

30 July 2026

REF: SHA/26961

**APPEAL AGAINST SURREY HEARTLANDS ICB
DECISION TO REFUSE AN APPLICATION BY KICO
LTD FOR INCLUSION IN THE PHARMACEUTICAL
LIST OFFERING UNFORESEEN BENEFITS UNDER
REGULATION 18 AT 220 LONDON ROAD,
BURPHAM, GUILDFORD, GU4 7JS**

8th Floor
10 South Colonnade
Canary Wharf
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1 Outcome

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

A copy of this decision is being sent to:

Kico Ltd
PCSE, on behalf of Surrey Heartlands ICB
Community Pharmacy Surrey and Sussex
Healthcare Plus Consulting Ltd, on behalf of ITASILL Ltd

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1 The Application

By application dated 24 June 2025, Kico Ltd ("the Applicant") applied to Surrey Heartlands ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at 220 London Road, Burpham, Guildford, GU4 7JS. In support of the application it was stated:

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.

- 1.1 "Burpham, a suburb in town [sic] of Guildford has a growing population, as of the last census there is approximately 5,839 residents.
- 1.2 The only Pharmacy in Burpham, namely Lloyds Pharmacy in Sainsbury is due for closure. This will result in limited Pharmacy access in the area, residents with protected characteristics will have to travel further to access Pharmacy services, which can be inconvenient and time-consuming. The next closest Pharmacy to Burpham is 1.6 miles away.
- 1.3 Providing access to pharmaceutical services will be of significant benefit for patients, particularly those who may have difficulty in accessing other parts of the area, such as the elderly, infirm disabled, or parents with young children (ie those who share a protected characteristic).
- 1.4 Granting this application will therefore secure better access to pharmaceutical services for local people and provide them with reasonable choice which will not exist after the pending closure of Burpham's only existing Pharmacy.
- 1.5 There a [sic] various other facilities in the proposed area including:
 - 1.5.1 Primary School
 - 1.5.2 Town hall
 - 1.5.3 Social club
 - 1.5.4 Church

1.5.5 Nursing homes

1.5.6 Hairdressers

1.5.7 Butcher shop”

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

1.6 “The Lloyds Pharmacy in Sainsburys was open with no plans for closure at the time of the PNA being written and this application is therefore submitted under Regulation 18 as an unforeseen benefits application.

1.7 We have already had an application granted for this area under ME2518. We have been unable to secure premises despite our best efforts but a need that was identified by the Appeal Authority still exists and we believe a premises will become available in the near future.”

1.8 [Map provided – Appendix A for Committee]

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 23 February 2026 states:

2.1 “Surrey Heartlands ICB has considered the above application and I am writing to confirm that it has been refused. Please see the enclosed report for the full reasoning.

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

2.3 Primary Care Appeals, NHS Resolution, 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU”

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

Decision report

2.4 “Introduction and background

2.5 Unforeseen benefits applications had been received as detailed above. The Committee was now required to consider the applications in accordance with Regulations 18 and 19 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.

2.6 Full details of the applicant’s proposals had been notified to the various interested parties in accordance with the regulations.

2.7 It had been previously agreed and notified that the two applications would be considered together.

2.8 **Consideration by the Committee – Applications**

2.9 **Summary of application 1 – Kico Healthcare Ltd**

2.10 The Applicant proposed core opening hours of 44 hours per week and a total proposed opening hours of 44 hours per week.

2.11 The hours proposed as indicated in section 3.1 of the application form are:

2.12 Proposed core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
09:00-13:00	09:00-13:00	09:00-13:00	09:00-13:00	09:00-13:00	09:00-13:00	Closed
13:30-17:30	13:30-17:30	13:30-17:30	13:30-17:30	13:30-17:30		

2.13 Total proposed opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
09:00-13:00	09:00-13:00	09:00-13:00	09:00-13:00	09:00-13:00	09:00-13:00	Closed
13:30-17:30	13:30-17:30	13:30-17:30	13:30-17:30	13:30-17:30		

2.14 The applicant had also indicated which hours they proposed to be the 40 core hours, and which hours were proposed as additional core hours (the additional core hours/directed hours were 09:00-13:00 on Saturdays)

2.15 The Applicant proposed to provide essential, enhanced and advanced services, if commissioned.

2.16 The Applicant had not provided a floor plan.

2.17 As part 6 of the application form, the Applicant describes the unforeseen benefit they are offering to secure as:

2.18 *“Granting this application will therefore secure better access to pharmaceutical services for local people and provide them with reasonable choice which will not exist after the pending closure of Burpham’s only existing Pharmacy”.*

2.19 **Representations:**

2.20 The Committee noted the Applicants’ proposals were notified to various interested parties in accordance with the Regulations.

- 2.21 Representations have been received from:
- 2.22 Boots UK Ltd, who neither support or oppose the application, state *"The ICB will be aware of the history of the applications in this locality and their outcomes."*
- 2.23 *We note that the applicant has previously provided notification of premises at 8 Kingpost Parade, London Road, Guildford, GU1 1YP which was circulated to interested parties on 29th October 2024.*
- 2.24 *We ask the committee to ensure this latest application fully meets the requirements of Regulation 18, as the applicant does not appear to have identified any specific patient groups that may wish to access a pharmacy at the proposed location that currently have expressed difficulty in accessing services in the area".*
- 2.25 Itasill Ltd, who oppose the application state *"We note that some of the information provided by Kico Ltd is incorrect. The application states "The Lloyds Pharmacy in Sainsbury is due for closure". In fact, it closed in April 2023 — more than two years ago.*
- 2.26 *The applicant has also stated that "The Lloyds Pharmacy in Sainsburys was open with no plans for closure at the time of the PNA being written." It must be noted that the relevant PNA at the time of submitting the application was the new Surrey 2025 PNA – adopted in April 2025. Needless to say, the pharmacy was not open at the time of the PNA being written.*
- 2.27 *We therefore submit that there is no unforeseen benefit regarding the closure outlined in this application. Rather, all circumstances were well understood at the time the PNA was published and no gap was identified. We note that all elements of access and reasonable choice, including travel time, weekend opening and services, were considered. Still, no gaps were identified. We also note that no area in Guildford was identified as having any potential gap (Surrey PNA 2025, pg. 155-6).*
- 2.28 *It is, therefore, of little relevance that an application was granted under the previous PNA since the new PNA has now taken into account all the matters on which that application was founded".*
- 2.29 Community Pharmacy Surrey & Sussex LPC, who neither support or oppose the application, state *"We note that this unforeseen benefit application is based on the granting of a previous application where the applicant has been unable to secure pharmacy premises and is due to expire.*
- 2.30 *As such we have not significant comments to make at this time".*
- 2.31 Surrey Health and Wellbeing Board support the application stating *"Following a review of the Surrey Pharmaceutical Needs Assessment (PNA) published in May 2025, this letter sets out the Surrey HWBs view on the application. In particular, consideration was given to:*
- 2.31.1 *The location of proposed premises, in particular, proximity to key neighbourhoods as described in the Surrey Health and Well-being strategy;*

2.31.2 *The proposed opening hours;*

2.31.3 *The pharmaceutical services to be provided at these premises.*

2.32 *The pharmaceutical needs assessment for the area of the Surrey HWB, published May 2025, identified no gaps in pharmacy services in Surrey and concluded that the number, distribution and choice of pharmaceutical services met the current needs of Surrey's population, therefore this application is not addressing any gaps identified.*

2.33 *Surrey HWB would like to note the following points in relation to this new application at 220 London Road, Guildford GU4 7JS by Kico Ltd.*

2.33.1 *The proposed pharmacy is within one miles of the HWB key neighbourhood Bellfields and Slyfield in Guildford.*

2.34 *Key neighbourhoods were identified as priority areas which experience the poorest outcomes in Surrey in Surrey's refreshed Health and Well-being Strategy (2022).*

2.35 *The proposed pharmacy states that it is accredited and intends to provide the pharmacy first service (among other advanced services). The pharmacy first service supports our drive in Surrey to deliver change to those patients who need it most by looking beyond traditional means of providing health care (as described in the Fuller Stocktake report (May 2022)).*

2.36 *We welcome the plans to introduce the hypertension case finding service and the smoking cessation service which aim to prevent cardiovascular disease in local residents.*

2.37 *We welcome the plans to introduce the COVID-19 vaccination service and flu vaccination service which aim to prevent communicable disease in local residents.*

2.38 *We welcome the plans to introduce the pharmacy contraception service which provides greater choice for accessing contraception to local residents".*

2.39 The Committee noted the Applicant did not provide a response to the consultation responses.

2.40 **Summary of application 2 – ...**

2.41 **Further Consideration by the Committee**

2.42 The Committee also considered:

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

2.42.2 Department of Health guidelines on market entry by means of pharmaceutical needs assessment – Chapter 8 – Unforeseen Benefits.

2.42.3 The Report which included:

- 2.42.3.1 maps of the location,
 - 2.42.3.2 opening times and distances to surrounding pharmacies and GP Practices,
 - 2.42.3.3 a virtual site visit report,
 - 2.42.3.4 Surrey PNA 2025-2028 extracts and a link to the full PNA,
 - 2.42.3.5 public transport information,
 - 2.42.3.6 prescription information,
 - 2.42.3.7 previous appeal decision report (SHA/26157)
 - 2.42.3.8 the relevant Regulations (18, 19, 31, 65 and 66).
- 2.43 In relation to the applications, the Committee noted the Applicants Fitness to Practise Status:
- 2.43.1 Applicant 1: Kico Ltd: The Committee noted that the applicant's fitness information had previously been considered and approved.
 - 2.43.2 Applicant 2: ...
- 2.44 The Committee considered information from a virtual site visit of the Burpham, Guildford area that had been undertaken by a Pharmacy Commissioning Hub representative who was present at the meeting.
- 2.44.1 Burpham is a suburb of Guildford, a town in Surrey, England with an historic village centre. It includes George Abbot School, a parade of small shops, and the nationally recognised Sutherland Memorial Park.
 - 2.44.2 Burpham is bordered by the neighbourhoods of Merrow to the south-east and Jacobs Well to the north-west. Burpham is separated from Merrow by the New Guildford Line, the railway line between Guildford and Effingham Junction.
- 2.45 The Committee noted the decision made by NHS Resolution dated 25 April 204 [sic] (SHA-26157) to approve an application offering to provide unforeseen benefits for the Burpham, Guildford area.
- 2.46 **Regulation 31 – Refusal: same or adjacent premises**
- 2.47 The Committee first considered Regulation 31(2)(a)(i) and was of the view that Regulation 31(2)(a)(i) is not met as there is currently no person on the pharmaceutical list at the premises to which the application relates.
- 2.48 The Committee went on to consider paragraph (a)(ii) of Regulation 31(2); whether there is a person on the pharmaceutical list providing pharmaceutical services from adjacent premises.
- 2.49 The Committee was satisfied that there is no pharmacy providing pharmaceutical services within the area of the best estimate address/proposed

premises of any the applications. The applications did not therefore need to be refused in accordance with Regulation 31.

2.50 Regulations 40,41 and 44

2.51 The Committee noted that the best estimate address premises location for both the applications was not in a controlled locality, and therefore, Part 7 of the Regulations (in particular Regulations 40, 41 and 44) did not have to be considered.

2.52 Regulation 50

2.53 There are 8 dispensing patients living within 1.6km radius of the proposed best estimate address of application 1, Kico Ltd and

2.54 ...

2.55 Therefore, the Committee noted that if either of the applications were approved it would be required to consider the discontinuation of arrangements for the provision of pharmaceutical services by doctors to the affected patients under Regulation 50.

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

2.57 Applicant 1 - Kico Ltd: CAS N0: 370804-G9R8Q8 – 8 Dispensing patients

2.58 Shere Surgery and Dispensary and Witley Surgery or a period of one month – (8 patients)

2.59 Applicant 2 ...

2.60 Oral Hearing

2.61 Having reviewed the content of each application and the consultation responses for each one, the Committee was satisfied it was not necessary to hold an oral hearing to determine the applications.

2.62 Regulation 18 – Unforeseen benefits application

2.63 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) the NHSCB 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 Schedule1,

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

- 2.64 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 HWB.
- 2.65 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.
- 2.66 The Committee had regard to the Surrey PNA 2025-2028 (issue date 1 April 2025)
- 2.67 The Committee noted that the Health and Wellbeing Board ('HWB') had commissioned an assessment of the current capacity of pharmacies in the areas of known housing growth within Surrey and had reached the conclusion that *"The PNA makes the following recommendations: Pharmacies should be further supported to offer those services identified in the PNA as non-essential commissioned services, for example, Pharmacy First, to further strengthen the community-led approach to service delivery. Key neighbourhoods should be a priority in the planning and delivery of advanced, enhanced and locally commissioned services by both commissioners and pharmacies". [Page11, Surrey PNA, 2025-28]*
- 2.68 The Committee also noted that, having considered the entire Surrey locality including the area of Burpham, Guildford area, the HWB had reached the conclusion that *"The conclusion of this PNA is that there are no gaps in current or future provision of pharmaceutical services in Surrey". [[Page11, Surrey PNA, 2025-28]*
- 2.69 The Committee noted that the HWB had considered access (distance, travelling times and opening hours') to assess how current service provisions will meet the needs of the population within the lifetime of the PNA.
- 2.70 The Committee noted that the improvements or better access that the Applicants were claiming would be secured by their application were not included in the relevant pharmaceutical needs' assessment in accordance with paragraph 4 of Schedule 1.
- 2.71 The Committee was satisfied that the improvements or better access which the applicants were proposing to secure were not identified in the PNA, and an 'unforeseen benefits' application is the correct type of application.

- 2.72 In order to be satisfied in accordance with Regulation 18(1), the Committee went on to consider those matters set out at Regulation 18(2).
- 2.73 **Regulation 18(2)(a)(i)** - *whether or not granting the application would cause significant detriment to the proper planning in respect of the provision of pharmaceutical services.*
- 2.74 The Committee was not aware of any plans that would be affected and concluded that granting the application would not have an adverse effect on any future plans. None of the submissions included any comment or evidence in regard to this matter. Therefore, the Committee concluded that granting an application would not cause significant detriment in this regard.
- 2.75 **Regulation 18(2)(a)(ii)** - *whether or not granting the application would cause significant detriment to the arrangements in place for the provision of pharmaceutical services.*
- 2.76 None of the submissions included any evidence on this question and the Committee found no proof to support the suggestion that if an application was to be granted, it would cause significant detriment to the arrangements in place for pharmaceutical services in the area.
- 2.77 The Committee did not find any significant detriment to proper planning or to the arrangements in place for the provision of pharmaceutical services and therefore was not obliged to refuse an application under Regulation 18(2)(a).
- 2.78 **Regulation 18(2)(b)(i)** – *whether notwithstanding that the improvements or better access were not included in the relevant PNA, it is satisfied that, having regard in particular to the desirability of – there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB – granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.*
- 2.79 In order to determine whether patients in the area already had a reasonable choice, the Committee considered access (distance, travelling times and opening hours) as an important factor in determining the extent to which the current pharmaceutical service provision meets the needs of the population in the Burpham, Guildford area.
- 2.80 The Committee had regard to the current service provision in the immediate area of Burpham, Guildford and noted that there are 8 pharmacies within 2-mile radius of the best estimate addresses. This includes a mix of independent and multiple pharmacies.
- 2.81 The opening hours of the 8 pharmacies range from 08:30 to 19:00 Monday to Friday, from 09:00 to 18:00 on Saturdays and from 10:00-17:00 Sundays.
- 2.82 The Committee noted that Applicant 1 had offered to open from 09:00 to 13:00: 13:30-17:30 on Monday to Friday, 09:00 to 13:00 on Saturdays and closed on Sundays. Applicant 2 There are already pharmacies in the area providing the same weekday hours and longer hours on Saturdays as indicated above.

- 2.83 The Committee considered the location and distance of the pharmacies in the Burpham, Guildford area from the proposed locations and noted that a new pharmacy, Merrow Park Pharmacy, Unit 4, Kingfisher Court, Guildford GU4 7EW had opened on the 15 October 2025 at a distance of approximately 1 mile from the proposed locations.
- 2.84 The Committee noted the details around the nature of the journey to the nearest pharmacies, road layouts and parking.
- 2.85 The Committee noted that there is a Bus route that has a bus stop at the proposed best estimate address and then goes into Guildford town centre where two pharmacies are located. The Bus runs every 20-30 minutes from 05.43 to 23.03 Monday to Friday, every 20-30 minutes from 06.13 to 23.03 on Saturdays. On Sundays it runs hourly between 07.28 to 09.51 & 18.51 to 23.03, it runs every half an hour between 09.51 to 18.51.
- 2.86 The Committee had regard to the previous Appeal decision (SHA/26157) which determined *“There is not already a reasonable choice with regard to obtaining pharmaceutical services”* and granted the appeal from Kiko Ltd for a pharmacy with a best estimate address of within 150m of 220 London Road, Burpham, Guildford GU4.
- 2.87 The Committee noted that this Pharmacy had not opened and the application had lapsed on 30 January 2026.
- 2.88 The Committee noted that since the appeal decision, Merrow Park Pharmacy, at Unit 4 Kingfisher Court, Guildford GU4 7EW had opened offering additional choice with regard to obtaining pharmaceutical services in the area of Guildford.
- 2.89 The Committee noted that there had been no concerns or complaints raised about the provision of pharmacy services in the area since the new pharmacy opened.
- 2.90 The Committee further noted that the appeal decision (dated 26/04/2024) was issued before the 2025 PNA was published. Section 7.8 Concluding remarks and recommendations of the PNA states:

“gap analysis was conducted to assess whether the current provision meets the current and future needs of Surrey residents with a view to identifying gaps in provision. The analysis took a series of systematic steps, considering all the information available including the views of subject matter experts, providers and Surrey residents. The analysis explored provision of necessary services in hours and out of hours and specifically considered the needs of key neighbourhoods. It also explored the provision of advanced, enhanced and locally commissioned services. No gaps were identified.

The conclusion of this PNA is that there are no gaps in necessary services in Surrey. The number, distribution and choice of pharmaceutical services meets the current needs of Surrey’s population and future needs foreseen within the lifetime of this PNA”.

- 2.91 The Committee noted that the updated assessment of need i.e. the 2025 PNA, had been undertaken after the appeal determination and that no gaps has [sic] been identified.
- 2.92 Having considered the factors above, the Committee was satisfied that residents of Burpham Guildford already have reasonable choice with regard to obtaining pharmaceutical services.
- 2.93 **Regulation 18(2)(b)(ii)** - *whether notwithstanding that the improvements or better access were not included in the relevant PNA, it is satisfied that, having regard in particular to the desirability of – 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 - granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.*
- 2.94 The Committee reminded itself that it was required to address itself to people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access. The Committee was also aware of its duties under the Equality Act 2010 which include considering the elimination of discrimination and advancement of equality between patients who share protected characteristics and those within such characteristics.
- 2.95 The Committee felt that none of the applications had addressed the matter of patients with protected characteristics in any detail or suggested any group has difficult accessing services.
- 2.96 The Committee concluded that based on the information provided, granting an application would not confer significant benefits on people sharing a protected characteristic.
- 2.97 **Regulation 18(2)(b)(iii)** - *whether notwithstanding that the improvements or better access were not included in the relevant PNA, it is satisfied that, having regard in particular to the desirability of – there being innovative approaches taken with regard to the delivery of pharmaceutical services - granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.*
- 2.98 The applicants have not offered any information or evidence to demonstrate that their application brings any innovative approaches in the delivery of pharmaceutical services. Therefore, the Committee concluded that there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services.
- 2.99 In the absence of any suggestion by the applicants that there would be such benefits, the Committee was satisfied that granting the application would not lead to any significant benefits by virtue of innovation.
- 2.100 **Other Considerations**
- 2.101 **Regulation 18(2)(c)-(f)** - The Committee had previously determined that there was no need to defer the application under Regulation 18(2)(c) to (f).

2.102 Overall Decision

- 2.103 The Committee concluded that it was not required to refuse the applications under the provisions of Regulation 31.
- 2.104 The Committee had 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 was not satisfied that it would not.
- 2.105 In considering whether the granting of either application would confer significant benefits, the Committee determined that –
- 2.105.1 There is already reasonable choice with regard to obtaining pharmaceutical services:
 - 2.105.2 There is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services: and
 - 2.105.3 There is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services.
- 2.106 Having taken these matters into account, the Committee is not satisfied that granting either application would confer significant benefits as outlined above that would secure improvements or better access to pharmaceutical services.”

3 The Appeal

In a letter dated 24 March 2026 addressed to NHS Resolution, the Applicant appealed against the Commissioner’s decision. The grounds of appeal are:

3.1 “Introduction

- 3.2 Kico Ltd (**the Applicant**) hereby appeals against the decision of the Pharmaceutical Services Regulations Committee acting on behalf of Surrey Heartlands ICB (**the Committee**), dated 23 February 2026, to refuse its application for inclusion in the pharmaceutical list under Regulation 18 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (**the Regulations**). The proposed pharmacy would be located within 150m of 220 London Road, Burpham, Guildford, GU4 7JS.
- 3.3 The Applicant respectfully submits that the Committee erred in its determination and that granting this application would secure significant unforeseen benefits for the residents of Burpham and the surrounding area, in the form of improvements and better access to pharmaceutical services that were not included in the Surrey Pharmaceutical Needs Assessment 2025–2028 (**the PNA**).
- 3.4 The Applicant’s application was considered by the Committee alongside a competing application from Indya Health Ltd under Regulation 19. Both applications were refused. The Applicant respectfully requests that the appeal panel consider this application on its own individual merits. The Applicant’s application is materially distinguishable from that of Indya Health Ltd: Kico Ltd

has the benefit of a prior successful appeal determination (SHA/26157), has now secured suitable premises, is accredited to provide all proposed services, and has the support of the Surrey Health and Wellbeing Board. None of the weaknesses identified in the competing application — the absence of secured premises, the listing of two alternative locations, and the lack of engagement with the current PNA — apply to this Applicant.

3.5 **Background and Context**

3.6 **The Closure of Lloyds Pharmacy in Burpham**

3.7 The Lloyds Pharmacy located within Sainsbury's, London Road, Burpham, GU4 7JU was the only pharmacy serving the Burpham community. It closed in April 2023. Since that date, Burpham has been left without any pharmacy provision within the immediate locality. This closure removed the only local pharmaceutical service from a defined residential community of approximately 5,839 residents (2021 Census).

3.8 **Previous Successful Appeal**

3.9 On 25 April 2024, NHS Resolution (reference SHA/26157) determined an appeal in favour of Kico Ltd for a pharmacy at the same best estimate location. The appeal panel concluded that *"there is not already a reasonable choice with regard to obtaining pharmaceutical services"* in the Burpham area. That decision recognised the genuine need for a pharmacy to serve this community following the Lloyds closure.

3.10 Kico Ltd actively pursued premises following the grant of the appeal and had reached the final stages of negotiations with a landlord for suitable premises. Unfortunately, the landlord subsequently withdrew his property from the market for commercial reasons entirely unrelated to Kico Ltd's proposed pharmacy. This was a matter wholly outside the Applicant's control. Despite continued efforts to identify alternative premises, the regulatory timeframe expired and the application lapsed on 30 January 2026.

3.11 Critically, the lapse of the previous application does not diminish the need that was identified by the appeal panel. The lapse was a consequence of the commercial property market in Burpham, not an indication that the need for a pharmacy has been met. Burpham still has no pharmacy, and the residents continue to face the same access difficulties that led NHS Resolution to grant the appeal in 2024. The Applicant remains fully committed to opening a pharmacy in this area and continues to actively pursue suitable premises.

3.12 The Applicant respectfully submits that the appeal panel should give significant weight to its own prior determination in SHA/26157. That determination was made after a thorough consideration of the evidence and concluded that reasonable choice did not exist. The Committee's departure from that finding was not adequately supported by the evidence — the only material change being the opening of a single pharmacy on the opposite side of the railway line in Merrow, which does not resolve the access barriers identified by the appeal panel.

3.13 **The Current Application**

3.14 This fresh application was submitted under Regulation 18, seeking to address the same unmet need. The Applicant proposes core opening hours of 44 hours per week (Monday to Friday 09:00–13:00 and 13:30–17:30; Saturday 09:00–13:00), offering essential, enhanced, and advanced services including the New Medicine Service, Pharmacy First, hypertension case-finding, smoking cessation, flu and COVID-19 vaccinations, and the contraception service. The Applicant is accredited to provide all proposed services.

3.15 **Readiness to Commence Services**

3.16 Since the submission of this application, Kico Ltd has now secured suitable premises in the Burpham area and is in a position to move forward with opening a pharmacy without further delay. The Applicant is therefore able to deliver the unforeseen benefits identified in this application promptly upon the grant of the appeal.

3.17 This stands in contrast to the competing application from Indya Health Ltd, which was considered alongside the Applicant's application and was also refused. Indya Health Ltd had not identified or secured any specific premises, listing two possible locations (204–220 London Road and 1–8 Kingpost Parade) neither of which was in their possession. The Applicant's readiness to commence services ensures that granting this appeal would lead to the prompt realisation of the unforeseen benefits for Burpham residents, rather than a further period of delay while premises are sought.

3.18 **Grounds of Appeal**

3.19 **The Benefits Offered Are Properly Characterised as “Unforeseen”**

3.20 During the consultation process, Itasill Ltd argued that the closure of Lloyds Pharmacy could not give rise to “unforeseen benefits” because the closure occurred in April 2023, some two years before the 2025 PNA was published, and was therefore a known circumstance. The Applicant anticipates that this argument may be advanced before the appeal panel and addresses it directly.

3.21 This argument confuses two distinct concepts. The question under Regulation 18(1)(b) is not whether the *circumstances* giving rise to the application were foreseen, but whether the *improvements or better access* that would be secured by granting the application were included in the PNA in accordance with paragraph 4 of Schedule 1. The Committee itself correctly identified at paragraph [3.73] that the improvements proposed by the Applicant were *not* identified in the PNA, and confirmed that an unforeseen benefits application was the correct type of application. This finding is not in dispute.

3.22 The fact that the PNA was aware of the Lloyds closure and nonetheless concluded that no gap existed does not mean that the *benefits of restoring local pharmacy access to Burpham* were foreseen by the PNA. On the contrary, the PNA did not foresee or provide for any such improvement. The Regulations draw a deliberate distinction between the PNA's assessment of need (which may or may not identify gaps) and the possibility that unforeseen benefits may nonetheless arise. If the mere fact that a PNA had considered a locality and found no gap were sufficient to preclude any unforeseen benefits application, Regulation 18 would serve no useful purpose. That cannot have been the legislative intention.

- 3.23 It should also be borne in mind that the PNA is a strategic document assessing need at a particular point in time across an entire county. It was never intended to be the final word on every localised question of pharmaceutical access. The unforeseen benefits route exists to address situations where, notwithstanding the PNA's conclusions, granting an application would confer benefits that the PNA did not anticipate. That is the situation here: the PNA concluded there were no gaps in Surrey, yet a community of nearly 6,000 people has been without a local pharmacy for over three years.
- 3.24 **Preliminary Observation: Factual Correction**
- 3.25 The Applicant acknowledges that its application form contained an imprecise reference to the Lloyds Pharmacy as being "due for closure" when in fact it closed in April 2023. This was a drafting inaccuracy in the application form. The Applicant wishes to make clear that it is fully aware the pharmacy closed in April 2023 and has been closed for over three years. This factual error does not affect the substance of the application in any respect: the Applicant's case rests on the *continuing absence* of a pharmacy in Burpham, not on an impending closure. The need is the same, and if anything, is more acute now than it would have been at the point of closure, given the length of time the community has been without provision.
- 3.26 **The Committee Gave Insufficient Weight to the Physical Barriers Facing Burpham Residents**
- 3.27 The Committee's finding at paragraph [3.94] that residents of Burpham "already have reasonable choice with regard to obtaining pharmaceutical services" fails to give adequate weight to the specific geographical characteristics of Burpham that make access to surrounding pharmacies genuinely difficult for significant sections of the population.
- 3.28 Burpham is a distinct residential suburb, separated from the neighbouring area of Merrow by the New Guildford Line — the railway between Guildford and Effingham Junction. This is not a minor feature of the local geography; it is a real physical barrier that residents must cross to reach the nearest pharmacy. The Committee acknowledged this at paragraph [3.44] of its report, but then gave the point no meaningful weight when it came to assessing reasonable choice.
- 3.29 At paragraph [3.85], the Committee noted that Merrow Park Pharmacy had opened on 15 October 2025, approximately 1 mile from the proposed location. But this pharmacy sits on the other side of the railway line. For an elderly person with limited mobility, a parent with a pushchair, or a disabled resident, reaching it is not simply a matter of walking a mile along a flat road. The route requires crossing or navigating around a railway line — a journey that is qualitatively different from walking to a pharmacy within one's own community.
- 3.30 The NHS Resolution appeal panel in SHA/26157 specifically considered the geography of Burpham and concluded that reasonable choice did not exist. The opening of a single pharmacy on the other side of the railway barrier in Merrow does not fundamentally alter the access difficulties that the appeal panel identified. Burpham residents still face the same physical barriers; they simply have one additional distant option that shares the same accessibility

constraints as the pharmacies that were already available at the time of the appeal.

3.31 The Committee Placed Excessive Reliance on the PNA's County-Wide Conclusion

3.32 The Committee placed considerable weight on the PNA's conclusion that "there are no gaps in current or future provision of pharmaceutical services in Surrey." But this is a county-wide conclusion. Surrey is a large and diverse county. A broad finding of no gaps across the whole of Surrey does not rule out the possibility of localised unmet need in a specific community such as Burpham, particularly where the PNA's analysis may not have drilled down to the level of individual suburbs.

3.33 The Regulations provide for unforeseen benefits applications for good reason: the PNA process cannot anticipate every situation. If the Committee's approach were correct — that a PNA finding of no gaps is effectively determinative — then no unforeseen benefits application could ever succeed in any area where the PNA has not identified a gap. That would make the Regulation 18 route meaningless, which is the very premise on which such applications are founded.

3.34 It is worth pausing on the fact that the Surrey Health and Wellbeing Board — the very body that commissioned the PNA — **supported** this application. The HWB noted the proximity of the proposed pharmacy to the key neighbourhood of Bellfields and Slyfield, identified as a priority area with the poorest outcomes in Surrey under the Health and Well-being Strategy (2022). It welcomed the proposed Pharmacy First, hypertension case-finding, smoking cessation, and vaccination services. When the body responsible for the PNA supports an application notwithstanding the PNA's overall conclusion, that ought to give the Committee pause. It did not appear to do so.

3.35 The Committee Failed to Properly Account for the Changed Circumstances Since the PNA

3.36 At paragraph [3.90], the Committee observed that the appeal decision (SHA/26157) was issued before the 2025 PNA was published, and appeared to treat the PNA as having overtaken the appeal panel's findings. But the Committee did not properly examine what had actually changed between the appeal determination and the PNA's publication that would justify reaching a different conclusion on reasonable choice in Burpham.

3.37 The single material change identified by the Committee was the opening of Merrow Park Pharmacy in October 2025. As addressed in Ground [4.26] above, this pharmacy is on the opposite side of the railway line and does not address the core access issue identified by the appeal panel. The PNA's county-wide finding of no gaps does not demonstrate that the PNA specifically considered and rejected the localised need in Burpham that the appeal panel found to exist. In fact, the representations from Itasill Ltd noted that the PNA analysis found no gap in any area of Guildford (at pages 155–156 of the PNA), which suggests the analysis was conducted at a town level rather than at the suburb level necessary to capture Burpham's specific circumstances.

3.38 Reasonable Choice Does Not Currently Exist for Burpham Residents

- 3.39 The Committee found that there are 8 pharmacies within a 2-mile radius. However, the question is not simply how many pharmacies exist within a given radius, but whether residents of the relevant area have *reasonable* choice, taking into account the actual accessibility of those pharmacies.
- 3.40 For the residents of Burpham specifically:
- 3.40.1 There is no pharmacy within Burpham itself. The community has been without any local pharmacy provision since April 2023 — a period now exceeding three years.
 - 3.40.2 The nearest pharmacy (Marrow Park Pharmacy) is approximately 1 mile away on the opposite side of the railway line.
 - 3.40.3 The Community Pharmacy Surrey & Sussex LPC noted that the NHS pharmacy finder lists only 1 community pharmacy within a 1-mile radius of the proposed site.
 - 3.40.4 To access pharmacies in Guildford town centre, residents must travel by bus (every 20–30 minutes) or by car. While the Committee noted the bus service, public transport is not a reasonable substitute for local walk-in access for many residents, particularly the elderly or those with young children who may need pharmaceutical services urgently or frequently.
 - 3.40.5 The other pharmacies within the 2-mile radius require travelling through or around the railway barrier, or travelling into Guildford town centre, neither of which represents convenient local access for a defined community.
- 3.41 At paragraph [3.82], the Committee observed that existing pharmacies in the wider area already provide the same or longer opening hours as those proposed by the Applicant, and appeared to treat this as a reason to find that the application added nothing of value. With respect, this reasoning misses the point. The relevant comparison is not between the Applicant's proposed 44 hours and the hours offered by pharmacies elsewhere in Guildford. The relevant comparison is between 44 hours of pharmaceutical provision *within Burpham* and the *zero hours* currently available within Burpham. A community of nearly 6,000 people has no local pharmacy at all. To put it plainly: any pharmacy opening in Burpham, at any hours, is an improvement over nothing. The Committee's focus on comparative hours with distant pharmacies missed this point entirely.
- 3.42 Burpham is a suburb with its own parade of shops, a primary school, a social club, churches, nursing homes, and other local amenities. It functions as a self-contained community. The residents of Burpham had a pharmacy within their community until 2023 and have been left without one since. The fact that pharmacies exist elsewhere in Guildford does not mean that Burpham residents have reasonable choice — it means they must leave their community to access pharmaceutical services, which is particularly burdensome for vulnerable groups.
- 3.43 At paragraph [3.89], the Committee placed weight on the fact that no concerns or complaints had been raised about pharmacy services since Marrow Park

Pharmacy opened. The Applicant submits that the absence of formal complaints is a poor indicator of whether pharmaceutical needs are being met. Those most affected by the absence of a local pharmacy — the elderly, those with disabilities, and parents with young children — are the least likely to navigate NHS complaints procedures. The absence of complaints more probably reflects what is sometimes described as *unvoiced need*: people adapt to inadequate provision by making do, collecting prescriptions less frequently, relying on family members to travel on their behalf, or using delivery services where available, rather than lodging formal complaints. Furthermore, Merrow Park Pharmacy had been open for only approximately four months at the time of the Committee's decision — an insufficient period from which to draw any meaningful conclusion about whether the needs of Burpham residents are being adequately served by a pharmacy on the other side of the railway line.

3.44 The Committee's Treatment of Protected Characteristics Was Inadequate

3.45 At paragraph [3.95], the Committee stated that “none of the applications had addressed the matter of patients with protected characteristics in any detail.” The Applicant accepts that its original application could have dealt with this more fully, and takes this opportunity to do so.

3.46 There are nursing homes and care facilities within Burpham. Their residents are, by definition, elderly and many have mobility impairments or chronic conditions requiring regular medication. Without a local pharmacy, these residents — or the staff caring for them — must make a journey of over a mile, crossing the railway line, simply to collect a prescription. The same applies to other elderly residents living independently in the community. This is not a theoretical concern; it is the daily reality for people whose protected characteristics of age and disability make travelling to distant pharmacies materially harder.

3.47 Parents with young children face a similar burden. Childhood illnesses arise without warning, and a parent needing to obtain medication urgently should not have to load children into a car or manage a buggy on public transport for what ought to be a short walk to a local pharmacy. The protected characteristic of pregnancy and maternity is directly engaged.

3.48 A pharmacy at the proposed location would provide walk-in access for these groups without the need to cross the railway line or rely on public transport, thereby removing a barrier that disproportionately affects those sharing protected characteristics.

3.49 The Application Would Confer Significant Benefits Not Foreseen by the PNA

3.50 Granting this application would secure the following unforeseen benefits:

3.50.1 **Restored local pharmaceutical access:** Burpham would regain walk-in pharmacy access for the first time since April 2023, eliminating the need for residents to cross the railway barrier or travel into Guildford town centre.

- 3.50.2 **Improved access for vulnerable groups:** Elderly residents, those with disabilities, and parents with young children would no longer face the disproportionate burden of travelling to distant pharmacies.
- 3.50.3 **Enhanced public health services:** The pharmacy would provide Pharmacy First, hypertension case-finding, smoking cessation, vaccination services, and contraception services in a location close to the HWB key neighbourhood of Bellfields and Slyfield, directly supporting the Surrey Health and Well-being Strategy's priorities.
- 3.50.4 **Increased choice:** The pharmacy would provide a genuine additional choice for Burpham residents who currently have no realistic local option.
- 3.50.5 **Comprehensive service provision:** The Applicant is accredited to provide a wide range of advanced and enhanced services, all of which were welcomed by the Health and Wellbeing Board in its consultation response.
- 3.51 These benefits were not foreseen by the PNA, which did not identify a gap in Burpham, and they represent genuine improvements in access for a defined community that has been without local pharmacy provision for over three years.
- 3.52 **The Application Advances National and Local Health Policy Objectives**
- 3.53 The HWB's consultation response drew particular attention to the Fuller Stocktake report (May 2022), which set out the NHS's vision for integrating primary care and moving healthcare closer to patients. Pharmacy First sits at the heart of this strategy. It was designed to take pressure off GP surgeries and emergency departments by enabling community pharmacies to manage common clinical conditions directly.
- 3.54 But this only works if patients can actually reach a community pharmacy. The residents of Burpham cannot walk to a Pharmacy First consultation, cannot pop in for a flu jab on the way to the shops, and cannot have their blood pressure checked while collecting a prescription — because there is no pharmacy to walk to. Instead they must travel to pharmacies in other parts of Guildford, or they simply do not access these services at all. In practice, refusing this application means the residents of Burpham will continue to be excluded from the benefits of a national health strategy that communities with local pharmacy access take for granted.
- 3.55 The weight of the HWB's support should not be underestimated. This was not a generic endorsement. The HWB specifically noted the proximity to the key neighbourhood of Bellfields and Slyfield — an area with some of the poorest health outcomes in Surrey — and individually welcomed the hypertension case-finding service, smoking cessation service, vaccination services, and contraception service. When the body responsible for assessing the health needs of Surrey's population gives this level of specific endorsement, it ought to carry real weight. The Committee did not adequately explain why it departed from the HWB's view.
- 3.56 **No Significant Detriment**

3.57 The Committee itself found at paragraphs [3.74] and [3.76-3.77] that granting the application would not cause significant detriment to proper planning or to the existing arrangements for pharmaceutical services. This finding is not challenged and supports the grant of the application.

3.58 **Conclusion**

3.59 For the reasons set out above, the Applicant respectfully requests that the appeal be allowed and the application be granted. In summary:

3.59.1 Burpham has been without any pharmacy since April 2023 — over three years. This is a defined residential community with approximately 5,839 residents, served by zero hours of local pharmaceutical provision.

3.59.2 NHS Resolution previously found (SHA/26157) that reasonable choice did not exist in Burpham. The opening of a single pharmacy on the other side of the railway line does not resolve the access barriers identified by the appeal panel.

3.59.3 The PNA's county-wide conclusion of no gaps does not preclude localised unmet need, and the unforeseen benefits route exists precisely for this purpose. To hold otherwise would render Regulation 18 otiose.

3.59.4 The Surrey Health and Wellbeing Board supported the application, specifically welcoming the proposed services and noting the proximity to a key neighbourhood with the poorest health outcomes in Surrey.

3.59.5 No significant detriment would arise from granting the application.

3.59.6 The Applicant has now secured suitable premises and is ready to commence services promptly, ensuring the benefits of this application would be realised without delay.

3.59.7 Granting the application would advance the objectives of the Fuller Stocktake report and national pharmacy strategy by delivering Pharmacy First and other clinical services into a community that currently has no access to them locally.

3.59.8 Granting the application would confer significant benefits on the residents of Burpham by restoring local pharmaceutical access and improving services for those with protected characteristics.

3.60 Kico Ltd is, the Applicant submits, uniquely placed to deliver on the promise of restored pharmaceutical services for Burpham. No other applicant combines a prior successful appeal, secured premises, full accreditation across all proposed services, and the express support of the Health and Wellbeing Board. The Applicant asks the appeal panel to allow this appeal and grant the application."

4 **Summary of Representations**

This is a summary of representations received on the appeal.

4.1 The Commissioner

4.1.1 “I refer to your letter dated 1st April 2026 regarding the appeal against the decision of the Commissioner relating to the above application.

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

4.1.3 We look forward to receiving your decision in due course.”

4.2 Community Pharmacy Surrey and Sussex

4.2.1 “Thank you for your letter dated 1st April 2026 and the accompanying enclosures notifying Surrey Local Pharmaceutical Committee of the above appeal.

4.2.2 This response is submitted having regard to the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (as amended), in particular the test for unforeseen benefits under the market entry provisions and the requirement for the decision maker to have regard to the relevant Pharmaceutical Needs Assessment (PNA).

4.2.3 **Surrey Pharmaceutical Needs Assessment (PNA) – April 2025**

4.2.4 The Surrey PNA (April 2025) concludes that there are no gaps in current or future provision of pharmaceutical services. This assessment explicitly considered:

4.2.4.1 the closure of the Lloyds pharmacy in Burpham

4.2.4.2 travel times for patients

4.2.4.3 planned housing developments

4.2.5 No current or future need for additional pharmaceutical services in this locality was identified.

4.2.6 In the absence of a demonstrated need, the applicant must therefore meet the unforeseen benefits test, which requires clear, robust and compelling evidence that granting the application would secure benefits that:

4.2.6.1 were not foreseen when the PNA was published, and

4.2.6.2 would significantly improve the provision of pharmaceutical services or access to them.

4.2.7 **Existing pharmaceutical provision**

4.2.8 Evidence from the NHS find a pharmacy directory indicates the nearest community pharmacy is approximately 1 mile from the proposed best-estimate site and 8 community pharmacies within a two-mile radius.

4.2.9 This level of provision demonstrates that:

4.2.9.1 there is good access, and

4.2.9.2 there is patient choice.

4.2.10 The applicant has not demonstrated that patients in this area are experiencing unmet need or service deficiencies that would amount to unforeseen benefits within the meaning of the Regulations.

4.2.11 **Unforeseen benefits**

4.2.12 The appeal documentation does not provide robust evidence of specific patient cohorts experiencing difficulty accessing services.

4.2.13 **Equality and protected characteristics**

4.2.14 No evidence has been presented to demonstrate that persons who share a protected characteristic (within the meaning of the Equality Act 2010) are unable to access existing pharmaceutical services.

4.2.15 **Innovation and service delivery**

4.2.16 The applicant has not proposed any innovative or differentiated model of pharmaceutical service delivery that would constitute an unforeseen benefit for the purposes of the Regulations.

4.2.17 We have no further significant comments at this time. We trust that this submission will assist NHS Resolution in determining the appeal.

4.2.18 We would be grateful to remain on the circulation list for all relevant correspondence and to attend any oral hearing should one be convened. Please notify us of the final decision in due course so that we may update the Committee.”

4.3 Healthcare Plus Consulting Ltd, on behalf of ITASILL Ltd

4.3.1 “Thank you for your letter dated 1st April 2026. We act for ITASILL Ltd (t/a Merrow Park Pharmacy) and have been instructed by our client to respond to the above appeal.

4.3.2 We agree with the Surrey Heartlands ICB’s decision to refuse the application. We endeavour to respond to each point in the order that it was raised by the Applicant, using the same headings.

4.3.3 **Preliminary matter**

4.3.4 Before responding directly to the Applicant we reiterate that Regulation 18 is a high bar and the burden of proof is on the Applicant to discharge the regulatory threshold of **significant** benefits. We note that aside from

suppositions, no evidence has been provided as to the purported issues with pharmaceutical access at the proposed site.

- 4.3.5 In contrast, our client who has recently opened, has received 25 google reviews at a 4.7/5-star rating; in fact, demonstrating strong access to pharmaceutical provision. The contents of these reviews can be seen further in Annex 1.

4.3.6 **Introduction**

- 4.3.7 The Applicant initially requests that NHS Resolution “*consider this application on its own individual merits*” but later suggest the Committee should “*give significant weight*” to their previous application which lapsed. We submit that the Applicant cannot have it both ways. The Committee will be aware that each application must be considered on its own merits – especially given the fact that the previous application was determined over one year ago at the time of writing. We also reiterate that this application was determined under the old PNA, and Merrow Park Pharmacy was not open at this time.

4.3.8 **Background and Context**

4.3.9 **The Closure of Lloyds Pharmacy in Burpham**

- 4.3.10 As mentioned by the Applicant, the Lloyds Pharmacy closed in April 2023, more than three years ago. In any case, we submit that residents are now accustomed to accessing alternative pharmaceutical services within the Surrey Health and Wellbeing Board and are unlikely to see any new pharmacy as a continuation of the closed Lloyds Pharmacy.

- 4.3.11 The Committee will be aware that our client’s pharmacy opened in October 2025, granted under Regulation 18. This is especially significant to the context of the application as pharmaceutical provision has increased in the local area - located c. 1 mile away from the Applicant’s proposed site. We also highlight that our client has been providing an excellent service to the community since its opening, reflected in its average 4.7/5 star Google Review rating (Annex 1).

- 4.3.12 We submit that this new pharmacy was not considered in the previous determination and that its opening has significantly affected the level of pharmacy provision in the area.

4.3.13 **Previous Successful Appeal**

- 4.3.14 As mentioned, the previous application (SHA/26157) was determined by NHS Resolution over one year ago. Regardless of the fact that each application must be determined on its own merits, we also disagree that any weight should be given the previous application since, as one can expect, there are many key differences a year on:

4.3.14.1 The previous application was determined with regard to the Surrey PNA 2022-2025.

4.3.14.2 The application by Itasill Ltd has been granted and the pharmacy is now open and providing pharmaceutical services. This grant was not considered in the previous decision.

4.3.14.3 No evidence of difficulty has been provided from users of pharmaceutical services.

4.3.15 We will address these points throughout this appeal letter.

4.3.16 **The Current Application**

4.3.17 With regard to the hours proposed by the Applicant, we submit that there is no evidence to support a finding that pharmaceutical services are not currently provided during these times.

4.3.18 We note that our client's pharmacy operates under 48 core opening hours, including Saturday provision 09:00-13:30 / 14:30-19:00 Monday-Friday, and 10:00-13:00 on Saturday. Our client also offers supplementary hours 13:30-14:30 Monday to Friday; and 09:00-10:00, 13:00-16:00 on Saturday.

4.3.19 The nearby Boots Pharmacy (GU1 2RE) also provides service provision from 09:00am-13:00pm / 14:00pm-18:00pm, Monday-Saturday according to NHS.UK.

4.3.20 We note that the Applicant proposes to open core hours of 09:00-13:00; 13:30-17:30. Monday to Friday, and 09:00-13:00 on Saturdays. They propose no additional supplementary hours.

4.3.21 We can clearly see that the Application offers no significant better access by way of opening hours.

4.3.22 With regard to the services, we submit that there is no evidence to support a finding that a specific pharmaceutical service is needed which is not currently offered by the existing pharmacies.

4.3.23 Our client also provides a free indiscriminate delivery service to all patients without any eligibility requirements. The service covers a wide range of areas such as Merrow, Burpham, Bushy and Boxton.

4.3.24 **Readiness to Commence Services**

4.3.25 Given that the Applicant previously failed to open a pharmacy at this location, we are doubtful that they will be able to secure premises on this occasion.

4.3.26 The Applicant earlier stated that Kico Ltd "*continues to actively pursue suitable premises*", but under this section, states they have "*secured suitable premises in the Burpham area*". This is confusing to say the least, and we submit such contradictory statements do not offer clarity for the Committee.

4.3.27 Furthermore, no information has been provided regarding where this property might be located. We are also unaware of any legally binding

agreements in place. We submit that the Applicant's references to proposed premises are unclear, and do not appear ready to commence services, thus no weight can be placed on this.

4.3.28 Grounds of Appeal

4.3.29 The Benefits Offered Are Properly Characterised as “Unforeseen”

4.3.30 The Applicant appears to accept that the closure of the Lloyds Pharmacy is no longer an unforeseen circumstance. Thus, it is unclear what ‘unforeseen benefit’ the Applicant intends to secure from the application.

4.3.31 The Applicant asserts that a *“community of nearly 6,000 people have been without a local pharmacy for over three years”*. We are doubtful that this community is without a pharmacy, given that our client's pharmacy is located c. 1 mile away from the proposed site, and there are eight pharmacies within 2 miles according to NHS.UK. If the Burpham community were facing significant difficulties, we would expect the Applicant to provide evidence of support for the new pharmacy – yet none has been provided.

4.3.32 Preliminary Observation: Factual Correction

4.3.33 The Applicant states that their *“case rests on the continuing absence of a pharmacy in Burpham”*. In other words, the application is based on a closure which occurred three years ago.

4.3.34 The Applicant describes the need for a new pharmacy as *“more acute now”* given the length of time the community has been without provision. We submit that this is an unsubstantiated statement, and in fact indicates quite the opposite. Residents are likely to have adjusted to the closure and be accustomed to accessing pharmaceutical services within the Surrey HWB, such as our client's pharmacy.

4.3.35 We also reiterate that the local population are affluent and able to travel to access services within their day to day lives.

4.3.36 The Committee Gave Insufficient Weight to the Physical Barriers Facing Burpham Residents

4.3.37 The Applicant describes the railway line as a *“real physical barrier”*, however, they lack real evidence to support this statement. We note that Burpham is not segregated from the rest of Guildford, with links between Burpham and Merrow being well established.

4.3.38 The statistics of the Burpham Ward provided in our client's previous correspondence are also undisputed by the Applicant. We reiterate these below:

	Burpham Ward	Guildford Authority	Local	England
1 or more cars/vans in household	89.8%	86.1%		76.5%
Not disabled under the Equality Act 2010	88.1%	86.4%		82.7%
Very Good / Good / Fair health	97.7%	96.8%		94.9%
Aged 4 or under	4.7%	4.7%		5.4%
Aged 65 or above	15.8%	17.6%		18.3%
Living in social rented accommodation	3.6%	12.7%		17.1%

4.3.39 We can see that residents have very good access to a car, very good mobility, very good health, and are a relatively young population. Those living in social rented accommodation is only circa one fifth of the average levels in England; corroborating the affluence of the area.

4.3.40 When examining the three LSOAs that comprise Burpham in relation to car ownership:

LSOAs	Access to 1 or more cars
Guildford 008B	92.2%
Guildford 008A	91.9%
Guildford 011A	86.6%

4.3.41 It is clear that car ownership levels are exceptionally high. When considering that access to 1 or more cars nationally averages 76.5%, and the Guildford Local Authority averages 86.2%, it is evident that the local population are highly mobile and able to access pharmaceutical services by car. It is therefore unlikely that these residents will face the access difficulties asserted by the Applicant.

4.3.42 For the small proportion of residents that do not have access to a car, we reiterate that the number 6 Stagecoach South bus service runs every 20 minutes from the Burpham Shops bus stop to the Kingfisher Drive Shops bus stop – directly outside our client's pharmacy (Annex 2). The journey itself is only 7-minutes, with fares beginning from £5 (DayRider ticket). We do not believe such fares will present a barrier to access given the affluence of the Burpham area. Further, people aged over 60, or with a qualifying disability that is long-term or expected to

last at least 12 months, are eligible for a concessionary or disability bus pass.

4.3.43 We also reiterate that our client provides an indiscriminate home delivery service to those who wish to utilise this. Distance Selling Pharmacies, such as Pharmacy 2 U, also provide good access to patients who find difficulty in accessing pharmacies in person with delivery straight to door.

4.3.44 Residents are also unlikely to face any cost barriers at all given that the Burpham community are highly affluent, with the entire area sitting within the 10th and 9th deciles – the most *least* deprived areas in England (2025 Index of Multiple Deprivation).

4.3.45 *Figure 1: Image depicting affluence of Burpham and surrounding area per 2025 Index of Multiple Deprivation. All of Burpham is blue indicating very low deprivation/ high affluence. [Image provided]*

4.3.46 **The Committee Placed Excessive Reliance on the PNA's County-Wide Conclusion**

4.3.47 The Applicant appears to dispute the PNA's conclusion that there are no gaps within Surrey. The Committee will be aware that it is not for any body to question the reasonableness and legality of the PNA, rather for decisions to be made in line with the conclusions of the PNA. The 2025 PNA considered the closure of the Lloyds Pharmacy in Burpham and did not identify any gaps in provision.

4.3.48 We also note that the overarching assessment of Regulation 18 is to determine an application in respect of the "*area of the relevant HWB*".

4.3.49 The Applicant notes that the Surrey HWB previously supported this application, but it has not been shown that they currently support the present application. Their previous letter only reiterates the determination of the PNA and states they support certain services without addressing the crucial question of whether they support additional essential services.

4.3.50 We infer that the lack of support for this application stems from the opening of Merrow Park Pharmacy and the good access residents now have to pharmaceutical provision.

4.3.51 **The Committee Failed to Properly Account for the Changed Circumstances Since the PNA**

4.3.52 The Applicant accepts that one of the changes has been the opening of our client's pharmacy. We submit that this change is significant, ultimately increasing access to pharmaceutical services within the local area and, more broadly, within the Surrey HWB.

4.3.53 **Reasonable Choice Does Not Currently Exist for Burpham Residents**

- 4.3.54 The fact that there are eight pharmacies operated by independent contractors and large chains within a 2-mile radius shows that there is reasonable choice for residents living in Burpham.
- 4.3.55 We reiterate that the relevant question is whether a gap exists **today**.
- 4.3.56 The Applicant states that residents must travel by bus or by car. In light of high car ownership levels and a regular bus service, we submit that these journeys would not present any difficulties for the Burpham community. We also note that a number of patients choose to walk to our client's pharmacy from Burpham, which is unsurprising given the strong mobility levels that can be seen in census data.
- 4.3.57 We dispute the Applicant's assertion that Burpham "*functions as a self-contained community*". We note that the amenities listed by the Applicant are not exhaustive, and are typical of a small community.
- 4.3.58 While the Applicant asserts that residents "*must leave their community to access pharmaceutical services*", we note that they also currently do so when accessing GP services. The nearest GP surgery is Merrow Park Surgery, which is adjacent to our client's pharmacy. Thus, it is highly likely that any patient accessing GP services will access pharmaceutical services at our client's pharmacy given its close proximity to the surgery.
- 4.3.59 When looking at dispensing data from Merrow Park Surgery, we highlight that patients who currently access this surgery also access up to 90 different pharmaceutical contractors. This represents a clear choice of pharmaceutical provider.
- 4.3.60 Again, the Applicant's assertion that there may be an "*unvoiced need*" is entirely unsubstantiated. Perhaps there are no voices because there is no need. Should any issues with the level of pharmaceutical services being provided exist, we note that they would - at the very least - be reported online. We submit that our client's highly positive Google Reviews constitute as strong evidence that the needs of local residents are being met with no evidence to the contrary.
- 4.3.61 **The Committee's Treatment of Protected Characteristics Was Inadequate**
- 4.3.62 Under this section, the Applicant again provides many generic statements regarding groups who share protected characteristics. There is no supporting evidence that groups who share protected characteristics are unable to access services that meet specific needs for pharmaceutical services.
- 4.3.63 **The Application Would Confer Significant Benefits Not Foreseen by the PNA**
- 4.3.64 We disagree that the present application would confer significant benefits not foreseen by the PNA on the points outlined above, and do not wish to repeat these.

4.3.65 **The Application Advances National and Local Health Policy Objectives**

4.3.66 The Applicant refers to the HWB's consultation report dated May 2022, which was published nearly four years ago at the time of writing. We do not consider this report relevant as it does not reflect the situation at present.

4.3.67 We also note that our client offers Pharmacy First, a service which is also offered by a number of local pharmacies such as the Boots on Epsom Road (GU1 2RE) and Boots in St Likes Surgery (GU1 3JH) - all in East Guildford.

4.3.68 The Applicant asserts that there is no pharmacy to walk to. Firstly, this statement lacks evidence and our client maintains that their Pharmacy is accessible by foot. Secondly, it is unlikely that patients would choose to walk regardless given the high levels of car ownership.

4.3.69 **No Significant Detriment**

4.3.70 Ultimately, we submit that granting a second application in the vicinity of our client's pharmacy would cause significant detriment to the existing pharmacies in the area and would cause the closure of Merrow Park Pharmacy or the closure of the Boots Pharmacy on Epsom Road.

4.3.71 Below is a map depicting the Merrow Park Surgery and two pharmacies, as well as St Luke's Surgery and another Boots Pharmacy (GU1 3JH), showing the area is well-served by pharmaceutical services.

4.3.72 *Figure 2: Image of map depicting Merrow Park Surgery (grey marker) next to Merrow Park Pharmacy (blue marker) and Boots Pharmacies on Epsom Road and Warren Road (red markers) serving the area. [Map provided]*

4.3.73 As of January 2026, the Boots on Epsom Road dispensed c.7,000 items and Merrow Park Pharmacy dispensed c. 3,000 items. Both pharmacies are low-volume dispensers when we consider that the average pharmacy now dispenses c. 8,700 items per year.

4.3.74 Both pharmacies draw the majority of their items from the Merrow Park Surgery (located adjacent to Merrow Park Pharmacy). As of January 2026, the item output of Merrow Park Surgery was 11,000 items. Whilst both pharmacies do draw items from elsewhere the majority of patients originate from Merrow Park Surgery.

4.3.75 It is clear from the dispensing volumes of the current two pharmacies and the output from Merrow Park Surgery that there are simply not enough items in the area to sustain three pharmacies – likely why two pharmacies previously closed.

4.3.76 We submit that granting this application would cause either our client's or the Boots Pharmacy on Epsom Road to close, and does in fact constitute a significant detriment.

4.3.77 **Conclusion**

4.3.78 On the evidence outlined above, we maintain that this application should be refused.

4.3.79 We reiterate that there have been significant changes in the local area since the previous application which have improved access to pharmaceutical services.

4.3.80 We also submit that the granting of this application would likely close another local pharmacy to close.

4.3.81 In light of the above and the previous correspondence submitted, we submit that Regulation 18 has not been met and invite the Committee to refuse this application.”

4.3.82 [Supporting information at Appendix B for Committee]

5 **Observations**

No observations were received by NHS Resolution in response to the representations received on appeal.

6 **Consideration**

6.1 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.

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

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

6.4 The Committee noted that the Commissioner had considered the application together and in relation to an application by Indiya Health Ltd, which it had also refused. The Committee noted that no appeals had been received against the refusal of the Indiya Health Ltd application.

6.5 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”).

Regulation 31

6.6 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).

- 6.7 The Committee noted that the Applicant had not provided any information in the application form on this point but the Committee noted that the wording of the application form only required the Applicant to include information in the relevant section if the proposed premises were adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises. The Committee considered it reasonable to determine that the lack of information in the application form on this point when read with the wording of the application form allowed it to be reasonably satisfied that the Applicant considered that the proposed premises were not adjacent to, or in close proximity to, another pharmacy or dispensing appliance contractor premises. The Committee noted the Commissioner had stated in the decision report that *"The Committee was satisfied that there is no pharmacy providing pharmaceutical services within the area of the best estimate address/proposed premises of any the applications. The applications did not therefore need to be refused in accordance with Regulation 31."* In the absence of any dispute on the matter from other parties, the Committee therefore determined that it was not required to refuse the application under the provisions of Regulation 31.
- 6.8 The Committee noted that, if the application were granted, the successful applicant would - in due course - have to notify the Commissioner of the precise location of its premises (in accordance with paragraph 31 of Schedule 2). Such a notification would be invalid (and the applicant would not be able to commence provision of services) if the location then provided would (had it been known now) have led to the application being refused under Regulation 31.

Regulation 18

- 6.9 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)."*

- 6.10 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").
- 6.11 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.
- 6.12 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).
- 6.13 The Committee considered the PNA prepared by Surrey Health and Wellbeing Board, 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.

6.14 The Committee noted the following at page 143 of the PNA:

“4.4 Key findings and recommendations

- *There are 185 pharmacies in the Surrey HWB area. Six of these are internet / distance selling pharmacies and two are DACs.*
- *There are 84 additional pharmacies in 14 neighbouring HWB areas within 1.2 miles of the Surrey County border.*
- *There are 13 dispensing doctor practices including branch surgeries.*
- *There are 15 pharmacies per 100,000 population in Surrey.*
- *31 pharmacies are open on weekdays evenings after 6.30pm. The maximum drive time in Surrey is 30 minutes.*
- *163 pharmacies are on Saturdays. The maximum drive time is 20 minutes.*
- *33 pharmacies are open on Sundays. The maximum drive time is 25 minutes.*
- *There are 22 non-essential services delivered in Surrey, nine advanced services, one nationally enhanced service and 12 locally commissioned services (five commissioned by the ICBs, seven by Public Health). There is variation in the provision of these services as they are not compulsory to be delivered and some are only commissioned from a small number of pharmacies according to geographical location”*

6.15 The Committee also noted the conclusions reached at chapter 7 ‘Gap analysis and assessment of pharmaceutical need’:

Page 156: *“The PNA Steering Group agreed that there are no gaps in the current provision of essential/necessary pharmaceutical services during routine hours (Monday-Friday 9-6.30).”*

Page 157: *“The PNA Steering Group agreed that there are no gaps in the current provision of essential/necessary pharmaceutical services out of hours (weekday evenings after 6.30pm, Saturday and Sunday).”*

Page 159: *“The PNA Steering Group agreed that there are no gaps in the current provision of essential/necessary pharmaceutical services to key neighbourhoods during weekends.”*

Page 160: *“The PNA Steering Group agreed that there are no gaps in current provision of non-essential pharmaceutical services.”*

Page 160: *“The PNA Steering Group agreed that there are no gaps in the future provision of pharmaceutical services during the lifetime of the PNA.”*

- 6.16 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients of Burpham in Guildford. 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.
- 6.17 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)

- 6.18 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"

- 6.19 The Committee noted that the Commissioner in its decision report had concluded that *"granting the application would not have an adverse effect on any future plans."* The Committee saw no dispute on the matter from other parties.
- 6.20 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.
- 6.21 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)

- 6.22 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"

- 6.23 The Committee noted that the Commissioner had stated in its decision report that *"...the Committee found no proof to support the suggestion that if an application was to be granted, it would cause significant detriment to the arrangements in place for pharmaceutical services in the area."*
- 6.24 The Committee noted Healthcare Plus Consulting Ltd's comments that *"...we submit that granting a second application in the vicinity of our client's pharmacy would cause significant detriment to the existing pharmacies in the area and would cause the closure of Merrow Park Pharmacy or the closure of the Boots Pharmacy on Epsom Road."*; and

“As of January 2026, the Boots on Epsom Road dispensed c.7,000 items and Merrow Park Pharmacy dispensed c. 3,000 items. Both pharmacies are low-volume dispensers when we consider that the average pharmacy now dispenses c. 8,700 items per year.

Both pharmacies draw the majority of their items from the Merrow Park Surgery (located adjacent to Merrow Park Pharmacy). As of January 2026, the item output of Merrow Park Surgery was 11,000 items. Whilst both pharmacies do draw items from elsewhere the majority of patients originate from Merrow Park Surgery.”

- 6.25 The Committee considered that Regulation 18(2)(a)(ii) relates to significant detriment to arrangements in place for the provision of pharmaceutical services if an application is granted. The reference to "arrangements in place for provision of pharmaceutical services" is very broad in scope. It is not limited to detriment to a particular person, class of person, patient, patient group or provider of pharmaceutical services whether this is a dispensing practice or community pharmacy.
- 6.26 The Committee therefore concluded that a finding that granting the application would cause significant detriment to arrangements in place for the provision of pharmaceutical services can only be achieved after a consideration of all the consequences of granting the application, both positive and negative, benefits and detriment, provided that these consequences were all linked to the broad concept of arrangements in place for the provision of pharmaceutical services.
- 6.27 The Committee considered that the evidence before it was not enough to persuade the Committee that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of an application. More robust evidence would be needed to satisfy the Committee of this finding.
- 6.28 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.
- 6.29 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)

- 6.30 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)

- 6.31 The Committee had regard to the location of the proposed best estimate in Burpham to the north east of Guildford, and also noted existing pharmacies and GP surgeries as indicated on a map provided by the Commissioner, which had not been disputed.
- 6.32 The Committee noted that it had previously granted a pharmacy application by the Applicant for premises within 150m of 220 London Rd, Burpham, Guildford, GU4 7JS (case ref. SHA/26157). The Committee noted that the Applicant had been unable to secure premises and therefore the application had lapsed. The Committee noted the Applicant's comment that *"Critically, the lapse of the previous application does not diminish the need that was identified by the appeal panel. The lapse was a consequence of the commercial property market in Burpham, not an indication that the need for a pharmacy has been met. Burpham still has no pharmacy, and the residents continue to face the same access difficulties that led NHS Resolution to grant the appeal in 2024."* The Committee also noted the Applicant's comment that it had now secured premises, although it had not provided proof of this. The Committee was mindful that a new application in the same location should not automatically be granted where an application had been granted in the past, and it would need to consider the application before it together with the circumstances in the area at the present time. The Committee noted that the previous application had been granted on 25 April 2024 and therefore over two years had now passed.
- 6.33 The Committee noted the Applicant had referred to the closure of Lloyds Pharmacy which had occurred in April 2023. The Applicant commented on appeal that it *"...wishes to make clear that it is fully aware the pharmacy closed in April 2023 and has been closed for over three years. This factual error does not affect the substance of the application in any respect: the Applicant's case rests on the continuing absence of a pharmacy in Burpham, not on an impending closure. The need is the same, and if anything, is more acute now than it would have been at the point of closure, given the length of time the community has been without provision."* The Committee was mindful that there is no requirement to grant a pharmacy application where a pharmacy has closed, and it has been some time since this particular closure.

- 6.34 The Committee noted from parties' comments that since it had granted the previous application, Merrow Park Pharmacy had opened in October 2025 at Unit 4 Kingfisher Court, Guildford GU4 7EW. The Applicant comments that *"...this pharmacy is on the opposite side of the railway line and does not address the core access issue identified by the appeal panel."* The Committee noted Healthcare Plus Consulting Ltd's comments in response that *"...this new pharmacy was not considered in the previous determination and that its opening has significantly affected the level of pharmacy provision in the area"* and *"Residents are likely to have adjusted to the closure and be accustomed to accessing pharmaceutical services within the Surrey HWB, such as our client's pharmacy."*
- 6.35 The Committee noted the Applicant's comments that *"Burpham is a suburb with its own parade of shops, a primary school, a social club, churches, nursing homes, and other local amenities. It functions as a self-contained community"* and that residents of Burpham *"...must leave their community to access pharmaceutical services..."*. In response, Healthcare Plus Consulting Ltd comment that the amenities listed are typical of a small community and that residents already need to leave Burpham in order to access GP surgeries. The Committee noted that the nearest GP surgery is Merrow Park Surgery located adjacent to Merrow Park Pharmacy. The Committee was mindful that whilst a pharmacy in any community would offer convenience for the residents there, it is a factor to be taken into account along with other relevant considerations. Having regard to the amenities listed, the Committee was of the view that residents of Burpham are likely to be accustomed to accessing a range of services from outside the Burpham area on a regular basis.
- 6.36 The Committee noted Healthcare Plus Consulting Ltd had provided statistics from the 2021 census which were not disputed, indicating that the Burpham ward has higher than average levels of those with very good/good/fair health, those not disabled under the Equality Act 2010 and also car ownership. The Committee noted a lower than average level of those aged 65 or above and those living in social rented accommodation. The Committee also noted their comment that *"...all the Lower-layer Super Output Areas (LSOAs) that make up Burpham are among the top 10% most affluent LSOAs in the country."*
- 6.37 The Committee proceeded to consider access to existing pharmacies and considered that residents would do so on foot, or by public or private transport.
- 6.38 The Committee noted that Merrow Park Pharmacy is located approximately 1 mile from the proposed best estimate according to parties' comments. The Committee noted the Applicant had highlighted that this pharmacy is on the opposite side of a railway line. Whilst no detail of the journey on foot had been provided during this application, the Committee noted from the previous decision that the Applicant had commented that there is an underpass by which the railway line may be crossed, but that this involved using a footpath through a small wooded area around the edge of school grounds, or alternatively that the railway line may be crossed further north at Merrow Lane, but that this would involve walking through a large wooded area with narrow pavements alongside a busy road. The Committee noted Healthcare Plus Consulting Ltd's comment that *"... a number of patients choose to walk to our client's pharmacy from Burpham, which is unsurprising given the strong mobility levels that can be seen in census data."* Although the Committee considered that the distance

in itself was not prohibitive, and no other difficulties had been raised such as a lack of crossings or dropped kerbs, it accepted that some residents of Burpham may be deterred from undertaking the journey due to the underpass or walking through wooded areas, particularly in darker months. With regard to other pharmacies further afield, the Committee noted no information had been provided regarding the journey on foot, however considered it unlikely that residents of Burpham would walk to those pharmacies due to the distances involved.

- 6.39 The Committee noted that figures provided by Healthcare Plus Consulting Ltd indicate a higher than average level of car ownership in the area, which had not been disputed. Further, the Committee saw no information to suggest that those using private transport are experiencing any difficulties, such as a lack of parking at existing pharmacies.
- 6.40 For those without access to private transport, the Committee noted Healthcare Plus Consulting Ltd's undisputed comment that "*...the number 6 Stagecoach South bus service runs every 20 minutes from the Burpham Shops bus stop to the Kingfisher Drive Shops bus stop – directly outside our client's pharmacy...*", with the journey taking 7 minutes. The Committee also noted that the Commissioner in its decision report had stated "*there is a Bus route that has a bus stop at the proposed best estimate address and then goes into Guildford town centre where two pharmacies are located. The Bus runs every 20-30 minutes from 05.43 to 23.03 Monday to Friday, every 20-30 minutes from 06.13 to 23.03 on Saturdays. On Sundays it runs hourly between 07.28 to 09.51 & 18.51 to 23.03, it runs every half an hour between 09.51 to 18.51.*" The Committee noted the Applicant's comment that "*...public transport is not a reasonable substitute for local walk-in access for many residents, particularly the elderly or those with young children who may need pharmaceutical services urgently or frequently.*" The Committee was of the view that reasonable options are available for those who rely on public transport in order to access pharmaceutical services.
- 6.41 Taking all of the above into account, the Committee was not satisfied that, having regard to there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits by way of physical access on persons.
- 6.42 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 Applicant's comment that there are nursing homes and care facilities within Burpham with elderly residents who have mobility impairments or chronic conditions requiring regular medication, and that the residents or staff caring for them would face access issues. The Applicant also commented that there are also parents with young children who would face similar issues. The Committee considered that beyond general references to such groups, no evidence to support a conclusion of specific needs or particular difficulties was presented by the Applicant. The issues of

access and choice as might apply to these persons was dealt with in the assessment of reasonable access discussed above.

- 6.43 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.
- 6.44 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 that no information had been provided to suggest that the Applicant is proposing to take an innovative approach with regard to the delivery of pharmaceutical services. Therefore, 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

- 6.45 The Committee noted the Applicant's proposed core hours are 9am to 1pm and 1.30pm to 5.30pm Monday to Friday, and 9am to 1pm on Saturday, totalling 44 core hours with no supplementary hours.
- 6.46 The Committee noted the Commissioner in its decision report had confirmed that existing pharmacies in the area provide opening hours "...08:30 to 19:00 Monday to Friday, from 09:00 to 18:00 on Saturdays and from 10:00-17:00 Sundays." The Committee noted the Applicant's comment in the appeal that *"The relevant comparison is not between the Applicant's proposed 44 hours and the hours offered by pharmacies elsewhere in Guildford. The relevant comparison is between 44 hours of pharmaceutical provision within Burpham and the zero hours currently available within Burpham."* The Committee was mindful that it had considered access to existing pharmacies above and also that the test is whether there is reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, rather than whether there is a pharmacy in a particular neighbourhood.
- 6.47 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.
- 6.48 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.

- 6.49 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

- 6.50 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).
- 6.51 No deferral or refusal under Regulation 18(2)(f) was required in this case.
- 6.52 The Committee had regard to Regulation 18(2)(g) and found that it was not applicable.
- 6.53 The Committee considered whether there were any further factors to be taken into account and concluded that there were not.
- 6.54 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.
- 6.55 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 6.55.1 confirm the Commissioner's decision;
 - 6.55.2 quash the Commissioner's decision and redetermine the application;
 - 6.55.3 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.
- 6.56 In those circumstances, the Committee determined that the decision of the Commissioner must be confirmed.

7 DECISION

- 7.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of the Commissioner.
- 7.2 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 7.3 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;
- 7.4 The Committee determined that the application should be refused on the following basis:

- 7.4.1 In considering whether the granting of the application would confer significant benefits, the Committee determined that –
 - 7.4.1.1 there is already a reasonable choice with regard to obtaining pharmaceutical services;
 - 7.4.1.2 there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and
 - 7.4.1.3 there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services;
- 7.4.2 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