are also subject to Regulation 50 considerations in this decision. Incremental erosion of dispensing lists across multiple practices risks destabilising the rural dispensing model more broadly.

3.10 This may result in:

3.10.1 Reduced staffing capacity within dispensaries

3.10.2 Reduced resilience in medicines supply chains

3.10.3 Pressure on practices to reassess the viability of dispensing services

3.10.4 Knock on effects on the availability of integrated GP dispensing care in rural communities

3.11 The dispensing model in rural areas relies on maintaining a critical mass of dispensing patients to remain financially sustainable. Fragmentation of that base creates cumulative risk.

3.12 We respectfully request that the financial sustainability impact on rural dispensing provision be given careful consideration before discontinuation is implemented.

3.13 The long term consequence of incremental reductions may undermine service stability across the wider system, not solely within Theale Medical Centre.

3.14 Please confirm receipt of this appeal and advise of the next steps."

4 Summary of Representations

This is a summary of representations received on the appeal.

4.1 The Commissioner

4.1.1 "The Pharmaceutical Services Regulations Committee (PSRC) has reviewed the documentation relating to this application and subsequent correspondence and has no further representations or comments to make, other than to refer NHS Resolution to the Committee Report and minutes of the PSRC meeting as previously submitted to you."

4.2 West Berkshire Health and Wellbeing Board

4.2.1 "Thank you for consulting the West Berkshire Health and Wellbeing Board on the above appeal.

4.2.2 We would like to make the following comments:

4.2.3 In relation to Regulation 31, we are not aware of any pharmacies operating at tor adjacent to the proposed site for the new pharmacy that would require the application to be refused.

4.2.4 In relation to Regulation 13:

4.2.4.1 We are not aware of any changes to the need for pharmaceutical services since the publication of our most recent Pharmaceutical Needs Assessment (PNA), such that refusing the application could be considered essential in order to prevent significant detriment to the provision of pharmaceutical services in West Berkshire.

4.2.4.2 Given that the proposed site is towards the northern edge of the gap in pharmaceutical services identified within the PNA, we consider that the application would only meet the identified need in part, leaving some residential areas unserved.

4.2.4.3 Although there have been two other recent applications for the Calcot area (one subsequently withdrawn), we consider it unlikely that, in the event that the Halls Road application is approved, further applications would come forward in the foreseeable future due to the reduced size of the unserved catchment and the proximity of other pharmacies in West Berkshire and Reading.

4.2.4.4 The PNA identifies that the current need is for essential services.

4.2.4.5 In the period since publication of the PNA, the current need for pharmaceutical services has not been met and is not due to be met by another person undertaking to provide NHS pharmaceutical services.

4.2.5 We note that this appeal will be considered together and in relation to an appeal by Calcot Row Ltd against the refusal of its application at 72A Royal Avenue, Calcot, Reading, Berkshire, RG31 4UR (case ref. SHA.26934).

4.2.6 The West Berkshire Health and Wellbeing Board has previously responded in support of both applications. On balance, Royal Avenue would be the Board's preferred option, since it would better meet the needs of local residents and would better respond to the identified gap in provision, particularly in the Ford's Farm estate (see attached maps showing 1 mile / 20 minute walking isochrones). However, if the Royal Avenue proposal was unable to progress for whatever reason, then the Health and Wellbeing Board would be happy for the Halls Road site to come forward, acknowledging that it would only partly respond to the identified gap in provision."

4.3 Healthcare Plus Consulting, on behalf of Hetherby Ltd

4.3.1 "Thank you for your letter dated 30th March 2026. We write representing Hetherby Ltd in relation to the above appeal received.

Preliminary Matter

4.3.2 As a preliminary matter, we note that that no party objects to the actual grant by the ICB in this case. There is therefore no question that the present application is supported. Rather, the present appeal concerns only Regulation 50 – that is the postponement of the discontinuation of use of dispensing doctors for patients in the area around the proposed pharmacy.

Regulation 50

4.3.3 The relevant sections of Regulation 50 are reproduced below:

4.3.4 "*Regulation 50 - Discontinuation of arrangements for the provision of pharmaceutical services by doctors*

4.3.5 *(1) …[the dispensing doctor] must terminate the provision of pharmaceutical services to [relevant patients], subject to any postponement of the discontinuation by NHS England in accordance with paragraphs (2) to (6).*

4.3.6 *…*

4.3.7 *(3) This paragraph applies where-*

4.3.7.1 *(a) NHS England grants a routine or excepted application, the result of which is the inclusion in a pharmaceutical list of*

pharmacy premises that are not already listed in relation to an NHS pharmacist;

4.3.7.2 *(b)the pharmacy premises to which that application relates are not distance selling premises but—*

4.3.7.2.1*(i)are in a controlled locality, or*

4.3.7.2.2*(ii)are within 1.6 kilometres of a part of a controlled locality in which patients of a dispensing doctor reside and those patients are being provided with pharmaceutical services by that dispensing doctor; and*

4.3.7.3 *(c)granting the routine or excepted application, in the opinion of NHS England, results in a significant change to the arrangements that are in place for the provision of pharmaceutical services (including by a person on a dispensing doctor list) or local pharmaceutical services in any part of a controlled locality.*

4.3.8 *(4) This paragraph applies where NHS England is required to terminate the provision of pharmaceutical services pursuant to paragraph (1)(f) but NHS England is satisfied that the determination that led to the decision to terminate has adversely affected D.*

4.3.9 *(5) Where paragraph (3) or (4) applies, NHS England may postpone the discontinuation for such period as it thinks fit.*

4.3.10 *(6) NHS England must postpone the discontinuation—*

4.3.10.1*(a)while it is forming the opinion mentioned in paragraph (3)(c); or*

4.3.10.2*(b)for such period as NHS England considers necessary in order to give the doctor reasonable notice (in any case to which paragraph (1) applies) of the discontinuation.*"

4.3.11 We note that there is no discretion to entirely exempt the dispensing doctor from terminating provision to relevant persons permanently or indefinitely.

4.3.12 The appellant does not make it clear on which grounds they appeal for additional gradualisation. However, they say that 'This appeal relates specifically to the financial and service sustainability implications of that discontinuation.' We infer from this that they believe they would be adversely affected by discontinuation.

4.3.13 We are doubtful that the discontinuation related to the proposed pharmacy would 'adversely affect' the appellant. We note that only 55 out of the appellant's 1,300 patients are affected. This equates to less than 5% of their patients.

4.3.14 We submit that it is for the appellant to show some effect on their service sustainability.

4.3.15 As per the ICB's decision report, only 61 patients are affected overall. We therefore submit that the proposed pharmacy would also not result in 'a significant change to the arrangements'.

4.3.16 Given this, we are not certain that Regulation 50(5) is engaged.

4.3.17 If Regulation 50(5) is engaged, we submit that given the relatively small proportion of patients affected, only a short postponement is necessary.

4.3.18 In regard to Regulation 50(6), we believe that the one month notice suggested by the ICB is sufficient to give reasonable notice.

4.3.19 For the above reasons, we submit that the ICB's decision was correct and the postponements ought to be as the ICB determined:

4.3.19.1 for a period of one (1) month – Goring & Woodcote Medical Practice (1 Patient)

4.3.19.2 for a period of one (1) month – Theale Medical Centre (55 Patients)

4.3.19.3 for a period of one (1) month – Swallowfield Medical Practice (1 Patient)

4.3.19.4 for a period of one (1) month – Mortimer Surgery (1 Patient)

4.3.19.5 for a period of one (1) month – Chapel Row Surgery (3 Patients)."

4.4 Pottery Road Pharmacy

4.4.1 "I write on behalf of Pottery Road Pharmacy in response to your letter dated 30 March 2026. We were notified as an interested party and wish to make formal representations in opposition to the granting of this application. We respectfully submit that the application should be refused for the following reasons.

4.4.2 Under Regulation 31, a routine application must be refused where an existing pharmacy on the pharmaceutical list is already providing, or has undertaken to provide, pharmaceutical services at or from the same or adjacent premises, and it would be reasonable to treat the proposed services as part of the same service.

4.4.3 Pottery Road Pharmacy currently serves the local community and provides comprehensive pharmaceutical services to patients in the Calcot area. Granting this application risks fragmenting and undermining an existing, established, and well-functioning service without any net benefit to patients.

4.4.4 The Proposed New Pharmacy would not improve access, We would invite NHS Resolution to consider the following:

4.4.4.1 Geographic proximity: The proposed premises at 201 - 209 Halls Road, Calcot, is within close proximity to existing pharmacies, including not only Pottery Road Pharmacy but Triangle Pharmacy (0.6 miles from proposed site), which is already accessible to the local patient population. There is no meaningful access gap that a new contractor would fill.

4.4.4.2 Opening hours and capacity: Pottery Road Pharmacy provides services across a range of hours and has the capacity to meet the needs of the local population. Granting a further contract in this area does not improve access — it simply duplicates it.

4.4.4.3 No evidence of unmet demand: We are not aware of evidence demonstrating that patients are being turned away, experiencing significant delays, or travelling unreasonable distances to access pharmaceutical services in this area.

4.4.4.4 Since the publication of the relevant PNA, we are not aware of changes to the pharmaceutical services profile in this area that would justify granting this application. On the contrary, the introduction of an additional contractor risks causing significant detriment to existing provision by:

4.4.4.4.1 Diluting the patient base of established pharmacies, threatening their financial viability

4.4.4.4.2 Reducing the ability of existing pharmacies to invest in enhanced and advanced services

4.4.4.4.3 Potentially destabilising services that local patients currently rely upon.

4.4.5 I also attach my initial response which shows the proximity of other pharmacies in the area that the residents of Calcot have access to."

4.5 Pharmacy Sales and Consultancy, on behalf of Calcot Row Ltd

4.5.1 "We act for Calcot Row Ltd and have enclosed a letter of authorisation from our client.

4.5.2 We are in receipt of the letter from NHS Resolution dated 30th March 2026 inviting written representations on the appeal received on the above application.

4.5.3 On behalf of Calcot Row Ltd, I wish to make the following comments. I note that this appeal is being considered together and in relation to our client's appeal (SHA/26934), which is to secure identified improvements or better access at 72A Royal Avenue, Calcot, Reading, Berkshire, RG31 4UR.

Regulatory tests

4.5.4 In relation to Regulation 31, the matters to which consideration will be given are as follows: [quotes Regulation 31]

4.5.5 In relation to Regulation 13, the matters to which consideration will be given are whether, in the opinion on the the [sic] decision making body: [quotes Regulation 13]

4.5.6 Our client's application was submitted pursuant to Regulation 17 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (as amended) (The Regulations) and considered by the PSRC pursuant to Regulation 17 and 19 of The Regulations and in accordance with Schedule 2 of the Regulations, so these regulations also become relevant in respect of these appeals.

4.5.7 Regulation 17 states the following: [quotes Regulation 17]

4.5.8 Schedule 2, part 3, paragraph 19 (2) of The Regulations states the following:

NHS England may also give notice of the notifiable application to any other person who, in the opinion of NHS England, has a significant interest in the outcome of the application.

4.5.9 Schedule 2, part 3, paragraph 22(3) of The Regulations states the following:

Where appropriate, NHS England may if it thinks fit consider 2 or more applications together and in relation to each other, but where it does so, it must give notice to the applicants of its intention to do so (if it has not already done so under Part 3).

4.5.10 Additionally, the appeal submitted by Theale Medical centre specifically references Regulation 50, which states: [quotes Regulation 50]

4.5.11 We comment on each of these matters as follows.

Regulation 31

4.5.12 Regulation 31 does not apply to either of the appeals under consideration as there are no pharmacies listed at the proposed or adjacent premises to either of the proposed locations. The nearest pharmacies are some distance away from both.

Regulation 13 and Regulation 17

4.5.13 Both of these Regulations require there to be a gap identified in the current Pharmaceutical Needs Assessment (PNA).

4.5.14 <u>What did the PNA say?</u>

4.5.15 The 2025 West Berkshire PNA identified needs for the provision of pharmaceutical services in the Calcot area on pages 111, 112 and 113 as follows:

4.5.16 Pages 111 & 112:

4.5.17 ***The PNA has identified a gap in the provision of pharmaceutical services to the population of Calcot. There is therefore a current need for a pharmacy in Calcot providing essential services, Monday to Friday between 09:00 and 17:00, and Saturday 09.00 and 13.00.***

4.5.18 Page 112

4.5.19 ***9.21 As noted earlier, the population of Calcot does not have a community pharmacy within a 20-minute walk and the PNA has identified that Pharmacy First and NMS services are important to securing improvements and better access of pharmaceutical services to that population.***

4.5.20 Page 113

4.5.21 ***The PNA has identified Pharmacy First as a service is provided to the population of Calcot, but which the HWB is satisfied if were provided would secure improvements or better access to pharmaceutical services.***

4.5.22 We note that the statement on page 113 is not grammatically correct, but its intentions are clear, particularly when taken in conjunction with 9.21. i.e. that Pharmacy First is **not** currently provided to the population of Calcot but its provision would secure improvements or better access.

4.5.23 It is clear, therefore, that the PNA identified both Current Needs and Improvements or Better Access within its assessment of gaps that exist in provision. It is also clear that these needs are related to each other, as the need for improvements or better access arises directly from the lack of a pharmacy within a 20-minute walk for Calcot residents, as discussed in 9.21.

4.5.24 We submit, therefore, that whilst the two gaps identified fall under different parts of The Regulations (Regulation 13 – Current Needs and Regulation 17 – Improvements or Better Access), the need identified is essentially the same i.e. provision of pharmaceutical services in Calcot, including Pharmacy First. That being the case, the needs are clearly very closely related to each other.

4.5.25 For the avoidance of doubt, we would point out that our client's application meets **both** the current need (in that Essential Services would be provided Monday to Friday between 09:00 and 17:00, and Saturday 09.00 and 13.00) **and** the improvements or better access, in that our client will provide the Pharmacy First service.

Distinguishing between the two applications

4.5.26 When considering the appeals together and in relation to one another, the following matters should be taken into account,

4.5.26.1 Considering which, if any, of the applications submitted would address the gap that has arisen as a result of a need being identified in the PNA.

4.5.26.2 If more than one of the applications submitted would address such a gap the decision maker has two options.

4.5.26.2.1 a. Grant more than one application

4.5.26.2.2 b. Grant one application which best meets the need in question.

4.5.27 In respect of 2a, judicial guidance has previously found that "*care should be taken when granting more than one application where doing so would result in an over-provision of services in the relevant area given that such services are being paid from public funds*". There does not, therefore, appear to be any reason to grant more than one application in Calcot.

4.5.28 In respect of 2b, Primary Care Appeals has produced helpful guidance notes for its committees to assist with deciding between multiple applications. We have attached a copy of this guidance note with this letter.

4.5.29 We direct the Committee to paragraphs 29 to 37 of this note, although it may find other parts of the note helpful as well.

4.5.30 Primary Care Appeals acknowledge that competing applications can be very similar, with little to choose between them. It is for the committee, therefore, to weigh up all the information before them to decide which application is preferred.

4.5.31 Committees may consider any differentiating factors they wish, but these often come down to two key areas:

4.5.31.1 Control of premises

4.5.31.2 Would one application meet the identified need better than the other?

4.5.32 *Control of premises*

4.5.33 It is often considered that where more than one application meets an identified need, control of premises is an important consideration. There is little benefit granting an application where the applicant may not be able to secure premises to open that pharmacy when another applicant has secured premises and will be in a position to open the pharmacy quickly.

4.5.34 In contrast, the application by Hetherby is for a 'best estimate' of location, so the Committee cannot be satisfied that this applicant is in a position to secure a suitable property.

4.5.35 *Would one application meet the identified need better than the other?*

4.5.36 There may be several considerations in this respect, which can include matters such as opening hours or services provided. Both applications offer Pharmacy First which is identified in the PNA.

4.5.37 In terms of opening hours, The Hetherby application has core hours of 50.25, Monday to Friday 09.00-18.15 and Saturday 09.00-13.00 and with no further supplementary hours being offered.

4.5.38 In contract, our client has committed to offering 57 core hours, Monday to Friday 09.00-13.00 and 14.00-20.00, Saturday 10.00-15.00 and Sunday 10.00-14.00, with additional supplementary hours on Saturday from 09.00-18.30. Our clients' hours are more extensive and more than meet the need identified in the PNA especially when factoring in the fact that Pharmacy First will have improved availability due to the longer opening hours.

4.5.39 When considering the proposed location of the Hetherby application, we submit that our client's application offers an important geographical benefit. We submit that the distribution of the pharmacy network would be improved by approving our client's application in preference to the application from Hetherby.

4.5.40 The maps below show the distance to the closest existing pharmacies from both our client's application site and the best estimate address of the Hetherby application.

4.5.41 The first two maps below show our client's proposed location and the journey to the nearest pharmacies on foot. Whilst Kamsons Pharmacy and Triangle Pharmacy are equally distant from the proposed location (1.3 miles via the shortest practicable route with a walking time in excess of 20 minutes), the journey to Kamsons by foot is not practical as it involves crossing the M4 and using private roads.

4.5.42 **Journey to Kamsons** [map provided]

4.5.43 **Journey to Triangle Pharmacy** [map provided]

4.5.44 The map below shows the proposed location of the Hetherby pharmacy to the nearest pharmacy by foot. It is noteworthy that this location is only 14 minutes' walk from the nearest pharmacy, well within the 20-minute walk distance discussed in the PNA. [Map provided]

4.5.45 It is evident from the above maps that granting our client's application would result in better accessibility for Calcot residents, given that the proposed location is more central to these residents. This would better meet the need identified in the PNA.

Regulation 50

4.5.46 Whilst we have not been specifically asked to comment on the Gradualisation impact of the Hetherby application, we submit that losing dispensing patients due to a new pharmacy opening will have a very small impact, regardless over the period this will take effect, given that only a small proportion of the patients currently receiving pharmaceutical services from dispensing doctors.

4.5.47 We have no further comments to make on this point as we have not seen the NHS England decision letter in respect of the Hetherby application, so we do not know over what time period the Gradualisation will take place.

4.5.48 **Summary**

4.5.49 In summary, we contend that our client's application is preferable to that of Hetherby's due to the longer core hours and the improved geographical location that will improve the distribution of the pharmacy network for the benefit of the local population. For those reasons, our client's application should be granted in preference to the Hetherby application.

4.5.50 Should the Committee decide to hold an oral hearing I can confirm that our client would wish to attend."

5 **Observations**

5.1 Healthcare Plus Consulting, on behalf of Hetherby Ltd

5.1.1 "Thank you for your letter dated 1st May 2026. We write representing Hetherby Ltd in relation to the above.

Preliminary Matter

5.1.2 After reviewing the representations received, we wish to reiterate that the only appeal in relation to our client's application (SHA/26905) concerns only Regulation 50, gradualisation. Comments not concerned with this are therefore irrelevant.

5.1.3 We note that our client's application was submitted under Regulation 13 to meet an identified current need and granted by the Buckinghamshire, Oxfordshire and Berkshire West ICB. It was later confirmed by Primary Care Appeals that no valid appeals were received concerning the actual grant. This was confirmed in a letter received 27th March 2026 from NHS Resolution in relation to SHA/26940 (Annex 2).

5.1.4 Crucially, this is separate to the gradualisation case, SHA/ 26905, which has its own reference. SHA/26905 concerns Theale Medical Centre's appeal under Regulation 50.

5.1.5 We note below that Theale Medical Centre were not an interested party per Part 5, paragraph 30(3) of Schedule 2 of the Regulations and rather can only appeal under Regulation 63 in regard to Regulation 50.

5.1.6 We submit that the Appeals Committee cannot therefore make any determination in regard to the actual grant of our client's application, only in regard to gradualisation.

5.1.7 We note that we have had no sight or involvement with the application by Calcot Row Ltd (SHA/26934) to meet improvements or better access. We provide no comments on this application.

5.1.8 **SHA/ 26939 and SHA/ 26940**

5.1.9 We first direct the Committee to Annex 1, where the Buckinghamshire, Oxfordshire and Berkshire West ICB determined that our client's application should be granted.

5.1.10 We cite Section 9, Rights of appeal, outlined within the ICB's decision report below:

"The Committee decided that the following parties that should have third party rights of appeal as they had expressed their grounds for opposing the application adequately in their representations.

- *Swiftmeds Ltd t/a Pottery Road Pharmacy (FVF36), 2a Tylers Place, Pottery Road, Reading, Berkshire, RG30 6BW"*

5.1.11 With the above in mind, we wish to direct the Committee to Annex 2. By letter dated 27th March 2026, NHS Resolution notified us that *"no valid appeals were received in respect of the grant of Hetherby Ltd's application"*. No valid appeal was therefore received in respect of the actual grant.

5.1.12 We note that Swiftmeds Ltd t/a Pottery Road Pharmacy have provided observations regarding the grant of our client's application opposed to gradualisation which is the subject of the appeal here. Despite having appeal rights against the grant, we can only assume that Swiftmeds failed to submit a valid appeal under the Regulations per Part 5, paragraph 30 of Schedule 2 within the 30-day window. It will be known that an appeal outside of the 30-day timeframe is invalid.

5.1.13 We understand that it was Calcot Row Ltd who had appealed for a right to appeal but this was summarily rejected in SHA/ 26939. We therefore note that it has already been determined that Calcot Row Ltd has no right to appeal. Therefore, we submit that any attempts by interested parties to use the Regulation 50 appeal to indirectly appeal the actual grant is a clear attempt to circumvent the regulations.

5.1.14 Given that no valid appeals were submitted in respect of the actual grant, we submit that our client's application is securely granted.

5.1.15 Within the same letter, dated 27th March 2026, NHS Resolution added that the only appeal received was from *"Theale Medical Centre against the gradualisation decision"*. This was assigned as SHA/26905. We reiterate that this appeal does not and cannot affect the overall grant.

SHA/ 26905

5.1.16 The Committee will be aware that paragraph 30 of Schedule 2 of the Regulations outlines those who are entitled to third party rights of appeal to the Secretary of State where an application is granted. That is to say the right to appeal the actual grant itself. Doctors are only able to appeal under this paragraph where the application concerns premises in a controlled locality. That is not the case here.

5.1.17 We are therefore certain that Theale Medical Centre's appeal was brought under Regulation 63. This regulation only allows for appeals against *"a decision under regulation 50 requiring the termination of arrangements to provide pharmaceutical services, subject to any postponement of the discontinuation"* – i.e., concerning gradualisation. Therefore, this is the only decision which is subject to appeal, not the actual grant.

5.1.18 Our client's application is therefore only to be considered in relation to Regulation 50. Discussion of Regulation 13 and the relative merits of other applications are therefore irrelevant.

Regulation 50

5.1.19 We reiterate that, as per the ICB's decision report, only 61 patients are affected out of 1,300 overall. We therefore submit that the proposed pharmacy would not result in *'a significant change to the arrangements'* as outlined in Regulation 50(3)(c) and thus we submit that the ICB's 1 month postponements were sufficient.

Conclusion

5.1.20 We do not provide any comments on the application by Calcot Row Ltd (SHA/ 26934).

5.1.21 All previous correspondence has been reattached below for the benefit of the Committee.

5.1.22 We maintain that our client's application has been granted with no valid appeal concerning the actual grant. The only determination subject to a valid appeal concerns the gradualisation of the termination of dispensing."

5.1.23 [Annex 1 provided to Committee]

6 Further comments

NHS Resolution noted that when circulating the appeal by letter dated 30 March 2026, representations were invited regarding Regulations 31 and 13, rather than Regulation

50. It was therefore confirmed to parties that the appeal would be determined in accordance with Regulation 50 concerning the discontinuation of arrangements for the provision of pharmaceutical services by doctors. A further 10 day period was allowed for parties to submit comments.

6.1 Healthcare Plus Consulting, on behalf of Hetherby Ltd

6.1.1 "We make only the following comment.

6.1.2 We thank you for this clarification. We therefore only restate our previous comments that this appeal does **not** concern the actual grant. This appeal only concerns the decision as to how long the postponement of the termination of dispensing by local GPs should be.

6.1.3 For the reasons previously stated, we submit that the 1 month proposed postponement is sufficient."

7 Consideration

7.1 The Pharmacy Appeals Committee ("the Committee"), appointed by NHS Resolution, had before it the papers considered by NHS England.

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

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

7.4 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations") and in particular Regulation 50(1) which states:

Discontinuation of arrangements for the provision of pharmaceutical services by doctors

In circumstances where NHS England has arrangements (whether they were made under these Regulations or were made under or continued by virtue of the 2012 Regulations) with a dispensing doctor (D) to provide pharmaceutical services to a person (P), if…

D must terminate the provision of pharmaceutical services to P, subject to any postponement of the discontinuation by NHS England in accordance with paragraphs (2) to (6).

7.5 Regulation 50(3) states:

This paragraph applies where—

(a) NHS England grants a routine or excepted application, the result of which is the inclusion in a pharmaceutical list of pharmacy premises that are not already listed in relation to an NHS pharmacist;

(b) the pharmacy premises to which that application relates are not distance selling premises but –

(i) are in a controlled locality, or

(ii) are within 1.6 kilometres of a part of a controlled locality in which patients of a dispensing doctor reside and those patients are being provided with pharmaceutical services by that dispensing doctor; and

(c) granting the routine or excepted application, in the opinion of NHS England, results in a significant change to the arrangements that are in place for the provision of pharmaceutical services (including by a person on a dispensing doctor list) or local pharmaceutical services in any part of a controlled locality.

7.6 Pursuant to paragraph 9(4)(a) of Schedule 3 to the Regulations, the Committee may:

7.6.1 confirm the Commissioner's decision;

7.6.2 substitute for that decision, any decision that the Commissioner could have taken when it took that decision

7.6.3 quash the Commissioner's decision and remit the matter to the Commissioner for it to redetermine the decision, subject to such directions as the Secretary of State considers appropriate.

7.7 The Committee noted that the majority of the representations from parties were with regard to the original application which the Committee felt were not pertinent to the decision regarding gradualisation. The Committee noted that this was due to the initial error in inviting comments regarding Regulations 31 and 13, however this had now been rectified and parties had been given the opportunity to provide comments with regard to the correct Regulations. The Committee noted that the application for inclusion in the pharmaceutical list under the provisions of Regulation 13 had been granted with no valid appeals made and it is not within its remit to review that decision. The Committee is therefore only able to consider and determine the matter of the gradualisation period as per its consideration below.

7.8 The Committee noted the Appellant's comment that "*Dispensing income is a core component of the practice's financial model and directly supports the infrastructure required to deliver safe and effective primary care services to our rural population*" and that "*The removal of 55 dispensing patients represents a reduction in dispensing income that contributes towards: Employment of trained dispensary staff; Medicines management and governance systems; Premises and storage requirements compliant with regulatory standards; Investment in digital prescribing systems; Clinical time dedicated to medication reviews and prescribing oversight*".

7.9 In the first instance, the Committee was mindful of the 1996 case of R –v- North Yorkshire FHSA ex parte Dr. Wilson and Partners when Justice Carnwath said *"It is not part of the scheme of those regulations or indeed of the statute that*

pharmaceutical services should be relied upon to provide financial underpinning for medical services which are intended to be financed in other ways". Therefore, the Committee cannot be influenced by a medical practice's reliance on an income generated from dispensing to fund other services where legal precedent clearly states it should not depend upon such funding.

7.10 The Committee accepts there would be a loss of dispensing income but noted Healthcare Plus Consulting's comment in response to the appeal that "*…only 55 out of the appellant's 1,300 patients are affected. This equates to less than 5% of their patients*".

7.11 The Committee also noted the Appellant's comment that "*This may result in: Reduced staffing capacity within dispensaries; Reduced resilience in medicines supply chains; Pressure on practices to reassess the viability of dispensing services; Knock on effects on the availability of integrated GP dispensing care in rural communities*". The Committee noted that no information had been provided in support of these assertions especially where 95% of dispensing would be unaffected.

7.12 The Committee was mindful that over 4 months have elapsed since the Commissioner's decision to grant the current need application and that a one month gradualisation period should apply. Given the relatively small number of patients affected, the Committee was of the view that one month from the date of its determination is sufficient to ensure that the Appellant is able to make any changes in their dispensing arrangements, and patients can be notified accordingly of their future dispensing status.

8 DECISION

8.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of the Commissioner.

Case Manager
Primary Care Appeals