NHS Resolution

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17 July 2026

REF: SHA/26866

APPEAL AGAINST MID AND SOUTH ESSEX ICB DECISION TO REFUSE AN APPLICATION BY FOLBERRY LIMITED FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT CENTENARY WAY SHOPS, BEAULIEU SQUARE, CHELMSFORD, CM1 6AU

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:

Healthcare Plus Consulting Ltd on behalf of Folberry Limited
PCSE on behalf of Mid and South Essex ICB
North & South Essex LMC
Community Pharmacy Essex
Care Plus Investments Ltd
SPG Pharma Ltd

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1 A summary of the application, decision, appeal and representations and observations are attached at Annex A.

2 **Site Visit to North East Chelmsford 12 June 2026**.

2.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution (which comprised of Sheila Hewitt, Chair, Stephen Chappell, Lay Member and Phil Bratley, Pharmacy Member) visited the proposed site and surrounding locations. All three recorded they had no conflicts of interest

2.2 The Lay Member travelled to Chelmsford by train, from, Liverpool Street, London arriving at 8:30am – the journey time was 30 minutes. He then caught the 10C shuttle bus from outside the railway station at 8:32am. The bus travels to the northeast of Chelmsford, and he chose to alight near the Springfield Pharmacy (CM1 6GL). The weather was fine, dry, slightly cloudy, with sunny intervals. The journey to the Springfield area took about 10 minutes on the bus.

2.3 He got off one stop early on the advice of other passengers, who explained that crossing the road nearer the pharmacy would involve encountering more road traffic. He then walked a few hundred metres, taking around three minutes, and arrived at the pharmacy at approximately 8.45am. The pharmacy sits in a small parade of shops including Ladbrokes and Tesco Express. It opens at 9.00am, and two people were already waiting outside for the pharmacy to open.

2.4 The small parade appears to have residential flats above the shops, accessed via a road to the rear. Parking behind the premises is limited to residents with permits. For the shops, including the pharmacy, there were no marked customer parking bays. At the time of the visit, around 10 of the 11/12 spaces in the parking provided in front of the shops were occupied. A cash machine and a pillar type post box were available. There was a community notice board for the Springfield Community. Some on-street parking was available on Crocus Way, with no restrictions.

2.5 The Lay Member then walked from the pharmacy to the Centenary Way shops seeking to find the best estimate site (CM1 6AU). The route (using Google Maps) passed through the Crocus Estate, with a right turn onto Newton Abbot Way, heading north. The pavement on the right-hand side was wider and included a cycle lane; the pavement on the left was narrow, uneven, and

cracked in places. A notice warned of an uneven footway, and rainwater had collected in a dip.

2.6 The Lay Member continued to the roundabout at the junction with White Hart Lane. Here, the pavement petered out and there was no designated pedestrian route. After turning left, there was no pavement at all, requiring him to walk on the grass verge towards Beaulieu Square.

2.7 On reaching the Beaulieu Estate, he noted the absence of a designated pedestrian crossing and used the central refuge to cross a busy road.

2.8 The walk took about 18 minutes in total and measured 0.9 miles. He arrived at around 9.20am.

2.9 At Beaulieu Square, he observed the layout of the shops and the two car parks, which matched the descriptions in the hearing pack. Parking was limited to three hours to those using the facilities, with no return within two hours. Both car parks were moderately full, but there were still spaces available, and vehicles were moving in and out without difficulty.

2.10 The first parade of shops included Sainsbury's Express, an estate agent (which appeared linked to the building of the Belstead Hall development and was closed), a dental practice, a pizza shop, a fish and chip shop, another estate agent, a vet, and Costa Coffee. Sainsbury's Express appeared to be a deep, well-stocked store with fresh and frozen goods. The second car park served the community centre, health centre, day nursery, secondary school, and additional retail outlets including a coffee shop.

2.11 The overall ambience of the centre and surrounding housing was pleasant, with plenty of space and an open, well-kept feel.

2.12 Another Committee member arrived on the afternoon prior to the joint site visit and was able to make a preliminary reconnaissance of the area between 4.00pm and 5.45pm.

2.13 At Springfield Pharmacy, only one parking place was available and four people appeared to be waiting for prescriptions.

2.14 Similarly, at Banrock Pharmacy, only one parking place was available and two people appeared to be waiting for prescriptions.

2.15 The Sainsbury Local Store at Beaulieu Square was visited at approximately 5.30pm and was busy with three or four people queuing at each of the automatic checkouts.

2.16 At this time, the road network was notably busy presumably due to it being commuter time.

2.17 The three Committee members met at the Beaulieu Square shops at 10.00am on Friday 12 June. They decided to take a short drive around the estate to understand how it was laid out and what facilities were available. The journey showed the estate to be well designed, with a mix of flats and more traditional housing. Some homes had cars on their drives. There were children's play

areas and green spaces which combined with the facilities in the Square contributed to a sense of community. Most properties appeared new or recently built. The Committee also noted some ongoing construction, suggesting the area was still being developed with more phases being added.

2.18 The Committee members visited the Beaulieu Health Centre which was open. The Centre (according to a notice on the wall) appeared to be served by five doctors, three Healthcare Professionals and a Nursing Team and was described as working as a "branch" of another health care practice (North Chelmsford NHS Healthcare Centre). It was noted that opening hours were 9.00am to 5.00pm Monday to Friday.

2.19 The whole development had a modern vibrant feel with a variety of housing styles many of which had part timber features distinguishing the area from the older developments closer to the centre of Chelmsford. The facilities centred on Beaulieu Square complemented the housing and gave the area a distinct community feel.

2.20 The Committee then drove to the Springfield Pharmacy, a journey of about five minutes along White Hart Lane and Pump Lane, arriving at 11.15am. It was noted that when leaving the Beaulieu development, the traffic management arrangements incorporate a continuous central reservation on White Heart Lane so it is necessary to first turn left and double back on the roundabout close by. Furthermore, at points in this journey there was no pavement and a pedestrian would have to walk on a grass verge. The Committee members observed the parking arrangements as previously described and noted that the pharmacy appeared busy. There was a parking space available in the space in front of the pharmacy. The Committee did not agree with any suggestion that the premises looked rundown, although the bottom glass panel on the front door was cracked. During the visit, six or seven people were queuing. There appeared to be one pharmacist on duty, with the owner also present, and three or four dispensers. There was a consultation room. The opening hours displayed were: Monday to Saturday 9.00am to1.00pm, closed Sunday, and Monday to Friday 2.00pm to 6.30pm. A customer used a mobility scooter to enter the pharmacy, and the front apron was set up to allow this.

2.21 The Committee then drove to Shadford Pharmacy (CM1 4DP), a journey of just over five minutes. Parking there was more difficult. The parade of shops within which the pharmacy is situated included fast-food outlets and bookmakers. Parking in front of the parade was limited to two hours. On arrival, the committee had to wait for a space to park, and when they left, their space was immediately taken. The pharmacy had a consultation room at the rear and two to three customers inside. A notice in the window advised that repeat prescriptions from three surgeries required seven days' notice. Opening hours were Monday to Friday 9.00am to 6.00pm (closed 1.00pm to 2.00pm), Saturday 9.00am to 1.00pm, and closed Sunday.

2.22 The Committee then drove to the Apple Tree Surgery (CM2 5PA), over three miles away. They parked in Asda and walked to the pharmacy, which was located within a small shopping centre. This pharmacy appeared quieter than the previous two visited although it was approaching lunchtime. It had a consultation room and seating for waiting patients. The layout also felt more

spacious. The opening hours as displayed on the door were 09.00am to 6.00pm Monday to Friday.

2.23 Finally, the Committee drove from Apple Tree back to the Beaulieu Square parade of shops, a journey of over three miles taking about 10 minutes. Parking in the larger car park in front to the medical centre was easy at this time.

2.24 On inviting observations regarding the site visit Mr Chisti stated that there were no disabled bays at Springfield or Shadford, whereas there are eight such spaces at Beaulieu. The LPC said there is a designated pedestrian route from Springfield to Beaulieu it required a pedestrian to turn right at the junction with White Hart Lane. [this route was not apparent to the Lay Member on the site visit - the Lay Member relied on Google maps for the shortest route.]

3 Oral Hearing Submissions

3.1 Mr Musa Chishti, Healthcare Plus Consulting Ltd on behalf of Folberry Ltd.

3.2 This application is made on the basis of the new developments in north east Chelmsford, the Beaulieu community, and pharmacy closures. Over 3,000 new houses are already built in the Beaulieu development. The need for a new pharmacy is made greater by the closure of two pharmacies in Northeast Chelmsford.

3.3 In their controlled locality decision, the ICB determined that the area was no longer classified as rural and emphasised the significance of the development and the presence of key services. The following quoted from this decision:

3.3.1 "*There has been considerable change to the area in recent years. A new primary and secondary school has been built to cater for the growing population in the area and the significant housing development. The extensive building of new housing estates continues in both the Beaulieu area and neighbouring Channels developments*."

3.4 On 26 October 2025, Beaulieu Park Train station opened. On 10 November 2025 Beaulieu Health centre opened as a branch of North Chelmsford GP, and patients can access either site for appointments.

3.5 In December 2025, Zones 1 & 3 of the next stage of Chelmsford Garden community was given full planning approval; this will include 2,750 homes, of which about 650 will be affordable rented homes. The first homes are due to be delivered in 2026. This development is planned to constitute 6,250 additional homes.

3.6 In January 2026 - 270 additional houses began construction for the Beaulieu development to be occupied from October 2026.

3.7 Springfield Pharmacy is the closest pharmacy to Beaulieu. It is notable that the owners of this pharmacy (SPG Pharma Ltd, SHA/26980) have themselves applied for a new pharmacy contract in the same location as the present application, albeit around 1.5 years later. The local operator has identified a

need, and submitted an application, a good indicator that a pharmacy is necessary.

3.8 Springfield Pharmacy is physically small with limited space. Queues, parking issues and general disorder have been reported. We submit that Springfield Pharmacy has seen a sharp increase in item numbers, going from 8-9,000 in 2022 to 15,000 which may have contributed to the difficulties reported by patients. However, given the lack of pharmacies in North East Chelmsford patients may feel forced to use the pharmacy or face a much longer journey.

3.9 This pharmacy is 23 minutes away by foot when avoiding roads without pavements. This is notably in excess of the 20-minute standard the PNA uses in urban areas. The importance of walking was also highlighted by respondents to the survey. The accessibility of the proposed pharmacy should be seen as a significant benefit.

3.10 By car the distance is 0.9 miles from Beaulieu Health Centre and parking is highly limited. White Hart Lane is a one way road and residents have to double back on themselves to access Springfield Pharmacy. We note that as the Committee observed the parking lot is small and parking behind is reserved for residents.

3.11 There is no ideal bus route. Those who do use public transport report issues with traffic, buses not showing up and long walks either end of the journey. Many explicitly say this journey is difficult due to long waits and frequent cancellations.

3.12 While there are other pharmacies, the journey to these pharmacies is not practical and parking is limited at these pharmacies.

3.13 The average travel time was 22.4 minutes, which we do not consider to be acceptable for an area no longer classified as rural. The PNA outlines a 20-minute standard in urban area.

3.14 We therefore submit that the proposal offers significantly better access to all residents of the Beaulieu development which has a number of key services including the Beaulieu Healthcare Centre, Beaulieu Community Centre, Day Nursery and Preschool, Beaulieu Dental, hairdresser, Primary School, Secondary School, a Nursery and Pre-School. And a Sainsbury's supermarket.

3.15 100% of respondents to the survey used at least one of these amenities in Beaulieu Square. We submit that Beaulieu is a self-contained community and residents may now only require occasional journeys outside this locality.

3.16 26 October 2025: The construction and opening of the nearby train station is important infrastructure as over 6000 homes are to be delivered in addition to the 3000 already built. There is no pharmacy to support this large new community, which is set to triple in size.

3.17 The effect of these changes is clear. Looking at North Chelmsford GP since 2022, the total items dispensed has increased from around 10k to 15k, a 50% increase. At the same time due to the closures there has also been consolidation. Springfield now dispenses at 25% up from 12% of total items.

3.18 We therefore submit that the proposal offers significantly better access to all residents of the Beaulieu development.

3.19 The Committee will note the large number of services for children and families. This was a particular draw of the Beaulieu development. The site is therefore very beneficial for families with young children due to its proximity to the schools. These people are persons with protected characteristics.

3.20 The health centre opened in November 2025. GPs are now able to make referrals to the Pharmacy First service. This is highly beneficial to the NHS as it saves expensive and oversubscribed GP appointments. However, for a patient being asked to go from the GP to a pharmacy to access care is difficult if you are already feeling poorly; even if all that is involved is getting in the car driving a little then trying to find parking; GPs are therefore much less likely to make PF referrals if there is not one close by. A pharmacy in the square would therefore offer a clear improvement in the operation of the Pharmacy First service.

3.21 The proposed site has a large parking lot of c.100 spaces which can accommodate its users and has around 8 disabled parking bays.

3.22 For acute prescriptions (e.g. antibiotics, pain relief particularly codeine or hormone replacements (e.g. insulin)) the proximity of the pharmacy to the GP is vital. These medications need to be administered as soon as possible after prescription. Even with EPS the time to get the prescription is greatly reduced if the pharmacy is co located or in proximity to the GP.

3.23 Lastly, though support is not necessary for Regulation 18 there is substantial support for a new pharmacy.

3.24 We note that the late Cllr Mike Mackrory supported a new pharmacy, albeit he had expressed a preference for a different application. Regardless, he emphasised that the Beaulieu development is mature with more houses still on the way. He also noted that the nearest pharmacy is busy and far away. Finally, he noted the apparent inconsistency of the NHS presenting pharmacy as a preferred point of access to the NHS and yet not allowing accessible pharmacies to open.

3.25 The North Chelmsford GP, who operate the Beaulieu Square Health Centre, have also provided support within the Appeal documentation, again citing the maturity and scale of the development, the good location, and the need for a pharmacy near the GP.

3.26 We have carried out a survey which shows significant support for the proposed pharmacy. It was carried out on Facebook over a short 10-day period in February 2026

3.26.1 99.1% said a new pharmacy in Beaulieu Square is needed

3.26.2 100% said that they would find a pharmacy in Beaulieu Square significantly more accessible than existing pharmacies

3.26.3 100% said they support the opening of a pharmacy in Beaulieu Square

3.27 We have also previously highlighted numerous difficulties that are faced due to the lack of a pharmacy in Beaulieu square.

3.28 PNA:

3.29 We have already detailed issues with the PNA. We have previously noted that only 12 people from Chelmsford as a whole participated in their public survey. The ICB suggest this may be due to apathy but responses to our own survey shows that this is incorrect.

3.30 We have also shown that the PNA included DSPs in its travel time analysis despite these not being accessible on site.

3.31 We also showed that the PNA did not appear to account for the substantial completed and ongoing developments in North East Chelmsford. It identified only one planned development in Chelmsford and that was to the South.

3.32 We also note that parking was not considered, but is clearly an important factor in practice.

3.33 Mr Dan Flower, resident of Beaulieu for 9 years was called as a witness by the Applicant. He said the journey to Springfield pharmacy is not achievable by foot. Access by pedestrians is a problem as cars park on the kerbs. As a parent the walk is “very difficult”, one hour each way. Springfield pharmacy is “20 years out of date”, with no seating area for waiting clients, and only 2 chairs. In answer to questions, Mr Flower said the train station is isolated and currently has no facilities. There are 4 trains per hour to London. The station is a 20 minute walk from Beaulieu Square. Busses from Beaulieu Square are “not frequent”. At the station, there is no taxi stand but ample car parking. In answer to questions, Mr Koria assured the panel that he would obtain a site and open within the timetable SJP. Vistry Ltd, the Beaulieu housing developers had been “sceptical” but he has continued discussions with them and also with the GP medical practice.

3.34 Community Pharmacy Essex representative, Mrs Karen Samuel-Smith said that the 2025 PNA had identified no needs or gaps from Beaulieu residents. 12 people had responded from Chelmsford to the PNA consultation. Community Pharmacy Essex office is in Springfield; she told the hearing that there is no plan, or any intention to infill the green belt, as development is happening in North Chelmsford.

4 Consideration

4.1 The Committee 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.

4.2 It also had before it the responses to NHS Resolution’s own statutory consultations.

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

Regulation 31

4.4 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).

4.5 On the basis of no party raising Regulation 31 as an issue, the Committee was not required to refuse the application under the provisions of Regulation 31.

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

Regulation 40

4.7 The Committee noted the statement in the HWB's decision of 3 September 2025, that Beaulieu is no longer in a controlled locality. Regulations 40 and 41 therefore do not apply

Regulation 18

4.8 The Committee noted that this was an application for "unforeseen benefits" and fell to be considered under the provisions of Regulation 18 which states:

"(1) If—

(a) NHS England receives a routine application and is required to determine whether it is satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical

services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and

(b) the improvements or better access that would be secured were or was not included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1,

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

(2) Those matters are—

(a) whether it is satisfied that granting the application would cause significant detriment to—

(i) proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB, or

(ii) the arrangements NHS England has in place for the provision of pharmaceutical services in that area;

(b) whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—

(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also NHS England's duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)),

(ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also NHS England's duties under section 13G of the 2006 Act (duty as to reducing inequalities)), or

(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),

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

(c) whether it is satisfied that it would be desirable to consider, at the same time as the applicant's application, applications from other persons offering to secure the improvements or better access that the applicant is offering to secure;

(d) whether it is satisfied that another application offering to secure the improvements or better access has been submitted to it, and it would be desirable to consider, at the same time as the applicant's application, that other application;

(e) whether it is satisfied that an appeal relating to another application offering to secure the improvements or better access is pending, and it would be desirable to await the outcome of that appeal before considering the applicant's application;

(f) whether the application needs to be deferred or refused by virtue of any provision of Part 5 to 7.

(g) whether it is satisfied that the application presupposes that a gap in pharmaceutical services provision has been or is to be created—

(i) by the removal of chemist premises from a pharmaceutical list as a consequence of the grant of a consolidation application, and

(ii) since the last revision of the relevant HWB's pharmaceutical needs assessment other than by way of a supplementary statement.

(3) NHS England need only consider whether it is satisfied in accordance with paragraphs (2)(c) to (e) if it has reached at least a preliminary view (although this may change) that it is satisfied in accordance with paragraph (2)(b)."

4.9 The Committee considered that Regulation 18(1)(a) was satisfied in that it was required to determine whether it was satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant Health and Welling Board ("HWB")

4.10 The Committee went on to consider whether Regulation 18(1)(b) was satisfied, i.e. whether the improvements or better access that would be secured if the application was granted were or was included in the Pharmaceutical Needs Assessment ("the PNA") in accordance with paragraph 4 of Schedule 1 of the Regulations.

4.11 Paragraph 4 of Schedule 1 requires the PNA to include: "a *statement of the pharmaceutical services that the HWB had identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied (a)* ***would*** *if they were provided….secure improvements or better access, to pharmaceutical services… (b)* ***would*** *if in specified future circumstances they*

were provided…secure future improvements or better access to pharmaceutical services…" (emphasis added).

4.12 The Committee considered the PNA prepared by the Essex HWB, conscious that the document provides an analysis of the situation as it was assessed at the date of publication. The Committee bears in mind that, under Regulation 6(2), the body responsible for the PNA must make a revised assessment as soon as reasonably practicable unless to do so appears to be a disproportionate response to those changes. Where it appears disproportionate, the responsible body may, but is not obliged to, issue a supplementary statement under Regulation 6(3) explaining changes to the availability of pharmaceutical services since the publication of its PNA. Such a statement then forms part of the PNA. A supplementary statement must not provide a new analysis of service provision. The Committee noted that the PNA was dated September 2025 and that no supplementary statements had been issued. It identifies no unmet needs in the Beaulieu area.

4.13 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients of Beaulieu, North East Chelmsford.

4.14 The Committee noted that the improvements or better access that the Applicant was claiming would be secured by its application were not included in the relevant PNA in accordance with paragraph 4 of Schedule 1.

4.15 In order to be satisfied in accordance with Regulation 18(1), regard is to be had to those matters set out at 18(2). The Committee's consideration of the issues is set out below.

Regulation 18(2)(a)(i)

4.16 The Committee had regard to

"(a) whether it is satisfied that granting the application would cause significant detriment to—

(i) proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB"

4.17 The Committee noted there had been no evidence relating to this point.

4.18 On the basis of the information available, the Committee was not satisfied that, if the application were to be granted and the pharmacy to open, the ability of the Commissioner thereafter to plan for the provision of services would be affected in a significant way.

4.19 The Committee was therefore not satisfied that significant detriment to the proper planning of pharmaceutical services would result from a grant of the application.

Regulation 18(2)(a)(ii)

4.20 The Committee had regard to

> *"(a) whether it is satisfied that granting the application would cause significant detriment to— …*
>
> *(ii) the arrangements NHS England has in place for the provision of pharmaceutical services in that area"*

4.21 The Committee noted there had been no evidence on this point.

4.22 The Committee was therefore not satisfied that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of the application.

4.23 In the absence of any significant detriment as described in Regulation 18(2)(a), the Committee was not obliged to refuse the application and went on to consider Regulation 18(2)(b).

Regulation 18(2)(b)

4.24 The Committee had regard to

> *"(b) whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—*
>
> *(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also NHS England's duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)),*
>
> *(ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also NHS England's duties under section 13G of the 2006 Act (duty as to reducing inequalities)), or*
>
> *(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),*
>
> *granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published"*

Regulation 18(2)(b)(i) to (iii)

4.25 Based on the evidence put before it and its own site inspection, the Committee concluded that the housing development at Beaulieu to date and the approved plans for further development, has resulted in a township of considerable scale in a self-contained environment. A new railway station, Beaulieu Park Station, has four trains an hour running into London. The local residents and those coming into Beaulieu to use the school and nursery have a variety of services

available including a well-stocked Sainsbury's Local, a community centre, restaurants, dentist, and a vet. The health centre opened in November 2025 and houses a GP surgery and nursing services. Mr Koria on behalf of the Applicant, informed the hearing that he intends to continue discussions with the GP practice for a co-located pharmacy on their premises. He has also had discussions with Vistry, the housing developer at Beaulieu, for leasing their vacant marketing suite located on the shopping parade. He has assured the Committee that these will be taken forward if his application is granted.

4.26 The Committee also took into account the Facebook survey conducted over 10 days, in February 2026, with 111 responses which support the opening of a pharmacy at Beaulieu and advocating the significantly more accessible services it would provide. The major issue identified by the survey was that the additional workload at Springfield had led to long waiting times and unacceptable delays for patients in obtaining medication or other services.

4.27 Mr Dan Flower one of the survey responders, gave oral witness evidence; he has lived in Beaulieu for nine years. He said that the nearest pharmacy, Springfield, was not accessible by foot particularly for those with mobility problems and parents with young children, facing a journey of an hour each way. Springfield was outdated in design, with no seating for waiting customers. Parking was "problematic" with pedestrian access made difficult by cars parked on the kerbs. With its 3,000 homes, he said Beaulieu was "desperate" for a pharmacy. The bus journey would involve a walk to the bus stop at both ends and a service which was described as "slow and unreliable". We found his evidence to be compelling and persuasive. The Committee also noted letters of support from the late Cllr Mackrory, and from the North Chelmsford GP Practice which is the parent company of the Beaulieu Health Centre.

4.28 The Committee was mindful of the extra workload pressures on Springfield Pharmacy as evidenced by the Facebook survey, which highlighted queues and long wait times. Current pharmacy provision in Northeast Chelmsford was quoted by the Applicant to be 3.5 pharmacies per 100,000 population compared to 16.2 in Chelmsford and 20.6 in England. The Committee was mindful of the fact that performance issues are not in themselves a reason to grant a pharmacy application where problems reflect a period of adjustment in services or are being actively managed. However, there is no evidence presented to the Committee demonstrating that capacity problems had been recognised and measures put in place to address them in relation to the nearest alternative, Springfield Pharmacy.

4.29 The Committee's site visit had confirmed that travel from Beaulieu to Springfield Pharmacy by foot would be difficult and lengthy, possible for those willing and able, but not for many people. The designated pedestrian route referred to by Community Pharmacy Essex representative did not appear to be apparent or be sign posted. The route taken by the Lay Member on the site visit meant he encountered pavements either missing or in poor condition. It took 18 minutes to complete 0.9 miles on the site visit. The designated route would take slightly longer and involved an element of "doubling back". The bus service running every 20 minutes is described as unreliable and with no direct connections and a walk at each end. Those making the car journey of about four minutes, would face parking congestion at the Springfield site.

4.30 The Committee concluded that the size and scale of Beaulieu has transformed it into a self-contained suburban hub. It would also attract external users of the school and nursery. The recent closures have left Springfield Pharmacy as the nearest pharmacy. It is now considerably overstretched, leaving Beaulieu with much diminished access and choice in terms of physical access to services. A community pharmacy in the suggested location will provide significant benefit for a significant number of people in the area.

4.31 Having regard to the above, the Committee was satisfied that, having regard to there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits by way of physical access on persons.

4.32 In considering Regulation 18(2)(b)(ii) the Committee reminded itself that it was required to address itself to people who share 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) having access to services that meet specific needs for pharmaceutical services that, in the relevant area, are difficult for them to access.

4.33 The Committee considered that individual comments had been received either from persons with certain protected characteristics or that referenced persons with protected characteristics and which made comments about issues with access to the existing pharmaceutical services. The Committee had regard to these comments but noted that there was little reference to services that meet specific needs. The comments on access were general in nature and might apply to any persons as explained by the assessment as to the lack of reasonable access above. The Committee considered that there was not a robust body of evidence that enabled it to be satisfied that a pharmacy at the proposed site would convey significant benefits pursuant to Regulation 18(2)(b)(ii).

4.34 The Committee was therefore not satisfied that, having regard to the desirability of people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access, granting the application would confer significant benefits on persons.

4.35 In considering Regulation 18(2)(b)(iii) the Committee had regard to the desirability of innovative approaches to the delivery of pharmaceutical services. In doing so, the Committee would consider whether there was something more over and above the usual delivery of pharmaceutical services that might be expected from all pharmacies, some ‘added value’ on offer at the location.

4.36 No evidence was presented on innovative approaches.

4.37 The Committee was not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting the application would confer significant benefits on persons.

Regulation 18(2)(b) generally

4.38 The Committee was of the view that there was no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore it was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits (in relation to opening hours) on persons.

4.39 The Committee noted that the Applicant is proposing to provide 44 core hours. The Committee had regard to Schedule 4, Part 3 of the Regulations which states:

Pharmacy opening hours: general

23.— *(1) Subject to paragraph 23A, an NHS pharmacist (P) must ensure that pharmaceutical services are provided at P's pharmacy premises—*

(a) for 40 hours each week; …

(d) if a Primary Care Trust, or on appeal the Secretary of State, has (under previous Regulations) directed that pharmaceutical services are to be provided at the premises for more than 40 hours per week, and at set times and on set days, at the times and on the days so set, subject to any variation in respect of a rest break in accordance with sub-paragraph (7)(bd); …

4.40 The Committee noted that, if the application was to be granted, a direction would need to be issued for the "additional" hours which were being offered by the Applicant.

4.41 The Committee had regard to the advanced and enhanced services proposed as part of the application. The Committee noted that if the application was to be granted, the Commissioner should consider issuing a direction in accordance with Regulation 66.

4.42 The Committee has considered whether there are any other factors that would confer significant benefits on including patients who share protected characteristics. The Committee 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 characteristics.

4.43 The Committee was of the view that in accordance with Regulation 18(2)(b) the granting of this application would confer significant benefits on persons in the area of the HWB which were not foreseen when the PNA was published.

Other considerations

4.44 Having determined that Regulation 18(2)(b) had been satisfied, the Committee needed to have regard to Regulation 18(2)(c) to (e) and found that there are no other applications or appeals relating to this area.

4.45 No deferral or refusal under Regulation 18(2)(f) was required in this case.

4.46 The Committee had regard to Regulation 18(2)(g) and found that it does not apply.

4.47 The Committee considered whether there were any further factors to be taken into account and concluded that there were not.

4.48 The Committee was satisfied that the information provided demonstrates that there is difficulty in accessing current pharmaceutical services such that a pharmacy at the proposed site would provide better access to pharmaceutical services.

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

4.49.1 Confirm the Commissioner's decision;

4.49.2 Quash the Commissioner's decision and redetermine the application;

4.49.3 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.

4.50 The Commissioner in its decision placed insufficient weight on the current (and planned) housing developments particularly in Beaulieu. It had not foreseen that the increased workload has compromised access, service quality or the ability of Springfield Pharmacy, the closest to the proposed site, to meet local needs. The Committee have concluded that the 3,000 homes, (with another 4,000 in the pipeline), has resulted in a significant increase in the population of Beulieu. The resulting higher demand for pharmaceutical services is not being met. The responses to the Facebook survey corroborate the statistics submitted about the very large increase in dispensing figures at Springfield Pharmacy resulting in long wait times and queues. In those circumstances the Committee determined that the decision of the Commissioner must be quashed.

4.51 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.

4.52 The Committee noted that representations on Regulation 18 had been sought from parties by the Commissioner and representations had already been made by parties to the Commissioner in response. These had been circulated and seen by all parties as part of the processing of the application by the Commissioner. The Committee further noted that when the appeal was circulated representations had been sought from parties on Regulation 18.

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

5 DECISION

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

5.2 The Committee has considered whether the granting of the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area covered by the HWB, or the arrangements in place for the provision of pharmaceutical services in that area and is not satisfied that it would;

5.3 The Committee determined that the application should be granted on the following basis:

5.3.1 In considering whether the granting of the application would confer significant benefits, the Committee determined that –

5.3.1.1 there is not already a reasonable choice with regard to obtaining pharmaceutical services;

5.3.1.2 there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and

5.3.1.3 there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services;

5.3.2 Having taken these matters into account, the Committee is satisfied that granting the application would confer significant benefits as outlined above that would secure improvements or better access to pharmaceutical services.

Committee Chair

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ANNEX A

REF: SHA/26866

APPEAL AGAINST MID AND SOUTH ESSEX ICB DECISION TO REFUSE AN APPLICATION BY FOLBERRY LIMITED FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT CENTENARY WAY SHOPS, BEAULIEU SQUARE, CHELMSFORD, CM1 6AU

1 The Application

By application dated 19 February 2024, Folberry Ltd ("the Applicant") applied to Mid and South Essex ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Centenary Way Shops, Beaulieu Square, Chelmsford, CM1 6AU. In support of the application it was stated:

In response to "In my/our view this application should not be refused pursuant to Regulation 31 for the following reasons:" the Applicant stated:

1.1 "N/A There is no pharmacy currently trading from/ adjacent to the proposed site."

Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area.

1.2 "Please see enclosed supporting Information"

1.3 "Belstead Hall New Contract Supporting Information

1.4 Background

1.5 This application is in respect of opening up a new pharmacy in order to provide better access for pa ents requiring access to pharmaceutical services in the new Beaulieu development in Belstead Hall.

1.6 We understand that there is currently no pharmacy serving this new large population, hence this application is offering unforeseen benefits not captured within the PNA.

1.7 The best estimate of the proposed site we wish to open up a new pharmacy is located on Centenary Way Shops, Beaulieu Square, Chelmsford, CM1 6AU.

1.8 Proposed Location

1.9 The proposed location is situated amongst a busy parade of shops, within the new Beaulieu development.

1.10 The thriving parade is home to a Sainsbury's local; Dental Clinic; Domino's; Fish & Chips Shop; and a hair Salon to name a few. These are typical shops that would be found within the local community; all with ample free parking and wide walkways to access local services. There is good access by foot, car, and public transport.

1.11 Belstead Hall in itself is its own community with the aforementioned parade of shops; a community centre; a school; a Bowling club; and a new Health Centre that is currently under construction.

1.12 A pharmacy located here would complement the local community amenities within Belstead Hall.

1.13 Site Images

1.14 Image depicting Sainsbury's local on the parade, with new local school in the background. [image provided to Committee]

1.15 Image depicting further shops on the parade, with ample parking available outside the proposed premises. [image provided to Committee]

1.16 Image depicting health centre location, and further parade of shops. Bus shelter can also be seen. [image provided to Committee]

1.17 Map of pharmaceutical provision

1.18 Green marker - shows the estimated location of the proposed site, CM1 6AU

1.19 Blue marker - depicts the site of Springfield Pharmacy, CM1 6GL

1.20 Red markers - depicts the closed site of Lloyds in Sainsbury's (CM2 5PA) and the closing Boots (CM1 6NF) [image of map provided to Committee]

1.21 Regulations

1.22 We are required by NHS England to address the overarching question in an Unforeseen Benefits application:

1.23 "*Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or be er access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB area*".

1.24 When considering the above question, the provisions of Regulation 18(2)(b) should be noted:

[Regulation 18(2)(b) quoted]

1.25 We note that points on reasonable choice; protected characteristics; and innovation are desirable, however, they are merely supporting considerations when determining whether in fact the overarching test in regulation 18(2)(b) has been met: an application should be granted should it provide improvements

or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area.

1.26 We have addressed these regulations overleaf.

1.27 The Development & Service Provision

1.28 The Large Beaulieu Development is delineated by the A131 to the North, the A1016 to the West, White Hart Lane to the South, and the A131 to the East, forming its own self-sustaining community.

1.29 The development consists of 3,600 dwellings; a school; a community centre; a large parade of shops; and a health centre that is currently under construction. These are all facilities that residents frequent as part of their daily lives.

1.30 With a Health Centre soon to be added to these amenities, a local pharmacy would complement the community facilities and improve access to pharmaceutical provision, with residents not having to journey to alternative communities to access pharmaceutical services and able to access pharmaceutical provision directly after a visit to their GP.

1.31 The vast majority of housing is now complete, with the shops and school already erected and fully functional. Assuming an occupancy rate of 2.5 and 3000 houses constructed, we can see that there is now an additional population of approximately 7500 residents. The majority of whom would likely utilise a pharmacy at the proposed site.

1.32 It is also important to note the poor pharmaceutical access generally within Northeast Chelmsford, as can be seen from the map above. When we break down the population of Northeast Chelmsford, we can see the following:

1.33 Lawns Ward – population: 5,402 (2011)

1.34 Trinity Ward – population: 6,295 (2011)

1.35 Springfield North Ward – population: 8,807 (2011)

1.36 Beaulieu Development – population: 7,500 (approx.)

1.37 The total population of Northeast Chelmsford now sits at approximately 28,000 residents. When we consider the pharmaceutical provision to serve these residents:

1.38 Lloyds in Sainsbury's, CM2 5PA – closed Summer 2023 –

1.39 Boots, Torquay Road, CM1 6NF – closing 8th March 2024

1.40 Springfield Pharmacy, Clematis Tye, CM1 6GL

1.41 We can see that once the Boots closes, pharmaceutical provision will have effectively vanished with Springfield Pharmacy being the only pharmacy to serve this massive population of 28,000. Extrapolating this figure allows to conclude that Northeast Chelmsford will soon have 3.5 pharmacies per 100,000 people – drastically below the average for Chelmsford (16.2/100,000)

and England (20.6/100,000). Thus, it is apparent that pharmaceutical provision is dire in Northeast Chelmsford and represents no choice to pharmaceutical provision, much less than the threshold of 'reasonable choice'.

1.42 Such is the obvious need to serve this large population, my client has also submitted an additional application to open up a pharmacy on Torquay Road Shops, CM1 6NF, at the site of the soon to be closed Boots. We believe that it is imperative both applications are granted, such is the urgent need for pharmaceutical provision in Northeast Chelmsford.

1.43 Image of Beaulieu development [provided to Committee]

1.44 Conclusion

1.45 In our view, the vast number of new houses and pharmaceutical closures nearby has created a significant gap in pharmaceutical services for Belstead Hall and Northeast Chelmsford in general.

1.46 Local residents and those who are using the local amenities as part of their daily lives would benefit significantly from access to a pharmacy located on Centenary Way parade of shops.

1.47 Granting this application would secure better access to pharmaceutical services and would also introduce reasonable choice of pharmaceutical provider within the Belstead Hall community.

1.48 We would like to note that granting this application would not cause significant detriment to access of pharmaceutical services, due to the fact that the nearest pharmacy to the proposed site is located 0.9 miles away.

1.49 On the evidence outlined above, we believe that a new pharmacy contract should be granted."

2 Comments to the Commissioner

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

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

2.1 Healthcare Plus Consulting Ltd on behalf of Folberry Ltd

2.1.1 "Thank you for your letter dated 13th May 2024. We welcome comments from all local parties and note the following:

2.1.1.1 Springfield Pharmacy have chosen not to provide representation. We can only assume that this is because they have no objections to the application.

2.1.2 Taking each representation in turn below:

2.1.3 Local Pharmaceutical Committee (LPC)

2.1.4 We would like to provide clarity on a few points made by the LPC.

2.1.5 The LPC highlight that no gaps have been identified. We highlight that an Unforeseen Benefits application is in its very nature, unforeseen, offering improvements or better access to pharmaceutical services not captured within the PNA.

2.1.6 The LPC also mention residents access to distance selling pharmacies. We point out that distance selling pharmacies are unable to provide the face-to-face pharmacist services that bricks and mortar pharmacies can.

2.1.7 The LPC highlight a previous relocation grant in 2017 to the proposed location. Whilst we are not privy to this grant, we highlight that unforeseen benefits applications and relocations are distinctly worded regulations that are separate to one-another, with their own regulatory tests. We note that this relocation would have lapsed now, so is not of relevance.

2.1.8 The LPC also highlight that the Beaulieu Park development was evaluated in the 2018 and 2022 PNA. However, we highlight to the Committee that the project has been brought forward since then; especially the construction of the health centre; the second primary school; and the railway station on the development.

2.1.9 Paydens Limited t/a Rivermead Pharmacy

2.1.10 We highlight to Paydens that approximately 730 affordable homes have been built thus far on the Beaulieu development in Belstead Hall, with more anticipated. These residents are likely to have worse vehicular access and are reliant on the self-sustaining Belstead Hall community to access daily amenities.

2.1.11 We also highlight to Paydens that the new Health Centre will bring patients who require pharmaceutical services immediately after a visit to their GP, especially for acute conditions.

2.1.12 A pharmacy at the proposed location would create better access and choice for these patients.

2.1.13 Conclusion

2.1.14 In conclusion, granting this application would secure better access and improvements to pharmaceutical services for Northeast Chelmsford, especially within the new Beaulieu Park development in Belstead Hall.

2.1.15 The proposed location is situated next to shops that resident's access as part of their daily lives. The elderly, disabled, and the wider population are likely to find the proposed pharmacy significantly more accessible than their current choices. It would also complement the new Health Centre that is being built as well as the numerous community facilities on the development.

2.1.16 Hence, regulation 18 has been met and this application should be granted."

3 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 23 December 2025 states:

3.1 "Mid and South Essex ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.

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

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

Decision report

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

3.4 "Decision Wording

3.5 Folberry Ltd - Unforeseen Benefits - Best Est - CM1 6AU - CAS-275105-Y5Z3T2

3.6 Unforeseen Benefits (UB): Application for inclusion in a pharmaceutical list: routine application offering to secure unforeseen benefits Folberry Ltd, Centenary Way Shops, Beaulieu Square, Chelmsford, CM1 6AU.

3.7 The Pharmaceutical Services Regulations Committee (hereafter referred to as "the Committee") considers all pharmaceutical services applications for the 6 Integrated Care Boards (ICB) within the East of England footprint. NHS Hertfordshire and West Essex ICB (HWE ICB) hosts the meeting on behalf of the 6 ICBs, in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as "the Regulations").

3.8 The Committee considered this routine application offering UB in the area of the Essex Health and Wellbeing Board (HWB) under Regulation 18 of the Regulations.

3.9 The Committee first considered Regulation 31. The Committee noted that as the applicant has chosen to give a best estimate for the location of the proposed pharmacy premises it is not possible to determine whether or not the application should be refused by virtue of Regulation 31. The Committee noted that there are no pharmacies within the best estimate.

3.10 The Committee noted the nearest pharmacies which were embedded within the Committee Report.

3.11 The Committee noted the applicant provided the following information in relation to Regulation 31, taken from the application form:

3.12 “N/A There is no pharmacy currently trading from/ adjacent to the proposed site.”

3.13 The Committee agreed that it is not required to refuse the application under the provisions of Regulation 31.

3.14 Paragraph 31, Schedule 2 – conditional grant of applications where the address of the premises is unknown.

3.15 The Committee noted that as the applicant had provided a best estimate address for the proposed pharmacy premises Paragraph 32, Schedule 2 would apply. Therefore, if the application were granted, it would be a condition of the grant that the applicant must notify NHS England of the address of the premises to be listed within six months of the date the decision letter is sent.

3.16 Such a notification would be invalid (and the applicant would not be able to commence provision of services) if the location then provided would (had it been known now) have led to the application being refused under Regulation 31.

3.17 The Committee agreed that as it is not yet known where the premises would be located there were no grounds for the Committee to refuse the application under Schedule 2, on the basis of Regulation 31.

3.18 Regulation 32 – Is the application to be deferred? The Committee noted this Regulation does not apply as there are no LPS designations in the area covered by the best estimate address of the pharmacy premises.

3.19 Regulation 40 to 44 - Applications in a controlled locality

3.20 The Committee noted that the proposed location is not within a controlled locality or reserved locality, so these Regulations do not apply.

3.21 Regulation 18(1) – does the need on which the applicant based its application satisfy the elements of Regulation 18(1)?

3.22 The Committee considered if Regulation 18(1)(a) is satisfied in that it is required to determine whether it is satisfied that granting the application or granting it in respect of some of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB.

3.23 Regulation 18(1)(b)

3.24 The Committee considered whether Regulation 18(1)(b) is satisfied i.e. whether the improvements or better access that would be secured if the application were granted were or were not included in the relevant

Pharmaceutical Needs Assessment (PNA) in accordance with paragraph 4 of Schedule 1.

3.25 Paragraph 4 of Schedule 1 requires the PNA to include:

3.26 “a statement of the pharmaceutical services that the HWB had identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied (a) would if they were provided….secure improvements or better access, to pharmaceutical services… (b) would if in specified future circumstances they were provided…secure future improvements or better access to pharmaceutical services…”.

3.27 The Committee considered the applicant’s full supporting evidence, which was embedded within the Committee Report.

3.28 The Committee noted that the application was submitted before the 2025 Essex PNA was published. The delay in consideration of this application is due to the area that the proposed location resides within, requiring a controlled locality determination as requested by Community Pharmacy Essex (CPE). The Committee noted that the result of the determination was that the area is not within a controlled locality.

3.29 The Committee noted that the 2022 PNA was dated 28th September 2022 and that 38 supplementary statements had been issued.

3.30 The Committee noted the following from the conclusion section of the previous Essex PNA version, 2022-2025:

3.31 “Access to pharmaceutical services for the residents of Essex is good and the main conclusion of this PNA is that there are currently no gaps in the provision of necessary or relevant pharmaceutical services…

3.32 …The HWB has not identified any services that would secure improvements, or better access, to the provision of pharmaceutical services either now or within the 3 year lifetime of this pharmaceutical needs assessment. Based on the information available at the time of developing this PNA no current gaps in the provision of essential services during normal working hours have been identified in any of the localities.

3.33 Based on the information available at the time of developing this PNA no current gaps in the provision of essential services outside normal working hours have been identified in any of the localities.

3.34 Based on the information available at the time of developing this PNA no current gaps in the provision of the New Medicine Service and Community Pharmacist Consultation Service advanced services have been identified in any of the localities.

3.35 Based on the information available at the time of developing this PNA no gaps in the need for the necessary services in specified future circumstances have been identified in any of the localities.

3.36 Based on the information available at the time of developing this PNA no gaps in the current provision of other relevant services or in specified future circumstances have been identified in any of the localities.

3.37 Based on the information available at the time of developing this PNA no gaps have been identified in essential services that if provided either now or in the future would secure improvements or better access to essential services in any of the localities.

3.38 Based on the information available at the time of developing this PNA no gaps have been identified in the provision of advanced services that if provided either now or in the future would secure improvements or better access to advanced services in any of the localities.

3.39 Based on the information available at the time of developing this PNA no gaps in respect of securing improvements or better access to the enhanced services in specified future circumstances have been identified in any of the localities."

3.40 The Committee noted that the supplementary statements dated April 2023 for the Chelmsford and Maldon localities reference the closure of the Boots pharmacy, formerly located at CM1 6NF, and both conclude that,

3.41 "No gaps in pharmaceutical services have been identified that if provided either now or in the future would secure improvements or better access to necessary pharmaceutical services across the locality."

3.42 Furthermore, the Committee noted that the supplementary statements dated April 2023 and June 2024 for the Chelmsford locality reference the closure of the Lloyds pharmacy, formerly located at CM2 5PA, and both concluded that,

3.43 "No gaps in pharmaceutical services have been identified that if provided either now or in the future would secure improvements or better access to necessary pharmaceutical services across the locality."

3.44 The Committee noted the following from the conclusion section of the relevant (current) Essex PNA version, 2025-2028:

3.45 "Access to pharmaceutical services for the residents of Essex is good and the main conclusion of this PNA is that there are currently no gaps in the provision of necessary or relevant pharmaceutical services…

3.46 The HWB has not identified any services that would secure improvements, or better access, to the provision of pharmaceutical services either now or within the 3-year lifetime of this pharmaceutical needs assessment.

3.47 Provision of essential services during normal working hours Based on the information available at the time of developing this PNA no gaps have been identified in any of the localities either now or in the future.

3.48 Provision of essential services outside normal working hours Based on the information available at the time of developing this PNA no gaps have been identified in any of the localities either now or in the future.

3.49 Provision of the New Medicine Service and Community Pharmacist Consultation Service advanced services Based on the information available at the time of developing this PNA no gaps have been identified in any of the localities either now or in the future.

3.50 Provision of necessary services Based on the information available at the time of developing this PNA no gaps have been identified in any of the localities either now or in the future.

3.51 Provision of other relevant services Based on the information available at the time of developing this PNA no gaps have been identified in any of the localities either now or in the future.

3.52 Provision of essential services Based on the information available at the time of developing this PNA no gaps have been identified in any of the localities either now or in the future.

3.53 Provision of advanced services Based on the information available at the time of developing this PNA no gaps have been identified in any of the localities either now or in the future.

3.54 Provision of better access to the enhanced services Based on the information available at the time of developing this PNA no gaps have been identified in any of the localities either now or in the future."

3.55 As the application had been made in relation to the 2022 PNA, the Committee considered whether in this case it should have regard to that PNA. Considering the above conclusions from both PNA versions, the Committee agreed that no need has been identified for a pharmacy at this site in either the 2022 or 2025 PNA. The Committee agreed that whichever PNA it had regard to, it would not materially affect its decision.

3.56 The Committee noted that the applicant seeks to provide unforeseen benefits to the patients of North-east Chelmsford, particularly Lawns Ward, Trinity Ward, Springfield North Ward and Beaulieu Development.

3.57 The Committee was of the view that the improvements or better access that the applicant is claiming would be secured by its application, were not included in the relevant PNA in accordance with Paragraph 4 of schedule 1.

3.58 The Committee noted that in order to be satisfied in accordance with Regulation 18(1), regard is also to be had to those matters set out in Regulation 18(2). Regulation 18(2)(a)(i) & (ii)

3.59 The Committee considered whether it is satisfied that granting the application would cause significant detriment to—

3.59.1 proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB, or

3.59.2 the arrangements the [ICB] has in place for the provision of pharmaceutical services in that area.

3.60 The Committee noted there was no evidence to suggest granting the application would cause significant detriment to proper planning in the area and for any arrangements the ICB has in place for the provision of services in the area.

3.61 In the absence of any significant detriment as described in Regulation 18(2)(a), the Committee was not obliged to refuse the application and went on to consider Regulation 18(2)(b).

3.62 Regulation 18(2)(b)(i) The Committee considered whether, notwithstanding that the improvements or better access were not included in the Essex PNA, 2025 - 2028, it is satisfied that, having regard in particular to the desirability of—

> (i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also the [ICB's] duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services))
>
> granting the application would confer significant benefits on persons in the area of Essex HWB that were not foreseen when the PNA was published.

3.63 The Committee noted that the application states in support of this Regulation, the following points:

"We note that points on reasonable choice; protected characteristics; and innovation are desirable, however, they are merely supporting considerations when determining whether in fact the overarching test in regulation 18(2)(b) has been met: an application should be granted should it provide improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area….

It is also important to note the poor pharmaceutical access generally within North East Chelmsford, as can be seen from the map above….

The total population of North East Chelmsford now sits at approximately 28,000 residents. When we consider the pharmaceutical provision to serve these residents:

Lloyds in Sainsbury's, CM2 5PA – closed Summer 2023

Boots, Torquay Road, CM1 6NF – closing 8th March 2024

Springfield Pharmacy, Clematis Tye, CM1 6GL"

3.64 The Committee noted that Lloyds closed on 24th July 2023 and Boots on 9th March 2024. Both were included in the supplementary statements and therefore included in the amended 2022 Essex PNA. No gaps as a result of those closures were announced within those statements.

3.65 The applicant further stated:

"*We can see that once the Boots closes, pharmaceutical provision will have effectively vanished with Springfield Pharmacy being the only pharmacy to serve this massive population of 28,000. Extrapolating this figure allows to conclude that North East Chelmsford will soon have 3.5 pharmacies per 100,000 people – drastically below the average for Chelmsford (16.2/100,000) and England (20.6/100,000). Thus, it is apparent that pharmaceutical provision is dire in North East Chelmsford and represents no choice to pharmaceutical provision, much less than the threshold of 'reasonable choice.'*

Such is the obvious need to serve this large population, my client has also submitted an additional application to open up a pharmacy on Torquay Road Shops, CM1 6NF, at the site of the soon to be closed Boots. We believe that it is imperative both applications are granted, such is the urgent need for pharmaceutical provision in North East Chelmsford."

3.66 The Committee noted that the application mentioned above was refused by the Committee at its meeting on 27th November 2024, an appeal was lodged, and NHSR granted the application on 24th July 2025. The pharmacy contractor has not submitted the notice of commencement to date (7th November 2025) and therefore is currently not providing services.

3.67 The Committee noted that there is one pharmacy within a mile of the proposed best estimate (Springfield Pharmacy), which takes around 4 minutes to drive and 16 minutes to walk to, according to Google Maps and SHAPE Atlas data. The route is mostly flat, paved with street lighting for the entire route.

3.68 The Committee noted that Shape Atlas also provides data of the ten nearest pharmacies, how many miles from the proposed best estimate this is and how long it takes to drive to those pharmacies. The data was embedded into the Committee Report and shared prior to the meeting.

3.69 The Committee noted that the data states that there are eight pharmacies within 3 miles of the proposed premises and the furthest being 3.6 miles away. Driving times vary between 4 minutes and 13.6 minutes.

3.70 The Committee noted that the residents of Lawns Ward, Trinity Ward, Springfield North Ward and Beaulieu Development currently receive medical services from various local GP practices in the surrounding area.

3.71 The Committee noted that dispensing activity (June 2025), embedded within the Committee Report, from the nearest pharmacy (Springfield Pharmacy) suggests patients are being prescribed medicines from Beacon Health Group (Mountbatten House Surgery), North Chelmsford NHS HCC (Beaulieu Healthcare Centre), Chelmer Medical Partnership & Beauchamp House Surgery to name just the top 4.

3.72 The Committee noted that as people are travelling to these GP Practices for medical services, they are likely to be able to access pharmaceutical services on route to or from their medical practice or anywhere else they may be travelling to/from.

3.73 The Committee noted that the data table embedded in the Committee Report showed that the majority of patients who are dispensed medicines from the nearest pharmacy (Springfield Pharmacy) attended the Beacon Health Group

(Mountbatten House Surgery), North East Chelmsford. June 2025 data states Springfield Pharmacy dispensed 13,564 prescriptions for 60 GP practices, where 5,059 prescriptions were prescribed from Beacon Health Group (Mountbatten House Surgery), North East Chelmsford.

3.74 The Committee noted that the data table (June 2025) embedded within the Committee Report, also showed that the Beacon Health Group prescribed 42,519 prescriptions which were dispensed by 129 pharmacies. Within the top 9 of those dispensing pharmacies, there is 1 distance selling pharmacy, Pharmacy2u based in Leeds who dispensed 1,743 prescriptions.

3.75 The Committee agreed that patients are using a wide range of pharmacies for their pharmaceutical needs, and therefore it can be said patients are exercising their choice. The Committee noted that Springfield Pharmacy is the nearest pharmacy and is 0.7 miles on foot from the proposed site. Patient choice is facilitated by nine other pharmacies that are located within a 3.6-mile actual route measurement (not in a straight line), and those were included in the document entitled 'Nearest Pharmacies,' which was embedded into the Committee Report and shared prior to the meeting in the Additional Information Section on page 2.

3.76 The Committee noted that the overall provision of pharmaceutical services is through using those established pharmacies. All those pharmacies are providing similar opening hours to those proposed by the applicant, with seven open on Saturdays and three open on Sundays. All are 40 core hour pharmacies.

3.77 The Committee agreed that the level of choice available to patients can be considered as reasonable. The Committee noted that the applicant is offering to provide 44 core hours of opening, and the additional hours have been agreed. The agreement for the additional directed core hours is on Saturday 09:00 to 13:00.

3.78 The Committee noted that the nearest pharmacies that are open on Saturdays under core opening hours are Boots Pharmacy (FM336), Chelmer Village Retail Park, Chelmsford (09:00-14:00), Morrisons Pharmacy (FNW43), Copperfield Road, Chelmsford (09:00-13:00 & 14:00-15:00) and Boots Pharmacy (FPD07), High Chelmer, Chelmsford (09:00-12:00 & 13:00-15:00). All three pharmacies are also providing services on Sundays under supplementary hours of opening.

3.79 The Committee agreed that there is already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, such that it was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.

3.80 The Committee noted that no current or future gaps in the provision of pharmaceutical services have been identified in either the current (relevant) PNA or the previous 2022 version.

3.81 The Committee noted that the test is whether or not those living in North East Chelmsford have reasonable choice with regard to obtaining pharmaceutical

services in the area of Essex HWB, not just in the area of North East Chelmsford.

3.82 The Committee noted that it has previously been established within appeals that in order to have reasonable choice, those living in the area of a pharmacy application must be able to exercise that choice.

3.83 The Committee noted that no evidence had been provided to demonstrate that those living in North East Chelmsford are currently unable to exercise a choice in obtaining pharmaceutical services. Based on the information presented, the Committee agreed there is already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, such that it cannot be satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the Essex PNA 2025 was published.

3.84 Regulation 18(2)(b)(ii)

3.85 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Essex PNA, 2025, it is satisfied that, having regard in particular to the desirability of—

> *(i) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also [ICB] duties under section 13G of the 2006 Act M3 (duty as to reducing inequalities))*
>
> *granting the application would confer significant benefits on persons in the area of Essex HWB that were not foreseen when the PNA was published.*

3.86 The Committee noted that the applicant provided no evidence to meet the criteria of Regulation 18(2)(b)(ii). Whilst it is accepted that there would be people with protected characteristics living in North East Chelmsford and that some may need pharmaceutical services as a result, there was no evidence that any specific groups had any difficulty accessing such services.

3.87 The Committee was not satisfied that, having regard to the desirability of people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.

3.88 Regulation 18(2)(b)(iii)

3.89 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Essex PNA 2025, it is satisfied that, having regard in particular to the desirability of—

(i) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also [ICB] duties under section 13K of the 2006 Act (duty to promote innovation)),

granting the application would confer significant benefits on persons in the area of Essex HWB that were not foreseen when the PNA was published.

3.90 The Committee noted that the applicant provided no comments regarding innovative approaches in the delivery of pharmaceutical services, therefore were not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the Essex PNA 2025 was published.

3.91 Representations

3.92 The Committee noted that representations were made from:

3.92.1 Boots UK Limited

3.92.2 Community Pharmacy Essex

3.92.3 North & South Essex Local Medical Committees (LMC)

3.92.4 Rushport Advisory on behalf of Paydens Limited t/a Rivermead Pharmacy

3.93 The full representations were within the 'Representations received from 45-day notification period' section on page 21 embedded into the Committee Report and shared prior to the meeting.

3.94 The Committee noted that the applicant responded to those representations, and the full response was embedded on page 21 under the section titled, "Representations received from circulation of first representations" of the Committee Report.

3.95 Regulation 18(2)(b) generally

3.96 The Committee noted that the applicant is offering to provide 44 core hours, Monday to Friday 9am to 1pm and 2pm to 6pm and Saturdays 9am to 1pm. The applicant has not made any reference to this in its supporting information.

3.97 The Committee noted that it was not provided with information from the applicant regarding the core opening hours of any of the existing pharmacies within the area.

3.98 The Committee considered both versions of the PNA which states, "Access to pharmaceutical services for the residents of Essex is good and the main conclusion of this PNA is that there are currently no gaps in the provision of necessary or relevant pharmaceutical services."

3.99 The Committee noted that this is also true within the sections under Chelmsford, declaring “No gaps in the provision of…” all services. The Committee noted that if a gap in provision is established, the ICB has the power to direct the existing pharmacies to open in order to fill such a gap. The Committee therefore agreed that as there is no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore the Committee was satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would not confer significant benefits (in relation to opening hours) on persons.

3.100 Furthermore, the Committee noted that no evidence had been provided to substantiate a finding that existing pharmacies in the area are unable to meet the current demand for pharmaceutical services. In the absence of such information, the Committee agreed that there was insufficient information to support the need for additional pharmaceutical provision.

3.101 The Committee considered whether there are any other factors that would confer significant benefits including on patients who share protected characteristics based on the information provided by the applicant.

3.102 The Committee noted 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 characteristics.

3.103 The Committee noted that the applicant provided no evidence to satisfy that there are other factors that would confer significant benefits on patients who shared protected characteristics.

3.104 The Committee agreed that in accordance with Regulation 18(2)(b) the granting of this application would not confer significant benefits on persons in the area of the HWB which were not foreseen when the PNA was published.

3.105 Regulation 65 – Core opening hours conditions

3.106 The Committee noted the applicant’s proposed 44 core opening hours with 5 supplementary opening hours.

3.107 The Committee noted that the applicant has agreed its proposed 40 core hours, and those remaining 4 hours which would require a direction if a successful application were made. These are as follows:

3.108 Monday to Friday 09:00 – 13:00 and 14:00 – 18:00

3.109 The directed hours would therefore be:

3.110 Saturday 09:00 to 13:00

3.111 The Committee then considered local pharmacy provision, including Saturday opening hours. The Committee noted that, while Distance Selling Pharmacies (DSPs) provide dispensing services, they are not considered substitutes for face-to-face pharmacies under current guidance, despite patient perspectives. The Committee acknowledged that the provision landscape is evolving with

online services, and noting DSP availability is important for future reference, though current Regulations do not weight them heavily.

3.112 Decision makers concluded that the application is refused. This decision was based on insufficient evidence provided by the applicant and the fact that most local pharmacies already offer Saturday and supplementary hours.

3.113 Decision:

3.114 The Committee agreed to refuse the application on the following basis, under Regulation 18(2)(b):

3.114.1.1 There is no evidence that there is not already a reasonable choice with regard to obtaining pharmaceutical services in the area of Essex HWB.

3.114.1.2 There is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services that meet their specific needs for such services; and

3.114.1.3 There is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services.

3.115 There is no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore the Committee was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits (in relation to opening hours) on persons.

3.116 For all the above reasons the view in accordance with Regulation 18(2)(b), the granting of this application would not confer significant benefits on persons in the area of the HWB which were not foreseen when the PNA was published.

3.117 The Committee was not satisfied that granting the application would confer significant benefits as outlined above or would secure improvements or better access to pharmaceutical services.

3.118 The Committee agreed that the applicant, Folberry Ltd, Centenary Way Shops, Beaulieu Square, Chelmsford, CM1 6AU, has a right of appeal.

3.119 Regulation 50: Discontinuation of arrangements for the provision of pharmaceutical services by doctors

3.120 The Committee noted that Regulation 50 does not apply as the application was refused.

3.121 Regulation 66 – directed services conditions.

3.122 The Committee noted that Regulation 66 does not apply as the application was refused.”

4 The Appeal

In a letter dated 22 January 2026 addressed to NHS Resolution, the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

4.1 "Thank you for your letter dated 23rd December 2025. Folberry Ltd have instructed us (Healthcare Plus Consulting Ltd) to act on their behalf for this appeal, please find an authorisation letter attached.

4.2 We would like to appeal the decision made in relation to the above unforeseen benefits application.

4.3 We believe that the committee failed to properly consider the regulations and relevant evidence.

4.4 Below we address the application and Essex PNA 2025 which has been published since the original application. This appeal is made in addition to previous submissions.

4.5 Statute and Regulations

4.6 All routine applications must address the overarching question, as defined in Section 129(2A) of the National Health Service Act 2006:

4.7 "*s 129(2A) NHS England is satisfied as mentioned in this subsection if, having regard to the needs statement for the relevant area and to any matters prescribed by the Secretary of State in the regulations, it is satisfied that to grant the application would—*

4.7.1 *(a) meet a need in that area for the services or some of the services specified in the application, or*

4.7.2 ***(b) secure improvements, or better access, to pharmaceutical services in that area**." (Emphasis added)*

4.8 We submit that the present application will "secure improvements, or better access, to pharmaceutical services" and so should be granted.

4.9 It is of particular importance to note that need is a distinct question to that of improvements or better access and the questions should not be conflated. Need is not required for the present application to be accepted. To apply a test based on need would be an error of law.

4.10 We note that the regulations describe certain considerations relevant to the above question, where the improvements or better access are not included in the relevant PNA.

4.11 When considering the above question, the provisions of Regulation 18(2)(b) are relevant and asks the committee to consider: [Regulation 18(2)(b) quoted]

4.12 We note that while reasonable choice; protected characteristics; and innovation are desirable, they are only a short list of matters to which the committee ought to have regard. They are not exhaustive of the matters that are relevant to significant benefits. To mistake these considerations for either the sole considerations or as criteria would be an error of law.

4.13 We note that where the regulations reference ‘significant benefits,’ we do not believe that this is intended to alter or heighten the standard of improvements or better access. We also note that the inclusion of ‘reasonable choice’ is not meant to change the test into one of whether current provision is adequate, as a previous iteration of the market entry test required, or whether current provision is reasonable. Rather it is meant to recognise even where pharmacy services are already available, the addition of a new pharmacy may offer significant improvements by fostering competition. This was confirmed in the case of R (on the application of Assura Pharmacy Ltd) v E Moss Ltd (t/a Alliance Pharmacy) [2008] EWCA (Civ) 1356, where it was accepted that the inclusion of reasonable choice in the previous iteration of the regulations was intended to foster competition between pharmacies, but was at that time frustrated in this purpose by the adequacy test. The adequacy test was abolished in 2012. It would be perverse to allow the abolished adequacy test to return as a revenant possessing the very reasonable choice consideration it once frustrated.

4.14 Even where the present provision is adequate, reasonable or sufficient – which we dispute – there remains scope for improvements and better access. Use of adequacy, reasonableness or sufficiency as a test or criteria, or misunderstanding the reasonable choice consideration as an adequacy, reasonableness or sufficiency test, would be an error of law.

4.15 We also note that evidence of patient ‘difficulties’ is not necessary. We note that no such requirement is included in the regulations. Difficulties are not a prerequisite for improvements or better access. Use of difficulties as a standard or prerequisite to the decision would be an error of law.

4.16 We emphasize that the regulations are not intended to prevent any improvement or better access beyond the bare minimum. Rather any improvement or better access is welcomed. The Committee must look both to deficiencies in current provision and any advantages the proposed pharmacy offers. The regulations are not concerned with merely filling deficiencies but facilitating a high standard of care.

4.17 We also note that NHS Resolution is not a court of record and is entirely unable to bind itself through precedent, though it may be entitled or required to consider previous decisions.

4.18 We have addressed the requirements of the statute and regulations below.

4.19 Essex Pharmaceutical Needs Assessment 2025

4.20 We note that the present application is one for Unforeseen Benefits and is consequently considered with regard to Regulation 18. Inherently, the relevant improvements and better access are therefore not included in the relevant PNA. We note that Regulation 18 does not invite the committee to consider the PNA in such applications, except to ensure that the improvements or better access are not included in the PNA. Furthermore, we note that if the PNA is allowed to sway the committee it would destroy the purpose of Regulation 18. Therefore, we submit that placing significant weight on the PNA in the present application would be an error.

4.21 Since the commencement of this application in February 2024, the Essex PNA 2025 has been released. The PNA failed to identify any need or gap in relation

to improvements or better access has been identified in Beaulieu. While we do not question the legality or reasonableness of the PNA, we do submit that limited weight may be placed on the PNA's analysis due to the lack of consideration of certain relevant factors and oversights in some areas.

4.22 *The process of producing the Essex PNA 2025*

4.23 We note that the Essex PNA 2025 did involve a public survey. However, it is of little relevance to the present application as only 12 respondents were from Chelmsford as a whole. It is also not clear where in Chelmsford these people were, but it is likely that very few respondents came from the Beaulieu area, if any at all. (Essex PNA 2025, pg 4)

4.24 We therefore do not believe the public engagement of the PNA is extensive enough to be representative of the public's experiences or views.

4.25 *New housing in the PNA*

4.26 The new PNA concluded that planned housing developments would not create a gap as pharmacies would remain accessible. It states:

4.27 "*The impact of local housing development plans on provision of pharmaceutical services has been considered but has not identified any gaps in pharmaceutical services provision in the area during the lifetime of this PNA*." (emphasis added) (Essex PNA 2025, pg 62)

4.28 In regard to future developments, the PNA only noted one development in Chelmsford, namely 'Runwell Hospital' which is to the South of Chelmsford (Essex PNA 2025, Appendix G, pg. 4). The PNA therefore did not appear to consider the further houses due to be built in Beaulieu. This amounts to more than 120 houses every year in the next 5 years, which only includes the houses that have been fully agreed and scheduled (See Annex 1). Naturally the PNA was also not able to consider the further 2,750 homes approved in December 2025 (See Annex 3). The PNA therefore appears to have overlooked or been unable to consider a number of relevant developments. We submit that the totality of the Beaulieu developments is expected to total approximately 7000 homes, of which approximately 3000 have currently been built (See Annex 2).

4.29 It appears the PNA has not even attempted to consider the effect of completed housing developments on remaining pharmacy services, and rather only considered housing "plans." It is also not clear that pharmacy capacity was considered at all by the PNA. We reiterate that Northeast Chelmsford only has 3.5 pharmacies per 100,000 population based on current figures presented in previous correspondence, significantly less than the Chelmsford and England averages, which are 16.2/100,000 and 20.6/100,000 respectively. Such figures are not representative of reasonable choice for residents of the locality and suggest that improvements and better access are possible. This is especially pertinent when considering the future developments that are expected to take place which will see a further growth of approximately 8000 new residents.

4.30 *Figure 1: Image showing the only new development (NS) identified by the Essex PNA 2025 from Appendix G pg. 4* [copy of image provided to Committee]

4.31 Travel time analysis

4.32 The travel time analysis of the PNA consisted of using the SHAPE Place Atlas tool to calculate travel time. It appears to have been assumed that if pharmacies were at least as accessible as other key services, no gap in respect of need, nor better access will be found. We note that the PNA does not include the methodology used to determine how accessible other "*key services*" are (Essex PNA 2025, pg 71). Indeed, "*key services*" are never defined by the PNA. This limits the weight that can be placed on the PNA's analysis.

4.33 We also note that DSPs appear to have been included in the travel time analysis. This was brought to the attention of the HWB by a consultee:

Comment	Response
Distance Selling Pharmacies (DSPs) being included in the travel time analysis, as residents don't have access to them.	DSPs are included as they are NHS contracted pharmaceutical service providers. They can serve populations within and outside of the HWB area.

4.34 *Figure 2: Extract from table of comments and responses from the Essex PNA 2025 consultation (Essex PNA 2025, Appendix B, pg 10)*

4.35 The PNA does not deny that DSPs were included in the travel time analysis. The PNA also does not appear to understand that while DSPs are relevant to pharmacy access, they cannot be accessed on site. They therefore should not be included in any travel time analysis. This oversight must limit the weight that can be placed on the PNA's analysis.

4.36 Furthermore, the SHAPE Place Atlas tool did not appear to be updated with the new developments in Beaulieu. Below we include an image from Appendix F (Travel time analysis) which has been zoomed in and highlighted to show the relevant area but is otherwise unaltered. We note that the SHAPE Place Atlas map appears to highlight built-up areas in grey and leaves undeveloped areas white. We note that on shape atlas map, the whole area north of White Hart Lane is marked as white. However, as highlighted in the satellite image, this is the site of the Beaulieu development. Therefore, little weight can be placed on any analysis based on a tool that did not recognise the very development that primarily provides grounds for the present application.

4.37 We also note that though the public survey found that "*Other things people said they consider included the availability of parking*" (Essex PNA 2025, pg 70), the PNA does not address parking at all in its travel time analysis.

4.38 We also note that since the PNA was published the GPs and train station have already opened and more houses have been completed, making the PNA outdated already.

4.39 Given these oversights in the PNA's travel time analysis, we submit that little weight may be placed on the PNA's analysis of gaps.

4.40 Controlled Locality

4.41 We note that the decision as to whether Beaulieu was in a controlled locality was only made on the 3rd September 2025. The decision concluded that the area was no longer a controlled locality due to developments and the influx of services. The Essex PNA 2025 was officially adopted on the 17th September 2025, and drafted months before that date. As a result, we do not believe that the Essex PNA 2025 was drafted with knowledge of this change. As detailed below that the removal of Beaulieu from a controlled locality changes the official charter of the area from rural to urban, which often leads to new pharmacies. It also limits the use of dispensing doctors which can reduce pharmaceutical access.

4.42 To summarise, the PNA was created with limited public input; failed to fully elucidate its gap analysis; included DSPs in its travel time analysis; failed to account for all current and future developments; used an outdated map; failed to consider parking; and did not consider changes in controlled locality. Given the limitations of the Essex PNA 2025, we submit that little weight should be given to the PNA's analysis of access Beaulieu. We also submit that any requirements as to significant benefits being unforeseen are clearly met.

4.43 *Figure 3: Images of the Place Atlas and satellite imagery showing the development. The bottom two images highlight the inhabited area which is not included in the SHAPE Place Atlas* [Copy of image provided to Committee]

4.44 Decision as to Controlled Locality

4.45 The present application was heavily delayed by considerations as to whether the area of Beaulieu was a controlled locality. It was concluded that the area was not a controlled locality.

4.46 After a long decision-making process, the committee may now benefit from the ICB's decision. We draw the committee's attention to the fact that the ICB found that:

4.47 "*There has been **considerable change** to the area in recent years. A new primary and secondary school has been built to cater for the growing population in the area and the significant housing development. The **extensive building of new housing estates continues** in both the Beaulieu area and neighbouring Channels developments. **A new GP practice** has been built and will be operational in the very near future*." (Emphasis added) (Re: Controlled locality determination – Beaulieu Park, 3 September 2025, pg 2)

4.48 We wish to emphasise that the ICB itself, determined that there had been 'considerable change' in the area. We highlight that it was also accepted that there was 'extensive building' in the area. We reiterate that services have been built and are now highly accessible from the area. The ICB noted the opening of schools, a GP and train station. All of these services are now open and operational. We also note that other services such as shops, barbers, retail, preschool and a community hub have already opened. This may have affected the PNA's conclusion which relies to some extent on the relative accessibility of other services had they had time to consider the matter.

4.49 These changes are also highly relevant to the present application. Changes as to controlled localities commonly lead to new contracts. The area has seen substantial population growth and has become a distinguished community in

and of itself. Residents of the Beaulieu community no longer need to travel into the city centre of Chelmsford and are able to access daily services and amenities within the new development and local area.

4.50 This decision also determined without a shadow of a doubt that the area of Beaulieu is no longer rural and is now therefore urban.

4.51 We also note that if no pharmacy is granted, paradoxically this decision would reduce access as fewer residents are able to access dispensing doctors. Residents in controlled localities have greater access to dispensing doctors under the regulations, but with the loss of this status this access is also lost. It is therefore potentially detrimental to not support former controlled localities with new pharmacies

4.52 Housing Developments

4.53 The present application is deeply connected to the Beaulieu Park and the Channels developments. They form part of a long-term project to expand Chelmsford, dating as far back as 1999, when 550 houses were approved and later constructed. Since then, the pace of construction and the scope of building have only increased. The new developments are now at a mature stage with thousands of new houses built and services already in place.

4.54 We believe that at least 3,000 houses have been built, and the next few years houses will continue to be delivered within the Beaulieu Park and Channels developments, which will ultimately deliver up to 4,000 houses. Assuming an occupancy rate of 2.5 persons per house this would come to 7,500 new residents in completed houses and c 10,000 new residents when including the remaining houses. In addition, in December 2025 a further 2,750 houses were approved as part of the large Chelmsford Garden Community to the North of Beaulieu, which hopes to deliver a further 6,250 houses. Needless to say, this is a monumental additional development, but even the houses presently built are sufficient in our view to require a reassessment of pharmacy provision. When we consider that the average pharmacy in the UK serves roughly 5,800 people it is clear that the completed new houses are sufficient to support a new pharmacy in themselves, not even accounting for the further houses due to be completed.

4.55 We also note that 27% of houses in Beaulieu Park are affordable housing and the development includes apartments and smaller houses. Notably the Harry Lemon apartments which are 0.2 miles from the Beaulieu Square where we propose to open. We note that this means a diverse group is likely to live in new developments who will have diverse needs.

4.56 The development includes a number of services which residents will be able to access, including:

4.56.1 The Beaulieu Healthcare Centre (in Beaulieu Square)

4.56.2 The Beaulieu Community Centre (in Beaulieu Square)

4.56.3 Bright Horizons Chelmsford Day Nursery and Preschool (in Beaulieu Square)

4.56.4 Beaulieu Dental (in Beaulieu Square)

4.56.5 Hairdresser (in Beaulieu Square)

4.56.6 The Beaulieu Park Primary School

4.56.7 The Beaulieu Park Secondary School

4.56.8 Jesters Nursery and Pre-School

4.56.9 New Hall School

4.56.10 Beaulieu Train Station

4.57 We note that residents do not need to leave the new development community to access most services.

4.58 We also note that although we do not yet have a census of the new developments, it is notable that there are a number of schools in the development and that these were a key part of proposition for the development. It is therefore likely there are many children and families in the area.

4.59 These new developments are vital to achieving the generally agreed objective of building new homes to ease the UK's housing crisis, particularly in the South of England. However, this has not been without opposition. Among the objections are concerns over lack of services. Naturally, if a large number of new residents move into an area and new services are not added, the existing network of services will be left serving a larger population and service levels are likely to fall. The present application offers a chance to head this issue off at the pass.

4.60 Proposed Site

4.61 It will be noted that many of these services we have identified are in Beaulieu Square where the proposed pharmacy would open. Thus, the proposed pharmacy would be highly accessible for those already using these new amenities. The Beaulieu Park Secondary School is also adjacent to Beaulieu Square.

4.62 The following services are present in Beaulieu Square:

4.62.1 The Beaulieu Healthcare Centre

4.62.2 The Beaulieu Community Centre Nursery and Preschool

4.62.3 Dentist Beaulieu Community Centre

4.62.4 Hairdresser

4.62.5 Tutor

4.62.6 Cafes

4.62.7 Takeaways

4.62.8 Sainsbury's Local

4.62.9 Spring Lodge Veterinary Group

4.63 We note that while there may be some services outside Beaulieu Square, Beaulieu Square remains the centre of the new development's retail and community.

4.64 We also note that the Beaulieu Square includes a pre-school and tutor, as well as being adjacent to the Beaulieu Park Secondary School and sports grounds. Thus, the proposed pharmacy is highly accessible to parents and young people who can access the pharmacy in connection with these services. We further note that the presence of a GP and a dentist is highly relevant. We note that patients using these services will find the proposed pharmacy highly accessible. We also note that GPs can – and are encouraged to – make referrals to Pharmacists. Such a referral is much more likely to be successful and acceptable to a patient if they need only go to a different part of the building or cross the square. Whereas currently patients are forced to travel 0.8 miles to access the nearest pharmacy from the Health Centre. Should a patient be referred to a Pharmacy 0.8 miles away, present at that Pharmacy, and then be told that they need to return to the GP, not only is this frustrating but we submit that there are a number of residents that would simply give up at this stage and not return to the GP for any treatment. This is clearly an issue; and could lead to worsening health outcomes causing further pressures on the primary and secondary care networks. There will also be cases where the GP refers a patient to a Pharmacy this distance away and the patient simply does not present at the Pharmacy.

4.65 The presence of the GP is also highly relevant to the NHS Long Term Plan, whose first objective is to move the NHS from hospital to community. It is clear that placing a pharmacy in Beaulieu Square would place a pharmacy at the heart of the Beaulieu community. Furthermore, the plan aims to "*establish an NHC* [Neighbourhood Health Centre] *in every community*." We believe that opening a pharmacy in or by the GP moves towards this objective.

4.66 The proposed site will also give patients access to a large parking lot which ensures that those accessing the pharmacy by car will have little concern when finding parking. The Health Centre also has dedicated disabled parking.

4.67 It is also notable that the full size supermarket used by most residents of the new developments is likely to be Morrisons off Essex Regiment Way to the North which does not have a pharmacy. Thus, even if residents use this supermarket, the location of a pharmacy in Beaulieu Square would still provide better access.

4.68 Closures

4.69 There have been 5 pharmacy closures in Chelmsford since mid-2023. These unforeseen closures have placed greater strain on the existing pharmaceutical network within Chelmsford.

4.70 In Northeast Chelmsford, residents have seen the closure of the Boots Pharmacy (CM1 6NF – the Proposed Site), and the Lloyds Pharmacy in Sainsbury's (CM2 5PA), which received PhaS payments. The committee will

be aware that PhaS payments are given to pharmacies where there is less provision and higher health needs. These closures have left Northeast Chelmsford with just one remaining pharmacy.

4.71 Thus, at a time when more pharmacies are needed due to an increasing population, the number of pharmacies in North Chelmsford has reduced.

4.72 The Essex PNA 2025 did not directly address these closures. We also note that the 2022 supplementary statements did not address these closures. No PNA assessment of the closures has therefore been carried out.

4.73 We note that there is no reason to believe that an increase in capacity would not reflect improvements to services and better access, particularly in circumstances where demand has increased and supply has decreased.

4.74 Current Provision

4.75 While we remind the committee that there is no reason to reject an application merely because present provision is reasonable, adequate or sufficient, we feel that journeys to present provision from the proposed site may be relevant to seeing the better access that the proposed pharmacy offers.

4.76 We also note that given the Essex PNA 2025 has found only 3% of residents use public transport to access a pharmacy, we do not believe it is a relevant means of transport in respect of pharmacies given that more people reported cycling than using any form of public transport. (Essex PNA 2025, Appendix E, pg 9)

4.77 Journeys are calculated from the proposed site. We note that most residents of the new development will live further North and would likely pass by the proposed site to access any pharmacy to the South.

4.78 We note that the ICB states:

4.79 "*The Committee noted that the data states that there are eight pharmacies within 3 miles of the proposed premises and the furthest being 3.6 miles away. Driving times vary between 4 minutes and 13.6 minutes*."

4.80 The use of 3 miles as a standard appears to be entirely arbitrary and is clearly beyond the distance that residents of an urban area will ordinarily travel. We are not sure what the ICB meant by the furthest pharmacy within 3 miles being 3.6 miles away. There is in fact only one pharmacy within 1 mile as the crow flies and as detailed below one must travel at least 0.9 miles in practice.

4.81 Comments were made concerning dispensing data from Springfield pharmacy, showing the pharmacy dispenses from a number of different GPs. We note that this does not show that residents of the Beaulieu developments are likely to travel a significant distance to access GPs. Firstly, we note that residents from outside of Beaulieu are likely to be the majority of Springfield pharmacies users who are not representative of the new developments. Secondly, we note that the new Beaulieu Health Centre has opened in November 2025. The new GP site is therefore likely to change the GPs people from the new developments use, making this data unreliable.

4.82 *Springfield Pharmacy (CM1 6GL)*

4.83 We note that the operators of Springfield Pharmacy are in agreement with us that a new pharmacy ought to be opened in Beaulieu Square given that they have recently made an unforeseen benefits application in Beaulieu Square (ME4009-CAS-387595-F8H0R9). We believe that the agreement of another pharmacy that the proposed pharmacy would provide better access or improvements is highly relevant to the question of better access. We also note that our application is ahead of theirs, having been submitted more than a year earlier, meaning the possibility of this later application cannot be a reason to reject the present application.

4.84 We also note that accessing the Springfield pharmacy requires residents of the new developments to leave the established community and enter Springfields. This contributes to traffic and is contrary to the planning of the developments which has a clear retail and community centre. It is also clearly contrary to the NHS Long Term Plan.

4.85 It is also notable that Springfield Pharmacy has seen significant and continuing rise in items dispensed. The relatively small pharmacy is now responsible for dispensing more than 14,000 items per month. This is almost double the national average and significantly higher than their dispensing before the closures which was previously around 8,000 items per month.

4.86 Journey by Foot

4.87 We note that the journey by foot from the proposed site takes at least 23 minutes, over 1 mile. We note that distance itself is a barrier to access. We also note that the PNA generally applies a 20 minute test for walking distances and states “Most of these LSOAs [Lower-layer Super Output Area a 20-minute walk] are classed ‘rural village or dispersed’ areas.” We highlight that Beaulieu has been determined authoritatively to no longer be rural. Therefore, by applying the PNA’s own standard, Beaulieu falls outside of its criteria. We also note that across Essex the PNA found that 51% of residents had travelled to a pharmacy by foot. This shows that journeys on foot are not insignificant to access (Essex PNA 2025, pg 128).

4.88 We also note that most residents of the Beaulieu developments would have to walk past the proposed site on their way to Springfield Pharmacy. It is therefore apparent that the proposed site provides better access in the form of a shorter journey to those living in the new developments.

4.89 While a shorter journey appears possible on Google Maps it requires walking along roads with no pavements or just grassy verges. The above journey is the fastest journey avoiding these roads.

4.90 Figure 4: Map showing the shortest practicable journey from the proposed site to Springfield Pharmacy (CM1 6GL) [Copy of map screenshot provided to Committee]

4.91 Journey by Car

4.92 We note that the journey by car cannot be of any use if there is nowhere to park. Springfield pharmacy operates from a small parade and shares parking

with a small store, a betting shop, a barber and a beauty salon. We note that the latter three requires patrons to remain for a significant amount of time. The limited parking at the parade is therefore strained and patients cannot rely upon finding a parking space when accessing the pharmacy. We also wish the committee to be aware that the parking behind the parade and nearby is not available to the public, as they are reserved for residents. The parade also lacks any disabled parking.

4.93 The journey by car itself is 0.9 miles. This is not an insignificant journey and once again most residents of the new developments will have to drive past the proposed site to access Springfield Pharmacy making it clear that the proposed pharmacy offers better access.

4.94 We also note that allowing people who currently drive to the pharmacy to instead walk to the pharmacy is of great value to the community and is of itself better access. It allows for more opportunistic use of pharmacies and is more conducive to a healthy lifestyle. We note the PNA states:

4.95 "*Physical activity can contribute significantly to people's general physical health and wellbeing, reducing the risk of premature death from heart attacks, stroke and diabetes and improves mental health, reduces the risk of falls and protecting people from becoming overweight and obese*." (Essex PNA 2025, pg 41)

4.96 and,

4.97 "*People have become more dependent on the use of private cars for their journeys, including short ones, instead of walking or cycling to their chosen destination, thus contributing to a reduction in physical activity*." (Essex PNA 2025, pg 55)

4.98 It is therefore clear that bringing a new pharmacy within walking distance of those residing in the Beaulieu development, and thus encouraging walking, would be of great benefit and is clearly itself a form of improvements or better access.

4.99 *Shadford Pharmacy (CM1 4DP)*

4.100 The Shadford Pharmacy is the second closest pharmacy, but it is not located in East Springfield and requires crossing the river Chelmer. Forcing patients to leave their community deters use of pharmacy services and is contrary to the NHS Long Term Plan's aim of moving care into the community.

4.101 Journey by Foot

4.102 The journey by foot from the proposed site to Shadford Pharmacy takes 39 minutes over 1.8 miles. We reiterate that distance itself can be a barrier to access. A round trip of 1 hour and 18 minutes is plainly a major barrier to access and would deter most from walking to this pharmacy. It is also clear that the proposed site is significantly more accessible by foot than Shadford Pharmacy.

4.103 Journey by Car

4.104 The journey by car from the proposed site is 2.2 miles and can take up to 16 minutes. This is a significant journey and requires moving from Northeast Chelmsford to West Chelmsford over the Chelmer River. The proposed site is clearly more accessible.

4.105 While there is some on street and curb parking there is no disabled parking.

4.106 *Apple Tree Pharmacy (CM2 6RF)*

4.107 Apple Tree Pharmacy is the third closest pharmacy. It is located in Chelmer Village, indeed it is located in the Chelmer Village Square, adjacent to the Chelmer Village Surgery and Chelmer Village Hall. It is hardly sensible for the residents of the Beaulieu developments go past their own square with a community centre and surgery and go to the Chelmer Village Square with its own community centre and surgery.

4.108 Journey by Foot

4.109 The journey by foot is 48 minutes over 2.2 miles. A 1 hour and 36 minutes or 4.4-mile round trip by foot is clearly a barrier to access and the proposed site is clearly more accessible.

4.110 Journey by Car

4.111 The journey by car to Apple Tree Pharmacy takes up to 12 minutes over 2.7 miles. Once again, many residents would likely drive past the proposed site, making it clear that the proposed site offers better access.

4.112 It is also notable that though there is parking in the area in front of the pharmacy, but it lacks any designated disabled parking and there is therefore no disabled parking immediately nearby.

4.113 We hope that these journeys clearly demonstrate that current pharmacies are not sufficient and the proposed pharmacy offers better access to those living in the new developments.

4.114 Support

4.115 Though public support is not necessary for an application to be granted, we highlight that the local County Councillor has chosen to write a letter of support for the present application. We note that Cllr Mike Mackrory is an experienced Councillor with a strong understanding of the local community, thus significant weight ought to be placed on his views.

4.116 In particular, he notes his ‘surprise’ regarding the ICB decision to refuse the present application. He further details the difficulties that the community has already overcome to open a health centre, highlighting the further disappointment that would come from preventing an accompanying pharmacy. He also clearly states, with his knowledge of the area and his constituents, that the present application “will provide much needed pharmaceutical provision within the greater Beaulieu area’s growing population.”

4.117 We encourage the committee to read the letter in full in Annex 4. [Copy provided to Committee]

4.118 Conclusion

4.119 In conclusion, for the reasons given above we believe that the proposed pharmacy offers clear improvements and better access for residents.

4.120 We reiterate to the committee that the question to be asked is whether the application secures improvements or better access, though the committee must refer to various considerations. We also note that the regulations are not meant to leave the nation languishing at a minimum service, rather all proposed improvements and better access are to be embraced.

4.121 We reiterate that the PNA did not consider a number of matters which means that little weight can be placed upon its conclusions.

4.122 We draw the committee's attention to the decision by the ICB to remove the area from a controlled locality, showing that the area is no longer rural and the conclusion that the character of the area has changed significantly. It also reduces the number of residents who can rely on a dispensing doctor.

4.123 We also note the large-scale continuing development of new houses and the creation of a new community in the area. This has clearly increased the demand for services and makes the proposed site the centre of the community.

4.124 The committee must also recall the closures of two pharmacies in Northeast Chelmsford, leaving just one to pick up increasing demand; we also bring attention to the fact that neither the Essex PNA 2025 nor previous supplementary statements considered these matters.

4.125 We also wish to emphasise that the proposed pharmacy is ideally located with plenty of parking and is at the centre of retail, education, health and community services for the new developments. We also note that current provision appears insufficient to meet these demands."

5 Summary of Representations

This is a summary of representations received on the appeal.

5.1 HERTFORDSHIRE AND WEST ESSEX ICB

5.1.1 "Please note that from the 1 April 2023, community pharmacy contracting and commissioning has been delegated to Integrated Care Boards (ICBs). Hertfordshire and West Essex (HWE) ICB are hosting the function on behalf of the six East of England ICBs. The six ICBs have formed one Pharmaceutical Services Regulation Committee (PSRC) which is also hosted by HWE ICB.

5.1.2 Thank you for your letter dated 12 February 2026 advising that Folberry Ltd (the Appellant) has submitted an appeal in respect of the above unforeseen benefits application.

5.1.3 Having reviewed the grounds of appeal made by Healthcare Plus Consulting Ltd on behalf of Folberry Ltd (the "Appellant"), for premises at Centenary Way Shops, Beaulieu Square, Chelmsford, CM1 6AU, the ICB remains of the opinion that this application should be refused.

5.1.4 The main grounds for the appeal appear to be:

5.1.4.1 That the Committee failed to properly consider the regulations and relevant evidence.

5.1.5 The ICB note that the Appellant makes reference to the "*Essex Pharmaceutical Needs Assessment (PNA) 2025*". Whilst the Appellant submitted their application under the previous Essex PNA 2022-2025 the application was determined under the Essex PNA 2025-2028 which was published in October 2025. No grounds have been presented to support an opinion that the only way this application can be determined, or this appeal heard justly is by having regard to the Essex PNA 2022-2025.

5.1.6 The link to the latest PNA can be found here https://data.essex.gov.uk/dataset/pharmaceutical-needs-assessment-pna-2025-2028-2z7pq

5.1.7 The ICB note that the Essex PNA 2025-2028 does not identify any gaps in the provision of pharmaceutical services, either within normal working hours or outside of them. It does not articulate any current or future needs for, or current or future improvements or better access to, a particular pharmaceutical service or pharmaceutical services in general. It states that "*Access to pharmaceutical services for the residents of Essex is good and the main conclusion of this PNA is that there are currently no gaps in the provision of necessary or relevant pharmaceutical services*".

5.1.8 The PNA also looked at the predicted population growth and states: "*Given the current population demographics, housing projections and the distribution of service providers across the HWB area, this document concludes that the current provision will be sufficient to meet the likely future needs of the residents during the three-year lifetime of this pharmaceutical needs assessment.*

5.1.9 *The HWB has not identified any services that would secure improvements, or better access, to the provision of pharmaceutical services either now or within the 3-year lifetime of this pharmaceutical needs assessment*". (PNA, Executive Summary, pages 11-13).

5.1.10 The ICB note that Beaulieu Park is within the Chelmsford Locality. In regard to the Chelmsford Locality the 2025-2028 Essex PNA states:

5.1.11 "*No gaps in the provision of necessary pharmaceutical services have been identified in the Chelmsford locality. No gaps in pharmaceutical services have been identified that if provided either now or in the future would secure improvements or better access to relevant services across the Chelmsford locality*". (PNA, Chapter 6, page 62).

5.1.12 For ease the ICB has mirrored the headings used by the Appellant in their appeal letter.

5.1.13 Statute and Regulations

5.1.14 The ICB note the comments made by the Appellant in regard to Section 129(2A) of the National Health Service Act 2006 ("the 2006 Act") where they '*submit that the present application* "*will secure improvements, or better access, to pharmaceutical services*" *and so should be granted*'. (Page 2, Appeal letter).

5.1.15 Whilst this is the test in the 2006 Act it is not the sole matter that the ICB was required to consider. It was required to consider the application against the matters in Regulations 18 and 19 of the NHS Pharmaceutical and Local Pharmaceutical Services Regulations 2013, as amended ("the Regulations") when deciding if it was satisfied as mentioned in section 129(2A) of the 2006 Act.

5.1.16 The ICB note the comments made by the Appellant in relation to Regulation 18(2(b): "*We note that while reasonable choice; protected characteristics; and innovation are desirable, they are only a short list of matters to which the committee ought to have regard*.

5.1.17 *They are not exhaustive of the matters that are relevant to significant benefits. To mistake these considerations for either the sole considerations or as criteria would be an error of law.*

5.1.18 *We note that where the regulations reference 'significant benefits,' we do not believe that this is intended to alter or heighten the standard of improvements or better access*"

5.1.19 Regulation 18(2)(b) is clear that the ICB must be satisfied that granting an application would confer significant benefits on persons in the area of the relevant Health and Wellbeing Board (HWB) which were not foreseen when the Essex PNA was published. The reference to "significant benefits" is specific - not some benefits, or partial benefits, significant benefits.

5.1.20 The Appellant refers to the case of R (on the application of Assura Pharmacy Ltd) v E Moss Ltd (t/a Alliance Pharmacy) [2008] EWCA (Civ) 13. (Page 3, Appeal letter). The ICB note that no evidence provided that this ruling, which is based on the preceding regulations, is relevant to this application.

5.1.21 The Appellant states "*We emphasize that the regulations are not intended to prevent any improvement or better access beyond the bare minimum. Rather any improvement or better access is welcomed*". (Page 3, Appeal letter).

5.1.22 The ICB note that granting an unforeseen benefits application must confer significant benefits otherwise all applications would have to be granted as all could confer some degree of better access. This would undermine the Regulations, the PNA and could destabilise the provision of pharmaceutical services.

5.1.23 **Essex Pharmaceutical Needs Assessment 2025**

5.1.24 The ICB notes the comments made by the Appellant in their appeal (page 4) where they *"submit that placing significant weight on the PNA in the present application would be an error*".

5.1.25 The ICB must be satisfied that the purported improvements or better access were not foreseen when the PNA was written, and that they would, indeed, secure improvements or better access. The PNA therefore must be reviewed to:

5.1.25.1 be assured that the purported improvements or better access are not included, and

5.1.25.2 that they would actually confer significant benefits on patient groups having regard to where, when, and what pharmaceutical services are currently provided.

5.1.26 The Appellant states that "*the PNA failed to identify any need or gap in relation to improvements or better access has been identified in Beaulieu. While we do not question the legality or reasonableness of the PNA, we do submit that limited weight may be placed on the PNA's analysis due to the lack of consideration of certain relevant factors and oversights in some areas*". (Page 4, Appeal Letter).

5.1.27 The ICB is of the opinion that this statement does question the reasonableness of the PNA. The Appellant is implying that the HWB did not robustly assess the needs of this area and is therefore questioning the fairness of the process followed by the HWB. The ICB invites NHS Resolution to find the appeal is misconceived in line with paragraph 2(a), Schedule 3 and dismiss the appeal.

5.1.28 **The process of producing the Essex PNA 2025**

5.1.29 The Appellant notes that the PNA did include a patient survey "*however, it is of little relevance to the present application as only 12 respondents were from Chelmsford as a whole. It is not clear where in Chelmsford these people were, but it is unlikely that very few respondents came from the Beaulieu area, if any at all* (*Essex PNA, 2025, pg4). We therefore do not believe that the public engagement of the PNA is extensive enough to be representative of the public's experience or views*". (Page 4, Appeal letter)

5.1.30 The ICB note that Appendix E – Public Survey Report 2025 https://data.essex.gov.uk/dataset/pharmaceutical-needs-assessment-pna-2025-2028-2z7pq "*The survey was hosted on our online platform for consultations, and alternative formats including an Easy Read version was made available on request. The survey used convenience sampling and was distributed widely across our networks and community groups, including districts and borough councils, Integrated Care Boards, Community Voluntary Sector organisations, Healthwatch Essex, GP surgeries, patient participation groups and pharmacies across Essex*."

5.1.31 The ICB note that a lack of response may be an indication that people do not feel strongly about the topic e.g. they do not currently have problems accessing pharmaceutical services.

5.1.32 New housing in the PNA

5.1.33 The ICB notes the comments made by the Appellant "*In regard to future developments, the PNA only noted one development in Chelmsford, namely 'Runwell Hospital' which is to the South of Chelmsford (Essex PNA 2025, Appendix G, pg. 4). The PNA therefore did not appear to consider the further houses due to be built in Beaulieu. This amounts to more than 120 houses every year in the next 5 years, which only includes the houses that have been fully agreed and scheduled (See Annex 1). Naturally the PNA was also not able to consider the further 2,750 homes approved in December 2025 (See Annex 3). The PNA therefore appears to have overlooked or been unable to consider a number of relevant developments*." (Page 4, Appeal letter).

5.1.34 The ICB note that 600 houses in the next five years equates to approximately 1,440 people which is insufficient to make a pharmacy viable. If people can access current pharmaceutical services, then no gap needs to be identified, and therefore no need, improvements or better access identified. Also, in regard to the 2,750 homes approved in December 2025, no timescale has been given as to when they will be built or occupied. The ICBs decision was made on the facts as they were when the decision was made and not what they may be in five or ten years' time.

5.1.35 The ICB note the comments made by the Appellant in regard to the PNA such as "*The PNA therefore appears to have overlooked or been unable to consider a number of relevant developments" and "It appears that the PNA has not even attempted to consider the effect of completed housing developments on remaining pharmacy services, and rather only considered housing plans. It is also not clear that pharmacy capacity was considered at all by the PNA*". (Page 4, Appeal letter).

5.1.36 The Appellant also states "*It is also not clear that pharmacy capacity was considered at all by the PNA. We reiterate that Northeast Chelmsford only has 3.5 pharmacies per 100,000 population based on current figures presented in previous correspondence, significantly less than the Chelmsford and England averages, which are 16.2/100,000 and 20.6/100,000 respectively. Such figures are not representative of reasonable choice for residents of the locality and suggest that improvements and better access are possible. This is especially pertinent when considering the future developments that are expected to take place which will see a further growth of approximately 8000 new residents*."

5.1.37 The ICB note that the averages quoted are not averages that the HWB should seek to attain in their area. The number of pharmacies per 100,000 population is irrelevant to whether there is reasonable choice. Reasonable choice is whether someone can access the existing

pharmacies, not how many of them there are. Also, future growth is not relevant to an unforeseen benefits application.

5.1.38 Again, the Appellant is questioning the reasonableness of the PNA and is bringing in future population growth, some or most of which will be outside the three-year lifespan of the PNA.

5.1.39 Travel time analysis

5.1.40 The Appellant has noted "*that DSPs appear to have been included in the travel time analysis" and that "The PNA does not deny that DSPs were included in the travel time analysis. The PNA also does not appear to understand that while DSPs are relevant to pharmacy access, they cannot be accessed on site. They therefore should not be included in any travel time analysis. This oversight must limit the weight that can be placed on the PNAs analysis*." (Page 6, Appeal letter).

5.1.41 The ICB note that the presence of Distance Selling Pharmacies (DSPs) in the area along with the other four hundred elsewhere in England means that people have reasonable choice when it comes to essential services and that people do not need to travel to them to access services. They can ask their GP practice to set their nomination to a DSP if they are not IT literate or do not have access to the internet, and all their prescriptions will then be dispensed and delivered to them. They can communicate with the DSP by phone if necessary.

5.1.42 The ICB note the comments in relation to the public survey and how "*the PNA does not address parking at all in its travel time analysis*" (page 6, Appeal letter). The PNA cannot address parking issues. This is outside its remit and the remit of the HWB.

5.1.43 The Appellant notes that "*since the PNA was published the GPs and train station have already opened and more houses have been completed, making the PNA outdated already*" (Page 6, Appeal letter)

5.1.44 Under Regulation 6(2) the HWB must publish a new PNA if after identifying changes since the previous assessment, which are of a significant extent, to the need for pharmaceutical services in its area, having regard in particular to changes to

5.1.44.1 the number of people in its area who require pharmaceutical services

5.1.44.2 the demography of its area; and

5.1.44.3 the risks to the health or well-being of people in its area,

unless it is satisfied that making a revised assessment would be a disproportionate response those changes.

5.1.45 The ICB note that the Appellant appears to question the decisions made by the HWB.

5.1.46 Controlled Locality

5.1.47 The Appellant states "*We note that the decision as to whether Beaulieu was in a controlled locality was only made on the 3rd September 2025. The decision concluded that the area was no longer a controlled locality due to developments and the influx of services. The Essex PNA 2025 was officially adopted on the 17th September 2025, and drafted months before that date. As a result, we do not believe that the Essex PNA 2025 was drafted with knowledge of this change. As detailed below that the removal of Beaulieu from a controlled locality changes the official charter of the area from rural to urban, which often leads to new pharmacies. It also limits the use of dispensing doctors which can reduce pharmaceutical access*." (Page 6, Appeal letter).

5.1.48 The ICB note that there is no evidence to support this statement. For the purpose of paragraphs 2 and 4, Schedule 1, the HWB has taken into account gaps in the provision of pharmaceutical services by pharmacy and dispensing appliance contractors only. They are not required to look for gaps in the provision of dispensing doctors.

5.1.49 The Appellant concludes by stating "*To summarise, the PNA was created with limited public input; failed to fully elucidate its gap analysis; included DSPs in its travel time analysis; failed to account for all current and future developments; used an outdated map; failed to consider parking; and did not consider changes in controlled locality. Given the limitations of the Essex PNA 2025, we submit that little weight should be given to the PNA's analysis of access Beaulieu. We also submit that any requirements as to significant benefits being unforeseen are clearly met*" (Page 7, Appeal letter)

5.1.50 Whilst we are unable to replicate the map used within the Essex PNA that the Appellant is referring to, the map as shown in Appendix 1 details the nearest pharmacies with travel times.

5.1.51 The ICB note that the Appellant appears to question the reasonableness of the PNA and the process by which the HWB undertook that assessment. The ICB therefore invite NHS Resolution to dismiss the appeal.

5.1.52 Decision as to Controlled Locality

5.1.53 The Appellant states that "*the present application was heavily delayed by considerations as to whether the area of Beaulieu was a controlled locality. It was concluded that the area was not a controlled locality*". (Page 8, Appeal document).

5.1.54 The ICB note that a request was made by the Local Pharmaceutical Committee (LPC) to carry out a controlled locality review. The application was delayed in order that the controlled locality determination was made and the ICB could be assured on the Regulations that had to be considered when the application was determined.

5.1.55 The Appellant also states "*After a long decision-making process, the committee may now benefit from the ICB's decision. We draw the committee's attention to the fact that the ICB found that*:

5.1.56 "*There has been considerable change to the area in recent years. A new primary and secondary school has been built to cater for the growing population in the area and the significant housing development. The extensive building of new housing estates continues in both the Beaulieu area and neighbouring Channels developments. A new GP practice has been built and will be operational in the very near future." (Emphasis added) (Re: Controlled locality determination – Beaulieu Park, 3 September 2025, pg 2)"* (Page 8, Appeal letter).

5.1.57 The ICB would like to confirm that this statement was in connection to the decision as to whether the area remained part of the larger controlled locality that surrounds Chelmsford. Now that Beaulieu is no longer part of that larger controlled locality, it does not mean this application must be granted.

5.1.58 The Appellant states "*the ICB noted the opening of schools, a GP and train station. All of these services are now open and operational. We also note that other services such as shops, barbers, retail, preschool and a community hub have already opened*".

5.1.59 None of the facilities are extensive enough to suggest that people can have all their day-to-day needs satisfied in Beaulieu. The fact that there is a train station demonstrates that people need to leave the area for example for work, leisure, retail and so would be able to access a pharmacy at their destination if required.

5.1.60 The Appellant also states "*we also note that if no pharmacy is granted, paradoxically this decision would reduce access as fewer residents are able to access dispensing doctors. Residents in controlled localities have greater access to dispensing doctors under the regulations, but with the loss of this status this access is also lost. It is therefore detrimental to not support former controlled localities with new pharmacies*". (Page 8, Appeal letter)

5.1.61 The ICB note that dispensing patients are travelling to their dispensing practice, which is not in Beaulieu, and are therefore mobile and have reasonable choice. Also, people can still live in a controlled locality and be within 1.6km of a pharmacy.

5.1.62 We have included a map (see Appendix 2) showing a 1.6km radius around Springfield Pharmacy which demonstrates that some or all of the Beaulieu area is within 1.6km of an existing pharmacy (Springfield Pharmacy). Therefore, those people living within Beaulieu Park could not be dispensed to.

5.1.63 Housing Developments

5.1.64 The Appellant states "*We believe that at least 3,000 houses have been built, and the next few years houses will continue to be delivered within the Beaulieu Park and Channels developments, which will ultimately deliver up to 4,000 houses. We also note that 27% of houses in Beaulieu Park are affordable housing and the development includes apartments and smaller houses. Notably the Harry Lemon apartments which are 0.2 miles from the Beaulieu Square where we propose to*

open. We note that this means a diverse group is likely to live in new developments who will have diverse needs". (Page 9, Appeal letter).

5.1.65 The ICB note that this increase is irrelevant to the determination of this application. Also, the Appellant has not stated what pharmaceutical services this patient group requires, or evidence of any difficulty in accessing those services. The Appellant states that they note "*that residents do not need to leave the new development community to access most services*" (page 9, Appeal document).

5.1.66 The ICB note that there is a new train station which demonstrates that patients are travelling out of the area either for work, leisure facilities or to carry out their weekly shop for example.

5.1.67 The Appellant also states that "*it is notable that there are a number of schools in the development and that these were a key part of proposition for the development. It is therefore likely there are many children and families in the area*". (Page 9, Appeal letter)

5.1.68 The ICB notes that the Appellant has not stated what pharmaceutical services this patient group requires or provided evidence of any difficulty in accessing those services.

5.1.69 The ICB also notes that there is no evidence that all children attending the schools within the development reside there, given that the catchment area extends beyond the development boundary. Consequently, a proportion of pupils will inevitably travel in from outside the area, including by bus, train or by car.

5.1.70 Proposed Site

5.1.71 The ICB notes that the Appellant has identified a number of services available in Beaulieu Square where the proposed pharmacy would open if granted and states "*We note that while there may be Jan Thomas, Chief Executive Robin Porter, Chair some services outside Beaulieu Square, Beaulieu Square remains the centre of the new development's retail and community*". "*We further note that the presence of a GP and a dentist is highly relevant*". (Page 10, Appeal Letter).

5.1.72 The ICB can confirm the dentist referred to by the Appellant is a fully private practice and does not accept NHS patients, therefore the residents of Beaulieu Park are required to travel outside of Beaulieu to access NHS dental services.

5.1.73 The Appellant states that "*GPs can –and are encouraged to – make referrals to Pharmacists. Such a referral is much more likely to be successful and acceptable to a patient if they need only go to a different part of the building or cross the square. Whereas currently patients are forced to travel 0.8 miles to access the nearest pharmacy from the Health Centre. Should a patient be referred to a Pharmacy 0.8 miles away, present at that Pharmacy, and then be told that they need to return to the GP, not only is this frustrating but we submit that there are a number of residents that would simply give up at this stage and not*

return to the GP for any treatment. This is clearly an issue; and could lead to worsening health outcomes causing further pressures on the primary and secondary care networks. There will also be cases where the GP refers a patient to a Pharmacy this distance away and the patient simply does not present at the Pharmacy". (Page 10, Appeal letter).

5.1.74 The ICB note the emotive language used in this statement by the Appellant. There is no evidence to suggest that patients are unable to access pharmaceutical services. The nearest pharmacy is Springfield Pharmacy which is 0.8 miles which equates to approximately a 4 minute drive or a 17 minute walk*. The route is predominantly flat, fully paved and with street lighting.

5.1.75 *distances taken from google maps.

5.1.76 Closures

5.1.77 The Appellant has noted that "*there have been 5 pharmacy closures in Chelmsford since mid 2023*" (Page 11, Appeal letter).

5.1.78 The Appellant states that "*The Essex PNA 2025 did not directly address these closures. We also note that the 2022 supplementary statements did not address these closures. No PNA assessment of the closures has therefore been carried out*."

5.1.79 All 5 pharmacy closures from July 2023 to May 2024 were included in the Essex PNA 2022-2025 Supplementary Statements Pharmaceutical Needs Assessment (PNA) 2022-2025 | Essex Open Data

5.1.80 The ICB note that the five pharmacy closures occurred three years ago, and that the local population has continued to access pharmaceutical services without interruption since that time. One of the closures was a Lloyds 100-hour pharmacy, originally operating under the exemption that permitted entry without the standard control of entry assessment, provided extended opening hours were guaranteed. The remaining four closures were Boots pharmacies. These closures suggest that there was over-provision of pharmaceutical services in the area and that the level of provision was greater than local need.

5.1.81 The Appellant notes that Lloyds in Sainsbury's received Pharmacy Access Scheme (PhAS) payments and that these payments "*are given to pharmacies where there is less provision and higher health needs*". (Page 11, Appeal document).

5.1.82 The ICB notes that there is no reference to 'higher health needs' in the PhAS guidance 2022 Pharmacy Access Scheme: guidance - GOV.UK, in fact pharmacies in the 20% most deprived areas of England are excluded from the scheme. Eligibility is based on dispensing volume and next nearest pharmacy by the most practicable route on foot, and only pharmacies on a pharmaceutical list on 31 March 2021 could be eligible. Despite receiving PhAS payments the pharmacy closed, suggesting there was not the need or dispensing volumes.

5.1.83 Whilst there have been 5 pharmacy closures, it is to note that there have been nine market entry applications for the Chelmsford area since mid-2023. Of these, two were granted, 2 were withdrawn and five were refused. Of the refusals, four were subsequently appealed. One appeal was refused, one was granted and the pharmacy is yet to open, and two appeals remain under consideration by NHS Resolution.

5.1.84 The ICB note that the Essex PNA 2025-2028 states "*No gaps in the provision of necessary pharmaceutical services have been identified in the Chelmsford locality. No gaps in pharmaceutical services have been identified that if provided either now or in the future would secure improvements or better access to relevant service across the Chelmsford locality*". (Page 62 of the PNA).

5.1.85 The Appellant states that "*the proposed site will also give patients access to a large parking lot which ensures that those accessing the pharmacy by car will have little concern when finding parking. The Health Centre also has dedicated disabled parking*". (Page 10, Appeal letter).

5.1.86 While the proposed site includes a large parking area, this facility will be shared with patients attending the Health Centre and other people living on the development, and therefore availability for pharmacy users cannot be assumed. Although the Health Centre does provide dedicated disabled parking, it remains unclear whether any parking spaces, general or disabled, will be designated specifically for pharmacy users, or whether the applicant has reached any formal agreement with the GP practice to permit pharmacy users to utilise the Health Centre's car park. In the absence of such assurances, the applicant's assertions regarding parking accessibility are unsubstantiated.

5.1.87 Current Provision

5.1.88 The ICB notes the Appellant's reliance on the Essex PNA 2025 finding that only 3% of residents reported using public transport to access a pharmacy and their conclusion that public transport is therefore not a relevant means of access (Page 11, Appeal Letter). However, the Appellant also asserts that the same survey is of limited relevance because only 12 respondents were from Chelmsford, and it is likely that very few, if any, were from the Beaulieu area (Page 4, Appeal Letter). These contradictory statements undermine the weight the Appellant seeks to place on the 3% figure. The ICB considers that, irrespective of the sample size, some residents will rely on public transport to reach pharmaceutical services, and therefore current access by public transport remains a relevant and necessary consideration in assessing local pharmaceutical need.

5.1.89 Appendix 3 shows a map of the nearest pharmacies to the nearest locations by public travel time.

5.1.90 The Appellant states "*We are not sure what the ICB meant by the furthest pharmacy within 3 miles being 3.6 miles away. There is in fact*

only one pharmacy within 1mile as the crow flies and as detailed below one must travel at least 0.9 miles in practice". (Page 12, Appeal letter).

5.1.91 The data identifying the nearest pharmacies was generated using Strata (formerly the Local Authority SHAPE Tool). When calculating travel times from the proposed location, Strata automatically lists the ten closest pharmacies, irrespective of distance. As a result, some of the pharmacies shown fall outside the 3-mile radius typically applied by the ICB. The Committee report did not make this clear and failed to highlight that, of the ten pharmacies identified by Strata, the furthest was only 3.6 miles away, and eight of the ten were located within 3 miles of the proposed location.

5.1.92 The ICB note the comments made by the Appellant "*concerning dispensing data from Springfield pharmacy, showing the pharmacy dispenses from a number of different GPs. We note that this does not show that residents of the Beaulieu developments are likely to travel a significant distance to access GPs. Firstly, we note that residents from outside of Beaulieu are likely to be the majority of Springfield pharmacies users who are not representative of the new developments. Secondly, we note that the new Beaulieu Health Centre has opened in November 2025. The new GP site is therefore likely to change the GPs people from the new developments use, making this data unreliable*".

5.1.93 The ICB further notes that the new Beaulieu Health Centre operates as a branch surgery of the North Chelmsford Healthcare Centre, which is part of the Elizabeth Courtauld Partnership. The dispensing data below shows the top ten prescribing GP practices as at October 2025: [copy of screenshot provided to Committee]

5.1.94 Source – SHAPE Atlas

5.1.95 The ICB also notes that, as at November 2025, prescriptions dispensed by Springfield Pharmacy came from a wide range of GP practices including those located in Ashford, Basildon, Bicknacre, Billericay, Birmingham, Bishop's Stortford, Braintree, Brentwood, Buckhurst Hill, Cambridge, Castle Hedington, Chelmsford, Chingford, Clacton-on-Sea, Cliftonville, Colchester, Edmonton, Epping, Gravesend, Hackney, Ilford, Ingatestone, Little Waltham, Maldon, Wisbech, Romford, Southend-on-Sea, Stanford-Le-Hope, Whitton and Witham. Springfield Pharmacy's dispensing activity reflects an extremely wide and dispersed patient base, with prescriptions originating from GP practices across numerous towns and cities, many far beyond the Chelmsford or Beaulieu area:

5.1.96 **Springfield Pharmacy (CM1 6GL)**

5.1.97 The Appellant notes that "*accessing the Springfield pharmacy requires residents of the new developments to leave the established community and enter Springfield. This contributes to traffic and is contrary to the planning of the developments which has a clear retail and community centre*". (Page 12, Appeal letter). There is no evidence that residents can satisfy all of their needs in Beaulieu and will therefore be required to leave the area. The Regulations do not require the ICB to take into account increases in traffic etc when making their decision.

5.1.98 The Appellant notes that "*Springfield Pharmacy has seen significant and continuing rise in items dispensed. The relatively small pharmacy is now responsible for dispensing more than 14,000 items per month. This is almost double the national average and significantly higher than their dispensing before the closures which was previously around 8,000 items per month*". (Page 12, Appeal letter).

5.1.99 The ICB note that there is no evidence to suggest that this rise in dispensing volume has resulted in any detriment to patients or created issues in the delivery of pharmaceutical services. The ICB has not received any indication that the increased workload has compromised access, service quality, or the ability of Springfield Pharmacy to meet local need.

5.1.100 Journey by foot

5.1.101 The Appellant states that "*We note that the journey by foot from the proposed site takes at least 23 minutes, over 1 mile. We note that distance itself is a barrier to access. We also note that the PNA generally applies a 20-minute test for walking distances and states "Most of these LSOAs [Lower-layer Super Output Area a 20-minute walk] are classed 'rural village or dispersed' areas." We highlight that Beaulieu has been determined authoritatively to no longer be rural. Therefore, by applying the PNA's own standard, Beaulieu falls outside of its criteria. We also note that across Essex the PNA found that 51% of residents had travelled to a pharmacy by foot. This shows that journeys on foot are not insignificant to access (Essex PNA 2025, pg 128)*", (Page 12, Appeal letter).

5.1.102 Given that the Appellant has already indicated within its appeal that the patient survey in the Essex PNA should be afforded limited weight due to the low number of respondents, it is important to note that individuals who are able to walk to a pharmacy are likely to do so. In urban areas, where pharmacies are more evenly distributed, travelling on foot may be a common and convenient choice for residents.

5.1.103 Journey by car

5.1.104 The Appellant states "*We note that the journey by car cannot be of any use if there is nowhere to park. Springfield pharmacy operates from a small parade and shares parking with a small store, a betting shop, a barber and a beauty salon. We note that the latter three requires patrons to remain for a significant amount of time. The limited parking at the parade is therefore strained and patients cannot rely upon finding a parking space when accessing the pharmacy. We also wish the committee to be aware that the parking behind the parade and nearby is not available to the public, as they are reserved for residents. The parade also lacks any disabled parking. The journey by car itself is 0.9 miles. This is not an insignificant journey and once again most residents of the new developments will have to drive past the proposed site to access Springfield Pharmacy making it clear that the proposed pharmacy offers better access. We also note that allowing people who currently drive to the pharmacy to instead walk to the pharmacy is of*

great value to the community and is of itself better access. It allows for more opportunistic use of pharmacies and is more conducive to a healthy lifestyle", (Page 13, Appeal letter).

5.1.105 Whilst the Appellant draws attention to the shared car parking at Springfield Pharmacy, the same can be said for the proposed location. There are multiple business within the proposed location that share the same parking facilities. There are those who may choose to drive to a pharmacy even when walking is a feasible option. This may be due to personal mobility limitations, because they are combining the trip with other journeys, or simply because they prefer not to walk.

5.1.106 **Shadforth Pharmacy (CM1 4DP)**

5.1.107 The Appellant states that as Shadforth Pharmacy is not located in East Springfield, it forces "*patients to leave their community deters use of pharmacy services and is contrary to the NHS Long Term Plan's aim of moving care into the community*", (Page 14, Appeal Letter). There is no evidence to suggest that patients are forced to leave their community. Patients will leave their community for a number of reasons, for example to travel to and from work.

5.1.108 **Journey by foot**

5.1.109 Whilst the Appellant highlights the journey by foot to Shadforth Pharmacy is "*a barrier to access*", it could be viewed that difficulties by access on foot does not indicate that there is not reasonable choice in obtaining pharmaceutical services.

5.1.110 **Journey by car**

5.1.111 The Appellant states that the 16 minute drive to Shadforth Pharmacy is a "*significant journey*", (Page 14, Appeals letter). However, the Essex PNA suggests that residents within Chelmsford are within "*a relatively short travel time*" as "*Chelmsford residents can drive to a pharmacy within 20 minutes*." (Page 132, Essex PNA).

5.1.112 **Apple Tree Pharmacy (CM2 6RF)**

5.1.113 **Journey on foot**

5.1.114 The Appellant states that travelling by foot to Apple Tree Pharmacy is "*clearly a barrier to access and the proposed site is clearly more accessible*," (Page 14, Appeals letter). As already referred to within this appeal response, difficulties by access on foot does not indicate that there is not reasonable choice in obtaining pharmaceutical services.

5.1.115 Journey by car

5.1.116 The Appellant states that the premise for Apple Tree Pharmacy *"lacks any designated disabled parking and there is therefore no disabled parking immediately nearby*," (Appeals letter, Page 15). This is somewhat misleading as the Pharmacy is located within a Village

Square which is mainly home to a large Asda Superstore which has ample parking (See Appendix 4).

5.1.117 It should also be noted that those choosing to use Apple Tree Pharmacy may do so to access the Asda Supermarket and other facilities within the Chelmer Village Square.

5.1.118 Support

5.1.119 The Appellant highlights that they have the support of the local County Councillor stating "*Cllr Mike Mackrory is an experienced Councillor with a strong understanding of the local community, thus significant weight ought to be placed on his views*", (Page 15, Appeal letter).

5.1.120 The ICB notes that it is highly unlikely that a councillor would oppose the opening of a new healthcare facility or support the closure of an existing one. While such support is acknowledged, it does not in itself provide evidence that a new pharmacy is necessary under the regulatory test.

5.1.121 The ICB note the comments stated in the Appellant's conclusion and wish to reiterate that an unforeseen benefits application must confer significant benefits, not some benefits or a degree of benefits. It is also noted that again, the Appellant challenges the reasonableness of the PNA by stating that "*the PNA did not consider a number of matters which means that little weight can be placed upon its conclusion*." (Page 15, Appeal letter).

5.1.122 The Appellant again references the two pharmacy closures in Northeast Chelmsford *"leaving just one to pick up increasing demand; we also bring attention to the fact that neither the Essex PNA 2025 nor previous supplementary statements considered these matters*". It is noted that the HWB was of the opinion that the changes were not of a significant extent to require the production of a new PNA. This position was reviewed during the development of the 2025-2028 Essex PNA and the HWB remains of the same opinion.

5.1.123 Regulation 18(1)(a)

5.1.124 PSRC noted it was required to determine this routine application and determine whether it is satisfied that granting the application or granting it in respect of some of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB.

5.1.125 No evidence has been provided that granting the application would secure improvements or better access to services in the area of the relevant HWB.

5.1.126 Regulation 18(1)(b)

5.1.127 PSRC agreed that the improvements or better access that the applicant is claiming would be secured by its application, were not included in the relevant PNA in accordance with paragraph 4 of schedule 1.

5.1.128 PSRC further agreed that in order to be satisfied in accordance with Regulation 18(1), regard is to be had to those matters set out at Regulation 18(2).

5.1.129 Regulation 18 (2)(a)(i) and (ii)

5.1.130 The ICB noted that there is no plan for the provision of pharmaceutical services in the area. Granting the application would therefore not cause significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of Essex HWB.

5.1.131 The ICB noted there was no evidence to suggest granting this application would cause significant detriment to the arrangements the ICB has in place for the provision of pharmaceutical services in that area.

5.1.132 In the absence of any significant detriment as described in Regulation 18(2)(a), the ICB was not obliged to refuse the application and went on to consider

5.1.133 Regulation 18(2)(b). Regulation 18(2)(b)(i)

5.1.134 The ICB noted that there are no reports of people being unable to obtain their medicines or access pharmaceutical services. The ICB took into account all the information and data presented to it and noted that patients are using a wide range of pharmacies for their pharmaceutical needs, and therefore it can be said that patients are exercising their choice. No evidence had been provided to demonstrate that those living in Beaulieu Park are currently unable to exercise a choice in obtaining pharmaceutical services across the HWB. The ICB noted that the test is whether or not those living in Beaulieu Park have reasonable choice with regards to obtaining pharmaceutical services in the area of Essex HWB, not just in the area of Beaulieu.

5.1.135 Regulation 18(2)(b)(ii)

5.1.136 The ICB were not satisfied that, having regard to the desirability of people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published.

5.1.137 No specific evidence has been provided that people sharing a protected characteristic have difficulty accessing current pharmaceutical services generally or that services specific to their needs are not being provided by existing pharmacies.

5.1.138 Regulation 18(2)(b)(iii)

5.1.139 The ICB noted the Appellant provided no evidence regarding innovative approaches in the delivery of pharmaceutical services, therefore were not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the 2025 - 20287 Essex PNA was published.

5.1.140 Conclusion

5.1.141 In summary, we remain of the opinion that the application should be refused. There is no evidence to suggest that the closures in Northeast Chelmsford in October 2023 and March 2024 have left a significant gap in pharmaceutical services in the Beaulieu Park locality and that patients are having difficulties in accessing pharmaceutical services.

5.1.142 In the recent publication of the 2025-2028 Essex PNA the HWB remain of the opinion that there is no gap in pharmaceutical services that if provided, either now or in the future, would secure improvements or better access to necessary pharmaceutical services across the locality.

5.1.143 We appreciate there may be some convenience in having a new pharmacy, however this is different to one conferring significant benefit. Our priority is ensuring patients can access pharmaceutical services.

5.1.144 The regulatory requirements to identify an unforeseen benefit not in the 2025-2028 Essex PNA accompanied by the significant benefit considerations is a high threshold. We respectively suggest that this appeal is without any substantive new or compelling evidence. The application should be refused as granting it will not confer significant benefits that were not foreseen when the PNA was published."

6 Observations

6.1 HEALTHCARE CONSULTING PLUS LTD ON BEHALF OF THE APPLICANT

6.1.1 "Thank you for your letter dated 18th March 2026. We note the response made by the Hertfordshire and West Essex ICB and respond below.

6.1.2 It is of note that no local contractor has chosen to make comments against the application. Indeed, we reiterate that the closest pharmacy, Springfield Pharmacy, have applied themselves under Regulation 18 for a new pharmacy at the same location as the present application. It is therefore clear that local contractors do not have objections to the present application and perhaps even implicitly accept that the present application complies with Regulation 18 in offering significant benefits in improvements or better access. We believe that this is highly relevant to the Committee's decision as local contractors will almost always object to new pharmacies, even where they are clearly needed.

6.1.3 Below we respond to the ICB, using their headings. We note that the ICB have written a significant response and thus we feel obliged to offer a complete response.

6.1.4 Letter from Hertfordshire and West Essex Integrated Care Board (on behalf of Mid and South Essex Integrated Care Board)

6.1.5 The ICB state that the Essex PNA (2025-2028) did not find a gap corresponding to the present application. We reiterate that – as an unforeseen benefits application – this is inherently true.

6.1.6 Statute and Regulations

6.1.7 We wish to emphasise that the overarching question which all considerations are concerned with is indeed that outlined in "the 2006 Act". For our purposes, that is whether the application would secure improvements or better access to pharmaceutical services.

6.1.8 We note that the ICB do not appear to disagree that reasonable choice; protected characteristics; and innovation are merely particular considerations and not the only considerations within the scope of regulation 18(2)(b). However, they later only consider these three factors once again (ICB Representations, page 16).

6.1.9 We note that the opposite of significant is not 'some' or 'partial', but insignificant or *de minimis*. We submit that 'some benefits' can still be significant benefits. We are unsure what a partial benefit is.

6.1.10 We see no reason that significant benefits would be a departure from the overarching question of improvements of better access.

6.1.11 Since regulation 18(2)(b) is merely a consideration, it would be odd for this to be a substantial alteration of the test. It is better to see regulation 18(2)(b) as part of the process of deciding the overall question of improvements or better access, similarly to other matters in regulation 18(2).

6.1.12 The suggestion that considerations of better access would result in all applications being granted is incorrect and highly problematic. We note that Schedule 1 Paragraph 4 requires the Health and Wellbeing Board (HWB) to include in the PNA:

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

6.1.13.1 *(a) would, if they were provided (whether or not they were located in the area of the HWB), secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in its area*,"

6.1.14 If the ICB's understanding were correct, then the HWB would be required to include a gap at every location not already hosting a pharmacy. This is clearly not the intended meaning of the regulation.

We therefore submit that the ICB's view is incorrect. Rather, some consideration of significance is naturally part of the overall test, and so significant benefits is not a departure from this.

6.1.15 The ICB question the relevance of R (on the application of Assura Pharmacy Ltd) v E Moss Ltd (t/a Alliance Pharmacy) [2008] EWCA (Civ) 1356 (the 2008 case). (https://www.bailii.org/ew/cases/EWCA/Civ/2008/1356.html)

6.1.16 We submit that the case makes two relevant points. Firstly, that reasonable choice was intended to mean choice in the sense of competition not adequacy, and secondly that considerations could not overcome the overall test and rather should be read as part of the overall test.

6.1.17 We note that the ICB later suggest that "Reasonable choice is whether someone can access the existing pharmacies." (ICB Representations, page 5). We would like to emphasise that this is incorrect and falls into the error we identified of assuming that reasonable choice was an adequacy test. The 2008 case offers clarity on this matter.

6.1.18 The 2008 case was applying a different overall test, but the consideration of reasonable choice had already been adopted. This is the source of the current regulations' use of reasonable choice as a term, and we see no reason that the meaning should have changed.

6.1.19 In that case, the relevant provision in regard to reasonable choice was:

6.1.20 *[14] (b) whether the recipients of pharmaceutical services already have a **reasonable choice** with regard to –*

6.1.20.1 (i) the pharmaceutical services or directed services provided in the neighbourhood in which the premises named in the application are located, by persons included in a pharmaceutical list, and

6.1.20.2 *(ii) the persons included in a pharmaceutical list from whom such recipients may obtain pharmaceutical services or directed services in the neighbourhood in which the premises named in the application are located*; (emphasis added)

6.1.21 The overall test in the 2008 case may be surmised for our purposes as whether it was necessary or desirable to secure adequate provision.

6.1.22 The principal judgement was delivered by Lawrence Collins LJ, as he then was. Sedley LJ and Laws LJ agreed fully with Lawrence Collins LJ. Sedley LJ also provided a brief but insightful concurrence.

6.1.23 The principal judgement ultimately found that little turned on the interpretation of reasonable choice, as the overall question remained one of adequacy. The disagreement between the parties over the nature of the consideration was therefore inconsequential. However, it was noted at paragraph 24 that:

6.1.24 *[24] Guidance was provided in the NHS (Pharmaceutical Services) Regulations 2005 Information for Primary Care Trusts (Revised September 2005). In February 2007, a further version of the Guidance was produced. The Guidance as to the new criteria of "choice promoting competition" was updated and strengthened. Amongst other amendments, it explained that* ***the expression "reasonable choice" was included in the 2005 Regulations rather than the word "competition" "for legislative drafting reasons***" (paragraph 3.71). (emphasis added)

6.1.25 This makes it clear that reasonable choice is closely related to competition - not adequacy. This was clearly the intention of the draftsman. We submit that this remains true of the current use of reasonable choice in the new regulations which built incrementally on the previous regulations.

6.1.26 We also note the concurrence of Sedley LJ which offers a good summary of the decision. It also makes particular note of the tension between the idea of reasonable choice and the necessary or desirable to secure adequate provision test. The unease of Sedley LJ is palpable:

6.1.26.1 *[70] I agree that both PAC decisions are legally tenable, with the results proposed by Lawrence Collins LJ. But I think Assura, and any other commercial pharmacist in its position,* ***is entitled to feel frustrated by a system of statutory regulation which purports to prioritise choice and competition but in practice sustains monopolies***.

6.1.26.2 *[71] […]* ***To accord one pair of chemists' shops in the same ownership a licence to trade at large in a defined locality without competition – a situation against which the common law has for centuries leaned heavily – requires clear statutory authority*****.**

6.1.26.3 [72] *Such authority is, however, provided by the primary and delegated legislation which Lawrence Collins LJ has set out.* ***The fact that in its present form it originates in a policy change purportedly designed to introduce competition and so to improve choice does not enable the courts to rewrite it or distort its meaning or effect.*** *The legislation sets a deliberate hurdle of pharmaceutical necessity or desirability before a competitor, who may well be in a position to introduce healthy competition in over-the-counter sales alongside a no less efficient dispensary, is to be allowed into the same high street. The result is that the chemist who gets there first is shielded not only from unnecessary or undesirable competition in dispensing but from commercial competition in relation to a significant proportion of its turnover*. (emphasis added)

6.1.27 It is clear from this that reasonable choice was accepted to be a matter of competition but was in tension with the adequacy-based test that then existed. Ultimately the overall test prevailed.

6.1.28 Taking these matters into account, we make the following submission on the present regulations:

6.1.28.1 The concept of 'reasonable choice' cannot be said to be in any way an adequacy test. Rather it was always related to competition. Now freed from the old necessary or desirable to secure adequate provision test, the reasonable choice consideration is no longer in tension with the wider consideration of significant benefits, nor the overall test of improvement or better access. We submit that even where there is 'adequate' provision, increased competition may lead to significant benefits and improvements or better access.

6.1.28.2 To continue to apply an adequacy test would be to frustrate the will of Parliament which intentionally removed the adequacy test.

6.1.28.3 The three listed particular considerations in Regulation 18(2)(b)(i)-(iii) are not intended to be exclusive of the significant benefits relevant to Regulation 18(2)(b).

6.1.28.4 More broadly, we submit that the consideration of unforeseen significant benefits in regulation 18(2)(b) should be understood within the overall test of improvements or better access. In particular, we note that significantly better access is itself a significant benefit.

6.1.28.5 We do not believe this is changed by regulation 19 which simply works to organise the process of considering the application and prevent inefficiency in decision making.

6.1.29 Essex Pharmaceutical Needs Assessment 2025

6.1.30 We reiterate that, as an unforeseen benefits application, the improvements or better access relevant to this application are inherently not include in the PNA.

6.1.31 We reiterate that we do not in any way doubt the overall reasonableness or legality of the PNA. We note that where one questions the reasonableness or legality of a purported PNA, one would be in effect denying that the purported PNA was actually a PNA within the meaning of the regulations. Where this the case, the HWB would be in breach of their duties and the PNA would be disregarded entirely. We do not assert this.

6.1.32 Rather we question the weight which can be placed on the PNA in this particular case as there are matters which the PNA did not or could not consider. We submit that these matters are of relevance to the present application.

6.1.33 The Process of Producing the Essex PNA 2025

6.1.34 The ICB suggest "*that a lack of response may be an indication that people do not feel strongly about the topic e.g. they do not currently have problems accessing pharmaceutical services*."

6.1.35 In response to this suggestion, we have carried out a public survey which sheds light on this point. We note that public support and views are not necessary for regulation 18 applications, but include it for completeness.

6.1.36 On February 4th 2026, the Facebook post attached as Annex 1 was distributed on a number of local community Facebook groups. The post included a brief summary outlining that our client had applied to open a pharmacy in Beaulieu Square, the application had been rejected, and that the decision was being appealed. The post made clear that we wanted 'to present honest local views to the Appeal Committee.' Over the following few weeks, we received 111 responses - 110 of which consented to have their data shared with NHS Resolution. We believe that the number of responses indicate that local residents do indeed feel strongly about having access to a pharmacy at the proposed site.

6.1.37 We also received two emails.

6.1.38 The first stated:

6.1.38.1 "*I wish to show support for a pharmacy at or adjacent to the new surgery. Currently the closest pharmacy is not within walking distance, has limited parking and not easily accessible by public transport. Furthermore it has limited opening hours and I believe closed at weekends. This results in long waiting times even when prescriptions have been pre-ordered. [name of sender redacted*]"

6.1.39 The second email was a response to the survey questions and has been added to the survey as Response 999. We have attached the survey data in Annex 2, and trust that the Committee will consider the responses in full.

6.1.40 Below is a map showing the approximate locations of respondents. We can see that the vast majority of respondents reside within the Beaulieu Development and are well spread across the area:

6.1.41 Figure 1: Map of the approximate locations of survey respondents. [Copy provided to Committee]

6.1.42 The initial findings are stark:

6.1.42.1 99.1% said a new pharmacy in Beaulieu Square is needed

6.1.42.2 100% said that they would find a pharmacy in Beaulieu Square significantly more accessible than existing pharmacies

6.1.42.3 100% said they support the opening of a pharmacy in Beaulieu Square

6.1.43 We also wish to note that the average travel time reported by respondents was 22.4 minutes which is in excess of the PNA's own stated standard of 20 minutes (Essex PNA 2025-2028, Appendix F).

6.1.44 We suggest that significantly better access is a clear kind of significant benefit within the meaning of the regulations and satisfies the overall test. We also submit that local residents are well placed to determine if the proposed site is significantly more accessible.

6.1.45 We also note that – though still a minority of the total residents – the results demonstrate a clear consensus.

6.1.46 New housing in the PNA

6.1.47 The ICB do not deny that the PNA's analysis does not appear to take into account the new housing in the vicinity of the proposed site.

6.1.48 While the new housing since the PNA on its own may not be sufficient for a new pharmacy, when taken with previously completed housing already built over the past few years, we submit this is more than sufficient to support a new pharmacy. We discuss this further below.

6.1.49 We find the suggestion that "*The number of pharmacies per 100,000 population is irrelevant to whether there is reasonable choice*." excessive. While by no means determinative, we do note that the fact that Northeast Chelmsford has only 3.5 pharmacies per 100,000 people is a stark and relevant factor in deciding whether the present application offers significant benefits.

6.1.50 As already mentioned, we submit that the ICB's interpretation of reasonable choice is incorrect, and solely focusing on reasonable choice is an error.

6.1.51 Travel Time Analysis

6.1.52 The ICB makes the same error as the PNA in assuming that DSPs can affect travel times. Since patients cannot access DSPs on site, they should not be included in any analysis of travel times as patients cannot travel to them to receive services.

6.1.53 DSPs clearly have a role in providing pharmaceutical services, but they are not equivalent to a community pharmacy. The regulations make it clear that DSPs must provide equal service to all of England, so the proximity of DSPs is irrelevant. If DSPs are of themselves sufficient to prevent a new pharmacy opening, there would be no new pharmacies in England.

6.1.54 The ICB question the parking at the proposed site. We note that the proposed site has extensive parking and no evidence of a lack of parking is presented. This matter is discussed further below.

6.1.55 We are unsure why the ICB suggests:

6.1.55.1 *The PNA cannot address parking issues. This is outside its remit and the remit of the HWB*.

6.1.56 Regardless of whether this is true, we submit that parking is clearly relevant to the accessibility of pharmacies and could itself be a significant benefit, particularly for those with mobility issues who share protected characteristics.

6.1.57 The ICB suggest that, in regard to the new developments and opening of the GP and train station, the HWB would have released a supplementary statement if it was relevant. We reiterate the nature of an unforeseen benefit application is that the proposed improvements or better access are not included in the PNA, which includes its supplementary statements.

6.1.58 We note that accessing a pharmacy immediately after a GP visit remains common. While EPS allows for scripts to be transferred digitally, the patient is still very likely to attend the pharmacy in person to access the medications. Where a person receives medication for an acute condition, they are likely to seek the medication as soon as possible by attending the pharmacy directly after the GP appointment and waiting in the pharmacy for the script to be dispensed as soon as possible.

6.1.59 Furthermore, GPs are now encouraged to refer patients to pharmacies as part of the Pharmacy First service. As we have stated, such referrals are more likely to be successful when the patient does not need to travel for too long. We also note that one of the outcomes of a Pharmacy First consultation is a referral to the GP. Therefore, the close proximity of a pharmacy to the GP remains beneficial and provides better access.

6.1.60 The importance of the proximity to the GP is highlighted by a number of survey respondents. We note that 13 pharmacy users specifically mentioned proximity to the GP as being significant to them.

6.1.61 We reproduce a small fraction of relevant responses below and trust that the Committee will read the rest in full:

6.1.61.1 "*Within walking distance, would be ideal next to GP*" (Response 35)

6.1.61.2 "*My eldest daughter requires medication weekly. Also easier to see a pharmacist close by. Only reason for not changing gps is that little Waltham have the pharmacy. I need to use a gp with a pharmacy near by*" (Response 44)

6.1.61.3 "*Many people will walk there [a pharmacy in Beaulieu Square] just after the GP visit, also people around the area*." (Response 75)

6.1.62 Others draw particular attention to the loss of the pharmacy co-located with the GP in Sainsbury's. Again, we highlight a few responses below explaining the difficulties residents have faced following the closure of the co-located pharmacy:

6.1.62.1 "*Could just go in to Sainsbury's next to the doctors and it was quick and easy and didn't have to get in the car between them*." (Response 6)

6.1.62.2 "*When the chemist in sainsburys shut its caused a longer journey for me. It was easy yo see my gp then get my medication straight after*" (Response 65)

6.1.62.3 "*Lloyd's in Sainsburys was convenient as next to GP and could collect medication when shopping*" (Response 102)

6.1.63 The ICB does not dispute that the PNA's SHAPE Place Atlas did not include the completed parts of the Beaulieu development. This seems to us a significant oversight in the PNA. We continue to submit that this is the central reason why this application should be granted and severely limits the weight that can be placed on the PNA in this particular case.

6.1.64 Controlled Locality

6.1.65 We see no evidence that the controlled locality decision was considered in the PNA. Were it considered, we would expect some relevant changes between the Draft, circulated in June 2025, and the final published version.

6.1.66 Decision as to Controlled Locality

6.1.67 The ICB suggests that:

6.1.67.1 None of the facilities are extensive enough to suggest that people can have all their day-to day needs satisfied in Beaulieu. The fact that there is a train station demonstrates that people need to leave the area for example for work, leisure, retail and so would be able to access a pharmacy at their destination if required.

6.1.68 In response to this, we note that the survey showed that 100% of respondents used at least one amenity in Beaulieu Square. Further, 90% of respondents reported using Beaulieu Square at least once a week, showing it is indeed highly utilised.

6.1.69 Furthermore, the mere fact that some unspecified services are accessed outside Beaulieu does not mean that the proposed pharmacy does not offer significant benefits. We submit that the services outside the developments are likely to be infrequently used, e.g. libraries, and so patients are unlikely to use a pharmacy in connection with these services. The nearest supermarket to the Beaulieu development is of course the Sainsbury's in Beaulieu Square, which we know to be very well utilised with every survey respondent revealing they use the Sainsbury's. The nearest large supermarkets are the Morrisons on Eagle Way, the Sainsbury's on White Hart Lane and the Aldi on Springfield Road. We note that none of these are adjacent to pharmacies, and thus residents would not be able to use a pharmacy in

connection with shopping trips and, instead, would have no choice but to make special one-off trips.

6.1.70 We also note that the suggestion that people who use the train do not benefit from a pharmacy in their community is clearly flawed.

6.1.71 Housing Developments

6.1.72 The ICB do not dispute that 3,000 homes have already been built. We find the ICB's suggestion that more than 3,000 houses which have been built, likely supporting c. 7,500 new residents to be 'irrelevant' is clearly excessive. The new housing is clearly relevant to the need for a new pharmacy and the benefits it confers.

6.1.73 We note that the average pharmacy in England serves less than 5,000 people. Thus the increase of c. 7,500 residents is therefore more than sufficient to justify a new pharmacy, even without considering the closed pharmacies, local support and further new developments.

6.1.74 Furthermore, we reiterate that the development is intended to create a self-sustaining community with its own services, hence its own GP Surgery, and therefore reduce reliance on the rest of Chelmsford.

6.1.75 A number of survey respondents noted that the new housing and new community had created a need for new pharmacy. 87.2% of respondents stated that they were concerned that healthcare services are not keeping up with new housing developments. Below we note just a small sample of relevant responses:

6.1.75.1 "*The population in Chelmsford is growing and chemist close down. I cannot get an appointment at the Gp in an emergency*" (Response 33)

6.1.75.2 "*More houses being built and no pharmacy to serve new surgery crazy*" (Response 55)

6.1.75.3 "*There are SO many houses now, we need a new pharmacy*" (Response 69)

6.1.75.4 "*Not enough pharmacy and Dr's being built" and "Would complete the community offering as Beaulieu Park is meant to be a community and a community doesn't have a pharmacy is unacceptable*" (Response 81)

6.1.75.5 "*16000 houses and not a single pharmacy is a joke*" (Response 105)

6.1.76 The ICB states that there is no evidence regarding the pharmaceutical services required by parents with young children, nor any evidence of access difficulties, also questions the relevance of the schools. In this regard, we note that a number of respondents to the survey noted that the proximity of the school to the proposed pharmacy would offer significant benefits:

6.1.76.1 "*As I could walk there or visit on school runs*" (Response 11)

6.1.76.2 *"… My kids go to the school, I visit classes at the community center as visit sainsburys every other day - so I can pop in around daily life instead of having to plan a trip to the pharmacy around peak times, school pick up etc…*." (Response 16)

6.1.76.3 "*I can walk there and get on the school run*" (Response 26)

6.1.76.4 "*The proximity to school, gp, community center and shops would reduce car reliance and improve the lives of people in Beaulieu/channels*" (Response 105)

6.1.77 While some pupils may be from the wider area, we believe the larger proportion are local and they can all benefit from a nearby pharmacy.

6.1.78 Proposed Site

6.1.79 The ICB say:

6.1.79.1 *While the proposed site includes a large parking area, this facility will be shared with patients attending the Health Centre and other people living on the development, and therefore availability for pharmacy users cannot be assumed*.

6.1.80 We note that the proposed pharmacy benefits from a large parking lot with more than 100 spaces. The availability of parking is specifically noted as one of the reasons local residents would find the proposed pharmacy significantly more accessible. In the words of local residents:

6.1.80.1 "*Local, less journey time for residents, parking available, convenient…"* (Response 43)

6.1.80.2 "*Would be great to have one locally, easy to access and park or walk*" (Response 49)

6.1.80.3 "*Available parking spaces and many people can just walk there*" (Response 52)

6.1.80.4 *"… plus there is adequate parking facilities*" (Response 84)

6.1.80.5 *"…. We note the Square attracts a lot of passing traffic due to its convenient location and parking / services*." (Response 999)

6.1.81 We therefore have little doubt that parking at the proposed site will be more than adequate.

6.1.82 We note that 90% of respondents reported using Beaulieu Square at least once a week, showing it is indeed highly utilised and, as

mentioned earlier, the nearest large supermarkets are not adjacent to any pharmacies.

6.1.83 We draw particular attention to those who noted the importance of the GP's proximity to the pharmacy as mentioned above.

6.1.84 Pharmacy Closures

6.1.85 The ICB claim that "These closures suggest that there was over-provision of pharmaceutical services in the area and that the level of provision was greater than local need." There is no evidence provided by the ICB to support this statement.

6.1.86 However, it is also known that the closures of the Lloyds and Boots Pharmacies were both part of national programmes of closures - which have little to do with local needs.

6.1.87 We note that 60 respondents said that a pharmacy closure caused them difficulties, with many mentioning the effect has increased pressure on remaining pharmacies and the loss of a pharmacy near a GP.

6.1.88 Current Provision

6.1.89 Before considering current provision, we believe it is of note that no local contractor has chosen to comment on this application. We take it that this is because they are indifferent to its outcome or unable to find any reason to object. We note in particular that the closest pharmacy, Springfield Pharmacy, have in fact applied themselves at roughly the same location. We believe that the lack of objections and even implicit support of local pharmacy contractors is a highly relevant consideration for the Committee.

6.1.90 We wish to reiterate that a finding that current journeys to pharmacies are accessible, or that patients are not experiencing difficulties, does not preclude concluding that the proposed pharmacy would nonetheless provide significant benefits.

6.1.91 Journeys by Public Transport

6.1.92 We continue to be of the view that public transport is of secondary importance due to a lack of uptake. We note that the data presented by the ICB from Strata does not appear to account for waiting times or walking times. Below we detail the journeys by public transport to each pharmacy.

6.1.93 *Springfield Pharmacy (CM1 6GL)*

6.1.94 The journey to Springfield Pharmacy would take at least 9 minutes including at least 3 minutes of walking.

6.1.95 We also must take into account that the C10 bus only departs every 20 minutes. Therefore, for a patient leaving the GP in Beaulieu Square wanting to access a pharmacy, they would wait on average 10 minutes before catching the bus to Springfield Pharmacy, followed by a c. 2-

minute walk to the pharmacy from the alighting bus stop. Returning would then include a wait of 10 minutes on average with the journey itself still c. 9 minutes. The entire journey comes to roughly a 38-minute average round trip, which could be as much as 58 minutes even when buses are running as scheduled. This all could be avoided by the grant of the present application. It is therefore apparent that the present application offers significant benefits.

6.1.96 *Shadford Pharmacy (CM1 4DP)*

6.1.97 The journey to Shadford Pharmacy takes approximately 11 minutes from Centenary Way to Patching Hall Lane on the C10 bus, which departs every 20 minutes. For a patient leaving the GP, this would take on average 21 minutes one-way and 42 minutes round trip. It is therefore clear that the proposed pharmacy would offer significantly better access.

6.1.98 *Apple Tree Pharmacy (CM2 6RF)*

6.1.99 We do not believe that there are any realistic bus journeys to Apple Tree Pharmacy but we detail the fastest journey for completeness. The journey would first require walking for c. 7 minutes or 0.3 miles to the Beaulieu Gardens stop to catch the Number 47 Bus. Then, patients will travel for 11 minutes to the Henniker Gate bus stop, and walk for c. 8 minutes or 0.3 miles to the pharmacy. The bus departs roughly once every hour. The one-way journey comes to a collective 38 minutes and on average 1 hour 8 minutes including waiting times. This also includes more than 1 mile of walking. We have no doubt that the proposed pharmacy offers significantly better access than this journey.

6.1.100 We note that all these journeys are even longer for those who live in the Beaulieu Park development as the Square is to the South of the development and is very close to a bus stop. Thus, for those departing from their homes, the above journeys would be even longer.

6.1.101 Overall, when considering bus journeys, we are certain that the proposed pharmacy offers significantly better access to those accustomed to using the GP or other services in Beaulieu Square and residents of the Beaulieu Park developments.

6.1.102 *Survey Respondents on Public Transport*

6.1.103 The survey also revealed that a small group of eight residents use public transport to access pharmacies. Of these, only one uses the bus to Springfield Pharmacy, one goes to Rivermead which takes 30 minutes, and one goes to Apple Tree Pharmacy and says "*Buses are difficult from my house to the pharmacy*." (Response 77). The other five use the bus to access the Boots in High Chelmer and this takes them between 30-45 minutes. All also report a poor experience when travelling by public transport:

6.1.103.1 "*We don't have a car and sometimes bus doesn't turn up*." (Response 55)

6.1.103.2 "*Weekend buses are not frequent*" (Response 56)

6.1.103.3 "*Sometimes bus don't turn up*" (Response 76)

6.1.103.4 "*Walk both ends of the journey from bus stop*" (Response 102)

6.1.103.5 "*Buses are cancelled, walk from bus stop at both ends of the journey, pharmacy too busy*" - (Response 103)

6.1.103.6 "*Because bus service sometimes a long wait*" (Response 109)

6.1.104 Needless to say, the consistent complaints that the bus does not always turn up, long waiting times, and issues with frequency clearly show that the present situation is leading to difficulties for those who use public transport. All agree that they would use the proposed pharmacy, that it is needed, and that it is significantly more accessible that current provision. We therefore have no doubt that for those accustomed to accessing the pharmacy by public transport, the proposed pharmacy offers significant benefits in the form of significantly better access.

6.1.105 <u>Springfield Pharmacy (CM1 6GL)</u>

6.1.106 The ICB note that Springfield Pharmacy serves patients from a large number of GPs. We note that this shows choice of GPs - not choice of pharmacies.

6.1.107 As noted, we submit that services and amenities in Beaulieu are sufficient for daily needs with other services only required to be accessed infrequently, e.g. Libraries.

6.1.108 We submit that the ICB's suggestion that they are not required to consider traffic in their consideration of benefits shows disregard for the reality of patient experiences and the actual accessibility of pharmacies.

6.1.109 We note that the survey indicates the workload at Springfield has had an impact, revealing it is 'always busy' and that patients face long queues. 23 out of the 47 Springfield Pharmacy users mention the queues:

6.1.109.1 "…*The queues at Springfield pharmacy are now way too long - takes over an hour which with young kids just isn't feasible plus being immune suppressed means I don't want to be in pharmacy's or medical facilities for long for fear of picking up illnesses*." (Response 16)

6.1.109.2 "*Dirty, broken windows, overcrowded, no seating and no queuing area. It's rotten and I am amazed how it's not been shut down*" (Response 22)

6.1.109.3 "*Have to wait too long in a queue to be served. They close at lunch which is the only time I can get there" and "Pharmacy close to my work closed down. The queues in the pharmacy now are too long*." (Response 33)

6.1.109.4 "*It's always busy and very dirty*!" (Response 40)

6.1.109.5 "*It is extremely busy and a long wait to collect prescription* " (Response 57)

6.1.109.6 "*Always long queues. Not very friendly. Closes early on Saturday. Not always helpful and dismissive*. " (Response 106)

6.1.110 From the above, we note that in addition to long queues, respondents report numerous issues with the pharmacy being "*messy*", "*very dirty*" and even "*rotten*." We note that this may be an effect of overcrowding in such a small shop and loss of free time to carry out cleaning and maintenance.

6.1.111 Cllr Mike Mackrory also noted that that pharmacy was "*already very busy*" in his letter of support which has previously been submitted. We therefore submit that there is clearly evidence that people are facing long queues at the small and overwhelmed Springfield Pharmacy.

6.1.112 Journey by Foot

6.1.113 We note that the IBC accept that:

6.1.114 "*In urban areas, where pharmacies are more evenly distributed, travelling on foot may be a common and convenient choice for residents*."

6.1.115 Given this, it is clear that making pharmacies accessible by foot is of significant benefit in terms of better access for patients. Our survey responses show that local residents agree, with 59 respondents mentioning the ability to walk, or the choice to not drive, is the reason given for their view that the proposed pharmacy would be significantly more accessible than current provision. Below we include a small selection of the responses:

6.1.115.1 "*I wouldn't have to drive to another pharmacy, cutting down on CO2 emissions, as well as those without access to a car can easily get to a pharmacy*" (Response 12)

6.1.115.2 "*I visit beaulieu square every day and instead of driving to chelmer village boots by adding up to traffic in a city it would be good just have a walk to local pharmacy*" (Response 48)

6.1.115.3 "*Instead of driving and having the worry of finding a parking places, I could just walk as I live less than a 5 minute walk to Beaulieu Square*" (Response 70)

6.1.115.4 "*My partner does not drive so if he needs anything I have to drive him, if we had a pharmacy here he could walk to it*." (Response 92)

6.1.115.5 "*We could walk to it and as my wife and daughter don't drive they could access themselves*" (Response 104)

6.1.116 It is therefore clear that patients would in fact gain a significant benefit from having the choice to access a pharmacy within walking distance.

6.1.117 *Journey by Car*

6.1.118 The ICB do not dispute the lack of parking at Springfield Pharmacy. Rather, they address the proposed site, despite it having a much larger parking lot. Per the survey, we note that 36/39 people who drove to Springfield Pharmacy revealed they face parking difficulties. Some notable comments stated:

6.1.118.1 "*Customer parking shared between local shops only space for 10 cars. Chaos trying to park with cars parking on road causing congestion and worse during school drop off and pick up*." (Response 43)

6.1.118.2 "*Constant lack of parking spaces*" (Response 52)

6.1.118.3 "*People park in the footpaths and there are always delivery vans blocking access to the back*"(Response 84)

6.1.118.4 "…*the car parking there is a nightmare*" and

6.1.118.5 "…*Sometimes have returned without visiting the pharmacy due to parking not available*"(Response 86)

6.1.119 We note that numerous further responses were submitted and urge the Committee to consider all survey feedback in full. We also draw attention to the difficulties for patients who attempt to walk to access pharmaceutical services.

6.1.120 Shadforth Pharmacy (CM1 4DP)

6.1.121 We note that it is clear that patients are forced to leave their community to access pharmacy services as there is no pharmacy in Beaulieu.

6.1.122 Journey by Foot

6.1.123 We reiterate that the opportunity to travel by foot to the pharmacy is highly beneficial as noted above. We also note that the ICB appear to misinterpret the reasonable choice consideration as one of adequacy and apply it as a test rather than a mere particular consideration within a consideration.

6.1.124 Journey by Car

6.1.125 It is clear that the journey by car would be significantly reduced by the proposed pharmacy, showing a significant benefit. We also note that, for many, the proposed pharmacy would make a journey by car unnecessary which is of great benefit. We also note that all three people who access Shadforth Pharmacy do so by car and all say they faced difficulty parking:

6.1.125.1 "*on parade of shops hard to get parked, have to go around a few times before can get parked. Also with young ones the road is tight and dangerous*" (Response 16)

6.1.125.2 "*Always busy at Broomfield Parade often no spaces available*" (Response 30)

6.1.125.3 "*So busy and people parking disrespectfully*" (Response 37)

6.1.126 We therefore do believe parking is an issue at this site. Apple Tree Pharmacy (CM2 6RF) We note that Apple Tree Pharmacy does not open on Saturdays whereas the proposed pharmacy would be open on Saturdays by way of core opening hours. We also note that though Apple Tree Pharmacy is near an Asda, this is unlikely to be the supermarket of choice for many residents of Beaulieu when it is significantly further away than the Morrisons on Eagle Way, the Sainsbury's on White Hart Lane and the Aldi on Springfield Road. Thus, any user of this Asda from Beaulieu is more likely to use the Asda because of the pharmacy than the pharmacy because of the Asda.

6.1.127 Journey by Foot

6.1.128 Again, the ICB misapply reasonable choice as above and overlooks the fact that better access is a significant benefit; as noted, walking has been identified as providing significantly better access.

6.1.129 Journey by Car

6.1.130 The ICB have suggested that patients can use the Asda parking lot however this is reserved for Asda's own uses and is not immediately outside the pharmacy. We also note that one disabled respondent reports difficulties parking and explains:

6.1.130.1 "Blue badge bays often occupied or used by those who don't have badges" (Response 1)

6.1.131 Support

6.1.132 The ICB dismiss the Councillors support. We do not understand why as the Councillor stated that a pharmacy is 'needed.' This is a view of a person with intimate knowledge of the community and there is no reason to believe that he is exaggerating in any way.

6.1.133 We also note that, since previous correspondence, the Chelmsford Garden Community Council have confirmed that "*Chelmsford Garden Community Council remains committed to the*

principle of a new pharmacy being sited at the Beaulieu Square site as it considers that it will be of benefit to the Community." (See Annex 3) Multiple levels of local governing bodies are therefore in agreement that a pharmacy in Beaulieu Square would be of significant benefit to the local community.

6.1.134 Regulation 18(1)(a)

6.1.135 We believe that ample evidence has been presented demonstrating that the proposed pharmacy would secure improvements or better access.

6.1.136 We note that, though not necessary to show improvements or better access, the Committee may now benefit from the inclusion of the community's views on the proposed new pharmacy.

6.1.137 We also note that, though not stated, we believe the ICB would agree that the improvements or better access we secure are indeed not included in the relevant PNA.

6.1.138 Regulation 18(2)(b)

6.1.139 In their summation on Regulation 18(2)(b)(i), the ICB appear to assume that a lack of reasonable choice occurs only where patients are 'unable' to access pharmaceutical services. This appears to be a standard of 'need' rather than 'reasonable choice', 'significant benefits' or 'improvements or better access'.

6.1.140 The ICB also suggests that when judging reasonable choice in the HWB there are only two outcomes; either there is reasonable choice in the whole HWB or there is not reasonable choice in the whole HWB. This appears a flawed approach as it would mean that the Committee must attempt to make a determination as to reasonable choice for Saffron Walden, Basildon, Chelmsford, Clacton on Sea and Harlow all at once. This approach is wholly disconnected from reality as this area is far too large. We consider the correct position to be that, just as significant benefits within the HWB area do not need to apply to all persons, a lack of reasonable choice likewise does not need to affect the whole HWB.

6.1.141 We remind the Committee that the Regulations must be read purposefully and no purpose would be served by attempting to make a meaningless determination as whether an entire HWB has reasonable choice. The ICB also seem to fail to consider significant benefits generally once again. The ICB say that:

6.1.142 "*No specific evidence has been provided that people sharing a protected characteristic have difficulty accessing current pharmaceutical services generally or that services specific to their needs are not being provided by existing pharmacies*"

6.1.143 Conclusion

6.1.144 For the reasons stated above, we continue to submit that the application should be granted.

6.1.145 We reiterate that our client's application is now supported by the public and the County Councillor. It is also notable that the Chelmsford Garden Community Council support a pharmacy in Beaulieu Square and even the closed pharmacy, Springfield Pharmacy have applied for pharmacy in Beaulieu Square. We highlight the following errors in interpreting the regulations:

6.1.145.1 It is wrong to interpret the 'reasonable choice' sub-consideration in regulation 18(2)(b)(i) as creating a 'adequacy' or 'need' test rather than being merely a consideration related to competition.

6.1.145.2 It is wrong to assume that the three matters of particular consideration in regulation 18(2)(b)(i)-(iii) are exclusive of possible significant benefits rather than merely part of the wider consideration. In particular, better access itself can be a significant benefit.

6.1.145.3 It is wrong to assume that the 18(2)(b) consideration of 'significant benefits' is a substantial alteration of the overall test of improvements or better access rather than a part of the overall question. We note that taking language from the 2008 case the consideration should be read within the overall question of improvements or better access.

6.1.146 We hope that the Committee bears these matters in mind in making their decision.

6.1.147 In response to points made by the ICB we have shared the findings of our survey which has been conducted. All respondents agreed that the proposed pharmacy would offer significantly better access to them and all but one thought that the pharmacy was not merely beneficial but also needed. We therefore submit that it is quite clear that the regulatory test is met since significantly better access is itself a significant benefit. Respondents also note the significance of walking to access pharmaceutical services.

6.1.148 We have noted that there are serious difficulties reported in respect of existing pharmacies. Notably the closest and most accessible pharmacy, Springfield, is described as "overcrowded" and lacking parking. Other pharmacies are more distance and also reportedly have issues with parking and service.

6.1.149 For the above reasons, we submit that the application should be granted."