

20 December 2018

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**REF: SHA/19994**

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**APPEAL AGAINST GREATER MANCHESTER AREA TEAM, NHS COMMISSIONING BOARD ("NHS ENGLAND") DECISION TO REFUSE AN APPLICATION BY UK MEDICS LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST IN THE VICINITY OF BRINNINGTON TRAIN STATION, NEAREST POSTCODE SK5 8HJ, MIDDLESEX ROAD AND PENSURST ROAD JUNCTION WITH REGARD TO FUTURE IMPROVEMENTS OR BETTER ACCESS UNDER REGULATION 20**

## 1 Outcome

- 1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of NHS England.
- 1.2 The Committee determined that the application should be refused.

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Unit 7, 2023



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## 1 The Application

By application dated 8<sup>th</sup> April 2018, UK Medics Ltd ("the Applicant") applied to NHS Commissioning Board ("NHS England") for inclusion in the pharmaceutical list in the vicinity of Brinnington train station, nearest postcode SK5 8HJ, Middlesex Road and Penshurst Road junction with regard to future improvements or better access under Regulation 20. In support of the application it was stated:

- 1.1 The Applicant is offering to secure identified improvements or better access by extended hours (7 days), easy access, and by covering the gap due to 100 hours closure in this deprived area.
- 1.2 Brinnington is located in the northeast of Stockport, Greater Manchester, England. The suburb is situated on a bluff above a bend in the Tame Valley. It is in an isolated area and there is only one road (Brinnington Road) to access and exit the ward. The ward total population is 14,999 and it is one of the most deprived areas in Stockport and England. The rate of people with long term health problems or disabilities is much higher than in the borough as a whole. The people with long term health problems or disabilities which limit day to day activities are 14%, this is considerably higher compared to the national statistics of 8.31% and 8.64% in Stockport (reference: [mystockport.org.uk](http://mystockport.org.uk)). Brinnington has the lowest male life expectancy in the borough at 71.9 years furthermore, the female life expectancy is also the lowest in the borough at 77.3 years, the significance of this only comes to light when compared with neighbouring Bramhall south where the female life expectancy is 88.5 years which is a difference of 16.6 years. This highlights the severity of deprivation in Brinnington. Brinnington ranks are low in every single deprivations index collected in PNA and Stockport Joint Health and Wellbeing Strategy.
- 1.3 The adult life style survey clearly shows high risk drinking is at the highest in Brinnington, this is associated with a higher risk of physical and mental harm. Smoking prevalence in Brinnington is 30%, this is again the highest when it is compared to the surrounding areas and is also higher than that of Stockport. The rate of general health, described as bad or very bad health in Brinnington is almost double the national rate.
- 1.4 Last year, there were three pharmacies in the Brinnington area:
  - 1.4.1 Co-op Pharmacy which was located outside the Brinnington health centre at Berwick Parade (now trading as Cohen Chemist)
  - 1.4.2 Brinnington Pharmacy (100 hours) which was located in the health centre (now closed).

- 1.4.3 Manor Pharmacy which is located around 1 mile from the health centre.
- 1.5 Currently, there are only two pharmacies providing services in the Brinnington area. The Brinnington pharmacy which was located in the health centre closed but relocated outside and replaced their initial 100 hour contract with a normal core hours contract and it is now trading as Cohens Chemist. The Coop pharmacy closed down and Manor pharmacy is still operating approximately 1 mile from Brinnington health centre. Instead of expanding and facilitating the need of the local community, the new Cohen pharmacy now offers less hours of service.
- 1.6 Manor pharmacy which is roughly situated one mile away from Cohen chemist provides limited advance services due to a lack of consultation room in the premises and its access (located behind the Vernon Park surgery). The accessibility of Manor pharmacy is very difficult due to it being at a significant distance from the main neighbourhood and also because of the M60 Bridge, which is quite steep and hard to access by walk, push chair and wheelchair.
- 1.7 The 100 hours pharmacy inside the health centre has now closed leaving a gap in the provision of pharmaceutical services. The PNA has not yet considered this gap. The Applicant is looking to fill this gap with core 75 hours and would like to provide seven-day pharmaceutical services to the local community. This is increasingly important as the surgery (Brinnington health centre) is now providing NHS services seven days a week. Therefore, it is inconvenient for the patients to travel approximately over 2 miles (35 minutes' walk one way) to get their medication from the nearest late-night pharmacy (Medichem Pharmacy) in the evenings and on weekends. A very limited car ownership and the long intervals between public transports make it extremely difficult for the population of Brinnington to access Pharmaceutical services on the weekends. This highlights the need for a pharmacy to provide services to the local community when there is no other pharmacy open in the local area.
- 1.8 The Stockport HWB pharmaceutical needs assessment concluded that the choice and delivery of pharmaceutical services currently commissioned are adequate and met the needs of the population. However, this is no longer the case in Brinnington because of the closure of the 100 hours pharmacy in this neighbourhood. There are two new large developments in the north of Brinnington (Brinnington Regeneration Plan, new dwellings Blackberry Vale, Brinnington) and this community needs services in the evening and weekends. In addition to this, priorities for the health and wellbeing of Stockport 2016-2019 identify Brinnington as a deprived community and a priority area. According to PNA Mar 2018
- 1.8.1 "Potential future needs arising out of changes to GP provision, particularly changes to hours of operation (including weekend opening and extended hours during the week) and the move from acute to community services as part of the Stockport Together programme, will be assessed on a case by case basis against existing pharmacy provision as part of NHS England's contractual process".
- 1.9 The proposed location is close to Brinnington train station and will serve the local neighbourhood with better access, extended hours and a range of services. The train station is a major access route to the area in this neighbourhood and to the local pharmacy.
- 1.10 Considering the above information and the demographical information mentioned in the PNA it is evident that the Brinnington area is in need of an additional pharmaceutical services provider, the proposed pharmacy will be able to fulfil the needs of the local community by providing all advanced and locally commissioned services including:
- 1.10.1 MUR

- 1.10.2 NMS
- 1.10.3 Flu vaccination
- 1.10.4 NUMsas
- 1.11 Some services that do not need to be commissioned but are important from a strategic point of view will be provided including:
  - 1.11.1 Type 2 diabetes screening
  - 1.11.2 Free delivery (very low car ownership)
  - 1.11.3 Availability of free OTC advice and sign posting
  - 1.11.4 Cholesterol checks
  - 1.11.5 Blood pressure checks
  - 1.11.6 Emergency supply of medication at the request of the patient and prescriber
  - 1.11.7 Intervention of high risk alcohol consumption
  - 1.11.8 Monitored dosage systems for community and resident homes
  - 1.11.9 Sale of Pharmacy only medication with professional pharmacist advice to promote self care and healthy lifestyle.
  - 1.11.10 Weight management and healthy living
- 1.12 The following enhanced services will also be delivered once approval from local CCG include:
  - 1.12.1 Minor ailment
  - 1.12.2 Smoking cessation (highest smoking rate in this neighbourhood)
  - 1.12.3 Needle and syringe programme
  - 1.12.4 EHC and Chlamydia screening services (High teenage pregnancies in the area)
  - 1.12.5 Healthy living pharmacy
  - 1.12.6 Methadone and buprenorphine supervision consumption (significant service user in Brinnington)
- 1.13 According to PNA 2018
  - 1.13.1 *“There are no pharmacies currently providing supervised consumption of buprenorphine. The need for this service is relatively limited. However, Pathfinder (Stockport’s local drug and alcohol service) are actively working with pharmacies that currently offer supervised consumption of methadone to extend their provision to buprenorphine.”*
- 1.14 The proposed pharmacy will open 7 days a week and will cover the gap which arises due to the closure of 100 hours in that area. The timings of the new pharmacy will be 75 hours per week:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
08:30 – 20:30	08:30 – 20:30	08:30 – 20:30	08:30 – 20:30	08:30 – 20:30	09:00 – 18:00	10:00 – 16:00

1.15 The proposed pharmacy will be easily accessible to all the local residents, the pharmacy will open for 75 hours a week (75 guaranteed core hours) which will enhance adequate cover and improve access for the whole area. The extended hours will be very beneficial for those patients who cannot access the pharmacy during standard hours, Furthermore, there will be accessible entrance and exit for the elderly on scooters or in wheelchairs and for the very young in pushchairs or buggies.

1.16 In summary, the need to fill the gap of the closure of one pharmacy and the need to deliver pharmaceutical services throughout the week is clear. The opening of a new pharmacy will also restore the choice that patients previously had with two pharmacies in that neighbourhood, Furthermore, there is an additional need arising out of changes to GP provision, Brinnington Health Centre is now open extended hours, as well as on the weekends. The addition of a new pharmaceutical services provider will strengthen the move from acute to community services as part of the Stockport Together programme.

## 2 The Decision

NHS England considered and decided to refuse the application. The decision letter dated 4<sup>th</sup> September 2018 enclosed a decision report which states:

### Regulation 20(2)(a)

2.1 The Pharmaceutical Services Regulations Committee (PSRC) did not wish to invite applications from other persons offering to secure the same future improvements or better access, as it was satisfied that the Stockport Pharmaceutical Needs Assessment (PNA) 2018-21 - from this point forward referred to as “the PNA” - does not identify a need for future improvements and/or better access in the Brinnington locality.

### Regulation 20(2)(b)

2.2 The PSRC did not wish to defer consideration of the application until some or all of the future circumstances set out in the PNA have arisen (should they arise), as the PNA does not identify a need for future improvements and/or better access in the Brinnington locality.

### Regulation 20(2)(d)

2.3 There are no other pending applications offering to secure improvements or better access; nor are there any appeals in process; as the PNA does not identify a need for future improvements and/or better access in the Brinnington locality. Therefore the PSRC was satisfied that this Regulation does not apply.

### Regulation 31

2.4 The PSRC considered the applicant’s description of the proposed location and noted that there is no pharmacy in the vicinity of Brinnington train station and the Middlesex Road/Penshurst Road junction.

2.5 Therefore the PSRC was satisfied that, based on the information available, the applicant is not providing or undertaking to provide pharmaceutical services from

premises/adjacent premises where it would be reasonable for the NHSCB (NHS England) to treat the applicant's proposed services as part of the same service as the existing services.

- 2.6 The PSRC was advised that the nearest pharmacies to the proposed site are Cohens Chemist, Units 5-6 Berwick Parade, Brinnington - 0.3 miles from the proposed site; Lloyds Pharmacy, 242 Stockport Road, Bredbury - 0.9 miles from the proposed site; and Manor Pharmacy, 32 Brinnington Road, Brinnington - 1 mile from the proposed site (source: NHS Choices).
- 2.7 The PSRC concluded that the application should not be refused under Regulation 31.

#### Regulation 32

- 2.8 The proposed premises/part of premises (insofar as the "best estimate" address as provided by the applicant indicates) are not located within an LPS designation, therefore the PSRC was satisfied that Regulation 32 does not apply.

#### Interested parties notified of the application

- 2.9 Representations were received from Greater Manchester LPC, Cohens Chemist, Manor Pharmacy and Lloyds Pharmacy. A summary of the responses is as follows:-
- 2.10 Greater Manchester LPC – feels the level of available pharmaceutical service in the area has not been sufficiently affected to merit this application.
- 2.11 Cohens Chemist – believes the applicant has misinterpreted the Regulations as there is no identified gap for future improvements or better access.
- 2.12 Manor Pharmacy – states that the area is well served by public transport; that Cohens Chemist is open for extended hours; and that there is already adequate access to pharmacy services.
- 2.13 Lloyds – notes the 100 hour pharmacy closure but does not believe that this has left a gap, and that the applicant has not demonstrated any evidence of need of additional pharmacy provision.
- 2.14 In its response to interested party representations, the applicant provided a profile of Brinnington, highlighting the disparities between this relatively deprived area of Stockport in comparison to other localities, and advised that the extended hours it is proposing to offer would provide Sunday opening hours which are currently lacking in the Brinnington area. The applicant stated that there is an "enormous" gap in service provision in Brinnington, and believes the PNA to be "flawed" as it has "overlooked" the gap created by the closure of the 100 hour pharmacy.

#### Additional Information

- 2.15 The PSRC had regard to the application, interested party comments and the applicant's response to interested party comments. In determining this application, the PSRC also reviewed a map of the Brinnington locality containing the location of existing pharmacy/GP provision and hours of availability, and the relevant sections of the PNA.
- 2.16 The PSRC noted that the application relied on a general statement in the PNA and that the applicant had failed to give consideration to the relevant section of the PNA i.e. its conclusion, within which the Health & Wellbeing Board is required to identify where, if any, gaps in pharmaceutical services provision in its locality are.
- 2.17 The Executive Summary section 1 of the 2018 PNA states:-

- 2.17.1 *“The conclusion of this PNA is that the population of Stockport’s HWB area has sufficient service provision (including pharmacy contractors) to meet their essential pharmaceutical needs. This is clearly demonstrated by the following points:*
- 2.17.1.1 *A significantly higher number of pharmacies per 100,000 population than the England Average*
  - 2.17.1.2 *Since 2015 the number of community pharmacies has remained stable*
  - 2.17.1.3 *More than 93% of the population have access to pharmacies within one kilometre of their Home*
  - 2.17.1.4 *Choice of pharmacy is provided as more than 96% of the population live within 2km of three or more pharmacy providers*
  - 2.17.1.5 *Analysis of opening hours and trading days shows there is adequate provision for out of hours services.*
- 2.17.2 *The maps and data contained in this document clearly show that services which are commissioned, in addition to the essential contract, including locally commissioned services, meet identified health needs in the necessary areas.”*
- 2.17.3 The PSRC considered the applicant’s assertion that the loss of a 100 hour pharmacy contractor from the Brinnington locality had left a gap in pharmacy provision. However the PSRC was mindful that the closure of this pharmacy (Brinnington Pharmacy Ltd t/a Brinnington Pharmacy, Brinnington Health Centre, Brinnington Road, Brinnington) had taken place on 1 June 2017, during the lifespan of the previous (2015) PNA. The closure of this pharmacy had been taken into account by Stockport HWB when writing the 2018 PNA, and despite the loss of this pharmacy, the HWB still concluded that there was no gap in provision, nor did it identify a future improvement/better access need in the Brinnington locality.
- 2.17.4 The applicant also made reference to the new “Blackberry Vale” housing development, which is situated on the extreme north boundary of Brinnington. The PSRC noted that at the time the 2018 PNA was published, the development – consisting of 98 new dwellings – was part-built, and had been considered by the HWB in the PNA (as referenced under section 3.4.1 Planned Changes in Stockport – Under Construction). The HWB had concluded that, having taken into account planned housing developments and those under construction, these changes did not warrant a need for additional pharmaceutical provision.
- 2.17.5 NHS England officers undertook a site visit on 9 August 2018 to gain a general overview of the Brinnington locality, the location of current pharmaceutical and GP practice provision, and the new housing development. The PSRC was advised that Brinnington is a large mainly Local Authority housing estate close to Stockport town centre, and is served by regular buses and also has a train station in a fairly centralised location on The Link. At the proposed site there is a large local convenience store, chip shop and barber shop. Whilst there are a few small pockets of amenities on the estate, it was clear that residents would be used to having to travel out of Brinnington for their everyday needs, leisure, and for work related purposes. There are two pharmacies (Cohens and Manor) and three GP practices (Brinnington Surgery, The Surgery 1 and Vernon Park Surgery) serving the resident population. Cohens Chemist is the closest pharmacy to the

proposed site, offering a total of 57 core and supplementary opening hours covering Monday to Saturday.

2.17.6 The PSRC noted that the applicant had requested that the application be approved as *“it is evident that the PNA has overlooked the important issue of the closure of the 100 hour pharmacy”* and believed the content of the PNA to be *“flawed”*. However the PSRC concluded that the applicant had failed to provide any evidence or justification for these comments, and was mindful that it is neither within the remit of the applicant nor the PSRC to challenge the accuracy of a published PNA. Furthermore, it appeared that the application had been made in the belief that the applicant themselves could identify a future improvement and/or better access, which demonstrated a clear lack of understanding of Regulation 20 and of the criteria which must be satisfied in order for an application of this type to be granted.

#### Decision

2.17.7 The PSRC considered the application and determined that the application had failed to meet the requirements of both Regulation 20(1)(a) and 20(1)(b), in that the applicant had not identified what future improvements or better access a new pharmacy at the proposed location would offer as identified in the Stockport PNA 2018-21.

2.17.8 The application was therefore REFUSED.

2.17.9 The applicant has a right of appeal against the PSRC's decision.

### 3 The Appeal

In an undated letter received on 4<sup>th</sup> October 2018, the Applicant appealed against NHS England's decision. The grounds of appeal are:

- 3.1 Brinnington is located in the northeast of Stockport, Greater Manchester, England. The suburb is situated on a bluff above a bend in the Tame Valley. Brinnington is a priority 1 area in Stockport which ranks it as one of the most deprived areas in the district. It lies within the Brinnington and Central Ward and is both socially and economically isolated from the surrounding affluent residential and commercial areas and further geographically isolated by the M60 Motorway, with only one road (Brinnington Road) to access and exit the ward.
- 3.2 Brinnington is made up of four Lower Super Output Areas (LSOAs). All four of these are amongst the 10 most deprived LSOAs in Stockport and fell within the 5% most deprived in England in the 2010 IMD. The north LSOA is the most deprived in Stockport (out of 190) and 149th most deprived nationally out of 32,482 areas. Both the north and west LSOAs fell within the 1% most deprived nationally.
- 3.3 The rate of people with long term health problems or disabilities is much higher than in the borough as a whole with 14% of locals suffering with long term health problems or disabilities which limit day to day activities. This rate is considerably higher than both the national average of 8.31% and the local average of 8.64% in Stockport (reference: mystockport.org.uk).
- 3.4 Dr Stephen Watkins, Director of Public Health and author of Stockport's annual health report is keen to emphasise the huge disparities in life expectancy between those living in Brinnington and surrounding areas. The report says men in Bramhall North and women in Cheadle Hulme South live longer than in any country in the world. In stark contrast, men living in the Brinnington and Central ward have an average life expectancy of just 71 years (similar to contemporaries in Mexico and Iran), some 14 years lower than those in Bramhall South. Women in Brinnington and Central live longer, up to 76 years of age (similar to contemporaries in Serbia and China) but still

significantly less than Women in Bramhall, who have an average life expectancy of 86.4 years. This means that life expectancy in Bramhall South is 13.3 years greater for men and 10.8 years greater for women than in Brinnington and Central ward.

- 3.5 National studies of the differences between the most and least deprived areas within local authorities showed that Stockport has one of the biggest gaps between 'rich' and 'poor' in the country, nationally the area ranked third in the polarisation index. 2 Addressing these inequalities is a key priority with Stockport's Health and Wellbeing Strategy (2018). The Applicant is confident that this disparity and the disparity in life expectancy, especially when combined with are (sic) low scores for Brinnington in numerous deprivations indexing exercises completed by PNA and Stockport Joint Health and Wellbeing Strategy, clearly demonstrate the severity of deprivation in Brinnington.
- 3.6 A recent adult lifestyle survey conducted in Brinnington also clearly shows that high risk drinking is higher in Brinnington than in surrounding areas and this is associated with a higher risk of physical and mental harm. Smoking prevalence in Brinnington is 30%, compared to 11% in surrounding areas and is also higher than rates in Stockport. The rate of residents with general health described as Bad or Very Bad in Brinnington is almost double the national rate.
- 3.7 Last year, there were three pharmacies in the Brinnington area:
  - 3.7.1 Co-op Pharmacy, which was located outside the Brinnington health centre at Berwick Parade (now trading as Cohen Chemist)
  - 3.7.2 Brinnington Pharmacy (100 hours), which was located in the health centre (now closed).
  - 3.7.3 Manor Pharmacy, which is located around 1 mile from the health centre.
- 3.8 Currently, there are only two pharmacies providing services in the Brinnington area. The Brinnington pharmacy, which was located in the health centre, closed and relocated outside. The business is now trading as Cohens Chemist and has replaced their initial 100-hour contract with a normal core hours contract. Instead of expanding and facilitating the need of the local community, the new Cohen pharmacy now offers less hours of service. The Co-op pharmacy closed down and Manor pharmacy is still operating approximately 1 mile from Brinnington health centre.
- 3.9 Manor Pharmacy, which is roughly situated one mile away from Cohen chemist provides limited advance services due to a lack of consultation room in the premises and its access (located behind the Vernon Park surgery). The accessibility of Manor pharmacy is very difficult due to it being at a significant distance from the main neighbourhood and also because of the M60 Bridge, which is quite steep and hard to access by walk, push chair and wheelchair.
- 3.10 The initial draft of 2018 PNA was prepared in Sep 2017 and the transfer of Brinnington pharmacy to Cohen chemist took place in Nov 2017 (Companies House data). It seems to the Applicant that this transfer has been clearly overlooked by the 2018 PNA, thus, creating the gap in provision described above. The Applicant is also unable to find any supplementary 2015 PNA statements related to this closure.
- 3.11 Therefore, although the final draft of the PNA was completed in 2018 it has failed to identify this important gap in pharmaceutical services which now exists in the area caused by the closure of the 100 hours pharmacy inside the health centre. The impact of this closure and depriving the community of choice, time and quality of services cannot be ignored.
- 3.12 The Applicant is looking to fill this gap with core 75 hours and would like to provide seven-day pharmaceutical services to the local community. The proposed pharmacy

will open 7 days a week and will cover the gap which arise due to the closure of 100 hours in that area.

3.13 The timings of the new pharmacy will be 75 hours per week:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
08:30 – 20:30	08:30 – 20:30	08:30 – 20:30	08:30 – 20:30	08:30 – 20:30	09:00 – 18:00	10:00 – 16:00

3.14 This is increasingly important as the surgery (Brinnington Health Centre) is now providing NHS services seven days a week. Therefore, it is highly inconvenient for the patients to travel approximately over 2 miles (35 minutes' walk one way) to get their medication from the nearest late-night pharmacy (Medichem Pharmacy) in the evenings and on weekends.

3.15 ISyntax Error, (sic) ,make it extremely difficult for the population of Brinnington to access Pharmaceutical services on the weekends. This highlights the need for a pharmacy to provide services to the local community when there is no other pharmacy open in the local area.

3.16 In addition to this no pharmaceutical services are available in the community on Sunday at all. As the proposed pharmacy will open 10.00 till 16.00 on Sunday, this will reduce pressure on the GP practice in a deprived community. This will be especially beneficial on Mondays, as the pharmacy will be able to deal with minor ailments and provide other advances services over the weekend. It will also reduce pressure on other NHS services like 111 and A & E by providing professional advice and services (emergency supply, OTC, Minor Ailment, Blood pressure check, EHC supply) at their door step.

3.17 There are also two new large developments in the north of Brinnington (Brinnington Regeneration Plan, new dwellings Blackberry Vale, Brinnington) and this community will need services during evening and weekends.

3.18 Furthermore, as Cohen chemist is the only pharmacy in the area serving a large population, it is extremely difficult to ensure adequate clinical services (such as MURs, NMS and counselling) are being provided to every patient that requires them. A new pharmacy in the area will increase pharmacy hours in the area, thus increasing patient/pharmacist contact time.

3.19 Considering the above information and the demographic information mentioned in the PNA, it is evident that the Brinnington area is in need of an additional pharmaceutical services provider. The proposed pharmacy will be able to fulfil the needs of the local community by providing all advanced and locally commissioned services including:

3.19.1 MUR

3.19.2 NMS

3.19.3 Flu vaccination

3.19.4 NUMsas

3.20 Some services that do not need to be commissioned but are important from a strategic point of view will be provided including:

3.20.1 Type 2 diabetes screening

- 3.20.2 Free delivery (important due to very low car ownership)
- 3.20.3 Availability of free OTC advice and sign posting
- 3.20.4 Cholesterol checks
- 3.20.5 Blood pressure checks
- 3.20.6 Emergency supply of medication at the request of the patient and prescriber
- 3.20.7 Intervention of high risk alcohol consumption
- 3.20.8 Monitored dosage systems for community and resident homes
- 3.20.9 Sale of Pharmacy only medication with professional pharmacist advice to promote self care and healthy lifestyle.
- 3.20.10 Weight management and healthy living
- 3.21 According to PNA 2018; there are no pharmacies currently providing supervised consumption of buprenorphine. The need for this service is relatively limited, however, Pathfinder (Stockport's local drug and alcohol service) are actively working with pharmacies that currently offer supervised consumption of methadone to extend their provision to buprenorphine.
- 3.22 The following enhanced services will also be delivered once approval from local CCG include:
  - 3.22.1 Minor ailment
  - 3.22.2 Smoking cessation (highest smoking rate in this neighbourhood)
  - 3.22.3 Needle and syringe programme
  - 3.22.4 EHC and Chlamydia screening services (High teenage pregnancies in the area)
  - 3.22.5 Healthy living pharmacy
  - 3.22.6 Methadone and buprenorphine supervision consumption (significant service user in Brinnington)
- 3.23 The proposed location is close to Brinnington train station and will serve the local neighbourhood with better access, extended hours and a range of services. The train station is a major access route to the area in this neighbourhood and to the local pharmacy.
- 3.24 The bus service available to nearby existing pharmacies has limited services on weekends making it extremely difficult for commuter to access pharmaceutical services on the weekend. The other route 322 and 327 are Monday to Friday and again no services on Saturday and Sunday on that route. In addition, more than 50% of the local population feel unsafe outside in the dark, deterring them from using public transport, especially in the evening and in winter.
- 3.25 In relation to better access the Applicant would like to mention:
  - 3.25.1 7 days access to local proposed pharmacy

- 3.25.2 7 days access to advanced, essential and local commissioned services late evening opening to 8.30
- 3.25.3 No other pharmacy at walking distance for late evening and Sunday due to motorway Bridge at both ends of Brinnington
- 3.25.4 Very low car ownership rates
- 3.25.5 OTC and P medicines will be available under minor ailment along with pharmacists' professional advice which will reduce burden on 111 and out of hours.
- 3.25.6 Local care homes will be benefited
- 3.25.7 Limited parking to existing pharmacies
- 3.26 The opening of a new pharmacy will also restore the choice that patients previously had with two pharmacies in that neighbourhood. The addition of a new pharmaceutical services provider will strengthen the move from acute to community services as part of the Stockport Together programme.
- 3.27 The Applicant has already set up a meeting with the staff and manager at the Brinnington Health Centre who were interested in its proposal and wanted to know more. The Applicant has also attached a letter with the appeal written by the manager of Brinnington Health Centre who was supportive towards the application. The surgery is ready to liaise with the Applicant to take a positive step in providing a better healthcare opportunity for the community.
- 3.28 In conclusion, the Applicant feels strongly that NHS England should consider the application for approval as it is evident that the PNA has overlooked the extremely important issue of the closure of the 100-hour pharmacy. If this gap is not promptly rectified, the long-term effects of this lack of pharmaceutical access to the public will eventually be seen in Brinnington and the Applicant is anxious to prevent this. Overall, the Applicant feels that the addition of this new pharmacy will secure improvements in terms of both access to pharmaceutical services for the local population and the range of services in the wider area.
- 3.29 *Supporting information attached for the Committee at Appendix A.*

#### 4 **Summary of Representations**

This is a summary of representations received on the appeal.

##### 4.1 GREATER MANCHESTER LPC

- 4.1.1 The LPC has further reviewed this application and Regulation 20 and on reflection would like to make the following points:-
- 4.1.2 The 2018 Stockport PNA does not identify any gap for future improvements or identify a need for better access.
- 4.1.3 The PNA in the opinion of the LPC is a thorough document that has not overlooked any need for improvements or access to services.
- 4.1.4 The PNA does not envisage any future changes in services leading to the requirement for the additional provision of services.

- 4.1.5 The closure of the 100 hour pharmacy was not identified in the PNA as leaving a gap in the provision of pharmaceutical services and therefore the need for an additional pharmacy contract.
- 4.1.6 For these reasons the LPC does not support the appeal.
- 4.1.7 Greater Manchester LPC would like to receive any further correspondence regarding this application and wish to be kept informed of its progress.

#### 4.2 LLOYDS PHARMACY

- 4.2.1 The thrust of this application would appear to be on the back of the closure of a 100 hours pharmacy. There is however, no evidence the closure of that pharmacy left a gap in provision. At the time of its grant, the 100 hours' pharmacy was not subject to any determination of need.
- 4.2.2 The applicant proposes to open to 2030 weekdays but the existing Cohens Pharmacy is already open to 1930 Monday and to 1830 Tuesday to Friday and 1630 Saturday. There is no evidence that there is a need for further pharmaceutical services within the additional hours proposed by the applicant.
- 4.2.3 Lloyds submit the applicant has failed to provide evidence of significant benefits that would be conferred in terms of choice; to those groups who may share protected characteristics and; innovative services. The application should be refused as it will not secure improvements or better access to pharmaceutical services in the context of Regulation 18.

#### 4.3 NHS ENGLAND

- 4.3.1 NHS England write to acknowledge the appeal received from UK Medics Ltd (from this point forward referred to as "the appellant"), against the decision of the Greater Manchester Pharmaceutical Services Regulations Committee (from this point forward referred to as "the PSRC") to refuse the above-detailed application.
- 4.3.2 In the first instance, NHS England wishes to highlight that on page two of the appeal, there are a number of factual inaccuracies in the background information provided by the appellant relating to the changes that have taken place in pharmaceutical service provision in the Brinnington area.
- 4.3.3 Firstly, Brinnington Pharmacy, the 100 hour pharmacy located within the Health Centre, did not "close and relocate outside" and now offers "less hours of service". This particular pharmacy in fact closed permanently on 1 June 2017.
- 4.3.4 Secondly, the Cohens Chemist referred to by the appellant is a separate pharmacy premises entirely on Berwick Parade, and is a standard 40 hour contractor which offers a total of 57 hours (core and supplementary) over six days (Monday to Saturday). The appellant has further confused matters by referring to a Co-op Pharmacy "closing down", however we note that there has been a pharmacy in continual operation at this location since January 1954. The pharmacy on Berwick Parade is in fact the Co-op Pharmacy the appellant refers to, which did not close down but became a Cohens Chemist following a change of ownership in March 2017.
- 4.3.5 To avoid any further confusion, NHS England wishes to clarify that there were three pharmacies initially in the Brinnington area of Stockport (two standard 40 hour contractors and a 100 hour contractor); and there are now two following the closure of the 100 hour pharmacy in June 2017.

4.3.6 The appellant refers on numerous occasions to perceived “gaps” in pharmaceutical service provision in Brinnington; relating to location/accessibility, opening hours and availability of services. However, as previously stated in the PSRC’s decision report and as reinforced in this response, according to the most recently published Stockport PNA (2018-2021), no such gaps exist. Furthermore, the appellant agrees that the PNA has identified no gaps, but has concluded that this is because the PNA has “overlooked” the closure of Brinnington Pharmacy which occurred on 1 June 2017. This is an entirely unfounded statement with no evidence to support it, and it is neither for the appellant nor NHS England to challenge the accuracy of the published PNA. NHS England can only reaffirm that Stockport HWB was made aware of the closure of the 100 hour Brinnington Pharmacy in mid-2017, and having taken into account the availability of pharmaceutical provision in each locality across the whole of the Stockport area, the final version of the PNA (published in April 2018) did not identify any future improvements or better access needs for Brinnington. On that basis alone, the application fails to meet the requirements of Regulation 20 as set out below:-

4.3.7 *“Future improvements or better access: additional matters to which the NHSCB must have regard*

*20.—(1) If the NHSCB 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 in the future—*

*(a) to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and*

*(b) that have or has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 4(b) of Schedule 1”*

4.3.8 Having considered the content of the appeal, NHS England is unable to identify on what grounds the appellant has appealed the PSRC’s decision. The application submitted by the appellant was to secure identified future improvements or better access which must have been identified in the relevant PNA (in this case, the Stockport HWB PNA). Despite the closure of the 100 hour pharmacy in Brinnington, the HWB did not conclude that a gap had been created; nor did it identify in the PNA any future improvements or better access requirements either for Brinnington or any other areas of Stockport. The PSRC’s decision report was comprehensive in its explanation of why the application was refused, and the appeal letter has only served to highlight the appellant’s apparent misunderstanding of the relevant regulatory test for applications of this type. For reference, the PSRC’s decision report is included as a separate attachment to this response.

4.3.9 In conclusion, NHS England is satisfied that the PSRC’s decision report gives robust reasoning for the refusal of this application, and respectfully requests that Primary Care Appeals upholds the PSRC’s decision and dismisses this appeal.

#### 4.4 CHARLES RUSSELL SPEECHLYS, ON BEHALF OF COHENS CHEMIST

4.4.1 As stated in [NHS Resolution’s] letter of 12<sup>th</sup> October 2018, this application falls to be determined pursuant to Regulation 20 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013.

- 4.4.2 The application may only be granted by NHS Resolution if the requirements of Regulation 20(1) are met. These requirements are, in essence, that the relevant PNA identifies “improvements or better access in the future to pharmaceutical services, or pharmaceutical services of a specified type”; and NHS Resolution is satisfied that granting this application would meet that identified “future improvements or better access”.
- 4.4.3 In fact, as correctly determined by NHS England, neither part of Regulation 20(1) is met in the circumstances of this application.
- 4.4.4 For the purposes of determining this application, NHS Resolution must firstly identify “the relevant PNA”. Regulation 22(2) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 provides that “the relevant pharmaceutical needs assessment is ... the pharmaceutical needs assessment of the relevant HWB that is current at the time that the NHSCB takes its decision to grant or refuse the application...”
- 4.4.5 The relevant PNA for the purposes of the determination of this application is the 2018 Stockport Health and Wellbeing Board PNA which was published in March 2018. This is the PNA to which the applicant refers in its application form and to which NHS England had regard in its determination of the application.
- 4.4.6 The application is, essentially, submitted on the basis of the closure of a 100-hour pharmacy in Brinnington. Brinnington Pharmacy was removed from the pharmaceutical list on 1<sup>st</sup> June 2017 and, as a result, had ceased to provide services at the time that the 2018 PNA was published. The absence of the 100-hour pharmacy in Brinnington was therefore clearly known to the HWB at the time that the current PNA was published.
- 4.4.7 In its application form, the applicant was invited to provide the page number(s) of the page(s) of the relevant PNA which, in the applicant’s view identify future improvements or better access which would be secured by the granting of this application.
- 4.4.8 The applicant refers to page 5 of the PNA, which assesses the provision of pharmaceutical services in the HWB’s area. The PNA provides that:
- 4.4.9 “*The conclusion of this PNA is that the population of Stockport’s HWB area has sufficient service provision (including pharmacy contractors) to meet their essential pharmaceutical needs. This is clearly demonstrated by the following points:*
- 4.4.9.1 *A significantly higher number of pharmacies per 100,000 population than the England average*
- 4.4.9.2 *Since 2015 the number of community pharmacies has remained stable*
- 4.4.9.3 *More than 93% of the population have access to pharmacies within one kilometre of their home*
- 4.4.9.4 *Choice of pharmacy is provided as more than 96% of the population live within 2km of three or more pharmacy providers*
- 4.4.9.5 *Analysis of opening hours and trading days shows there is adequate provision for out of hours services*

- 4.4.10 *The maps and data contained in this document clearly show that services which are commissioned in addition to the essential contract, including locally commissioned services, meet identified health needs in the necessary areas.”*
- 4.4.11 Whilst the 2018 PNA does refer to a possible gap in future service provision, this relates to housing developments at the Woodford Aerodrome site, which is not the location of the applicant’s proposed premises and, in fact, is approximately 8 miles away from Brinnington. The PNA states:
- 4.4.12 *“In the south of Stockport the development of the Woodford Aerodrome site, with an eventual 920 new homes, may lead to a gap in essential service provision in the future once the development is significantly occupied. Analysis of population change in this area will be undertaken regularly and a statement indicating unmet need will be issued if this population change leads to Stockport’s strategic principles (see section 2.4.4) being breached. In addition Cheshire East’s proposed North Cheshire Garden Village, may lead to further need for primary care in this area; a joint assessment of these needs will be undertaken once the development is agreed.”*
- 4.4.13 In relation to opening hours, the PNA states:
- 4.4.14 *“Analysis of opening hours and trading days shows there is adequate provision for out of hours services. Potential future needs arising out of changes to GP provision, particularly changes to hours of operation (including weekend opening and extended hours during the week) and the move from acute to community services as part of the Stockport Together programme, will be assessed on a case by case basis against existing pharmacy provision as part of NHS England’s contractual process.”*
- 4.4.15 In support of its appeal, the applicant refers to the provision of extended hours primary medical services from GP’s at the Brinnington Surgery. However, according to the GP Practice website, the surgery is not open for extended hours as stated by the applicant. Brinnington Surgery is open from 8am to 6.30pm Monday to Friday, with an additional hour on Monday evening and Friday morning (<https://www.brinningtonsurgery.nhs.uk/index.php?id=opening-hours>) as shown in the extract [attached].
- 4.4.16 The PNA does not identify any gaps in pharmacy opening times in the HWB’s area, confirming that “there is adequate provision of out of hours services”. Indeed, the applicant accepts that no gap is identified in the PNA in Brinnington, since the letter of appeal states: *“although the final draft of the PNA was completed in 2018 it has failed to identify this important gap in pharmaceutical services...”*
- 4.4.17 The applicant refers to demographic data contained within the PNA together with information regarding local life expectancies and high-risk drinking, but in the absence of identified future improvements or better access within the PNA, this information is irrelevant.
- 4.4.18 In relation to physical access to the existing pharmacy network, Cohens Chemist is located in close proximity to the Brinnington Surgery and is therefore easily and conveniently accessible to patients who require access to pharmaceutical services after a visit to their GP. Cohens Chemist is also located within the local Brinnington shopping centre (Berwick Parade) which is located in a central position within Brinnington.
- 4.4.19 Berwick Parade is served by four bus routes (322, 324, 325, 327) with buses running at least every 8 minutes from Monday to Saturday and every 20

minutes on Sunday (route 325). The journey time into Stockport town centre is 8 minutes. Bus route 325 runs through Brinnington on a circular route and then past Manor Pharmacy (referred to by the applicant) and Asda pharmacy (which is open 7 days a week and for extended hours) on its way into Stockport. [Attached] is a map showing the location of the bus stops in Brinnington.

- 4.4.20 The applicant refers to Brinnington train station. This connects Brinnington with Manchester, with services approximately every 25 minutes and a journey time of 16 minutes.
- 4.4.21 Finally, the applicant refers to supervised consumption of buprenorphine. Firstly, this appears to be commissioned as a public health service rather than an enhanced service and would therefore fall outside the scope of the definition of “pharmaceutical services” in the regulations. The service would, consequently, be irrelevant to NHS England’s determination of this application.
- 4.4.22 In any event, the PNA does not identify future improvements or better access in relation to this service that would be secured by the granting of this application, noting that “the need for this service is relatively limited” and that “pathfinder (Stockport’s local drug and alcohol service) are actively working with pharmacies that currently offer supervised consumption of methadone to extend their provision to buprenorphine”. Cohens Chemist is commissioned to provide this service and currently has one patient, but understands that there is little demand in the local area.
- 4.4.23 In relation to other services referred to by the applicant, since these are not currently commissioned (or are subject to commissioning) they are not NHS pharmaceutical services for the purposes of the Regulations and must be disregarded.
- 4.4.24 On the basis that, on the applicant’s own case, the current PNA does not identify any gap (or future improvements or better access) which would be secured by the granting of this application, the application must be refused.
- 4.4.25 Conclusion
- 4.4.26 In conclusion, Charles Russell Speechlys invite NHS Resolution to determine that the relevant PNA does not identify any future improvements or better access in relation to the provision of pharmaceutical services in the HWB’s area which would be secured by the granting of this application.
- 4.4.27 On behalf of Cohens Chemist Charles Russell Speechlys therefore invite NHS Resolution to refuse this application.
- 4.4.28 Should NHS Resolution consider it to be necessary to hold an oral hearing prior to its determination of this application Cohens Chemist would wish to have the opportunity to attend that oral hearing and make oral representations.
- 4.4.29 *Supporting information attached for the Committee at Appendix B.*

## 5 **Summary of Observations**

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

## 6 **Further comments**

## 6.1 THE APPLICANT

- 6.1.1 The Applicant is writing to NHS Resolution regarding appeal SHA/19994 as no observations have been submitted by the affected parties regarding this appeal. The Applicant would like to raise some key points for The Pharmacy Appeals Committee to consider before the decision.
- 6.1.2 Brinnington is an isolated area with only one road (Brinnington Road) for access and exit to the ward. The wards' total population is 14,999 and is one of the most deprived areas in England. Brinnington fell within the 5% most deprived areas in England in the 2010 IMD. The north LSOA (Lower Layer Super Output Area) is the most deprived in Stockport (out of 190) and 149th most deprived nationally out of 32,482 areas.
- 6.1.3 When this application was submitted in early April 2018, the Applicant was relying on the 2015 PNA and no gap had been considered in that PNA as the 100 hours pharmacy closed in June 2017. The 2018 PNA was not approved when this application was submitted in the first week of April. The final draft of the 2018 PNA was approved by local health board on 24th April 2018. That was the only reason at that time the Applicant was not able to rely on the 2018 PNA, as it was not approved and valid at the time of application. Both PNA (2015 and 2018) do not mention any details or information regarding 100 hours closure and the pharmaceutical gap due to this closure.
- 6.1.4 There is major flaw in 2018 PNA (sic). They have mentioned the closure of cross border Lloyds pharmacy (Gorton 2) but no gap has been considered related to the closure of the 100 hours pharmacy in the Brinnington area. The 100 hours closure in Brinnington health centre has reduced patient choice and access. The initial draft of 2018 PNA was prepared in Sep 2017 and the transfer of Brinnington pharmacy to Cohen chemist took place in Nov 2017 (company house data). It seems to the Applicant that it has been clearly overlooked by the 2018 PNA, thus, creating the gap in provision that the Applicant has mentioned. The draft for the new PNA was ready on 14 Sep 2017, it is clear the data was compiled before this transfer. The Applicant is also unable to find any supplementary 2015 PNA statements related to this closure. Therefore, although the final draft of the PNA was completed in 2018 it has failed to identify this important gap in pharmaceutical services which now exists in the area. The impact of this 100 hours pharmacy closure and depriving the community of choice, time and quality of services should not be ignored.
- 6.1.5 PSRC have mentioned in their decision letter that there are 3 surgeries and 2 pharmacies in Brinnington but have not mentioned the difficulty of access to Manor pharmacy and the other 2 small surgeries (The Surgery 1 and Vernon Park surgery). In addition to being over 1 mile away from the proposed site, Manor Pharmacy has no consultation room, this significantly limits the provision of some services to the community. Furthermore, access to Manor Pharmacy is very limited due to its location: the steep M60 bridge shown below must be crossed to access the pharmacy. This was a key reason Brinnington health centre (main health centre with roughly 9000 patient source: NHS choice) have mentioned in their letter that the proposed pharmacy extended hours will benefit the patients including having a better choice which is further reduced due to low car ownership in Brinnington.
- 6.1.6 Finally, the Applicant would like to request the appeal committee to consider the application, so the proposed pharmacy can play its role in future development of the deprived neighbourhood as well as empowering the community.

- 7.1 The Pharmacy Appeals Committee (“Committee”) appointed by NHS Resolution, had before it the papers considered by NHS England, 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 Stockport PNA dated 2018 and prepared by Stockport Health and Wellbeing Board, which had been provided by NHS England.
- 7.4 The Committee noted that the 2015 PNA was no longer the relevant PNA at the time NHS England determined the application. The Applicant had accepted that the 2015 PNA had not identified any gaps in pharmaceutical services. The Committee noted references within the application to the 2018 PNA and that this is the PNA to which it will have regard when considering the application.
- 7.5 On the basis of this information, the Committee considered it was not necessary to hold an Oral Hearing.
- 7.6 The Committee dealt with the appeal by way of reconsideration of the application.
- 7.7 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (“the Regulations”).
- 7.8 The Committee first considered Regulation 31 of the regulations which states:
- (1) A routine or excepted 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”) from -*
- (i) the premises to which the application relates, or*
- (ii) adjacent premises; and*
- (b) the NHSCB 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).*
- 7.9 The Committee noted the Applicant had entered “Not applicable” in the relevant section of the application form, and that NHS England had determined that the application should not be refused under Regulation 31. The Committee noted that no information had been provided by interested parties to dispute the decision of NHS England in this regard. Given the information available, the Committee determined that it was not required to refuse the application under the provisions of Regulation 31.
- 7.10 The Committee noted that, if the application were granted, the successful applicant would - in due course - have to notify NHS England 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.
- 7.11 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:

- 7.11.1 confirm NHS England's decision;
- 7.11.2 quash NHS England's decision and redetermine the application;
- 7.11.3 quash NHS England's decision and, if it considers that there should be a further notification to the parties to make representations, remit the matter to NHS England.
- 7.12 The application (which was to be determined in accordance with the procedures in Schedule 2) was submitted by the Applicant based on providing future improvements, or better access to, pharmaceutical services (pursuant to Regulation 20).
- 7.13 The Committee considered whether the purported future improvements, or better access to, pharmaceutical services, on which the Applicant based its application, satisfied the elements of Regulation 20(1) which reads as follows:
- "(1) If—
- (a) *the NHSCB 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 in the future 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(b) of Schedule 1,*
- 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)."*
- 7.14 Paragraph 4(b) 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—*
- (b) would, if in specified future circumstances they were provided (whether or not they were located in the area of the HWB), secure future improvements, or better access to, pharmaceutical services, or pharmaceutical services of a specified type, in its area.*
- 7.15 The Committee was of the view that the onus was on the Applicant to identify where within the PNA the future improvements or better access that this application would secure are indicated, and to satisfy the Committee that the granting of this application would secure those identified improvements or better access.
- 7.16 The Committee noted in its application that the Applicant refers to the severity of deprivation in Brinnington and comments that it has a low ranking in every deprivation index within the PNA. The Applicant also refers to high risk drinking and smoking being at the highest levels in Brinnington. However the Committee was mindful that such statistics are provided as part of a general overview of the area.
- 7.17 The Committee noted the Applicant refers to the recent changing circumstances of pharmaceutical provision in the Brinnington area, in particular the closure of a 100 hour pharmacy. The Committee noted NHS England's comment that there were some factual inaccuracies in the information provided by the Applicant in this regard and the clarification that there were three pharmacies in the Brinnington area and there are now two following the closure of a 100 hour pharmacy in June 2017. The

Committee noted the Applicant's view that the closure of the 100 hour pharmacy left a gap in the provision of pharmaceutical services which was overlooked by the PNA. The Committee considered that the Applicant was relying in part on the argument that the 2018 PNA was wrong in its assessment of the provision of pharmaceutical services and the gaps thereof. The Committee considered that this did amount to a challenge to the legality or reasonableness of the 2018 PNA or alternatively a challenge to the fairness of the process by which the HWB undertook the assessment of pharmaceutical services provision which is evidenced in the 2018 PNA. Notwithstanding the restrictions as set out in paragraph 2 of Schedule 3 (misconceived appeals) as to the remit of matters to be considered on appeal, the Committee noted that there was no reference in this regard to any services identified in the PNA, which would fall within the description set out in paragraph 4(b) of Schedule 1 to the Regulations.

- 7.18 The Committee noted the Applicant refers to two new housing developments in the north of Brinnington and states that this community needs services in the evening and on weekends. The Committee noted NHS England's response in its decision letter that the development had been considered in the PNA, which had concluded that additional pharmaceutical provision was not needed. The Committee was of the view that the Applicant had not referred to any services identified in the PNA, which would fall within the description set out in paragraph 4(b) of Schedule 1 to the Regulations.
- 7.19 The Committee noted the Applicant refers to the final paragraph of section 4.1.1 of the PNA which states "*Potential future needs arising out of changes to GP provision, particularly changes to hours of operation (including weekend opening and extended hours during the week) and the move from acute to community services as part of the Stockport Together programme, will be assessed on a case by case basis against existing pharmacy provision as part of NHS England's contractual process*". The Committee noted that this statement did not fall within the description set out in paragraph 4(b) of Schedule 1 to the Regulations.
- 7.20 The Committee noted the Applicant refers to section 5.3 of the PNA which states "*There are no pharmacies currently providing supervised consumption of buprenorphine. The need for this service is relatively limited. However, Pathfinder (Stockport's local drug and alcohol service) are actively working with pharmacies that currently offer supervised consumption of methadone to extend their provision to buprenorphine.*" The Committee noted that this statement did not fall within the description set out in paragraph 4(b) of Schedule 1 to the Regulations.
- 7.21 The Committee noted that whilst the Applicant was of the view that there is currently a gap in the provision of pharmaceutical services in the Brinnington area, it had also stated that the PNA had "overlooked" the gap. As has been stated at 7.17, this is effectively an argument that the 2018 PNA was wrong in its assessment of the provision of pharmaceutical services and the gaps thereof. The Committee considered that this did amount to a challenge to the legality or reasonableness of the 2018 PNA or alternatively a challenge to the fairness of the process by which the HWB undertook the assessment of pharmaceutical services provision which is evidenced in the 2018 PNA. Notwithstanding the restrictions as set out in paragraph 2 of Schedule 3 (misconceived appeals) as to the remit of matters to be considered on appeal, the Committee considered that there was no reference in the application or appeal that pointed to services identified in the 2018 PNA, which would fall within the description set out in paragraph 4(b) of Schedule 1 to the Regulations.
- 7.22 The Committee determined that, in the absence of specified circumstances in which the provision of services would secure future improvements to, or better access to, pharmaceutical services, the provisions of Regulation 20(1) were not met.

## 8 Decision

- 8.1 The Committee confirms the decision of NHS England.

- 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 reason:
- 8.3.1 The Applicant did not identify within the PNA any circumstances in which the provision of specified services would secure future improvements to, or better access to, pharmaceutical services in Brinnington, which the granting of the application could meet.
- 8.4 The application is refused.

**Case Manager**  
**Primary Care Appeals**

A copy of this decision is being sent to:

UKMedics Ltd  
Primary Care Support England, on behalf of NHS England  
Greater Manchester LPC  
Lloyds Pharmacy  
Charles Russell Speechlys, on behalf of Cohens Chemist