NHS Resolution

12 June 2026

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

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

REF: SHA/26928

APPEAL AGAINST HUMBER AND NORTH YORKSHIRE ICB DECISION TO GRANT AN APPLICATION BY SUTTON MANOR PHARMA SERVICES LIMITED FOR A RELOCATION THAT DOES NOT RESULT IN A SIGNIFICANT CHANGE TO PHARMACEUTICAL SERVICES PROVISION UNDER REGULATION 24 FROM 633 ANLABY ROAD, HULL, HU3 6SX TO 61 CALVERT LANE, HULL, HU4 6BL

1 Outcome

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

1.2 The Committee determined that the application should be granted.

A copy of this decision is being sent to:

Pharmacy Sales and Consultancy, on behalf of Sutton Manor Pharma Services Ltd
PCSE, on behalf of Humber and North Yorkshire ICB
Boots UK Ltd
Brocklehurst Chemists Ltd
Community Pharmacy Humber

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1 The Application

By application dated 26 September 2025, Sutton Manor Pharma Services Ltd ("the Applicant") applied to Humber and North Yorkshire ICB ("the Commissioner") for a relocation that does not result in a significant change to pharmaceutical services provision under Regulation 24 from 633 Anlaby Road, Hull, HU3 6SX TO 61 Calvert Lane, Hull, HU4 6BL. In support of the application it was stated:

1.1 In response to why the application should not be refused pursuant to Regulation 31 the Applicant stated:

1.2 "N/A. There is no other pharmacy within the same or adjacent premises."

Supporting information

1.3 "*Current location*: **633 Anlaby Road, Hull, East Riding of Yorkshire, HU3 6SX**

1.4 *Proposed location:* **61 Calvert Lane, Hull, East Riding of Yorkshire, HU4 6BL**

1.5 **Background**

1.6 The applicant owns a pharmacy which provides pharmaceutical services from premises located on Anlaby Road, Hull. Pharmaceutical services have been provided from this location for many years.

1.7 There is a medical centre to the rear of our client's pharmacy on Wheeler Road, which is operated by the Kingston Health Medical Group. The pharmacy and medical centre team work in close partnership to provide a seamless primary care service to patients.

1.8 Kingston Medical Group has announced plans to relocate the medical centre to the Calvert Centre on Calvert Lane and is currently consulting with its patients regarding this proposal. Based on feedback received to date our client is confident that the practice will go ahead with this move. The premises proposed by our client for relocation are located approximately 250m away from the Calvert Centre.

1.9 It is our client's position that there are significant benefits to patients in retaining the close working relationship between the pharmacy and the practice, and this is best achieved by maintaining the geographical proximity that exists currently.

1.10 Our client has therefore instructed PSC to submit this application for a no significant change relocation to those premises.

1.11 **Local Area**

1.12 The current location of the pharmacy is on Anlaby Road, approximately 3km to the west of Hull city centre.

1.13 The setting for the pharmacy is within a traditional urban shopping parade, with immediate supporting trade comprising largely independent businesses such as hairdressers / barbers, takeaways, small convenience stores, a tanning salon, sales & letting business and a funeral director.

1.14 The pharmacy and supporting businesses can be seen in the image below. [Photograph provided]

1.15 To the south of the current location and the medical practice is a small hospital inpatient unit known as Westlands, which provides accommodation for women aged between 16 and 65 who require mental health assessment and support. There is also a 'family hub' further south along Wheeler Street. Neither of these amenities have any links to the provision of pharmaceutical services by our client at present.

1.16 To the west of the current location is a small retail park area, comprising a McDonalds 'drive-thru', an Aldi supermarket and a Home Bargains store to the south of Anlaby Road and an Iceland supermarket and a carpet store to the north of Anlaby Road. The nature of this retail park setting, which provides extensive free parking, is that many of the shoppers accessing these stores do so by car.

1.17 The area surrounding the current and proposed locations is largely residential in nature and typically consists of terraced properties or flats. We discuss the demographic profile of the area later.

1.18 The nature of the area can be seen in the image below where the current location is marked with a green star and the proposed location with a red star. [Photograph provided]

1.19 The area is very flat, as can be seen from the topographic map below, where the existing site is again marked with a green star and the proposed location with a red star. As this map shows, the whole of the West Hull area is essentially

at the same elevation i.e. there are no noticeable gradients throughout the area including in-between the current and proposed sites. [Map provided]

1.20 There are dropped kerbs, wide pavements, dedicated pedestrian crossings and street lighting throughout the area.

1.21 The proposed site is located within the recently constructed West Hull Health Hub building, approximately 750m, in a straight line, to the north-west of the existing premises. The area is largely residential in nature and there is recent new residential development to the immediate north of the Health Hub site. Other amenities nearby include a fire station and an army reserve centre to the south and, a little further to the north, The Calvert Centre, which is home to the Haxby Group Calvert GP surgery at present.

1.22 The West Hull Health Hub is currently home to The Modality Partnership GP practice. It is a two-storey building which has 32 clinical rooms, including GP and nurse consulting rooms, treatment rooms, clinical support spaces and office accommodation, as well as a reception and waiting area, a wheelchair accessible lift, baby changing area and buggy parking and adjacent car park. This modern facility will ensure 'fit for the future' provision of Primary Care to residents of West Hull and would benefit significantly from a co-located community pharmacy, which will also be easily accessible from the Calvery Centre.

1.23 *The journey between the two sites*

1.24 Whilst Regulation 24 does not require the ICB to have specific regard to the distance or journey between the sites, this information is useful, not least because it allows the decision maker to have regard to patients whose journey takes them past the existing location on the way to the proposed location. This, therefore, illustrates the <u>maximum</u> additional distance any person may need to travel to access the proposed site. [Applicant's emphasis]

1.25 It is noteworthy in this case that many of the patients who travel from home to our client's pharmacy live in the densely populated area between the existing and proposed locations, so they would clearly not walk to the existing pharmacy location first before walking to the proposed location. In that case their journey would be shorter than that described below.

1.26 <u>Pedestrians</u>

1.27 For those on foot, the journey from the existing premises to the proposed premises is a straightforward one as follows:

1.28 Leaving the pharmacy turn left and walk 180m in a westerly direction to the zebra crossing over Boothferry Road and cross over the road. Walk 30m to the north then cross to the northern side of Anlaby Road using another zebra crossing. Turn left then walk 400m in a north westerly direction to the junction with Calvert Road, then turn right. Use the traffic light-controlled crossing on the junction of Anlaby Road and Calvert Lane to cross to the western side of the road then turn right. Walk a further 200m in a northerly direction, then the proposed site can be found on the left-hand side.

1.29 The total distance on foot is 850m and takes approximately 12 minutes to walk as shown by the blue dotted line on the map below: [Map provided]

1.30 Public transport

1.31 For patients who use public transport to access pharmaceutical services, the nearest bus stop to the proposed location is 160m to the south on Calvert Lane, near the Fire Station. Bus route 56 stops here every 20 minutes.

1.32 Alternatively there is a bus stop on Anlaby Road, 250m to the south of the proposed location, which is served by numerous routes which travel along Anlaby Road every few minutes.

1.33 There is a bus stop within 50m of the current premises, that is served by route 56, as well as many of the routes that use the Anlaby Road stop nearest the proposed premises.

1.34 Whilst the journey from the bus stop to the proposed premises is slightly longer than the current journey from a bus stop, the incremental distance is only just over 100m so is unlikely to trouble any patient who is accustomed to using public transport to go about their daily business.

1.35 This short incremental distance from a bus stop clearly does not render the proposed location **significantly** less accessible.

1.36 Motorists

1.37 Patients accessing the current site by car typically park in bays along Anlaby Road or on sideroads such as Wheeler Street. Depending on exactly where they park, their journey to the pharmacy is likely to be between 30m and 200m. There are no dedicated disabled parking spaces.

1.38 The proposed site benefits from a large patient car park which incudes [sic] 7 spaces for blue badge holders. The pharmacy premises are located just a few metres away from this car park.

1.39 For patients who wish to drive between the two premises, this journey would take less than 5 minutes.

1.40 It is clear, therefore, that the proposed premises are slightly more accessible for motorists due to the availability of dedicated parking.

1.41 **Demographic Profile**

1.42 In terms of the local demographic profile, we have enclosed a report produced from the Office for National Statistics website, which allows the building of a custom area to analyse the demographic profile. We have therefore considered an area which encompasses both the existing and proposed sites (show on the map within the report), with a total population of 6,500 residents.

1.43 This data is summarised as follows

1.43.1 The area has lower than average levels of people whose mobility is limited by illness or disability. 15.9% of residents are disabled under the Equality Act compared to the national average of 17.3%.

1.43.2 Car ownership is slightly lower than average with 26.5% of homes having no car compared to the national average of 23.5%.

1.43.3 The age profile of residents shows that the number of residents over the age of 65 is lower than the national average for all age groups from 65 to 85+.

1.44 This profile suggests a local population that is relatively mobile. Can [sic] ownership is slightly below the national average, which is not surprising within an urban area, but levels of disability are lower than average, and the population is relatively young.

1.45 **Part 8 of the application form**

1.46 **Regulation 24(1)(a)** requires the ICB to consider whether:

1.47 *"for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible"*

1.48 We are required, therefore, to consider the patient groups who use the existing pharmacy and the impact of the relocation on each of them to ensure that the proposed location is not significantly less accessible.

1.49 NHS Resolution has produced a guidance note for use by its committees in respect of applications made under Regulation 24. This note gives specific consideration to the matter of patient groups and accessibility. In a recent judicial review of an application made under this regulation, Mr Justice Langstaff stated that he was broadly in agreement with the approach set out in this guidance note. Furthermore, he stated that patient groups should be defined in such a way that the decision maker can assess the impact of the proposed relocation on accessibility for those patient groups. For that reason, patient groups should not be defined arbitrarily but according to how and why people access pharmaceutical services.

1.50 Whilst the guidance note is not prescriptive in respect of patient groups, the following are provided as illustrations of matters that may be taken into account when defining them:

1.50.1 local GP practices;

1.50.2 methods of travel (on foot, by car, or public transport);

1.50.3 types of pharmaceutical services accessed (dispensing/collection and delivery);

1.50.4 the location of the patient group's geographic starting point of the journey to the pharmacy;

1.50.5 demography;

1.50.6 care homes; and/or

1.50.7 areas of deprivation

1.51 Taking these factors into account our client's proposed patient groups are as follows:

1.51.1 Patients receiving a delivery service.

1.51.2 Patients attending The Kingston Medical Group premises on Wheeler Street and subsequently seeking pharmaceutical services.

1.51.3 Patients attending other medical centres and subsequently seeking pharmaceutical services.

1.51.4 Patients who use the existing pharmacy location because it is close to home.

1.51.5 Patients who wish to access advanced or locally commissioned services from the pharmacy.

1.51.6 Patients who share protected characteristics.

1.52 For each of the patient groups we have considered the implications of the proposed relocation.

1.53 **1. Patients receiving a delivery service**

1.54 A proportion of the pharmacy's prescriptions are handled via a delivery service. This service includes patients whose repeat prescriptions are physically collected from local surgeries (now relatively few) and those whose prescriptions are issued via EPS.

1.55 For the avoidance of doubt these deliveries include patients whose medication is supplied in 'trays' as part of a DDS (domiciliary dosage system) and any resident in a care home who are unable to access the pharmacy in person.

1.56 For these people, the service will remain the same regardless of where they live. The collection/delivery service will remain unchanged as a result of this relocation.

1.57 It is clear, therefore, that for this patient group pharmaceutical services will remain as accessible as they are currently following the relocation.

1.58 We can also confirm that those other essential services that can be carried out through the delivery service (such as the collection of unwanted medication) will continue to be provided in the same manner after the relocation.

1.59 Patients receiving essential services that do not involve visiting the pharmacy in person (such as telephoning for public health, signposting or self-care

advice) will also continue to receive these services in exactly the same way from the new premises.

1.60 Finally, patients who receive essential services face-to-face will belong to one of the other patient groups that have been identified and are therefore dealt with below.

1.61 **2. Patients attending The Kingston Medical Group premises on Wheeler Street and subsequently seeking pharmaceutical services.**

1.62 We have considered the dispensing breakdown for our client's pharmacy for the latest month for which there is data publicly available (May 2025). This shows that 6,612 out of 11,744 items dispensed (56.3%) originated from The Kingston Medical Group. This is by far the largest source of prescriptions for our client's pharmacy.

1.63 As discussed earlier, the key purpose of this proposed relocation is to maintain the proximity between our client's pharmacy and this medical centre. At present the surgery is 50m from the pharmacy. If this application is approved the pharmacy will be located approximately 250m from this surgery, but it will still be significantly closer at this proposed site than it would be if the pharmacy does not relocate.

1.64 So whilst patients in this group will have slightly further to travel from the surgery to our client's pharmacy (250m instead of 50m), if the pharmacy does not relocate, these patients will have to travel 1.1km to our client's pharmacy from the new surgery site.

1.65 In any event, it is clear that regardless of their means of travel, an incremental distance of just 200m will not render the proposed premises significantly less accessible in the context of the surgery relocation.

1.66 **3. Patients attending other medical centres and subsequently seeking pharmaceutical services.**

1.67 No other medical centre accounts for more than 10% of the items dispensed by our client's pharmacy.

1.68 The second largest source of prescriptions for our client's pharmacy is Dr Galea and Partners at Oaks Medical Centre, Council Avenue, Hull, HU4 6RF, which contributes 8% of the items dispensed. This surgery is located 1.1 miles away on foot from the current location, to the south-west. The distance from this surgery to the proposed location is 1.2 miles, so there is no material difference in the distance. Clearly a patient who is able to travel 1.1 miles will not be troubled by a further 0.1 mile to access the proposed premises whatever means of transport they use.

1.69 There are two other surgeries (excluding West Hull Health Hub) that are located within half a mile of the current location. These are both located within Newington Health Centre which is located 420m to the east of the current premises, but they contribute less than 2% of all items dispensed, as there are other pharmacies closer. A negligible number of these prescriptions are acute

items; the vast majority are repeat items dispensed for patients who live closer to the current premises than to other pharmacies (so form part of patient group 4).

1.70 Whilst the proposed location will be 850m further away for these patients, for the reasons we have provided earlier, this does not render the proposed premises **significantly** less accessible. [Applicant's emphasis]

1.71 Other medical centres are located even further away from the current premises and account for very small numbers of items being dispensed by our client's pharmacy. For the reasons provided already, the relocation will not make a material difference for these patients, regardless of how they travel.

1.72 Some of these other medical centres are closer to the proposed site and others are further away but given the accessibility of the proposed site, as discussed above, we submit that patients attending one of these other medical centres will not find the proposed location significantly less accessible

1.73 **4. Patients who use the existing pharmacy location because it is close to home.**

1.74 As a preliminary point, we reiterate that this application is being made in response to the proposed relocation of the Kingston Health Medical Group surgery. There is clearly a very significant overlap between the patients who are registered with this medical centre and those who attend our client's pharmacy, given the proximity of the two premises.

1.75 The partners of the practice have given careful consideration to the impact of the proposed relocation on their patients and have concluded that there will be no issues with the accessibility of the proposed new site compared to the existing site.

1.76 As discussed earlier West Hull is a predominantly residential area. People currently travel to the existing premises from all directions.

1.77 It is likely that patients travel from their homes either by motor car, public transport or on foot.

1.78 For those who travel by the car, they will not find the proposed premises any less accessible than the current ones. The two premises are approximately 850m apart. There is free parking provided at the proposed site and regardless of where they travel from and where they park, the distance to the proposed location is unlikely to be materially different to their journey to the existing location. As this is a residential area traffic congestion is not an issue, so motorists are able to easily travel throughout West Hull.

1.79 Buses travel throughout the area every few minutes and there are bus stops within a short distance of both the existing and proposed locations. Many patients attending the new site will use the same bus route and will find that the journey is very short.

1.80 For those on foot the proposed location may be slightly closer to home for some and it may be slightly further away for others. However, given that local residents live throughout the area, for this patient group as a whole the new location is not significantly less accessible. Regardless of where patients live, the *maximum* incremental distance they would be required to travel to the proposed site is 850m (assuming their journey takes them past the existing site on the way).

1.81 The proposed and existing premises are relatively close together, so that the walk between them takes only 12 minutes. The pavements are wide, well maintained and there is extensive street lighting throughout making them easily accessible for the elderly, people with prams and for those with mobility scooters etc.

1.82 It is important to remember that the Regulations require the decision maker to consider the effect of the proposed relocation on patient groups, not individual patients. So whilst there will be some people who live very close to the existing premises that will clearly have further to travel, this is not the case for the patient group *overall*. [Applicant's emphasis]

1.83 This modest distance does not render the proposed location significantly less accessible than the existing location.

1.84 **5. Patients who wish to access advanced or locally commissioned services from the pharmacy**

1.85 Patients accessing the pharmacy for the New Medicines Service (NMS) will fall into one of the other patient groups already described as they will already be receiving dispensing services from the pharmacy.

1.86 For patients wishing to access the other services offered at the current premises, the proximity of the proposed premises is such that they will be able to access the services in exactly the same manner. The pharmacy will be open for the same hours and the new premises will be close to the existing premises.

1.87 Regardless of where patients in this group come from and how they access the pharmacy there is no reason to believe they will find the proposed location significantly less accessible for the reasons we have described in relation to other patient groups.

1.88 **6. Patients who share protected characteristics**

1.89 Every person shares at least one protected characteristic, i.e. they belong to a group that distinguishes them by age, race or any other characteristic. More commonly, however, this relates to those who may be elderly, infirm or disabled as these are characteristics that impact on accessibility.

1.90 As we have described earlier, the proposed location is accessible for users of public transport, being located a short distance from bus stops and with the benefit of zebra crossings where necessary. Buses running throughout the area are accessible to wheelchair users.

1.91 For motorists, ‘blue badge’ holders can park easily in the Health Hub car park.

1.92 For those who currently access the existing pharmacy ‘on foot’, by wheelchair or mobility scooter, either from their homes or elsewhere, the journey to the new premises benefits from wide pavements, controlled crossings, dropped kerbs and tactile pavements so these patients are able to move around the area without undue difficulty. Those whose mobility difficulties are more significant do not visit the existing premises ‘on foot’ anyway as they are more likely to travel by car / public transport or to use the delivery service.

1.93 In summary, therefore, on Regulation 24(1)(a), there is no patient group that would find the proposed location significantly less accessible.

1.94 **Regulation 24(1)(b)** requires the ICB to consider whether:

1.95 *“in the opinion of the NHSCB, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list—*

(i) in any part of the area of HWB1, or

(ii) in a controlled locality in the area of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;”

1.96 In our opinion it is clear that granting this application will not result in a significant change to the arrangements currently in place. The proposed relocation is such a short distance that it is unlikely to have a material effect on the provision of pharmaceutical services by other contractors on the area.

1.97 The existing and proposed premises are within a short distance of each other, and the existing services and opening hours will be maintained.

1.98 As the distance between the sites is short there is no reason to believe that dispensing patterns in the area will be affected in any significant way as a result of this relocation.

1.99 Patient groups accessing pharmaceutical services in the area will still be able to access them in the same way so there is no reason to suggest that this relocation it will result in a significant change to the arrangements in place.

1.100 **Regulation 24(1)(c)** requires the ICB to consider whether:

1.101 *“the NHSCB is satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB”.*

1.102 We have been unable to find any plans relating to future pharmaceutical services in the area, whether belonging to the local authority, NHS England or any other commissioner of pharmaceutical services, that would be affected in any way by granting this application.

1.103 **Conclusion**

1.104 In conclusion, for the reasons we have provided above, none of the patient groups accustomed to accessing pharmaceutical services at the current pharmacy premises will find the proposed location significantly less accessible.

1.105 We therefore urge the ICB to grant this application accordingly and we, and our clients, would wish to attend an oral hearing should one be convened."

1.106 [Supporting information at Appendices A and B for Committee]

2 Comments to the Commissioner

On reviewing the paperwork provided by PCSE, it was noted that the comments made by the Applicant in response 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 "Thank you for your letter dated 24th November 2025 enclosing third party comments in respect of the above application.

2.2 We continue to act for the applicant, Sutton Manor Pharma Services Limited, and wish to make the following comments in response:

2.3 Community Pharmacy Humber (LPC) – letter dated 21st November

2.4 We note that the LPC neither supports nor objects to our client's application.

2.5 We further note that the LPC committee "had some concerns about the detailed information needed to make an informed decision" and that "it felt there was not enough descriptive information to make a definitive decision on endorsement either way".

2.6 Unfortunately the letter does not explain exactly where they would have liked further information, so we have focussed, at this stage, on the specific points raised by the LPC in their letter.

2.7 The LPC comment that the information provided focuses on the residents between the current and proposed sites. Whilst that is the case in respect of demographic data, our client has clearly defined the relevant patient groups in respect of this application, as required by the Regulations, and described how these groups would be impacted by the proposed relocation.

2.8 This is a densely populated area and there are two other pharmacies within 0.3 miles of our client's current premises. Both of these pharmacies (Anlaby Road Pharmacy at 442 Anlaby Road & Newington Pharmacy at 525 Anlaby Road) are located to the east of our client's current premises. Patients living in areas to the east therefore typically use one of those two pharmacies.

2.9 Similarly, patients who live to the south-west of the current location typically access Boots at 143 Askew Ave, and those living to the south gravitate to Asda in Hessle, where many will do their supermarket shopping.

2.10 The map below shows the distribution of other pharmacies around our client's current site (which is marked with a red pointer). [Map provided]

2.11 As a result of the extensive provision on this side of Hull, patients tend not to travel great distances to pharmacies, as they have access to them relatively close to home. For this reason, the information we have provided in respect of patients is for those people who live close to the existing site and in the area between the two sites, where there is currently no service provision.

2.12 These are the people most likely to use our client's pharmacy at present, and therefore these are the people described in our client's patient group 4 (patients who use the existing pharmacy location because it is close to home).

2.13 The LPC go on to mention the railway line between the two sites which they state "funnels all travel whether on foot or by car, into one route".

2.14 We remind the ICB, as we have discussed in our client's application, that the Regulations do not require it to specifically consider the journey or the distance between the sites (albeit we have provided this information to assist the committee in considering those patients whose journey takes them past the existing premises).

2.15 However, we would also point out that Anlaby Road, which is shown in the image provided by the LPC, is one of the main routes heading west out of the city, and local residents use this all the time when going about their daily lives, including accessing the amenities they require. Furthermore, as the image of the railway underpass provided clearly shows, the railway does not form a barrier to movement for cars or pedestrians, as the road and pavements are wide at this point, and street lighting is provided.

2.16 We submit that the fact there is a railway crossing between the two sites does not result in the proposed premises being **significantly** less accessible. [Applicant's emphasis]

2.17 <u>Brocklehurst Chemists - undated letter</u>

2.18 As a preliminary point, we note the comment from Brocklehurst that their Willerby Road pharmacy is currently "temporarily relocated to Calvert HC".

2.19 The usual premises for their pharmacy are 1.3km away from our client's proposed site, so whilst the proposed relocation will take our client's pharmacy to within 250m of Brocklehurst's *temporary* premises, given that the temporary listing is only permitted for a maximum of 6 months, that pharmacy will have moved back to its usual location before our client's relocation takes effect.

2.20 Addressing the specific points raised by Brocklehurst:

2.21 It is stated that the pharmacy will be relocating to a different ward. Whilst this may be the case, we submit that ward boundaries do not have any 'real-world' implications for how patients go about their daily lives. Most residents would have no awareness of which ward they live in, never mind where the boundaries of that ward might be. For the reasons we have provided previously, patients can easily travel between the existing and proposed locations should they need to, and this journey will not be impacted in any way by ward boundaries.

2.22 We also dispute the suggestion that the relocation will "leave a gap" in the ward currently served by our client's pharmacy. As discussed earlier, there are two other pharmacies within 0.3 miles of our client's existing premises and they are located in the same ward as our client's pharmacy.

2.23 We note the comment from Brocklehurst that "Modality prescriptions account for only 5% of their total monthly items". Whilst this may be the case, the legal test is in respect of accessibility for patient groups that are accustomed to accessing the pharmacy in its current location. The decision-maker is not required to consider patients who do not access the pharmacy currently.

2.24 Whilst it may be the case that *some* patients who are currently registered with the Modality GP practice could choose to have acute prescriptions dispensed at a co-located pharmacy, the majority of prescriptions dispensed are for repeat items, and patients are more likely to nominate a pharmacy closer to their home for their regular medication. For those who live near Brocklehurst at present, there is no reason for them to change their nomination.

2.25 As discussed in our client's application, the key reason for the proposed relocation is the planned Kingston Medical Group surgery relocation and the desire to retain this close working relationship for the benefit of patients.

2.26 We note the comments made by Brocklehurst in respect of viability. Regulation 24(1)(b) requires the ICB to be satisfied that "granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services".

2.27 It is for those arguing that there will be a 'significant change to the arrangements' to provide evidence to support their case, not for the applicant to prove otherwise. The bar in this respect is set very high. For a significant change to occur, not only would one or more pharmacies have to close (as a result of the relocation taking place) but the effect of those closures would have to be to significant impact on the ability for patients to access pharmaceutical services.

2.28 Whilst we refute the suggestion that *any* pharmacy would be at risk of closure following the relocation of our client's pharmacy, even in the highly unlikely event this happened, pharmaceutical services would be provided at our client's proposed premises, as well as Boots nearby, so there would be no 'significant change to the arrangements' in that case. There are no pharmaceutical services that are provided by Brocklehurst that are not also provided by other pharmacies in the area.

2.29 We submit that the information submitted by Brocklehurst falls a long way short of demonstrating that there would be a significant change to the arrangements in place for the provision of pharmaceutical services.

2.30 Boots – letter dated 21st November

2.31 Boots start by commenting on the distance between the two sites. To clarify, page 4 of the supporting document states that the distance 'in a straight line between the sites' is 750m and page 5 states that the distance using the 'shortest practicable route' is 850m. Both measurements are correct.

2.32 Boots then go on to discuss our use of the term 'short distance', but this is of course, a subjective term. For the reasons provided within our client's application, we maintain that the distance is short in the context of the local topography, the availability of public transport, the ease of car parking at the proposed site and the lack of any barriers to pedestrians who wish to access that site.

2.33 Boots go on to state that "many patient groups would find an additional journey of such a distance in fact quite considerable". It appears that Boots wish to define additional patient groups to those provided within our client's application, but they have not actually done so. If they felt that there were other patient groups that had not been mentioned for whom the proposed distance could not be considered 'short' then they should have defined these patient groups and explained the reasons for their comments. They have not done this.

2.34 We note the comments made by Boots in respect of the plans for the Kingston Medical Group to move premises. The ICB will be fully aware of the proposal by this medical group, and whilst clearly it is required to formally consult with its patients, the ICB will know that the plans are well advanced. It is our client's position that it is highly likely this surgery relocation will take place.

2.35 Whilst it is correct to say that comments from the surgery acknowledge that some patients living close to the current site might be impacted, this is not the same as considering the legal tests set out in regulation 24. For the reasons we have provided previously it remains our client's position that the proposed location is not **significantly** less accessible. [Applicant's emphasis]

2.36 As discussed within our client's application, it is inevitable that for any relocation the proposed site will be closer to home for some people and further away for others. It is for this reason that the regulations require the decision maker to consider the impact on patient groups, not individual patients. We disagree with Boots that there is a specific patient group that would find the proposed location to be significantly less accessible overall. [Applicant's emphasis]

2.37 We note the comments made by Boots in respect of the geographical relationship between GP practices and pharmacies, and to some extent we agree with these comments. It is often the case that patients visit a pharmacy without the need to visit GP surgery first. However, the comment made by Boots that "the relocation of a GP practice does not mean that a supporting pharmacy should be permitted to move with it" misunderstands our client's application. Whilst the context for the application is the planned medical centre

move, regardless of this for the reasons we have provided previously, the legal tests set out in regulation 24 are met regardless of what happens to the Kingston Medical Group surgery.

2.38 It is not correct for Boots to say “there are no other facilities near the Calvert Lane Medical Practice”. That building is within 150m of a Heron Foods supermarket and a parade of shops at the junction of Calvert Lane and Spring Bank West, where there is a range of shops, including Boots.

2.39 The comments made by Boots about parking arrangements are not correct. It is clear that the proposed site, which has its own dedicated car park including blue badge spaces, has better parking than the existing location which is situated on the main road.

2.40 Even if patients were permitted to park at the retail park to use our client's current premises (which they are not), the distance to the pharmacy from these retail park spaces is greater than it will be from the car park at the proposed site.

2.41 Boots then go on to discuss the “feel” of Anlaby Road compared to Calvert Lane. Whether or not this is the case, it has no bearing on the regulatory tests. Boots state that those people who live in and around CalvertLlane [sic] do not consider themselves to be ‘neighbours’ of those on Anlaby Road. This might have been a relevant consideration prior to 2012, when the regulations required the decision maker to consider ‘neighbourhoods’, but it is now more than a decade since the current regulations came into force, and the legal tests are very different. The decision maker is required to consider whether the proposed location is significantly less accessible, not whether it is within the same neighbourhood.

2.42 In respect of ‘patients who live or will start their journeys further away’ we have addressed this point already when discussing the comments made by the LPC. Even for those patients whose journey does take them past the existing premises on the way to the proposed premises, we maintain our position that the ease of this journey is such that the proposed site is not significantly less accessible.

2.43 We have no additional comments to make at this time, but should the ICB wish to convene an oral hearing to determine this application, our client would wish to attend.”

2.44 [Supporting information at Appendix C for Committee]

3 The Decision

The Commissioner considered and decided to grant the application. The decision letter dated 3 February 2026 states:

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

3.2 Enclosed is a template of the notice of commencement which you are required to submit to us. Please note that if this is submitted before the end of the 30 day appeal period and a valid notice of appeal is then received by the Secretary of State, the notice of commencement will cease to have effect. This means that if you have relocated to your new premises then you will be required to close with immediate effect and move back to your current premises.

3.3 Please note that you must submit the notice of commencement no fewer than 30 days before the date you intend to start service provision at your new premises. If it is received fewer than 30 days in advance it is not a valid notice of commencement and will not be accepted by Humber and North Yorkshire ICB unless you successfully ask to give a shorter notice period. Should you wish to ask to give a shorter notice period please complete the enclosed application form."

[Any reference to 'Committee' in this section is not to be confused with the Pharmacy Appeals Committee of NHS Resolution]

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

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

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

3.7 While some members initially raised concerns regarding the identification of affected patient groups and the assessment of impacts, additional clarification was subsequently provided following the meeting of **17 December 2025**, including further evidence from stakeholder representations and Appendix 1a. Upon this additional assurance, PSRC members confirmed virtually that the criteria were met and therefore **approved the NSCR relocation application**, subject to the expectation that continuity of access and minimal service disruption are maintained throughout the transition

3.8 As the application was granted, and those who submitted representations were in support of the application, there are no appeal rights."

3.9 [PSRC report and Minutes at Appendices D and E for Committee]

4 The Appeals

In a letter dated 27 February 2026 addressed to NHS Resolution, Boots UK Ltd appealed against the Commissioner's decision. The grounds of appeal are:

4.1 “Boots UK Ltd wishes to appeal the decision of the Humber and North Yorkshire ICB to grant the above relocation application.

4.2 **Procedural Grounds**

4.3 Our initial grounds of appeal were that the ICB failed to grant us the appeal rights to which we were entitled. We received a decision letter dated 3 February 2026 from PCSE stating that no appeal rights were awarded because no contractor had submitted an objection. This was incorrect. Boots UK Ltd submitted a timely letter of objection to PCSE, well within the period set out in Schedule 3, Part 1, Paragraph 1 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

4.4 The ICB did not comply with Schedule 3, Part 2, Paragraph 3(b) of the Regulations. As a contractor who submitted representations, we were required to be notified of the decision and provided with the information necessary to exercise our right of appeal. The original decision letter failed to grant appeal rights to any interested party and was dated 29 November 2025, a date that appears to be incorrect.

4.5 After this error was raised, PCSE issued a further letter on 17 February 2026 acknowledging third-party appeal rights. However, this second letter did not include an official letter from PCSE and therefore did not specify any appeal time limits, creating uncertainty as to whether the 30-day period restarted or was intended to run from the original, defective notification.

4.6 We have now received a further revised letter from PCSE dated 23 February 2026, accompanied by a new ICB decision letter dated 24 February 2026. Both were received together on 24 February. This inconsistency in dates further added to the confusion created by the earlier notification errors.

4.7 Although the most recent letter finally confirmed our right of appeal—suggesting a deadline of 25 March 2026—we are submitting this appeal within the original timeframe ending 5 March 2026 to avoid any uncertainty arising from the ICB’s incorrect and inconsistent notification process.

4.8 **Substantive Grounds**

4.9 We believe the ICB’s decision is flawed because the committee did not properly consider the application or the regulatory criteria set out in Regulation 24 of the 2013 Regulations.

4.10 The decision report, presented as a short letter, makes no reference to the points raised by the LPC or by interested parties, including Boots UK Ltd. This strongly suggests that these representations were not taken into account and that the impact on existing contractors was not properly considered. The report is extremely brief and does not demonstrate how the ICB reached its decision, falling short of the requirement to consider all relevant representations and provide clear, reasoned justification.

4.11 Patient groups, despite the applicant considering them within their application, are not referred to within the decision, and there is no evidence to lead us to

believe that all these patient groups will not find the new location significantly less accessible.

4.12 The failure to reference our comments regarding the distance between the current and proposed premises—850 metres, compared with the applicant's inconsistent distances of 750 and 850 metres—is significant and the distance should have been agreed in order to go on to determine the application. We do not accept the applicant's assertion that this constitutes "such a short distance." For many patient groups, including older people, those with mobility issues, parents with young children, and those reliant on public transport, an additional 850-metre journey is considerable. The applicant's repeated emphasis that the distance is "short" underestimates the real impact on patients who currently rely on the pharmacy at its existing location.

4.13 The failure to acknowledge our comments regarding Kingston Medical Group's patient feedback exercise also suggests that these points were dismissed. The consultation materials explicitly state that the proposed surgery move "would impact those patients living close to our current site more," and that some patients may choose to register elsewhere. This is a clear admission that the relocation will significantly affect certain patient groups. It follows that relocating the pharmacy away from the same community will also have a significant impact on those patients who currently access both services in the Anlaby Road area.

4.14 The decision report states that some committee members initially raised concerns about affected patient groups and that additional clarification was provided following a meeting on 17 December 2025, including further evidence and "Appendix 1a." We are not aware of any such additional information being submitted, nor was any of it circulated to interested parties as required. The initial application consisted of 13 pages of additional information, yet some members raised concerns regarding patient groups. What additional information could have been provided to quickly satisfy these, when substantial information had already been provided?

4.15 We also question the nature of the referenced meeting and whether any stakeholders—particularly the applicant—were invited to attend. Is this reference to the PSRC meeting? The lack of transparency around this meeting and the undisclosed material raises serious concerns about the fairness and completeness of the decision-making process.

4.16 If any additional stakeholder evidence was provided, it should have been circulated to all interested parties for comment, particularly as it appears to have influenced the views of some committee members. If the applicant was invited to, and attended, a meeting where such information was discussed, this should have been conducted as a formal ICB hearing and open to all parties. The failure to disclose this material or provide equal opportunity to participate raises serious concerns about procedural fairness. Interested parties may have been able to provide evidence to the contrary, and the committee's decision may have been different.

4.17 **Conclusion**

4.18 NHS Resolution guidance note in relation to Regulation 24(1) of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 states the following:

4.19 When considering the application of Regulation 24(1)(a), the Committee should:

4.19.1 ensure that all comments on patient groups (whether or not the term patient group is used) and any comments on accessibility are considered and given appropriate weight.

4.19.2 be satisfied that the information before it is sufficient to enable the Committee to assess and be satisfied as to the effects of relocation on different patient groups; and

4.19.3 set out clear reasoning why the Committee is or is not satisfied that for a particular patient group the test in Regulation 24(1)(a) is met.

4.20 The Committee is required to give reasons for its decision. The determination must therefore explain whether the Committee is satisfied, acting reasonably and on the basis of the information provided by all parties, that the test in Regulation 24(1)(a) is met.

4.21 We believe that the above has not been considered, in particular that relating to giving full reasoning for its decision.

4.22 Boots UK Ltd submit that the relocation, if granted, would result in a significant change for patients accustomed to accessing the pharmacy at its current location, and that the criteria set out in Regulation 24(1)(a) has not been fully considered or satisfied. We therefore respectfully request that this appeal be upheld and the original application refused.

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

In a letter dated 1 March 2026 addressed to NHS Resolution, Brocklehurst Chemist appealed against the Commissioner's decision. The grounds of appeal are:

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

4.25 In your letter dated 13th February 2026, I was informed that there is a 30-day window to appeal, counting from the initial notification received on 3rd February 2026. This means the deadline for appeal is 5th March 2026.

4.26 Subsequently, I received two further letters from Humber and North Yorkshire ICB. The first, dated 17th February 2026, advised that Brocklehurst Chemist had been granted appeal rights, but did not specify any timescales. The second, dated 24th February 2026, confirmed that appeal rights had been granted and that there is a 30-day period to appeal from the 24th February 2026.

4.27 Given these conflicting timescales for appeal, I am submitting this letter prior to the 5th March 2026 to avoid any confusion regarding the appeal process.

4.28 All three letters received from Humber and North Yorkshire ICB contain a short paragraph stating that the Pharmaceutical Services Committee (PSRC) concluded that no nearby pharmacies would be adversely affected and that patient accessibility remains satisfactory with good transport links.

4.29 When considering the application of Regulation 24(1)(a), the Committee should:

4.29.1 Ensure that all comments relating to patient groups (regardless of whether the term "patient group" is specifically used) and any comments on accessibility are considered and given appropriate weight.

4.29.2 Be satisfied that the information before it is sufficient to enable the Committee to assess and be satisfied as to the effects of relocation on different patient groups.

4.29.3 Provide clear reasoning for whether the Committee is or is not satisfied that, for a particular patient group, the test in Regulation 24(1)(a) is met.

4.30 The Committee is required to give reasons for its decision. The determination must therefore explain whether the Committee is satisfied, acting reasonably and based on the information provided by all parties, that the test in Regulation 24(1)(a) has been met.

4.31 There is no reasoned justification provided to confirm that the Committee considered all patient groups, nor is there evidence that concerns raised in the representations submitted by ourselves, the LPC and Boots UK were taken into account, including the impact on patient groups and existing contractors.

4.32 In fact, the letter states that some members of the PSRC raised concerns regarding the identification of affected patient groups and the assessment of impacts. Further evidence was then shared from stakeholder representations “Appendix 1a”, which allowed the Committee to agree virtually that the criteria were met. However, this further evidence has not been made available to parties who submitted representation or justification provided for how this evidence ensured that the test in Regulation 24(1)(a) was then met.

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

5 Summary of Representations

This is a summary of representations received on the appeal.

5.1 Pharmacy Sales and Consultancy, of behalf of the Applicant

5.1.1 “Thank you for your letter dated 10th March 2026 informing us that the decision of the Yorkshire & The Humber Pharmaceutical Services

Regulations Committee ("PSRC") to grant the application above has been appealed by Boots UK Limited and Brocklehurst Chemists Limited.

5.1.2 We act for the applicant, Sutton Manor Pharma Services Limited, t/a JE Mackenzie Pharmacy, and have previously provided a letter of authorisation confirming our instructions in this matter.

5.1.3 On behalf of our client we wish to respond to these appeals accordingly.

5.1.4 **Preliminary matter**

5.1.5 As a preliminary matter, we note that both appellants also submitted appeals against the failure of NHS England to grant them third-party appeal rights against the approval. We note that those appeals have been upheld, so we have no further comments to make on that matter.

5.1.6 **Substantive appeals**

5.1.7 As there are similarities between the appeals, we respond to the points made the appellants in general terms and ask the Primary Care Appeals Committee ("the Committee") to consider our responses broadly in the context of both appeals. Where the appellants make different points, we refer to these specifically.

5.1.8 **The Committee's approach to considering these appeals**

5.1.9 We are mindful of the guidance note provided by NHS Resolution to parties involved in pharmacy market entry appeals (https://resolution.nhs.uk/wp-content/uploads/2018/10/NHSR-Pharmacy-Appeals-Guidance-Note-Aug-2023-3.pdf).

5.1.10 Paragraph 6 of the note discusses the role of the Committee in considering appeals, and states:

5.1.10.1 *"NHS Resolution determines appeals by way of confirmation of the original decision, redetermination of an application (or substitution of a decision) or remission to the original decision maker.* ***It does not conduct a 'review' of the original decision or decision making process".***

5.1.11 This is relevant because much of the substance of the appeals submitted in this case relates to the process followed by the PSRC in making its decision. Neither appellant has provided any meaningful or relevant new evidence to support its case that the conclusion reached by the PSRC in approving the application was wrong.

5.1.12 For example, the points raised by Brocklehurst Limited ("Brocklehurst") challenge the extent to which the PSRC explained the reasons for its decision, its limited explanation of how it considered all patient groups and the extent to which it took into account comments from objectors. They also challenge the PSRC's process in respect of re-visiting the

matter of patient groups after the meeting had concluded and reaching agreement "virtually" that the regulatory tests had been met.

5.1.13 Brocklehurst provide no evidence that suggests the PSRC **did not** properly consider these tests, they simply refer to the fact the PSRC did not explain its rationale in its decision letter.

5.1.14 Similarly, Boots UK Limited ("Boots") make the statement that "*the [ICB] committee did not properly consider the application or the regulatory criteria set out in Regulation 24 of the 2013 Regulations*", without providing any evidence to support this assertion. Whilst it may have been helpful for the decision letter to have provided more detail, we note that NHS Resolution has provided a copy of the PSRC's report and meeting minutes, and we comment on these further below. It is clear from these documents that, contrary to Boots' claims, the PSRC did consider all matters it was required to consider when determining this application.

5.1.15 Boots question the PSRC's consideration of patient groups and state "*there is no evidence to lead us to believe that all these patient groups will not find the new location significantly less accessible*". It is noteworthy that Boots provide no new evidence whatsoever to support its position that this may be the case.

5.1.16 In respect of Boots comments as to whether the distance between the existing and proposed sites is 750m or 850m, this is irrelevant. As the Committee will be aware, regulation 24 makes no reference to the distance between the existing and proposed sites and the decision maker is not required to make a determination in respect of the exact distance. However, for the avoidance of doubt, as set out in our client's '14 day comments' we are happy to accept that the distance by the shortest practicable route is approximately 850m as measured using Google maps, notwithstanding our position that Committee's decision will be no different whether the distance is 750m or 850m.

5.1.17 With regard to the patient group query raised at the PSRC meeting and subsequently addressed prior to the decision being issued, we can confirm that our client was not invited to make any additional representations on this matter and was not invited to attend any meeting.

5.1.18 We discuss representations from the appellants further below when considering the relevant regulatory tests.

5.1.19 <u>Additional information provided by Primary Care Appeals</u>

5.1.20 We have been provided with several documents in addition to the letters of appeal and have been invited to comment on these.

5.1.21 Clearly we do not need to comment on the 'Applicant 14 day comments' as we submitted these, although we do wish to reserve the right to

respond to any comments submitted by other parties in respect of this document.

5.1.22 *Commissioner Report (redacted by NHSR)*

5.1.23 Contrary to the assertions made by Boots, and the doubt cast over the process by Brocklehurst, it is clear from this report that the PSRC considered all relevant matters it was required to consider when determining this application.

5.1.24 The Committee will read this document for itself, so we do not intend to repeat the information provided, but we note the following specifically:

5.1.24.1 The PSRC was mindful of the relevant regulations and guidance it was required to consider.

5.1.24.2 It accepted the evidence submitted by our client in respect of the accessibility of the proposed site, the local area & demographics and the impact of the relocation on patient groups.

5.1.24.3 It noted the responses submitted by third parties namely Boots, the LPC and Brocklehurst in full.

5.1.24.4 In respect of the objections raised by third parties, the report sets out the PSRC's responses to these points, demonstrating a rational and thorough analysis of the information presented, and its reasons for dismissing these concerns in the context of our client's application.

5.1.24.5 It found that Regulation 31 does not apply (and this is not disputed by any party).

5.1.24.6 It noted that, for the patient groups identified, the proposed location is not significantly less accessible, so the test in regulation 24(1)(a) is met.

5.1.24.7 The PSRC also noted that there was no reason to refuse the application in respect of any other part of regulation 24.

5.1.25 These additional tests in regulation 24 do not appear to be particularly contentious other than an unsubstantiated comment submitted by Brocklehurst. which claimed that granting the application "*will impact the financial viability of our pharmacy business*". As the burden of proof in respect of regulations 24(1)(b) & (c) rests with those claiming that a 'significant change' or 'significant detriment to proper planning' would arise through granting the application, in the absence of any evidence to support these claims the Committee is unlikely to find that the application should be refused in respect of these tests. This matter was addressed in our client's '14 day comments'.

5.1.26 *Commissioner Minutes (redacted by NHSR)*

5.1.27 We note that these minutes largely mirror the information provided in the Commissioner Report.

5.1.28 We also note that, at the meeting two committee members did not support the application simply because they felt more information was needed before a decision could be made. The minutes do not discuss the information that was felt to be missing but, as discussed earlier, we can confirm that no further information was sought from, or provided by, our client.

5.1.29 Our assumption, therefore, is that the additional evidence that is referred to in the minutes as having been considered subsequent to the meeting was provided by a member of the NHS England team. Regardless of how this information was collected, it is clear from the minutes that this additional evidence satisfied the members of the committee who had previously been unable to make a decision, and the application was granted accordingly.

5.1.30 Whilst the process of considering the applications appears to have been more drawn out than would ideally have been the case, it is evident from these documents that there was, in fact, a very thorough and robust consideration of this application by NHS England contrary to the assertions made by the appellants.

5.1.31 That being the case, the appellants' claims that the process was flawed is without merit.

5.1.32 Regulatory tests

5.1.33 *Regulation 31*

5.1.34 For the purposes of this response, we have assumed that regulation 31 is not contentious. However for the avoidance of doubt, we can confirm that there is no person included in the pharmaceutical list at, or adjacent to, the premises proposed in this application.

5.1.35 *Regulation 24(1)(a)*

5.1.36 Based on the third-party comments received, regulation 24(1)(a) is likely to provide greatest focus for the Committee when considering this application. This states:

24.—(1) Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to an application from a person already included in a pharmaceutical list to relocate to different premises in the area of the relevant HWB (HWB1) if—

(a) for the patient groups that are accustomed to accessing pharmaceutical services at or from the existing premises, the location of the new premises is not significantly less accessible;

5.1.37 Our client has already provided extensive evidence in respect of why its patient groups will not find the proposed location to be significantly less accessible. In the interests of avoiding unnecessary repetition, we do not intend to provide this information again in detail, but have enclosed a copy of the supporting information submitted with our client's application which deals with this question in full.

5.1.38 We also ask the Committee to also have regard to the '14 day comments' submitted by our client which responded to the matters raised in third-party representations.

5.1.39 Our client's previously submitted evidence is summarised as follows:

5.1.40 The demographic profile of the area in which the existing and proposed premises are located suggests a relatively young population with lower-than-average levels of disability. As a result, the vast majority of residents have little difficulty travelling around the area on foot.

5.1.41 The topography is flat, pavements are wide & well illuminated and dedicated pedestrian crossing points are provided over all major roads, by way of light-controlled crossings, pedestrian islands or zebra crossings. Dropped kerbs facilitate road crossing for patients in wheelchairs or using mobility scooters and tactile paving is provided for patients with visual impairments.

5.1.42 The only notable significant physical feature of the area is the railway line, which runs north / south in-between the existing and proposed sites over Anlaby Road. However, as shown in the image submitted by the LPC, this does not form a barrier to movement for patients as the Anlaby Road passes underneath the railway bridge, and there are wide pavements on both sides of the road allowing pedestrians to cross underneath the railway unhindered.

5.1.43 Whilst the majority of patients would have no reason to start their journey at the current location, the walk-time from here to the proposed location is only 12 minutes. To put this into context, in considering the accessibility of pharmaceutical services within Hull, the 2025 Hull PNA makes the following statement within the executive summary (on page 7):

5.1.44 *It was ascertained that all of Hull's residents lived within a 20-minute walk, 10-minute car journey including in rush hour, and a 15-minute public transport weekday journey of their nearest pharmacy. Nationally in October 2024, around eight in ten people lived within a 20-minute walk of their nearest pharmacy so travel times are shorter in Hull.*

5.1.45 It is noteworthy, therefore, that a 12-minute walk time is well within the 20-minute standard referred to in the PNA when considering what constitutes reasonable access. Taking this into account alongside the demographic profile of local residents and the geography of the area, for those residents willing and able to walk a relocation distance of 850m clearly does not render the pharmacy **significantly** less

accessible. Furthermore, given that many existing patients live in the area between the existing and proposed premises (for the reasons set out in our client's '14 day comments') the journey for many patients will be less than 12 minutes on foot.

5.1.46 Almost 3 in 4 residents have access to at least one car or van within their household. For these residents, the drive to the proposed premises will take a few minutes at most, even if they pass the existing premises en-route. Motorists will benefit from free patient parking at the proposed site, including dedicated 'blue badge' parking.

5.1.47 Residents who wish to use public transport can use one of the many bus routes that travel along Anlaby Road every few minutes to reach a stop within 250m of the proposed premises. Alternatively they can use bus route 56 which passes both the existing and proposed sites every 20 minutes and stops no more than 160m from the proposed premises.

5.1.48 For patients in wheelchairs or mobility scooters, physical access to the proposed premises will be significantly easier, with double electrically operated doors and level access compared to the existing traditional retail premises with a single, manually operated door.

5.1.49 In response to the LPC comments on our client's application, we provided evidence that the patients who attend our client's premises at present typically live either in the immediate proximity, or the area in between the existing and proposed sites. Those residents who live further to the east, who would theoretically have further to travel, tend to use the two other pharmacies further east along Anlaby Road, so are not accustomed to accessing our client's premises. Those living to the south typically access Asda in Hessle and those to the south-west use Boots on Askew Avenue.

5.1.50 In response to the Brocklehurst comments we challenged the notion that relocating from one ward to another had any 'real world' impact on patients whose daily lives were unlikely to be influenced by the location of administrative boundaries. We also pointed out that claims by Brocklehurst that the relocation would result in a 'gap' being left were incorrect, given that there are two other pharmacies on Anlaby Road, within 0.3 miles.

5.1.51 Furthermore, we made the point that Brocklehurst's claim that their pharmacy would become unviable if this application was granted is not evidenced and we note that they have not raised this matter further in their appeal. Should they seek to provide evidence of this in further representations we would wish to have the opportunity to comment on this.

5.1.52 In response to the comments made by Boots we corrected their misunderstanding about the distances provided in our client's supporting document to the application. We also challenged, and continue to challenge, their position that the distance from the existing to the proposed premises is such that this would render the proposed

location significantly less accessible. Boots referred to "*many patient groups*" but failed to define these. Should they do so in the future we would be happy to address their comments accordingly.

5.1.53 We also made the point that whilst there may be some individual patients who find that the proposed location is further away from them following the relocation, for the reasons we had provided, it is not significantly less accessible for **patient groups**. Additionally we clarified that, in our client's opinion, this application meets the requirements for a 'no significant change relocation' whether the nearby surgery relocates or not. The proposed surgery move was discussed by way of background and context rather than as supporting evidence in respect of regulation 24(1)(a).

5.1.54 Finally, in respect of Boots' comments, we confirmed that parking arrangements at the proposed location are better than the current arrangements and challenged the attempt by Boots to introduce the concept of the relocation being to a different neighbourhood, despite the fact this term has no regulatory relevance.

5.1.55 Returning to the substantive appeals, we note that Brocklehurst has provided no new information whatsoever in respect of regulation 24(1)(a), so our client has no further comments to make on that appeal. We wish to re-iterate that the substance of this appeal relates almost entirely to criticism of the process followed by the ICB.

5.1.56 In respect of the Boots appeal, again we invite the Committee to have little regard to the comments made about the decision-making process. We have addressed these matters previously, and the Committee will consider the application afresh in any event.

5.1.57 Boots refer to the feedback submitted by some of the Kingston Medical Group patients in response to the proposed surgery move, but we submit that patient perceptions in respect of the location of their GP surgery cannot be simply extrapolated to apply to pharmacy provision in the same way. For example, no information has been provided by Boots to suggest that the patients who have provided this feedback are patients at our client's pharmacy.

5.1.58 *Regulation 24 generally*

5.1.59 We have no further comments to make at this time in respect of other parts of regulation 24 other than to say we agree with the conclusions reached by the PSRC in their decision report.

5.1.60 <u>Conclusion</u>

5.1.61 In conclusion, our client's position is as follows:

5.1.61.1 Significant evidence has been provided by our client which demonstrates that the tests under regulation 24 have been met

and that the requirements for a 'no significant change relocation' have been complied with.

5.1.61.2 It is clear from the information provided by way of the Commissioner's report and minutes that, contrary to assertions made by the appellants, the PSCR did, in fact, carry out a thorough and robust assessment of the application and found that the regulatory tests had been met.

5.1.61.3 No relevant or substantive new evidence has been provided by the appellants that should lead the Committee to reach a different conclusion to NHS England.

5.1.62 In our opinion, this application can be approved without the need for an oral hearing. However, should Primary Care Appeals wish to convene an oral hearing to determine this matter, our client would wish to attend."

5.2 The Commissioner

5.2.1 "Thank you for your letter dated 10th of March 2026.

5.2.2 It is acknowledged that an administrative error occurred in the initial decision letter that was issued following the Yorkshire and Humber Pharmaceutical Services Regulations committee (PSRC) decision on 17/12/26, in that appeal rights were not given to those persons entitled to them under Schedule 3 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

5.2.3 Once identified, this error was rectified. Further correspondence was issued to those who had made representations and who therefore have appeal rights under paragraphs 1 and 2 of Schedule 3. That correspondence confirmed their right of appeal and provided details of the NHS Resolution appeals process. Therefore, the elements relating to appeal rights in the correspondence from Boots on 27th February 2026 and the correspondence received from Brocklehurst Chemist on 3rd February 2026 will not form part of this response as the errors made in relation to appeal rights have been rectified.

5.2.4 The Humber & North Yorkshire (HNY) Integrated Care Board (ICB) is satisfied that this procedural correction ensured compliance with Schedule 3 and that no party was deprived of, or disadvantaged in exercising, their statutory right of appeal.

5.2.5 As the application was not refused on Regulation 31, this will not form part of the response to the appeal which will focus on Regulation 24(1)(a) and the Equalities Act 2010. Any additional representations from HNY ICB will be made under the relevant section of the regulations or under a separate heading.

5.2.6 **Additional Clarification and "Appendix 1a"**

5.2.7 The reference in the PSRC minutes to "additional clarification" reflects PSRCs further internal consideration of information already submitted to PSRC as part of the application process, including stakeholder representations received during the statutory consultation period.

5.2.8 "Appendix 1a" (please see separate attachment) is the title the supplementary information which was given as part of the report writing process. To clarify no new evidence was submitted by the applicant outside the consultation process, and no undisclosed material was introduced that formed the basis of the decision.

5.2.9 The post meeting clarification did not constitute a new meeting, hearing, or decision-making forum, nor did it involve attendance by the applicant or any stakeholder. It served solely to document that, having revisited the representations and evidence already submitted, the Committee was satisfied that the Regulation 24(1)(a) test had been met.

5.2.10 As no new evidence was introduced, there was no requirement under the Regulations to re-circulate information to interested parties.

5.2.11 **In relation to Regulation 24(1), the matters to which consideration will be given are whether:**

5.2.12 **(a) for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible.**

5.2.13 The Yorkshire and Humber PSRC reviewed the No Significant Change Relocation (NSCR) application, the supporting report and all representations submitted during the statutory consultation period. The Committee's assessment was guided by Regulation 24(1) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, which directs consideration of whether the proposed relocation would significantly impact accessibility or service provision for residents within the affected area.

5.2.14 The application provided details regarding accessibility, continuity of services and the possible impact of the relocation on patients accustomed to accessing pharmaceutical services at the existing premises. In its determination under Regulation 24(1)(a), the PSRC was required to evaluate whether the relocation would lead to a significant change in the provision of services, including for various patient groups. The Committee’s review considered overall patient access, encompassing factors such as walking distance, transportation links, continuity of staff and services and the presence of alternative pharmacies in the locality.

5.2.15 The application proposed the relocation of the pharmacy to a site approximately 0.6 miles from its current location. This distance equates to less than a three minute drive or a twelve minute walk. The primary rationale for the move was the upcoming relocation of Kingston Health Medical Group who are currently responsible for approximately 56.3%

of the pharmacy's prescriptions to the Calvert Centre. By situating the pharmacy near the new medical practice, the applicant aimed to maintain close proximity for patients and enhance integrated care.

5.2.16 Patient groups identified in Appendix 1a (please see attachment) included those:

5.2.16.1 Receiving delivery services

5.2.16.2 Attending Kingston Medical Group and other GP practices

5.2.16.3 Accessing services on foot, by car and by public transport

5.2.16.4 Using advanced and locally commissioned services

5.2.16.5 Patients with protected characteristics.

5.2.17 For each group, Appendix 1a set out evidence that:

5.2.17.1 The maximum additional walking distance is approximately 850 metres (a 12-minute walk) via level, safe routes with controlled crossings

5.2.17.2 Public transport access remains available, with only a modest increase (about 100–160 metres) from bus stops

5.2.17.3 Car access is improved through seven dedicated blue badge spaces in on-site parking

5.2.17.4 Delivery services, opening hours, staffing, and other services remain unchanged.

5.2.18 Having reviewed all evidence, the PSRC was satisfied that no identified patient group would find the new premises significantly less accessible, thus meeting the test under Regulation 24(1)(a).

5.2.19 The Committee reviewed representations from Boots UK Ltd, Brocklehurst Chemists Ltd and the Humber Local Pharmaceutical Committee, acknowledging concerns about distance, accessibility, and patient impact.

5.2.20 These concerns were directly addressed in Appendix 1a, which was available to the Committee at the point of decision. The Committee was satisfied that this analysis sufficiently addressed the issues raised. While internal papers are not circulated, the reasoning and conclusions are set out in the decision report, confirming that the regulatory tests were met. The PSRC noted concerns about impact on other pharmacy contractors. Under Regulation 24, the test is whether granting the application would result in a significant reduction in patient access or a major change to service arrangements.

5.2.21 The Committee concluded that: The relocation is a short distance move within the same locality. Multiple other pharmacies are located within reasonable proximity. Services, hours and staffing at the applicant pharmacy remain unchanged. Any change in prescription flows does not constitute a significant change in pharmaceutical service provision under Regulation 24.

5.2.22 The PSRC concluded that the regulatory test was met and therefore the application should be approved.

5.2.23 **HNY ICB additional representation in response to the applicants' appeal letter in relation to the Equalities Act 2010**

5.2.24 In reaching its decision the PSRC had due regard to its duties under the Equality Act 2010 the evidence demonstrated that service continuity would be maintained, accessibility would not be adversely affected, and no disproportionate impact would arise for persons with protected characteristics. The Committee was therefore satisfied that the decision was compatible with these statutory duties.

5.2.25 **The other elements of 24(1) are addressed below for completeness but did not raise any concerns as part of the decision made.**

5.2.26 **24(1)(b) granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list:**

5.2.26.1**(i) in any part of the HWB area, or**

5.2.26.2**(ii) in a controlled locality of a neighbouring HWB area, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;**

5.2.27 PSRC was of the opinion that the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list:

5.2.27.1(i) in any part of the HWB area, or

5.2.27.2(ii) in a controlled locality of a neighbouring HWB area, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate.

5.2.28 **24(1)(c) (the decision maker) is not of the opinion that granting the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the HWB area;**

5.2.29 PSRC was not of the opinion that granting the application would cause a significant detriment to proper planning in respect of the provision of pharmaceutical services in the Health and Wellbeing Board area.

5.2.30 The proposed relocation would maintain continuity of services, opening hours and staffing, with no interruption to service provision. The proposed premises remain accessible, with improved facilities, parking and would not adversely affect service coverage or patient access across the area. Furthermore, excluding the relocating premises, there are currently multiple pharmacies within one mile of the proposed location, demonstrating that the area remains adequately served and that the relocation would not undermine the planned distribution of pharmaceutical services.

5.2.31 On that basis, PSRC was satisfied that the relocation would not prejudice the orderly and effective planning of pharmaceutical services and that the test in Regulation 24(1)(c) was met.

5.2.32 **24(1)(d) the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises; and**

5.2.33 PSRC was satisfied that the services the applicant undertakes to provide at the proposed premises are the same as those provided at the existing premises. It was confirmed that there would be no change to the range of pharmaceutical services, opening hours, staffing arrangements, or commissioned and advanced services and that service provision will continue without interruption. The essential, advanced and locally commissioned services will continue to be provided by the same contractor and team, with continuity of care maintained throughout the relocation.

5.2.34 On that basis PSRC was satisfied that the requirement concerning the continuation of services was met and that granting the application would not result in any reduction or alteration in the services available to patients.

5.2.35 **24(1)(e) the provision of pharmaceutical services will not be interrupted (except for such period as may for good cause be allowed)**

5.2.36 It was confirmed that there would be no interruption to the provision of pharmaceutical services during the relocation process, ensuring seamless continuity for patients and the community. In addition, the dispensing hours at the proposed premises will remain exactly as they are at the current location, meaning patients can expect the same level of access to services without any reduction or change in operating times. This uninterrupted service and consistent opening hours demonstrate that the relocation will not negatively impact patient access or the overall delivery of pharmaceutical care in the area.

5.2.37 The PSRC are satisfied that they considered comments relating to patient groups and accessibility and had sufficient information before it to assess the effects of relocation on different patient groups; and acted reasonably in concluding that the test in Regulation 24(1)(a) was met.

5.2.38 For these reasons, the PSRC maintains that the decision was lawfully made, adequately reasoned when read alongside the supporting documentation, and that the relocation does not result in a significant change in the provision of pharmaceutical services. Therefore, submits that the appeal should not be upheld.

5.2.39 I look forward to hearing from you soon."

5.2.40 ["Appendix 1a" is at Appendix A for Committee]

5.3 Community Pharmacy Humber

5.3.1 "The committee [of the LPC] has considered the above appeal and those eligible to vote have done so.

5.3.2 We are choosing to address the points raised by the applicant's representative in response to our initial reply.

5.3.3 'We note that the LPC neither supports nor objects to our client's application. *We further note that the LPC committee "had some concerns about the detailed information needed to make an informed decision" and that "it felt there was not enough descriptive information to make a definitive decision on endorsement either way".*

5.3.4 '*The LPC comment that the information provided focuses on the residents between the current and proposed sites. Whilst that is the case in respect of demographic data, our client has clearly defined the relevant patient groups in respect of this application, as required by the Regulations, and described how these groups would be impacted by the proposed relocation.* '

5.3.5 We felt that though patient groups headings were made the necessary depth of data to prove no significant adverse impact was not present in enough detail, especially with regards to patients to the North, South and East. Statements that *some are nearer some are further away* do not provide the level of assurance we would expect and therefore urged the ICB to be sure of its reasoning with such data.

5.3.6 *'This is a densely populated area and there are two other pharmacies within 0.3 miles of our client's current premises. Both of these pharmacies (Anlaby Road Pharmacy at 442 Anlaby Road & Newington Pharmacy at 525 Anlaby Road) are located to the east of our client's current premises. Patients living in areas to the east therefore typically use one of those two pharmacies. '*

5.3.7 Where is the data to show that this is the case? The public seldom allocate themselves into neat little categories and patient choice does

enter this, unless data is provided to show otherwise. The other pharmacies are highly attuned to the Newington health centre patient base so an assumption that anyone East of the contractor, and the Kingston medical practice, must be served by those contracts needs data to verify its veracity.

5.3.8 *'Similarly, patients who live to the south-west of the current location typically access Boots at 143 Askew Ave, and those living to the south gravitate to Asda in Hessle, where many will do their supermarket shopping. '*

5.3.9 Again, not an assertion that can be considered without evidence to verify its assumptions. The following map shows the extent of the constraint on the populace by the encompassing rail lines. This means that patients to the North and the South of the contractor, and the GP practice, would have logistical impacts on their movements by the not inconsiderable railway barrier with only a few access points. [Map provided]

5.3.10 The rail lines are highlighted in yellow.

5.3.11 *'These are the people most likely to use our client's pharmacy at present, and therefore these are the people described in our client's patient group 4 (patients who use the existing pharmacy location because it is close to home).'* Are the patients to the South, North and East not '*close to home'* users of current services that you intend to continue with?

5.3.12 *'The LPC go on to mention the railway line between the two sites which they state "funnels all travel whether on foot or by car, into one route*". 'And the reasons for that funnelling can be seen above.

5.3.13 *'We remind the ICB, as we have discussed in our client's application, that the Regulations do not require it to specifically consider the journey or the distance between the sites (albeit we have provided this information to assist the committee in considering those patients whose journey takes them past the existing premises). '*

5.3.14 The impact on the user groups does have to be considered which does include the change in travel/access arrangements. We include some illustrated examples of the change in journeys that could be expected for patient groups in the North and South. [Maps provided]

5.3.15 Here, from only part of the way to the North, we see a 7-minute walk become 11, a 0.6-mile round trip become a mile. A 66% increase.

5.3.16 An example from those living, part of the way, South of the contractor and the GP practice. Here a 20-minute 1-mile round trip becomes 44 minutes and 2 miles.[Maps provided]

5.3.17 We have seen no evidence to show that significant patient numbers do not live North and South in addition to the already mentioned patients living to the East.

5.3.18 The assertion that anyone's maximum distance would be 850m can be called into question with the over 1600m trip involved in the example above, and this is not as far South as could have been chosen before reaching the rail barrier.

5.3.19 *'However, we would also point out that Anlaby Road, which is shown in the image provided by the LPC, is one of the main routes heading west out of the city, and local residents use this all the time when going about their daily lives, including accessing the amenities they require. Furthermore, as the image of the railway underpass provided clearly shows, the railway does not form a barrier to movement for cars or pedestrians, as the road and pavements are wide at this point, and street lighting is provided. '*

5.3.20 We did not mention the rail crossing as a safety issue we mentioned it as a logistical bottleneck that adds significant distance to those living locally when leaving what is a defined geographical area, in part due to the encircling rail lines. As shown.

5.3.21 *'We submit that the fact there is a railway crossing between the two sites does not result in the proposed premises being* ***significantly*** *less accessible.'* Adding significant distance is a factor of access.

5.3.22 We believe that there has not been enough information shared to fully describe the patient user groups to a level required to grant the application without fully showing how the move impacts each of them in depth, by all means of transport factoring in the reality of the geographical constraints for all users, whether of reasonable mobility or with protected characteristics. As such we could only implore the decision-making body to be assured by the data, which brings in the mysterious *appendix 1a* which seemingly put all the ICB's concerns at the time to rest and yet has not been seen by the interested parties to similarly address their concerns.

5.3.23 Additionally, the committee [of the LPC] did note that if the 43.7% of dispensing business not from Kingston GPs is so far away that it would be unaffected by the move, barely worthy of describing, why in this age of EPS and deliveries should the 56.3% be adversely impacted to a significant degree? Is it not covered by EPS and deliveries, but again we were not provided with that information.

5.3.24 We urge NHS Resolution to look at the data and what we have provided about the specific geographical real-world limitations for the patient base North, South & East of the contractor and decide appropriately.

5.3.25 The LPC appreciates being kept informed of the progress of the application and would request to be invited to any oral hearing, should one be required."

5.3.26 [Supporting information at Appendix F for Committee]

6 Observations on representations

6.1 Pharmacy Sales and Consultancy, of behalf of the Applicant

6.1.1 "Thank you for your letter dated 15th April 2026 inviting final observations in respect of this appeal.

6.1.2 In addition to the comments we submitted on 30th March on behalf of the applicant, we note that comments were made by Humber and North Yorkshire Health and Care Partnership ("ICB") and Community Pharmacy Humber ("LPC"). We wish to make final observations in respect of the ICB and LPC comments accordingly.

6.1.3 ICB – letter dated 8th April

6.1.4 The ICB letter begins by addressing the administrative error that led to the failure to grant appeal rights. This matter has subsequently been rectified so we have no further comments to make on appeal rights.

6.1.5 Secondly the ICB briefly mentions Regulation 31. As this does not appear to be contentious, and, quite correctly, no party has suggested Regulation 31 should apply, we have no further comments to make on this point either.

6.1.6 The ICB has clarified that 'Appendix 1a' referred to in its decision report was the supporting document submitted by our client with its application, and which was circulated with the original application. All interested parties saw this information and had an opportunity to comment on it. The ICB has confirmed that no additional information was sought from, or provided by, any of the interested parties, including our client, prior to the decision being made to grant the application.

6.1.7 *Regulation 24(1)(a)*

6.1.8 The ICB has clearly described the information it considered when making its determination and the process followed in reaching its conclusion that the test set out in Regulation 24(1)(a) was met. This included the consideration of comments submitted by third parties.

6.1.9 The letter from the ICB also discusses, in detail, the other matters it was required to consider under Regulation 24 and the conclusions it reached in respect of each of these. It is very clear from this response that the ICB took a robust approach to considering the evidence in front of it and its decision was fully informed and compliant with its obligations as the decision-making body. The concerns raised by the appellants and the LPC that there were flaws in the decision-making process appear to be unfounded.

6.1.10 The ICB was satisfied that, taking into account all the information available to it, the requirements for an application submitted under

Regulation 24 for a 'no significant change relocation' were met. We ask, therefore, that the Primary Care Appeals Committee ("The Committee") places appropriate weight on the ICB's decision accordingly.

6.1.11 LPC letter dated 8th April

6.1.12 We note, as a general point, that the LPC's submission largely relates to our client's '14-day comments' rather than to the ICB's decision or the appeals submitted by Boots or Brocklehurst Chemists.

6.1.13 As per its initial submission, the LPC stops short of expressing an opinion about whether or not the application should be approved. Instead, it continues to question whether the information submitted was sufficiently detailed to enable the ICB to approve the application.

6.1.14 We have addressed the LPC's comments as far as we can below, but we remind the LPC that the decision-maker is required to determine the application according to the civil test of whether the case is proven 'on the balance of probabilities'. The applicant's obligation is to provide sufficient evidence to enable it to do so. It is not for the applicant to prove that the regulatory tests are met 'beyond reasonable doubt' and the applicant would rarely have access to sufficient evidence to enable it to meet that threshold.

6.1.15 The LPC claim that the level of detail in respect of patient groups was insufficient "*especially with regards to patients to the North, South and East*". We submit that the LPC's rationale in this respect is flawed. Whilst the regulations do not direct the applicant as to how it should define patient groups, we submit that it would be illogical to specifically define such groups solely according to geography.

6.1.16 It is inevitable that when a pharmacy relocates some individual patients will find that the new location is closer for them and other people will find it is further away. That is a matter of fact. If an applicant defined patient groups simply by geography this would inevitably result in defining patient groups whose only shared characteristic is that all patients within the group live further from the proposed site than the existing site. As these patients would all have further to travel, this might result in the decision-maker determining that the proposed location was significantly less accessible for this patient group.

6.1.17 However, this might ignore the very many more people living in other areas for whom the proposed location would be *more* accessible. It was to caution against the risks associated with narrow patient group definitions that Mr. Justice Langstaff [R (on the application of Community Pharmacies (UK) Limited v The National Health Service Litigation Authority [2016] EWHC 1595 (QB)] commented,

6.1.17.1 *"So long as the NHSCB, or on appeal the FHSAU, bears in mind that the purpose of identifying the groups is to make a broad assessment of the question of accessibility, and that therefore to identify too many groups which are too small in*

number to assist with that process would risk over-focussing and losing sight of the whole broad picture, and provided the Board or Committee takes a practical and pragmatic view of the groupings that might assist it to a conclusion, by reference to which it may analyse the available evidence, it will not go far wrong"

6.1.18 The whole purpose of considering patient groups rather than individual patients is that, in the case of any relocation, there will inevitably be some patients for whom the proposed location is less accessible, and possibly even some for who it is significantly less accessible. However, where patient groups are properly defined, the decision-maker is able to make a 'broad assessment' of accessibility in line with the judicial guidance.

6.1.19 However, in order to assist the Committee further our client has extracted postcode data from its PMR system that shows the postcodes of patients currently nominated to receive prescriptions from the pharmacy. We have plotted these postcodes on a map and overlaid the locations of the existing and proposed sites. This map has been enclosed as appendix 1 to this letter.

6.1.20 The map shows the area around the existing and proposed sites with patient postcodes marked by blue pointers. Whilst this map focusses on the area immediately around the existing and proposed sites, the full dataset (plotted and shown on a map in appendix 2) shows that there are patients registered with our client's pharmacy from across the city and even further afield. Those patients who live furthest away clearly already travel a significant distance to the pharmacy so the proposed relocation would not make any material distance to their journey overall. We have therefore focused on those patients who live closer.

6.1.21 When considering the map provided as appendix 1 it is clear that patients live in all directions around the existing premises. This is entirely expected because, as we have discussed previously, and expand on further below, there are not any meaningful barriers to movement on the western side of the city, where the existing and proposed sites are located. For this reason, patients access our client's pharmacy from the north, east, west and south. There is no particular concentration of our client's patients living in one or more of these directions, they live throughout the area.

6.1.22 It is for this reason we assert that whilst the relocation will result in some patients having a slightly shorter journey and others having a slightly longer journey, the overall effect of the relocation in respect of where patients live will be broadly neutral. That being the case, when we consider our client's patient group 4 (*patients who use the existing pharmacy location because it is close to home*) we submit that this relocation will not result in the pharmacy becoming significantly less accessible.

6.1.23 The LPC then go on to challenge our assertion that patients who live to the east of the current pharmacy location typically use one of the two pharmacies located further east along Anlaby Road. Whilst the map we had provided as appendix 1 shows that there are some patients who do live to the east of our client's current location, patient numbers quickly "thin out" heading east towards these other pharmacies.

6.1.24 The LPC challenges our assumption that patients living closer to the pharmacies further east along Anlaby Road are more likely to use those pharmacies, but, on the balance of probabilities, we submit that of course this is likely to be the case. It is not unreasonable to suggest that patients who are travelling from their home, particularly when on foot, will use the pharmacy or pharmacies closest to their home unless there is a very good reason not to do so. In any event, clearly we cannot provide data that shows where patients who receive pharmaceutical services from other pharmacies live. We have no access to that data as it is held by those pharmacies.

6.1.25 In a similar vein we submit that our suggestion patients who live closer to pharmacies located to the south-west and to the south will typically access pharmacies located closer to their homes is an entirely reasonable assumption. The LPC is incorrect when it suggests that there is an onus upon our client to provide evidence to support this assumption.

6.1.26 The key challenge made by the LPC appears to be in respect of the impact of the railway lines to the west of the city centre on the ability of residents to move freely throughout the area. They provide a map with railway lines highlighted in yellow and assert that these railway lines form a significant barrier to movement.

6.1.27 As a preliminary point it is apparent from this map that there are **8** points at which roads cross railway lines within the area highlighted. These crossing points are located in all directions from the existing pharmacy site. We submit that the presence of these railway lines does not have any material impact on the ability of local residents to move freely throughout the area given the number of crossing points.

6.1.28 In order to assess this matter fully, our client visited each of these crossing points on Sunday 19th April 2026, taking photographs and noting their key features. Appendix 3 provides a map of these crossing points, a description of each of them and photos of each crossing.

6.1.29 As the descriptions and images provided clearly show, none of these crossings constitutes a significant barrier that prevents patients from going about their daily lives.

6.1.30 Of particular relevance are crossing points 1 & 3, which might, in the future, be used by some patients to access the proposed site which they may not use at present. Both of these crossings pass under railway bridges and movement is not impeded in any way for pedestrians or motorists.

6.1.31 All the other crossing points highlighted are used by patients to access the pharmacy currently and they will continue to be used by those patients to access the proposed site. They do not, therefore, constitute new barriers to patient movement.

6.1.32 In respect of the LPC's comment on 'funnelling', whilst we accept that patients who wish to cross the railway line will have to use one of these designated crossing points, we do not accept that this automatically forms a barrier to free movement generally. There is no evidence that the requirement of patients to cross the railway lines at designated crossing points automatically results in the proposed location becoming significantly less accessible.

6.1.33 The LPC then goes on to illustrate two entirely arbitrary patient journeys and sets out how those journeys will change following the proposed relocation.

6.1.34 In respect of the first journey illustrated we accept that, from the point arbitrarily selected on Meadowbank Road, the journey for a patient starting at that point on foot to our client's pharmacy would increase from 7 minutes to 11 minutes. However, this is not evidence that the proposed location would become **significantly less accessible** from this starting point. Reference to a 66% increase in journey time will not help the Committee. The relevant fact is that a patient making this hypothetical journey would still be able to access the pharmacy within 11 minutes on foot and this is not an unreasonable journey for most patients to make. [PSC's emphasis]

6.1.35 In respect of the second hypothetical journey illustrated, again we do not dispute the suggestion that the round-trip distance for this hypothetical patient would increase. However this overlooks the requirement to consider patient groups in their entirety and also fails to consider that patients starting their journey at this arbitrary starting point may also choose to access pharmaceutical services by car or public transport if they did not wish to walk to the proposed location.

6.1.36 The LPC choose Buxworth Close as their hypothetical starting point, but as can be seen in the image below, this road comprises modern houses, each of which has a drive and, at the time the Google image below was taken, several of the houses had cars parked outside. [Google image provided]

6.1.37 This serves to further illustrate that focusing in on specific properties or even small geographical areas is unhelpful when forming a broad view on the accessibility of the proposed location for the patient groups that are accustomed to accessing the existing location.

6.1.38 Clearly many hypothetical journeys could be provided by our client that show the proposed premises being closer for some patients, but we do not believe this would assist the Committee in its determination of this application.

6.1.39 The LPC misunderstands the point made by our client about the maximum 850m **incremental** distance for patients following the proposed relocation. At no point has our client suggested that no patient would have more than 850m to travel to the proposed site. [PSC's emphasis]

6.1.40 In relation to the Anlaby Road crossing the LPC states "we did not mention the rail crossing as a safety issue". However nobody in their submissions mentioned safety concerns either, so the LPC's comment in this respect is rather confusing.

6.1.41 The phrase 'bottleneck' suggests something which slows movement but, as the evidence we have submitted demonstrates, the railway crossings are numerous and easy to navigate. The LPC has not provided any evidence that patients' ability to move around the area is hindered significantly by the requirement to pass under a railway bridge or over a level crossing.

6.1.42 We dispute the assertion that insufficient information has been provided in respect of transport and geographical constraints and we are confident that the Committee will have sufficient evidence in front of it to conclude that the requirements of Regulation 24 have been met.

6.1.43 In respect of the "*mysterious appendix 1a*", as the ICB have clearly set out this document was seen by all interested parties.

6.1.44 Finally, for the reasons we have already set out in detail, we dispute the assertion that 56.3% of patients who access our client's pharmacy at present will be "*adversely impacted to a significant degree*".

6.1.45 We have no further comments to make at this time and look forward to hearing the outcome of this application at the earliest opportunity."

6.1.46 [Supporting information at Appendix G for Committee]

6.2 Community Pharmacy Humber

6.2.1 "Having reviewed the supplied comments we have little more to add other than the attached file (26928 Strata) that provides some mapping information, for the appellant and the two other contracts to the immediate East, to inform the comments from PSC.

6.2.2 The data is taken from dispensing activity, from GP surgeries, for the panel to consider against the claims that groups to the North, South but especially East go elsewhere. We do not believe this data fully aligns with that viewpoint but leave consideration up to the appeals panel.

6.2.3 Including the same data for ASDA does show what would be expected for a large supermarket drawing from a wide area, but this does not seem to be from the appellants area to any great degree.

6.2.4 For accuracies sake we would also point out that patients to the South West, contrary to what PSC states, have been unable to use Boots Askew Avenue since Oct 6th, 2023, when it closed.

6.2.5 We maintain that the patient groups accustomed to services from 633 Anlaby road have not been fully identified nor the relocations impact fully & accurately assessed.

6.2.6 The LPC appreciates being kept informed of the progress of the application and would request to be invited to any oral hearing, should one be required."

6.2.7 [Supporting information at Appendix H for Committee]

7 Consideration

7.1 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.

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 As a preliminary point, NHS Resolution had determined that Boots UK Ltd and Brocklehurst Chemists were persons with third party appeal rights against the decision of the Commissioner as set out in its letters dated 10 March 2026 (ref. SHA/26893 and SHA/26929).

7.5 Further, the Committee noted parties' concerns regarding the reference to "*Appendix 1a*" in the decision report. The Committee noted it had been clarified by the Commissioner in its representations that this is the title given to the supplementary information submitted by the Applicant with the application, and that this had been circulated to interested parties as part of the Commissioner's usual consultation process. The Committee noted the Commissioner's comment that "*The post meeting clarification did not constitute a new meeting, hearing, or decision-making forum, nor did it involve attendance by the applicant or any stakeholder. It served solely to document that, having revisited the representations and evidence already submitted, the Committee was satisfied that the Regulation 24(1)(a) test had been met.*" The Committee was satisfied that all parties were in receipt of the information considered by the Commissioner.

7.6 The Committee also noted concerns that a meeting had been referenced in the Commissioner's decision report and the Commissioner's subsequent confirmation in its representations that "*The post meeting clarification did not constitute a new meeting, hearing, or decision-making forum, nor did it involve attendance by the applicant or any stakeholder. It served solely to document*

that, having revisited the representations and evidence already submitted, the Committee was satisfied that the Regulation 24(1)(a) test had been met."

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

7.8 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).

7.9 The Committee noted that in the relevant section of the application form the Applicant had stated "*N/A. There is no other pharmacy within the same or adjacent premises.*" Whilst the Commissioner had not included any details regarding its consideration of Regulation 31 in its decision, the Committee noted that the PSRC report stated "*This regulation does not apply because there is no other pharmacy at the proposed sites.*" The Committee noted that this had not been disputed by other parties.

7.10 The Committee was not required to refuse the application under the provisions of Regulation 31.

7.11 The Committee had regard to Regulation 24(1) which requires the following five conditions to be met:

(a) for the patient groups that are accustomed to accessing pharmaceutical services at or from the existing premises, the location of the new premises is not significantly less accessible;

(b) in the opinion of NHS England, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list—

(i) in any part of the area of HWB1, or

(ii) *in a controlled locality of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;*

(c) *NHS England is not of the opinion that granting the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1;*

(d) *the services the applicant undertakes to provide at or from the new premises are the same as the services the applicant has been providing at or from the existing premises (whether or not, in the case of enhanced services, NHS England chooses to commission them); and*

(e) *the provision of pharmaceutical services will not be interrupted (except for such period as NHS England may for good cause allow).*

7.12 The Committee considered the position in relation to each condition.

7.13 In relation to condition (a), the Committee considered the map submitted by the Commissioner which clearly show the locations of the existing pharmacies as well as the proposed premises and medical practices within the area.

7.14 The Committee considered the information before it with regard to the patient groups who are accustomed to accessing pharmaceutical services at or from the existing premises. The Committee considers that it must seek to identify the patient groups who would potentially be affected by the relocation based upon the information provided by the parties. This information is most commonly going to be provided by the Applicant but others may also be able to contribute to the information on which the Committee will proceed to determination.

7.15 In this case, the Applicant has identified the patient groups as:

7.15.1 Patients receiving a delivery service;

7.15.2 Patients attending The Kingston Medical Group premises on Wheeler Street and subsequently seeking pharmaceutical services;

7.15.3 Patients attending other medical centres and subsequently seeking pharmaceutical services;

7.15.4 Patients who use the existing pharmacy location because it is close to home;

7.15.5 Patients who wish to access advanced or locally commissioned services from the pharmacy; and

7.15.6 Patients who share protected characteristics.

7.16 The Committee noted Brocklehurst Chemist had commented that "*There is no reasoned justification provided to confirm that the Committee considered all patient groups…*". The Committee also noted Boots UK Ltd's comment that it

should "*…ensure that all comments on patient groups (whether or not the term patient group is used) … are considered and given appropriate weight.*" The Committee noted that neither Appellant had sought to define any additional patient groups.

7.17 The Committee concludes that the patient groups who are accustomed to accessing pharmaceutical services at or from the existing premises are those set-out below.

Patients receiving a delivery service

7.18 The Committee noted the Applicant's comment that "*A proportion of the pharmacy's prescriptions are handled via a delivery service.*" The Committee was of the view that if patients were not accustomed to accessing pharmaceutical services at the premises, then they were not subject to the test under condition (a). The Committee, however, was particularly mindful that the provision of essential services is not limited to the dispensing of prescriptions.

Patients attending The Kingston Medical Group premises on Wheeler Street and subsequently seeking pharmaceutical services.

7.19 The Committee noted the Applicant states that "*6,612 out of 11,744 items dispensed (56.3%) originated from The Kingston Medical Group*" during May 2025, being the latest month for which there was data available at the time of application. The Committee further noted their explanation that the purpose of the proposed relocation is to maintain proximity to this surgery. The Applicant states that the Kingston Medical Group has plans to relocate to the Calvert Centre on Calvert Lane, approximately 250 metres from the Applicant's proposed premises.

7.20 The Committee was mindful that no certainty had been provided as to when the Kingston Medical Group would move, so there is a possibility that the pharmacy would move to the proposed site before the surgery relocates. The Committee was therefore of the view that it needed to consider access for patients who visit the pharmacy following a visit to Kingston Medical Centre based on both the current and future locations of the GP surgery and the proposed site of the pharmacy.

7.21 If the Kingston Medical Group does move to the new health centre, then the Committee noted that the proposed premises would be located approximately 250 metres from the health centre, according to the Applicant. The Committee noted that the Applicant's current premises are 50 metres from the current location of the surgery, however it also had regard to the Applicant's comment that "*…whilst patients in this group will have slightly further to travel from the surgery to our client's pharmacy (250m instead of 50m), if the pharmacy does not relocate, these patients will have to travel 1.1km to our client's pharmacy from the new surgery site.*" The Committee also noted the Applicant's comment that "*There are dropped kerbs, wide pavements, dedicated pedestrian crossings and street lighting throughout the area*", which had not been disputed.

7.22 The Committee was satisfied that the proposed premises would not be significantly less accessible to the patient group who accesses services after a visit to this GP surgery, as the proposed premises are located significantly closer to the health centre than the Applicant's current premises.

7.23 The Committee proceeded to consider access for patients who visit the pharmacy following a visit to the Kingston Health Group based on the current location of the surgery and the proposed site of the pharmacy.

7.24 The Committee noted the Applicant's description of the area in which the existing premises are located as a traditional urban shopping parade in a largely residential area typically consisting of terraced properties or flats. The Applicant had also highlighted the demographics of the local area which they comment "*…suggests a relatively young population with lower-than-average levels of disability. As a result, the vast majority of residents have little difficulty travelling around the area on foot.*"

7.25 The Committee considered that this patient group will access the new premises on foot, by car or by public transport and it was necessary to consider the accessibility of the new premises in light of each method of transport.

7.26 The Committee noted there were comments regarding inconsistent distances between the existing and proposed premises that had been provided by the Applicant in its application, however the Applicant in its representations had stated it is "*…happy to accept that the distance by the shortest practicable route is approximately 850m as measured using Google maps...*". The Committee therefore considered that the distance between the current location of the surgery and the proposed premises would also be in the region of 850 metres, given that the surgery is approximately 50 metres from the current premises. The Committee was mindful that distance alone would not necessarily make the proposed site significantly less accessible and other factors would need to be taken into consideration.

7.27 For those on foot, the Committee noted the Applicant had provided a description of the journey from the existing to the proposed premises, which would constitute the majority of the journey from the surgery to the proposed premises, given that the existing premises are located only 50 metres from the surgery. The Committee noted the route goes west along Anlaby Road and then north onto Calvert Lane, with pedestrian crossings where required.

7.28 The Committee noted again the Applicant's comment that "*There are dropped kerbs, wide pavements, dedicated pedestrian crossings and street lighting throughout the area*", which had not been disputed. The Committee also noted the Commissioner had stated in the minutes of its decision making meeting that there is a "*Safe, flat route with crossings and wide pavements.*"

7.29 The Committee noted Community Pharmacy Humber's comments regarding the logistical impact of both the distance and the railway in the area for patients living to the north, south and east of the current site. The Committee had regard to the map showing the location of the railway lines and considered the example journeys provided by Community Pharmacy Humber, which indicated that some patients would have a greater distance to travel overall. In response,

the Applicant had provided a map and photographs of seven railway crossings available in the area. The Committee noted that these had not been disputed and was of the view that these appear to provide reasonable crossing points for patients needing to cross the railway line in order to access the proposed site, in particular those crossing points located near to the proposed premises at points 1 and 3 on the map provided. The Applicant commented that "*Both of these crossings pass under railway bridges and movement is not impeded in any way for pedestrians or motorists*.", which had not been disputed.

7.30 For a patient having accessed the Kingston Health Group on foot and subsequently requiring pharmaceutical services, the Committee was mindful that the effect of a move to the proposed site would have a greater effect on some patients than on others due to the distance involved in travelling from some areas. The Committee considered that there would be some patients who were willing and able to undertake the journey on foot.

7.31 The Committee went on to consider public transport for those patients who were unwilling or unable to walk in order to access the proposed site. The Committee noted the Applicant's comments that bus route 56 runs every 20 minutes from a bus stop 50 metres from the current premises to a stop on Calvert Lane 160 metres south of the proposed premises. The Applicant also commented that other routes are also available from the stop near the current premises which stop 250 metres to the south of the proposed premises. The Committee noted that this information had not been disputed. The Committee also noted the Commissioner had stated in the report to the PSRC that "*Bus stops are located near both sites, with only a modest increase in walking distance from the nearest bus stop to the proposed location (100m) not making the site significantly less accessible.*"

7.32 For those with access to private transport, the Committee noted the Applicant states that whilst patients currently park in bays on Anlaby Road to access the pharmacy, the proposed premises has a large car park for patients which includes 7 spaces for blue badge holders. The Applicant also comments that the drive would take less than 5 minutes.

7.33 In considering all the points above, the Committee was satisfied that for those patients accustomed to accessing pharmaceutical services at the existing premises after attending the Kingston Medical Group, regardless of how they travel to the proposed premises, the location of the new premises is not significantly less accessible.

Patients attending other medical centres and subsequently seeking pharmaceutical services.

7.34 The Committee noted the Applicant's comments that "*No other medical centre accounts for more than 10% of the items dispensed by our client's pharmacy*" and that the second largest source of prescriptions for the pharmacy is Oaks Medical Centre on Council Avenue. The Applicant states "*This surgery is located 1.1 miles away on foot from the current location, to the south-west. The distance from this surgery to the proposed location is 1.2 miles, so there is no material difference in the distance. Clearly a patient who is able to travel 1.1 miles will not be troubled by a further 0.1 mile to access the proposed premises*

whatever means of transport they use." The Committee noted the Commissioner's comment in the report to the PSRC that "*Due to the low number of prescriptions dispensed from other surgeries, there will be minimal impact on this group of patients; distances remain largely unchanged.*"

7.35 The Committee considered that if a patient had ordinarily chosen to walk from this surgery to the current premises, the additional distance of 0.1 miles would not be significant. The Committee was also mindful that the Applicant's comment that "*There are dropped kerbs, wide pavements, dedicated pedestrian crossings and street lighting throughout the area*" had not been disputed.

7.36 For those who would normally access the current site by bus from this surgery, the Committee noted 7.31 above that bus services are available from nearby the current site to the proposed site.

7.37 For those who would usually use private transport, the Committee noted as above that improved parking is available at the proposed premises and considered that the additional distance would not be significant in terms of a car journey.

7.38 The Committee noted the Applicant's comment that "*There are two other surgeries (excluding West Hull Health Hub) that are located within half a mile of the current location. These are both located within Newington Health Centre which is located 420m to the east of the current premises, but they contribute less than 2% of all items dispensed, as there are other pharmacies closer.*"

7.39 The Committee noted that the proposed premises would be 850 metres further away for these patients, however it was mindful of its considerations at 7.25 – to 7.32 above and considered that they would also apply to these patients. The Committee was mindful that patients using bus services would most likely be able to continue on the bus service along Anlaby Road to the proposed premises.

7.40 The Committee noted the Applicant's comment that there are surgeries further afield which "*…account for very small numbers of items being dispensed by our client's pharmacy.*" The Committee was of the view that its considerations at 7.25 – to 7.32 above would also apply to these patients.

7.41 For the patient group that attend other surgeries and subsequently seek pharmaceutical services, the Committee considered that the proposed premises would not be significantly less accessible for the above reasons.

Patients who use the existing pharmacy location because it is close to home.

7.42 The Committee considered that this patient group will access the new premises on foot, by car or by public transport and it was necessary to consider the accessibility of the new premises in light of each method of transport for this patient group.

7.43 The Committee noted Boots UK Ltd's comment that "*The failure to acknowledge our comments regarding Kingston Medical Group's patient*

feedback exercise also suggests that these points were dismissed. The consultation materials explicitly state that the proposed surgery move "would impact those patients living close to our current site more," and that some patients may choose to register elsewhere. This is a clear admission that the relocation will significantly affect certain patient groups."

7.44 The Committee noted the Applicant had provided a map on which it had plotted the postcodes of its patients currently nominated to received prescriptions from the pharmacy. The Committee noted that it shows an even spread of households around the area close to the existing premises.

7.45 The Committee was mindful that the distance involved would vary depending on a person's starting point i.e. where they live in relation to the proposed premises. The Committee noted the Applicant's comment that "*…the maximum incremental distance they would be required to travel to the proposed site is 850m (assuming their journey takes them past the existing site on the way).*"

7.46 The Committee was of the view that its considerations at 7.25 to 7.32 above would also apply to this patient group.

7.47 The Committee was of the view that whilst a move to the proposed site would bring the pharmacy closer to home for some residents and further away for others, the overall effect is likely to be neutral.

7.48 For the patient group that uses the existing pharmacy location because it is close to home, the Committee considered that the proposed premises would not be significantly less accessible for the above reasons.

Patients who wish to access advanced or locally commissioned services from the pharmacy.

7.49 The Committee noted the Applicant's comment that "*Patients accessing the pharmacy for the New Medicines Service (NMS) will fall into one of the other patient groups already described as they will already be receiving dispensing services from the pharmacy.*"

7.50 The Committee was of the view that these patients would fall into one of the patient groups considered above.

Patients who share protected characteristics.

7.51 The Committee considered whether the information provided showed that there were patients accustomed to accessing pharmaceutical services at or from the existing premises for whom the proposed premises would be less accessible because of reasons related to a protected characteristic under the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation). The Committee identified that patients with protected characteristics may be accustomed to accessing pharmaceutical services at the existing premises. Therefore, in considering condition (a), the Committee took into account these patients and had regard to the need to eliminate discrimination and advance

equality of opportunity and foster good relations between these patients and those who do not share their protected characteristic(s).

7.52 The Committee noted the Applicant's comment that "*Every person shares at least one protected characteristic, i.e. they belong to a group that distinguishes them by age, race or any other characteristic. More commonly, however, this relates to those who may be elderly, infirm or disabled as these are characteristics that impact on accessibility.*" The Committee noted that no specific groups had been identified to which it should have regard, however it noted the Applicant's comments that:

7.52.1 "*Buses running throughout the area are accessible to wheelchair users*."

7.52.2 "…'*blue badge' holders can park easily in the Health Hub car park*."

7.52.3 "…*the journey to the new premises benefits from wide pavements, controlled crossings, dropped kerbs and tactile pavements so these patients are able to move around the area without undue difficulty. Those whose mobility difficulties are more significant do not visit the existing premises 'on foot' anyway as they are more likely to travel by car / public transport or to use the delivery service*."

7.53 The Committee was of the view that its considerations regarding access for the patient groups above would also apply to this patient group.

Overall assessment

7.54 The Committee took into account all of the above patient groups in reaching its decision in respect of condition (a).

7.55 In the circumstances, the Committee was satisfied that, for patient groups who are accustomed to accessing the existing premises, the proposed premises is not significantly less accessible.

7.56 The Committee was therefore of the view that condition (a) is met.

Regulation 24(1)(b)

7.57 The Committee noted the decision of the Commissioner in respect of condition (b), that the granting of this application would not result in a significant change to the arrangements that are in place. The Committee noted the reference by the Applicant to "*…an unsubstantiated comment submitted by Brocklehurst. which claimed that granting the application "will impact the financial viability of our pharmacy business"*", however this matter had not been raised by Brocklehurst Chemists on appeal, nor had it been provided with any supporting information in this regard. On the information provided the Committee was of the opinion that the granting of the application would not result in a significant change to the arrangements in place for the provision of local pharmaceutical services or of pharmaceutical services in any part of the area of HWB1 or in a controlled locality of a neighbouring HWB, where that controlled locality is

within 1.6 kilometres of the premises to which the applicant is seeking to relocate. The Committee concluded that condition (b) is met.

Regulation 24(1)(c)

7.58 The Committee noted the decision of the Commissioner in respect of condition (c) that the granting of the relocation would not lead to significant detriment to proper planning in respect of the pharmaceutical services in the area. The Committee noted that this had not been disputed by any party either on appeal or in subsequent representations. On the information provided the Committee was of the opinion that the granting of the application would not cause a significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of HWB1 and therefore concluded that condition (c) is met.

Regulation 24(1)(d)

7.59 The Committee noted that the Applicant had given an undertaking, in their original application form, that the same services will be provided at or from the proposed premises. On the information provided, the Committee determined that condition (d) is met.

Regulation 24(1)(e)

7.60 In relation to condition (e), the Committee noted the Applicant had confirmed in their application, and subsequent representations, that there will be no interruption to service provision. On the information provided the Committee determined that condition (e) is met.

Overall

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

7.61.1 confirm the Commissioner's decision;

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

7.61.3 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.

7.62 As the Commissioner's decision as notified to parties did not contain reasoning, the Committee determined that the decision of the Commissioner should be quashed.

7.63 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.

7.64 The Committee noted that representations on Regulation 24 had already been made by parties to the Commissioner, and these had been circulated and seen by all parties who made representations on the application, 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 24.

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

8 Decision

8.1 The Committee quashes the decision of the Commissioner and redetermines the application.

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

8.3 The Committee has determined that conditions (a), (b), (c), (d) and (e) are satisfied.

8.4 The application is granted.

Case Manager
Primary Care Appeals