NHS Resolution

18 June 2026

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REF: SHA/26943

APPEAL AGAINST SOMERSET ICB DECISION TO GRANT AN APPLICATION BY IMPERIAL CHEMISTS LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT UNIT 4C, WESTPARK26, WELLINGTON, TA21 9AD

1 Outcome

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

1.2 The Committee determined that the application should be refused.

A copy of this decision is being sent to:

Imperial Chemists Ltd
Superdrug Plc
Healthcare Plus Consulting Ltd on behalf of FRP Advisory LLP (administrators for Jhoots Pharmacy)
PCSE on behalf of Somerset ICB

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1 The Application

By application dated 16 November 2025, Imperial Chemists Ltd ("the Applicant") applied to Somerset ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Unit 4C, Westpark26, Wellington, TA21 9AD. In support of the application it was stated:

1.1 In response to why the application should not be refused pursuant to Regulation 31 the Applicant stated, "The proposed contractor is not adjacent to, in close proximity to, another pharmacy or dispensing appliance contractor."

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 "Based on the information provided in the attached documents, the unforeseen benefits our application offers are designed to address significant and unforeseen changes to the local healthcare infrastructure and population density in Wellington. These events were not anticipated in the Health and Wellbeing Board's (HWB) Pharmaceutical Needs Assessment (PNA), which, as recently as July 2025, determined the area was well-served.

1.3 Our application provides the unforeseen benefit of securing pharmaceutical service capacity in response to three major, unforeseen events that have rendered the HWB's previous assessment of need obsolete:

1.3.1 The permanent collapse of existing pharmacy provision (Jhoots).

1.3.2 The massive and unforeseen consolidation of GP services (Luson Surgery closure).

1.3.3 The confirmation of multiple, large-scale housing developments exceeding previous expectations.

Benefit: Restoring Capacity After the Unforeseen Collapse of Jhoots Pharmacy

1.4 The HWB's previous assessment of pharmaceutical need was predicated on Wellington being served by three face to face pharmacies: Boots, Superdrug, and Jhoots.

1.5 An unforeseen event has fundamentally voided this assessment: the collapse of the Jhoots pharmacy.

1.5.1 Closure of Provision: The Jhoots pharmacy in Wellington is almost permanently closed. A notice on its door states it is "closed due to lack of pharmacist".

1.5.2 Systemic National Failure: This is not a temporary staffing issue, as suggested by NHS Somerset. It is an unforeseen national corporate failure.

1.5.2.1 The parent company has faced parliamentary criticism for services "falling well below the mark"

1.5.2.2 The chain has failed to pay staff for months

1.5.2.3 Twenty-two businesses related to Jhoots filed notices of intention to appoint administrators in October 2025.

1.5.2.4 Parliament recently debated Jhoots Pharmacy during timetabled session within the House of Commons

1.5.3 Continued Uncertainty: While Allied Pharmacies announced a takeover of 60 Jhoots stores on November 7, 2025 it confirmed the "majority of these locations are temporarily closed". This development provides no guarantee of when or if the Wellington branch will be reinstated, leaving a critical gap in service.

1.5.4 The two remaining pharmacies must now absorb the patient load from Jhoots in addition to the 6,600 patients from the recently closed Luson Surgery. This has placed an unsustainable burden on the remaining providers, threatening their ability to offer more than core dispensing.

1.6 Our Unforeseen Benefit: We will secure improvements by restoring the three-pharmacy model the HWB deemed necessary. By committing to provide all essential, enhanced, and advanced services, we ensure the new, rapidly growing population has guaranteed access to a full suite of pharmaceutical services. This restores choice and, most importantly, capacity, ensuring residents can access advanced services (e.g., vaccination, health checks) at an accessible new location without adding to the queues at the two existing, over-stretched pharmacies.

Benefit: Addressing the Unforeseen Impact of GP Service Consolidation

1.7 A second, unforeseen event has dramatically reshaped healthcare access in Wellington. The HWB's PNA was based on a different configuration of GP services. The most significant unforeseen benefit is our provision of an independent prescribing service. This service directly addresses the dual healthcare crisis in Wellington: the loss of a pharmacy and the simultaneous, unforeseen failure of a GP practice.

1.7.1 Luson Surgery Closure: Luson Surgery closed on September 26, 2025, due to unforeseen staffing and premises challenges.

1.7.2 Mass Patient Transfer: This closure forced the automatic transfer of all 6,600 of its patients to Wellington Medical Centre.

1.7.3 Creation of a Single Hub: This has created an unforeseen "super-practice" of around 23,000 patients. This single hub is already under strain; the local MP has stated that the five new GPs hired at the centre are "just not enough" at a time when Somerset has seen 182,811 GP appointments involve waits of over 28 days.

1.7.4 Loss of Co-location: Patients have lost the convenience of the Jhoots pharmacy, which was located "behind the now-closed Luson Surgery".

1.8 Our Unforeseen Benefit: Our application provides a crucial service to support this new, highly concentrated patient population. We will improve access and choice for the 23,000 patients now directed to a single location, alleviating the dispensing pressure on the two remaining pharmacies, which must now serve the entire town's GP-patient load plus the load from the failed Jhoots Pharmacy. Further, our pharmacist-led independent prescribing service will alleviate the pressures on an already overstretched and buckling NHS service provider. This service was not available from the failed Jhoots Pharmacy and is a new type of pharmaceutical service that directly secures better access to healthcare. It will:

1.8.1 Improve Access: Create a new, accessible clinical pathway for patients, directly alleviating the pressure on the 23,000-patient Wellington Medical Centre.

1.8.2 Reduce GP Wait Times: Manage minor ailments and medication reviews, fulfilling the MP's call to action and freeing up GPs to handle more complex cases.

1.9 This service directly meets an unforeseen, critical need that the PNA could not have anticipated.

Benefit: Meeting Unforeseen and Imminent Population Growth

1.10 In July 2025, NHS Somerset believed the three pharmacies (including the now closed Jhoots Pharmacy) could "cope with an expected population rise of several thousands". This assumption is now invalid due to both the reduction in pharmacies from three to two, and the confirmation of new, large-scale developments.

1.11 The scale of this new population growth is an unforeseen circumstance that the PNA could not have fully accounted for.

1.11.1 A38 Nowers Lane: Up to 250 new homes are planned, with a formal application expected shortly.

1.11.2 Exeter Road, Rockwell Green: Plans include 315 new homes and a separate 72-bed care home.

1.11.3 Jurston Fields: This development is set to be larger than anticipated. Original outline permission from 2015 was for 650 homes· The

developer is now seeking permission for 335 homes in its final phases, which would bring the site total to 718 - an unforeseen increase of 67 homes.

1.11.4 Ham Road: A 62-bed care home is planned.

1.12 The latest ONS census data:

1.13 The data for the Wellington and Wiveliscombe area shows a population that is older and less ethnically diverse than the national average for England. Key indicators point to a higher-than-average rate of home ownership and a slightly higher disability rate.

1.14 Key Statistics:

1.15 Population & Households

1.15.1 Total Population: 27,200

1.15.2 Total Households: 11,900

1.15.3 Sex: The population is 51.3% female and 48.7% male, which is broadly in line with the national average.

1.15.4 Age Profile The area has a significantly older population profile compared to the rest of England.

1.15.5 Children & Young Adults: The area has a lower proportion of residents under the age of 45.

1.15.5.1Aged 0-4: 4.4% (vs. 5.4% in England)

1.15.5.2Aged 20-24: 4.3% (vs. 6.0% in England)

1.15.5.3Aged 25-34: 10.0% (vs. 13.6% in England)

1.15.6 Older Adults: The area has a much higher proportion of residents aged 55 and over.

1.15.6.1Aged 55-59: 7.6% (vs. 6.7% in England)

1.15.6.2Aged 65-69: 6.6% (vs. 4.9% in England)

1.15.6.3Aged 70-74: 7.1 % (vs. 5.0% in England)

1.15.6.4Aged 75+: 12.4% (vs. 8.5% in England)

1.16 Household Tenure Home ownership in the area is significantly higher than the national average, particularly outright ownership.

1.16.1 Owns Outright: 41.3% (vs. 32.5% in England)

1.16.2 Owns with a Mortgage/Loan: 28.7% (vs. 29.8% in England)

1.16.3 Social Rented: 14.3% (vs. 17.1% in England)

1.16.4 Private Rented: 15.7% (vs. 20.6% in England)

1.17 Health & Identity

1.17.1 General Health: 80.9% of people report their health as "Good" or "Very Good" (vs. 82.2% in England). 5.2% report their health as "Bad" or "Very Bad" (vs. 5.2% in England).

1.17.2 Disability: 19.1 % of residents are classified as "Disabled under the Equality Act," which is higher than the England average of 17.3%.

1.17.3 Ethnic Group: The area is less ethnically diverse than the national average, with 96.9% of residents identifying as "White" (vs. 81.0% in England).

1.17.4 Religion: 48.9% of residents identified as "Christian," and 43.1 % reported "No religion."

1.18 Our Unforeseen Benefit: Our pharmacy will provide essential, accessible services for this significant new population but will also seek to secure and enhance access for the existing population in general. The most current ONS data shows a population that is older and less ethnically diverse than the national average for England. Key indicators point to a higher-than-average rate of home ownership and a slightly higher disability rate. The HWB's belief that the area's needs could be met was based on three pharmacies. We will provide the necessary capacity to serve these thousands of new residents who are arriving in an area that now has only two functioning pharmacies while bring improved healthcare access to a local population that is slightly older and that has a slight hight than average disability rate.

Please explain how you intend to secure the unforeseen benefit(s).

1.19 We will secure these unforeseen benefits by using the standard pharmacy contract as the binding mechanism for our commitments, with our core Sunday hours providing a crucial, new dimension of access not previously available in Wellington. Here is the specific plan:

Securing Core Services and Capacity (The "Jhoots & Housing" Benefit)

1.20 A standard pharmacy contract legally obligates us to provide the full range of Essential Services. This is not merely a promise; it is a contractual requirement.

1.20.1 How it's secured: By signing the contract, we are legally bound to be open and provide these services during all specified core hours. This immediately secures the primary unforeseen benefit: restoring stable pharmacy provision to the town following the collapse of Jhoots Pharmacy. This also contractually guarantees that the thousands of new residents from the Jurston Fields, Nowers Lane, and Rockwell Green developments have access to a new, reliable pharmacy.

1.20.2 Pharmacist cover: the owners of the pharmacy are pharmacists and will share the cover of the core / supplemental hours between them. They will also be able to step in if there is going to be any suggestion of a break in pharmacist provision. This will ensure continuity of service.

1.20.3 Physical Accessibility: As the proposed pharmacy is not within the main retail area of Wellington, we have allocated parking spaces outside of the pharmacy including an allocated disabled parking bay. This will improve accessibility for those individuals are wishing to use their car to visit the pharmacy to receive the services that that our proposed pharmacy will offer.

1.20.4 Delivery Service: Our prescription delivery service will be beneficial in many ways, primarily by improving convenience, accessibility, and public health.

1.21 Here are the key benefits:

1.22 Improved Accessibility

1.22.1 Supports Patients with Mobility Issues: It is a crucial service for the elderly, people with disabilities, or those recovering from surgery who may find it difficult or impossible to leave their homes.

1.22.2 Aids Those with Chronic Illnesses: Patients who are severely unwell, immunocompromised, or managing chronic conditions can receive their medication without the risk or physical strain of visiting a pharmacy.

1.22.3 Helps People in "Care Deserts": For individuals in rural areas with limited transport options or those who live far from the nearest pharmacy, delivery removes a significant barrier to care.

1.23 Convenience and Time-Saving

1.23.1 Saves Time for Busy Individuals: Working professionals, parents with young children, or anyone with a hectic schedule can get their prescriptions without taking time off work or fitting a pharmacy visit into their day.

1.23.2 Reduces Hassle for Carers: It eases the burden on family members and carers who would otherwise be responsible for collecting prescriptions for their loved ones, freeing them up for other care duties.

1.24 Better Health Outcomes and Safety

1.24.1 Increases Medication Adherence: The convenience of home delivery can lead to better adherence to medication schedules. Patients are less likely to miss or delay doses because they couldn't get to the pharmacy, which is critical for managing conditions like high blood pressure or diabetes.

1.24.2 Reduces Exposure to Illness: It minimises the number of sick people visiting a pharmacy, protecting other patients and staff from infectious

diseases like the flu or COVID-19. It also protects the patient, who may be vulnerable, from illnesses they could pick up while out.

1.24.3 Ensures Privacy: Some patients may feel more comfortable receiving sensitive or personal medications discreetly at home rather than picking them up in a public setting.

1.25 Reduced Environmental and System Strain

1.25.1 Fewer Journeys: A consolidated delivery service with an optimised route is more efficient than hundreds of individual patients making separate car journeys to the pharmacy, reducing traffic and carbon emissions.

1.25.2 Lessens In-Store Congestion: Delivery services can reduce queues and waiting times within the pharmacy itself, allowing walk-in patients a faster service and freeing up pharmacy staff to focus on clinical tasks.

Securing Unforeseen Access (The "Sunday Hours" Benefit)

1.26 Our commitment to include core hours on a Sunday is a significant, unforeseen improvement in access that directly addresses the new, intense pressure on local healthcare.

1.26.1 How it's secured: We will designate Sunday as part of our core contracted hours. This provides a 7-day-a-week service, a critical benefit in light of the unforeseen consolidation of 23,000 patients at Wellington Medical Centre. When a patient from this "super-practice" needs an acute prescription on a weekend, they will have a guaranteed, accessible option. This spreads patient demand across the entire week, alleviating the strain caused by the Luson Surgery closure and helping to manage the long GP wait times.

Securing New Services (The "Independent Prescriber" Benefit)

1.27 The standard contract is the platform that allows us to deliver the most critical unforeseen benefit: the independent prescribing service to support the overwhelmed GP practice.

1.27.1 How it's secured: Our qualified Independent Prescriber will be rostered and available during our core contracted hours, including Sundays. This secures the benefit by making it a guaranteed, tangible service. A patient who cannot get a GP appointment can, on a Sunday, walk into our pharmacy and be seen by a qualified clinical prescriber. This provides a new type of pharmaceutical service that directly answers the local MP's call for an "emergency package" by creating a new, accessible clinical pathway for the 23,000 patients now served by a single GP centre. The nearest NHS walk in centre is in Taunton. Although this can be accessed by car, it is still a 30 to 40 minute drive and for those who need to use public transport, the provision of public transport on a Sunday or a late evening can be sporadic. For those needing immediate medical attention this could be a significant hurdle. By bringing NHS delivered care closer to home, the pharmacy will be

helping to deliver the Fit for the Future NHS 10 year plan. This will also give patients greater choice and flexibility when they most need it.

1.27.2 Collaboration with external providers: the pharmacists are committed to ensuring that the patient journey is a smooth as possible throughout the primary care healthcare system and so will collaborate with the local surgeries, ICB and PPG to ensure voices are listened to and were appropriate, action is taken to improve and enhance the service provision provided by the pharmacy."

[Supporting information as provided with the application is in Appendix A – C for the Committee]

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 THE APPLICANT

2.1.1 "I am writing on behalf of Imperial Chemists Ltd to formally respond to the representations submitted by Somerset Council/LPC, Boots UK Limited, and Superdrug Stores plc regarding our application for a new pharmacy contract in Wellington. We maintain that our application offers significant, unforeseen benefits that address a critical breakdown in local healthcare infrastructure.

The Unforeseen Collapse of Capacity (Jhoots/Allied Pharmacies)

2.1.2 Boots and the LPC argue that the Jhoots closure is temporary following a takeover by Allied Pharmacies. However, Allied Pharmacies itself confirmed on 7 November 2025 that the "majority of these locations are temporarily closed," providing no definitive timeline for reinstating services in Wellington.

2.1.3 The Jhoots site is located "behind the now-closed Luson Surgery". This loss of co-location fundamentally changes patient flow. For the avoidance of doubt, the Applicant accepts that the Jhoots contract remains on the pharmaceutical list and that Allied Pharmacies has indicated an intention to reopen the site. However, the relevant question under regulation 18 is not simply whether a contract exists on paper but whether, in reality, there is a stable, reliable provider capable of delivering the level of access and resilience assumed in the PNA.

2.1.4 The prolonged and repeated failure of this contract to provide consistent services, the formal administration of Jhoots, and the absence of any firm timetable for full restoration of services together constitute an

unforeseen collapse in effective capacity, even if the list entry has not yet been removed.

2.1.5 Furthermore, the Health and Wellbeing Board's (HWB) Pharmaceutical Needs Assessment (PNA) was predicated on a three-pharmacy model. The "permanent collapse" of one-third of the town's face-to-face provision is an unforeseen event that renders the HWB's previous assessment of "well-served" obsolete. In these circumstances, it is not realistic for the ICB to continue to rely on a theoretical three-pharmacy model as if nothing had happened. The unforeseen event is the combination of (a) the de facto withdrawal of one-third of Wellington's face-to-face capacity for a prolonged period, and (b) the well-documented national difficulties in securing timely replacement where a failing contract technically remains in place. The proposed pharmacy at Westpark restores, on a stable footing, the capacity which the HWB assumed would be available when determining that Wellington was "well-served".

2.1.6 The committee will also benefit from a reminder that pre-2024, there were 4 pharmacies in Wellington and by granting our application, this 4 pharmacy model will return.

2.1.7 As community pharmacy is now on a solid non-reversible trajectory towards the provision of clinical services via independent pharmacist prescribers, our application will assist in the delivery of these services. Section 3 below details this in more depth.

Addressing GP Service Consolidation and "Super-Practice" Strain on the local population

2.1.8 The closure of Luson Surgery on 26 September 2025 forced the transfer of 6,600 patients to the Wellington Medical Centre, creating a "super-practice" of 23,000 patients. Recent reports describe "chaos" in the medical centre's car park as it struggles to cope with the increased volume.

2.1.9 The consolidation of 6,600 patients into Wellington Medical Centre, creating a single "superpractice" of around 23,000 patients, was not part of the factual baseline on which the PNA's conclusions were reached. It has materially altered demand for pharmaceutical services in a way that could not reasonably have been foreseen and has directly contributed to the current pressures, including congestion at the practice and extended waiting times.

2.1.10 Our proposed pharmacy at Westpark26 is specifically designed to alleviate this strain by providing a new clinical pathway outside the congested town centre. The Applicant's proposal responds directly to this unforeseen development by offering an additional, geographically distinct clinical access point at Westpark, with extended hours including core Sunday opening, thereby securing better access to pharmaceutical services for this enlarged practice population. Our commitment to core Sunday hours ensures a 7-day service for this

highly concentrated patient population, a benefit not previously available in Wellington.

2.1.11 In the Applicant's submission, this is a classic example of an unforeseen change in local circumstances which justifies the granting of an application under regulation 18(1)(a) and (b).

Clinical Benefits: Independent Prescribing

2.1.12 The LPC states there is no national NHS-commissioned Independent Prescribing (IP) service. While we acknowledge this, our application offers a pharmacist-led independent prescribing service as a "new type of pharmaceutical service" to manage minor ailments and medication reviews. This directly supports the local MP's call for an "emergency package" to reduce GP wait times, which have seen waits of over 28 days for 182,811 appointments in Somerset. We also have the support of our local MP in this application.

2.1.13 The Applicant accepts the LPC's observation that there is currently no nationally commissioned NHS independent prescribing service and that any such activity at present would be privately funded. The Applicant does not suggest that private prescribing is a substitute for GP services or that it should be treated as an NHS "necessary service" for the purposes of the PNA. Rather, the presence of an on-site independent prescriber is relied upon as evidence of enhanced clinical capability and system resilience: it demonstrates that, once commissioned pathways become available, this pharmacy will be able to absorb and manage a proportion of work which would otherwise fall to the already stretched GP practice.

2.1.14 The core unforeseen benefits relied upon are therefore: (i) restoration and redistribution of physical dispensing and clinical capacity following the collapse of the Jhoots contract; (ii) improved geographical access for existing and new residents in the western part of Wellington; and (iii) extended hours, including Sundays, which are not currently available within the locality. Independent prescribing is supportive of, but not essential to, that case.

Accessibility and Population Demographics

2.1.15 Superdrug argues that our location is inaccessible. On the contrary, our site offers *allocated parking and a disabled parking bay*, specifically benefiting the older population and the 19.1% of residents classified as disabled—a rate higher than the national average.

2.1.16 Superdrug's characterisation of Westpark as an "out of town industrial estate" with "limited parking facilities and little public transport options" is not accepted. Unit 4c is located on an established mixed-use business park directly off the A38, served by regular bus routes linking Westpark, Rockwell Green and the town centre, and benefits from on-site parking immediately adjacent to the proposed pharmacy entrance. There are four dedicated parking bays plus a marked disabled parking

bay, which is a material advantage for the town's older population and the 19.1% of residents recorded as disabled.

2.1.17 By contrast, the existing town-centre pharmacies have no on-site parking and require patients, including those with mobility difficulties, to locate parking elsewhere and walk some distance through the town. For patients in the western estates, new housing, and Westpark employment area, Westpark offers a shorter, simpler and safer journey, whether by bus, car or on foot, than travelling into the congested town centre. In the Applicant's submission this amounts to "better access" in practical terms, especially for those with protected characteristics.

2.1.18 While Superdrug highlights walking distances of 35-41 minutes from existing sites, they ignore the rapid expansion of Wellington. Our location contractually guarantees access for thousands of new residents in the Jurston Fields, Nowers Lane, and Rockwell Green developments. The walking-time figures quoted by Superdrug are based on journeys from the existing Jhoots site rather than from the new housing and employment areas that the proposed pharmacy is intended to serve. Those maps therefore do not reflect the real-world access gained by residents of Jurston Fields, Nowers Lane, Rockwell Green and the Westpark catchment, for whom the proposed pharmacy represents a substantial improvement in proximity and ease of access.

2.1.19 For those with limited mobility, our prescription delivery service removes significant barriers to care for those in "care deserts" by offering free delivery to all patients. By contrast, competitors such as Boots charge £5.00 per delivery, which represents a real financial and material barrier to access for older patients, those on low incomes, and those with chronic conditions requiring regular prescriptions. They have also ignored that there are a wide variety of transport methods available to the public who wish to access our services. Examples are public and private transport, as well as the traditional walking option.

Response to "Online Pharmacy" Claims

2.1.20 Superdrug notes we already operate an online pharmacy. For clarity, the "Somersetmeds" website was created before the Applicant's subsequent application for a distance selling pharmacy was refused on appeal, and the Applicant has never held a distance-selling contract.

2.1.21 The website does not alter the regulatory position: the Applicant does not provide NHS pharmaceutical services to Wellington patients under a DSP contract and is expressly prohibited, as a DSP would be, from orienting its NHS service towards a single locality.

2.1.22 The present application is therefore not an expansion of an existing NHS footprint but a request for a first, bricks-and-mortar community pharmacy contract in Wellington. Only such a contract can restore the lost face-to-face capacity, provide urgent supply, and deliver the full range of essential and advanced services—Pharmacy First, NMS, DMS, vaccinations and others—on a 7-day basis at the point of need.

An online-only model cannot provide the clinical interventions or the 7-day physical access our community desperately requires.

Conclusion

2.1.23 Taking all of these matters together, the Applicant submits that the combination of the effective collapse of one of the town's three pharmacies, the unforeseen creation of a single 23,000-patient practice, and the rapid westward housing and employment growth has materially altered the circumstances on which the HWB's PNA was based. Granting this application would secure improvements and better access to pharmaceutical services for a significant cohort of Wellington residents which could not reasonably have been foreseen when the PNA was published, and the criteria in regulation 18 are therefore met.

2.1.24 The existing pharmacy provision in Wellington is under unsustainable pressure. By restoring capacity, introducing independent prescribing capability, guaranteeing 7-day access with dedicated parking, and serving the emerging residential and employment communities at Westpark, Imperial Chemists Ltd offers benefits that could not have been foreseen by the HWB's July 2025 assessment.

2.1.25 We have also included a detailed analysis of the services offered under this application and a Clinical Governance Statement, both of which are attached to this response and demonstrate the comprehensive safeguards and operational standards that will be maintained.

2.1.26 We remain available to discuss these points at an oral hearing if deemed necessary."

Supporting information

"I. Clinical and Advanced Services

2.1.27 The application proposes a full suite of services designed to restore town capacity and introduce new clinical pathways:

2.1.27.1 Essential Services: Full provision of all mandatory NHS pharmaceutical services, including dispensing and repeat dispensing.

2.1.27.2 Independent Prescribing (IP) Service: A cornerstone of the "unforeseen benefit" claim, this service allows a qualified pharmacist to see patients, manage minor ailments, and perform medication reviews. It creates an alternative clinical pathway to the overwhelmed Wellington Medical Centre.

2.1.27.3 Pharmacy First: Provision of consultations for specific clinical conditions to ease pressure on local GP appointments.

2.1.27.4 Vaccination Services: Both Seasonal Influenza and Covid Vaccination services will be provided at the new location.

2.1.27.5 New Medicine Service (NMS): Clinical support for patients starting new medications for long-term conditions.

2.1.27.6 Discharge Medicine Service (DMS): A framework to ensure patient safety and medication reconciliation when individuals transition from hospital to community care.

II. Standard Operating Procedures (SOPs)

2.1.28 The application includes a comprehensive manual of SOPs to ensure safety, clinical governance, and continuity of care:

Core Dispensing and Safety

2.1.29 SOPs 1-6: Covers the entire lifecycle of a prescription from reception and clinical assessment to assembly and the final pharmacist check.

2.1.30 SOPs 8a, 8b, 8c: Detailed procedures for managing "owings" (stock shortages) to ensure patients are never left without essential medication.

2.1.31 SOPs 32 & 33: Robust frameworks for recording and reporting "near misses" and dispensing errors to foster a culture of continuous improvement rather than blame.

Specialised Handling & Delivery

2.1.32 SOP 70 (Prescription Delivery): Specifically designed to support patients with mobility issues or those living in "care deserts".

2.1.33 SOP 74 & 75 (Controlled Drugs): Strict protocols for the receipt, secure storage, transit, and destruction of Controlled Drugs (CDs).

2.1.34 SOP 167 (Cold Chain): Ensures that refrigerated items (like insulin) are maintained between 2-8°C from the wholesaler to the patient’s home.

Patient Care & Clinical Governance

2.1.35 SOPs 135 & 136: Proactive advice frameworks for Healthy Diets and Physical Exercise, targeting the area's older population and those with long-term illnesses.

2.1.36 SOP 170 (Summary Care Records): Protocols for accessing GP-held clinical data (with patient consent) to support safe clinical decision-making.

2.1.37 SOP 30 (Complaints): A clear procedure for responding to customer concerns within statutory timeframes.

III. How These Support the "Unforeseen Benefit" Case

2.1.38 The breadth of these SOPs and services directly addresses the current healthcare crisis in Wellington:

Feature	Unforeseen Benefit Provided
Independent Prescriber (IP)	Relieves the 23,000-patient GP hub by managing minor ailments directly. This service can be applied through the commissioning pathway once the contract is awarded
Sunday Core Hours	Provides a 7-day-a-week clinical pathway previously missing in the area
Allocated Disabled Parking	Improves access for the 19.1% of residents with disabilities.
DMS & NMS Services	Addresses the loss of specialized clinical capacity following the Jhoots collapse.
Home Delivery SOPs	Mitigates the distance from town-centre residential areas for elderly patients.

2.1.39 The below Clinical Governance Statement serves as a formal summary of the safety, quality, and accountability frameworks integrated into the application by Imperial Chemists Ltd. It demonstrates how our proposed pharmacy will operate under the 2013 Regulations to ensure the highest standards of care for the Wellington community.

Clinical Governance Statement

2.1.40 Patient Safety and Risk Management

2.1.41 Patient safety is the primary objective of our operational framework. We have implemented a multi-layered risk management system:

2.1.41.1 Standardised Dispensing: Every prescription undergoes a formal lifecycle of Reception, Clinical Assessment, Labelling, Assembly, and a Final Check.

2.1.41.2 Incident Learning: We reject a "blame culture" in favor of rigorous Near Miss Recording (SOP 32) and Dispensing Error Reporting (SOP 33). All incidents trigger a "root cause analysis" to prevent recurrence.

2.1.41.3 Controlled Drug (CD) Security: Dedicated protocols for the receipt, storage, and secure transit of CDs ensure legal compliance and public safety.

2.1.42 Clinical Effectiveness and Independent Prescribing

2.1.43 To address the "super-practice" strain in Wellington, our clinical model prioritizes effectiveness through advanced pathways:

2.1.43.1 Independent Prescribing (IP): A qualified IP will be rostered during core hours, including Sundays, to provide an accessible clinical alternative to the 23,000-patient Wellington Medical Centre.

2.1.43.2 Pharmacy First & NMS: We will be accredited to provide advanced consultations and the New Medicine Service (NMS) to maximise the therapeutic outcomes of long-term treatments.

2.1.43.3 Public Health Promotion: Our staff will pro-actively deliver advice on healthy lifestyles, nutrition, and exercise, specifically tailored to the local demographic's older age profile and disability rates.

2.1.44 Information Governance (IG) and Cyber Security

2.1.45 We commit to protecting patient identifiable information (PII) through robust digital and physical safeguards:

2.1.45.1 Data Protection: All operations comply with the Data Protection Act 2018 and GDPR.

2.1.45.2 Cyber Security (SOP 191): Our systems include 20-character passwords, firewalls, and two-factor authentication for sensitive accounts.

2.1.45.3 Summary Care Records (SCR): Access to GP-held clinical data is strictly governed by "informed consent" protocols to support safe decision-making.

2.1.46 Staffing, Training, and Professional Standards

2.1.47 Our governance is underpinned by a continuous improvement culture for all employees:

2.1.47.1 Professional Oversight: The pharmacy is managed by pharmacist-owners who provide direct cover and ensure continuity of service.

2.1.47.2 Induction and Training: New staff and locums undergo formal induction to ensure they are competent in our specific safety procedures (SOPs 53, 54, 55).

2.1.47.3 Confidentiality Clauses: Every contract—including those with third-party contractors—includes strict confidentiality mandates to ensure patient privacy.

2.1.48 Patient Experience and Public Involvement

2.1.49 We actively seek feedback to evolve our services:

2.1.49.1 Patient Satisfaction Surveys: We will conduct annual surveys to identify service gaps and implement remedial actions based on resident feedback.

2.1.49.2 Complaints Handling: Our transparent procedure ensures that all concerns are acknowledged within 3 working days and resolved within statutory timeframes.

2.1.50 This Projected Impact Summary quantifies how the inclusion of Imperial Chemists Ltd will stabilise and improve the healthcare landscape in Wellington, directly addressing the "Catch- 22" situation where a non-functional pharmacy (Jhoots) currently blocks new entrants despite a clear decline in local service.

2.1.51 Projected Impact: Wellington Healthcare Infrastructure

Impact Area	Baseline/Current Crisis Situation	Projected Impact of Proposed Pharmacy
Pharmacy Capacity	-33% reduction in face-to-face provision following the Jhoots collapse.	Restores the pharmacy model deemed necessary by the HWB for town safety.
GP Workload Relief	23,000 patients now concentrated at a single hub (Wellington Medical Centre).	New Clinical Pathway: Independent Prescriber (IP) to manage minor ailments and medication reviews.
Wait Time Reduction	182,811 appointments in Somerset involve waits of over 28 days.	Direct Alleviation: Provides immediate clinical consultation without requiring a GP appointment.
7-Day Access	Zero core hours currently provided on Sundays by existing local contracts.	Guaranteed 7-day service: Includes Sunday core hours to manage acute weekend prescriptions.
Physical Accessibility	Significant car park "chaos" at existing sites following mass patient transfers.	Allocated Parking: Dedicated bays including a disabled bay to serve the 19.1% of residents with disabilities
Housing Growth Support	Local assumptions that 3 pharmacies could "cope" are now void.	Scalable Provision: Contractually secured capacity for 1,345+ new homes and 134+ care home beds.

2.1.52 Key Qualitative Improvements

2.1.53 Medication Adherence: Our home delivery SOP (SOP 70) proactively supports the elderly and those with chronic illnesses who find the town-center [sic] trek a barrier to care.

2.1.54 Continuity of Service: Unlike national chains currently facing systemic failure, our owners are pharmacists who will personally provide cover to ensure no breaks in provision.

2.1.55 Public Health Outreach: By being located at Westpark26, we capture a demographic currently underserved by the town-center [sic] cluster, improving the uptake of NMS and Pharmacy First services."

3 The Decision

The Commissioner considered and decided to grant the application. The decision letter dated 26 February 2026 states:

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

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

Extract from the South West Pharmaceutical Services Regulations Committee (PSRC) Decision report – 12 February 2026

3.2 "Case reference: CAS-395487-W7C0T4

3.3 Name of applicant: Imperial Chemist Ltd

3.4 Application type: Application for inclusion in a pharmaceutical list: routine application offering to secure unforeseen benefits

3.5 Address of proposed premises: Unit 4c, Westpark26, Wellington, TA21 9AD

3.6 The SW Committee noted:

3.6.1 The application is for Unforeseen Benefit with a premises known address of Unit 4c Westpark26, Wellington.

3.6.2 An application for a new Distance Selling Premises (DSP) in the same business park was received from the same applicant in November 2024 and approved by the SW PSRC in March 2025. The decision was appealed and NHSR overturned the approval and refused the application.

3.6.3 An application for a new Dispensing Appliance Contractor (DAC), for the same business park was received in March 2025 and was refused by the SW PSRC in July 2025. The decision was appealed and NHSR overturned the decision and approved the application. The new DAC commenced service provision in January 2026.

3.6.4 An application for Unforeseen Benefits was received in January 2025 from Orange Private Ltd for a new pharmacy contract at the Wellington Medical Centre. There was a Boots Pharmacy at the medical centre which closed on 17 February 2024 under the Market Exit process. The application from Orange Private Ltd was refused by the SW PSRC in July 2025. The decision was not appealed.

3.6.5 There are four pharmacies in Wellington, one of which is a DAC.

3.7 PRELIMINARY ISSUES

3.8 Summary of the application:

3.9 The applicant is proposing to open Monday to Friday 9am – 6pm, Saturday 9am – 3pm and Sunday 10am – 4pm with 40 Core Hours, and 17 additional Supplementary Hours. The hours proposed are indicated below from section 3.1 and 3.2 of the application form:

3.10 Opening hours

3.11 Proposed core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
1000-1300 1400-1700	1000-1300 1400-1700	1000-1300 1400-1700	1000-1300 1400-1700	1000-1300 1400-1700	1000-1400-	1000-1600	40

3.12 Total proposed opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
0900-1800	0900-1800	0900-1800	0900-1800	0900-1800	0900-1500	1000-1600	57

3.13 The applicant proposes to provide essential services, advanced services and enhanced services at section 4 of the application form but is not offering to supply appliances.

3.14 The applicant has provided a copy of a proposed floor plan.

3.15 The applicant provides supporting information describing the unforeseen benefit they are offering to secure as:

"Based on the information provided in the attached documents, the unforeseen benefits our application offers are designed to address significant and unforeseen changes to the local healthcare infrastructure and population density in Wellington. These events were not anticipated in the Health and Wellbeing Board's (HWB) Pharmaceutical Needs Assessment (PNA), which, as recently as July 2025, determined the area was well-served.

Our application provides the unforeseen benefit of securing pharmaceutical service capacity in response to three major, unforeseen events that have rendered the HWB's previous assessment of need obsolete:

The permanent collapse of existing pharmacy provision (Jhoots).

The massive and unforeseen consolidation of GP services (Luson Surgery closure).

The confirmation of multiple, large-scale housing developments exceeding previous expectations."

Public Involvement / Representations

3.16 Full details of the applicant's proposals were notified to various parties in accordance with the Regulations. Representation is received from:

3.17 Boots UK Ltd oppose the application stating:

Whilst we appreciate that this application is offering to secure an unforeseen benefit, it appears that one of the reasons cited within the application is the fact that Jhoots has been experiencing difficulties and temporarily closed. It has been confirmed that Allied have taken over the branch at Luson Surgery, Fore Street, Wellington, Somerset, TA21 8AG and if not already, will be open again very soon.

As the ICB will be aware, the closure of a pharmacy or pharmacies within an area does not automatically create a gap and if any gap arises, the Pharmaceutical Needs Assessment (PNA) should be updated. The PNA for Somerset published in October 2025 concludes that there are no gaps in pharmacy provision in Somerset as a whole.

The other reasons believed to support the application, including Sunday opening hours and population growth, would have been considered when the PNA was drafted and subsequently published and we fail to see these are unforeseen benefits.

We believe for the reasons above that this application should be refused and would be grateful if you would keep us informed of the progress of this application.

3.18 Community Pharmacy Somerset state:

Thank you for forwarding us the details of this application. Community Pharmacy Somerset would like to point out:

> *Jhoots Pharmacy remains a contract holder in the town and could reopen at any time. The commissioner would need to decide if a fourth contract would be appropriate if this application was granted and the Jhoots pharmacy were to reopen.*
>
> *There is currently no NHS-commissioned Independent Prescribing Service in England. Any prescribing services offered would therefore be a Private service funded directly by patients and not an equivalent service to a General Practice or NHS walk-in centre.*

3.19 Superdrug Stores Plc oppose the application and comment on the other pharmacies avilable [sic] in Wellington and note the proposed location is out of town on an industrial estate. They state there is no Unforeseen Benefit demonstrated and conclude the application does not meet the criteria set out under Regulation 18 and should be refused.

3.20 The applicant responded and addressed some of the points raised by interested parties, concluding:

Taking all of these matters together, the Applicant submits that the combination of the effective collapse of one of the town's three pharmacies, the unforeseen

creation of a single 23,000-patient practice, and the rapid westward housing and employment growth has materially altered the circumstances on which the HWB's PNA was based. Granting this application would secure improvements and better access to pharmaceutical services for a significant cohort of Wellington residents which could not reasonably have been foreseen when the PNA was published, and the criteria in regulation 18 are therefore met.

The existing pharmacy provision in Wellington is under unsustainable pressure. By restoring capacity, introducing independent prescribing capability, guaranteeing 7-day access with dedicated parking, and serving the emerging residential and employment communities at Westpark, Imperial Chemists Ltd offers benefits that could not have been foreseen by the HWB's July 2025 assessment.

We have also included a detailed analysis of the services offered under this application and a Clinical Governance Statement, both of which are attached to this response and demonstrate the comprehensive safeguards and operational standards that will be maintained.

3.21 Comments were invited from the administrators in charge of the Jhoots, Wellington pharmacy. They were given the opportunity to comment on the application after the original 45-day circulation had completed, given their recent appointment. They oppose the application, concluding:

Conclusion

To conclude, we do not believe that a pharmacy at the proposed location meets the criteria of Regulation 18. Neither the location nor the layout of the pharmacy appear conducive to a community pharmacy. It is not logical that a pharmacy within an industrial business park in Chelston Heath is able to serve the population of Wellington, which already have good access to existing pharmacies.

3.22 The SW Committee agreed that it is not necessary to hold an oral hearing to determine the application.

3.23 Regulation 31 (same or adjacent premises) [quoted in full]

3.24 There are no other contractors currently providing pharmaceutical services at the proposed premises address. The nearest pharmacy is 0.1 miles away (Patient Choice Direct – DAC). The SW Committee was satisfied it is not required to refuse the application by virtue of Regulation 31.

CONTROLLED LOCALITY ISSUES

3.25 It was noted the application does not relate to a controlled locality.

UNFORESEEN BENEFITS

3.26 Reg 18(1)(b) – Improvements or better access not included in the Pharmaceutical Needs Assessment

3.27 Regulation 18 concerns 'Unforeseen Benefits' applications, which are applications where the improvements or better access that would be secured were or was not included in the relevant PNA. The current Somerset PNA can be found here: Pharmaceutical Needs Assessment 2025-28 - Somerset Intelligence - The home of information and insight on and for Somerset - Run by a partnership of public sector organisations. Wellington is included in the Taunton Deane West Primary Care Network area. The SW Committee had a copy of the locality profile which concludes:

Gap Analysis

All necessary services are widely available in this locality, within the set access criteria.

Planned levels of housebuilding in this locality is approximately 800 dwellings, based on which we can conclude that there would be no gap in service created, unless this is exceeded by an additional contingency (total new dwellings 1,300) we would not seek to review pharmaceutical provision.

On the basis of the information we have, we therefore conclude that there is no current gap in the provision of necessary services in Taunton Dean West area, or expected future gap based on the predicted level of population growth and housing development.

Improvements To Access

Appliance Use Reviews and Stoma Customization Service are not provided from pharmacies in the locality; and AURs are available from Distance Appliance Contractors. All other advanced services are available in this locality.

3.28 It was noted no supplementary statements to the PNA have been issued.

3.29 The SW Committee was satisfied that as the improvements or better access which the applicant is proposing to secure were not identified in the PNA, an 'unforeseen benefits' application is the correct type of application.

Reg 18(2)(a) – Would granting the application cause significant detriment to the proper planning or arrangements in place for provision of pharmaceutical services in this area

3.30 The ICB has no particular plans regarding pharmaceutical services in the area, so there can no detriment to such plans. There has not been any suggestion in interested party responses that there would be significant detriment to the arrangements already in place.

3.31 The SW Committee was satisfied that granting the application would not cause significant detriment to the proper planning or arrangements in place for provision of pharmaceutical services.

Regulation 18(2)(g) – Whether the application presupposes that a gap in pharmaceutical services provision has been or is to be created as a result of a consolidation application

3.32 As no consolidation applications have been made relating to this part of Somerset the SW Committee is not required to refuse the application under regulation 18(2)(g).

Reg 18(2)(b)(i) – Significant benefit: Reasonable choice with regard to obtaining pharmaceutical services

3.33 The SW Committee had a map showing the location of existing pharmacies in the area and confirmation of their opening hours and travel distances. It was noted the next nearest pharmacies to those in Wellington are in Taunton, around 5-7 miles from the proposed new pharmacy location.

3.34 In the supporting information the applicant makes the following statements around choice:

Our Unforeseen Benefit: We will secure improvements by restoring the three-pharmacy model the HWB deemed necessary. By committing to provide all essential, enhanced, and advanced services, we ensure the new, rapidly growing population has guaranteed access to a full suite of pharmaceutical services. This restores choice and, most importantly, capacity, ensuring residents can access advanced services (e.g., vaccination, health checks) at an accessible new location without adding to the queues at the two existing, over-stretched pharmacies.

Our Unforeseen Benefit: Our application provides a crucial service to support this new, highly concentrated patient population. We will improve access and choice for the 23,000 patients now directed to a single location, alleviating the dispensing pressure on the two remaining pharmacies, which must now serve the entire town's GP-patient load plus the load from the failed Jhoots Pharmacy. Further, our pharmacist-led independent prescribing service will alleviate the pressures on an already overstretched and buckling NHS service provider. This service was not available from the failed Jhoots Pharmacy and is a new type of pharmaceutical service that directly secures better access to healthcare. It will:

In July 2025, NHS Somerset believed the three pharmacies (including the now closed Jhoots Pharmacy) could "cope with an expected population rise of several thousands". This assumption is now invalid due to both the reduction in pharmacies from three to two, and the confirmation of new, large-scale developments.

Our commitment to include core hours on a Sunday is a significant, unforeseen improvement in access that directly addresses the new, intense pressure on local healthcare.

3.35 The SW Committee noted the Boots pharmacy that exited in February 24 dispensed around 12 – 13,000 items per month, as can be seen below [see Appendix D] from the 2023-24 data. Also shown below is some data for the advanced services for the former Boots.

3.36 The Jhoots pharmacy at Lusson Surgery has the following dispensing activity, and it was noted the activity began to tail off in the summer of 2025 as the pharmacy ran into difficulties:

Contractor Code	FRD81
Contractor name	(All)

Row Labels	Sum of Total Dispensed items
202504	4489
202505	4927
202506	4455
202507	2164
202508	479
202509	389
Grand Total	16903

3.37 The SW Committee note FRP Advisory suggest in their submission that the intention is to recommence service provision from the currently closed Jhoots Pharmacy next month. It was noted, however, no change of ownership application has been received and there is no confirmed date for opening at this time. The SW Committee was reminded the pharmacy is currently proceeding through the Minded to Remove regulatory process.

3.38 The SW Committee is aware of a number of queries and concerns raised by members of the public, regarding current access to pharmaceutical services in Wellington, referencing long queues and time scales to collect medication. The SW Committee was also made aware there have been a number of Freedom of Information requests, seeking confirmation of the recent history of Market Entry activity, demonstrating the significant interest in the area.

3.39 The SW Committee noted the Boots and Superdrug Pharmacies in Wellington have been under pressure since the Jhoots Pharmacy closed but both have made significant effort to address capacity issues, with Superdrug bringing in additional staff and increasing opening hours to address backlog and support recovery.

3.40 The SW Committee noted since the closure of Luson Surgery patients have relocated to Wellington Medical Centre to the west part of Wellington. Discussion took place around the applicants proposed location noting it is to the east of the Wellington conurbation, away from the main centre, in a retail park. The SW Committee agreed this is a positive location due to the geography of the area, noting rural communities surrounding Wellington are likely to find access to a retail park location easier than navigating the town centre pharmacies, where parking is limited. The SW Committee considered the spread of patients in the more rural areas, noting the wide distribution. The SW Committee noted Wellington town is a Core 20 area with both affluent and deprived areas.

3.41 The SW Committee noted the proposed pharmacy offers Sunday opening hours as Core Hours and none of the existing pharmacies open Sundays. There is good opening hours access on Saturdays though.

3.42 The October 2025 dispensing activity data was considered, and it was noted the second highest provider of dispensing activity is now a distance selling provider, with Boots and Superdrug in Wellington being first and third

respectively. The SW Committee noted this demonstrates a considerable number of patients are choosing to access pharmaceutical services away from the main area of Wellington: this supports the applicants argument that patients are concerned about the current level of access and that there is no reasonable alternative provider locally.

3.43 The SW Committee considered the matter of the Jhoots store being closed since September 2025, with no clear plan for reopening. It was agreed this has created significant pressure on the remaining pharmacies. Though the pharmacies had given assurance about action to address these pressures, a significant volume of people were dissatisfied with access and were choosing to access services away from the area.

3.44 It was noted the proposed new pharmacy offers good opening hours coverage, across seven days a week. The proposed location, away from the town centre, was agreed as facilitating good geographical spread of pharmacies, is near to the deprived area of Wellington and is on a retail park with good access to parking. It was agreed it also provides easy access for the surrounding rural communities, who may prefer to use this location rather than having to go into the town centre. The SW Committee agreed the application offers these benefits and more choice to patients.

3.45 Noting the applicants reference to the provision of Independent Prescribing Services, supporting access to general practice and pharmacy services, the SW Committee clarified that these services are not yet commissioned.

3.46 The SW Committee was of the view that granting the application would confer a significant benefit by way of access to, or choice of, pharmaceutical services.

Reg 18(2)(b)(ii) – Significant Benefit: Patients with a protected characteristic [quoted in full]

3.47 It was noted the applicant seems to have little regard to 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.

3.48 The SW Committee was of the view that granting the application would not confer significant benefits on people sharing a protected characteristic.

Reg 18(2)(b)(iii) – Significant Benefit: Innovative approaches to delivery of pharmaceutical services

3.49 The applicant provides little information that suggests innovative approaches to delivering services.

3.50 The SW Committee was of the view that granting the application would not lead to significant benefits by virtue of innovation.

Decision

3.51 The SW Committee determined the application SHOULD BE GRANTED as conferring a significant benefit, because:

3.51.1 It is not necessary to refuse the application under Regulation 31.

3.51.2 The improvements or better access which the applicants are proposing to secure were not identified in the PNA,

3.51.3 Granting the application would not cause significant detriment to the proper planning or arrangements in place for provision of pharmaceutical services,

3.51.4 The application does not presuppose that a gap in pharmaceutical services provision has been or is to be created as a result of a consolidation application,

3.51.5 There is not already a reasonable choice with regard to obtaining pharmaceutical services,

3.51.6 There is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services,

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

Regulation 66 – conditions relating to providing directed services

3.52 The applicant has given an undertaking to provide a number of directed services. Therefore, it should be a condition of the granting of the application that the contractor must provide those services if commissioned and not withhold agreement to a service specification for those services unreasonably. Their commitment to the provision of Independent Prescribing services when these are commissioned was noted.

Appeal Rights

3.53 The SW Committee agreed that Boots and Superdrug should be afforded appeal rights as they provided reasoning for opposing the application. Appeal rights are also afforded to the administrators for Jhoots Pharmacy: the exceptionality of granting appeal rights to a party whose submission was received out of time was considered to be reasonable, due to the circumstances involved with timelines for the application being received and notified, coinciding with the appointment of administrators."

4 The Appeals

In a letter dated 10 March 2026, Superdrug Stores plc appealed against the Commissioner's decision. The grounds of appeal are:

4.1 "We would like to provide the following points to object to this application.

4.2 Under the provisions of Regulation 18(2)(b) (i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also the NHSCB's duties under sections 13I and 13P of the 2006 Act(b) (duty as to patient choice and duty as respects variation in provision of health services)),

4.3 We would like to point out that there are currently 3 listed community Pharmacies in the Wellington area; Superdrug, Boots and Jhoots. All are within a 3 – 4 minute walk of each other.

4.4 We understand the issues currently surrounding the future of all Jhoots pharmacies and speculation of whether they will continue to provide services. However, it was noted in decision report under point 26 that there is intention to recommence service provision from the currently closed Jhoots Pharmacy under Allied pharmacy therefore restoring pharmacy provisions. It would be beneficial to confirm the future of the 3rd operating pharmacy before disrupting the market with another pharmacy. Provisions will then be in line with the PNA.

4.5 The Applicant already has a live website (somersetmeds.co.uk) [see Appendix E] and states they are a registered and regulated online pharmacy. Under the name Somersetmeds, suggesting they already serve the local area and are an NHS pharmacy, offering online consultations and free delivery 'anywhere in the UK'. GPhC Registered 9012691 Owner: Imperial Chemists Ltd. Therefore, there is reasonable choice currently available.

Location: Unit 4c, Westpark26, Wellington, TA21 9AD

4.6 The site is listed as a mixed use business park not as stated in the descison [sic] report as a retail park. Indicating patients would need to travel to the site with the sole purpose of visiting the pharmacy with no usual and normal amenities associated with a community pharmacy.

4.7 The application suggests that the area has a significantly older population, therefore we would argue that there is no benefit to patients in accessing the site which has limited parking facilities and little public transport options and no other useful amenities. This becomes significantly less accessible to all service users given they also mention that the current ONS data shows a slightly higher disability rate.

4.8 The Decision report also states that ‘It was noted the applicant seems to have little regard to 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’.

4.9 The report states The SW Committee was of the view that granting the application would not confer significant benefits on people sharing a protected characteristic. Yet the application was granted ‘as would offer significant benefit by way of access & choice to pharmaceutical services’ We would argue they have excluded 2 main patient groups from this.

4.10 Given that pharmaceutical access to those most vulnerable should be a priority, it should not be over looked that this application does not take this into consideration especially as many applications are refused based on this factor.

4.11 The pictures below [see Appendix E] show average walking times between the current Jhoots and applicants site and also how far away the applicant is from residential areas, showing the unreasonale [sic] expectation placed upon patients.

4.12 Again not providing any unforseen [sic] benefits.

Speculation:

4.13 The application states the following.

The two remaining pharmacies must now absorb the patient load from Jhoots in addition to the 6,600 patients from the recently closed Luson Surgery. This has placed an unsustainable burden on the remaining providers, threatening their ability to offer more than core dispensing.

4.14 As one of the remaining providers we have not been approached to comment on our pharmacy business, nor have we insinuated we are under an *unsustainable burned* [sic] or unable to offer anything more than core dispensing. This is not fact and should not be taken into consideration for the grant of this application.

Discussion

4.15 We do not believe that this application meets the criteria set out under Regulation 18 and therefore should be refused.

4.16 Namely based on

4.16.1 Reg 18(2)(b)(ii) – Significant Benefit: Patients with a protected characteristic as discussed above.

4.16.2 Reg 18(2)(b)(iii) – Significant Benefit: Innovative approaches to delivery of pharmaceutical services

4.17 The applicant has not demonstrated their innovative approach to delivering pharmaceutical services. Besides agreeing to provide services not yet commissioned, which given the chance the current pharmacies may also agree to provide once available.

4.18 We would like to point out we are continually reviewing our pharmacy operations and staffing and are currently looking to recruit another pharmacy team member to support the dispensing team.

4.19 This approval combined with the reopening of Jhoots under Allied coupled with the uptake of distance selling pharmacies will saturate the market in Wellington. Threatening the viability of established community pharmacies who continue to build up their patient base and work tirelessly with many operating at a loss and barely able cover overheads

4.20 We kindly ask to be kept informed of the outcome of this application."

In a letter dated 27 March 2026, Healthcare Plus Consulting Ltd on behalf of FRP Advisory LLP (the administrators for Jhoots Pharmacy Ltd) appealed against the Commissioner's decision. The grounds of appeal are:

4.21 "We write on behalf of FRP Advisory Ltd, who are managing the administration of Jhoots Pharmacy Ltd, t/a Allied Pharmacy, Luson Surgery, Fore Street,

Wellington, Somerset, TA21 8AG. We therefore write representing both the administrators as an interested party identified by the ICB and Jhoots Pharmacy Ltd as the listed contractor.

4.22 We write to appeal the grant of the above decision. We submit that the ICB were incorrect to conclude that the above application would confer a significant benefit by way of access to, or choice of, pharmaceutical services; and go into our reasoning further below.

4.23 We submit that NHS Resolution must reconsider the application afresh in light of all the information provided.

Preliminary matter

4.24 As a preliminary matter, we highlight that we have not had sight of the Applicant responses to representations at the ICB level. We would be grateful if these were provided and we were afforded time to comment on these representations.

4.25 Nevertheless, we provide our appeal below on the information that we have before us.

Background

4.26 For the benefit of the Committee, we first provide some Background on Wellington.

4.27 We note that Wellington is a market town situated within Somerset. As of the 2021 census, Wellington has a population of approximately 15,000. Wellington is a typical of a market town, where the majority of services are situated within the town-centre. Thus, residents are accustomed to accessing the town-centre for their day-to-day needs. There are currently three pharmacies in Wellington to serve the aforementioned 15,000 population; extrapolating this figure we can see that there is circa an equivalent of 20 pharmacies per 100,000 population – this is just below the English average of 21 per 100,000 and above the Somerset average of 16 per 100,000. Thus, we can see that Wellington is well-served by pharmaceutical provision.

4.28 It is also notable that Wellington is relatively affluent with 38.6% of houses in the Wellington Ward being owned outright opposed to 32.5% across England. 84.4% of households in the Wellington Ward have access to at least one car or van compared to the 76.5% average for households across England.

4.29 Such affluence, is also corroborated by the presence of a Waitrose Supermarket in the town centre – should the Committee undertake a site visit they will note that this supermarket is very busy and well-utilised, as well as the presence of the independent Wellington school.

4.30 As well as the Waitrose Supermarket, the town-centre is comprised of:

4.30.1 Asda Supermarket

4.30.2 Co-operative store

4.30.3 Post Office

4.30.4 Wellington Conservative Club

4.30.5 Café's

4.30.6 Butchers

4.30.7 Banking Hub

4.30.8 Town Council

4.30.9 Deli

4.30.10 Takeaways

4.30.11 Restaurants

4.30.12 Charity Shops

4.30.13 Hairdressers

4.30.14 Community Centre

4.30.15 Wellington Community Hospital

4.30.16 Wellington School (independent school with day fees c. £25,000 a year)

4.30.17 Churches

4.30.18 Pubs

4.30.19 Hotels

4.30.20 Jewellers

4.30.21 Solicitors

4.30.22 3 community pharmacies

4.31 We note that the above list is not exhaustive; but provides a comprehensive picture of the vast number of amenities situated within the town centre. Wellington town-centre can very much be described as a thriving hub of activity.

4.32 Those residing in Wellington also have additional access to the amenities in neighbouring Taunton which is connected to Wellington by the A38 and takes approximately 15 minutes to travel by car from Wellington to Taunton town-centre. Taunton has a population of c.60,000 residents per the 2021 census. Given the high-car ownership and rural nature of Wellington, we submit that the 12 pharmacies in Taunton are very-much accessible to residents in Wellington. We note that the Morrisons, Asda, and Boots situated on Taunton High Street are all 7-day a week opening pharmacies.

Healthcare Provision in Wellington

4.33 To assist the Committee, we provide a map of current and proposed healthcare provision in Wellington below [see Appendix F]

4.34 From the map above, we can see that pharmaceutical provision is currently concentrated in the town-centre, with the only medical centre – Wellington Medical Practice, located a short 0.2 miles westward from the three town-centre pharmacies.

4.35 The map also depicts the Applicants proposed site located in a business park within Chelston Heath, distinctly separated from housing areas within Wellington. We highlight that there are only approximately 50 houses in Chelston Heath with the rest of the area comprised of industrial units. We submit that Chelston Heath is predominantly industrial in nature.

4.36 To aid the Committee with an understanding of how issues have arisen in Wellington, and how these are no longer present we provide a timeline of pharmaceutical activity below.

4.37 November 2023

4.37.1 Four pharmacies in Wellington

4.37.1.1 Boots, Wellington Medical Centre dispensing c.12,500 items per month

4.37.1.2 Jhoots, Luson Surgery dispensing c.3,500 items per month

4.37.1.3 Superdrug, dispensing c.5,000 items per month

4.37.1.4 Boots, High Street dispensing c. 5,000 items per month

4.37.1.5 Pharmacy 2 U & Lloyds Direct (Two largest online pharmacies), dispensing c. 2,500 items per month

4.38 We can see that in November 2023 the majority of pharmacies were low-volume dispensers aside from the Boots in the medical centre. We submit that this is clear evidence demonstrating that four pharmacies constitute an over-provision within Wellington. Based on population data this is equivalent to 26.6 pharmacies per 100,000 people – well in excess of the 21 pharmacies per 100,000 English average.

4.39 The Committee will note that online pharmacies were well utilised at this time and thus it could be argued that Wellington was in fact served by 5 pharmacies equivalent to 33.3 pharmacies per 100,000 people – more than double the 15.9 figure for Somerset.

4.40 We submit that at this current level of provision, it was unsustainable and unviable for 4 pharmacies to be situated within Wellington.

4.41 March 2024

4.42 Boots closed and merged their pharmacy in Wellington Medical Centre into their high street branch. Whilst only Boots will know the reasoning behind such a move, we submit that this was likely driven from cost pressures due to the previous low-dispensing volumes of the High street branch.

4.42.1 Three pharmacies in Wellington:

4.42.1.1 Boots, High Street dispensing c.14,000 items per month

4.42.1.2 Jhoots, Luson Surgery dispensing c.5,500 items per month

4.42.1.3 Superdrug, dispensing c.5,500 items per month

4.42.1.4 Pharmacy 2 U & Lloyds Direct (Two largest online pharmacies), dispensing c. 4,000 items per month

4.43 Following the closure of the Boots store at Wellington Medical Centre, all dispensers to Wellington experienced an uplift, however, the Jhoots & Superdrug remained low-volume dispensers despite the closure.

4.44 Mid-2024

4.45 Following clearance for the merger of Lloyds Direct & Pharmacy 2 U by the Competitions Market Authority (CMA) in March 2024, Lloyds Direct was absorbed by Pharmacy 2 U.

4.46 November 2024

4.47 Imperial Chemists Ltd (the Applicant) applies for a Distance Selling Pharmacy (DSP) at the same site as this current application but is eventually refused. The Applicant is unable to re-submit a DSP application as the regulations for DSP market Entry closed in June 2025, with the Applicant's application being eventually refused by NHS Resolution in August 2025. We submit that this indicates that the Applicant is acutely aware that the current site on an industrial park is not appropriate for a patient facing community pharmacy.

4.48 January 2025 - July 2025

4.49 Orange Private Ltd applied to open a new Pharmacy at the site of the Boots closure at Wellington Medical centre in January 2025. This is ultimately refused by the South West Committee in July 2025. We are not privy to the meeting minutes or decision report but it is clear that the South West Committee felt there was not a need to replace the closed Boots Pharmacy and three pharmacy provision in Wellington was sufficient.

4.50 September 2025

4.51 The Jhoots Pharmacy chain suffers a national collapse leading to closed pharmacies, evictions, unpaid staff and unpaid providers. This is extremely well publicised, however provide the following articles as evidence for this collapse:

4.51.1 https://www.theguardian.com/business/2025/dec/30/jhoots-pharmacy-chemist-insolvency-application-high-court

4.51.2 https://www.pharmacymagazine.co.uk/business-news/two-jhoots-related-companies-enter-administration-one-owing-11m

4.52 29th December 2025

4.53 Jhoots Pharmacy Ltd was placed into administration on 29th December 2025. FRP Advisory were appointed as administrator.

4.54 FRP Advisory, recognising the importance of reopening the pharmacies as quickly as possible, sold the Jhoots pharmacies, including the Pharmacy at Luson Surgery, to the respected and established pharmacy group, Allied Pharmacies. We note that Allied pharmacies have taken over operations of all the pharmacies whilst formal NHS Change of Ownership is processed.

4.55 12th February 2026

4.56 The South West Committee approves the application by Imperial Chemists Ltd, largely as complaints have been received as to provision in Wellington and the Committee are unsure whether the Pharmacy at Luson Surgery would ever re-open.

4.57 9th March 2026

4.58 The Pharmacy at Luson Surgery reopens as Wellington Pharmacy. The opening is well-publicized across both local and national papers, including the BBC. MP Gideon Amos conducts the ribbon-cutting ceremony.

4.59 18th March 2026

4.60 The South West Committee officially stand-down the minded to remove procedures against the Pharmacy at Luson Surgery, as they are satisfied that the pharmacy is now fully-operable and offering a reasonable choice to provision

4.61 Given the above timeline, and the refusal of previous pharmacy applications when the Pharmacy at Luson Surgery was fully operable; we submit that it is now clear that there is reasonable choice to pharmaceutical provision following the re-opening of the Pharmacy at Luson Surgery in Wellington and thus submit that this application by Imperial Chemists Ltd must now be refused.

Re-opening of the Pharmacy at Luson Surgery, Fore Street, Wellington, TA21 8AG

4.62 At the time of decision, on the 12th February, it is clear that the South West Committee were minded to omit the Pharmacy at the Luson Surgery from their current considerations of pharmaceutical provision in the area, stating:

"The SW Committee note FRP Advisory suggest in their submission that the intention is to recommence service provision from the currently closed Jhoots Pharmacy next month. It was noted, however, no change of ownership application has been received and there is no confirmed date for opening at this time. The SW Committee was reminded the pharmacy is currently proceeding through the Minded to Remove regulatory process."

4.63 However, we reiterate that the Pharmacy at Luson Surgery has now reopened as of the 9th March 2026, and minded to remove procedures have been dropped against the Pharmacy.

4.64 We are pleased to report that the pharmacy is fully operational offering all essential services throughout all contracted hours; and employs a full-time permanent pharmacist. There also 32 free-parking spaces directly outside the Pharmacy.

4.65 The pharmacy is also offering a range of Over the Counter and Pharmacy Only Medicines in addition to Prescription Medications and clinical services.

4.66 We note that the reopening of the pharmacy has been met with much praise from the community, with MP Gideon Amos stating:

"I'm delighted that work with Allied Pharmacies has now paid off and it's great news that I will now be able to conduct the opening of this much needed pharmacy for the town." (https://www.bbc.co.uk/news/articles/ce82rj84yxyo)

4.67 In addition, at the opening ceremony on the 9th March, the MP said:

"I was delighted to be asked conduct the opening of this much needed pharmacy following meetings with several companies and working with NHS Somerset on the issue over the past year." (https://www.aroundwellington.co.uk/top-story-mp-opens-towns-new-pharmacy/)

4.68 The public have also noted the excellent service at the re-opened pharmacy. They describe the experience as a 'breath of fresh air' with 'no queues' and 'brilliant'.

4.69 We also note that the Pharmacy now has 21, 5 star google reviews – at the time of writing there is not a single review which is not 5-stars. We submit it is clear that the Pharmacy is providing an exceptional service and more than reasonable choice to pharmaceutical provision. There is no reason to believe that this will not continue; and thus no longer a need for an additional Pharmacy.

Decision report

4.70 Within their decision to grant the Imperial Chemists application, as detailed above, it is clear that the Committee were unsure about the re-opening/ existence of the Pharmacy at Luson Surgery. This is no longer an issue and the pharmacy is providing a high level of service to the community.

4.71 The SW Committee also noted that: "*The SW Committee is aware of a number of queries and concerns raised by members of the public, regarding current access to pharmaceutical services in Wellington, referencing long queues and time scales to collect medication*."

4.72 We submit that these concerns are no longer present as there are no queues to access the Pharmacy at Luson Surgery. Both google reviews and social

media comments explicitly highlight the rapid service and lack of queues at the Pharmacy – this has been evidenced above.

4.73 The SW Committee also stated in their decision report: "*Discussion took place around the applicants proposed location noting it is to the east of the Wellington conurbation, away from the main centre, in a retail park. The SW Committee agreed this is a positive location due to the geography of the area, noting rural communities surrounding Wellington are likely to find access to a retail park location easier than navigating the town centre pharmacies, where parking is limited*."

4.74 We submit that parking is no longer an issue and reiterate that there are 32 free parking spaces directly outside the Pharmacy at Luson Surgery. We also note that commenters on both social media and Google reviews note the great parking facilities at our client's site – again this has been evidenced above. As previously mentioned, residents of Wellington need to access the town centre for a lot of their day-to-day amenities and those residing on the East side of Wellington would have to pass all three pharmacies en-route to the medical centre. The Committee will be aware that Regulation 18 is a high-bar, and any application must confer significant benefits. We submit that an application for a community pharmacy on an industrial park, away from the majority of the population, does not meet this criteria. Indeed, we submit that should this application be successful, then there may be an argument for a community pharmacy on every out of town industrial park in the country – this would appear to be nonsensical.

4.75 The Committee also noted that: "*The October 2025 dispensing activity data was considered, and it was noted the second highest provider of dispensing activity is now a distance selling provider, with Boots and Superdrug in Wellington being first and third respectively. The SW Committee noted this demonstrates a considerable number of patients are choosing to access pharmaceutical services away from the main area of Wellington: this supports the applicants argument that patients are concerned about the current level of access and that there is no reasonable alternative provider locally*."

4.76 However, as demonstrated by the data above, residents of Wellington have always utilised online Pharmacy by choice increasingly over the years

4.76.1 November 2023 – c.2,500 items with four operational pharmacies

4.76.2 March 2024 – c.4,000 items with three operational pharmacies (following Boots closure)

4.76.3 October 2025 – c.6,000 items with two operational pharmacies (following the Jhoots closure)

4.77 It is clear that the usage of online pharmacy has very much been a gradual shift for local residents who will enjoy the convenience of delivery straight to their door, opposed to a major spike as concluded by the SW Committee. We submit that it was wrong for the SW Committee to effectively dismiss online providers in determining whether reasonable choice exists in the area – in fact it is clear that Wellington residents do view online pharmacies as offering reasonable choice to provision through the increased gradual adoption of services.

4.78 The Committee also concluded that: "*The proposed location, away from the town centre, was agreed as facilitating good geographical spread of pharmacies, is near to the deprived area of Wellington*…"

4.79 We once again reiterate that the situation of a pharmacy in an out of town industrial park is non-sensical, no matter how the geographical spread may fall. We also note that Wellington is rural and there is good access to a car. The proposed site is a 6-minute drive to all existing pharmaceutical provision. Page 28 of the PNA identifies access criteria to provision and states:

"The PNA Steering group agreed that the minimum threshold for identifying and investigating potential gaps in provision should be set at:

- *Weekday: 20 minutes' drive time*
- *Saturday: 20 minutes' drive time*
- *Sunday: 30 minutes' drive time"*

4.80 The 6-minute drive is significantly less than the 20-minute drive criteria identified as forming a gap in provision within the Somerset PNA. It is clear that there is no geographical gap, when this application is taken in context of the PNA.

4.81 With regard to deprivation we would disagree with the SW Committees assessment that the proposed site is nearer to the area of deprivation. We would argue that this is in fact much closer to the Boots Pharmacy. This can be seen on the map taken from the 2025 index of multiple deprivation below [see Appendix F].

4.82 The area of high deprivation is depicted by the red section on the map above. We can see that residents here are far more likely to access pharmaceutical provision at the Boots Pharmacy, given by the red marker opposed to the Applicants proposed site, given by the black marker which we submit is quite a distance to the East. Thus, those in deprived areas are unlikely to utilise the proposed site.

4.83 Finally we highlight that: "*The SW Committee noted the proposed pharmacy offers Sunday opening hours as Core Hours and none of the existing pharmacies open Sundays. There is good opening hours access on Saturdays though*."

4.84 However, the SW Committee failed to properly apply the PNA criteria, of a 30-minute drive time for pharmacies on a Sunday as constituting good access. If they had, they would have noted that of the three pharmacies open on a Sunday in Taunton:

4.84.1 Asda Pharmacy, TA1 2AN is a 15-minute drive away from the proposed site

4.84.2 Morrisons Pharmacy, TA1 1DX is a 15-minute drive away from the proposed site

4.84.3 Boots Pharmacy, TA1 3PT is a 12-minute drive away from the proposed site

4.85 Thus, we submit that there is in fact good opening coverage on a Sunday and thus there is no significant benefit to the Applicant offering to open during these hours.

4.86 In the context of the situation today, it is clear that not a singular valid reason for granting this application can now be found given the re-opening of the Pharmacy at Luson Surgery and the clarifications provided in this appeal. We invite the Committee to refuse this application.

The Proposed Site

4.87 We remain doubtful that the proposed site will offer any benefit to patients.

4.88 We reiterate that the proposed site is at the Westpark 26 industrial estate in Chelston Heath. We note that the neighbouring unit is an industrial weighing company. The surrounding sites are hardly services residents will frequently access as part of their day to day lives. We also submit that the ICB were mistaken when describing the industrial estate as a 'retail park'.

4.89 The estate is also already home to a Distance Selling Pharmacy – Patient Choice Direct, Unit 1, Block B, TA21 9FN. When we consider that the applicant has previously applied for the proposed site to be opened as a DSP, this gives us good reason to doubt whether the proposed site is likely to be used in person.

4.90 The ICB suggests that rural residents are likely to use the site, but we have reason to doubt this.

4.91 There do not appear to be any facilities that a person would frequently access in the Westpark industrial estate if they were a rural resident heading to town for services. Even when looking more broadly at the services surrounding the Westpark estate, there is a drive-thru McDonalds, drive-thru Costa, Pizza Hut and an Esso Petrol station. All of these services seem to be designed to serve traffic from the A38 and M5 moving between Exeter and Bristol. Such a population is unlikely to use an NHS pharmacy to collect prescriptions or access any pharmaceutical services during this journey.

4.92 Any rural residents in the wider area are likely to be accustomed to entering Wellington to access the supermarket, butchers, post office, pubs etc. The closest that Chelston Heath comes to offering such services is the Budgens attached to the Esso petrol station which we doubt is commonly used for one's general grocery needs and, again, serves the motorway.

4.93 We also reiterate that Chelston Heath itself appears to have virtually no housing and, given the lack of services, they must also be accustomed to accessing services in Wellington.

4.94 We also reiterate that we are unsure about the planning status of the proposed site and whether it is entitled to operate as a retail premises. We believe that

the site is subject to the planning use B2/B8, which is for general industry or storage, not retail use.

4.95 We also have concerns with the limited parking available for patients at a site which is virtually only accessible by car. We believe that the proposed site only has access to two parking spaces. We also note that given that all units on the block have roller shutters, this indicates that there will be a large number of HGVs manoeuvring in the area, which would pose a health and safety concern.

4.96 Given the above, we are therefore doubtful that there is any real benefit to placing a pharmacy in the proposed location.

Closure of the Luson Surgery

4.97 We note that the Luson Surgery has relocated to the Wellington Medical Centre which is to the west of Wellington. We believe that this would lead to a greater demand for pharmacy services in the west of Wellington, due to those accessing pharmacy services in connection with use of the GP. Yet, the proposed site is located outside of Wellington in Chelston Heath - which is to the east. We therefore do not believe that the proposed pharmacy offers any benefit in regard to the change of GP provision in Wellington.

Taunton

4.98 We note that the Somerset PNA 2025-2028 identified no gap in respect of Saturday or Sunday opening hours. Given this fact, we do not believe that that the provision of additional hours on Sundays is a significant unforeseen benefit – there is already good access to multiple 7-day a week pharmacies within neighbouring Taunton as detailed above.

4.99 We also note that no evidence has been presented that Sunday provision is needed or would be a significant benefit to any residents of the Health and Wellbeing Board.

4.100 Based on the reasons outlined above, we believe that NHS Resolution should refuse this application."

5 Summary of Representations

This is a summary of representations received on the appeals.

5.1 THE APPLICANT

"Overview and Executive Summary

5.1.1 This document sets out the written representations of Imperial Chemists Ltd in response to two separate appeals lodged against the South West ICB's decision of 12 February 2026 to grant a new community pharmacy contract at Unit 4C, Westpark26, Wellington, Somerset (Case SHA/26943). The appeals are brought by (i) Healthcare Plus Consulting Ltd and FRP Advisory ("HP"), acting on behalf of the administrators of Jhoots Pharmacy Ltd, and (ii) Superdrug Stores plc ("Superdrug"). The

Applicant invites NHS Resolution to dismiss both appeals and to confirm the ICB's decision in full.

The Statutory Framework: Regulation 18

5.1.2 The ICB's decision was made under the unforeseen benefits test in Regulation 18 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. The ICB was satisfied that:

5.1.2.1 Significant Unforeseen Benefit: Granting the application secures improvements or better access to pharmaceutical services not included in the relevant PNA.

5.1.2.2 Reasonable Choice — Reg 18(2)(b)(i): There is a desirability of having a reasonable choice of providers across the Wellington HWB locality. That test was plainly met.

5.1.2.3 No Significant Detriment: The new contract would not harm the proper planning of local services.

5.1.3 The decision was triggered by: the national collapse of Jhoots Pharmacy Ltd and closure of its Luson Surgery branch; the earlier closure of Boots at Wellington Medical Centre; the consolidation of GP services into the Wellington Medical Centre super-practice (approximately 23,000 patients); and a sharp, documented increase in patients using distance-selling providers. All of these developments post-dated the PNA.

Response to the Appeal by Healthcare Plus / FRP Advisory

5.1.4 This section sets out Imperial Chemists Ltd's response to the appeal lodged by Healthcare Plus Consulting Ltd and FRP Advisory (together, "HP") against the South West ICB's decision of 12 February 2026 to grant a new community pharmacy contract at Unit 4C, Westpark26, Wellington. It should be read alongside Section E(i), which addresses the separate appeal by Superdrug Stores plc, and the supporting annexes referred to below.

5.1.5 The Applicant invites NHS Resolution to dismiss HP's appeal in its entirety and to confirm the ICB's decision. The appeal is brought on behalf of the administrators of Jhoots Pharmacy Ltd, whose national collapse — and the prolonged closure of the Luson Surgery pharmacy in Wellington — were central triggers for this unforeseen benefits application. HP does not allege that the ICB misdirected itself in law or applied the wrong statutory test; rather, it invites NHS Resolution to take a different factual view, relying heavily on events which occurred only after the ICB had reached its decision.

5.1.6 In what follows, the Applicant addresses HP's points thematically: (i) the correct application of Regulation 18 and the timing of the Luson reopening; (ii) the stability and security of the provision now in place at Luson Surgery; (iii) the overall pattern of provision and number of pharmacies in Wellington; (iv) the suitability of Westpark26 as a

location, including rural reach and equality considerations; (v) the relevance of "Somersetmeds" and the earlier distance-selling application; and (vi) the weight that should properly be afforded to the ICB's decision. References are made to the ICB decision report, the licence to occupy (Annex E(ii)-1), the Luson marketing particulars (Annex E(ii)-2), ONS population maps (Annex E(ii)-4), the Facebook poll report (Annex E(ii)-5), photographs of the Westpark premises (Annex E(ii)-6) and the administrator's response of 30 January 2026.

Regulation 18 and the Timing of the Luson Reopening

5.1.7 Regulation 18 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 provides that an ICB may grant an application where it is satisfied that doing so would secure improvements, or better access, to pharmaceutical services of a significant extent that were not included in the relevant PNA. The ICB must form that judgment on the evidence before it at the time of its decision.

5.1.8 The ICB's detailed decision report dated 12 February 2026 explains how it applied Regulation 18 in this case. It considered the collapse of Jhoots, the closure of the Luson Surgery pharmacy, the earlier closure of Boots at Wellington Medical Centre, the reconfiguration of GP services into the Wellington Medical Centre hub, the documented impact on access and queues at Boots and Superdrug, the sharp growth in distance-selling provision, and the substantial housing pipeline in and around Wellington. Having done so, it concluded that granting the application would confer a significant unforeseen benefit and that there would be no significant detriment to the proper planning of services.

5.1.9 As at the date of that decision, the pharmacy at Luson Surgery had been effectively closed since September 2025. It was part of a national portfolio in administration; it had been the subject of a minded-to-remove process; and there had been no application to transfer ownership to a new contractor . On any sensible view, this meant that the PNA assumption of three stable, fully-functioning pharmacies in Wellington no longer held true.

5.1.10 HP's primary point is that the Luson pharmacy reopened on 9 March 2026 under a new brand and that early patient feedback has been positive. The Applicant does not dispute that the pharmacy has since reopened. The point is that this occurred several weeks after the ICB had taken its decision. NHS Resolution's role on appeal is to consider whether, on the information properly before the ICB at the time, the grant of the application was a decision that a reasonable committee could make under Regulation 18. The Applicant submits that it plainly was. The Applicant notes, for the avoidance of any doubt, that the post-decision evidence it relies upon in sections 13A–13E below goes not to a new factual trigger for the application, but to the durability and reliability of the very post-decision event HP asks NHS Resolution to treat as determinative. There is no inconsistency in holding HP's post-

decision evidence to strict scrutiny while drawing attention to the structural fragility of that same evidence.

5.1.11 To allow events after the decision date to retroactively invalidate an otherwise sound Regulation 18 decision would introduce uncertainty and discourage ICBs from responding promptly to local access problems. This is particularly so where, as here, the post-decision development is itself of uncertain durability, as explained below.

Stability and Security of Provision at Luson Surgery

5.1.12 HP suggests that the reopening of the Luson pharmacy completely resolves the issues arising from the Jhoots collapse and that the Applicant's concerns about stability are therefore misplaced. The actual legal footing of the new operation does not support that conclusion.

5.1.13 The pharmacy is currently trading under a Licence to Occupy dated 29 December 2025 between the Jhoots group companies (as sellers), FRP Advisory (as administrators) and the buyer (Annex E(ii)-1). That document:

5.1.13.1(a) defines the buyer as a bare licensee rather than a tenant, expressly stating that it is not intended to, and does not, create a lease or tenancy;

5.1.13.2(b) provides that legal possession and control of the premises remain with the Jhoots companies in administration;

5.1.13.3(c) states that the licence is personal to the buyer and may not be assigned, mortgaged, underlet or otherwise dealt with; and

5.1.13.4(d) sets the licence period as a maximum of ten months from the exchange date (expiring around October 2026) unless terminated earlier on a range of triggers, including objections from the superior landlord, expiry of any underlying leases, buyer default or insolvency.

5.1.14 The temporary and non-assignable nature of this arrangement is underlined by the marketing particulars for "Luson Surgery, 41 Fore Street" produced by a local commercial agent and printed on 28 October 2025 (Annex E(ii)-2). These advertise the entire building as former doctors' surgery / consulting and office premises, "to let" on one or more new five year leases. The fact that the freeholder was openly marketing the building on this basis at the time of the Jhoots collapse reinforces the conclusion that no long-term occupational solution for the pharmacy has yet been secured.

5.1.15 The same marketing particulars note that the building benefits from approximately 32 car parking spaces. Those spaces serve the entire former surgery complex, not the pharmacy unit alone. If and when the building is re-let on new terms to one or more commercial tenants, there is no basis on which to assume that any fixed or exclusive allocation of parking will be reserved for pharmaceutical use. HP's reliance on those

32 spaces as a measure of the pharmacy's access credentials is therefore premature and unsubstantiated.

5.1.16 The Applicant does not suggest that the current operator is unwilling to continue or that the premises will definitely cease to be used as a pharmacy when the licence expires. The point is more limited: that the Luson pharmacy, as presently configured, does not sit on the stable, long-term footing assumed by the PNA when it concluded that three established pharmacies adequately served Wellington. That assumption has been overtaken by events.

5.1.17 The issue is not the operator's willingness but the structural insecurity of the tenure on which continued operation depends.

5.1.18 HP also relies on positive early patient feedback about the reopened pharmacy. The Applicant welcomes any improvement in access for Wellington residents. However, short term satisfaction with opening hours and service does not answer the structural concern about the underpinning tenure and the real risk of further disruption in the short to medium term. Regulation 18 requires NHS Resolution to look at the reality and durability of local provision, not just whether a list entry is currently active.

5.1.19 There is a further matter bearing on the reliability of the provision now in place at Luson Surgery which NHS Resolution is entitled to weigh. The entity that acquired the Luson branch from the Jhoots administration is connected to Healthcare Plus Consulting Ltd, the firm through which this appeal has been brought. The author of the appeal, [NK], and his son [NK]— who is the individual who acquired the Luson branch — are, on information available to the Applicant, beneficial owners of Healthcare Plus. Healthcare Plus describes itself, and operates, as a specialist advisory and brokerage firm whose business model encompasses NHS pharmacy applications, regulatory consultancy, and the commercial sale and transfer of pharmacy businesses.

5.1.20 That business model is directly relevant to the question of the durability of the Luson provision. Healthcare Plus and its principals derive commercial value from the creation, promotion, and sale of NHS pharmacy list entries. This is not a criticism of lawful commercial activity; it is, however, a material consideration when NHS Resolution is asked to treat the reopening of the Luson pharmacy — an acquisition made by the same family that authored this appeal — as stable, long-term provision sufficient to displace the ICB's Regulation 18 determination.

5.1.21 That concern is not speculative. The Applicant is aware that [NK] was granted an NHS pharmaceutical list contract in the Norton Fitzwarren area. That contract was sold on shortly after it was approved. This is indicative of a pattern — obtain a contract, then realise its commercial value by sale — consistent with a pharmacy brokerage model. It is not consistent with the model of a long-term, rooted provider committed to continuous service delivery in a given community. NHS Resolution

should bear that pattern in mind when assessing whether the Luson reopening represents the kind of durable, patient-centred provision that the PNA assumed when it last mapped Wellington's pharmaceutical needs.

5.1.22 The Applicant does not assert that the Luson pharmacy will be sold. It cannot know what the principals of Healthcare Plus intend. The submission is more measured: where the party asserting stability of provision has a documented commercial history of acquiring and disposing of NHS list entries, and where the underlying tenure expires in October 2026, NHS Resolution is entitled to apply heightened scrutiny to unsupported assertions of stability made by a party with a direct commercial interest in the outcome. The ICB was not in a position to know any of this when it made its decision on 12 February 2026. NHS Resolution is.

5.1.23 NHS Resolution may also wish to note a further matter relevant to the weight to be given to HP's factual assertions. The Jhoots Wellington branch was acquired by [NK] on or around 10 February 2026 --- approximately two days before the ICB issued its decision on 12 February 2026 granting the present application. The Applicant does not suggest that the acquisition was made with prior knowledge of the ICB's decision, nor does it assert any impropriety. The relevance of the timing is more limited: the party asserting that the Luson reopening represents stable, durable provision is the same commercial family that acquired the pharmacy, lodged this appeal through their own consultancy within days of the ICB's decision, and whose wider business model is built on the creation and disposal of NHS pharmacy list entries. NHS Resolution is entitled to weigh the commercial context in which HP's assertions of stability are made, and to apply heightened scrutiny accordingly, without any need to infer improper motive or prior knowledge.

Overall Pattern of Provision and Number of Pharmacies

5.1.24 HP characterises the Applicant's proposal as unnecessary over-provision. That is inconsistent with its own narrative. HP accepts that, prior to the closure of Boots at Wellington Medical Centre and the collapse of Jhoots, Wellington was served by four community pharmacies: Boots at the medical centre, Boots High Street, Superdrug and Jhoots at Luson Surgery.

5.1.25 The grant of this application would simply restore that four-pharmacy configuration, but in a more resilient and geographically balanced form. If the Luson pharmacy can be secured on a long-term basis, Wellington would again have two pharmacies in the town centre (Boots and Superdrug), one surgery-based pharmacy at Luson, and one pharmacy at Westpark serving the growing population to the south-east and the rural hinterland. If the Luson arrangements were to fall away, the new Westpark pharmacy would be essential to prevent a re-emergence of the access problems that triggered this application.

5.1.26 The ICB also considered quantitative evidence about dispensing patterns following the Jhoots and Boots closures. By October 2025, a distance-selling pharmacy had become the second-largest dispenser of NHS items for Wellington residents. Local data showed marked growth in online dispensing, from around 2,500 items per month in November 2023 to approximately 6,000 items per month by late 2025. The ICB rightly interpreted this shift as a symptom of stressed local provision.

5.1.27 The Applicant's Facebook poll and associated community comments in March/April 2026 (Annex E(ii)-5) corroborate that picture. Respondents referred to long queues, difficulty parking near the town-centre pharmacies, and a desire for better local access, particularly at weekends. This community evidence supports the ICB's conclusion that there was not already a reasonable choice of pharmaceutical services in Wellington for the purposes of Regulation 18(2)(b)(i). Relevant screenshots are reproduced at Annex E(ii)-5. 18. Against that background, the suggestion that a fourth pharmacy — restoring a level of provision that existed for many years before the recent contract failures — represents unjustified over-provision cannot sensibly be sustained.

5.1.28 HP’s reliance on the Orange Private Ltd application also carries little weight. On HP’s own account, that application concerned the former Boots site at Wellington Medical Centre and was considered in July 2025, before the effective closure of the Jhoots Luson branch in September 2025. It was therefore considered on a materially different factual basis. In any event, an application at Wellington Medical Centre, within the existing town-centre cluster, is not comparable to the present application at Westpark26, which serves a distinct location and catchment on the A38 corridor Location, Access, Rural Reach and Equality Considerations

5.1.29 HP repeats its earlier description of Westpark26 as an industrial estate in Chelston Heath that is supposedly remote from residential areas and ill-suited to a community pharmacy.

5.1.30 That description is not borne out by either the ICB's analysis or the objective evidence now provided.

5.1.31 HP’s characterisation of Westpark26 as a purely “industrial estate” remote from ordinary community activity is materially inaccurate and presents an artificially narrow description of the locality. Westpark26 is not an isolated industrial compound but a modern mixed-use commercial and service destination situated directly on the A38 corridor and routinely accessed by Wellington residents for a wide range of day-to-day purposes. The surrounding occupiers include food and beverage operators, a convenience forecourt and supermarket offer, leisure facilities, hospitality uses, vehicle services, fitness facilities, storage services and healthcare-related uses. The estate therefore functions as a recognised service hub for residents travelling between Wellington, Chelston, Rockwell Green, Jurston Fields and surrounding villages.

5.1.32 The Respondents' suggestion that residents would not "frequently access" the area unless travelling between Exeter and Bristol is unsupported by evidence and inconsistent with the actual character of the site. Facilities such as Costa, McDonald's, Budgens/Esso, Anytime Fitness, Flip Out Somerset, Travelodge and Wellesley Hospital are plainly not facilities designed solely for long-distance motorway traffic. They are established local destinations used daily by Wellington residents and surrounding rural communities. The existence of those facilities demonstrates that Westpark26 already attracts regular community footfall and vehicle traffic of precisely the kind associated with accessible community services.

5.1.33 The Respondents' reliance on the presence of HGVs and roller shutters similarly adds little.

5.1.34 Modern community pharmacies frequently operate successfully within mixed-use developments, retail parks and roadside commercial schemes where deliveries, servicing vehicles and commercial operators coexist alongside public-facing services. There is no evidence before NHS Resolution that the ordinary operation of neighbouring businesses creates any material safety risk to pharmacy patients. On the contrary, the proposed premises benefit from direct vehicular access, dedicated parking bays, a disabled bay immediately adjacent to the entrance, and step-free access — features which materially improve accessibility for elderly and disabled patients compared with congested town-centre alternatives.

5.1.35 The suggestion that Chelston Heath contains "virtually no housing" also materially understates the present and future residential catchment. As set out below, the Jurston Fields development, West Buckland Road proposals and wider south Wellington growth corridor together represent a substantial and expanding residential population within immediate reach of Westpark26. The ICB was entitled to conclude that this growth, when combined with the site's strategic A38 position and ease of access for surrounding villages, created a genuine and significant unforeseen benefit in terms of reasonable choice and accessibility under Regulation 18.

5.1.36 Finally, HP's attempt to portray the proposal as analogous to a distance-selling pharmacy operating from a warehouse unit should be rejected. The present application concerns a patient-facing community pharmacy with consultation facilities, in-person services, dedicated access arrangements and full NHS essential and advanced services. The fact that a previous DSP application was considered under an entirely different regulatory framework does not alter the reality that Westpark26 is suitable, accessible and lawful as a location for a bricks and- mortar NHS community pharmacy.

5.1.37 HP's assertion that Wellington is "well-served" by pharmaceutical provision is contradicted by the pharmacy density data derived from the Respondents' own figures. Even accepting HP's three-pharmacy baseline at face value, Wellington's ratio stands at approximately 18.0

pharmacies per 100,000 population (3 pharmacies serving 16,669 residents per the 2021 Census) — below the England average of 20.8 per 100,000 recorded in the current Somerset PNA 2025–28. That deficit of approximately 13% against the national benchmark already undermines any characterisation of the town as well-served. More fundamentally, however, one of those three pharmacies — the Luson branch — operates under a bare licence from administrators expiring by October 2026, with no security of tenure, no assignable interest, and a freeholder actively marketing the entire building for relet on new five-year terms (Annex E(ii)-2). On a two-pharmacy basis, reflecting the realistic medium-term position if the Luson licence is not renewed or the freeholder exercises its right to terminate, Wellington's density falls to approximately 12.0 per 100,000 — a deficit of 42% against the national benchmark. The Applicant acknowledges that three pharmacies are currently active and listed. However, the medium-term structural position --- which Regulation 18 requires the panel to weigh --- is what matters. Wellington is not well-served; it is one licence expiry away from being critically under-served.

5.1.38 HP's use of November 2023 dispensing data to argue that Wellington was already overprovided is misconceived on two independent grounds. First, the 26.6 pharmacies per 100,000 figure HP derives from that period is arithmetically produced by dividing four pharmacies by a population figure of approximately 15,000. As set out above, the correct 2021 Census population for Wellington parish is 16,669. Applying HP's own methodology to the correct population figure reduces the November 2023 ratio to approximately 24.0 per 100,000 — still above the England average of 20.8, but materially lower than HP asserts, and in any event a figure that describes a point in time more than two years before the ICB's decision, before two of those four pharmacies had closed. Second, and more fundamentally, HP's alternative figure of 33.3 per 100,000 — produced by counting online distance-selling pharmacies (Pharmacy 2U and Lloyds Direct) as part of Wellington's local provision — is legally impermissible. Distance-selling pharmacies are listed on a national basis and serve a national population; they cannot lawfully be attributed to a specific local area for the purposes of assessing whether that area is adequately served under Regulation 18. The PNA framework and NHS Resolution's own guidance are explicit that pharmaceutical needs assessments are concerned with local face-to-face provision. A distance-selling pharmacy provides no emergency supply, no Pharmacy First consultation, no NMS, and no in-person clinical assessment. To include such pharmacies in a local density calculation is not a methodological quirk — it is a category error that, if accepted, would allow any area in England to be characterised as well-served simply by reference to the existence of national online dispensing services. NHS Resolution should give no weight to this calculation.

5.1.39 HP’s further suggestion that growth in online dispensing reflects a settled consumer preference, and therefore demonstrates the absence of any gap in local provision, should be rejected. The evidence points the other way. The Applicant’s community feedback briefing records

that only 1% of respondents identified a preference for online pharmacy, whereas the principal barriers were easier parking or closer parking (36%), longer opening hours (26%) and shorter waiting times (25%). The same briefing records that online pharmacy use appears to be driven by convenience and avoidance of queues rather than any strong preference for online services. In those circumstances, the ICB was plainly entitled to interpret increased distance-selling use as a symptom of pressure in local face-to-face provision, not as evidence that reasonable local choice was already sufficient.

5.1.40 The ICB decision report records that it viewed the proposed site positively in terms of access and geography. Westpark26 is a mixed-use development on the A38 with a growing cluster of employment, retail and service uses. The Applicant's photographs (Annex E(ii)-6) show a clearly signed unit at Unit 4C, Westpark26 with level access from the car park, a designated disabled parking bay immediately adjacent to the entrance, and good visibility from the internal estate road. These characteristics make it particularly suitable for elderly and disabled patients who struggle with parking and walking distances in the town centre.

5.1.41 ONS-based mapping (Annex E(ii)-4) demonstrates that there is a substantial and growing resident population within a short drive of Westpark26, which the PNA did not adequately reflect. Three specific residential developments are directly relevant:

5.1.41.1 Jurston Fields (C G Fry & Son Ltd): Outline planning permission was granted in 2015 for up to 650 dwellings on the south side of Wellington, immediately adjacent to the A38/Westpark corridor. Phases 1 and 2 (193 homes) are complete. Phase 3 (190 homes) is currently under construction. The remaining phases (approximately 267 homes) have reserved matters approval. A further application to expand the total to 717 dwellings was submitted for consultation in June 2025. On the basis of the 650-home permitted scheme and the ONS 2021 average household size of 2.36 persons, Jurston Fields alone will accommodate approximately 1,534 residents at full build-out.

5.1.41.2 West Buckland Road (West of England Developments): A planning application for 75 new homes on the A38, immediately to the west of Westpark26, was submitted to Somerset Council in May 2025 (ref. 43/25/0040). At full occupation, this adds a further estimated 177 residents in immediate proximity to the proposed pharmacy.

5.1.41.3 Combined population impact: The two developments together represent 725 permitted or submitted dwellings, with a projected resident population of approximately 1,711. On the PNA's own methodology of applying a 50% draw to new residential population for pharmacy need assessment purposes, this equates to approximately 856 new potential pharmacy users in

the Westpark26 catchment — a population cohort that did not exist when the PNA was last prepared and which is not captured in the PNA's assumptions about the sufficiency of existing provision. If the Jurston Fields expansion to 717 homes is approved, the combined figure rises to approximately 792 homes and an estimated 935 new pharmacy users within the immediate Westpark catchment area.

5.1.42 The Applicant will operate with extended opening hours, including core Sunday opening, and will provide the full range of essential and advanced services such as Pharmacy First, New Medicine Service and Discharge Medicine Service, alongside free delivery for housebound patients. These features respond directly to the ICB's concerns about weekend access, pressure on existing contractors, and the needs of patients with protected characteristics such as age and disability.

5.1.43 HP's reliance on a deprivation map centred on Boots does not materially assist its case. Even if Boots lies closer to one area of relative deprivation within the town centre, that does not answer the separate question whether Westpark26 would improve access and reasonable choice across the wider locality, including the A38 corridor, new residential growth to the south and south-east, and surrounding villages. Regulation 18 is not concerned with identifying a single "best" site by reference to one map layer; it is concerned with whether the grant secures significant improvements in access not reflected in the PNA. The ICB was entitled to conclude that Westpark26 would do so.

5.1.44 HP suggests that regional Sunday provision in Taunton is sufficient and that patients with cars can already access services without difficulty. That misunderstands the purpose of Regulation 18. The PNA's drive-time standards are minimum county-wide benchmarks, not a ceiling. The question is whether there are significant improvements or better access that can reasonably be secured for the local population. The ICB concluded that providing local Sunday opening, dedicated parking and improved reach into surrounding villages from Westpark would constitute such a benefit.

5.1.45 The Respondents' reliance on Taunton as a supplementary pharmaceutical resource is misconceived and unsafe. HP submits that Wellington residents benefit from pharmacies in Taunton, accessible in approximately 15 minutes by car via the A38. That submission ignores three material realities. First, the A38 between Wellington and Taunton is a chronically flood-prone road subject to recurring closures that render it periodically impassable. The Somerset Rivers Authority's own commissioned report records that the A38 at Blackbird Bends — the principal route between the two towns — is expected to flood in the kind of rainstorm that has a 50% chance of happening every year, and that localised flooding has 'fairly often closed one lane of the A38, sometimes both.' This is not a remote contingency: in January 2026 — just weeks before the ICB's decision — Storm Chandra caused the A38 between Wellington and Taunton to be closed entirely, contributing to a Somerset-wide major incident declaration. In May 2024, flash flooding

between the Blackbird Inn and the Chelston roundabout caused long delays in both directions, school buses to be abandoned, and drivers to mount the pavement to pass standing water measured at 18 centimetres deep. Somerset Council's own road repair schedules confirm the A38 between Rumwell and Chelston was subject to repeated closures due to flood damage as recently as early 2026. The Somerset Rivers Authority's commissioned report independently records that this stretch of road is expected to flood in the kind of rainstorm that carries a 50% annual probability, confirming that these events are not exceptional but foreseeable and recurring. The premise that patients can simply drive to Taunton is not reliable for significant parts of the year. Second, the argument that high car ownership in Wellington makes Taunton accessible directly contradicts the Respondents' own equality position. HP notes that 84.4% of Wellington households have access to a car — but that means one in six households does not, a proportion that rises steeply among residents aged 65 and over, who represent the patient group with the greatest pharmacy need. For this cohort, a 15-minute car journey to Taunton on a flood-prone A-road is not a realistic alternative to local provision. Third, the suggestion that Taunton's pharmacies are routinely accessible to Wellington residents fundamentally misunderstands the purpose of the PNA framework. The PNA sets drive-time access standards as minimum local benchmarks, not a permission to treat a neighbouring town's pharmacy estate as a substitute for adequate local provision. NHS Resolution has consistently held that access to services in a different town does not satisfy the requirement for reasonable local choice.

Somersetmeds and the Previous Distance-Selling Application

5.1.46 HP places weight on the Applicant's "Somersetmeds" website and the fact that a previous distance-selling pharmacy application at Westpark (ref. SHA/26616) was refused by NHS Resolution. The implication is that the Applicant is already providing adequate services to Wellington residents online and is using the present application to achieve, by another route, what it could not obtain as a distance-selling pharmacy.

5.1.47 That implication is incorrect. The Somersetmeds website was developed in anticipation of a possible DSP contract but the Applicant has never held such a contract. Somersetmeds does not provide NHS pharmaceutical services to Wellington patients under a DSP licence and cannot be promoted as a local distance-selling provider for Wellington or any other specific locality.

5.1.48 Any online presence the Applicant maintains operates only within the confines of its existing community pharmacy contracts elsewhere. It cannot provide the face-to-face access, in-person clinical assessment, emergency supply, vaccinations, Pharmacy First consultations and other advanced services that a community pharmacy at Westpark would offer locally.

5.1.49 The previous distance-selling application was determined under a different part of the Regulations, with a different statutory test. The refusal of that application — which turned on whether Westpark was an appropriate base for a national distance-selling operation — does not mean that Westpark is an inappropriate location for a bricks-and-mortar community pharmacy whose purpose is to improve local access in Wellington and its hinterland.

5.1.50 The South West ICB understood this distinction. Its decision report confirms that it treated the present proposal as an unforeseen benefits application under Regulation 18, not as a re-run of the DSP case (see the ICB decision report). HP's attempt to conflate the two should therefore be rejected.

Weight to the ICB's Decision and Overall Conclusion under Regulation 18

5.1.51 The ICB undertook a thorough assessment of this application. It considered dispensing data from Boots, Superdrug, Jhoots and distance-selling pharmacies; GP list sizes and the consolidation of GP practices into Wellington Medical Centre; housing growth using the PNA and updated planning data; opening hours and Sunday provision; the position of patients with protected characteristics; and representations from the Applicant, existing contractors and members of the public.

5.1.52 Having weighed that material, the ICB concluded that there was not already a reasonable choice of pharmaceutical services in Wellington, that the pattern of provision assumed by the PNA had been disrupted by the collapse of Jhoots and the closure of Boots at the medical centre, and that granting the Westpark application would confer a significant unforeseen benefit by way of improvements and better access under Regulation 18(2)(b)(i). It expressly found that there would be no significant detriment to the proper planning or existing arrangements for pharmaceutical services.

5.1.53 HP's appeal does not identify any misdirection of law, failure to take account of relevant considerations, or reliance on irrelevant ones. Its core proposition is that the subsequent reopening of the Luson pharmacy under a temporary licence to occupy, viewed alongside existing regional provision in Taunton, should lead NHS Resolution to a different judgment.

5.1.54 For the reasons set out above, the Applicant submits that those post-decision developments do not undermine the logic of the ICB's reasoning and should not be given determinative weight.

5.1.55 Taking the evidence as a whole, the Applicant submits that granting this application is both consistent with Regulation 18 and in the best interests of patients in Wellington and the surrounding area. It restores the historic level of community pharmacy provision on a more secure footing, improves geographical spread and Sunday access, reduces

inappropriate dependence on distance-selling provision, and introduces a stable pharmacist-owned provider at Westpark without causing significant detriment to existing contractors.

5.1.56 The Applicant therefore respectfully invites NHS Resolution to dismiss the appeal by Healthcare Plus / FRP Advisory, to confirm the South West ICB's decision to grant the application at Unit 4C, Westpark26, Wellington, and to impose such contractual conditions as it considers appropriate in line with the ICB's recommendations."

Written Representations in Response to the Appeal of Superdrug Stores plc

5.1.57 "These representations respond to the written appeal of Superdrug Stores plc ("Superdrug") dated 10 March 2026. The Applicant invites NHS Resolution to dismiss the appeal and confirm the Committee's decision to grant the application under Regulation 18 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations").

Regulation 18 — The Statutory Framework

5.1.58 The Committee's task under Regulation 18(1) was to determine whether granting the application would secure improvements, or better access, to pharmaceutical services in the area of the relevant Health and Wellbeing Board ("HWB"), where those improvements were not included in the relevant PNA in accordance with paragraph 4 of Schedule 1 to the Regulations.

5.1.59 Having regard to the matters in Regulation 18(2), the Committee was satisfied that: (a) Granting the application would not cause significant detriment to proper planning or to the arrangements in place for the provision of pharmaceutical services, under Regulation 18(2)(a); and (b) Granting the application would confer significant unforeseen benefits on persons in the Wellington HWB area, having regard in particular to the desirability of there being a reasonable choice with regard to obtaining pharmaceutical services, under Regulation 18(2)(b)(i).

5.1.60 That was a lawful and evidence-based determination. Superdrug's appeal identifies no error of law and no material factual finding that the Committee was not entitled to make. Its grounds amount to commercial objections to a new competitor dressed up as Regulation 18 arguments. The Applicant addresses each ground in turn below.

Ground 1 — "Three pharmacies already exist within 3 – 4 minutes' walk of each other"

5.1.61 Superdrug contends that three listed community pharmacies in Wellington, all within a 3 – 4 minute walk of each other, already provide reasonable choice within the meaning of Regulation 18(2)(b)(i).

5.1.62 That argument is self-defeating. The fact that all three pharmacies are situated within a 3 – 4 minute walk of each other is not evidence of reasonable choice across the Wellington HWB locality; it is evidence of a significant degree of geographic concentration. Regulation 18(2)(b)(i) requires the Committee to consider whether there is reasonable choice with regard to obtaining pharmaceutical services across the area of the relevant HWB, not merely in a single part of it. The Committee correctly adopted that locality-wide approach.

5.1.63 Patients in Rockwell Green, Jurston Fields, outlying villages and those travelling via the A38 corridor are not meaningfully served by three pharmacies all located within a 3 – 4 minute walk of each other in the town centre. For those patients, the relevant metric is not the inter-pharmacy walking distance but the time, parking difficulty, and congestion involved in reaching any one of those three clustered sites. The proposed Westpark pharmacy addresses that identified gap directly. Superdrug's clustering argument does not.

5.1.64 NHS Resolution has previously confirmed, in decisions such as SHA/25785 (Cramlington), that reasonable choice does not relate merely to how many pharmacies exist but whether they can in practice be accessed by the relevant patient groups. The Committee in the present case applied the same correct approach.

Ground 2 — "The Committee should have waited to confirm the future of the Jhoots/Allied branch before granting"

5.1.65 Superdrug's appeal was dated 10 March 2026, by which time Allied Pharmacy had already reopened the Luson/Mantle Street branch. The suggestion that the Committee's decision was premature therefore falls away on its own facts.

5.1.66 In any event, the question for NHS Resolution on this appeal is not whether a third pharmacy has since reopened but whether the unforeseen benefits identified by the Committee — geographic access gaps, the absence of Sunday provision within Wellington, the pressure generated by the 23,000-patient super-practice, and westward demographic growth — have been resolved. They have not.

5.1.67 Allied's reopening at the former Jhoots town-centre site on Mantle Street replicates the same location, the same parking constraints, and the same predominantly weekday hours as its predecessor. It adds no new geographic reach into western Wellington or the A38 corridor. It provides no core Sunday opening within the Wellington locality. The unforeseen benefits the Committee identified remain fully in force notwithstanding Allied's return to the Luson site.

Ground 3 — "Somersetmeds shows Imperial already serves the Wellington area as an NHS pharmacy"

5.1.68 This ground is factually incorrect and must be rejected.

5.1.69 The somersetmeds.co.uk website is operated by Imperial Chemists Ltd as a private/retail pharmacy registered with the General Pharmaceutical Council (GPhC registration 9012691). It does not hold, and has never held, an NHS pharmaceutical list contract. It cannot dispense NHS prescriptions, it does not provide Pharmacy First, and it cannot deliver any NHS commissioned pharmaceutical service to Wellington patients.

5.1.70 NHS England raised a query regarding the website's wording as a precautionary matter, noting that the landing page might give the impression of current NHS service provision from the Westpark address. The Applicant promptly restricted the website's content and clarified its status on the landing page to the satisfaction of NHS England. That compliant, responsible response to a reasonable regulatory query demonstrates precisely the kind of operator the Committee was entitled to have regard to in granting the application.

5.1.71 The distinction between a GPhC-registered private pharmacy and a listed NHS chemist contractor is fundamental and well established. Superdrug's conflation of the two misunderstands the regulatory framework. The existence of the Applicant's private registration is entirely irrelevant to the question of whether Wellington patients have reasonable access to NHS pharmaceutical services.

Ground 4 — "Westpark is a business park with limited parking, poor transport and no amenities; unsuitable for older and disabled patients"

5.1.72 This ground is contradicted by the facts on the ground and contains a significant internal inconsistency.

5.1.73 Superdrug argues simultaneously that Westpark has limited parking and that older and disabled patients cannot access it. The proposed pharmacy at Unit 4C, Westpark26 has four dedicated patient parking bays and a designated disabled bay positioned directly outside the pharmacy entrance. Whilst Allied/Wellington Pharmacy at the former Luson site holds the benefit of a car park at Fore Street, that car park remains a general-purpose surface car park accessed from the town centre — patients must still navigate town-centre roads and on street congestion to reach it, and it carries no guaranteed allocation exclusively for pharmacy use. By contrast, the proposed Westpark pharmacy offers four bays and a disabled bay dedicated exclusively to pharmacy visitors, positioned directly at the pharmacy entrance with no competing demand from any other service. The site plan and photographs at Annex E(ii)-6 (which is common to both sections) demonstrate this clearly.

5.1.74 Superdrug's description of Westpark as having "no other useful amenities" and serving only passing motorway traffic is not only inaccurate but significantly misleading. Westpark26 is a well-established mixed-use destination that includes, amongst others: McDonald's, Costa, Pizza Hut, an Esso/Budgens forecourt, Wellesley Hospital, Anytime Fitness, Wellington Motors (MG), Travelodge, Flip Out Somerset trampoline centre, Accelerate Trampoline Club,

Howdens, Fox Self Storage, and the Skylark pub. These are established, regular destinations for Wellington residents — in particular those travelling from Rockwell Green, Nowers Lane, Jurston Fields and surrounding villages. The addition of a pharmacy to that offer is a logical and convenient extension of an already-established local destination, not an isolated and inaccessible outlier. The presence of Wellesley Hospital — a private acute hospital — on the same business park is of particular significance. The patients and visitors of a private hospital represent an obvious and proximate source of pharmaceutical need: discharge prescriptions, pre-operative medication checks, outpatient consultations. The proposition that a site which already hosts a private acute hospital is somehow an unsuitable location for a community pharmacy is, with respect, self-contradictory. Summerfield Commercial, the developer and landlord of Westpark26, expressly describes the site as a 'mixed-use business park' in which 'planning consent is in place for a wide range and mix of uses including... health' (Annex E(i)- 1, Summerfield Commercial website extract). The Onyx Business Parks letting particulars for the unit confirm that planning permission permits uses under Class E Part G (Annex E(i)-2). A pharmacy falls squarely within that consent.

5.1.75 Access by car from the A38/J26 corridor is direct and straightforward, offering many patients who find town-centre parking difficult or congested a significantly easier journey to obtain pharmaceutical services. This is a concrete and measurable improvement in access, identified by the Committee, which Superdrug's appeal does not displace.

5.1.76 On public transport, the Applicant acknowledges that bus connections are less frequent than to the town centre. However, under Regulation 18, the test is whether the application secures significant unforeseen benefits in access and reasonable choice overall — not whether every mode of travel is equally well catered for. The access benefit for car-using patients, A38-corridor residents, older patients travelling with carers, and those with mobility difficulties who cannot navigate town-centre parking or congestion, is substantial. It clearly satisfies the statutory test.

Ground 5 — "The application does not address protected characteristics; those groups are excluded"

5.1.77 The nine protected characteristics under section 4 of the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. In the Wellington context, the most relevant are age and disability, reflecting a local population with a disability rate of approximately 19.1% — above the England average — and a significantly older demographic profile.

5.1.78 Superdrug selectively quotes one observation from the Committee's deliberations while ignoring the Committee's operative conclusion. The Committee found Regulation 18(2)(b)(i) — significant unforeseen

benefit in access and reasonable choice — to be satisfied. Its finding that limbs (ii) and (iii) were not the primary basis for the grant does not mean the application was harmful to those with protected characteristics. The structure of Regulation 18(2)(b) is alternative, not cumulative; satisfaction of any one limb is sufficient. Superdrug misreads the provision.

5.1.79 In any event, the proposed pharmacy directly and materially benefits patients sharing the protected characteristics of age and disability:

5.1.79.1 Dedicated disabled parking directly at the pharmacy entrance at Unit 4C, Westpark26, eliminating the need to navigate a congested town-centre car park or walk a significant distance from the nearest available space;

5.1.79.2 Step-free access from car to pharmacy entrance;

5.1.79.3 Free prescription delivery as a matter of policy — compared to the charge of £5 per delivery currently levied by Boots, and to Superdrug's own delivery service which is conditional on Health & Beautycard membership, a minimum spend, and a 2-mile radius from the store, and which covers retail health products rather than NHS prescriptions delivered to patients' homes;

5.1.79.4 Core Sunday hours for patients — including those with long-term conditions or disabilities — for whom weekend access without requiring travel to another town can be clinically significant.

5.1.80 Superdrug's submission that the application fails on protected-characteristics grounds is not only legally misconceived on the structure of Regulation 18(2)(b); it is contradicted by the practical features of the proposed service.

Ground 6 — "Approving this application will saturate the market and threaten the viability of established pharmacies"

5.1.81 This is a commercial objection to competition, not a Regulation 18 ground of refusal. The Regulations do not authorise NHS Resolution to refuse an application, otherwise meeting the statutory test, in order to protect the market share, income, or commercial position of existing contractors. The statutory question is whether the application secures significant unforeseen benefits in access and reasonable choice. Financial impact on incumbents is not a consideration listed in Regulation 18(2).

5.1.82 Superdrug's assertion that existing Wellington pharmacies are "operating at a loss and barely able to cover overheads" is unsupported by any financial evidence whatsoever. Superdrug Stores plc is a subsidiary of AS Watson Group, one of the world's largest health and beauty retailers. If a business of that scale is asserting financial fragility in Wellington, that assertion requires substantiation by audited

accounts or management accounts. None has been provided. Bare assertion carries no evidential weight.

5.1.83 Furthermore, Superdrug simultaneously contends that the market is commercially unviable and that it is actively recruiting additional dispensing staff for its Wellington branch to manage growing demand. Those two positions are plainly inconsistent. Together they suggest that the existing market in Wellington is not experiencing the distress Superdrug describes, and that the dominant motivation for this appeal is the prevention of competition rather than any genuine concern for patient welfare or proper planning.

Summary on Superdrug's Appeal

5.1.84 Superdrug has not identified any error of law in the Committee's approach. It has not provided any evidence capable of displacing the Committee's factual findings on geographic access, Sunday provision, the impact of the 23,000-patient super-practice, or the post-PNA changes in local provision. Its grounds rest on a factual mischaracterisation of the Somersetmeds website, a misreading of Regulation 18(2)(b), an assertion of financial hardship without evidence, and a commercial interest in preventing entry by a new competitor.

5.1.85 The Applicant respectfully invites NHS Resolution to dismiss Superdrug's appeal.

Overall Conclusion

5.1.86 Imperial Chemists Ltd maintains that both appeals are without merit. The appeal by Healthcare Plus / FRP Advisory relies primarily on temporary post-decision events (the Luson reopening under a bare licence to occupy) which do not, in law or in fact, undermine the ICB's sound and well-reasoned Regulation 18 determination. The appeal by Superdrug amounts to a series of commercial objections to competition, none of which identifies any error of law or any factual finding the Committee was not entitled to make.

5.1.87 The grant of the Westpark26 contract at Unit 4C:

5.1.87.1 Restores the historic level of four pharmacies in Wellington, on a more resilient and geographically balanced footing;

5.1.87.2 Provides dedicated Sunday access and extended hours, which are currently unavailable within the Wellington locality;

5.1.87.3 Reduces the documented and stressed reliance on distance-selling providers that has grown sharply since the Jhoots collapse and Boots closure;

5.1.87.4 Directly improves access for patients with the protected characteristics of age and disability through dedicated disabled parking, step-free access and free prescription delivery;

5.1.87.5 Serves the growing residential and employment population along the A38 corridor and in surrounding villages that are not meaningfully served by the three clustered town-centre pharmacies.

5.1.88 The Applicant respectfully requests that NHS Resolution dismiss both appeals and confirm the South West ICB's decision to grant the application at Unit 4C, Westpark26, Wellington, Somerset."

ANNEXES TO SECTIONS E(i) AND E(ii) [see Appendix H]

5.1.89 "Annex E(ii)-1: Licence to Occupy — Luson Surgery, Wellington (dated 29 December 2025) A copy of the Licence to Occupy dated 29 December 2025, made between Jhoots Pharmacy (Holdings) Ltd and associated group companies (as sellers), FRP Advisory Trading Ltd (as administrators), and the buyer, was made available to the Applicant by the freeholder of the Luson Surgery premises. The document is reproduced in full below. NHS Resolution is invited to note in particular: (i) the express exclusion of any tenancy or lease (clause 1); (ii) the retention of legal possession by the Jhoots companies in administration (clause 3); (iii) the personal and non-assignable nature of the licence (clause 7); and (iv) the maximum ten-month term with early termination triggers including superior landlord objection, lease expiry, and buyer insolvency (clause 5).

5.1.90 Annex E(ii)-4: ONS Population Maps — Westpark26 and Surrounding Areas

5.1.91 The following ONS-sourced population mapping demonstrates the resident population within 1.5 km and 2 km of Westpark26, including the villages of Bradford on Tone, West Buckland, Nynehead and Hillfarrance, and the Jurston Fields development. This evidence was before the ICB at the time of its 12 February 2026 decision and supports the finding of significant unforeseen benefit under Regulation 18.

5.1.92 Annex E(ii)-5: Community Evidence — Facebook Screenshots and Social Media Comments

5.1.93 The following screenshots are drawn from public Facebook community groups serving Wellington, Somerset. They evidence: (i) patient frustration with waiting times and parking at existing town-centre pharmacies; (ii) unsolicited community demand for a more accessible local pharmacy; and (iii) community recognition of the geographic gap in provision for residents south and east of the town centre. A structured briefing note summarising the results of the Facebook poll (83 respondents, post reach approximately 1,400) conducted in April 2026 follows the screenshots below as Annex E(ii)-5B.

5.1.94 Annex E(ii)-5B: Facebook Poll Briefing Report — Wellington Pharmacy Access (April 2026)

5.1.95 The following pages reproduce the briefing note prepared from the Facebook community poll conducted in April 2026. 83 Wellington

residents responded (post reach: approximately 1,400). The dominant findings were: easier/closer parking (36%); longer opening hours including evenings/weekends (26%); and shorter waiting times (25%). These findings directly corroborate the access deficiencies identified by the ICB and the community evidence presented in the Applicant's 14-day representations.

5.1.96 Annex E(ii)-6: Photographs of the Proposed Premises — Unit 4C, Westpark26, Wellington

5.1.97 The following photographs were taken at Unit 4C, Westpark26, Wellington, TA21. They evidence: (i) the external appearance and signage of the unit; (ii) the dedicated pharmacy parking bays and disabled bay immediately adjacent to the entrance; (iii) the level, step-free access from car park to pharmacy entrance; (iv) the internal fit-out confirming the unit is suitable and substantially ready for use as a community pharmacy; and (v) the wider Westpark26 environment, demonstrating it is a well-established, mixed-use destination regularly visited by Wellington residents.

5.1.98 Internal Fit-Out — Pharmacy Premises Ready for Use

5.1.99 The following internal photographs confirm that Unit 4C has been substantially fitted out for use as a community pharmacy, with consultation room(s), dispensary space, handwashing facilities, and finished flooring throughout."

ANNEXES TO SECTION E(i) — SUPERDRUG APPEAL

5.1.100"Annex E(i)-1: Summerfield Commercial Website Extract — Mixed-Use Status and Health Consent

5.1.101The following screenshot is taken from the Summerfield Commercial website (summerfield.co.uk/commercial-develop/westpark-3/), the developer and landlord of Westpark26. It confirms that Westpark26 is a 'mixed-use business park' with 'planning consent in place for a wide range and mix of uses including... health', directly rebutting Superdrug's characterisation of the site as an unsuitable industrial location for a pharmacy.

5.1.102Annex E(i)-2: Onyx Business Parks Letting Particulars — Class E Planning Consent The following screenshot is taken from the Onyx Business Parks letting brochure for the new units at Westpark26, TA21 9AD. It confirms that units benefit from detailed planning permission for uses under Class E Part G (commercial, business and service), B2 and B8. A community pharmacy falls squarely within Class E, confirming the unit's suitability for pharmaceutical use as a matter of planning law."

5.2 THE COMMISSIONER

5.2.1 "Thank you for your letter, received 22 April 2026, addressed to Mr Speight at Primary Care Support England (PCSE) enclosing a copy of the above appeal. The South West Pharmaceutical Services

Regulations Committee (SW Committee) wishes to make the following comments on the appeal.

5.2.2 The SW Committee considered the application at its meeting on 12th February 2026. At the time of the meeting the Jhoots Pharmacy at the Luson Surgery site in Wellington had been closed since 22nd September 2025. Whilst the SW Committee was aware there had been a declaration of intention to reopen the pharmacy by the administrators for the pharmacy, there was no confirmed date for the recommencement of services in Wellington. Taking into account the location of the pharmacy and the access it would provide, the SW Committee was of the view that granting the application would confer a significant benefit by way of access to, or choice of, pharmaceutical services and the application was approved.

5.2.3 In responding to this appeal, the SW Committee notes the pharmacy at the Luson Surgery site (operated by Allied) reopened on 9th March 2026.

5.2.4 The SW Committee looks forward to receiving the Primary Care Appeals' decision in due course."

5.3 HEALTHCARE PLUS CONSULTING LTD

5.3.1 "We continue to write on behalf of FRP Advisory Ltd and Jhoots Pharmacy Ltd (under administration), t/a Allied Pharmacy, Luson Surgery, Fore Street, Wellington, Somerset, TA21 8AG.

5.3.2 We reattach previous correspondence and provide further comments below responding to the 14 day comments from the Applicant. We encourage the Committee read the attached comments from the appeal which address the decision report in full.

Closure and Re-opening of the Pharmacy in Luson Surgery

5.3.3 The present application was largely premised on the closure of the Jhoots Pharmacy in Luson Surgery. We note that in their 14-day comments, Imperial Chemists Ltd state that the PNA was premised on a "*three-pharmacy model*."

5.3.4 It is not disputed that there was a time when the Jhoots Pharmacy in Luson Surgery was not operating. However, under the administration of FRP Advisory and management of Allied and partners, we highlight that the pharmacy is now re-opened and operating at full capacity.

5.3.5 We refer to our previous correspondence in which we showed the strong and positive public response to the reopening. We highlight that the pharmacy maintains a perfect 5-star rating on Google Reviews, with all 34 reviews giving the pharmacy 5 stars. We have also previously highlighted the overwhelmingly positive feedback from Facebook reviews. This evidences the exceptionally good service our clients are providing for Wellington.

5.3.6 We note that our client's Pharmacy has also now been open without unforeseen closure since it's re-opening on the 9th March.

5.3.7 We note that the ICB have withdrawn their minded to remove procedures in respect of the pharmacy in Luson Surgery, meaning there can be no doubt that the pharmacy will continue to operate at this high level with no interruption.

5.3.8 It is therefore clear that to the extent that the application relies on the closure of the Jhoots Pharmacy, this is no longer an issue. We note that Allied and its partners have restored the pharmacy, and are now providing an exceptional, reliable and resilient level of service to local residents.

The Proposed Site

5.3.9 We agree with Superdrug and continue to doubt the suitability of the proposed site. We reiterate that the proposed site is an out-of-town industrial estate. The neighbouring unit to the proposed site is an industrial weighing company. This is hardly the sort of service generally used by the public at large. There are also real safety concerns with a patient-facing Pharmacy being housed at such a site.

5.3.10 We also note that the Applicant themselves previously held this site as suitable for a DSP rather than a community pharmacy. Indeed, a neighbouring unit is already a DSP. Therefore, we have real doubts concerning the suitability of the site as a community pharmacy.

5.3.11 Imperial Chemists has noted that the proposed site has 4 parking spaces. We submit that this is limited, especially when considering that staff are also likely to rely on these spaces. It has been claimed that no existing pharmacies offer onsite parking. We note that the Allied Pharmacy site offers a large and free designated parking area, with 32 parking spaces situated directly outside the Pharmacy. There can therefore be little doubt that pharmacies can be accessed easily by car with laudable parking available. In fact, the ample parking availability has been specifically praised by a number of pharmacy users [see Appendix G].

5.3.12 We reiterate that there is a very limited local population around the Chelston Heath area, with all public services in the area primarily serving motorists from the A38 and M5, such as the drive-thru McDonalds and drive-thru Costa Coffee. We submit that motorists are unlikely to use a pharmacy while traveling on the highway or motorway. Furthermore, the above few residents of Chelston Heath are likely to access services in Wellington rather than the other way around.

5.3.13 We also wish to highlight that the areas at the centre of Wellington - where the Allied Pharmacy is located –have higher levels of deprivation. This contrasts with the small number of residents in Chelston Heath who are not deprived per the image from the 2025 Index of Multiple Deprivation previously included in the attached appeal. Therefore, the

present application risks provision for those most in need in favour for those who have limited need.

5.3.14 The Applicant has also stated that the pharmacy would serve the western part of Wellington but it is located to the east of Wellington, as depicted in the map presented in the attached appeal. We submit that any residents of the west would have to travel past every other pharmacy in Wellington before accessing the proposed pharmacy. Given the outstanding reviews and ample parking at our client's site we submit that this is highly unlikely.

GP Services

5.3.15 The Applicant has claimed that the merging of the Luson Surgery and the Wellington Medical Centre is a relevant unforeseen change to the circumstances in Wellington.

5.3.16 Firstly, we note that the merger of the two GPs occurred in September 2025, having been planned for months before this, and the Somerset PNA 2025 was published in October 2025. Thus, it was in no way unforeseen by the PNA.

5.3.17 Secondly, the relevance of this merger is entirely unclear, since this merging did not affect pharmacy services.

5.3.18 To the extent that pharmacies are able to compensate for any supposed loss of GP service, we submit that the Allied Pharmacy already does this. We note that the Allied Pharmacy operates a full range of services including Pharmacy First, Minor Ailments, New Medicine Service. Additionally, we note that the Allied Pharmacy is perfectly placed to serve former patients of the Luson Surgery. By contrast, the proposed pharmacy would be located – in the words of the applicant – in a "geographically distinct" location, which we note is far from the former GP in Luson Surgery.

5.3.19 Thirdly, we note that improvements have been made to the car park at Wellington Medical Centre, which is likely to alleviate any previous parking issues. (https://www.aroundwellington.co.uk/car-park-improvements-at-medical-centre/)

5.3.20 We are therefore doubtful of the relevance of the merger of the GPs in Wellington.

New Developments

5.3.21 As we have highlighted previously, the new developments planned in Wellington are to the west while the proposed pharmacy is to the east. We note that the Applicant themselves state that Wellington's developments are "westwards". The pharmacy is therefore unlikely to benefit residents of the new developments. Further, we submit that no evidence has been provided by the Applicant regarding the status of these developments nor when the "thousands of new residents" will emerge.

5.3.22 We note that both Nowers Land and Rockwell Green are to the far South West of Wellington, and therefore would not benefit from the proposed site. We also note that Jurston Lane will continue to be separated from Chelston Health by intentionally undeveloped land. We therefore submit that these residents remain more likely to use services and the pharmacies in Wellington than the limited services found in Westpark.

Sunday Service

5.3.23 No evidence has been presented that Sunday services are of significant benefit to residents of Wellington. We note that the PNA identified no issues in this regard, and we note that Sunday provision is available nearby in Taunton within a 15 minute drive of the proposed site:

5.3.23.1 Boots Pharmacy, TA1 3PT is a 12-minute drive away from the proposed site

5.3.23.2 Asda Pharmacy, TA1 2AN is a 15-minute drive away from the proposed site

5.3.23.3 Morrisons Pharmacy, TA1 1DX is a 15-minute drive away from the proposed site

5.3.24 Therefore, we see no evidence that Sunday provision would be beneficial at the proposed site. We have previously highlighted the good vehicular access that residents of Wellington enjoy and also note that all three of the above journeys fall well within the standard 30-minute PNA criteria.

Conclusion

5.3.25 On the evidence outlined above, we maintain that this application ought to be refused.

5.3.26 The Applicant highlights their "*core unforeseen benefits relied upon*" as:

(i) Restoration and redistribution of physical dispensing and clinical capacity following the collapse of the Jhoots contract

(ii) Improved geographical access for existing and new residents in the western part of Wellington

(iii) Extended hours, including Sundays, which are not currently available within the locality.

5.3.27 In regard to point (i), we reiterate that this is no longer relevant due to the pharmacy at Luson Surgery being reopened and providing an excellent service under new ownership.

5.3.28 When looking at point (ii), we dispute that the isolated industrial park to the east of Wellington constitutes as improving geographical accessibility. This is especially pertinent when we consider that the

surrounding trade is also not frequently accessed by most residents as part of their daily lives.

5.3.29 As explained above, we reiterate that point (iii) is irrelevant as the Applicant provides no evidence to support a finding that Sunday service provision is needed. Our client is also unaware of any patients requiring access to pharmaceutical services on Sundays.

5.3.30 With the above being said, we submit that the core unforeseen benefits the Applicant claims the proposed pharmacy will secure are not unforeseen, but are either matters that have been resolved - and therefore no longer exist - or unsubstantiated comments.

5.3.31 We reiterate that the above application should be refused."

[A further copy of the appeal dated 27 March 2026 was included as set out at Section 4 above]

6 Summary of Observations

This is a summary of observations received.

6.1 THE APPLICANT

6.1.1 "Imperial Chemists Ltd ("the Applicant") is grateful for the opportunity to make these final observations in response to the further representations submitted by Healthcare Plus Consulting Ltd on behalf of FRP Advisory Ltd and Jhoots Pharmacy Ltd (in administration) ("HP"), dated 19 May 2026. The Applicant is also grateful to the Decision Making Body ("DMB") for its helpful letter of 5 May 2026 confirming the factual background.

6.1.2 The Applicant notes NHS Resolution's instruction that these observations must be confined to rebuttal of information already provided and that no new matters may be raised. These observations comply with that instruction. The Applicant's substantive case is set out fully in its written representations received 15 May 2026 ("the May Representations"), to which these observations should be read as supplementary.

6.1.3 The Applicant submits that HP's further representations raise no new point of substance. They are a reiteration of the same assertions already addressed in the May Representations, unsupported by objective evidence and in several material respects factually inaccurate or misleading. The Applicant addresses each of HP's themes in turn below.

The "Exceptional and Reliable Service" Assertion

6.1.4 HP asserts that Allied Pharmacy / Wellington Pharmacy is now providing an "exceptional, reliable and resilient level of service to local residents" and that the minded-to-remove procedures having been

withdrawn "means there can be no doubt that the pharmacy will continue to operate at this high level with no interruption."

6.1.5 The Applicant makes three observations:

6.1.6 (a) The evidence offered is not objective. HP's case in support of this assertion rests entirely on Google Reviews and Facebook posts selected and reproduced by HP from its own client's social media presence. These are anecdotal comments drawn from a self-selected group of patients, curated and presented by the party with the direct commercial interest in the outcome of this appeal. They are not independent evidence of service quality, reliability or durability. NHS Resolution cannot properly treat them as objective evidence that the pharmacy will provide uninterrupted service for the medium to long term — which is the question Regulation 18 requires the Committee to assess.

6.1.7 (b) The withdrawal of minded-to-remove procedures says nothing about long-term tenure. The ICB's decision to stand down the minded-to-remove process simply reflects the fact that the pharmacy is currently open and operational. It has no bearing whatsoever on the structural insecurity of the tenure identified in the May Representations: the Licence to Occupy, which expires around October 2026, is a personal and non-assignable document that does not create a tenancy; the freeholder was actively marketing the building for re-let on new five-year terms to any commercial user; and there is no confirmed long-term occupational solution for the pharmacy at that site. The minded-to-remove process tests current operability, not future durability. HP conflates the two.

6.1.8 (c) Short-term positive feedback does not answer the durability question. The pharmacy has been open for less than three months at the date of HP's letter. Positive early reviews are to be welcomed but they provide no evidence that the pharmacy will remain at the same location, under the same ownership and on the same terms, over the medium to long term. Regulation 18 requires NHS Resolution to look beyond whether a list entry is presently active and to assess the reality and durability of local provision. The May Representations address this in full.

Residents Choosing the Town Centre: An Assertion Without Evidence

6.1.9 HP submits that residents of Chelston Heath and the surrounding area are "likely to access services in Wellington rather than the other way around," and that residents of the west of Wellington "would have to travel past every other pharmacy in Wellington" before reaching the proposed site and are "highly unlikely" to use it.

6.1.10 These are bare assertions. HP provides no evidence whatsoever — no survey data, no travel pattern data, no patient feedback from residents of the A38 corridor, Jurston Fields, Rockwell Green or the surrounding rural villages — to substantiate the claim that these patient groups

would not use the proposed pharmacy. The entire submission rests on HP's own view that residents "accustomed to" the town centre will continue to use the town centre. That is an assumption, not evidence.

6.1.11 By contrast, the Applicant's May Representations provide:

6.1.12 ONS-based mapping demonstrating the substantial and growing residential population within a short drive of Westpark26, including Jurston Fields (up to 717 dwellings permitted or applied for) and the West Buckland Road development (75 homes submitted to Somerset Council);

6.1.13 Community feedback data showing that 36% of respondents identified easier or closer parking as the primary barrier to accessing existing pharmacies — a barrier directly addressed by the proposed Westpark site;

6.1.14 The ICB's own positive assessment in its decision report that "rural communities surrounding Wellington are likely to find access to a retail park location easier than navigating the town centre pharmacies, where parking is limited."

6.1.15 HP has provided nothing to rebut any of that evidence. The DMB's letter of 5 May 2026 does not contradict it. The assertion that patients will prefer to travel past a conveniently located pharmacy to reach the town centre is implausible on its face and is not supported by a single piece of objective evidence.

The Taunton Travel Times Do Not Reflect Real-World Conditions

6.1.16 HP continues to rely on travel times of "12 minutes" and "15 minutes" by car from Wellington to pharmacies in Taunton as evidence that Sunday provision in Taunton is adequate. These figures are plainly derived from mapping software under optimal conditions. They do not reflect real-world journey times and they ignore a material factual reality that the Applicant has already placed before NHS Resolution.

6.1.17 The A38 between Wellington and Taunton is a chronically flood-prone road subject to recurring, foreseeable closures. The Somerset Rivers Authority's own commissioned report records that the A38 at Blackbird Bends is expected to flood in the kind of rainstorm that has a 50% probability of occurring every year. In January 2026 — just weeks before the ICB's decision — Storm Chandra caused the A38 to be closed entirely, contributing to a Somerset-wide major incident declaration. In May 2024, flash flooding caused school buses to be abandoned, drivers to mount the pavement and standing water of 18 centimetres to accumulate between the Blackbird Inn and the Chelston roundabout. Somerset Council's own road maintenance records confirm the A38 between Rumwell and Chelston was subject to repeated closures for flood damage as recently as early 2026.

6.1.18 HP's figures of 12 and 15 minutes are therefore unsafe as a basis for planning local pharmaceutical access. They describe a journey under

optimal dry-road conditions; they say nothing about what happens on the roughly 50% of years in which that stretch of the A38 floods, when the road is partially or fully closed. The premise that Wellington residents have reliable, routine access to Taunton pharmacies on Sundays is simply not established by mapping software travel times, and HP has offered no response to the flooding evidence whatsoever.

6.1.19 Furthermore, even accepting HP's figures at face value: the PNA's 30-minute Sunday drive-time threshold is a minimum benchmark for identifying gaps in provision, not a ceiling that exhausts the Regulation 18 analysis. The question is whether granting the application would confer significant improvements or better access. A pharmacy within Wellington, open on Sundays, with dedicated parking and step-free access, provides materially better access for patients — particularly older and mobility-impaired patients — than a 12 to 15-minute drive to a supermarket pharmacy in an adjacent town, at any time of year and especially when the A38 is subject to its foreseeable seasonal disruptions.

The Proposed Site: Assertions Without Evidence

6.1.20 HP repeats its concerns about the suitability of Westpark26 but continues to provide no evidence to support those concerns. The Applicant draws NHS Resolution's attention to the following specific points:

6.1.21 (a) Planning use. HP states that it "believes" the site is subject to B2/B8 planning use and "is unsure" whether it is entitled to operate as retail premises. This uncertainty is entirely of HP's own making. The planning use class has been confirmed as Class E, which expressly encompasses health facilities including pharmacies. The Applicant's May Representations include documentary evidence of this. HP has had access to those representations and has offered no counter-evidence. An assertion of uncertainty, made without any supporting evidence, is not a basis for NHS Resolution to doubt the planning position.

6.1.22 (b) Parking. HP now concedes that the proposed site has four parking spaces — after having previously and erroneously asserted that it had only two. HP then argues that four spaces are "limited" because staff will use them. The Applicant's evidence, which HP does not rebut, is that the site also benefits from the wider Westpark26 car park and that a disabled bay is situated immediately adjacent to the pharmacy entrance. HP's counter-argument — that the Allied pharmacy has 32 spaces — overlooks the point made in the May Representations: those 32 spaces belong to the whole former surgery building and HP provides no evidence of what allocation, if any, will be reserved exclusively for pharmacy use once the building is re-let on new commercial terms.

6.1.23 (c) Safety concerns. HP continues to assert that HGVs and roller shutters represent a safety risk to pharmacy patients. No evidence is provided. The Applicant's photographs show a clearly signed, step-free

unit with level access and a dedicated disabled bay, and the Applicant's May Representations address this point in full. HP's bare assertion of a safety concern does not constitute evidence of one.

6.1.24 (d) The DSP comparison. HP repeats the argument that because the Applicant previously applied for a distance-selling pharmacy licence at the same site, this casts doubt on whether the site will be used in person. The Applicant addressed this in full in the May Representations. The DSP application was considered under an entirely different regulatory framework and different statutory test. Its refusal says nothing about the suitability of the location for a patient-facing community pharmacy. HP raises no new point here.

The DMB's Position

6.1.25 The Applicant notes that the DMB's letter of 5 May 2026 is brief and neutral in tone. The DMB confirms the factual background — that the Jhoots pharmacy had been closed since 22 September 2025, that there was no confirmed reopening date at the time of the decision, and that the Committee took into account the location and the access the proposed pharmacy would provide. The DMB does not express any view that the decision was wrong or that it should be quashed. It simply confirms what it took into account and notes the subsequent reopening. This is consistent with the Applicant's case that the decision was sound on the evidence before the Committee at the time.

Conclusion

6.1.26 HP's further representations break no new ground. The entire thrust of their case remains: the Luson pharmacy has reopened, customers are happy, and therefore there is no need for the Westpark pharmacy. But HP has not provided:

6.1.27 Any objective, independent evidence that the Luson provision is durable and secure beyond October 2026;

6.1.28 Any evidence that residents of the A38 corridor, Jurston Fields or surrounding villages would not use the Westpark pharmacy;

6.1.29 Any evidence that the A38 is reliably passable throughout the year, or that the Taunton travel times they cite reflect real-world Sunday journey conditions;

6.1.30 Any evidence to rebut the planning status of the proposed site;

6.1.31 Any evidence that the 32 spaces at Luson are or will be exclusively allocated to pharmacy use.

6.1.32 In each case, what HP has provided is assertion, not evidence. Regulation 18 requires NHS Resolution to assess whether, on the information properly before the ICB at the time of its decision, the grant was one that a reasonable committee could make. The Applicant

submits that it plainly was, and that nothing in HP's further representations undermines that conclusion.

6.1.33 The Applicant respectfully invites NHS Resolution to confirm the South West ICB's decision to grant the application at Unit 4C, Westpark26, Wellington, Somerset, TA21 9AD."

6.2 HEALTHCARE PLUS CONSULTING LTD

6.2.1 "We maintain the position that the application by Imperial Chemists Ltd should be refused. We trust that NHS Resolution (NHSR) will consider all the information presented, and overturn the decision made by the SW Committee – who did not have the benefit of determining the present application with all matters of the case before it.

6.2.2 We respond to the comments received using the same headings as the Applicant.

The Statutory Framework: Regulation 18

6.2.3 The Applicant first lists reasons as to why the application was granted by the SW Committee.

"the national collapse of Jhoots Pharmacy Ltd and closure of its Luson Surgery branch"

6.2.4 In light of this, we reiterate that the Allied Pharmacies Group had taken over operations of Jhoots Pharmacies whilst formal NHS Change of Ownership applications were processed. We reiterate that the pharmacy at Luson Surgery has been reopened since 9th March 2026 and is fully operating under new ownership.

6.2.5 The Applicant later accepts that the closure of the Jhoots was one of the "*central triggers for this unforeseen benefits application*". Given that Wellington Pharmacy is now fully operational, we submit that there is no longer an 'unforeseen benefit' that would be offered by the present application, and thus it ultimately must be refused. We submit that the very foundation of the application has evaporated.

6.2.6 As per its decision report, the SW Committee were clearly of the view that the former Jhoots had "*no clear plan for reopening*" (SW Committee Decision Report, Point 31). The former Jhoots was not even considered as a potential choice of pharmaceutical provider when the SW Committee reached their decision. The subsequent reopening of the pharmacy shows that this view was erroneous, and ultimately it was only a matter of time before the Pharmacy at Luson Surgery reopened and started to provide services. The takeover of the management of Jhoots stores by Allied pharmacies was well-publicised across the media, and we attach a couple of articles that highlight this (Annex 1). The stores were officially taken over in management on the 29th December 2025.

6.2.7 Our client acknowledges that the Pharmacy at Luson Surgery did only open on the 9th March 2026, however, numerous difficulties were encountered when opening and amplified by the non-cooperation of the previous management with regard to the administration process.

6.2.8 We note that the previous management failed to deliver the key for the property and provide Landlord details. This caused difficulty and delay in obtaining access to the property.

6.2.9 Similarly, once access had been obtained, the previous management failed to provide passwords to the PMR system - effectively rendering EPS impossible. We highlight that these passwords were not held/ given by the PMR provider.

6.2.10 Our client also discovered that previous management were operating using a highly sporadic internet service, without correcting, would have meant that any Pharmacy would frequently be unable to access EPS daily. This meant that a new internet line had to be installed before the pharmacy could properly connect to the NHS's digital suite and provide services in a safe and effective manner. Significant delays were experienced with BT Openreach in this regard, despite escalation.

6.2.11 All this is to say that anyone aiming to reopen the pharmacy faced significant difficulties. We submit that following the administration and take-over of new management at the end of December; every effort had been made to open the pharmacy at Luson Surgery as soon as possible, however there were a number of factors outside the control of Allied pharmacies.

6.2.12 We submit that there should have been an understanding on the obstacles involved in reopening the Pharmacy from the SW Committee, opposed to discounting its existence completely when reaching its decision. We also note that the Pharmacy at Luson Surgery was listed on the Pharmaceutical list at the time of the decision so the SW Committee were ultimately wrong to discount it's existence as a local provider of pharmaceutical services.

6.2.13 We also note that The Appeals Committee must determine the present application based on the situation as it exists today. Given that the pharmaceutical services at the former Jhoots site have been successfully restored this is a matter which should be considered by the Appeals Committee.

6.2.14 We note that Schedule 3 Paragraph 9(1):

(1) On determining an appeal relating to a valid notice under paragraph 30 or 36, the Secretary of State may—

(a) if the appeal is an appeal to which paragraph 30 or 36(1)(a) of Schedule 2 applies (that is, against a decision to grant or refuse a routine or excepted application)—

(i) confirm the decision of NHS England,

(ii) quash the decision and redetermine the application, or

(iii)quash the decision and remit the matter to NHS England for it to redetermine the application, where the Secretary of State considers that there should be a (further) notification under paragraph 19 of Schedule 2, subject to such directions as the Secretary of State considers appropriate; or

6.2.15 We also note that the determination of appeals is also to be carried out "*as the Secretary of State sees fit*" (Schedule 3 Paragraph 7(1)).

6.2.16 By way of example, the SW Committee noted at the time that it made its decision (12th February 2026), that "*no change of ownership application has been received and there is no confirmed date for opening at this time*" (SW Committee Decision Report, Point 26). We highlight that Wellington Pharmacy had reopened as of 9th March 2026, and the pending Change of Ownership application had been approved on 24th April 2026.

6.2.17 Therefore, we submit that this reason for granting the application in the first place is no longer relevant, and we trust that NHSR will determine all facts of the case presented before it.

6.2.18 We also note that the Applicant cites "*the earlier closure of Boots at Wellington Medical Centre*" as reasoning for grant,

6.2.19 We highlight that this Boots Pharmacy closed in February 2024 – over two years ago to date. The closure of the Boots would definitely have been considered in the 2025 PNA, and no gap was found to exist. The Committee will be aware that it is not for any body to question the reasonableness or legality of the PNA, but for decisions to be made in accordance with its findings.

6.2.20 Additionally, the proposed site is 2.4 miles away, on the other side of Wellington, from where this pharmacy closed. Wellington Pharmacy is only 0.3 miles away from this closure. It is clear that residents affected by this closure would utilise Wellington Pharmacy not the Proposed site.

6.2.21 The Applicant cites "*the consolidation of GP services into the Wellington Medical Centre*" We reiterate that the consolidation of GP services was not an unforeseen circumstance and thus cannot be relied upon. We also reiterate that the consolidation has not affected the total number of GPs in the area as all GPs from Luson Surgery now work at the health centre.

6.2.22 Furthermore, we understand that this consolidation was coordinated with the ICB.

6.2.23 The Applicant highlights a "*documented increase in patients using distance-selling providers"*

6.2.24 We do not dispute that there has been an increase in the number of patients utilising Distance Selling Pharmacies (DSPs). Indeed, from their experiences on the ground our client has observed that patients are both accustomed to and satisfied with accessing pharmaceutical services via distance selling providers. Anecdotally, our client estimates that only approximately 5% of patients have switched to obtaining pharmaceutical services from DSPs to Wellington Pharmacy.

6.2.25 They submit that the remaining c. 95% of users who have not transitioned were satisfied with the services provided from DSPs. This is unsurprising given that they are receiving a reliable service delivered directly to their door – aligning with preferences of the modern age for convenience.

6.2.26 Our client notes that these patients had presented acute prescriptions from the surgery, which would be expected given Wellington Pharmacy is the closest pharmacy to the only GP surgery in Wellington and provides free parking, with the pharmacy able to dispense the majority of these prescriptions in c. 5-minutes. Yet, even when receiving a high-quality seamless service, patients were not inclined to move away from their chosen online providers, given the convenience of straight to your door delivery. Our client notes that the majority of these online patients accessed services via Pharmacy 2 U.

6.2.27 We can see that patients are clearly exercising their choice of pharmaceutical provider. It is therefore evident that residents of Wellington already have reasonable choice of pharmaceutical provision through DSPs, to the extent that they do not choose to utilise a highly accessible, reliable and reputable local service. We therefore do not see any reason why patients of DSPs would access the proposed pharmacy, given the disinterest in utilising Wellington Pharmacy.

6.2.28 We also note that DSPs now offer a variety of services. For example, Pharmacy2U, the largest DSP, offers services including Pharmacy First, NMS, Contraception, and Vaccinations.

Regulation 18 and the Timing of the Luson Reopening

6.2.29 The SW Committee's reliance on the evidence available to it at the time of its decision is one of the reasons why our client wishes to appeal this decision. We reiterate that NHSR are required to consider this case and all matters afresh.

6.2.30 Nevertheless, we reiterate that the SW Committee would have been well aware of the national collapse of Jhoots Pharmacy Ltd and the takeover of Allied Pharmacies' management at the time of its decision. However, it appears that the SW Committee failed to consider this wider context and, in our submission, reached its decision without placing adequate weight to the reopening of the former Jhoots Pharmacy.

6.2.31 We note that the pharmacy reopened less than a month after the decision was made, and has been consistently providing an outstanding level of service to the local population. We have previously provided

Facebook comments and a number of Google Reviews to evidence this and now attach all 37 Google Reviews received (Annex 2). All google reviews received give the Wellington Pharmacy a 5/5 star rating, indicating a very well-liked service. We trust that the Committee will read these in depth and give weight to the feedback received.

6.2.32 To draw the Committee's attention to some examples in particular: [see Appendix J]

6.2.33 As evidenced above, this resident describes "*every visit*" they have had as "*calm, efficient and well organised*". It is clear that this resident visits our client's pharmacy frequently and highlights its faultless service on each occasion.

6.2.34 The resident also notes that compared to the "*pressures the other pharmacies in Wellington have faced*", Wellington Pharmacy's "*team are consistently quick to assist*". This reveals that Wellington Pharmacy is not under any pressure and is therefore able to deliver a consistently excellent service.

6.2.35 Indeed our client notes that Wellington Pharmacy has plenty of capacity to onboard new patients.

6.2.36 Again, we are pleased that our client's pharmacy is described as "*fantastic*" with a "*very fast service*".

6.2.37 The resident in the below review reveals they have visited "*several times*", and they are "*very impressed*" and state it is a "*100% improvement on the previous owners*".

6.2.38 One reviewer even described Wellington Pharmacy as having "*The most efficient service I have EVER seen*". The service provided by the Pharmacy is clearly exceptional and not just providing residents with the best pharmacy experience in the area but providing the best experience that they have ever had.

6.2.39 We submit that the evidence speaks for itself, and we trust the Committee will recognise our client's commitment and dedication to ensuring the needs of the local community are met in full.

6.2.40 Notably, every single review has given a 5-star rating, with not one review submitted being below 5- stars. This demonstrates a consistently exceptional level of service for a 3-month duration, which our client is proud of and seeks to maintain. It is indubitable that residents have access to a service of the highest standard, with no indication that pharmaceutical needs are unmet.

6.2.41 The data would also support a finding that three bricks & mortar pharmacies are more than adequate to serve Wellington residents well. Whilst it is too soon to accurately provide the dispensing numbers for Wellington Pharmacy. Experiences on the ground highlight that patients are coming from Boots and Superdrug Pharmacy. This is supported by

Nomination data which is available and can be seen below: [see Appendix J]

6.2.42 We can see from the figures above [see Appendix J] that Patients of Wellington Pharmacy are coming from Boots and Superdrug. We note that on average between Dec 25-Feb 26, Boots dispensed c. 15,500 items per month and Superdrug dispensed c. 6,300 items per month. Note these figures are before the reopening of the Pharmacy at Luson Surgery.

6.2.43 So, we can see that there is now c. 22,000 items between 3 pharmacies in Wellington, averaging a c.7,300 items per branch. This is well-below the national average of 8,700 items.

6.2.44 In light of the above, we highlight two important points to consider below:

6.2.44.1 Should another pharmacy be introduced to Wellington, then each pharmacy would only average c. 5,500 items – equating to 37% below the national average. Thus, the introduction of a fourth pharmacy could prove hugely detrimental to the existing pharmaceutical network and consequently cause an existing Pharmacy to close.

6.2.44.2 We also highlight to the Committee that there is an evident brand loyalty towards Boots. Our client has observed that patients are willing to queue at a Boots Pharmacy for their prescription rather than utilise Wellington Pharmacy out of loyalty for the Boots brand. It is worth noting that the introduction of another independent pharmacy would not change this, and would ultimately only leave a small amount of prescriptions to share between the other three pharmacies. Given this, we also question the economic viability of the proposed new pharmacy.

6.2.44.3 At present, patients have the choice to utilise an excellent and efficient service at Wellington Pharmacy, yet often prefer to queue at Boots due to brand loyalty. In any case, this is clearly demonstrative of residents exercising their choice to accessing pharmaceutical provision.

6.2.45 The Applicant suggests that the Somerset PNA's assessment of there being three stable, fully functioning pharmacies in Wellington is untrue. We submit that this assertion effectively undermines the PNA, and questions its reasonableness and legality. In any event, the PNA was correct to assume that the pharmacy would reopen, since this has in fact materialised.

Stability and Security of Provision at Luson Surgery

6.2.46 We are unsure as to why the Applicant has presented a commercially sensitive legal document to which they are not a party. We request that this information is not published for the public.

6.2.47 However, to provide clarity, our client confirms that discussions with the landlord are progressing and a lease is expected to be signed shortly with provision for extra consultation rooms. Our client provides a letter from the Landlord confirming that this is the case (Annex 3 [see Appendix I for Committee]).

6.2.48 Regardless, it is unclear how this is relevant to the application, and we respectfully invite the Committee to disregard this commercially sensitive information. We note that the need to renegotiate with the landlord of a pharmacy after a change of ownership is routine.

6.2.49 Regarding the marketing advertisements, we wish to correct the Applicant that this was in relation to the GP surgery that closed – not the pharmacy unit. It is also likely that the pharmacy will be acquiring a number of clinical consultation rooms from the GP site for the purposes of vaccinations, as confirmed by the Landlord in their letter [see Appendix I for Committee]. This demonstrates our client's long-term commitment to providing pharmaceutical services in Wellington and that our client and the landlord have a good working relationship.

6.2.50 We contend that the other enterprises by Mr [NK] are relevant. We note that Mr [NK] operates a small chain of pharmacies; Cheylesmore Pharmacy (CV3 5HW), Warminster Pharmacy (BA12 8EX) and, of course, Wellington Pharmacy. Mr Koria is in partnership with Allied Pharmacies for the Wellington site to open the pharmacy as fast as possible.

6.2.51 The service provided at all three of these pharmacies is outstanding, as demonstrated by the exceptional Google reviews. For the benefit of the Committee, Cheylesmore Pharmacy is at a 4.9/5 star rating and Warminster Pharmacy – like Wellington - is at 5/5 stars (Annex 4 [see Appendix I for Committee]). There can be no doubt that Mr Koria ensures an exceptional service is provided on a consistent basis across multiple pharmacies to the communities he serves.

6.2.52 We reiterate that Mr [NK]'s commercial dealings are not relevant to this application and trust the Committee will also be of this view. It is also unsurprising that a consultancy firm engaged by a client defends the interests of their client – we are unsure why the Applicant takes issue with this and submit it is irrelevant to the Regulations.

6.2.53 We also note that there is no impropriety in our client engaging our services. Healthcare Plus Consulting have undertaken NHS market entry work for a number of large pharmacy chains over the years, including Lloyds Pharmacy, and Cohens Pharmacy.

6.2.54 We note that the change of ownership was issued as part of the reopening and restructuring process and was not based on the present application. We add that Mr [NK] and Healthcare Plus Consulting have no interest in the pharmacy at Luson Surgery.

Overall Pattern on Provision and Number of Pharmacies

6.2.55 We reassert that the presence of four pharmacies in Wellington was indeed an oversaturation of service provision, as evidenced by the closure of Boots which was not due to a national collapse. We submit that three pharmacies present a much more balanced and sustainable model for the population and available items in the area.

6.2.56 We reiterate that Wellington residents have access to over 400 distance selling pharmacies, and many are clearly satisfied in exercising this choice.

6.2.57 We note that the application no longer offers any claimed 'unforeseen benefit', and there has never been, nor envisioned to be, a community pharmacy operating from the Westpark Industrial Estate.

6.2.58 In addition, we submit that the 'survey' referenced by the Applicant was inherently biased. Firstly, we note that it was posted on Facebook via the Wellington Pharmacy Action Group – whose slogan is 'four or we'll campaign more!' – which plainly reflects a pre-determined objective for the reinstatement of four pharmacies in Wellington.

6.2.59 We submit that the campaign to reinstate four pharmacies in Wellington completely fails to take proper consideration of the facts surrounding current pharmacy provision. Instead, it appears to be a fixation aimed solely at reinstating a four-pharmacy model, without addressing the fundamental question of why two pharmacies closed in the first instance if that model were truly sustainable.

6.2.60 We must also consider the context of this 'survey'. With regard to Annex E (ii)-5 – the purported survey was posted on an inherently biased group which would naturally attract biased respondents.

6.2.61 In any case, it is of note that only 83 responses were received out of a population of c. 15,000 in Wellington – equating to approximately 0.55% of the town's population.

6.2.62 We also note that this was a Facebook poll, as opposed to a 'survey'. Thus, respondents were able to select more than one response for each question, so the number of actual respondents is likely to be less than 83.

6.2.63 It is notable that there was no option for 'I do not face any difficulties'. Furthermore per Annex E (ii)- 5 the reach of the survey was 1,400 people. This means that, per the poll, less than 6% of users of a forum dedicated to pursuing an additional pharmacy identified they faced any difficulty.

6.2.64 We attach an image below [see Appendix J] of the 'survey' – where even the poster identifies it as a 'quick poll'.

6.2.65 We also note that the survey was conducted on 24th April 2026. At that time, some respondents may not have been aware of Wellington Pharmacy's reopening – given it had not been open for long.

6.2.66 Since this date, all households in Wellington have been leafleted by hand to ensure local residents are aware of the new management and reopening of the pharmacy at the former Luson Surgery site.

6.2.67 After analysing these responses, we can see that the majority of respondents indicated they desired closer parking to their pharmacy. As demonstrated previously, Wellington Pharmacy is the only pharmacy in the town that offers this, currently providing a generous 32 free parking spaces directly outside the pharmacy. By contrast, the Applicant's proposed site only provides two parking spaces, and we assume they are to be shared with staff, so this would not solve any desire for improved parking facilities.

6.2.68 With respect to extended opening hours, we note that the Boots, Norton Fitzwarren Pharmacy, Asda Pharmacy and Morrisons Pharmacy, all provide extended opening hours access that are accessible in line with the PNA's standard;

"The PNA Steering group agreed that the minimum threshold for identifying and investigating potential gaps in provision should be set at:

- *Weekday: 20 minutes' drive time*
- *Saturday: 20 minutes' drive time*
- *Sunday: 30 minutes' drive time". (Somerset PNA, 2025-2028, pg. 28)*

6.2.69 We reiterate that it is not for any body to question the conclusions reached in the PNA, but rather decisions be made in line with the PNA.

6.2.70 Extra opening hours may be desirable, but there is no evidence to support a finding that pharmaceutical services are required at such times that are not currently provided. Moreover, opening hours alone do not form sufficient grounds to grant a new pharmacy application under Regulation 18.

6.2.71 We note that local residents have taken it upon themselves to praise the service provided by Wellington Pharmacy and Superdrug Pharmacy on the Wellington Pharmacy Action Group Page as below. [see Appendix J]

6.2.72 The Applicant asserts that its application is not comparable to the previous application submitted by Orange Private Ltd. However, we submit that the burden of proof rests on the Applicant, and no reliable evidence has been provided to substantiate this claim.

6.2.73 It is notable that the services highlighted by the Applicant are not frequently utilised by residents of Wellington. They note Costa, McDonald's and Budgens/Esso which are clearly car-centric locations, being drive thrus or a literal petrol station. They also mention Flip Out Somerset which is a trampoline park which residents are unlikely to

access more than a few times a year. They also mention Travelodge which is likely almost exclusively used by those not residents in Wellington, and Wellesley Hospital which is a private mental health hospital whose patients are likely to have their pharmaceutical needs catered for via delivery.

Location, Access, Rural Reach and Equality Considerations

6.2.74 We note that there are no access difficulties for elderly and/or disabled residents, as Wellington Pharmacy provides step-free access and significantly more parking. When taking the SW Committee's decision into account, we submit that they also concluded "there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services" (SW Committee Decision Report, Point 38).

6.2.75 The Applicant highlights Wellington's ratio of pharmacies per 100,000 population compared to that of England (20.8 per 100,000 population). Firstly, we submit that the existing provision (18 per 100,000 population) is not significantly lower than the England average, and reiterate that it is higher than the average for Somerset at 16 per 100,000 population. Secondly, we submit that this does not account for the usage of distance selling pharmacies, in which Wellington residents appear to freely choose regardless of the quality of service provided by a bricks and mortar pharmacy. Thirdly, the addition of another pharmacy would increase the average to 26.7 per 100,000 population – higher than the national average. Thus, there would be a clear over-provision of pharmaceutical services in Wellington, which is likely to trigger closures and economic difficulties as detailed above.

6.2.76 The Applicant suggests that distance-selling pharmacies "cannot lawfully be attributed to a specific local area". As per Regulation 25, distance-selling pharmacies are required to serve any patient in England upon request of the service. Further, we submit that the data of items originating from the surgery evidences that those living in Wellington requesting DSP services are currently receiving them.

6.2.77 DSPs now also offer a variety of services including Pharmacy First, NMS, Pharmacy Contraception and Vaccine services. It is therefore clear that DSPs can offer a wide array of services and provide reasonable choice.

6.2.78 We note that those within the Wellington Pharmacy Action Group are unlikely to prefer accessing pharmaceutical services via a DSP – given the purpose of the group. We reiterate that the data relied upon is derived from a biased sample, and that the sample size—representing just 0.55% of the Wellington population—is extremely limited and should not be relied upon.

6.2.79 With regard to the proposed housing developments, the Committee will be aware that the number of anticipated residents is neither significant nor sufficient to sustain the grant of a new pharmacy application.

Furthermore, we note that these developments remain at the planning stage, with no certainty as to when, or indeed whether, they will proceed.

6.2.80 Given the affluence of the area, we submit that any new residents will likely consist of families with vehicular access and are therefore highly mobile to travel to work and amenities outside of the area.

6.2.81 Regarding the free delivery proposed by the Applicant, we highlight that free delivery is offered by Pharmacy2U – we also note that to end free delivery would mean DSPs would be in breach of their terms of service.

6.2.82 We reiterate that the residential growth suggested by the Applicant is not significant, nor can we be certain that this will even occur.

6.2.83 In relation to flooding along the A38, the Applicant misses that Wellington and Taunton are also connected by the M5 motorway, which avoids any use of the A38 and is unlikely to be prone to such flooding. We note that the M5 motorway is actually the preferred route via Google to access the extended hours Asda Pharmacy in Taunton. [see Appendix J]

6.2.84 We can see that this journey by car is only 14 minutes, well within the Saturday and Sunday drive time criteria set by the PNA and highlighted previously.

Applicant Property

6.2.85 We note that the images shared by the Applicant clearly indicate that their proposed premises are on an industrial park.

6.2.86 The Applicant also asserts that the premises are ‘ready for use’. The images provided by the Applicant show that this is clearly not the case. The unit currently houses basic fittings and there is no shelving or Pharmacy Equipment present.

Conclusion

6.2.87 To conclude, we submit that the Applicant’s “central triggers” for the application are no longer relevant.

6.2.88 NHSR must determine the application based on the circumstances as they stand today, and we do not consider that any ‘unforeseen benefit’ exists that would justify granting the application.

6.2.89 We contend that the SW Committee had made their decision prematurely, prior to the significant changes of the former Jhoots being restored.

6.2.90 We also note that any new Pharmacy could once again de-stabilize existing pharmaceutical provision which now appears to be working well following the reopening of the Pharmacy at Luson Surgery.

6.2.91 Thus, we respectfully request that NHSR overturn the SW Committee's decision and refuse the application."

7 Further observations

7.1 THE APPLICANT

7.1.1 We write on behalf of Imperial Chemists Ltd in respect of SHA 26943.

7.1.2 We note that the opposing party continues to rely heavily on selected Google reviews and social media posts as evidence of service quality and system resilience. These comments have not been independently verified and represent anecdotal feedback curated by an interested commercial party, rather than objective or statistically robust material.

7.1.3 In our submission, this is not an appeal advanced in the wider public interest, but one that is plainly and transparently driven by commercial considerations. It seeks to protect an individual contractor's market position by preventing the implementation of a lawfully granted contract that improves patient choice, access and resilience across the Wellington locality as a whole.

7.1.4 We therefore maintain that the South West ICB's decision to grant the application at Unit 4C, Westpark26 should be upheld."

7.2 HEALTHCARE PLUS CONSULTING LTD

7.2.1 "In light of the above we wish to make a brief comment.

7.2.2 We reiterate that the burden of proof ultimately lies with the Applicant; and the Committee will be aware that Regulation 18 is a high bar.

7.2.3 We stand by our submissions and the evidence we have put forward in support of them. In particular we note that service quality is to be determined by users and so the collective experiences of users, as freely expressed on Google reviews, is an ideal measure of service quality. This is in contrast to the biased and leading survey presented by the Applicant."

8 Consideration

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

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

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

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

8.5 The Committee noted at 5.1.10 that the Applicant has suggested that the Committee's role was to *"…consider whether, on the information properly before the ICB at the time, the grant of the application was a decision that a reasonable committee could make under Regulation 18".* In the Committee's view, this was an incorrect assessment of its role. The appeal is a reconsideration of the application not a review of the Commissioner's decision.

Regulation 31

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

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

(2) This paragraph applies where -

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

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

(ii) adjacent premises; and

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

8.7 The Committee noted that the Applicant had stated "*The proposed contractor is not adjacent to, in close proximity to, another pharmacy or dispensing appliance contractor*." In its decision letter, the Commissioner had concluded that it "*was satisfied it is not required to refuse the application by virtue of Regulation 31."* The Committee noted that this had not been disputed either on appeal or in subsequent representations and determined that it was not required to refuse the application under the provisions of Regulation 31.

Regulation 18

8.8 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)."

8.9 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 Wellbeing Board ("HWB").

8.10 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.

8.11 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).

8.12 The Committee considered the PNA prepared by Somerset Council, 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 2025 – 2028 and that no supplementary statements had been issued.

8.13 The Committee noted that as well as an overall view of the area, the "Annex – Locality Profiles" look at different areas within Somerset. The Committee noted that the proposed location was within Taunton Dean West, which fell to be considered under Section 9. The Annex stated:

"Taunton Deane West

Taunton Deane West is in the south west of the county, bordering Devon. The largest settlement in this locality is Wellington. Wellington has seen, and is expected to show further, growth, in common with other towns on the M5, such as Taunton and Bridgwater. Taunton Deane West's population will continue to grow with 800 planned houses across the period of this PNA.

…

"Access

The health needs of people in Taunton Deane West vary little from the county average and do not suggest pharmaceutical needs fundamentally different for the area. The maps of travel times suggest that there is adequate access for the large majority of the population. No pharmacies are open on Sundays, but there are in neighbouring Taunton Central and Tone Vale, and we would expect them to continue to provide services at this time for this locality. The access maps below show there is a small areas to the west of the locality which is outside the access criteria drive time of 30 minutes on a Sunday, however this area is very sparsely populated, so this itself does not constitute a gap in provision."

8.14 The Committee noted the conclusion of section 9 which states:

Gap Analysis

All necessary services are widely available in this locality, within the set access criteria.

Planned levels of housebuilding in this locality is approximately 800 dwellings, based on which we can conclude that there would be no gap in service created, unless this is exceeded by an additional contingency (total new dwellings 1,300), we would not seek to review the pharmaceutical provision.

On the basis of the information we have, we therefore conclude that there is no current gap in the provision of necessary services in Taunton Deane West area, or expected future gap based on the predicted level of population growth and housing development.

Improvements To Access

Appliance Use Reviews and Stoma Customization Service are not provided from pharmacies in the locality; and AURs are available from Distance Appliance Contractors. All other advanced services are available in this locality."

8.15 The Committee further noted the Executive Summary in the PNA which stated:

"Somerset is a highly rural county with low levels of ethnic diversity and pockets of deprivation, particularly around more urban areas. Across the county there is an aging population, with the largest population growth being in the 65+ age group. The health needs are consistent across the localities.

…

All pharmacies provide the full range of essential pharmaceutical services, thus meaning that there is good provision across the county based on the information available at the time of writing this PNA.

..

Based on the information we have available at the time of writing this PNA, there are no gaps identified in provision, and the current provision should continue to serve the population as it changes throughout the next three years."

8.16 The Committee noted the Conclusion of the PNA which states:

"*There is a good geographical spread of community pharmacies across the county, concentrated in the urban locations where the population density is highest. …*

All pharmacies provide the full range of essential pharmaceutical services, thus meaning that there is good provision across the county based on the information available at the time of writing this PNA.

There is good provision generally of the advanced services across Somerset, with all being available in every locality; except appliance use review (AUR) and stoma appliance customisation, which are only available in some localities. These services are however available via different means such as DAC.

Based on the information we have, we therefore conclude that there is no current gap in the provision of necessary services.

…

Based on the information at the time of writing this PNA it is considered that the number, distribution, and service provision across the county meets the current needs of the population.

…

Based on the information we have, we conclude there will be no future gap in provision."

8.17 The Committee noted that the Applicant seeks to provide unforeseen benefits to those residing in Wellington. 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.

8.18 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)

8.19 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"*

8.20 The Committee noted the comments of the Commissioner that "*The ICB has no particular plans regarding pharmaceutical services in the area, so there can no detriment to such plans"* and the conclusion of the Commissioner that it was satisfied that granting the application would not cause significant detriment to proper planning. The Committee noted that there was no dispute from parties.

8.21 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.

8.22 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)

8.23 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"

8.24 In its decision letter, the Commissioner had stated "*There has not been any suggestion in interested party responses that there would be significant detriment to the arrangements already in place"* and had gone on to conclude that it was satisfied that granting the application would not cause significant detriment to the arrangements in place.

8.25 The Committee noted that, on appeal, Superdrug Stores plc had stated

"This approval combined with the reopening of Jhoots under Allied coupled with the uptake of distance selling pharmacies will saturate the market in Wellington. Threatening the viability of established community pharmacies who continue to build up their patient base and work tirelessly with many operating at a loss and barely able cover overheads."

8.26 The Committee noted that these statements had not been expanded upon and no further information had been provided from either Superdrug or any other statutory party, either on appeal or in subsequent representations, to support these assertions. The Committee was of the view that a statement from an existing pharmacy contractor, without any further information, was not sufficient to demonstrate that granting an application would cause significant detriment to the arrangements in place.

8.27 Given the lack of information before it, 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.

8.28 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)

8.29 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)

8.30 The Committee had regard to the location of the existing pharmacies and GP surgeries as provided on the map by the Commissioner, which had not been disputed by any party.

8.31 The Committee noted the comments from the Applicant that they are proposing to open a new pharmacy in the area where there were previously three pharmacies but at the time of the application there were only two pharmacies operating in Wellington itself. The Committee noted that there was no dispute between the parties that the third pharmacy, Jhoots Pharmacy, although still being included on the pharmaceutical list, was not providing pharmaceutical services at the time of the application in November 2025. The Committee was of the view that the closure of a pharmacy, or the temporary suspension of pharmaceutical services in an area, did not automatically lead it to the conclusion that a new pharmacy should be granted.

8.32 The Committee was mindful that no gaps in pharmaceutical provision had been identified in the 2025 PNA, published in October 2025, and had therefore taken into account the situation which was current at the time with regard to pharmaceutical provision in the area and had therefore based these conclusions on three pharmacies operating in Wellington.

8.33 The Committee noted that since 9 March 2026 the provision of pharmaceutical services in the area had been restored to the level which had been considered when the PNA was published and that there is no dispute between the parties that there are three pharmacies located within Wellington as well as a dispensing appliance contractor. The Committee also noted the references by parties to the provision of pharmaceutical services from the various distance selling pharmacies, which whilst not located in the area, did still provide an alternative choice for some patients to obtain pharmaceutical services mindful that such services could not be face to face at the premises.

8.34 The Committee noted that there are, at the time of this determination, three pharmacies in Wellington which are located in the centre of the town in the vicinity of the only medical practice in the town. The Committee noted the comments from parties with regard to other pharmacies slightly further afield in Taunton, and the wider HWB area, which had not been disputed by parties.

8.35 The Committee noted the references to the location of the proposed site and that there was some disagreement between all parties as to whether this was

an industrial estate or a retail estate. The Committee noted the various services and amenities which had been listed as being in the vicinity of the proposed site. The Committee noted that the proposed site was to be located at some distance from the town centre in a “destination” centre which would require parties to make a specific journey to access pharmaceutical services which may not be part of their everyday lives due to the services and facilities there.

8.36 The Committee was mindful that it is reasonable choice within the area of the HWB that it must have regard to and not just a specific location of the proposed pharmacy, taking into account the accessibility of existing pharmaceutical services.

8.37 The Committee considered access to existing pharmacies on foot. The Committee noted that it had not been provided with the distance from Wellington town centre to the proposed site, but noted from the information provided by Superdrug on appeal, which had not been disputed, that it was between 1.5 and 2 miles away, depending on the route taken. The Committee noted that this could take approximately 40 minutes by foot. The Committee noted that it had very little information, from the Applicant, as to how those in Wellington would access the pharmacy at the proposed site if they were to walk. Further, the Committee noted that, apart from the comments from the Applicant that the existing pharmacies were in the town centre and were in the vicinity of the medical practice, it had no information to demonstrate that those who currently accessed the existing pharmacies were currently having any difficulties in doing so. The Committee was of the view that there would be persons who were able and willing to do so, there was nothing provided to demonstrate that those who are able to access existing pharmaceutical provision by foot were currently experiencing any difficulties in doing so.

8.38 The Committee was mindful that there would be some who would choose not to access services on foot, or who are unable to access services on foot for whatever reason. The Committee therefore went on to consider the ease and level of access to pharmacies by private and public transport.

8.39 The Committee noted the comments from the parties with regard to the high car ownership in the area, which Healthcare Plus Consulting Ltd had quoted as being 84.4%. The Committee noted the comments from the Applicant with regard to access to other pharmacies in the HWB which would involve travelling along the A38 which is liable to flooding at certain times of the year. The Committee further noted the comments with regard to access to the existing pharmacies in the town centre, which would require using the existing car parks and then walking. The Committee noted that there is a designated car park at Luson Surgery, and whilst the number of spaces that the pharmacy has access to is disputed, the provision of car parking is not.

8.40 The Committee, whilst noting the comments with regard to potential flooding, was of the view that this was not claimed to be an everyday occurrence and that there was nothing exceptional in the context of the location and travelling by car in general. The Committee concluded that for those who did have access to private transport, there was nothing provided by the Applicant to

demonstrate that they were currently having difficulties in accessing the existing pharmaceutical provision in the area of the HWB.

8.41 The Committee noted the original comments from the Applicant with regard to bus services that there are "*regular bus routes between West Park Rodwell Green and the town centre*" however it noted that in further representations the Applicant stated that "[it] *acknowledged that bus connections are less frequent than to the town centre*". The Committee had very little information before it with regard to bus routes either in the general area or those that ran to and from the proposed location. Given the lack of information provided by the Applicant, the Committee found it difficult to assess the extent of usage, however was mindful that due to the high car ownership in the area there may not be many people who accessed the existing pharmacy provision by public transport. In any event, the Committee was of the view that there was nothing provided to demonstrate that for those who were reliant on public transport that they were currently having difficulties in accessing the existing pharmaceutical provision in the area of the HWB.

8.42 The Committee noted the general assertions from the Applicant with regard to the long queues at the existing pharmacies following the suspension of services at the Jhoots Pharmacy, however the Committee noted that no further information had been provided by the Applicant to support this assertion. Further, it noted the comments from Healthcare Plus Consulting Ltd that following the resumption of services at the pharmacy at the Luson Surgery site there were no queues and that any perceived pressure on the other two pharmacies had been eased. The Committee noted the various articles provided by Healthcare Plus Consulting Ltd in support of these statements. The Committee further noted the comments from Superdrug that this was supposition on the part of the Applicant and that there was nothing provided to demonstrate that this had been the case and, if it had, that it was still the case now. Whilst it is accepted that, for a certain period, one of the existing pharmacies was not providing pharmaceutical services, this is now not the case and there is nothing provided to show that the existing pharmacies are unable to cope with the current demand for pharmaceutical services.

8.43 The Committee also noted the comments from the Applicant with regard to the stability of the pharmacy which is based at the Luson Surgery site. The Committee noted the information provided by the Applicant with regard to the leases as well as previous decisions of NHS Resolution, however the Committee was unsure of the relevance of this in the context of the existing unforeseen benefit application which was before it. The Committee was of the view that the "stability" or otherwise of any pharmacy in an area was not a relevant consideration which it could take into account as set out in the Regulations, unless it had been provided with information sufficient to demonstrate that there would be a "significant detriment" as set out in Regulation 18(2)(a)(ii) which it had not been.

8.44 The Committee noted the references from parties with regard to the closure of the Luson Surgery. The Committee, whilst noting that this increased the patient list at the remaining medical practice in Wellington, was unsure how this would affect pharmaceutical provision as it was not a dispensing medical practice and it would not affect the overall number of prescriptions being dispensed or the

number of patients who may require pharmaceutical services either after a visit to the GP or as an alternative.

8.45 The Committee further noted the comments from the Applicant with regard to the additional housing and developments in the area, however the Committee noted that this had been considered within the PNA which had concluded *"Planned levels of housebuilding in this locality is approximately 800 dwellings, based on which we can conclude that there would be no gap in service created."* The Committee noted that the PNA had gone on to state "*unless this is exceeded by an additional contingency (total new dwellings 1,300), we would not seek to review the pharmaceutical provision."* The Committee noted that no information had been provided by the Applicant to demonstrate that the developments in the area were sufficient that the existing pharmacies would not be able to cope with the perceived increase. The Committee was mindful that, if the developments were such, the HWB was already aware of the potential to review pharmaceutical provision.

8.46 Overall, the Committee was of the view that there is already a reasonable choice having regard to the current provision and accessibility, 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.

8.47 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. The Committee noted the comments from Superdrug on appeal with regard to those who share protected characteristics and the information provided by the Applicant in response.

8.48 The Committee noted the Applicant's comments with regard to those that share a protected characteristic, focusing specifically on age and disability *"reflecting a local population with a disability rate of approximately 19.1% — above the England average — and a significantly older demographic profile."* The Applicant confirmed that the application would benefit those who share a protected characteristic through "*dedicated disabled parking*", "*step free access*", "*free prescription delivery*" and "*core Sunday hours for patients*". The Committee, whilst noting that these factors would be of benefit to those who share protected characteristics, was of the view that no information had been provided on any services relating to specific needs for protected groups. 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.

8.49 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. The Committee noted the comments from the Applicant with regard to the services that it was offering to provide, including opening on a Sunday as well as offering the Independent Prescriber Service which the Committee noted was not yet a service commissioned by the Commissioner. The Committee was of the view however that there was nothing contained within the application form which demonstrates that the Applicant was offering to provide any innovative approaches to the delivery of pharmaceutical services. 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

8.50 The Committee noted that the Applicant was offering to open for 57 hours a week, of which 40 would be core hours. The Committee noted that there would be provision of pharmaceutical services from 9am to 6pm Monday to Friday and 9am to 3pm on a Saturday and 10am to 4pm on a Sunday, with core hours being from 10am to 1pm and 2pm to 5pm Monday to Friday; 10am to 2pm on a Saturday and 10am to 4pm on a Sunday.

8.51 Whilst the Committee noted that the Applicant was proposing to offer core hours on a Sunday there was nothing provided by the Applicant to demonstrate that there was currently a gap in provision at this time which this application could secure. The Committee noted the information from Healthcare Plus Consulting Ltd with regard to access to existing pharmaceutical provision on a Sunday in Taunton and it had not been disputed that there were three pharmacies (Morrison, Boots and Asda) which provided pharmaceutical services on a Sunday. The Committee also noted the findings in the PNA that:

"Access on Sunday daytime can be found in Figure 14. Choice is more limited on Sundays, as is access. Based on the set access criteria of 30-minute drive time, the main areas of population will have access to pharmaceutical services.

There are some localities which do not have a pharmacy open on all days of the week, notably Sunday (see Figure 17). These are further commented upon in the locality summaries, however, this does not constitute a gap in provision. Access for residents in these localities without Sunday opening are still predominantly covered within our minimum level of access threshold of 30-minute drive time, this however does impact upon choice of pharmacy."

8.52 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.

8.53 The Committee has considered whether there are any other factors that would confer significant benefits including on 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.

8.54 The Committee was of the view that it had no information to show that the Applicant's proposed services are needed to fill a gap in services nor that existing pharmacies, where they are not already doing so, are unable or unwilling to provide these services.

8.55 The Committee was of the view 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.

Other considerations

8.56 Having determined that Regulation 18(2)(b) had not been satisfied, the Committee did not need to have regard to Regulation 18(2)(c) to (e).

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

8.58 The Committee had regard to Regulation 18(2)(g) and found that it did not apply in this case.

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

8.60 The Committee was not 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.

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

8.61.1 confirm the Commissioner's decision;

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

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

8.62 In those circumstances, for the reasons set out above, the Committee determined that the decision of the Commissioner must be quashed.

8.63 The Committee went on to consider whether there should be a further notification to the parties detailed at paragraph 19 of Schedule 2 of the Regulations to allow them to make representations if they so wished (in which case it would be appropriate to remit the matter to the Commissioner) or whether it was preferable for the Committee to redetermine the application.

8.64 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.

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

9 DECISION

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

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

9.3 The Committee has 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;

9.4 The Committee determined that the application should be refused on the following basis:

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

9.4.1.1 there is already a reasonable choice with regard to obtaining pharmaceutical services;

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

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

9.4.2 Having taken these matters into account, the Committee is not satisfied that granting the application would confer significant benefits as outlined above that would secure improvements or better access to pharmaceutical services.

Case Manager
Primary Care Appeals