

11 August 2026

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REF: APL-4482 [SHA/26969]

**APPEAL AGAINST WEST YORKSHIRE ICB
DECISION TO REFUSE AN APPLICATION BY
MONTWOOD LTD FOR INCLUSION IN THE
PHARMACEUTICAL LIST OFFERING IDENTIFIED
IMPROVEMENTS OR BETTER ACCESS UNDER
REGULATION 17 WITHIN A 250M RADIUS FROM
58 NORTHGATE, WAKEFIELD, WF1 3AP**

Tel: 020 3928 2000
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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:

Montwood Ltd
Boots UK Ltd
Community Pharmacy West Yorkshire
PCSE on behalf of West Yorkshire ICB

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1 The Application

By application dated 6 October 2025, Montwood Ltd (“the Applicant”) applied to West Yorkshire ICB (“the Commissioner”) for inclusion in the pharmaceutical list offering identified improvements or better access under Regulation 17 within a 250m radius from 58 Northgate, Wakefield, WF1 3AP (best estimate specifically excludes the following addresses: 24-30 (even numbers only) Upper Kirkgate, Wakefield, WF1 1UP). In support of the application it was stated:

- 1.1 In response to why this application should not be refused pursuant to Regulation 31, the Applicant stated:
 - 1.1.1 “There is a pharmacy trading within the best estimate radius: Boots, 26-28 Upper Kirkgate, Wakefield, West Yorkshire, WF1 1UP. However, this unit and adjacent units have been specifically excluded from the best estimate as per above.
 - 1.1.2 Thus Regulation 31 does not apply.”
- 1.2 In making this application I/we am/are seeking to secure the improvements or better access identified on page 6, 98 of the HWB’s pharmaceutical needs assessment.
- 1.3 Please insert the identified improvement or better access you are offering to secure here.
 - 1.3.1 “Better access to necessary pharmaceutical services has been identified in the centre of Wakefield for provision on Sundays between the hours of 11:00-17:00. In particular, the Wakefield PNA (2025-2028) highlights that King Street Walk in Centre is open on Sundays and if patients were prescribed medication from this service, then they would have to travel to the Asda in Sandal.”
- 1.4 In the box below please explain how you intend to secure the identified improvements or better access either in whole or in part.
 - 1.4.1 “We will meet the identified better access by opening a pharmacy in Wakefield’s town centre, where there is currently no provision of necessary services on Sundays.”

1.5 Opening Hours

1.6 Proposed core opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00-13:15 14:00-18:00	09:00-13:15 14:00-18:00	09:00-13:15 14:00-18:00	09:00-13:15 14:00-18:00	09:00-13:15 14:00-18:00		11:00 – 17:00	47.25

1.7 Total proposed opening hours

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total
09:00-13:15 14:00-18:00	09:00-13:15 14:00-18:00	09:00-13:15 14:00-18:00	09:00-13:15 14:00-18:00	09:00-13:15 14:00-18:00		11:00 – 17:00	47.25

1.8 Advanced and Enhanced services

Service	Accredited to provide (Y/N/NA)	Premises accredited (Y/N/NA)
Pharmacy First	Y	N
Flu vaccination	Y	N
Pharmacy contraception scheme	Y	N
Hypertension case finding	Y	N
NMS	Y	N
Smoking cessation service	Y	N
COVID-19 vaccination	Y	N
Lateral Flow Device Service	Y	N
Emergency Hormonal Contraception (EHC)	Y	N
Needle Exchange	Y	N
Take Home Naloxone (THN)	Y	N
Chlamydia Screening	Y	N
Condom distribution C-card scheme	Y	N
Supervised consumption	Y	N
Stop smoking service	Y	N
Emergency Hormonal Contraception for women aged under 25 years	Y	N
Dementia Friendly Pharmacies	Y	N
Community Pharmacy Palliative Care Formulary	Y	N
Antiviral Service	Y	N

2 Comments to the Commissioner

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

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

2.1 THE APPLICANT

- 2.1.1 “We thank interested parties for their comments and respond below accordingly.

Wakefield Health and Wellbeing Board (HWB)

- 2.1.2 We thank the HWB, who are responsible for writing the PNA and setting strategic direction to improve health and wellbeing, for their support for this application. We highlight that they state:

If this application is approved and the pharmacy opened in the proposed location, then the Health and Wellbeing Board would consider the identified better access on Sunday within the Wakefield City Centre would be met.

- 2.1.3 This clearly shows that the Health Wellbeing Board did identify better access on Sunday at the proposed location within the Wakefield PNA and agree that the present application secures the identified better access in full.

- 2.1.4 We also note that the HWB explicitly state:

[The proposed core hours] would provide greater choice the Wakefield City area, alongside the existing 4 community pharmacies within the vicinity

- 2.1.5 This makes it clear that their judgement is made with regard to existing services. This also shows that the application should be granted regardless of existing relevant provision.

Well Pharmacy

- 2.1.6 Well Pharmacy state that:

There is no evidence to support the need for an additional pharmacy contract in this locality.

- 2.1.7 We note that a need is not proposed to be met by the present application but rather the present application offers to secure identified better access as included in the Wakefield PNA 2025.

- 2.1.8 The Wakefield PNA 2025 states:

This PNA concludes that better access to necessary services could be secured within the centre of Wakefield city on a Sunday, between 11:00-17:00

- 2.1.9 Well's demand for further evidence therefore amounts to a challenge to the PNA.
- 2.1.10 We note that it is not for any body to question or dismiss the reasonableness or legality of the PNA. The ICB will be aware that the PNA is a legal document, and any identified better access within has been found utilising the legal tests to assess pharmaceutical provision within the relevant Health and Wellbeing Board. Therefore, any comments questioning the identified better access should be dismissed as they directly question the reasonableness and legality of the PNA.

Boots

- 2.1.11 Boots accept that the better access our application secures is included in the PNA. They go on to question whether that conclusion was justified. As previously noted, it is not for any body to question the reasonableness and legality of the PNA and there is no provision in Regulation 17 to question an identified better access application.
- 2.1.12 We are uncertain as to what the actual hours Boots are open, given the conflicting information, however, note that should Boots be open on Sundays these will be supplementary hours. These hours can therefore be withdrawn at any time and thus do not secure better access to pharmaceutical provision.
- 2.1.13 By contrast, our application offers Sunday hours as Core Hours which cannot be changed. Our application therefore does secure better access. We note that the loss of access was likely created by the closure of a previous Lloyds in Sainsbury's 100 hours pharmacy (WF1 1QQ) which had core hours on Sundays – our application proposes to restore this access that has been lost.

Community Pharmacy West Yorkshire (CPWY)

- 2.1.14 CPWY also accept that a gap in regard to better access has been identified in the Wakefield PNA 2025:

Wakefield PNA (2025-2028) was published in September 2025. Does identify a gap in Sunday provision of Pharmaceutical Services between the hours of 11am and 17.00pm.

Conclusion

- 2.1.15 It is undisputed that the present application would if granted secure the better access identified in the Wakefield PNA 2025.
- 2.1.16 The Health and Wellbeing Board, who are the authors of the PNA and are responsible for setting strategic direction to improve health and wellbeing, are supportive of our application.

2.1.17 We also note that it is for no body to question the reasonableness or legality of the PNA.

2.1.18 For these reasons, the present application must be granted.”

2.2 BOOTS UK LTD

2.2.1 “Thank you for your letter dated 15th December 2025 and copies of the written representations received regarding the above application.

2.2.2 Boots UK Limited have the following comments to make on these representations.

2.2.3 As we have already stated, our pharmacy in the Kirkgate Shopping centre, ODS code FLK45, is open on a Sunday 10:30-16:30 and has been since October 2023. It would appear that the paperwork required to inform NHS England of the increase in the supplementary hours for the pharmacy was never actioned, hence the confusion, and we would like to apologise for any confusion this has caused.

2.2.4 To ensure that all records are correct, we have submitted the paperwork to the NHS with immediate effect and have attached this form [see Appendix A] to ensure we are being open and honest to all interested parties. We have had confirmation from the NHS of these hours change and attach this confirmation email also for information.

2.2.5 As all parties will be aware, any contractor can notify the NHS to reduce or increase their supplementary hours at any time. This can be implemented with immediate effect if an increase in the supplementary hours and 5 weeks’ notice if a decrease.

2.2.6 As previously stated, our pharmacy has been open and providing pharmaceutical services on a Sunday since October 2023.

2.2.7 We include the following extracts of data sourced through PharmOutcomes to evidence that we have been providing services to patients on Sundays. This data is from January 2025 to date.

Ph First: Activity by Month on Sundays and by hour

Day	Sunday												
Count of PF Condition	Column Labels												
Row Labels	January	February	March	April	May	June	July	August	Sept	Oct	Nov	Dec	Grand Total
10:00 – 10:59			2			1	3		1		1	1	9
11:00 – 11:59	2			3	4	3	6		3	2	3	1	27
12:00 – 12:59	1	2	1	1		1	3	1	1	3	1	2	17
13:00 – 13:59		1	1			1	4	2	3	3	2		17

14:00 – 14:59			1		1	2	2	1	1	3	1	1	13
15:00 – 15:59			1	2	2		1		1	3			10
16:00 – 16:59								1			1		2
Grand total	3	3	6	6	7	8	19	5	10	14	9	5	95

Blood Pressure: Activity on Sundays by Month

Day	Sunday
Row Labels	Count of Provision Date
January	5
February	1
March	4
April	1
May	6
June	3
July	9
August	9
September	9
October	22
November	6
December	3
Grand Total	78

Urgent Supply: Activity by Month on Sundays

Day	Sunday												
Count of Provision date	Column Labels												
Row Labels	January	February	March	April	May	June	July	August	Sept	Oct	Nov	Dec	Grand Total
10:00 – 10:59		1	1		2		1			2	2	3	12
11:00 – 11:59	1	4	3		2	3	4	2	1	1	2	2	25
12:00 – 12:59	2	2	1	1	3	2	3	1	1	4	3	1	24
13:00 – 13:59	1		1	1	3		1	2	2	1			12
14:00 – 14:59	4		2	2	2	2	2	1	2	1	5	2	25
15:00 – 15:59	2	1	1	1	2		3	1	1	1	2		15
16:00 – 16:59		1			1	4	2	5	1	3			17
Grand total	10	9	9	5	15	11	16	12	8	13	15	8	131

- 2.2.8 We submit that there is no gap in pharmacy provision in Wakefield centre and the implied gap within the Pharmaceutical Needs Assessment (PNA) for Wakefield 2025 - 2028 has been fulfilled.
- 2.2.9 It is of note that Well Pharmacy and CPWY also confirm in their responses to this application, that our pharmacy at Boots at 26-28 Kirkgate, Wakefield is open from 10:30 - 16:30 on a Sunday.
- 2.2.10 To conclude and for the reasons we have stated above, we respectfully urge the ICB to refuse this application.
- 2.2.11 Please be aware that we may wish to make further representations at a later stage and attend any oral hearing that may be held in relation to the application.
- 2.2.12 We would be most grateful if you could keep us informed of the progress of this application."

2.3 WAKEFIELD HEALTH AND WELLBEING BOARD

- 2.3.1 "The West Yorkshire ICB has received the following application to secure improvements or better access (ref: CAS-390556-Z7W4Y9):

Application by Montwood Ltd (the applicant) to open a pharmacy within 250m radius from 58 Northgate, Wakefield, WF1 3AP.

- 2.3.2 The representations submitted by Boots, Well Pharmacy and Community Pharmacy West Yorkshire all identify that the Boots pharmacy located on Kirkgate in Wakefield is open on Sunday 10:30 – 16:30. We have subsequently received notification of an update to the recorded supplementary hours for this Boots branch, for which we have issued a supplementary statement: [SS01-Amended-Supplementary-Hours-of-FLK45-Boots-Pharmacy-WF1-1UP.pdf](#) [see Appendix B]
- 2.3.3 Prior to publication of the PNA, a full 60 day consultation period was administered, with all of the interested parties consulted. Appendix K of the PNA shows the detail of the response to our consultation, which shows all respondents to be in agreement with the conclusions written.
- 2.3.4 With regards to the Montwood Ltd application, the applicant states that the Sunday opening hours would form part of their core hours, which provides a long term commitment to deliver pharmaceutical services within the centre of Wakefield on a Sunday."

3 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 6 March 2026 states:

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

- 3.1 “West Yorkshire 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.”

Extract from the Pharmaceutical Services Regulations – Committees in Common Humber & North Yorkshire ICB, South Yorkshire ICB, West Yorkshire ICB decision report:

- 3.2 “Applicant: Montwood Limited – IIBA
- 3.3 Proposed Premises: 250m radius from 58 Northgate, Wakefield WF1 3AP (this Best Estimate specifically excludes 24-30 (even numbers) of Upper Kirkgate, Wakefield, WF1 1UP
- 3.4 Decision: REFUSED
- 3.5 PSRC considered the application, by Montwood Limited, for Inclusion in the Pharmaceutical List Under Regulation 17 of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.
- 3.6 The committee considered the application and representations submitted in relation to an application for inclusion in a pharmaceutical list: routine application offering to secure identified improvements or better access.
- 3.7 The committee noted that the applicant proposes to open a pharmacy with a best estimate of the proposed premises as a 250m radius from Northgate, Wakefield, WF1 3AP (however, this best estimate specifically excludes the following addresses: 24-30 (even numbers only) Upper Kirkgate, Wakefield, WF1 1UP). The committee had regard to the note made by the applicant at Section 5 of the application form which stated the reason for excluding some addresses - noting that a Boots Pharmacy is located at 26-28 Upper Kirkgate.
- 3.8 The committee noted that the applicant states that they are seeking to meet the better access identified in the Wakefield Pharmaceutical Needs Assessment for provision on Sundays between the hours of 11:00- 17:00 stating that there is no current provision of ‘necessary’ services on Sundays within the town centre, of Wakefield (noting that ‘necessary services’ is outlined in the PNA on Page 8 as ‘all essential services, NMS, Pharmacy First and Flu vaccinations’).
- 3.9 The committee also noted the proposed services and that the opening hours in Section 3 of the application form totalled more than 40 core hours, and that the applicant was asked to clarify the proposed 40 core hours and the 7.25 ‘additional’ core hours. This was clarified and those hours noted accordingly. It was therefore noted that if the ICB includes the applicant and premises in the relevant pharmaceutical list, it would need to direct the contractor to provide pharmaceutical services for the agreed number of core opening hours. The direction would need to set out the days and times of the additional core opening hours (regulation 65(4)(b)).
- 3.10 Any such direction may not then be varied for three years (regulation 65(7)). After this time core opening hours may be varied in line with paragraph 25 or 26, Schedule 4.

- 3.11 The committee noted that the proposed Sunday hours are listed as 'Additional' core hours.
- 3.12 The Regulations were considered.
- 3.13 The committee agreed that Regulation 31 does not apply as there is no pharmacy at the same or adjacent premises.
- 3.14 That Regulations 32, 41, 44 and 50 are not applicable.
- 3.15 Regulation 65 – core opening hours conditions does apply. The committee were aware that the applicant offered to provide more than 40 core hours. Therefore, considered that should this application be granted then consideration to these hours would require a direction to be issued.
- 3.16 PSRC considered Regulation 17 –
- 17.(1) If—(a) NHS England receives a routine application and is required to determine whether granting it, 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 have or has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 4(a) 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).*
- 3.17 The committee noted the relevant pharmaceutical needs assessment is the 2025-2028 Wakefield Pharmaceutical Needs Assessment (PNA) which was [Wakefield-District-PNA-2025-2028-Final-Report.pdf](#) and that the current PNA found that access to pharmacies for the residents of Wakefield is good with the vast majority within a 15-minute drive of a pharmacy (P.49 of the PNA).
- 3.18 The PNA also found that there is generally good access to the 9 listed advanced services (P.52-59 of the PNA).
- 3.19 The PNA states:
- “Based on the information available at the time of developing the PNA no gaps in the need for any advanced, enhanced or locally commissioned services in specified future circumstances have been identified in any of the localities”*
- 3.20 It does however state a gap on Page 98, 'Improvements and Better Access'. The Health and Wellbeing Board has therefore identified that better access to 'necessary services' could be secured within the centre of Wakefield City on a Sunday 11:00-17:00. However, a supplementary statement was issued in December 2025 - SS01- [SS01-Amended-Supplementary-Hours-of-FLK45-Boots-Pharmacy-WF1-1UP.pdf](#)

- 3.21 Regulation 17(2) was also considered. It was noted that one other application had been submitted which offers to secure better access near the Wakefield City Centre on Sundays between the hours of 11:00-17:00
- 3.21.1 AS Incorporation Limited for an Identified Improvement or Better Access (IIBA) providing a Best Estimate for premises in the newly developed City Fields District Centre, Neil Fox Way, WF3 4FU (NOTED: Proposes Supplementary hours on Sundays 11:00-17:00) and is to be determined at February 2026 PSRC alongside this application.
- 3.22 Other applications noted (Extant grant):
- 3.22.1 Cottingham (Waltham) Ltd for an identified current need application (ICN) in WF1 (Best Estimate for premises within the proposed new District Centre, Neil Fox Drive/Loverose Way, City Fields, Wakefield, WF1) was determined in January 2026 PRSC and Granted. (NOTED: NO Sunday hours proposed)
- 3.23 The current Wakefield PNA was published on 1 October 2025. Since the publication of the PNA, Boots Pharmacy at 26-28 Upper Kirkgate, Wakefield, WF1 1UP notified West Yorkshire ICB of an increase in supplementary hours and the HWB issued a supplementary statement on 18 December 2025 regarding this (Boots Pharmacy at 26-28 Upper Kirkgate, Wakefield, WF1 1UP open 10:30-16:30 on Sundays - [SS01-Amended-Supplementary-Hours-of-FLK45-Boots-Pharmacy-WF1-1UP.pdf](#) Therefore, the HWB is of the opinion that the changes are relevant to the granting of applications, ie applications to meet a need or secure improvements or better access. The PSRC considered how much weight to place on the supplementary statement and consider the relevance of Boots' Sunday opening hours, and if this application would secure better access on Sundays.
- 3.24 The committee had detail of the existing nine providers of pharmaceutical services within 1.3 miles of the proposed premises
- 3.25 Representations from Boots, Community Pharmacy West Yorkshire (CPWY), Wakefield HWB and Well were all noted. Particular attention was made to Boots' representations in which they highlighted the issue that their Sunday hours were not shown within the PNA and addressed this by providing WY ICB with a supplementary hours form with evidence that they had been opening on Sundays – this change was duly administered by the Primary Care team in December 2025 and claimed that this application should therefore be refused as no gap exists.
- 3.26 CPWY also noted the gap identified within the PNA but also checked Sunday opening hours and noted Boots' opening hours on Sundays as 10:30-16:30, noting the next nearest Sunday provision as Asda Pharmacy at Asdale Road, WF2 7EQ open Sundays 10:00-16:00. They found this to be an acceptable level of provision on Sundays. Similarly, Well Pharmacy also noted Boots' Sunday opening hours within their response and do not agree that there is a need, as Boots are within easy walking distance of the King Street Walk-in centre.

3.27 The HWB felt that this application would seek to meet the gap identified in the PNA.

3.28 Counter-comments were also considered from Boots and the applicant. Boots provided evidence of their supplementary Sunday hours and note that other representations also acknowledge their Sunday opening hours and therefore urge the PSRC to refuse this application. The applicant reviewed all the comments made and in particular highlights 'core hours':

3.28.1 We also note that the HWB explicitly state:

[The proposed core hours] would provide greater choice the Wakefield City area, alongside the existing 4 community pharmacies within the vicinity

3.28.2 This makes it clear that their judgement is made with regard to existing services. This also shows that the application should be granted regardless of existing relevant provision.

3.29 It was recommended that this application be refused on the grounds that the better access has been secured by another person who is providing NHS services in the area of the relevant HWB – Regulation 17(2)(f). The Wakefield PNA 2025-2028 (Page 98) concluded that better access to 'necessary' services could be secured within the Centre of Wakefield city on Sunday, between 11:00-17:00. However, it is confirmed that Boots in WF1 were already providing services on Sundays 10:30-16:30 and a supplementary statement was issued by the HWB. 'Necessary services' are defined on Page 8 of the PNA as all essential services, NMS, Pharmacy First and Flu vaccinations. All of which Boots offer. The Committee were asked to consider if Boots' supplementary hours on Sundays 10:30-16:30 are sufficient to meet the needs of the population, in particular cover for the King Street walk-in centre on Sundays.

3.30 **PSRC Decision:** Having considered all the information provided by the applicant, alongside representations, the Committee agreed that Sunday hour provision was sufficient and that there was no longer a gap, so the application did not meet the relevant Regulations. The PSRC refused this application.

3.31 **Right of Appeal:** Applicant."

4 The Appeal

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

4.1 "Thank you for your letter dated 6th March 2026. We wish to appeal the above decision.

4.2 The PSRC have refused this application as they believe there is no longer a gap due to the Sunday hour provision provided by Boots Pharmacy. We submit that this decision was flawed in the following manner:

4.2.1 It is agreed that the Wakefield PNA identified a gap in the form of better access for Sunday provision between 11:00-17:00.

- 4.2.2 Boots Pharmacy have increased their supplementary opening hours to 10:30-16:30 on Sundays, as of the 17th December 2025.
- 4.2.3 The ICB assumed that the identified gap in respect of improvements or better access had been secured by another person who is providing NHS services, per Regulation 17(2)(f).
- 4.2.4 Boots' supplementary hours do not secure any improvements or better access as they can be withdrawn at any time.
- 4.2.5 In any case, Boots' supplementary hours do not fill the gap in its entirety.

Wakefield PNA (2025-2028) – Improvements and Better Access – Gaps in Provision

- 4.3 When assessing the application, the decision-maker is required to determine the matters set out in Regulation 17, as is the correct regulation when determining an application offering to secure better access identified within the relevant PNA.
- 4.4 We note that it is agreed that the Wakefield PNA, under Section 11.3, states;

“Therefore, this PNA concludes that better access to necessary services could be secured within the centre of Wakefield city on a Sunday, between 11:00-17:00.”

(Wakefield PNA, 2025-2028, pg. 98)
- 4.5 Thus, it is clear that the improvements or better access have been clearly identified within the PNA.
- 4.6 In order to meet the need in full, the proposed core hours per this application are from 11:00-17:00 on Sundays.
- 4.7 We note that Regulation 17(2)(e) requires the Committee to refuse the application if it is satisfied that;

“(i) granting the application would only secure the improvements or better access mentioned in paragraph (1) in part, and

(ii) if the application were granted, it would be unlikely, in the reasonably foreseeable future, that the remainder of those improvements or that better access would be secured;”
- 4.8 Should the identified improvements or better access mentioned in the PNA only be met “in part”, any application would be refused. We believe there is no reason to doubt that the present application meets the identified improvement or better access in full, given the proposed core hours during the identified 11:00-17:00 need on Sundays.

Boots Pharmacy Supplementary Hours

4.9 We note that, in the attached supplementary statement (see Appendix B), the Wakefield Health and Wellbeing Board detail Boots' change of supplementary hours as of the 17th December 2025 they have increased provision on Sundays to 10:30-16:30.

4.10 However, Boots have increased provision by way of supplementary opening hours, which can be withdrawn at any time and thus they do not secure any improvements or access as set out in Regulation 17(2)(f):

“whether it is satisfied that, since the publication of the relevant pharmaceutical needs assessment, the improvements or better access mentioned in paragraph (1) have or has been secured by another person who is providing, or is due to be secured by another person who has undertaken to provide, either in the area of the relevant HWB or in the area of another HWB, NHS services”

4.11 By way of example, immediately after the determination of this appeal, Boots are entitled to submit a notice to withdraw the supplementary hours and they would be able to cease to provide provision on Sundays after five weeks. It is clear that this does not secure the better access identified in the PNA. By contrast, our application does secure this better access by way of core opening hours for the entire 11:00-17:00 identified as a gap.

4.12 The supplementary statement published 18th December 2025, considered Boots' increase in supplementary hours directly. At no point did the Wakefield HWB suggest that this change met or even diminished the gap identified under Section 11.3 of the Wakefield PNA.

4.13 If the Wakefield HWB felt that the gap outlined in the PNA was filled by Boots' change in opening hours, we submit that this would be stated in the supplementary statement.

Conclusion

4.14 For the reasons outlined above, we submit that the ICB were incorrect to reject the present application by reason of Regulation 17(2)(f), as provision for Sunday opening hours has not been secured by Boots or any other local contractor in the centre of Wakefield.

4.15 We note that no other grounds for rejection have been suggested by interested parties. Any such submissions effectively challenge the conclusions of the Wakefield PNA 2025 noting that it is not for any body to question the reasonableness or legality of the PNA, but rather for determinations to be made in line with the conclusions within the PNA and the Regulations.

4.16 Given that the better access on Sundays from 11:00-17:00 have been identified within the PNA; we propose to fill this gap; and no current contractor has secured this provision, we submit that the application should be granted.”

5 Summary of Representations

This is a summary of representations received on the appeal.

5.1 THE APPLICANT

- 5.1.1 “Thank for your letter dated 16th April 2026. We respond to the 14-day comments below.

Boots

- 5.1.2 Boots continue to rely on their supplementary hours and state that they have been offered since October 2023. Needless to say, this is long before the Wakefield District Pharmaceutical Needs Assessment (2025-2028) was published (September 2025), and therefore the delivery of these hours cannot be relevant to Regulation 17(f) which only allows for consideration of securing of the improvements of better access “since the publication of the relevant pharmaceutical needs assessment.”
- 5.1.3 We submit that it is also accepted by Boots that the supplementary hours can be removed at any time with just 5-week notice. We therefore submit that, in any case, Boots’ Sunday hours are in no way secured.

Wakefield Health and Wellbeing Board (HWB)

- 5.1.4 Boots suggest that the PNA did not consider their supplementary hours. However, the PNA now includes a Supplementary Statement issued 18th December 2025 specifically acknowledging these hours. Yet, despite the extensive consultation recorded in the PNA, it remains of the view that improvements or better access would still be secured by opening on Sundays. The HWB also note that all interested parties were consulted during the 60-day consultation period, and all respondents were in agreement with the conclusions written. We are unsure as to why Boots did not challenge the identified gap at that time.
- 5.1.5 We highlight that the Supplementary Statement which notes Boots’ supplementary hours on Sunday does not reverse the identification of improvements or better access, nor claim that it has already been secured.
- 5.1.6 Furthermore, in their comments, the HWB does not dispute that our Sunday core opening hours would provide long term commitment to deliver pharmaceutical services within the centre of Wakefield. We reiterate that this is demonstrative of securing the identified improvements or better access.”

5.2 BOOTS UK LTD

- 5.2.1 “Thank you for your letter dated 24th February 2026 informing us of the above appeal.
- 5.2.2 Boots UK Ltd have the following comments to make.
- 5.2.3 We agree with West Yorkshire ICB and their decision to refuse the application.
- 5.2.4 Boots UK LTD provided plenty of information to satisfy the decision taker that our pharmacy at Kirkgate Shopping centre, ODS code FLK45

opens on a Sunday and offers pharmacy provision between 10.30am and 4.30pm. The appellant is incorrect in stating that we changed our hours on 17th December 2025, as explained in our previous responses (which are included with this appeal response) we have been operating the Sunday hours since October 2023. NHS data available will also be able to confirm this. It was agreed that the Pharmaceutical Needs Assessment (PNA) should be updated and a supplementary statement was issued stating that there is no longer a gap, and the missing paperwork was submitted to maintain correct records. We also stated that if the ICB believed that there is a need for Sunday pharmacy hours between 11am-5pm, Boots UK LTD are happy to discuss this and move our trading hours to satisfy the need. We submit that had the records been correct, no gap would have been identified within the PNA and therefore our opening hours of 10.30am-4.30pm would have been deemed sufficient. We do not believe that there is a specific gap between 10.30am-11.00am and 4.30pm and 5pm.

- 5.2.5 The appellant goes on to state that supplementary hours do not secure a need and that only CORE hours would do that. If this was the case, we submit that most localities could have perceived gaps as most contractors who offer pharmacy services on a Sunday offer these as supplementary hours. Very few will offer these hours as CORE hours. We could then go on to say that all supplementary hours do not secure access, and gaps could be perceived at numerous localities, of course, this is not the case!
- 5.2.6 The applicant has proposed 47.25 CORE hours, 7.25 of these to be directed. A direction only can be in place for 3 years, so the reliance on these could be questioned also.
- 5.2.7 We therefore respectfully request that this appeal be dismissed and the original application refused.
- 5.2.8 Should an oral hearing be held in connection with this appeal, we reserve our right to attend. We look forward to the decision of NHS Resolution in due course."

5.3 COMMUNITY PHARMACY WEST YORKSHIRE

- 5.3.1 "Thank you for your letter dated 16th April 2026 concerning the above application.
- 5.3.2 Community Pharmacy West Yorkshire members still feel that their comments made in their letter to [SM] on 26th November 2025 are valid. These were as follows.
 - 5.3.2.1 Members noted that this was an application to secure identified improvements or better access under Regulation 18 of the Pharmaceutical Services Regulations.
 - 5.3.2.2 CPWY members made the following observations

5.3.2.3 Wakefield PNA (2025-2028) was published in September 2025. Does identify a gap in Sunday provision of Pharmaceutical Services between the hours of 11am and 17.00pm.

5.3.2.4 No supplementary statements have been applied since the new PNA was published.

5.3.2.5 Reviewing the current opening areas in WF1 Boots Kirkgate 26-28 Upper Kirkgate is open on a Sunday 10.30-16.30.

5.3.2.6 There is an additional 100-hour Asda Pharmacy open in Wakefield, Asdale Road WF2 7EQ which is open on a Sunday 10.00 – 16.00.

5.3.2.7 We believe this provides an acceptable level of pharmaceutical provision in the area.

5.3.3 Members wish these comments to be taken into consideration by the Authority and wish to be notified of the decision.”

6 Summary of Observations

6.1 THE APPLICANT

6.1.1 “Thank you for your letter dated 21st May 2026. We wish to provide comments on the representations received.

Boots

6.1.2 It remains the case that the supplementary statement issued by the Wakefield Health and Wellbeing Board (HWB) on 18th December 2025 did not indicate that Boots’ increase in supplementary hours met or even diminished the gap identified under Section 11.3 of the Wakefield PNA (2025-2028).

6.1.3 In fact, it was stated that; *“The Wakefield Health and Wellbeing Board deemed that a revised PNA would be a disproportionate response to the changes outlined in this Supplementary Statement.”* (Supplementary Statement to the Wakefield District Pharmaceutical Needs Assessment (2025-2028))

6.1.4 Thus, Boots’ comment that *‘it was agreed that the Pharmaceutical Needs Assessment (PNA) should be updated and a supplementary statement was issued stating that there is no longer a gap’* is clearly incorrect. We note that the supplementary statement did not indicate that the identified gap had been met as a result of Boots’ increase in supplementary hours.

6.1.5 We do not doubt that, had the HWB been satisfied that Boots’ increase in supplementary hours addressed the identified gap, they would have clearly stated this.

- 6.1.6 We invite the Committee to recall that, in their letter dated 23rd December 2025 having noted Boots' supplementary hours, the Wakefield Health and Wellbeing Board stated:

'With regards to the Montwood Ltd application, the applicant states that the Sunday opening hours would form part of their core hours, which provides a long-term commitment to deliver pharmaceutical services within the centre of Wakefield on a Sunday'

- 6.1.7 We therefore reiterate that providing pharmaceutical services by way of core opening hours on Sundays between 11:00-17:00 is the only way that the identified need can be met, and thus this application should be granted.

- 6.1.8 We point the Committee to relevant extracts from Regulation 17 below:

"17(a) [F1NHS England] receives a routine application and is required to determine whether granting it, 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

"17(f) whether it is satisfied that, since the publication of the relevant pharmaceutical needs assessment, the improvements or better access mentioned in paragraph (1) have or has been secured by another person who is providing, or is due to be secured by another person who has undertaken to provide, either in the area of the relevant HWB or in the area of another HWB, NHS services;..."

- 6.1.9 We note that the regulatory criteria are that improvements or better access are to be 'secured'. We reiterate that supplementary hours can easily be removed with 5 weeks' notice to the ICB. It is therefore clear that supplementary hours do not secure pharmaceutical access on a Sunday.

- 6.1.10 The lack of security of these supplementary hours is further compounded by the incumbent operator who is providing them, namely Boots Pharmacy. It will not have escaped the Committee's attention that Boots Pharmacy have struggled to operate pharmacies in recent years. In 2023/24 Boots Pharmacy closed 300 stores nationally, sometimes leaving patients without adequate access to alternative pharmaceutical provision; causing significant distress and disruption to a number of patients. (Boots to close 300 UK pharmacies over the next year, www.bbc.co.uk/news/business-66032556). Against this backdrop, the ability for Boots as an operator to continue to fulfil their supplementary hours is clearly in doubt.

Conclusion

- 6.1.11 We submit that the supplementary statement published by the Wakefield HWB addressed Boots' increase in supplementary hours, but

at no point determined that the identified improvements or better access outlined in the PNA were satisfied or secured.

6.1.12 On the contrary the HWB has previously drawn particular attention to the fact that core hours actually secure provision and provide '*long term commitment*'.

6.1.13 We reiterate that our proposed core opening hours can be relied upon to secure service provision between 11:00-17:00 on Sundays in Wakefield. This contrasts with supplementary hours and Boots' unfortunate reputation of unreliability as a national chain.

6.1.14 We therefore invite the Committee to grant this application."

7 Consideration

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

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

7.3 The Committee had before it a copy of the Wakefield District Pharmaceutical Needs Assessment ("the PNA") dated 2025 - 2028 and prepared by Wakefield Health and Wellbeing Board, which had been provided by the Commissioner. The Commissioner also provided a copy of a Supplementary Statement to the PNA dated 18 December 2025.

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

7.5 The Committee dealt with the appeal by way of reconsideration of the application.

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

Regulation 31

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

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

(2) This paragraph applies where -

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

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

(ii) adjacent premises; and

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

- 7.8 The Applicant, in its application form, stated “*There is a pharmacy trading within the best estimate radius: Boots, 26-28 Upper Kirkgate, Wakefield, West Yorkshire, WF1 1UP. However, this unit and adjacent units have been specifically excluded from the best estimate as per above. Thus Regulation 31 does not apply.*” The Commissioner, in its decision letter agreed that Regulation 31 does not apply as there is no pharmacy at the same or adjacent premises. The Committee noted that this had not been disputed by any party either on appeal or in subsequent representations.
- 7.9 Whilst the Committee noted the comments from the Applicant and the Commissioner, it was mindful of the whole of Regulation 31 and in particular 31(2)(b). The Committee noted that the application was being made by Montwood Ltd and the existing pharmacy, within the best estimate radius, was currently owned and operated by Boots. The Committee noted that no party had sought to argue that there was a link between the Applicant and the existing pharmacy. The Committee was satisfied that the services that the Applicant proposes to provide are not the same services as the existing services, given that there is no connection between the two companies.
- 7.10 Based on the information before it, the Committee therefore determined that it was not required to refuse the application under the provisions of Regulation 31.
- 7.11 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 17

- 7.12 The application (which was to be determined in accordance with the procedures in Schedule 2 to the Regulations) was submitted by the Applicant based on providing improvements, or better access, identified in the pharmaceutical needs assessment (pursuant to Regulation 17).
- 7.13 The Committee considered whether purported improvements or better access, on which the Applicant based its application, satisfied the elements of Regulation 17(1) which reads as follows:

“(1) If -

- (a) *NHS England receives a routine application and is required to determine whether granting it, or granting it in respect of some only of the services specified in it, would secure improvements, or better access to pharmaceutical services of a specified type, in the area of the relevant HWB: and*
 - (b) *the improvements or better access that would be secured have or has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 4(a) 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).*

7.14 Paragraph 4(a) of Schedule 1, reads as follows:

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

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

7.15 The Committee noted in the application form, that the Applicant has focused on pages 6 and 98 of the PNA, where the improvements or better access which the Applicant seeks to address, have been identified.

7.16 Page 6 of the PNA in Chapter 2 under the heading "Main Findings" states:

"Six pharmacies are open on a Sunday in Wakefield District. With the 2023 closure of the Lloyds pharmacy in Sainsbury's, Wakefield centre, there is currently no provision of necessary services in the centre of Wakefield on Sundays. Within the centre of Wakefield there is the King Street Walk in Centre, which is open 10:00-22:00 every day of the week. Should patients be prescribed medication from this service on a Sunday, the nearest pharmacy is Asda in Sandal, which would be over an hour round trip by bus. As a result, better access to necessary services could be secured within the centre of Wakefield City on a Sunday."

7.17 The Committee further noted that page 98 of the PNA in Chapter 11, section 11.3 "Improvements and Better Access – Gaps in Provision" states:

"11.3.1 Improvements and Better Access: Necessary Services

Section 7 of this document outlines the current provision of necessary services, and the levels of access that are available to residents by different means of transport and at different times of the week. For the vast majority of residents, the level of access is excellent across the district, however it is deemed that access could be improved for residents in the city of Wakefield on a Sunday. There are currently no pharmacies providing Sunday hours within the centre of Wakefield. There is also the King Street Walk in Centre located in the centre of

Wakefield that is open throughout Sunday and could therefore issue prescriptions. The nearest pharmacy open on a Sunday is Asda in Sandal, which would be over an hour round trip by bus.

Therefore, this PNA concludes that better access to necessary services could be secured within the centre of Wakefield city on a Sunday, between 11:00-17:00.”

- 7.18 The Committee noted that the PNA expressly identifies a lack of Sunday provision within the city centre of Wakefield and concludes that better access could be achieved through the provision of pharmaceutical services on a Sunday between the hours of 11am and 5pm.
- 7.19 The Committee was mindful that it was possible that the HWB had envisaged that either existing pharmacies would seek to increase their hours, or the Commissioner would direct pharmacies to provide services in those hours.
- 7.20 Based on the wording of the PNA, the Committee was of the view that it was reasonable to consider an application that aimed to provide services in those hours (whether in whole or in part) and that therefore the wording of the PNA did fall within the requirements as set out in paragraph 4(a) of Schedule 1 to the Regulations. This was supported by the fact that the Regulations contain a type of application (made pursuant to Regulation 17) to do just that.
- 7.21 The Committee considered that for the reasons above, the paragraph under the heading “Improvements and Better Access – Gaps in Provision” on page 98 of the PNA falls within the requirements set out in paragraph 4(a) of Schedule 1 to the Regulations and therefore constitutes improvements or better access as envisaged in Regulation 17(1).
- 7.22 Having concluded that better access had been identified, as considered above, the Committee went on to consider the matters set out in Regulation 17(2) which are:

“(a) 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 mentioned in paragraph (1) that the applicant is offering to secure;

(b) whether it is satisfied that another application offering to secure the improvements or better access mentioned in paragraph (1) has been submitted to it, and it would be desirable to consider, at the same time as the applicant’s application, that other application;

(c) whether it is satisfied that an appeal relating to another application offering to secure the improvements or better access mentioned in paragraph (1) is pending, and it would be desirable to await the outcome of that appeal before considering the applicant’s application;

(d) whether it is satisfied that, since the publication of the relevant pharmaceutical needs assessment, there have been changes to the profile of pharmaceutical services in the area of the relevant HWB that are such that

refusing the application is essential in order to prevent significant detriment to the provision of pharmaceutical services in that area;

(e) whether it is satisfied that,

(i) granting the application would only secure the improvements or better access mentioned in paragraph (1) in part, and

(ii) if the application were granted, it would be unlikely, in the reasonably foreseeable future, that the remainder of those improvements or that better access would be secured;

(f) whether it is satisfied that, since the publication of the relevant pharmaceutical needs assessment, the improvements or better access mentioned in paragraph (1) have or has been secured by another person who is providing, or is due to be secured by another person who has undertaken to provide, either in the area of the relevant HWB or in the area of another HWB;

(g) whether it is satisfied that-

(i) the improvements or better access mentioned in paragraph (1) were or was in respect of services other than essential services, and

(ii) granting the application would result in an undesirable increase in the availability of essential services in the area of the relevant HWB;

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

Regulation 17(2)(a) and (b)

7.23 The Committee had not been provided with any information to indicate that there are other applications to consider at the same time as this application and was therefore satisfied for the purposes of Regulation 17(2)(a) and (b) that there were not.

Regulation 17(c)

7.24 The Committee was not aware of any pending appeal and was therefore satisfied that no such appeal needs to be taken into consideration under the provisions of Regulation 17(2)(c).

Regulation 17(2)(d)

7.25 The Committee next considered Regulation 17(2)(d), namely whether, since the publication of the PNA, there had been changes to the profile of pharmaceutical services in the city centre of Wakefield such that refusal of the application was essential in order to prevent significant detriment to the provision of pharmaceutical services in that area.

7.26 The Commissioner, in its decision, confirmed that there were two other applications in the area. The first, an application for an identified current need in WF1 (within the proposed new District Centre at City Fields), had been

granted in January 2026 however no Sunday hours had been proposed. The Commissioner has subsequently confirmed that the pharmacy has not yet submitted a notice of commencement to open.

- 7.27 The second was an application for an identified improvement or better access and was offering supplementary hours on a Sunday (11am to 5pm) and was also for premises in the newly developed City Fields District Centre. The Commissioner has subsequently confirmed that this application was refused and no appeal has been received against the decision of the Commissioner.
- 7.28 The Committee noted that the current need application was still an extant grant and no notice of commencement had been submitted. The Committee therefore considered that, at the present time, there was no evidence to enable it to be satisfied that there have been changes to the profile of pharmaceutical services in the area of the relevant HWB that are such that refusing the application is essential in order to prevent significant detriment to the provision of pharmaceutical services in that area.
- 7.29 Having considered the representations received and the information before it, the Committee was not satisfied, for the purposes of Regulation 17(2)(d), that refusing the application was essential in order to prevent significant detriment to the provision of pharmaceutical services in the area of the HWB.

Regulation 17(2)(e)

- 7.30 The Committee next considered Regulation 17(2)(e), namely whether it was satisfied that (i) granting the application would only secure the improvements or better access identified in the PNA in part, and (ii) if the application were granted, it would be unlikely, in the reasonably foreseeable future, that the remainder of those improvements or better access would be secured.
- 7.31 The Applicant is proposing to open core hours as follows:
- 7.31.1 Monday to Friday: 9:15am to 1:15pm and 2pm to 6pm
- 7.31.2 Saturday: closed
- 7.31.3 Sunday: 11am to 5pm
- 7.32 The Committee noted that the improvements or better access as mentioned in the PNA related to the lack of provision of services on a Sunday in the city centre of Wakefield.
- 7.33 The Applicant is proposing to open in the centre of Wakefield for 6 hours on a Sunday. Whilst the Committee noted the Applicant had stated that these would be “core” hours, it further noted that the total core hours offered by the Applicant exceeded 40 core hours. The “additional core hours” would therefore need to be agreed with the Commissioner and a direction issued. The Committee noted that whilst the Commissioner had stated in its decision report that the Applicant had been asked to clarify the “additional core hours” and that “this was clarified and those hours noted accordingly” no party had sought to confirm if the Sunday hours were to be “core” hours or “additional” core hours.

- 7.34 The Committee was of the view that the hours proposed by the Applicant, and therefore the application, would secure the improvements or better access in full.
- 7.35 Based on the information before it, the Committee was therefore not satisfied in accordance with Regulation 17(2)(e).

Regulation 17(2)(f)

- 7.36 The Committee considered if, since the publication of the PNA, the improvements or better access that the Applicant was proposing to secure have been secured by another person.
- 7.37 The Committee noted the comments from Boots with regard to the supplementary hours which they already offer on a Sunday which they advised had been in place since October 2023 and the data provided by Boots for the period January 2025 to December 2025, demonstrating that these hours were already in place. The Committee further noted the comments from Boots and the submission of the "Notification of an increase to the total number of supplementary opening hours" to formalise the arrangement of providing hours on a Sunday between 10:30am and 4:30pm at 26-28 Upper Kirkgate, Wakefield, WF1 1UP.
- 7.38 The Committee noted the Supplementary Statement which had been issued on 18 December 2025 which confirmed the supplementary opening hours of the Boots Pharmacy at 26-28 Upper Kirkgate, Wakefield, WF1 1UP with effect from 17 December 2025. The Committee noted the conclusion of the Supplementary Statement that "*The Wakefield Health and Wellbeing Board deemed that a revised PNA would be a disproportionate response to the changes outlined in this Supplementary Statement.*" and went on to state "*This supplementary statement to the Wakefield Pharmaceutical Needs Assessment is issued in accordance with Section 6(3) in Part 2 of The NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.*"
- 7.39 The Committee noted the comments from the Applicant that the hours provided by Boots on a Sunday are supplementary hours and therefore does not secure the improvements or better access as these hours can be withdrawn at the discretion of the pharmacy with 5 weeks' notice.
- 7.40 The Committee was of the view that, in determining whether improvements or better access had been secured by another person, it needed to be satisfied that the improvements or better access would be provided on a long-term basis.
- 7.41 The Committee noted that the PNA does not state how the provision of hours on a Sunday should be provided i.e. supplementary or core hours. In any event, the Committee was mindful that the Applicant, whilst proposing "core" hours on a Sunday could in fact determine that these were "additional" hours which would have to be directed by the Commissioner at an additional cost and that this provision was only in place for 3 years as per the length of the direction.
- 7.42 The Committee noted the reference in the PNA to the King Street Walk in Centre which is "located in the centre of Wakefield that is open throughout Sunday and could therefore issue prescriptions." The Committee had no

further information with regard to the location of the Walk in Centre, however it noted the undisputed comments with regard to the distance from the centre to the Asda pharmacy, which currently opens on a Sunday from 10am to 4pm.

- 7.43 The Committee noted that the hours as stated in the PNA were from 11am to 5pm and the hours currently provided in the area were from 10:30am to 4:30pm. The Committee noted, from the information in the PNA, that the opening times of the Walk in Centre are 10am to 10pm however no further information had been provided as to why there was only an unmet need for pharmaceutical services between the hours of 11am to 5pm.
- 7.44 The Committee was of the view that, although the hours currently provided on a Sunday were supplementary hours, they had been provided since October 2023 and noted the information provided in support of the continued provision of services by Boots Pharmacy as well as the notification form making the arrangement formal.
- 7.45 The Committee noted the comments from the Applicant that the introduction of the hours by Boots on a Sunday commenced prior to the publication of the PNA, in October 2023. The Committee would have accepted the Applicant's argument had there not been a revised assessment or supplementary statement. In this regard, the Committee considered that the critical factor was the issuing of the Supplementary Statement by the HWB, confirming that Boots provides services at the specified location for specified hours, and which now forms part of the relevant PNA under Regulation 6. These circumstances are distinguishable from a scenario where services were already provided before publication of the PNA but, for whatever reason, the HWB identified a gap in those services. In that scenario, the decision maker would be required to address the wording used in the Regulations.
- 7.46 The Committee therefore determined that, for the purpose of Regulation 17(2)(f), it is satisfied that, since the publication of the relevant pharmaceutical needs assessment, the improvements or better access mentioned in paragraph (1) have or has been secured by another person who is providing, or is due to be secured by another person who has undertaken to provide, either in the area of the relevant HWB or in the area of another HWB.

Regulation 17(2)(g)

- 7.47 The Committee considered whether the better access relied upon related to services other than essential services and whether granting the application would result in an undesirable increase in the availability of essential services.
- 7.48 The Committee noted that essential pharmaceutical services are already available within the city centre of Wakefield during weekdays and to a lesser extent, on a weekend and in particular on a Sunday. The Committee noted that no information had been provided as to why, if the application was granted, there would be an *undesirable* increase in the availability of essential services.
- 7.49 The Committee was of the view that the better access relied upon did not relate to services other than essential services and therefore determined that Regulation 17(2)(g)(i) was not relevant.

- 7.50 The Committee noted that Regulation 17(2)(g) required both limbs to be satisfied in order for the application to be refused. As the Committee had determined that Regulation 17(2)(g)(i) was not relevant, the Committee did not, therefore, go on to consider Regulation 17(2)(g)(ii).
- 7.51 On the information provided with reference to 17(2)(g), the Committee was satisfied that if this application was granted then there would not be an undesirable increase in the availability of essential services.

Regulation 17(2)(h)

- 7.52 The Committee considered whether the application was required to be deferred or refused by virtue of any provision of Parts 5 to 7 of the Regulations, including Regulation 19.

Summary

- 7.53 The Committee noted reference in the PNA to services which would fall within the description set out in paragraph 4(a) of Schedule 1 to the Regulations.
- 7.54 However, the Committee concluded, for the reasons above, that the identified improvements or better access as referred to in the PNA has been secured by another person in line with Regulation 17(2)(f).
- 7.55 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 7.55.1 confirm the Commissioner's decision;
 - 7.55.2 quash the Commissioner's decision and redetermine the application;
 - 7.55.3 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.

8 **Decision**

- 8.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of the Commissioner, therefore the application is refused.
- 8.2 The Committee concluded that it was not required to refuse the application under the provisions of Regulation 31.
- 8.3 The Committee has determined that the application should be refused for the following reasons:
- 8.3.1 The identified improvements or better access as referred to in the PNA has been secured by another person in line with Regulation 17(2)(f).
- 8.4 Accordingly, the application is refused.

**Case Manager
Primary Care Appeals**