

20 July 2026

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**APPEAL AGAINST CHESHIRE AND
MERSEYSIDE ICB DECISION TO GRANT AP SD
FIFTY LIMITED APPLICATION FOR CHANGE OF
OWNERSHIP FROM LP SD FIFTEEN LTD t/a
JHOOTS PHARMACY IN RESPECT OF WHITBY
GROUP PRACTICE, 114 CHESTER ROAD,
WHITBY, ELLESMERE PORT, CH65 6TG**

1 Outcome

- 1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of the Commissioner.
- 1.2 The application is granted.

A copy of this decision is being sent to:

Temple Bright on behalf of AP SD Fifty Limited
Harrison Healthcare
PCSE on behalf of Cheshire and Merseyside ICB

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APPEAL AGAINST CHESHIRE AND MERSEYSIDE ICB DECISION TO GRANT AP SD FIFTY LIMITED APPLICATION FOR CHANGE OF OWNERSHIP FROM LP SD FIFTEEN LTD t/a JHOOTS PHARMACY IN RESPECT OF WHITBY GROUP PRACTICE, 114 CHESTER ROAD, WHITBY, ELLESMERE PORT, CH65 6TG

1 The Application

By application dated 27 January 2026, AP SD Fifty Ltd (“the Applicant”) applied to Cheshire and Merseyside ICB (“the Commissioner”) for a change of ownership from LP SD Fifteen Limited t/a Jhoots Pharmacy in respect of Whitby Group Practice, 114 Chester Road, Whitby, Ellesmere Port, CH65 6TG. In support of the application it was stated:

- 1.1 In response to “In my/our view this application should not be refused pursuant to Regulation 31 for the following reasons” the Applicant stated:
 - 1.1.1 “No premises adjacent to or in close proximity.”
- 1.2 In response to “Are the services you are undertaking to provide the same as those that the current owner is providing” the Applicant ticked “Yes”.
- 1.3 In response to “Will there be any interruption to service provision” the Applicant ticked “No”.

2 The Decision

The Commissioner considered and decided to grant the application. The decision letter dated 13 March 2026 states:

- 2.1 “Cheshire and Merseyside 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.”

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

Extract from the Report “Pharmaceutical Services Regulation Committee Cheshire and Merseyside” March 2026 – Application for inclusion in the pharmaceutical list: change of ownership

- 2.2 “Name of Applicant:

- 2.2.1 AP SD Fifty Limited
- 2.3 Fitness to Practice:
 - 2.3.1 Approved
- 2.4 Address of proposed premises:
 - 2.4.1 Whitby Group Practice, 114 Chester Road, Whitby, Ellesmere Port, CH65 6TG
- 2.5 Status of location:
 - 2.5.1 Non controlled
- 2.6 Relevant regulations and guidance:
 - 2.6.1 Regulation 26(1) – Change of ownership [quoted in full]
 - 2.6.2 Regulation 31 – refusal: same or adjacent premises [quoted in full]
 - 2.6.3 Regulation 65 – core opening hours conditions [quoted in full]
 - 2.6.4 Regulation 66 – conditions relating to providing directed services [quoted in full]
 - 2.6.5 DH market entry guidance chapter 12.
- Additional information
- 2.7 Consideration of Regulation 31 – Consideration of refusal on the grounds of same or adjacent premises (no grounds for refusal)
- 2.8 The Committee should note that the applicant has undertaken to provide pharmaceutical services at: Whitby Group Practice 114 Chester Road Whitby Ellesmere Port CH65 6TG.
- 2.9 These premises are already included in the pharmaceutical list for the area of West Cheshire HWB and at which are currently providing pharmaceutical services.
- 2.10 On commencement of the COO, LP SD Fifteen Limited t/a Jhoots Pharmacy will cease providing pharmaceutical services at this address.
- 2.11 As such there will be no other pharmaceutical services being provided from this same address. There are no pharmaceutical services being currently provided from an adjacent address.
- 2.12 The committee can determine that there are no grounds for refusal under Regulation 31
- 2.13 Consideration of Regulation 26(1) –

(a)the applicant (X) is undertaking to provide pharmaceutical services at premises—

(i)that are already listed chemist premises, and

(ii)at which another person (Y) is providing pharmaceutical services;

(b)X is proposing to carry on at the listed chemist premises, in place of Y, the business in the course of which Y is providing pharmaceutical services at those premises;

(c)X is undertaking to provide the same pharmaceutical services as those that Y is providing; and

(d)the provision of pharmaceutical services at the premises will not be interrupted (except for such period as the NHSCB may for good cause allow).

2.14 The applicant will be taking ownership of a pharmacy already included in the pharmaceutical list from which the existing contractor is currently providing pharmaceutical services? – YES

2.15 Is the applicant undertaking to provide the same pharmaceutical services as the current owner? – YES

2.16 The Committee should note that the applicant has undertaken to provide pharmaceutical services at: 114 Chester Road Whitby Ellesmere Port CH65 6TG.

2.17 The Committee should note that the applicant has undertaken to provide Essential services (paragraphs 3 to 22, Schedule 4 – pharmacies).

2.18 The Committee should note that the applicant intends to provide the following services:

2.18.1 Flu, Pharmacy First, NMS, Hypertension Case Finding

2.19 The committee should note that these are the same pharmaceutical services currently provided by LP SD Fifteen Limited t/a Jhoots Pharmacy.

2.20 The applicant has also stated that they will provide a number of locally commissioned services.

2.21 These services are commissioned locally by the Local Authority or the ICB. Whilst we note the applicants statement that these services will be provided NHS Cheshire & Merseyside will not consider these as part of this application.

2.22 The applicant has stated that there will be no interruption in the provision of pharmaceutical services. It is noted that the NHS Cheshire & Merseyside has not directed any services at this site.

2.23 Proposed Core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
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08:30 – 12:30	08:30 – 12:30	08:30 – 12:30	08:30 – 12:30	08:30 – 12:30	9:00 – 11:00	Closed	40.5 hrs
15:00 –	15:00 –	15:00 –	15:00 –	15:00 –	12:00 –		
18:30	18:30	18:30	18:30	18:30	13:00		

2.24 The committee should note it has been confirmed from NHS Cheshire & Merseyside records that the proposed core hours match the current total opening hours provided at this address

2.25 Proposed Total opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
08:30 – 18:30	08:30 – 18:30	08:30 – 18:30	08:30 – 18:30	08:30 – 18:30	9:00 – 13:00	Closed	54:00 hrs

2.26 The committee should note it has been confirmed from NHS Cheshire & Merseyside records that the proposed total opening hours match the current total opening hours provided at this address.

2.27 Will there be an interruption in service provision and if so has the applicant given reasons for this? No

Regulation 65 Core opening hours conditions

2.28 NHS Cheshire & Merseyside has no record of any Directed Hours currently relevant to this contract. NHS Cheshire & Merseyside has no commissioning intentions at this time to direct hours or services in this location other than Directed Rota hours for Bank Holidays and Special Days. Regulation 65 is not pertinent to this application.

2.29 Any current Directed Rota hours for this Pharmacy will transfer to the new owner should the change of ownership application granted.

Regulation 66

2.30 NHS Cheshire & Merseyside has no record of any Directed Services currently relevant to this contract. NHS Cheshire & Merseyside has no commissioning intentions at this time to direct hours or services in this location and as such Regulation 66 is not pertinent to this application.

2.31 Consideration of any impact of decision on those with protected characteristics under the Equalities Act 2010 and is this in accordance with NHS Cheshire & Merseyside's Public Sector Equality Duty – There is no information to indicate that group with protected characteristics would be disadvantaged in any way as a result of granting this application Consideration of any impact of decision on NHS Cheshire & Merseyside's duty on health inequality - There is no indication that granting of this application would have an adverse impact on health inequality.

Recommendations

- 2.32 It is recommended that the committee determine there are no grounds for refusal under regulation 31.
- 2.33 It is recommended that the committee determine that the requirements of regulation 26(1) have been met.
- 2.34 It is recommended that the committee determine that the requirements of regulation 65 and 66 have been met.
- 2.35 It is recommended that the committee approve this Change of Ownership application.
- 2.36 Consideration of 3rd party rights of appeal: contractors from agreed IP list.

Allied Pharmacy Chester Road	Whitby Group Practice	114 Chester Road	CH65 6TG
Hope Farm Pharmacy	Hope Farm Medical Centre	Hope Farm Rd, Great Sutton	CH66 2WW
Well	54 – 56 Loxdale Drive		CH65 7AN
Asda Pharmacy	Asda Superstores	Market Square	CH65 0BZ
Ellesmere Pharmacy	Unit 7B	Rivington Road	CH65 0AW
Harrison Healthcare York Road	2 York Road	Ellesmere Port	CH65 0DB
Boots	31 Coliseum Way	Cheshire Oaks Outlet Vill	CH65 9HD

Decision

- 2.37 The Chairman determined, on behalf of the committee that there are no grounds for refusal under regulation 31.
- 2.38 The Chairman determined, on behalf of the committee that the requirements of regulation 26(1) have been met.
- 2.39 The Chairman determined, on behalf of the committee that the requirements of regulation 65 and 66 have been met.
- 2.40 Date of determination: 09/03/2026
- 2.41 Decision: Approved
- 2.42 Action: PCSE to notify applicant and IPs as per IP list.”

3 The Appeal

In an email dated 13 March 2026, Harrison Healthcare ("the Appellant") appealed against the Commissioner's decision. The grounds of appeal are:

- 3.1 “Formal Appeal Submission

Introduction

- 3.2 I write as an interested party listed in the decision report issued by Cheshire & Merseyside ICB in relation to the above change-of-ownership application.
- 3.3 This letter constitutes a formal appeal against the decision dated 9 March 2026 approving the change of ownership application submitted by AP SD Fifty Limited in respect of the pharmacy located at Whitby Group Practice, Ellesmere Port.
- 3.4 This appeal is submitted on the grounds that the committee incorrectly determined that the requirements of Regulation 26(1) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations were satisfied and failed to properly consider relevant factual circumstances relating to the operational status of the pharmacy.

Regulatory Framework

- 3.5 The decision report confirms that the application was approved under Regulation 26(1).
- 3.6 Regulation 26 permits a change of ownership where an applicant undertakes to provide pharmaceutical services at premises:
 - 3.6.1 that are already listed chemist premises; and
 - 3.6.2 at which another person is providing pharmaceutical services.
- 3.7 The regulation also provides that the provision of pharmaceutical services:
 - 3.7.1 must not be interrupted except for such period as the NHS may allow for good cause.
- 3.8 These provisions are intended to ensure that Regulation 26 is used only where a pharmacy business is continuing to operate and provide pharmaceutical services.

Operational History Prior to Closure

- 3.9 Prior to October 2025 the pharmacy was already experiencing significant operational disruption.
- 3.10 During this period the pharmacy did not operate consistently and there were numerous occasions where the premises were closed due to the absence of a pharmacist. On some days the pharmacy was open, while on other days it was closed entirely.
- 3.11 This pattern of intermittent service provision is relevant because Regulation 26 assumes the existence of a functioning pharmacy business providing continuous pharmaceutical services.

Complete Closure of the Pharmacy

3.12 In approximately October 2025, following the collapse of the Jhoots Pharmacy group and the entry of the company into administration, the pharmacy ceased operating entirely.

3.13 From October 2025 until February 2026:

3.13.1 the premises were closed to the public

3.13.2 no pharmacist or pharmacy staff were present

3.13.3 no NHS pharmaceutical services were provided

3.13.4 no NHS prescriptions were dispensed

3.14 The pharmacy therefore experienced a complete cessation of pharmaceutical services for approximately four months.

Date the Change-of-Ownership Application Was Submitted

3.15 NHS England has confirmed that the completed change-of-ownership application was received on: 27 January 2026

3.16 At that time the pharmacy remained fully closed and was not providing pharmaceutical services.

3.17 The pharmacy did not reopen until 9 February 2026, when Allied began operating the premises under a temporary management agreement with the administrators.

3.18 Therefore, at the time the application was submitted:

3.18.1 the pharmacy premises were closed

3.18.2 pharmaceutical services were not being provided

3.18.3 the pharmacy business was not operating

3.19 This is directly relevant to the regulatory requirement that the premises must be premises at which another person is providing pharmaceutical services.

Reopening Under a Management Agreement

3.20 The pharmacy reopened on 9 February 2026, when Allied began operating the premises under a management agreement with the administrators.

3.21 Under this arrangement:

3.21.1 the administrators retained ownership of the NHS contract

3.21.2 Allied operated the pharmacy on behalf of the administrators

3.21.3 the formal change-of-ownership application remained pending

- 3.22 The decision report does not explain how this arrangement was considered within the framework of Regulation 26.

Prolonged Interruption of Pharmaceutical Services

- 3.23 Regulation 26 permits interruption only:

3.23.1 for such period as the NHS may allow for good cause.

- 3.24 The decision report does not appear to address:

3.24.1 the four-month closure of the pharmacy

3.24.2 whether the interruption was formally permitted

3.24.3 whether the cessation of services affected the application of Regulation 26

- 3.25 Correspondence with the ICB indicates that the contract was not formally suspended despite the pharmacy not operating during this period.

- 3.26 The absence of any analysis of this prolonged cessation of services raises concerns as to whether the requirements of Regulation 26 were properly considered.

Reliance on Applicant Assertions

- 3.27 The committee report appears to rely largely on statements made by the applicant that:

3.27.1 the same pharmaceutical services would be provided

3.27.2 the applicant would take over the existing pharmacy business

3.27.3 there would be no interruption in service provision

- 3.28 However, the report contains no apparent examination of the operational status of the pharmacy during the preceding months.

- 3.29 Given that the pharmacy had been closed for several months, it appears that the committee accepted the applicant's statements without examination of the factual circumstances.

Failure to Consider Relevant Facts

- 3.30 The committee report does not appear to consider several material facts, including:

3.30.1 the inconsistent operation of the pharmacy prior to October 2025

3.30.2 the complete closure of the pharmacy between October 2025 and February 2026

- 3.30.3 the absence of pharmaceutical services during that period
- 3.30.4 the fact that the change-of-ownership application was submitted while the pharmacy remained closed
- 3.30.5 the temporary management arrangement under which the pharmacy reopened shortly before the decision
- 3.31 These matters are directly relevant to whether the regulatory conditions for a Regulation 26 change-of- ownership application were satisfied.

Integrity of the Regulatory Framework

- 3.32 The purpose of the change-of-ownership provisions is to facilitate the transfer of an existing operating pharmacy business without disruption to patient services.
- 3.33 Where pharmaceutical services have ceased for a prolonged period and the pharmacy business is not operating, it raises a question as to whether the change-of-ownership provisions are the appropriate regulatory mechanism.
- 3.34 The decision report does not appear to examine this issue.

Requested Outcome

- 3.35 For the reasons outlined above, I respectfully request that NHS Resolution:
 - 3.35.1 Allow this appeal
 - 3.35.2 Set aside the decision of Cheshire & Merseyside ICB dated 9 March 2026
 - 3.35.3 Remit the application for reconsideration, with particular regard to:
 - 3.35.3.1 the prolonged cessation of pharmaceutical services
 - 3.35.3.2 the operational status of the premises when the application was submitted
 - 3.35.3.3 whether the interruption of services was formally permitted
 - 3.35.3.4 whether the requirements of Regulation 26 were properly satisfied”

4 Summary of Representations

This is a summary of representations received on the appeal.

4.1 THE COMMISSIONER

- 4.1.1 “Please see attached all documents relating to SHA.26949.

- 4.1.2 Whilst there are are [sic] third party rights to appeal this change ownership application.
- 4.1.3 NHS Cheshrie [sic] and Merseyside ICB stand by the decision of Pharmaceutical Services Regulations Committee to approve this change of ownership.
- 4.1.4 Whilst NHS Cheshire and Merseyside acknowledge ongoing issues with the previous owners of this contract; correctly identified by the Third Party. This contract was not closed or removed from the PNA or Pharmaceutical list.
- 4.1.5 This premises and contract was and is still an operational contract as identified in the PNA and listed in the Pharmaceutical inclusion list for Chester and Cheshire West Health and Wellbeing board.
- 4.1.6 This was still an operational contract despite ongoing issues with the previous owners, this CCO [sic] has given assurance that maintain pharmaceutical services at this premises going forward and we are not left with a gap in the PNA."
- 4.1.7 Documents enclosed:
 - 4.1.7.1 Appeal as set out at Section 3 above
 - 4.1.7.2 Primary Care Appeals correspondence circulating the appeal
 - 4.1.7.3 CCO [sic] paper presented to PSRC (Decision report as set out at Section 2 above)
 - 4.1.7.4 Copy of Jan 2026 minutes (redacted)

4.2 TEMPLE BRIGHT ON BEHALF OF THE APPLICANT

- 4.2.1 "I act for AP SD Fifty Limited. On behalf of my client, I write further to your letter of 15th April 2026 and in order to respond to an appeal submitted by David Porter Limited against a decision of NHS England to grant my client's change of ownership application for premises at 114 Chester Road, Whitby, Ellesmere Port, CG65 6TG ("the Pharmacy").
- 4.2.2 By way of factual background, LP SD Fifteen Limited is currently included in the pharmaceutical list in respect of the Pharmacy. The appellant notes that the Pharmacy was intermittently closed in the period running up to October 2025 and was then consistently closed from October 2025 until early February 2026. This is not disputed by my client, although is largely not a matter about which my client has any specific knowledge.
- 4.2.3 LP SD Fifteen Limited was placed into administration on 29th December 2025. On the same day, the assets of the company insofar as relates to the Pharmacy were sold to the Allied Pharmacies group. Allied Pharmacies also entered into a management agreement with the Administrators of the company to take over the management of the

Pharmacy until such time as a change of ownership application could be submitted and determined to transfer the inclusion in the pharmaceutical list to a company within the Allied Pharmacies group.

4.2.4 Pharmaceutical services recommenced at the premises (pursuant to the management agreement) on 26th February 2026. My client submitted a change of ownership application to NHS England on 27th January 2026. NHS England determined – and approved – the change of ownership application by a decision dated 13th March 2026.

4.2.5 My client's application must be determined in accordance with the regulatory test contained within regulation 26. In particular, the application must be granted provided that the following conditions are met:

(a) the applicant (X) is undertaking to provide pharmaceutical services at premises—

(i) that are already listed chemist premises, and

(ii) at which another person (Y) is providing pharmaceutical services;

(b) X is proposing to carry on at the listed chemist premises, in place of Y, the business in the course of which Y is providing pharmaceutical services at those premises;

(c) X is undertaking to provide the same pharmaceutical services as those that Y is providing; and

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

4.2.6 The appellant asserts that NHS England should have refused the application on the basis that, at the time that the application was submitted, pharmaceutical services were not being provided at the Pharmacy such that the provision of services was not “uninterrupted”.

4.2.7 Contrary to the assertion by the appellant, regulation 26 does not require refusal in circumstances where pharmaceutical services were not being provided on the specific day that the change of ownership application was submitted. My client agrees with the decision of NHS England that the regulatory test was met by my client's application. In particular, responding to the specific part of the regulatory test, my client comments as follows:

(a) the applicant (X) is undertaking to provide pharmaceutical services at premises—

(i) that are already listed chemist premises, and

(ii) at which another person (Y) is providing pharmaceutical services;

- 4.2.8 This part of the regulatory test is met, since the premises which are the subject of my client's change of ownership application are currently included in the pharmaceutical list in the name of another legal entity.

(b) X is proposing to carry on at the listed chemist premises, in place of Y, the business in the course of which Y is providing pharmaceutical services at those premises;

- 4.2.9 This part of the regulatory test is met, since my client proposes to carry on the pharmacy business in place of the current legal entity which is included in the pharmaceutical list.

(c) X is undertaking to provide the same pharmaceutical services as those that Y is providing;

- 4.2.10 My client's application undertakes to provide the same pharmaceutical services as those that are being provided at the Pharmacy such that this part of the regulatory test is met by my client's application.

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

- 4.2.11 Whilst it is accepted that there has been an interruption in service provision at the premises following the administration of LP SD Fifteen Limited, any interruption in service provision does not prevent a change of ownership application from being granted for several reasons.

- 4.2.12 Firstly, the regulations are directed towards an interruption in service provision between the currently listed NHS pharmacist (LP SD Fifteen Limited) ceasing to provide pharmaceutical services and the new NHS pharmacist (AP SD Fifty Limited) commencing services in their place. As confirmed in my client's application form, there will be no interruption in service provision during that relevant period.

- 4.2.13 Secondly, whilst services had been suspended in the period leading up to, and following, LP SD Fifteen Limited entering into administration, at the point that the application was determined by NHS England: services were being provided from the Pharmacy (pursuant to the management agreement with Allied Pharmacies); had been provided at the Pharmacy for at least one month; and have continued to be provided consistently since the decision was made.

- 4.2.14 There was, therefore, no ongoing interruption in service provision at the time that NHS England determined the application.

- 4.2.15 It is submitted that it is the factual scenario at the point of determination which is relevant to NHS England's determination of an application, not the factual scenario in place at the time that the application was either submitted or in the period before the application was submitted.

- 4.2.16 Finally, and in any event, even if (which is denied) there was or would be any interruption in service provision, the regulatory test allows for interruption in service provision for “good cause”. In the circumstances of this case, there was good cause for any interruption arising out of the entering into administration of LP SD Fifteen Limited and the period of time required to allow services to be recommenced by Allied Pharmacies, including necessary work to gain access to the Pharmacy premises, engage staff, re-stock the premises, etc.
- 4.2.17 In conclusion, on behalf of my client it is submitted that my client’s change of ownership application meets the relevant regulatory test for the reasons given above and those given in NHS England’s determination of 13th March 2026.
- 4.2.18 On behalf of my client I therefore invite NHS Resolution to refuse this appeal and to uphold NHS England’s decision to grant my client’s application for change of ownership.”

5 Observations

The following observations were received by NHS Resolution in response to the representations received on appeal.

5.1 THE APPELLANT

- 5.1.1 “I write in response to the representations submitted on behalf of AP SD Fifty Limited by Temple Bright LLP dated 6 May 2026.
- 5.1.2 I note that the representations now formally accept several key factual matters raised within my appeal, including that:
- 5.1.2.1 the pharmacy was intermittently closed prior to October 2025
 - 5.1.2.2 the pharmacy was consistently closed from October 2025 until February 2026
 - 5.1.2.3 the completed change of ownership application was submitted on 27 January 2026
 - 5.1.2.4 pharmaceutical services only later recommenced under a management agreement arrangement following administration.
- 5.1.3 These matters therefore appear no longer to be in dispute.
- 5.1.4 However, I respectfully maintain that the appeal should be upheld for the following reasons.
- Regulation 26 requires pharmaceutical services to be provided from the premises
- 5.1.5 The central issue in this appeal remains the wording of Regulation 26(1)(a)(ii), namely whether the premises were premises:

“at which another person is providing pharmaceutical services.”

- 5.1.6 The representations submitted by Temple Bright place significant emphasis on the fact that the premises remained included within the pharmaceutical list.
- 5.1.7 However, inclusion within the pharmaceutical list is not the same thing as actively providing pharmaceutical services from the premises.
- 5.1.8 The factual position accepted by the parties is that the pharmacy had ceased operating for several months and was not providing pharmaceutical services at the time the application was submitted.

Prolonged interruption of pharmaceutical services

- 5.1.9 The representations accept that there had been an interruption in service provision following administration.
- 5.1.10 The issue raised within my appeal is not simply whether interruption occurred between the outgoing and incoming contractor following determination of the application.
- 5.1.11 Rather, the issue is whether Regulation 26 was intended to apply in circumstances where pharmaceutical services had already ceased for a prolonged period prior to the application being made.
- 5.1.12 The committee report appears not to have considered this issue at all.

Inconsistency regarding recommencement date

- 5.1.13 The representations state that pharmaceutical services recommenced on 26 February 2026.
- 5.1.14 This appears inconsistent with previous information provided indicating that Allied had recommenced operating the pharmacy earlier in February 2026.
- 5.1.15 I would respectfully request that NHS Resolution clarify the actual date on which pharmaceutical services recommenced from the premises, as this is directly relevant to the chronology of interruption relied upon within the appeal.

Failure of the committee to consider material facts

- 5.1.16 The committee report proceeded on the basis that:
 - 5.1.16.1 the current contractor was providing pharmaceutical services
 - 5.1.16.2 there would be no interruption in service provision
 - 5.1.16.3 the requirements of Regulation 26 were satisfied.

5.1.17 However, the report does not appear to contain any analysis whatsoever of:

5.1.17.1 the prolonged closure of the pharmacy

5.1.17.2 the period during which no pharmaceutical services were being provided

5.1.17.3 the operational status of the premises when the application was submitted

5.1.17.4 whether the interruption had been formally permitted for good cause

5.1.18 The absence of such analysis remains a central concern within this appeal.

Integrity of the regulatory framework

5.1.19 The purpose of the change-of-ownership provisions is to facilitate continuity of an existing operating pharmacy business.

5.1.20 Where a pharmacy has ceased operating for several months and pharmaceutical services are no longer being provided, it is respectfully submitted that careful consideration is required as to whether Regulation 26 is the appropriate mechanism.

5.1.21 The committee report does not appear to demonstrate that such consideration occurred. For those reasons, I respectfully maintain that the appeal should be allowed and the matter remitted for reconsideration.”

6 Further Comments

6.1 TEMPLE BRIGHT ON BEHAL OF THE APPLICANT

6.1.1 “I write further to your email below and your letter of 17th June 2026. I note that NHS Resolution is not inviting further comment at this stage. However, my client has brought to my attention a typographical error in my client’s response to the letter of appeal which was only discovered when the appellant’s response to my client’s letter was received.

6.1.2 In my client’s letter of 6th May, it is stated as follows:

“Pharmaceutical services recommenced at the premises (pursuant to the management agreement) on 26th February 2026. My client submitted a change of ownership application to NHS England on 27th January 2026. NHS England determined – and approved – the change of ownership application by a decision dated 13th March 2026.”

6.1.3 This statement is incorrect, since pharmaceutical services actually recommenced on 26th **January** 2026 (not February), such that the sentence should have read:

“Pharmaceutical services recommenced at the premises (pursuant to the management agreement) on 26th January 2026. My client submitted a change of ownership application to NHS England on 27th January 2026. NHS England determined – and approved – the change of ownership application by a decision dated 13th March 2026.”

- 6.1.4 At the point at which the change of ownership application was submitted, and at the point at which it was determined, pharmaceutical services were therefore being provided at the listed premises.
- 6.1.5 By way of supporting evidence of the date of recommencement, I have attached an excel spreadsheet which provides dispensing data for the pharmacy for the 4 weeks from 26th January 2026. NHS Resolution will note that the first supply is actually recorded on 28th January. Whilst the premises were open from 26th January, it appears that no patients sought dispensing services until 28th January, presumably due to a lack of initial awareness that the pharmacy had reopened. I have also attached a snip from the pharmacy’s DataPlast system which shows that the first order for medicines was placed on 27th January 2026.
- 6.1.6 I trust that the above is clear and apologise for the date error in my letter of 6th May. If you require any further information or have any questions in relation to this, then please do not hesitate to contact me.”

6.2 THE APPELLANT

- 6.2.1 “I write in response to the further submission made by Temple Bright LLP dated 19 June 2026.
- 6.2.2 Whilst I note that the submission was made outside the statutory consultation period, I acknowledge NHS Resolution’s decision to admit the submission and therefore confine my comments to the substance of the information provided.
- 6.2.3 I note that Temple Bright now state that their previous reference to pharmaceutical services recommencing on 26 February 2026 was a typographical error and that services in fact recommenced on 26 January 2026. I also note the supporting material supplied in relation to dispensing activity and stock ordering.
- 6.2.4 For the purposes of this appeal, I am content to proceed on the basis that pharmaceutical services recommenced on 26 January 2026.
- 6.2.5 However, it is respectfully submitted that the corrected commencement date does not alter the central issues raised in this appeal.
- 6.2.6 The factual position remains that the pharmacy experienced a prolonged cessation of pharmaceutical services following the collapse of the Jhoots group and remained closed for approximately four months prior to recommencement of services under the Allied management arrangement. This factual position has been accepted by the applicant’s representatives in previous submissions.

- 6.2.7 The issue raised in my appeal has never been limited solely to whether services were being provided on the precise date the application was submitted. Rather, the appeal concerns the committee's application of Regulation 26 in circumstances where there had been a prolonged interruption of pharmaceutical services and where the committee report appears to contain no analysis of that interruption.
- 6.2.8 In particular, the committee report does not appear to address:
- 6.2.8.1 the period during which pharmaceutical services were not being provided from the premises;
 - 6.2.8.2 whether that interruption was formally considered and permitted;
 - 6.2.8.3 the relevance of that interruption to the application of Regulation 26; or
 - 6.2.8.4 the impact of the prolonged cessation of services upon the continuity of the pharmacy business.
- 6.2.9 The further evidence supplied by Temple Bright seeks to establish that services had recommenced by late January 2026. However, it does not address the preceding months during which pharmaceutical services were not being provided.
- 6.2.10 Further, the dispensing data and stock ordering information now supplied do not appear to have formed part of the material before the committee when the original decision was made. The committee therefore cannot have relied upon that information when reaching its determination.
- 6.2.11 Accordingly, even accepting the corrected recommencement date, I respectfully maintain that the appeal should be upheld because the committee does not appear to have properly considered the prolonged interruption in pharmaceutical services and its relevance to the requirements of Regulation 26.
- 6.2.12 I therefore maintain my request that the appeal be allowed and the matter remitted for reconsideration."

7 Consideration

- 7.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, had before it the papers considered by the Commissioner.
- 7.2 It also had before it the responses to NHS Resolution's own statutory consultations.
- 7.3 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.

7.4 The Committee first considered Regulation 31 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations"), which states:

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

(2) This paragraph applies where -

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

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

(ii) adjacent premises; and

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

7.5 The Committee noted that in Part 5 of the application form, the Applicant had stated "*No premises adjacent to or in close proximity*". The Committee noted that no party on appeal had sought to argue that Regulation 31 would require it to refuse either application.

7.6 Regulation 31(2)(a) relates to where a person on the pharmaceutical list is providing pharmaceutical services from the premises to which the application relates. This is the case here as it is a change of ownership application. Therefore the Committee went on to consider Regulation 31(2)(b).

7.7 The Committee was mindful of the Judgment '*R (on the application of Pharmacy Care Plus Ltd) v Family Health Services Appeals Unit [2013] EWHC 824 (Admin)*'. The Committee considered that this Judgment constituted judicial guidance on wording that is similar to the current Regulation 31(2)(b).

7.8 The Committee noted that the application was submitted by AP SD Fifty Ltd. Further, the current owner of the listed premises is LP SD Fifteen Limited. The Committee noted no party had sought to argue that Regulation 31(2)(b) would require it to refuse the application.

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

7.10 The Committee noted Regulation 26(1) (*Change of ownership applications*) of the Regulations, which reads:

"Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to an application from a person who is not included in a pharmaceutical list for inclusion in the list, or from a person included in a

pharmaceutical list for inclusion in that list also in respect of other premises than those already listed in relation to that person, if-

- (a) the applicant (X) is undertaking to provide pharmaceutical services at or from premises-*
 - (i) that are already listed chemist premises, and*
 - (ii) at or from which another person (Y) is providing pharmaceutical services;*
- (b) X is proposing to carry on at or from the listed chemist premises, in place of Y, the business in the course of which Y is providing pharmaceutical services at or from those premises;*
- (c) X is undertaking to provide the same pharmaceutical services as those that Y is providing; and*
- (d) the provision of pharmaceutical services at or from the premises will not be interrupted (except for such period as NHS England may for good cause allow)."*

7.11 The Committee noted that the Regulations are specific in the conditions an applicant must satisfy if its proposed change of ownership is to succeed.

7.12 The Committee has considered each of these paragraphs in turn, applying them to the information provided in the Application Form, unless (in relation to any of those paragraphs) the Applicant has provided amended/updated information.

7.13 The Committee noted that the parties had not raised any disagreement as to the point in time at which the requirements of Regulation 26(1) are to be assessed. The Committee considered that, on the wording of Regulation 26(1), the relevant question is whether those requirements were met at the time the application was made. The Committee reached that view because Regulation 26(1)(a) and (b) refer to services which Y "is providing", Regulation 26(1)(c) refers to the services which X "is undertaking" to provide, and Regulation 26(1)(d) asks whether the provision of pharmaceutical services "will not be interrupted". The Committee therefore considered that the Regulation is directed to the position at the time of the application and to the effect of the proposed change of ownership.

Regulation 26(1)(a)

7.14 The Committee noted there is no dispute that the application is in respect of listed chemist premises at Whitby Group Practice, 114 Chester Road, Whitby, Ellesmere Port, CH65 6TG. The Committee was satisfied that this was sufficient for the purposes of Regulation 26(1)(a)(i) and went on to consider Regulation 26(1)(a)(ii).

7.15 The Committee noted that the Appellant initially stated that pharmaceutical services had ceased in October 2025 and had not recommenced until February 2026. The Appellant stated that, as the application was received on 27 January

2026, LP SD Fifteen Limited was not providing pharmaceutical services at or from the listed chemist premises when the application was made.

- 7.16 The Committee noted, however, that following the further comments received from the parties, the factual position was clarified. Temple Bright, on behalf of the Applicant, stated that the pharmacy reopened and resumed the provision of pharmaceutical services on 26 January 2026. The evidence before the Committee indicated that ibuprofen was ordered on 27 January 2026, that a small number of prescriptions were issued on 28 January 2026, and that fuller service provision appears to have resumed from 29 January 2026.
- 7.17 The Committee noted the Applicant's explanation that the level of activity on 26 and 27 January 2026 was limited because members of the public did not yet know that the pharmacy had reopened. The Committee considered that explanation to be understandable in circumstances where the pharmacy had been closed for a material period. The Committee also noted that the explanation was consistent with a pharmacy being open and available to provide pharmaceutical services, notwithstanding that actual patient demand was initially limited.
- 7.18 The Committee accepted that the evidence of service provision on 26 and 27 January 2026 was limited. However, the Committee also noted that, following the further comments, the Appellant was content to proceed on the basis of the clarified position that services had resumed on 26 January 2026. In light of the parties' agreement on that factual matter, and in the absence of any remaining dispute as to the date on which services resumed, the Committee proceeded on the basis that pharmaceutical services had resumed at the premises on 26 January 2026.
- 7.19 The Committee then considered whether the limited nature of the services provided on and immediately after 26 January 2026 prevented the requirement in Regulation 26(1)(a)(ii) from being satisfied. The Committee determined that it did not. Regulation 26(1)(a)(ii) asks whether another person is providing pharmaceutical services at or from the listed chemist premises. It does not prescribe any minimum number of prescriptions, any minimum volume of dispensing activity, or any particular level of patient attendance before pharmaceutical services can be said to be provided.
- 7.20 The Committee considered that whether pharmaceutical services are being provided is a question to be determined on the specific facts of each case. Relevant matters may include whether the premises are open and available to provide pharmaceutical services, whether the contractor is able to provide those services, whether any services have in fact been provided, and whether any apparent lack of activity is explained by the absence of patient demand rather than by the pharmacy being closed or unable to operate.
- 7.21 The Committee did not consider that a pharmacy which has reopened and is available to provide services should be treated as not providing pharmaceutical services merely because the initial level of patient use is low. The Committee considered that the limited dispensing activity on 27 and 28 January 2026 was relevant evidence, but did not establish that services were not being provided.

The Committee also gave weight to the fact that the parties were agreed that services had resumed on 26 January 2026.

- 7.22 The Committee therefore determined that, as pharmaceutical services had resumed on 26 January 2026, and as the application was made on 27 January 2026, LP SD Fifteen Limited was providing pharmaceutical services at the listed chemist premises when the application was made. The Committee then considered whether the earlier period of closure nevertheless prevented the requirement in Regulation 26(1)(a) from being satisfied.
- 7.23 The Committee noted the Appellant's position that, because pharmaceutical services had not been provided from October 2025 until 26 January 2026, the requirement that LP SD Fifteen Limited "is providing" pharmaceutical services could not be satisfied. The Committee did not accept that position.
- 7.24 The Committee noted that the previous closure was relevant background. It also considered that it may have been relevant to other regulatory questions, including compliance with the terms of service, possible breach or remedial action, withholding of remuneration, or removal from the pharmaceutical list where the requirements for such action are met. However, the Committee did not consider that Regulation 26 operates as a punitive provision for a historic failure to provide pharmaceutical services.
- 7.25 The Committee noted that the Regulations contain separate provisions addressing failures to provide pharmaceutical services. Paragraph 23 of Schedule 4 is concerned with the provision of pharmaceutical services during the applicable opening hours, including the circumstances in which there may be a temporary suspension of services. Regulation 71 is concerned with breach notices and may permit withholding of remuneration where there has been a failure to provide, or a failure to provide to a reasonable standard, a service that the contractor is required to provide. Regulation 73 is concerned with removal following remedial notices and breach notices. Regulation 74(3) provides for removal where NHS England determines that an NHS chemist has not, during the preceding six months, provided pharmaceutical services at particular listed chemist premises.
- 7.26 The Committee considered that the existence of those separate provisions was relevant to the construction of Regulation 26. Where the Regulations intend a previous failure to provide pharmaceutical services to have a particular consequence, they make express provision for that consequence. Regulation 26 does not state that a change of ownership application must be refused because the existing contractor was previously in breach of its terms of service, or because services were not provided during an earlier period. The wording of Regulation 26(1)(a)(ii) is directed to whether Y "is providing" pharmaceutical services at or from the listed chemist premises. It is not directed to whether Y "was providing" pharmaceutical services throughout any earlier period.
- 7.27 The Committee therefore considered that the earlier closure was relevant background, but was not determinative of whether Regulation 26(1)(a)(ii) was met. The earlier closure may have been relevant if it showed that services had not genuinely resumed by the date of the application. However, as the parties agreed that services had resumed on 26 January 2026, the Committee did not

consider that the previous period of closure prevented it from being satisfied that LP SD Fifteen Limited was providing pharmaceutical services at the premises when the application was made.

- 7.28 On the agreed facts, services resumed on 26 January 2026, the application was made on 27 January 2026, some level of activity occurred on 27 and 28 January 2026, and fuller service provision resumed from 29 January 2026. The Committee was therefore satisfied that the requirement in Regulation 26(1)(a) was met.

Regulation 26(1)(b)

- 7.29 The Committee noted the Applicant is proposing to carry on at the listed premises in place of LP SD Fifteen Limited, the business in the course of which LP SD Fifteen Limited is providing pharmaceutical services at those premises.
- 7.30 In light of its conclusion that LP SD Fifteen Limited was providing pharmaceutical services at the premises when the application was made, the Committee was satisfied that the requirement in Regulation 26(1)(b) was met.

Regulation 26(1)(c)

- 7.31 The Committee noted the Applicant intends to provide the same services as those provided by the existing pharmacy. The Committee was satisfied that this was sufficient for the purposes of paragraph (c).

Regulation 26(1)(d)

- 7.32 The Committee then considered Regulation 26(1)(d), which requires that the provision of pharmaceutical services at or from the premises will not be interrupted, except for such period as the Commissioner may for good cause allow.
- 7.33 The Committee considered that Regulation 26(1)(d) is concerned with whether the proposed change of ownership will result in an interruption in the provision of pharmaceutical services. It is not concerned with whether there has been a previous interruption before the application was made, save to the extent that such an interruption remains ongoing or is relevant to whether services will be interrupted by the proposed change of ownership.
- 7.34 The Committee considered that this follows from the wording of Regulation 26(1)(d), which refers to whether the provision of pharmaceutical services “will not be interrupted”. The provision is directed to the effect of the proposed change of ownership. It allows for the possibility that, as a result of the transfer of ownership, there may be a short interruption for good cause. It does not make every previous period of closure a bar to a change of ownership application.
- 7.35 The Committee accepted that there may be cases where a previous closure is relevant to Regulation 26(1)(d). For example, if services had been closed for a material period and the proposed change of ownership would result in a further period before services resumed, the Committee may need to consider whether that further interruption was acceptable and whether there was good cause for

it. Likewise, if the evidence showed that services had not, in fact, resumed at the date of the application, the Committee may need to consider whether the application was properly characterised as a change of ownership application.

7.36 The Committee did not consider this to be the case in the current appeal, having regard to the matters it had already determined. The Committee noted that there was no evidence before the Committee that the proposed change of ownership would cause a further interruption in the provision of pharmaceutical services. The earlier closure had occurred before the application was made and had not been shown to be an interruption caused by, or resulting from, the proposed change of ownership.

7.37 The Committee was therefore satisfied that the requirement in Regulation 26(1)(d) was met.

Consequences of satisfying paragraphs (a) to (d) of Regulation 26(1)

7.38 Being satisfied of the various matters set out in Regulation 26(1), the Committee considered that the application had been properly granted.

7.39 Insofar as the Appellant stated that the Commissioner did not have access to the evidence of service resumption, the Committee considered that this did not provide a basis to refuse the application. Furthermore, the Committee had reviewed and considered that evidence for the purposes of determining the appeal.

8 Summary

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

8.1.1 confirm the Commissioner's decision;

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

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

8.2 The Committee considered that it was required to confirm the Commissioner's decision.

9 Decision

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

9.2 The Committee has determined that the Commissioner's decision should be confirmed.

9.3 The application is granted.

Case Manager

Primary Care Appeals