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24 September 2026

**REF: APL-4529 (SHA/27038)**

**APPEAL AGAINST CORNWALL AND THE ISLES OF SCILLY ICB DECISION TO REFUSE AN APPLICATION BY NAIMANS UK LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 IN FALMOUTH, CORNWALL, TR11 4QD**

## 1 Outcome

1.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of the Commissioner.

1.2 The Committee determined that the application should be refused.

A copy of this decision is being sent to:

Healthcare Plus Consulting Ltd on behalf of Naimans UK Ltd
PCSE on behalf of Cornwall and The Isles of Scilly ICB
Day Lewis
Trescobeas Surgery

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## 1 The Application

By application dated 3 December 2025, Naimans UK Ltd ("the Applicant") applied to Cornwall and The Isles of Scilly for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 in Falmouth, Cornwall TR11 4QD. In support of the application it was stated:

1.1 In response to why the application should not be refused pursuant to Regulation 31, the Applicant stated:

1.2 "There is no pharmacy trading from or adjacent to the proposed premises, so Regulation 31 does not apply."

1.3 In response to "Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area" the Applicant stated:

1.4 "Background

1.5 This application is in respect of opening up a new pharmacy in order to provide better access for patients requiring access to pharmaceutical services in Falmouth. In particular, granting this application would introduce reasonable choice to pharmaceutical provision for residents located to the Southwest of the main railway line which connects Falmouth to Truro. This is an integral part of the local transport infrastructure on which the train frequently runs.

1.6 The best estimate of the proposed site we wish to open a pharmacy is situated amongst a communal parade of shops on Boslowick Road, TR11 4QD. We note that the nearest pharmacy, Day Lewis Pharmacy (TR11 3PU) is located 0.8 miles away.

1.7 In order to outline the population that currently do not have sufficient access to pharmaceutical services, we have utilised the Lower-Layer-Super Output Areas (LSOAs) of residents living at/nearest the proposed site who are likely to access a pharmacy at the proposed location. A pharmacy situated at this location would provide better access to residents living in the Cornwall 064A;

064D; 064B; 064C; 066D LSOAs, equating to a reliant population of c. 8605 residents according to 2021 Census Data. In addition to this, those living in rural areas to the Southwest of Falmouth currently would have to travel past the proposed site to access a pharmacy, it is reasonable to assume that they would also attend a pharmacy at the proposed site. These residents primarily reside within the Cornwall 066A LSOA, containing a further 1,939 residents, totalling the likely reliant population at 10,544.

1.8 The area that the proposed site intends to serve is Southwest of the railway and therefore geographically separated from the rest of Falmouth. We submit that this railway serves as a physical and psychological barrier to access, thus making access to a pharmacy more difficult for residents Southwest of the railway. We believe that there is a gap in pharmaceutical services in the Falmouth area; hence this application is offering unforeseen benefits not captured within the PNA.

1.9 Southwest Falmouth contains the Boslowick and Swanpool and Penmere neighbourhoods, whose residents can easily access the various amenities in and around the Boslowick Road parade, which is the best estimate for this application.

1.10 We submit that granting this application would provide residents of Falmouth with better access to pharmaceutical provision and reasonable choice. As mentioned, a pharmacy at the proposed site will serve c. 10,500 residents.

1.11 Proposed Location

1.12 The proposed location is situated in the Southwest side of Falmouth amongst a communal parade of shops. This is surrounded by residential areas and acts as a hub for the community where a range of amenities can be accessed within residents' daily lives. The local area hosts a number of amenities which include:

1.12.1 Co-operative Supermarket

1.12.2 Charity Shop

1.12.3 Barbers Hair

1.12.4 Salon

1.12.5 Fish and Chip Shop

1.12.6 Coffee Shop/cafe

1.12.7 Penmere Manor Hotel

1.12.8 Café / Arts and craft shop

1.12.9 Beauty and tanning salon

1.12.10 Village gift shop

1.12.11 Post-box

1.12.12 St Francis CofE Primary School

1.12.13 St Mary's Catholic Primary School

1.12.14 Marlborough School

1.13 These are typical amenities that would be found in the local community. There is ample parking availability and wide walkways to access local services. When we consider that all pharmaceutical provision is located on the other side of the railway, we submit that residents must leave the locality to access pharmacy services which does not represent reasonable choice. A pharmacy at the proposed location could be used in connection with the other amenities on the parade, or alongside a visit to the Co-operative supermarket, which is the only supermarket in the area with good parking. Thus, it is reasonable to assume that most of the identified reliant population and possibly many other residents would regularly access the co-op. A pharmacy at this location would therefore be used in connection with residents' daily lives, reducing the need for additional one-off journeys to access a pharmacy.

1.14 Map depicting current pharmaceutical provision [map provided to Committee]

1.15 The map below illustrates the location of the proposed site and the nearest pharmaceutical provision. We can see from the image that the area to the Northeast of the railway is served by pharmacies, yet the Southwest is evidently lacking in any pharmaceutical provision. For clarity, the railway line has been drawn in Black on the map in figure 1.

1.16 Figure 1: Map depicting pharmaceutical coverage in the area (Green marker represents proposed site (TR11 4QD), Blue and Red Markers represent current provision, white pin represents two pharmacies, and black line represents the railway line). [copy of map provided to the Committee]

1.17 We can see from the image above that there is a geographical gap in pharmaceutical provision to the Southwest side of Falmouth below the railway line, which acts as a physical barrier to accessing the pharmacies to the North. Thus, a pharmacy at the proposed location would offer better access and reasonable choice to residents of the locality who currently must endure difficult journeys to access a pharmacy.

1.18 When we consider that all current provision is located towards the Northwestern side of Falmouth, this leaves those residing on the opposite side of the railway with no access to a pharmacy.

1.19 Site Images

1.20 Figure 2: Image depicting communal parade of shops

1.21 Figure 3: Image depicting the large car park and communal parade of shops

1.22 Figure 4: Image depicting the large Co-operative Supermarket and car park

1.23 Figure 2 above shows the communal parade of shops, there is a large car park to the left side of the parade (depicted in figure 3) and wide pavements to access the amenities.

1.24 Figure 4 shows the Co-operative supermarket; this has ample parking including multiple disabled and family spaces. This is the only supermarket within the locality.

1.25 Regulations

1.26 We are required by NHS England to address the overarching question in an Unforeseen Benefits application:

1.27 “Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB area”.

1.28 When considering the above question, the provisions of Regulation 18(2)(b) should be noted: (b) whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—

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

1.28.2 (ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also the NHSCB’s duties under section 13G of the 2006 Act(c) (duty as to reducing inequalities)), or

1.28.3 (iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also the NHSCB’s duties under section 13K of the 2006 Act(a) (duty to promote innovation)),

1.29 granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published;

1.30 We note that points on reasonable choice; protected characteristics; and innovation are desirable, however, they are merely supporting considerations when determining whether in fact the overarching test in regulation 18(2)(b) has been met: an application should be granted should it provide improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB’s area.

1.31 We have addressed these regulations overleaf.

1.32 Localised Population

1.33 We reiterate that up to c.10,500 residents are likely to access pharmaceutical services at the proposed location. We note that this large population live within the Southwest side of Falmouth below the railway line and currently do not have reasonable choice or adequate access to pharmaceutical services in Falmouth.

1.34 There are also a number of holiday parks and holiday lets in the surrounding areas. Consequently, the local population would rise during summer and demand for pharmaceutical services would extend beyond the reliant population previously highlighted. Many of these temporary residents would access pharmaceutical provision at the proposed site, being conveniently located opposite the Co-operative supermarket, and in close proximity to a number of these holiday parks.

1.35 We highlight that a high proportion of the localised population are over the age of 65 when compared to the national average. The following figures highlight the prevalence of elderly residents in the nearby LSOAs:

1.35.1 Cornwall 064A – 23.2% aged 65 or over (18.3% England average)

1.35.2 Cornwall 064D – 23.1% aged 65 or over (18.3% England average)

1.35.3 Cornwall 064B – 15.8% aged 65 or over (18.3% England average)

1.35.4 Cornwall 064C – 23.4% aged 65 or over (18.3% England average)

1.35.5 Cornwall 066D – 24.2% aged 65 or over (18.3% England average)

1.35.6 Cornwall 066A – 38.9% aged 65 or over (18.3% England average)

1.36 This equates to a weighted average of 25.05%, which is significantly higher than the England average of 18.3%. As a result, health needs are greater, likely leading to more frequent use of pharmaceutical services which are currently difficult to access as detailed by the journeys below. We submit that a pharmacy at the proposed location would provide better access and reasonable choice for residents in Southwest Falmouth.

1.37 Granting this application would mean that residents seeking access to services, such as Pharmacy First will not be required to make special, repeated journeys to Falmouth's town centre. Instead, a local pharmacy would be better suited to the needs of the local population in an area where there is a large geographical gap in pharmaceutical provision.

1.38 We stress to the Committee the importance of having accessible pharmacies within communities, especially with the advent of Pharmacy First. A pharmacy at the proposed site would be used in connection to the other local amenities, making a pharmacy far more accessible and improving the health outcomes for local residents, especially considering the high proportion of elderly residents.

1.39 Patient Journeys

1.40 As previously identified, there are c.10,500 residents who would likely access pharmaceutical services at the proposed site. When securing better access, we must consider what a typical patient journey would currently look like. We also consider the reasonable choice within these journeys, alongside how those with protected characteristics find those journeys.

1.41 Using the proposed site (TR11 4QD), as an arbitrary marker to represent these residents; we can see that the next nearest pharmacy, Day Lewis Pharmacy (TR11 3PU) is 0.8 miles away. We reiterate that many of the residents living to

the Southwest of the proposed site would be forced to endure a much longer journey of up to 1.4 miles. Those living further afield in areas such as Budock Water or other rural areas would need to travel considerably further. However, a pharmacy at the proposed site would significantly reduce the journey required.

1.42 We highlight that the nearest pharmacy, Day Lewis Pharmacy (TR11 3PU), has a lack of supporting retail in the surrounding area. Therefore, patients would be making one off trips to access this pharmacy.

1.43 By Foot from Proposed site to the Current Nearest Pharmacy (Day Lewis Pharmacy, TR11 3PU)

1.44 As can be seen from the map below, the journey is 0.8 miles or 18 minutes, equating to a 36-minute round journey.

1.45 Figure 5: Journey on foot from proposed site to Day Lewis Pharmacy, TR11 3PU

1.46 For those living to the Southwest of the proposed site, we reiterate that the journey could be up to 1.4 miles or 32 minutes, equating to a 1 hour 4-minute round journey. Those living further afield such as in Budock Water would have a much longer journey. We do not consider this as representative of sufficient access or reasonable choice to pharmaceutical provision by foot. We submit that a pharmacy at the proposed location will provide better access to pharmaceutical provision and residents will be able to access the pharmacy in connection with the nearby amenities as part of their daily lives.

1.47 Not only are the distances excessive, but the route also involves patients ascending a large hill, which can be seen in figures 6 overleaf.

1.48 Figure 6: Images depicting large hill and narrow railway underpass on route to the nearest pharmacy

1.49 We submit that journeys by foot to the nearest pharmacy cannot be considered good access, especially for those residents with protected characteristics who would be unable to make such a journey.

1.50 Residents must walk along the Boslowick Road and Penmere Hill to access the pharmacy, however, the incline on this road has an average gradient of 1 in 10 for c.370 metres, with points as steep as almost 1 in 5. For context, guidance states that a disabled access ramp should have a gradient of no more than 1 in 20 for a maximum ramp length of 10 metres. Given this hill is significantly longer than such a ramp, and the gradient at its steepest point is approximately four times the mandated figure, it is a clear barrier to access for those in a wheelchair/mobility scooter/or of impaired mobility. This journey is clearly not representative of reasonable choice and presents a clear barrier to access, especially considering the high proportion of elderly residents in the locality.

1.51 This is especially pertinent when considering the second image in figure 6, which depicts a narrow walkway beneath the railway underpass. It is reasonable to assume that residents will find this section of the journey particularly difficult to traverse, especially residents with protected

characteristics such as those relying on mobility aids or parents with young children and strollers.

1.52 By Bus from Proposed site to the Current Nearest Pharmacy (Day Lewis Pharmacy, TR11 3PU)

1.53 This bus service is infrequent, only running once every 60 minutes, therefore patients are unlikely to rely on this service.

1.54 In the case that a patient does utilise the bus, they would obtain the 63 service from the Boslowick Shops bus stop at the proposed site, travel for 3-minutes, and then walk an additional 1-minute to reach the nearest pharmacy. The return journey follows a similar route but takes 6 minutes, thus entailing a 10-minute round trip. We submit that many residents will have further than this to travel, with the bus stop being directly opposite the proposed site, residents will likely have to travel from their homes to the bus stop on both the outward and return journeys.

1.55 When accounting for the frequency of the buses, patients could be waiting up to 60 minutes for the return journey, thus an entire journey to the pharmacy could take up to 1 hour and 10 minutes. This does not include any time waiting for the outward journey and clearly does not provide adequate access to pharmaceutical services.

1.56 Such poor choice of pharmaceutical access is felt especially by the elderly and disabled. These patient groups could face having to wait 60 minutes for a return bus in the cold on a winter's day. When we consider that these patients may not be able to drive or even may not feel comfortable driving in winter conditions; alongside their inability to walk the long 0.8-mile distance back home, it is obvious that alternative pharmaceutical provision is inadequate and such scenarios stem from a lack of reasonable choice.

1.57 We reiterate that some residents can be faced by a 1.4-mile one-way journey back home by foot.

1.58 Conclusion

1.59 In conclusion, those residing in the Southwest of Falmouth beyond the railway line cannot be considered to have good access to a pharmacy.

1.60 We submit that residents would benefit significantly from having a pharmacy located within the Boslowick Road shops that patients access whilst going about their daily lives. We reiterate that the railway and large hill present physical and psychological barriers that currently proves difficult for patient access – especially if already feeling unwell. Thus, a pharmacy within walking distance would provide reasonable choice for patients.

1.61 Granting this application would secure better access to pharmaceutical services, especially when we consider the difficulties accessing the current nearest pharmacy. The elderly, disabled, and the wider population are likely to find the proposed pharmacy significantly more accessible than alternative choices.

1.62 We would like to note that granting this application would not cause significant detriment to access of pharmaceutical services, who all operate on the opposite side of the railway.

1.63 Therefore, granting this application would secure better access to pharmaceutical services and would also introduce reasonable choice.

1.64 On the evidence outlined above, we believe that a new pharmacy contract should be granted."

## 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 "Thank you for your letter dated 3rd March 2026. We welcome comments from local contractors and note the following is undisputed amongst all parties:

2.1.1.1 It is undisputed that Penmere Hill is extremely steep and acts as a barrier to access, particularly for those in a wheelchair/mobility scooter/of impaired mobility.

2.1.1.2 It is undisputed that there is a high proportion of residents aged 65 and above within the reliant population.

2.1.1.3 It is also undisputed that the reliant population is likely to increase due to seasonal tourism, particularly due to the number of holiday homes and camping sites in the area.

2.1.1.4 No party disputed that the proposed location has ample parking facilities.

2.1.1.5 No party disputed that bus services in the areas surrounding the proposed site operate once every hour

2.1.2 In this response, we take each representation in turn further below.

2.1.3 Preliminary Matter

2.1.4 As a preliminary matter, it is clear that a number of respondents have failed to consider our client's application in line with the correct regulatory tests. We have therefore provided our interpretation of the appropriate regulations below.

2.1.5 Statute and Regulations

2.1.6 All routine applications must address the overarching question, as defined in Section 129(2A) of the National Health Service Act 2006:

"129(2A) NHS England is satisfied as mentioned in this subsection if, having regard to the needs statement for the relevant area and to any matters prescribed by the Secretary of State in the regulations, it is satisfied that to grant the application would—

(a) meet a need in that area for the services or some of the services specified in the application, or

(b) secure improvements, or better access, to pharmaceutical services in that area." (Emphasis added)

2.1.7 We submit that the present application will "secure improvements, or better access, to pharmaceutical services" and so should be granted.

2.1.8 It is of particular importance to note that "need" is a distinct question to that of improvements or better access, and the questions should not be conflated. Need is not required for the present application to be accepted. To apply a test based on "need" would be an error of law.

2.1.9 We note that the regulations describe certain considerations relevant to the above question, where the improvements or better access are not included in the relevant PNA.

2.1.10 When considering the above question, the provisions of Regulation 18(2)(b) are relevant and asks the Committee to consider:

2.1.10.1 "18(2)(b) whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—

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

2.1.10.1.2 (ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also the NHSCB's duties under section 13G of the 2006 Act (duty as to reducing inequalities)), or

2.1.10.1.3 (iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also the NHSCB's duties under section 13K of the 2006 Act (duty to promote innovation)),

2.1.10.2 granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published;"

2.1.11 We note that while reasonable choice, protected characteristics, and innovation are desirable, they are only a short list of matters to which the Committee ought to have regard. They are not exhaustive of the matters that are relevant to significant benefits. To mistake these considerations for either the sole considerations or criteria would be an error of law. We note that where the regulations reference 'significant benefits', we do not believe that this is intended to alter or heighten the standard of improvements or better access.

2.1.12 We also note that the inclusion of 'reasonable choice' is not intended to change the test into one of whether current provision is adequate, as a previous iteration of the market entry test required, or whether current provision is reasonable. Rather it is meant to recognise even where pharmacy services are already available, the addition of a new pharmacy may offer significant improvements by fostering competition. This was confirmed in the case of R (on the application of Assura Pharmacy Ltd) v E Moss Ltd (t/a Alliance Pharmacy) [2008] EWCA (Civ) 1356, where it was accepted that the inclusion of reasonable choice in the previous iteration of the regulations was intended to foster competition between pharmacies, but was at that time frustrated in this purpose by the adequacy test. The adequacy test was abolished in 2012. It would be perverse to allow the abolished adequacy test to return as a revenant possessing the very reasonable choice consideration it once frustrated.

2.1.13 Even where the present provision is adequate, reasonable or sufficient – which we dispute – there remains scope for improvements and better access. Use of adequacy, reasonableness or sufficiency as a test or criteria, or misunderstanding the reasonable choice consideration as an adequacy, reasonableness or sufficiency test, would be an error of law. We also note that evidence of patient 'difficulties' is not necessary. We note that no such requirement is included in the regulations. Difficulties are not a prerequisite for improvements or better access. Use of difficulties as a standard or prerequisite to the decision would be an error of law.

2.1.14 We emphasise that the regulations are not intended to prevent any improvement or better access beyond the bare minimum. Rather, any improvement or better access is welcomed. The Committee must look both to deficiencies in current provision and any advantages the proposed pharmacy offers. The regulations are not concerned with merely filling deficiencies but facilitating a high standard of care.

2.1.15 We also note that NHS Resolution is not a court of record and is entirely unable to bind itself through precedent, though it may be entitled or required to consider previous decisions.

2.1.16 We have addressed the requirements of the statute and regulations throughout the response below.

2.1.17 Cornwall and Isles of Scilly Pharmaceutical Needs Assessment (PNA) 2025-2028

2.1.18 Respondents frequently refer to the Cornwall and Isles of Scilly 2025-2028 PNA in their comments. We would like to remind the Committee that the present application is one for Unforeseen Benefits and is consequently considered with regard to Regulation 18. Inherently, the relevant improvements and better access are therefore not included in the relevant PNA. We note that Regulation 18 does not invite the Committee to consider the PNA in such applications, except to ensure that the improvements or better access are not included in the PNA. Furthermore, we note that if the PNA is allowed to sway the Committee it would destroy the purpose of Regulation 18. Therefore, we submit that placing significant weight on the PNA in the present application would be an error.

2.1.19 Boots

2.1.20 As stated above, evidence of patient difficulties in not a requirement of the regulations. We note that the information provided throughout previous correspondence and within this response all constitute as evidence. This includes the undisputed high proportion of residents aged 65 and above captured in the proposed pharmacy's reliant population per 2021 Census data.

2.1.21 Boots also state that there are four pharmacies within 1.5 miles. We submit that the nearest pharmacy is 0.8 miles away from the proposed site which is not an insignificant distance for patients to travel. Whilst we submit that the distance itself is a barrier to access, this is amplified when analysing the topography of the local landscape, which exists of numerous hills between the proposed site and current pharmaceutical provision. We note that the journey via Penmere Hill was detailed within our client's supporting information and is particularly important when considering patient access. Yet, this was not addressed by Boots or any other party.

2.1.22 We therefore disagree with Boots' statement that there is "no barrier preventing access over or under the railway line". As previously detailed in our client's application, the shortest route for patients accessing the nearest pharmacy involves the aforementioned Penmere Hill which passes under the railway line and has a significant average incline of 1 in 10 for c.370 metres. Notably, the walkway is also narrow on the section passing beneath the railway. For the Committee's reference, we include images of Penmere Hill below in Figure 1.

2.1.23 Figure 1: Images depicting large hill and narrow railway underpass on route to the nearest pharmacy

2.1.24 Due to the railway line, there are limited routes that patients can utilise to access the northwest side of Falmouth where all pharmaceutical provision is currently located. The only other route that does not

drastically increase the distances that patients would need to travel, involves navigating a narrow unpaved pathway. This also contains a significant incline, and we submit many patients would not be comfortable walking this route. Not only would patients with protected characteristics or with limited mobility find this difficult, but there is also no lighting for a large stretch of this path. We have included an image below in Figure 2, along with a map of the route in Figure 3.

2.1.25 Figure 2: Image depicting narrow and unlit pathway

2.1.26 Figure 3: Image depicting second shortest route, red section highlights the unlit pathway

2.1.27 We therefore submit that there are many barriers to access for patient journeys undertaken by foot. With alternative routes being in excess of 1 mile, we do not consider such journeys to be demonstrative of good access to pharmaceutical services. It appears that the evidence provided within our client's supporting information, particularly regarding patient journeys, has been overlooked. We also submit that simply measuring the distance to the nearest pharmacies is not representative of the actual journeys patients currently face. We submit that for those patients located to the southwest of the railway line, pharmacies are not reasonably accessible by foot. We reiterate that this is a population of c.10,500 residents.

2.1.28 While we do not dispute the comments surrounding car ownership, we do not believe this necessarily indicates that residents can easily access pharmaceutical provision by car. Notably, the two pharmacies located in the town centre (Superdrug and Boots) are on a busy high street which has no parking. The parking that is available is primarily paid parking and not located near to the pharmacies. We also note that, during the summer months, the town receives an influx of tourism and parking will become even more limited. The parking at Day Lewis Pharmacy located on Killigrew Street is also not readily accessible, which will be detailed further in our response to Day Lewis below.

2.1.29 Thus, the only pharmacy that has parking available for patients is the Boots Pharmacy (TR11 2UN). However, we submit that there are limited parking spaces and these are also shared with patients of the Trescobeas Surgery, as well as all staff of both premises. There is no guarantee that patients will be able to get parking, especially when the pharmacy and surgery are busy, which, from comments and reviews, appears to be a frequent occurrence. One review also highlights that there is a "deep drop without a protective barrier", this could be seen as a potential hazard and may make some patients uncomfortable parking here. The Google reviews can be found through the following link: https://share.google/0KWCZhyvMvwJXIfyQ

2.1.30 Representations from Boots did not dispute that the hourly public transport service is infrequent.

2.1.31 Thus, when considering that patients are unable to access a pharmacy by foot, only one pharmacy could potentially be considered accessible by car, and public transport is infrequent, patients located at/near the

proposed site cannot be considered to have good access or reasonable choice of pharmaceutical provision. We submit that a pharmacy at the proposed site clearly would offer improvements and better access to the c.10,500 patients living to the south of the railway line and this application should be granted.

2.1.32 Boots also mention that they offer delivery services, however, the Committee will be aware that delivery is not an NHS commissioned service and thus can be withdrawn at any time. Thus, no weight can be placed on this service.

2.1.33 As highlighted above, the application is for unforeseen benefits and therefore the benefits provided by the application are not contained within the PNA. Therefore, any comments regarding the PNA are not relevant.

2.1.34 Day Lewis

2.1.35 We reiterate again that comments regarding the Cornwall and Isles of Scilly 2025 PNA are not relevant as this is an unforeseen benefits application. Thus, asking the ICB to place weight on the PNA's findings is incorrect.

2.1.36 We have addressed the presence of the railway line and the difficulties it poses in regard to patient journeys above.

2.1.37 We do not believe that residents should be forced to make extensive journeys to the town centre on each occasion when they require access to a pharmacy. There is a clear difference between a person choosing to access amenities in the town centre and a patient having no choice but to travel into the town centre when seeking access to a pharmacy. For many patients, particularly those with protected characteristics or those feeling unwell, the requirement to travel to the town centre would be a difficult and extensive journey. Thus, the comments by Day Lewis must be considered within the context of securing improvements or better access to pharmaceutical services for patients and not just those choosing to access the town centre for leisure. We reiterate that there is a wide variety of amenities to the south of the railway that patients can access within their daily lives, yet the area remains lacking in any pharmaceutical provision. As previously mentioned, our client's proposed site benefits from a Co-op supermarket, charity shop, barbers, hair salon, fish and chip shop, coffee shop/café, and many other amenities nearby. We therefore dispute that this is a 'small local shopping parade' but instead a location offering a variety of day-to-day amenities and shopping facilities. We also note that Day Lewis did not dispute the lack of supporting trade near to their site.

2.1.38 In response to Day Lewis and to ensure clarity for the Committee, we have provided a map of these LSOAs in Figure 4 below. Day Lewis later state that this reliant population is unsupported speculation and that the proposed location is primarily for the use of residents living in the immediate surrounding residential area. We submit that the aforementioned LSOAs are in fact the immediate surrounding residential area, and therefore Day Lewis share our views that these

residents would utilise the amenities at the proposed location. Those within the highlighted LSOAs that live further out are currently required to travel a fair distance to access a pharmacy. These residents currently travel past the proposed location and therefore it is reasonable to assume that a pharmacy at the proposed site would offer improvements and better access, especially considering the improved parking facilities in comparison to other pharmacies.

2.1.39 Localised Reliant Population 064D 064B 064A

2.1.40 Wider Reliant Population 066D 064C 066A

2.1.41 Figure 4: Maps depicting the LSOA boundaries in relation to the proposed site (green marker), demonstrating both the immediate and wider reliant population

2.1.42 The proposed site also has ample parking availability, making the area highly accessible for these residents living further out, who would most likely be travelling by car. Day Lewis mention that the parking is a reflection of the high car ownership levels, we agree that this is a sensible assumption and note that the parking facilities at the proposed site have been recognised by Day Lewis. We highlight that the original wording was ‘ample’ parking as opposed to ‘adequate’, as the parking facilities are large and exceed the level of parking associated with being simply ‘adequate’. In contrast, Day Lewis’ Pharmacy on Killigrew Street has very limited on-street parking, which appears to be primarily for residential use. The pharmacy is located on a relatively steep hill and the area directly outside the pharmacy is marked with double yellow lines meaning that patients would need to attempt to find parking nearby and then walk to the pharmacy, with no guarantee of finding any parking in the immediate vicinity. We also submit that the hill is busy and narrow due to parked cars on either side, thus, patients would need to attempt to parallel park in tight spaces. Many people could struggle with this task considering the narrow street and incline. This is shown below in Figure 5.

2.1.43 Figure 5: Image depicting the limited parking offered on Killigrew Street

2.1.44 Day Lewis agree with our statement that the amenities at the proposed site are typical of those found in most residential neighbourhoods. This is a further demonstration that the areas of Boslowick, Swanpool and Penmere are their own community with shared amenities accessible on Boslowick Road - the proposed site. We reiterate to the Committee the importance of having accessible pharmacies within communities, especially with the advent of Pharmacy First. A pharmacy at the proposed site would save a visit to the GP and can be used in connection with the other local amenities, which will provide better access and contribute to improving health outcomes for the local population - especially considering the high proportion of elderly residents. We submit that the application meets the regulatory criteria of providing better access and improvements to pharmaceutical services.

2.1.45 Day Lewis' statement that "the railway can be crossed in several places, by both cars and pedestrians without any difficulties" is fundamentally incorrect and the difficulties endured within this journey is clearly evidenced within the supporting information and above. A large proportion of the supporting information details the patient journeys currently required to access the Day Lewis Pharmacy (TR11 3PU) from the proposed site. We reiterate that the hill has an average gradient of 1 in 10 for c.370 metres, which is a significant incline that patients must traverse. Day Lewis made no mention of this hill within their representations, we can only assume this is because they do not disagree that this hill acts as a barrier. We submit that the railway line is a physical and psychological barrier to access since there are only a few points at which residents can access the other side without having to physically cross the railway, often requiring steep inclines or roads beneath without pavements. The railway line also clearly separates the southwest side of Falmouth from the northwest. When we consider that there are currently no pharmacies in this area, we submit it seems logical to have a pharmacy located close to the central amenities in the South which many residents are accustomed to regularly accessing.

2.1.46 Within their representations, Day Lewis also state that the journey by foot from the proposed site to their pharmacy is less than 20 minutes. Given the presence of Penmere Hill, we submit that for many patients this journey could be significantly longer than 20 minutes. While the 20-minute measure is often used by PNA's, it is notable that this does not consider the topography of the area. In other words, a 20-minute walk along flat ground is significantly less exhausting than a 20-minute walk involving large inclines. Therefore, we do not feel this is a fair comparison and cannot be applied as a general measure to this application.

2.1.47 Day Lewis state themselves that "public transport use is limited", but this is unsubstantiated. Whilst the 63-bus service does run from the proposed site into the town centre, we submit this is highly infrequent and patients therefore cannot rely on public transport to access a pharmacy. The suggestion that patients could get a taxi each way cannot be considered a reasonable alternative. In the first instance, there is no guarantee that a taxi will be available at the time that a patient needs it. Additionally, local taxi companies can quote anywhere between £5 and £10 each way for the journey, patients being forced to pay between £10 and £20 to access a pharmacy cannot be considered a reasonable alternative to those who do not drive.

2.1.48 Hendra Pharmacy

2.1.49 Comments from Hendra Pharmacy are centred around the PNA and the lack of identified gaps within the document. We highlight that an Unforeseen Benefits application is in its very nature, unforeseen, offering improvements or better access to pharmaceutical services not captured within the PNA. Thus, comments by Hendra Pharmacy surrounding the PNA are widely irrelevant.

2.1.50 Hendra Pharmacy also state that there is currently good geographic coverage and adequate access, we reiterate that the adequacy test is not the applicable test to the regulations. The maps provided in previous correspondence highlight a key geographical gap in the southwestern side of the Falmouth railway, a matter rendered particularly significant when considering the area's steep topography that acts as a barrier to pharmacies situated to the north.

2.1.51 Penryn Surgery

2.1.52 We note that the comments provided by Penryn Surgery are identical to those provided by Hendra Pharmacy. These have been addressed above.

2.1.53 Kernow LMC

2.1.54 The initial concern raised by Kernow LMC states:

2.1.55 "The approval of this application represents a high risk to the financial and wider business viability of pharmacy provision which supports the patients of Trescobeas surgery and may result in service contraction or business failure;"

2.1.56 We submit that this assertion is speculative and lacks explanation. Similarly, the LMC's assertion that "the approval of this application represents a high risk to disjointed care and avoidable complexity of process and access" lacks any reasoning. In fact, the opposite may be true. Naimans UK Ltd is a well established operator in the Cornwall HWB with a proven track record of maintaining effective working relationships with local GPs, which consequently reduces the "risk of disjointed care".

2.1.57 Overall, the comments made by Kernow LMC appear to be general statements that lack any relevance to the criteria of an application made under Regulation 18.

2.1.58 Trescobeas Surgery

2.1.59 Trescobeas Surgery's comments are centred around the existing pharmaceutical provision being adequate; adequacy is not the correct regulatory test as stated above.

2.1.60 Trescobeas Surgery also comment on prejudice to the proper provision of pharmaceutical services, we submit that comments made within this section are speculative and thus should not be considered.

2.1.61 We reiterate that the correct regulatory test is whether the application offers improvements or better access to pharmaceutical services. We submit that this is the case, a pharmacy at the proposed location would significantly improve access for patients located Southwest of the railway line, of which there are c.10,500 residents. As per prior correspondence, patient journeys contain a number of difficulties including physical and psychological barriers to access as well as a lack of viable parking facilities.

2.1.62 Points raised by Trescobeas Surgery surrounding the PNA have already been addressed above.

2.1.63 Conclusion

2.1.64 In conclusion, granting this application would provide local residents with better access and a reasonable choice of pharmacy, which could be used in connection with the nearby amenities on Boslowick Road. Patients currently experience extensive journeys to reach a pharmacy, with the railway line and topography of the area creating a physical and psychological barrier to access, especially considering the above average proportion of elderly residents.

2.1.65 We submit that patients are unable to access pharmacies by foot, public transport is infrequent, and access by car is currently limited due to a lack of parking at alternative pharmacies.

2.1.66 We submit that granting this application would provide improvements or better access for residents residing within the southwest of Falmouth and submit that Regulation 18 has been met.

2.1.67 For these reasons, we invite the committee to grant this application."

## 3 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 5 May 2026 states:

3.1 "Cornwall and the Isles of Scilly 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.

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

3.3 Primary Care Appeals NHS Resolution 8th Floor 10 South Colonnade Canary Wharf London E14 4PU."

South West Pharmaceutical Services Regulations Committee (PSRC) Decision Report

3.4 "The SW Committee noted:

3.5 The application is for Unforeseen Benefit with a best estimate address in Falmouth, TR11.

3.6 The best estimate location is within 1.6km of a controlled locality, with 16 dispensing practices affected, involving 291 patients within 1.6km of the best estimate provided.

3.7 PRELIMINARY ISSUES Summary of the application:

3.8 The applicant is proposing to open Monday to Friday with 40 Core Hours from 9am -1pm and 2pm – 6pm. Supplementary Hours are proposed from 8.30am – 9am Monday to Friday and 9am to 12pm Saturday. The hours proposed are indicated below from section 3.1 and 3.2 of the application form:

3.9 At section 4 of the application form the applicant proposes to provide essential services, advanced services, enhanced services and appliances in part IX in the drug tariff.

3.10 The applicant states they are currently unable to provide a floor plan:

3.11 "To follow

3.12 We are unable to currently provide a floor plan of the proposed premises as we do not have one from the shopfitters

3.1 Once the premises have been secured (currently not in our possession as per application), they will be registered with the GPHC and will comply with all relevant legal & ethical requirements for the operation of a retail pharmacy business"

3.2 In the supporting information provided with the application form the applicant describes the unforeseen benefit they are offering to secure as:

3.3 "The area that the proposed site intends to serve is Southwest of the railway and therefore geographically separated from the rest of Falmouth. We submit that this railway serves as a physical and psychological barrier to access, thus making access to a pharmacy more difficult for residents Southwest of the railway. We believe that there is a gap in pharmaceutical services in the Falmouth area; hence this application is offering unforeseen benefits not captured within the PNA.

3.4 Southwest Falmouth contains the Boslowick and Swanpool and Penmere neighbourhoods, whose residents can easily access the various amenities in and around the Boslowick Road parade, which is the best estimate for this application.

3.5 We submit that granting this application would provide residents of Falmouth with better access to pharmaceutical provision and reasonable choice. As mentioned, a pharmacy at the proposed site will serve c. 10,500 residents."

3.6 PUBLIC INVOLVEMENT / REPRESENTATIONS

3.7 Full details of the applicant's proposals were notified to parties in accordance with the Regulations.

3.8 Representations have been received from:

3.9 Boots UK Ltd oppose the application stating:

3.10 "The applicant has provided no evidence to suggest that residents in this locality are experiencing difficulties when accessing the existing pharmaceutical provision. The applicant provides data on the percentage of

residents who are over 65 years old but has not provided any indication that these patients do not have access to services to meet any specific needs.

3.11 Furthermore, there is no evidence to suggest patients do not currently have access to a reasonable choice of pharmaceutical services, according to NHS.UK there are four pharmacies in Falmouuth, all within a 1.5 miles of the TR11 4QD postcode provided by the applicant.

3.12 We do not agree that the residents who live southwest of railway line are separated from the rest of Falmouth. There is no barrier preventing access over or under the railway line (depending on which route is take) and the applicant hasn't provided any evidence of patients having a physical or psychological barrier as they have suggested. Car ownership in South & West Falmouth in which the best estimate sits, is very high with 86.8% of households having access to at least one car/van.

3.13 Our pharmacy at the Trescobeas Surgery offers a delivery service. We have provided a map showing our patient deliveries in the last 8 weeks. The map clearly shows that we deliver to patients across all areas of Falmouth & beyond.

3.14 The application does not appear the be based on innovative approaches to the delivery of pharmaceutical services.

3.15 Pharmaceutical provision across Cornwall has been reassessed through the production of the PNA. There are no gaps that a new contract would secure highlighted for Falmouth.

3.16 In conclusion we submit that the application should be refused as it will not confer significant benefits on persons in the area of the relevant Health and Wellbeing Board which were not foreseen when the relevant Pharmaceutical Needs Assessment was published."

3.17 Day Lewis Plc oppose the application and comment on some of the matters raised by the applicant within the application, stating:

3.18 "The applicant places great emphasis on the presence of the railway line yet provides no evidence that this forms a barrier to the movement of Falmouth residents when going about their daily lives. The vast majority of the town's amenities are located to the north-east of the railway, towards the town centre and residents living to the south-west of the line clearly have no difficulties accessing these amenities. They are able to access several existing pharmacies at the same time.

3.19 The applicant lists several Lower-Layer-Super Output Areas (LSOAs) yet fails to provide any maps to assist the ICB in understanding where these LSOAs are located. It is for the applicant to provide information to support its case, yet it has failed to do so. It is noteworthy than none of the LSOAs listed by the applicant are within the top 50% most deprived areas in England according to the 2025 index of multiple deprivation.

3.20 In terms of the amenities listed by the applicant, these are typical of those found in most residential neighbourhoods, but they are not evidence that residents do not have reasonable access to pharmaceutical services elsewhere.

3.21 The applicant mentions the ‘adequate parking’ near its proposed site. We would suggest that the parking is a reflection of the fact car ownership levels within the Boslowick ward are very much higher than the national average, with only 11.0% of households having no car or van compared to 23.5% in England overall. It is clear that local residents can drive to local pharmacies in a matter of a few minutes at most. Furthermore, there is free on-street parking available within a few metres of our pharmacy on Killigrew Street.

3.22 It is not correct to say that the need for residents to leave the “locality” is evidence that they do not have reasonable choice in respect of pharmaceutical services provision. We submit that the accessibility of pharmacies within the town is such that all residents of Falmouth and Penryn benefit from reasonable choice.

3.23 The map provided by the applicant on page 4 of its supporting document emphasises the railway line, which has the effect of making this look like a significant barrier. However, the railway can be crossed in several places, by both cars and pedestrians without any difficulties. The statement that residents “must endure difficult journeys” is not evidenced.

3.24 The applicant makes the statement that “up to c.10,500 residents are likely to access pharmaceutical services at the proposed location”, but clearly this is unsupported speculation. The area referred to by the applicant as having 10,500 residents is substantial, and many residents living in this area would have no reason to travel to the applicant’s site, when this is clearly a small local shopping parade intended to be used by residents of the immediate surrounding residential area. It is not a shopping location that will attract people from far and wide. In any event, even if a pharmacy at the proposed location would be closer for some of these residents, that it not the regulatory test. We contend that these residents already have reasonable choice in respect of pharmaceutical services provision.

3.25 The applicant provides census data in respect of the age profile of residents of the LSOAs it has highlighted and concludes that “health needs are greater” without supporting this with evidence. In fact, 2021 census data showed that in respect of the residents of Boslowick ward, 3.5% suffered from ‘bad health’ compared to the national average of 4.0% and 0.9% suffered from ‘very bad health’ compared to 1.2% nationally. It is clear that slightly older than average population does not equate to an unhealthy population.

3.26 Similarly, within the same ward, 15.9% of residents were disabled under the Equality Act compared to the national average of 17.3%. This is clearly a relatively healthy and mobile population.

3.27 The applicant highlights that the nearest pharmacy, i.e. our pharmacy on Killigrew Street is located less than a mile away from the proposed site by the shortest practicable route. Given the level of car ownership, we say that this is a very short distance to travel for pharmaceutical services. Even for those who choose to walk to our pharmacy, the walk time is less than 20 minutes, the measure often used within PNAs to consider levels of access. Those who are unable to walk this distance and do not have a car may decide to use public transport or a taxi if necessary.

3.28 The frequency of buses is likely to be a reflection of the fact car ownership is so high, so public transport use is limited. However, given that buses also run from the proposed site to the town centre, where most large shops are located, as well as Boots and Superdrug pharmacies, we submit that this is an entirely reasonable service to enable people to access pharmaceutical services.

3.29 Finally, it is well known to the ICB that the pharmacy closures seen over recent years have resulted from significant shortfalls in pharmacy funding against the backdrop of large increases in costs for pharmacy operators.

3.30 It is important that those contractors who remain are given every opportunity to ensure the financial stability of their businesses so the pharmaceutical services that exist in Cornwall at present can be maintained. Granting applications for new pharmacies in the county will simply result in further instability for the sector.

3.31 The burden of proof rests with the applicant when making an application for inclusion in the pharmaceutical list but the applicant has actually provided very little relevant information.

3.32 In conclusion, this application falls a long way short of providing any evidence that might lead the ICB to conclude that granting it would secure improvements or better access to the provision of pharmaceutical services in the area. For that reason, the application should be refused."

3.33 Hendra Pharmacy oppose the application stating:

3.34 "This objection is made with reference to the most recent Cornwall and Isles of Scilly Pharmaceutical Needs Assessment (PNA), which has already evaluated pharmaceutical service provision within Falmouth and the surrounding area. The PNA concludes that current community pharmacy provision is sufficient to meet the needs of the local population, with no identified gaps that would justify the establishment of an additional pharmacy at this location.

3.35 Falmouth is currently well served by a number of established community pharmacies, which provide good geographic coverage and adequate access to essential, advanced, and locally commissioned pharmaceutical services. The PNA confirms that residents are able to access pharmaceutical services within reasonable travelling distance and times, including those with protected characteristics and higher health needs.

3.36 No evidence has been presented to demonstrate a material change in population size, health demand, or service accessibility since the publication of the PNA that would warrant a departure from its conclusions. In the absence of such evidence, the application does not meet the statutory tests required for approval under NHS pharmaceutical regulations."

3.37 Penryn Surgery oppose the application stating:

3.38 This objection is made with reference to the most recent Cornwall and Isles of Scilly Pharmaceutical Needs Assessment (PNA), which has already evaluated pharmaceutical service provision within Falmouth and the surrounding area. The PNA concludes that current community pharmacy provision is sufficient to

meet the needs of the local population, with no identified gaps that would justify the establishment of an additional pharmacy at this location.

3.39 Falmouth is currently well served by a number of established community pharmacies, which provide good geographic coverage and adequate access to essential, advanced, and locally commissioned pharmaceutical services. The PNA confirms that residents are able to access pharmaceutical services within reasonable travelling distance and times, including those with protected characteristics and higher health needs.

3.40 No evidence has been presented to demonstrate a material change in population size, health demand, or service accessibility since the publication of the PNA that would warrant a departure from its conclusions. In the absence of such evidence, the application does not meet the statutory tests required for approval under NHS pharmaceutical regulations.

3.41 Kernow LMC oppose the application, stating:

3.42 In our submission, we speak to the business impact as it is our duty to focus upon the resilience and sustainability of general practice, but also recognised that this is inextricably linked to the benefit for the patients within this community and to current community pharmacy provsision in the described area, to have a thriving surgery that can continue to meet their health needs.

3.43 We cite the following reasons for opposing this application:-

3.43.1 *The approval of this application represents a high risk to the financial and wider business viability of pharmacy provision which supports the patients of Trescobeas surgery and may result in service contraction or business failure;*

3.43.2 *The approval of this application represents a high risk of disjointed care and advoidable complexity of process and access, particularly impacting the patient population in the vicinity.*

3.44 Trescobeas Surgery oppose the application, stating:

3.45 While I note that the proposed location is not considered a reserved location under Part 7 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, I respectfully submit that granting this application would **prejudice the proper provision of relevant pharmaceutical services and primary medical services** within the relevant Health and Well-being Board area, contrary to regulation 44.

3.46 In particular, our objection is based on the following grounds:

3.46.1 **Prejudice to the proper provision of pharmaceutical services** The area surrounding TR11 4QD is already adequately served by existing community pharmacies that provide a full range of essential, advanced, and locally commissioned services. The introduction of an additional pharmacy at this location risks fragmenting demand across providers, undermining the financial viability of existing pharmacies and, in turn, threatening the sustainability and continuity of established services relied upon by local patients.

3.46.2 **Lack of demonstrable unmet need or patient benefit**
The application does not demonstrate a clear unmet pharmaceutical need or tangible patient benefit that cannot already be met by existing providers. In the absence of evidence of insufficient access, inadequate opening hours, or service gaps, the addition of a further pharmacy would represent duplication rather than enhancement of services.

3.46.3 **Pharmaceutical Needs Assessment**
A PNA was recently reviewed in December 2025 and clearly sets out there are no current of future gap identified for additional pharmaceutical providers needed in the Falmouth & Penryn area.

3.47 For the reasons set out above, I submit that granting this application would prejudice the proper provision of pharmaceutical and primary medical services in the area. We therefore respectfully request that Cornwall and the Isles of Scilly Integrated Care Board refuse the application.

3.48 The applicant responded to the interested party responses and addressed some of the matters raised by each party. They also state they believe a number of the respondents have failed to consider the application in line with the correct regulatory tests. They conclude:

3.49 "**Conclusion**

3.50 In conclusion, granting this application would provide local residents with better access and a reasonable choice of pharmacy, which could be used in connection with the nearby amenities on Boslowick Road. Patients currently experience extensive journeys to reach a pharmacy, with the railway line and topography of the area creating a physical and psychological barrier to access, especially considering the above average proportion of elderly residents.

3.51 We submit that patients are unable to access pharmacies by foot, public transport is infrequent, and access by car is currently limited due to a lack of parking at alternative pharmacies.

3.52 We submit that granting this application would provide improvements or better access for residents residing within the southwest of Falmouth and submit that Regulation 18 has been met.

3.53 For these reasons, we invite the committee to grant this application."

3.54 When comments are circulated to the applicant and interest parties the covering letter states:

3.55 Please note that any new information that you submit at this stage will have little or no weight placed upon it unless it can be demonstrated that you are presenting it in response to representations submitted by another party that you believe are not true or are incorrect.

3.56 The SW Committee was satisfied that it is not necessary to hold an oral hearing to determine the application.

3.57 Regulation 31 (same or adjacent premises)

31.— (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") 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).

3.58 There are no other contractors currently providing pharmaceutical services within the best estimate. The nearest pharmacy is 0.8 miles away in Falmouth (Day Lewis). The SW Committee was satisfied it is not required to refuse the application by virtue of Regulation 31.

3.59 CONTROLLED LOCALITY ISSUES

3.60 The location for the proposed pharmacy is not in a controlled locality but is within 1.6 Km of a controlled locality

3.61 UNFORESEEN BENEFITS

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

3.63 Regulation 18 concerns 'Unforeseen Benefits' applications, which are applications where the improvements or better access that would be secured were or was not included in the relevant PNA. The current Cornwall & Isles of Scilly PNA can be found here: Pharmaceutical Needs Assessment (PNA) - Cornwall Council. Falmouth is included in the Falmouth and Penryn PCN. The SW Committee noted the detail in the locality profile summary and the overall conclusion at the time the PNA was written, which states access to services is adequate at the time of writing and there are no current or future gaps identified.

3.64 No Supplementary Statements have been published relating to the Falmouth and Penryn locality.

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

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

3.67 The ICB has no particular plans regarding pharmaceutical services in the area, so there can no [sic] detriment to such plans.

3.68 The SW Committee noted comments from the Interested parties regarding the potential impact on the viability of the existing pharmacies. However, while it could be said these were arguments about detriment to the arrangements in place, the SW Committee agreed there was little evidence to support that claim.

3.69 The applicant states:

3.70 “We would like to note that granting this application would not cause significant detriment to access of pharmaceutical services, all who operate on the opposite side of the railway.”

3.71 As with the Interested party responses, it was noted the applicant has implied no detriment to the arrangement in place, on the basis of geographical distance, but does not address the impact of an additional pharmacy on the financial viability of the existing pharmacies.

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

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

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

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

3.76 There are 4 pharmacies in Falmouth located within 0.5 – 1.5 miles of the best estimate location. The SW Committee had a map with the locations plotted and a list of the nearest pharmacies showing their opening hours and route maps to the nearest pharmacy (Day Lewis) to the proposed location on foot, by car and bus.

3.77 The applicant states they propose to provide services to patients to the south west of the railway line and suggests the area is geographically separated from the rest of Falmouth and the railway serves as a physical and psychological barrier to access.

3.78 The SW Committee had confirmation of the bus route and timetables that travel to and from Falmouth from the east and west sides of the railway line and noted further information for Falmouth and Penryn bus services can be found here: Falmouth and Penryn - Bus timetables & maps - Transport for Cornwall

3.79 The application offers information on patient journeys to the alternative pharmacies and suggests they are difficult to access particularly for the elderly and disabled suggesting that pharmaceutical provision is inadequate due to

lack of reasonable choice particulalry [sic] for those living to the south west of the railway line.

3.80 The applicant concludes:

3.81 “In conclusion, those residing in the Southwest of Falmouth beyond the railway line cannot be considered to have good access to a pharmacy.

3.82 We submit that residents would benefit significantly from having a pharmacy located within the Boslowick Road shops that patients access whilst going about their daily lives. We reiterate that the railway and large hill present physical and psychological barriers that currently proves difficult for patient access – especially if already feeling unwell. Thus, a pharmacy within walking distance would provide reasonable choice for patients.

3.83 Granting this application would secure better access to pharmaceutical services, especially when we consider the difficulties accessing the current nearest pharmacy. The elderly, disabled, and the wider population are likely to find the proposed pharmacy significantly more accessible than alternative choices.

3.84 We would like to note that granting this application would not cause significant detriment to access of pharmaceutical services, who all operate on the opposite side of the railway.

3.85 Therefore, granting this application would secure better access to pharmaceutical services and would also introduce reasonable choice.

3.86 On the evidence outlined above, we believe that a new pharmacy contract should be granted.”

3.87 The SW Committee considered the applicant’s assertion that a pharmacy in the proposed location will improve access to the residents living in that part of Falmouth and the suggestion that current service provision is not reasonable in terms of choice and access. The SW Committee noted the application did not provide much evidence on why patients living to the south west of the railway line are finding it difficult to access the pharmacies in Falmouth. It was noted there is little to no evidence that the railway line is a significant barrier for patients, in fact, people living in that area will regularly be travelling into Falmouth, where some of the pharmacies are located, to access many other services. Patients are also able to access a pharmacy to the north east, should they not wish to go into the town centre.

3.88 The SW Committee noted the PNA has been reviewed recently and concludes current access and choice is reasonable. There is no evidence of complaints about current access and choice and no evidence the railway line is a barrier or that the multiple routes available to patients from one side of the railway line to the other are lacking or difficult to navigate. The SW Committee had a copy of a site visit report relating to another application made 9 years ago, which was refused, and noted that on foot there is a hill involved when travelling to the pharmacies north east of the proposed location and under passes to navigate but there is no evidence to show patients are finding the routes difficult.

3.89 The SW Committee recognised that the population to the southwest of the railway line is likely affected to some extent by the distance to other side of the railway line but there is no evidence it is significant or unreasonable to manage.

3.90 The SW Committee noted there is debate in the counter responses about the nature and demographic of the area and people's ability to travel and the level of car ownership. The Applicant highlights the higher than average age of the population in the area it defines, whilst Interested parties refer to population having better health, less disabilities and higher care ownership. The SW Committee noted there is an hourly bus service connecting residents to both sides of the railway line and this frequency of services is not unreasonable. Information provided by Boots showing the geography of patients it delivers to was also noted. The SW Committee is not persuaded the railway line is a significant barrier.

3.91 The SW Committee noted there is no substantial evidence demonstrating difficulty accessing pharmaceutical services. There is evidence provided that shows existing pharmacies offer delivery services. There are dispensing practices providing services to patients in approved localities, which includes the west of the area identified by the Applicant, which is furthest away from existing provision in Falmouth.

3.92 The SW Committee noted the distribution of existing pharmacies might not be ideal but there is no evidence of dissatisfaction. The SW Committee was aware the PNA was relatively recently published and there have been no significant changes in Falmouth since publication. The geography of the area, the demography of the population and the existence of the railway were all known to the HWB when writing the PNA and so it is hard to see what it is that is unforeseen here.

3.93 The SW Committee noted the applicant's assertion that the overarching tests is whether the application would secure significant improvements, or better access, to pharmaceutical services. The SW Committee was of the view that opening any pharmacy would secure better access, but it could not be the intention of the Regulations that all applications must be granted. The SW Committee noted that 18(2)(b) states that "..granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published. The SW Committee concluded that it had to assess if any benefits that might be accrued would be significant.

3.94 The SW Committee was of the view that because of the number, accessibility and proximity of the existing pharmacies by car or by bus that granting the application would not confer a significant benefit by way of access to, or choice of, pharmaceutical services.

3.95 Reg 18(2)(b)(ii) – Significant Benefit: Patients with a protected characteristic

3.96 The applicant states:

3.97 "We submit that journeys by foot to the nearest pharmacy cannot be considered good access, especially for those residents with protected characteristics who would be unable to make such a journey.

3.98 Residents must walk along the Boslowick Road and Penmere Hill to access the pharmacy, however, the incline on this road has an average gradient of 1 in 10 for c.370 metres, with points as steep as almost 1 in 5. For context, guidance states that a disabled access ramp should have a gradient of no more than 1 in 20 for a maximum ramp length of 10 metres. Given this hill is significantly longer than such a ramp, and the gradient at its steepest point is approximately four times the mandated figure, it is a clear barrier to access for those in a wheelchair/mobility scooter/or of impaired mobility. This journey is clearly not representative of reasonable choice and presents a clear barrier to access, especially considering the high proportion of elderly residents in the locality."

3.99 The SW Committee noted the population demographic, along with the Applicants inference that people with protected characteristics are unable to make the journey on foot to the existing pharmacies but there is no evidence provided to support this contention.

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

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

3.102 No information has been provided by any party on this matter. The applicant notes:

3.103 "We note that points on reasonable choice; protected characteristics; and innovation are desirable, however, they are merely supporting considerations when determining whether in fact the overarching test in regulation 18(2)(b) has been met: an application should be granted should it provide *improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area."*

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

3.105 DECISION

3.106 The SW Committee was of the opinion the application SHOULD NOT BE GRANTED as conferring a significant benefit, because:

3.106.1 Granting the application would not confer a significant benefit by way of access to, or choice of, pharmaceutical services.

3.106.2 Granting the application would not confer significant benefits on people sharing a protected characteristic.

3.106.3 Granting the application would not lead to significant benefits by virtue of innovation

3.107 ADDITIONAL MATTERS IF GRANTED

3.108 Regulation 66 – conditions relating to providing directed services

3.109 The applicant has given an undertaking to provide a number of directed services.

3.110 Therefore, it should be a condition of the granting of the application that the contractor must provide those services if commissioned and not withhold agreement to a service specification for those services unreasonably.

3.111 Impact on dispensing patients

3.112 As the proposed pharmacy is within 1.6km of a controlled locality the impact on any dispensing patients must be considered.

3.113 Details of how many dispensing patients live within a 1.6km of the best estimate are displayed in the following table:

| Practice | Dispensing Flag – Y | Dispensing Flag = N | Total within 1.6km |
|---|---|---|---|
| Penryn Surgery | 251 | 3192 | 3443 |
| Trescobeas Surgery | 15 | 5635 | 5650 |
| Carnon Downs Surgery | 6 | 17 | 23 |
| Probus Surgery | 3 | 1 | 4 |
| Chacewater Health Centre | 2 | 0 | 2 |
| Marazion Surgery | 2 | 0 | 2 |
| Helston Medical Centre | 2 | 23 | 25 |
| St. Agnes Surgery | 2 | 3 | 5 |
| Godolphin Health | 1 | 1 | 2 |
| Harris Memorial Surgery | 1 | 2 | 3 |
| The Mullion & Constantine Group Practice | 1 | 0 | 1 |
| Tamar Valley Health | 1 | 0 | 1 |
| Falmouth Health Centre | 1 | 6136 | 6137 |

| | | | |
|---|---|---|---|
| St Mary's Health Centre | 1 | 0 | 1 |
| Brannel Surgery | 1 | 0 | 1 |
| St Keverne Health Centre | 1 | 0 | 1 |
| Total | 291 | | |

3.114 Chapter 32 of the Manual states:

3.115 Periods of gradualisation should generally be no shorter than one month and, other than in exceptional circumstances, should last no longer than three months. Exceptional circumstances may include:

3.115.1 the loss by a dispensing practice of all its dispensing patients,

3.115.2 where the reduction in the number of dispensing patients would lead to staff changes or redundancies, or

3.115.3 where there is only one pharmacy within a 1.6km of the practice premises and that is the pharmacy that is opening and its ability to absorb former dispensing patients effectively needs to be staged over time.

3.116 No party has made any representations on the matter of gradualisation. The SW Committee agreed to impose a 3 month period of gradualisation to the removal of patients from the practice dispensing lists when a pharmacy opens for Penryn Surgery and 1 month for the other practices. The SW Committee included this determination, noting its decision to REFUSE may be appealed.

3.117 Appeal Rights

3.118 The applicant has appeal rights as the application is declined.

3.119 The SW Committee agree that the dispensing practices listed above would have appeal rights against any gradualisation decision (if applicable)."

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

## 4 The Appeal

In a letter dated 1 June 2026 addressed to NHS Resolution, Healthcare Plus Consulting Ltd on behalf of the Applicant appealed against the Commissioner's decision. The grounds of appeal are:

4.1 "Thank you for your letter dated 5th May 2026. NAIMANS UK Ltd have instructed us (Healthcare Plus Consulting Ltd) to act on their behalf for this appeal, please find an authorisation letter attached.

4.2 We would like to appeal the decision made in relation to the above unforeseen benefits application. We make the below representations in addition to previous comments already made, which we have reattached.

4.3 Preliminary Matter

4.4 The SW Committee refer to a copy of a site visit report that they relied on when reaching their decision. We have not had sight of this document and request that this is circulated given that the SW Committee relied on its findings. We also note that the site visit report is from nine years ago, and it may therefore assist the Committee to revisit the site and produce an up-to-date and more accurate report.

4.5 Grounds for Appeal

4.6 We outline our client's grounds for appeal below and submit that the SW Committee were inconsistent in their decision-making and did not give due weight to the following:

4.6.1 Geographical gap and distance to existing pharmacies

4.6.2 Access to pharmaceutical services for residents without a car

4.6.3 Local population demographics

4.6.4 Day-to-day amenities at/near the proposed site

4.7 We trust that NHS Resolution (NHSR) will reconsider the above.

4.8 SW Committee Decision Report

4.9 Detriment

4.10 We agree with the SW Committee that arguments surrounding detriment are unsupported and therefore do not hold any weight.

4.11 Location of Pharmaceutical Services

4.12 The SW Committee state that the nearest pharmacy is Day Lewis Pharmacy, located 0.8 miles away - this is correct. However, they later state that "there are 4 pharmacies in Falmouth located within 0.5 – 1.5 miles of the best estimate location". This is clearly misleading. There are no pharmacies within a 0.5-mile radius of our client's best estimate location, with all provision being closer to 1-mile away.

4.13 Figure 1: Image showing map of current pharmaceutical provision and location of proposed site (yellow star). Blue marker depicts Day Lewis Pharmacy (TR11 3PU), orange marker depicts Boots Pharmacy (TR11 2UN) and red marker depicts both Boots Pharmacy (TR11 3AB) and Superdrug Pharmacy (TR11 3AT).

4.14 Geographically, we can see that a clear service disparity exists, with southwest Falmouth entirely unserved and all pharmacy provision situated to the north of the Maritime Railway Line. We have previously detailed the journeys required

to access current pharmacies and the barriers posed by the underpasses beneath the Maritime Line and Penmere Hill's steep inclines. We invite the Committee to review the attached correspondence.

4.15 While we do not have sight of the site visit report in its entirety, it is notable that it observes;

4.16 "on foot there is a hill involved when travelling to the pharmacies north east of the proposed location and under passes to navigate…" (SW Committee Decision Report, Point 29).

4.17 The Committee are therefore well aware that the journey by foot encompasses barriers and difficulties for patients to navigate, even noting within the decision report that the distance patients are required to travel poses as a difficulty in itself:

4.18 "The SW Committee recognised that the population to the southwest of the railway line is likely affected to some extent by the distance to other side of the railway line but there is no evidence it is significant or unreasonable to manage." (emphasis added)

4.19 (SW Committee Decision Report, Point 30).

4.20 We reiterate that evidence of difficulties is not required by the Regulations.

4.21 The Committee clearly felt it was reasonable to conclude that "the population to the southwest of the railway line is likely affected to some extent by the distance to the other side of the railway line". It is therefore unclear why further evidence was thought to be needed, when the Committee had already formed the view that the population the proposed application seeks to serve is, in any event, "likely affected" by the distance involved in accessing pharmaceutical provision. We submit that the evidential burden in a case such as this should be the balance of probabilities, that is more likely than not. We therefore submit that given residents were likely to be affected, the Committee should have accepted this as presenting difficulties when accessing pharmaceutical services.

4.22 We submit that the Committee's demand for further evidence of patient difficulty is wholly unnecessary – especially given that difficulties are not even a requirement of Regulation 18, and that difficulties were already found to be likely. Thus, we submit that consideration of patient journeys, specifically those by foot, were not appropriately concluded by the SW Committee. We offer clarification on this below.

4.23 Patient Journeys

4.24 By Foot

4.25 The Committee's lack of consideration of patient journeys by foot is further demonstrated in its conclusion, where it was determined that; "…because of the number, accessibility and proximity of the existing pharmacies by car or by bus that granting the application would not confer a significant benefit by way of access to, or choice of, pharmaceutical services." (emphasis added) (SW Committee Decision Report, Point 35).

4.26 We can see that consideration of patient journeys by foot were completely omitted from the Committee's conclusion. We submit that this is problematic, as it assumes that all residents living to the southwest of the railway would not access a pharmacy by foot.

4.27 According to 2021 Census data, 296 households in the Falmouth Boslowick Ward have no access to a car/van, and a further 1,219 households only have access to one car/van. We submit that households with one car/van have limited access to that vehicle. In common situations where another member of the household is using the car, other residents would be left without reliable means to access pharmaceutical services when needed. Thus, given that 56.1% - over half of the number of households in the Falmouth Boslowick Ward – have either no access or limited access to a personal vehicle, it cannot be assumed that travel by car for all local residents is possible.

4.28 As previously detailed, the shortest route for patients accessing the nearest pharmacy involves travelling along Penmere Hill which passes under the railway line and has a significant average incline of 1 in 10 for c.370 metres. Notably, the walkway is also narrow on the section passing beneath the railway. For the Committee's reference, we include images of Penmere Hill below in Figure 1.

4.29 Figure 1: Images depicting large hill and narrow railway underpass on route to the nearest pharmacy.

4.30 By Public Transport

4.31 When looking at journeys by public transport, we first note that it is undisputed that there is an hourly bus service serving the local area. The SW Committee consider this frequency to be "reasonable" without any explanation as to why they believe so. Notably, the Cornwall and Isles of Scilly PNA (2025-2028) did not consider travel times by public transport, indicating that public transport is at most of secondary importance to pharmacy access.

4.32 Urban Nature of Boslowick

4.33 We note that it may be of assistance for NHSR to consider the frequency of a bus service in the context of the urban/rural nature of an area. We highlight that the population density of the Falmouth Boslowick Ward is 2,091.5 residents per square kilometre, which is almost 13 times the density of the Cornwall Local Authority (160.9 residents per square kilometre) and nearly five times that of England (433.5 residents per square kilometre). We also cite the population densities of the LSOAs at/near the proposed site below (maps provided in previous correspondence):

4.33.1 4,405.7 residents per square kilometre – Cornwall 064A LSOA

4.33.2 3,503.2 residents per square kilometre – Cornwall 064B LSOA

4.33.3 2,587.2 residents per square kilometre – Cornwall 064D LSOA

4.34 It is evident that the areas at/near the proposed site have a very high population density and can in no way be classified as rural. We highlight a news story from Cornwall Live, which produced an article describing how Falmouth was ranked

as "one of the best urban places to live" (https://www.cornwalllive.com/news/cornwall-news/falmouth-named-one-best-urban-1870492).

4.35 We also note that car ownership and reliance is likely to be lower in an urban area, with travel via public transport and foot being more favourable due to strong links. Thus, we reiterate that an hourly bus service cannot be considered reasonable for patients seeking access to pharmaceutical services.

4.36 While the Cornwall HWB is largely rural in nature, we have evidenced above that Falmouth – specifically the area to the southwest of the railway line – is indeed urban. Thus, we submit that the PNA's omission of journeys by foot and public transport does not represent a comprehensive assessment of access to pharmaceutical provision in non-rural areas within the HWB, and therefore this cannot be relied upon.

4.37 Local Population

4.38 The proposed pharmacy would be located in Boslowick which is a district area of Falmouth. Historically, it would have been part of Falmouth parish but not Falmouth Municipal Borough, showing its relative independence from the Falmouth city centre to the north.

4.39 We note that the Falmouth Boslowick Ward had a population of 6,371 residents according to the 2021 Census. It is also home to its own community centre – the Bosvale Community Centre – reflecting a well-established local community with a strong and distinct identity.

4.40 We reiterate that the proposed pharmacy would serve a large community who currently have access to a variety of day-to-day amenities:

4.40.1 Co-operative Supermarket

4.40.2 Charity Shop

4.40.3 Barbers

4.40.4 Hair Salon

4.40.5 Fish and Chip Shop

4.40.6 Coffee Shop/café

4.40.7 Bosvale Community Centre

4.40.8 Penmere Manor Hotel

4.40.9 Café/Arts and craft shop

4.40.10 Beauty and tanning salon

4.40.11 Village gift shop

4.40.12 Post office facilities

4.40.13 St Francis Church of England Primary School (407 pupils)

4.40.14 St Mary's Catholic Primary School (185 pupils)

4.40.15 Marlborough School (213 pupils)

4.41 We note that local residents will be traveling within the area and accessing the above amenities as part of their daily lives. In total, there are 805 pupils who attend the aforementioned primary schools, indicating that there is not an insignificant number of parents with young children who access the local area.

4.42 Indeed, we submit that any journey required to access pharmaceutical services is located outside the community, meaning residents have no choice but to leave the area and undertake a distinct trip that is separate from their usual daily routines.

4.43 Cornwall and Isles of Scilly PNA (2025-2028)

4.44 We submit that the Committee's reliance on the Cornwall and Isles of Scilly PNA (2025-2028) warrants further scrutiny. The SW Committee note that the PNA "concludes current access and choice is reasonable". We note that the PNA specifically determined the provision of pharmaceutical services in the Health and Wellbeing Board against 'adequacy assessments'.

4.45 Thus, when assessing the level of pharmaceutical provision in the Falmouth and Penryn PCN, it was concluded that; "Access to NHS Pharmaceutical Services in the Falmouth and Penryn PCN is ADEQUATE at this time" (Cornwall and Isles of Scilly PNA, 2025-2028, pg. 67)

4.46 We reiterate that use of adequacy is not the relevant test which is defined in Section 129(2A) of the National Health Service Act 2006.

4.47 We also note that the inclusion of 'reasonable choice' in regulation 18(2)(b)(i) is not meant to change the test into one of whether current provision is adequate, as a previous iteration of the market entry test required, or whether current provision is reasonable. Rather it is meant to recognise even where pharmacy services are already available, the addition of a new pharmacy may offer significant improvements by fostering competition. This was confirmed in the case of R (on the application of Assura Pharmacy Ltd) v E Moss Ltd (t/a Alliance Pharmacy) [2008] EWCA (Civ) 1356, where it was accepted that the inclusion of reasonable choice in the previous iteration of the regulations was intended to foster competition between pharmacies, but was at that time frustrated in this purpose by the adequacy test. The adequacy test was abolished in 2012. It would be perverse to allow the abolished adequacy test to return as a revenant possessing the very reasonable choice consideration it once frustrated.

4.48 We therefore submit that reliance on the Cornwall and Isles of Scilly PNA (2025–2028) is not well founded and should be reconsidered.

4.49 Prescription Delivery Service

4.50 The Committee note the prescription delivery services provided by dispensing practices and Boots. We submit that reliance on delivery services is not a

reasonable alternative to accessing pharmaceutical services on site. We stress to the Committee the importance of having accessible pharmacies within communities, especially with the advent of Pharmacy First and the Hypertension service. We highlight that pharmacies are no longer just dispensers but are being tasked with providing a number of minor ailments services through the Pharmacy First scheme and are playing an important role in accessing professional advice for people to lead healthier lives. Pharmacy is increasingly serving as the accessible front door of the NHS. We submit that pharmacies situated within communities amongst amenities that residents access as part of their daily lives, ultimately improves access to these services while reducing the burden on GPs. Thus, this application will meet the NHS' goals by delivering pharmaceutical services within a community that currently faces distance and access barriers to existing pharmacies.

4.51 Conclusion

4.52 In conclusion, on the evidence outlined above, we believe that the proposed pharmacy offers clear improvements and better access for residents.

4.53 We submit that the Committee ultimately refused the application based on no evidence of patient difficulties. We do not consider this to be sufficient grounds for refusing an application, especially when substantial evidence regarding access to pharmaceutical provision and barriers to access has been provided throughout our client's correspondence.

4.54 We submit that the area to the southwest of the Maritime Line in Falmouth is completely unserved, lacking any local pharmaceutical services, despite it serving the populations day-to-day needs and employment.

4.55 We highlight that the Cornwall and Isles of Scilly PNA (2025-2028) failed to consider a number of relevant matters, meaning that little weight can be placed on its conclusions."

## 5 Summary of Representations

This is a summary of representations received on the appeal.

5.1 Trescobeas Surgery

5.1.1 "I stand by my original response and the fact that the pharmaceutical needs assessment is still in date and only recently been carried out that another pharmacy in Falmouth is not required and as my email below submitting out of date information for an appeal is not best practice."

5.2 The Commissioner

5.2.1 "Thank you for your letter, received 19 June 2026, addressed to Mr Speight at Primary Care Support England (PCSE) enclosing a copy of the above appeal. The South West Pharmaceutical Services Regulations Committee (SW Committee) wishes to make the following comments on the appeal. In considering the application the SW Committee noted the following:

5.2.1.1 the application did not provide much evidence on why patients living to the south west of the railway line are finding it difficult to access the pharmacies in Falmouth.

5.2.1.2 there is no evidence of complaints about current access and choice and no evidence the railway line is a barrier or that the multiple routes available to patients from one side of the railway line to the other are lacking or difficult to navigate. Whilst noting the hill identified in the site visit report for a previous application, there is no evidence to show patients are finding the routes difficult.

5.2.1.3 recognised that the population to the southwest of the railway line is likely affected to some extent by the distance to other side of the railway line but there is no evidence it is significant or unreasonable to manage.

5.2.1.4 there is an hourly bus service connecting residents to both sides of the railway line and this frequency of services is not unreasonable.

5.2.1.5 the PNA was relatively recently published and there have been no significant changes in Falmouth since publication. The geography of the area, the demography of the population and the existence of the railway were all known to the HWB when writing the PNA and so it is hard to see what it is that is unforeseen here.

5.2.2 The SW Committee was of the view that because of the number, accessibility and proximity of the existing pharmacies by car or by bus that granting the application would not confer a significant benefit by way of access to, or choice of, pharmaceutical services.

5.2.3 In relation to some of the specifics in the appeal the SW Committee would make the following observations:

5.2.3.1 Site visit report – this was part of the SW Committee's investigations to test the assertations made by the appellant regarding the nature of the topography. The SW Committee was aware of the age of the report, but knowledge of the area meant that the SW Committee was aware there has been little change in this area of Falmouth, so the report was still relevant.

5.2.3.2 The appellant makes many assertions about the walking distance and about how it is unreasonable. However, the SW Committee would respectfully suggest that there is no evidence provided that for those choosing to walk the distance it is excessive or that the hill is a significant obstacle. The slope is not for the entire distance. The pavements may not be the widest, but they are often on both sides of the road and are reasonably maintained, there is no evidence provided that these create a barrier. Similarly, while there may be an underpass to negotiate it is a very short distance and it is easy to see from one side to the other as evidenced by the appellant's own

pictures. The appellant asserts that patients who choose to walk cannot, and therefore they need to provide evidence to support that assertion.

5.2.3.3 The SW Committee would respectfully suggest that the recent PNA is of relevance. The unforeseen benefit that the applicant appears to contend exists is one regarding accessibility and choice, yet these are matters that the HWB would have considered in preparing the PNA. The SW Committee would respectfully suggest that this being the case significant evidence of change is required rather than the somewhat generic case made here.

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

5.3 Day Lewis PLC

5.3.1 "Thank you for your letter dated 19th July informing us of the above appeal.

5.3.2 On behalf of Day Lewis PLC, who provide pharmaceutical services from premises at 115 Killigrew Steet, St, Falmouth, we continue to object to this application and ask the Primary Care Appeals Committee ("The Committee") committee [sic] to take the following comments into account.

5.3.3 We have included a copy of our initial response to the application and ask that this is taken into account when determining this appeal.

5.3.4 We note that, in addition to the appeal letter, we have been provided with a copy of the appellant's '14-day comments' and the 2017 site visit report, so we comment briefly on those documents first.

5.3.5 14-day comments

5.3.6 The letter starts by stating that various matters are undisputed. For the avoidance of doubt, it is disputed that Penmere Hill is "*extremely steep*" and that it "*acts as a barrier to access*". It is also disputed that the "*reliant population*" mentioned by the appellant increases to any material extent due to seasonal tourism. The area highlighted by the appellant closest to the application site is residential in nature and does not have a significant number of holiday homes or campsites.

5.3.7 The appellant goes on to discuss the regulatory tests and their correct interpretation. The Primary Care Appeals Committee ("The Committee") is very familiar with these tests so we do intend to discuss them further at this stage. The burden of proof rests with the appellant to demonstrate that the tests have been met, and we submit that it has failed to do so.

5.3.8 We note the appellant's comments in respect of the PNA. Whilst it is, of course, correct that this is an application submitted under Regulation 18, it is a relevant consideration that the Health and Wellbeing Board

("HWB") who are tasked with assessing pharmaceutical services provision by way of publishing a Pharmaceutical Needs Assessment ("PNA") have done so very recently and found there were no gaps.

5.3.9 In responding to Boots comments, the appellant submits that the distance and topography are a barrier to accessing pharmaceutical services but do not provide any evidence that patients are unable to make this journey. As discussed in our initial response to the application, this is an area with high car ownership and low deprivation. There is also a regular bus service provided. Any patient who is unable to, or wishes not to, walk to access pharmaceutical services may use these alternative means of travel.

5.3.10 In terms of the railway bridge depicted by the appellant, the walkway referred to by the appellant is wide enough for pedestrians, wheelchair users and residents with mobility scooters. In any event, the appellant has not explained why patients would start their journey at its proposed location and therefore why they would choose to use this particular route. For example, residents living to the south of the railway, and to the east of the proposed location may cross the railway at Pennace Road, where the road passes over the railway without any incline, as shown below.

5.3.11 The appellant persists with discussing patients who access pharmaceutical services on foot without providing any evidence of patients who are reliant on walking as a means of travel to access pharmaceutical services. As has been discussed previously, the distance from the proposed site to the nearest pharmacy for those patients who do wish to walk is 0.8 miles, a walk of less than 20 minutes for most people.

5.3.12 The appellant provides no evidence to support its assertions regarding parking difficulties other than one screenprint, which is no more than a 'snapshot in time'.

5.3.13 In responding to our initial comments the appellant states that patients have "no choice" but to visit the town centre. However, we maintain that the choice for residents who live to the south of the railway line remains reasonable in the context of how they go about their daily lives. In common with most towns the vast majority of the amenities are situated close to the town centre and residents are accustomed to using them. There is no evidence to suggest otherwise. Furthermore, there are no GP surgeries south of the railway line.

5.3.14 We note the LSOA maps provided by the appellant. In the first map, the area highlighted measures 2km (1.25 miles) from the north-western edge to the south-eastern edge. Even if the proposed site was central to this area (which it is not), residents toward the edge of the area highlighted would travel 1km (0.62 miles) to the proposed site.

5.3.15 If the appellant asserts that all of these people live close to its proposed site then presumably it will agree that residents of much of the area it highlights also live close to Day Lewis Pharmacy. This is contrary to its

earlier suggestion that a distance of 0.8 miles presents a barrier to access.

5.3.16 Furthermore, this map shows that a larger proportion of the residential area highlighted is to the north-east of the proposed site than it is to the south-west i.e. much of the area highlighted is closer to the town centre and the existing pharmacies than 0.8 miles. In fact the distance from the north-eastern edge of LSOA 064B to our pharmacy on Killigrew Street is only 470m (0.3 miles).

5.3.17 The appellant incorporates LSOA 066A into its maps, yet the distance from the southern tip of this area to the proposed site is more than 4.3 miles. The appellant does not explain how these people are unable to access existing pharmacies currently, yet would be able to access its proposed site, which would be 3.5 miles away for them.

5.3.18 In respect of parking we dispute the assertion that there are any difficulties parking near Day Lewis Pharmacy. Whilst there are double yellow lines immediately outside the pharmacy that is only because it is on a junction; there are spaces within 20m. These are not resident-only spaces and they are used by a mixture of residents and shoppers visiting other retail businesses along Killigrew Street. There are also unrestricted spaces on Albany Road, off Killigrew Street, within 100m.

5.3.19 As the appellant explains there are parking options available at, or near, all pharmacies in Falmouth.

5.3.20 In respect of the journey to Day Lewis pharmacy, we do not dispute the existence of the hill (for those patients who choose to use that particular route), but do not accept it is a barrier for most people. Falmouth is a hilly town and residents are accustomed to this. Those who are able to walk and choose to do so are not deterred by the hill mentioned by the appellant. Those unable to walk will drive or use public transport.

5.3.21 The appellant does not explain why the railway line is a psychological barrier. We submit that residents are not psychologically deterred from travelling from one side of the railway to the other.

5.3.22 In terms of the 20-minute walk time, as we have shown previously, levels of disability are below the national average. We submit that most residents can walk this distance without difficulty.

5.3.23 In respect of bus routes, the appellant's proposed site is served by routes 63 and 65A, with departures towards the town centre every hour daily until 6.47 PM. It is not correct to say that patients cannot rely on public transport. This is a regular service and is used by those residents who need it. There is no evidence from the appellant that residents are forced to use taxis.

5.3.24 We have no further comments to make on the 14-day letter.

5.3.25 2017 site visit report

5.3.26 Whilst we note that a significant length of time has passed since this report was written, we also note that there have been no changes to the geography of the area in respect of the journeys to existing pharmacies. That being the case it was reasonable for the ICB to consider the information from this report into account when determining this application.

5.3.27 The appeal

5.3.28 We now go on to address the matters raised in the appellant's letter of appeal dated 1st June, using the same headings used by the appellant.

5.3.29 Preliminary matter

5.3.30 We have addressed this point above.

5.3.31 Grounds for appeal

5.3.32 The appellant has provided no evidence to support its assertion that the SW Committee did not give weight to the various matters it lists. In any event the PCA Committee will consider these matters afresh.

5.3.33 Location of pharmaceutical services

5.3.34 The SW Committee comment is not misleading. It stated that there are 4 pharmacies located within 0.5-1.5 miles of the best estimate location i.e. pharmacies are between 0.5 and 1.5 miles away. It did not state that there were any pharmacies within 0.5 miles.

5.3.35 We have addressed the matters of distances and journeys already and maintain that residents of the town access most of their daily needs from the town centre area to the north-east of the railway line. Amenities to the south-west are very limited. For example the main supermarkets in the town are Sainsbury's and Lidl, both of which are located at the northern edge of the town, on the northern side of the railway. They are 1.8 miles away from the proposed site by road.

5.3.36 We note the comments made about the site visit report. It is evident from these comments that the SW Committee took these matters into account yet still found that the tests in Regulation 18 were not met. Whilst the Regulations may not refer specifically to "difficulties", it is for the applicant to provide evidence that granting the application will confer 'significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published'.

5.3.37 The test is not whether the pharmacy would simply secure some improvements or better access, but whether the benefits would be significant. It is for the applicant to provide evidence to make this case. The ICB clearly did not accept that the benefits would be significant, taking all matters into account.

5.3.38 Patient journeys

5.3.39 In respect of journeys on foot it is clear that the commissioner took into account the 2017 report which specifically considered these.

5.3.40 In any event, it is entirely appropriate to consider the most likely means of travel, which for many residents will be by car. Those without access to a car may use public transport. There is no evidence provided by the appellant that there are residents unable to use either a car or a bus.

5.3.41 The argument that in households that only have one car there is limited access to a vehicle is not evidence that these residents cannot access a pharmacy at any time. Our pharmacy opens until 6pm in the evenings and Boots & Superdrug in the town centre open all day on Saturday and Boots also opens for 6 hours on Sundays. We submit that even in households with only one car it is likely there will be plenty of times in the week when the car is available while pharmacies are open. It is for the appellant to provide evidence that patients do not have access to a car, not for others to prove that they do.

5.3.42 In respect of the bus service, the comments made by the appellant about the population density are irrelevant. Firstly, using the England average is meaningless, as clearly population density is greatest in towns and cities and lowest in highly remote areas. Taking an average across the country will not assist the Committee. The population density is exactly as would be expected in any residential area.

5.3.43 Regardless of this, the provision of bus services is likely to be influenced more by demand than how densely an area is populated. Where most residents own a car, bus travel will inevitably be reduced compared, for example, to central London, where more than 50% of households do not own a car.

5.3.44 It is difficult to imagine a situation where a patient's need to access a pharmacy are so urgent that waiting a maximum of 1 hour for a bus will cause them harm.

5.3.45 The appellant makes the 'broad-brush' comment that car ownership and reliance is "likely to be lower in an urban area", disregarding the data we provided previously that car ownership in Boslowick ward was 11.0% at the time of the last census compared to the national average of 23.5%. The evidence does not support the appellant's unsubstantiated assertion. Car ownership is, in fact, very high in this area.

5.3.46 Local population

5.3.47 We note the amenities listed by the appellant but we submit that these fall short of meeting all the daily needs of residents. For example, there are no:

5.3.47.1 Supermarkets (other than convenience stores)

5.3.47.2 Secondary school (for the avoidance of doubt Marlborough School is also a primary school).

5.3.47.3 Banks

5.3.47.4 Significant places of work

5.3.47.5 Sports centres

5.3.47.6 Public houses or bars

5.3.47.7 Restaurants

5.3.47.8 GP surgeries

5.3.47.9 Dentists

5.3.47.10 Opticians

5.3.48 We do not accept the assertion that residents of Boslowick ward can access all the facilities they need without leaving the area.

5.3.49 Cornwall and Isles of Scilly PNA (2025-2028)

5.3.50 The comments made by the appellant appear to constitute a challenge to the legitimacy or reasonableness of the PNA. As the Committee will be aware this is not a valid ground of appeal.

5.3.51 The commissioner considered the application correctly on the basis of Regulation 18 regardless of the contents of the PNA.

5.3.52 In conclusion, the burden of proof, to the extent this exists, rests with the applicant and we say that it has not provided evidence that will lead the committee to conclude the regulatory tests are met.

5.3.53 We have no further comments to make at this time and look forward to hearing the outcome of this appeal in due course."

5.4 Boots UK Ltd

5.4.1 "Thank you for your correspondence dated 19th June 2026 informing us of the above appeal.

5.4.2 Boots UK Limited wish to make the following comments:

5.4.3 The location of the proposed site is an established one. Residents who live in and around the proposed location are well accustomed to accessing the existing pharmaceutical provision across Falmouth. We are not aware of any complaints to the ICB or to our pharmacies about accessibility of current providers or of any health needs not being met.

5.4.4 We do not believe that "likely affected" should be accepted as "presenting difficulties" as the appellant implies. There is no evidence that although "affected" means inaccessible or difficult to access.

5.4.5 Furthermore, there is no evidence to suggest patients do not currently have access to a reasonable choice of pharmaceutical services,

according to NHS.UK there are four pharmacies in Falmouth, all within 1.5 miles of the TR11 4QD postcode provided by the applicant.

5.4.6 We do not agree that the residents who live southwest of railway line are separated from the rest of Falmouth and do not move freely around the area. There is no physical barrier preventing access over or under the railway line (depending on which route is taken) and the applicant hasn't provided any evidence of patients having a physical or psychological barrier. The railway line underpass and hill have always been there.

5.4.7 Car ownership in South & West Falmouth in which the best estimate postcode sits, is very high with 86.8% of households having access to at least one car/van. We have enclose a map taken from National Statistics for you to refer to. Just because no information has been provided in the decision report regarding patient access a pharmacy on foot, does not mean that it wasn't a consideration or that access to current provision is not sufficient to meet the populations needs.

5.4.8 Our pharmacy at the Trescobeas Surgery offers a delivery service. We have provided a map showing our patient delivery locations. The map clearly shows that we deliver to patients across all areas of Falmouth & beyond. A delivery service is not a substitute for face to face provision, but an additional option for patients.

5.4.9 Pharmaceutical provision across Cornwall has been reassessed through the production of the PNA. There are no gaps that a new contract would secure highlighted for Falmouth. We are not clear what the "unforeseen" benefit the appellant is seeking to secure.

5.4.10 In conclusion we submit that the application should be refused as it will not confer significant benefits on persons in the area of the relevant Health and Wellbeing Board which were not foreseen when the relevant Pharmaceutical Needs Assessment was published.

5.4.11 Please be aware that we may wish to make further representations at a later stage and attend any oral hearing that may be held."

## 6 Observations

6.1 Healthcare Plus Consulting Ltd on behalf of the Applicant

6.1.1 "Thank you for your letter dated 24th July 2026. We provide our observations in response to the representations received below.

6.1.2 We endeavour to respond to each interested party in the order that points are raised by the interested party.

6.1.3 Preliminary Matter

6.1.4 It is stated that there were representations received from Trescobeas Surgery, but no comments have been attached. We are therefore unable to comment on these. We also note that we have still not had sight of the visit report which the Southwest Committee relied on during

their decision, yet it is stated within the response from Day Lewis that they were provided with the 2017 site report. After requesting that this report be circulated during the appeal we are unsure why this has been provided to opposing parties, but we have not had sight of this. Regardless, we maintain the position that the site visit report is from nine years ago, and it may therefore assist the Committee to revisit the site and produce an up-to-date and more accurate report.

6.1.5 Southwest Committee

6.1.6 We note that the Southwest Committee has resubmitted comments from the consideration of the initial application, these points have been addressed in the attached appeal document.

6.1.7 It is also noted that the Southwest Committee continue to comment on the lack of evidence regarding the unreasonable walking distance and the barrier presented by the hill. The Southwest Committee have highlighted within the decision report, and resubmitted within this document, that

6.1.8 "*the population to the southwest of the railway line is likely affected to some extent by the distance to other side of the railway line but there is no evidence it is significant or unreasonable to manage*."

6.1.9 It is clear the committee have acknowledged that the population to the southwest of the railway are "*likely affected*" by the distance. We therefore maintain the position that the Committee's demand for further evidence of patient difficulty is wholly unnecessary – especially given that difficulties are not even a requirement of Regulation 18, and that difficulties were already found to be likely. Despite not being a requirement of Regulation 18, we have provided in Annex 1 various letters of support from local Councillors, the letter from Cllr Debra Clegg states that "*there is still a long walk to the pharmacy for my residents regardless of their mode of transport*", thus further evidencing the difficulties patients currently face.

6.1.10 The Southwest Committee also state that "*the slope is not for the entire distance*". We submit that 370 metres is a significant distance to travel when considering an average incline of 1 in 10, with points as steep as almost 1 in 5. We reiterate that a disabled access ramp should have a gradient of no more than 1 in 20 for a maximum ramp length of 10 metres as stated by guidance. Given this hill is significantly longer than such a ramp, and the gradient at its steepest point is approximately four times the mandated figure, it is a clear barrier to access for all patients, especially those in a wheelchair/mobility scooter/or of impaired mobility.

6.1.11 The Committee recognised themselves that "*the pavements may not be the widest*" but attempt to rebut this by stating that "*they are often on both sides of the road*". We submit that there is a large portion of the hill with pavement on only one side of the road, in fact this is also the case for the narrowest point of pavement traversing beneath the underpass, as can be seen from the image below. The Committee refer to this very photo when stating that the underpass is a short distance but fail to mention the difficulties presented by the narrow pavement in this

particular section. It is clear from this photo that only one side of the road is intended to be used for traversing the hill and therefore the narrow pavements are unavoidable.

6.1.12 Once again, as noted in the appeal letter, the Southwest Committee demonstrates an excessive reliance on the PNA. It is not for the applicant to show that the PNA identified any lack of choice. The improvements or better access which our client proposes to secure are inherently not included in the PNA. This is why the present application is submitted under regulation 18.

6.1.13 Furthermore, we reiterate that the PNA's omission of journeys by foot and public transport does not represent a comprehensive assessment of access to pharmaceutical provision in non-rural areas within the HWB, and therefore this cannot be relied upon.

6.1.14 When referring to the site visit report, the Southwest Committee state that "*the report was still relevant*" despite being conducted in 2017 due to the fact "*there has been little change in this area of Falmouth*". We submit that these statements are not true. The Letter of Support from Cllr Debra Clegg in Annex 1 clearly highlights that "*Falmouth has lost 3 pharmacies in recent years"* and that "*Falmouth no longer has an accessible central carpark for those fortunate enough to be able to drive*". Both of these points will have drastically changed local patients' ability to access a pharmacy in the Falmouth area. Thus, despite not having been provided with the report, we submit that the findings are no longer relevant and a new site visit must take place in order to properly assess patients' ability to access pharmacies within Falmouth.

6.1.15 Boots

6.1.16 A large proportion of Boots' response was based around the lack of evidence of difficulties. We reiterate that providing evidence of patient difficulties is not a requirement under the regulations. Difficulties are not a prerequisite for improvements or better access, as such the use of difficulties as a standard or prerequisite to the decision would be an error. However, despite not being a requirement of the regulations, the letters of support across Annexes 1 and 2 assist in providing evidence of difficulties patients currently face.

6.1.17 Boots refer to the levels of car ownership in the areas surrounding the proposed site, we submit that this does not necessarily reflect good access to pharmaceutical provision. As discussed within the appeal, 56.1% - over half of the number of households in the Falmouth Boslowick Ward – have either no access or limited access to a personal vehicle, it cannot be assumed that travel by car for all local residents is possible.

6.1.18 For those who do have access to a car, the pharmacies within Falmouth have limited parking. Annex 2 contains a letter from a local resident within the Boslowick Ward who states that:

6.1.18.1 "*At present, accessing pharmacy services often means travelling into Falmouth town centre. For many residents,*

*including myself, this is not straightforward. Parking in the town centre can be difficult and expensive, and finding a space is often time-consuming. This can be particularly challenging when collecting urgent prescriptions or seeking advice for minor illnesses*."

6.1.19 As seen from the quote above, along with evidence provided in previous correspondence, accessing pharmacies by car can be difficult for patients due to the lack of parking. This is made especially difficult during the summer months when the town receives a large influx of visitors and parking charges increase. This is further evidenced by Cllr Debra Clegg who states that:

6.1.19.1 "*getting into town is not easy, especially for the elderly. Falmouth no longer has an accessible central carpark for those that are fortunate enough to be able to drive, the buses at Goldenbank are infrequent and do not stop near Boots in the main street*."

6.1.20 It is clear that patient journeys to the town centre from the proposed site are limited by car, public transport, and by foot. Thus, we cannot consider the residents of the Boslowick Ward to have good access to pharmaceutical provision. However, a pharmacy at the proposed site would offer better access to patients and could be used in connection with local amenities on Boslowick Road. Cllr Debra Clegg also highlights that "The parking at Boslowick is level, free and wheelchair accessible. It is near a community hub, a busy local shop and very soon a large development for the elderly will be directly behind the parade of shops". A pharmacy at the proposed site will therefore be accessible for all residents, both within the Boslowick Ward but also across Falmouth and the surrounding areas who may currently struggle accessing a pharmacy by car.

6.1.21 The large development for the elderly in Boslowick mentioned by Cllr Debra Clegg clearly shows that the area has a large proportion of residents with protected characteristics, these patients in particular will struggle accessing current pharmaceutical provision and would benefit from a pharmacy within their community.

6.1.22 Boots also highlight the delivery service offered from their site at the Trescobeas Surgery. However, as the Committee will be aware delivery is not NHS commissioned and so can be withdrawn at any time. Delivery can therefore not be said to provide secure access, by contrast the present application would secure access.

6.1.23 Day Lewis

6.1.24 Day Lewis state that "*this is an area with high car ownership and low deprivation*". The comments surrounding high car ownership have been addressed above in the response to Boots. Whilst the Boslowick Ward does generally have low levels of deprivation, the letter from Cllr Debra Clegg references an adjacent estate "*Prislow Fields, which is all social housing*". This estate is located directly behind the proposed site, and it would be reasonable to conclude that travelling by car or public

transport may not be a likely option for these residents due to petrol costs and bus fares presenting a barrier to access. It is therefore strange that the SW Committee deemed patient access sufficient without considering patient journeys by foot, especially considering the steep incline around Penmere Hill presenting a barrier to access.

6.1.25 Points surrounding the walkway beneath the railway bridge have been addressed above in response to the Southwest Committee. We reiterate that the pathway beneath the bridge is extremely narrow, only on one side of the road, and would present difficulties for all patients, especially those with limited mobility.

6.1.26 Day Lewis appears to take issue with the arbitrary marker used by my client. Whilst we agree that not all residents will start their journey at the proposed site, it is impractical to assess patient journeys from every single household. Some patients will have journeys that are longer, and some shorter than detailed in my client's original application, however, the proposed site represents a sensible place to evaluate these journeys.

6.1.27 Day Lewis provide an alternative route to cross the railway tracks by using Pennance Road, stating that "*the road passes over the railway without any incline*". There would only be a small number of patients whose route to access a pharmacy would pass through Pennance Road. For the majority of residents within the Boslowick Ward, to cross the railway via Pennance Road would involve traversing Swanpool Hill. As can be seen from the image below, Swanpool Hill is unpaved and does not present a viable route for patients.

6.1.28 Nevertheless, if patients were to access a pharmacy from the proposed site via Pennance Road, the shortest journey would be 1.3 miles to Day Lewis' Pharmacy. We submit that a 2.6-mile round trip to access a pharmacy does not equate to good access. This is especially pertinent when considering the viability of the route itself.

6.1.29 Day Lewis also states that "*the appellant provides no evidence to support assertions regarding parking difficulties other than one screenprint*". We submit that evidence surrounding parking difficulties has been provided above in response to Boots, both supported by a local resident and a representative of the local population.

6.1.30 The assertion that "*there are parking options available at, or near, all pharmacies in Falmouth*" is fundamentally incorrect. It is clear from the evidence provided within this document and previous correspondence that patients will experience difficulties accessing current pharmaceutical provision by car. As identified within Day Lewis' response those located to the West of the proposed site, particularly those residing in the LSOA 066A, have a significant distance to travel to access a pharmacy. To access a pharmacy in Falmouth they would currently need to drive past the proposed site and in towards the town centre where they would need to find suitable parking before walking to the pharmacy. Whereas a pharmacy at the proposed site would reduce

this journey and provide better access, as previously highlighted the car park at Boslowick is large, flat, and located just by the parade.

6.1.31 Day Lewis also identify that the main supermarkets in Falmouth (Sainsburys and Lidl) are located outside of the town centre. The localised population will therefore have the option to either do their shopping locally at the Co-op on Boslowick Road, or on the occasion where a larger shop is required they will likely travel to the Sainsburys or Lidl. It can therefore be assumed that residents of the Boslowick Ward are not accustomed to accessing amenities in the town centre as part of their day to day lives and thus are currently forced to make one-off trip to access a pharmacy. We maintain that Boslowick district of Falmouth is its own community and emphasise the importance of having pharmacies accessible within communities. We note that it is undisputed by all parties that Boslowick is its own community.

6.1.32 Conclusion

6.1.33 In conclusion, on the evidence outlined above and throughout previous correspondence, we believe that the proposed pharmacy offers clear improvements and better access for residents.

6.1.34 We submit that the Committee ultimately refused the application based on no evidence of patient difficulties and frequently relied upon the site visit report. We do not consider this to be sufficient grounds for refusing an application, especially when substantial evidence regarding access to pharmaceutical provision and barriers to access has been provided throughout our client's correspondence.

6.1.35 The accessibility of pharmacies has changed drastically over the last few years with 3 pharmacies closing and access by car being reduced. To properly assess access to pharmaceutical provision a new site report should be carried out to account for the changes and amount of time that has passed since the previous report.

6.1.36 We submit that the area to the southwest of the Maritime Line in Falmouth is completely unserved, lacking any local pharmaceutical services, despite it serving the population's day-to-day needs and employment."

## 7 Consideration

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

7.2 It also had before it the responses to NHS Resolution's own statutory consultations. The Committee was also satisfied that all parties have had sight of all submissions including the Commissioner's previous site visit report.

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

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

7.5 Falmouth is not in a controlled locality but the application premises are within 1.6km of a controlled locality.

**Regulation 31**

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

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

*(2) This paragraph applies where -*

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

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

*(ii) adjacent premises; and*

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

7.7 The Committee noted that the Applicant stated "N/A There is no pharmacy trading from or adjacent to the proposed premises, so Regulation 31 does not apply." The Commissioner stated in their decision report that it was not required to refuse the application under Regulation 31 as there were no existing services being provided by anyone on the pharmaceutical list from the proposed premises or at adjacent premises. This was undisputed by parties on appeal. The Committee was therefore satisfied that Regulation 31 did not require refusal of the application.

7.8 The Committee noted that, if the application were granted, the successful applicant would - in due course - have to notify the Commissioner of the precise location of its premises (in accordance with paragraph 31 of Schedule 2). Such a notification would be invalid (and the applicant would not be able to commence provision of services) if the location then provided would (had it been known now) have led to the application being refused under Regulation 31.

**Regulation 18**

7.9 The Committee noted that this was an application for "unforeseen benefits" and fell to be considered under the provisions of Regulation 18 which states:

*"(1) If—*

*(a) NHS England receives a routine application and is required to determine whether it is satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and*

*(b) the improvements or better access that would be secured were or was not included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1,*

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

*(2) Those matters are—*

*(a) whether it is satisfied that granting the application would cause significant detriment to—*

*(i) proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB, or*

*(ii) the arrangements NHS England has in place for the provision of pharmaceutical services in that area;*

*(b) whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—*

*(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also NHS England's duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)),*

*(ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also NHS England's duties under section 13G of the 2006 Act (duty as to reducing inequalities)), or*

*(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),*

*granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen*

*when the relevant pharmaceutical needs assessment was published;*

*(c) whether it is satisfied that it would be desirable to consider, at the same time as the applicant's application, applications from other persons offering to secure the improvements or better access that the applicant is offering to secure;*

*(d) whether it is satisfied that another application offering to secure the improvements or better access has been submitted to it, and it would be desirable to consider, at the same time as the applicant's application, that other application;*

*(e) whether it is satisfied that an appeal relating to another application offering to secure the improvements or better access is pending, and it would be desirable to await the outcome of that appeal before considering the applicant's application;*

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

*(g) whether it is satisfied that the application presupposes that a gap in pharmaceutical services provision has been or is to be created—*

*(i) by the removal of chemist premises from a pharmaceutical list as a consequence of the grant of a consolidation application, and*

*(ii) since the last revision of the relevant HWB's pharmaceutical needs assessment other than by way of a supplementary statement.*

*(3) NHS England need only consider whether it is satisfied in accordance with paragraphs (2)(c) to (e) if it has reached at least a preliminary view (although this may change) that it is satisfied in accordance with paragraph (2)(b)."*

7.10 The Committee considered that Regulation 18(1)(a) was satisfied in that it was required to determine whether it was satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant Health and Wellbeing Board ("HWB").

7.11 The Committee went on to consider whether Regulation 18(1)(b) was satisfied, i.e. whether the improvements or better access that would be secured if the application was granted were or was included in the Pharmaceutical Needs Assessment ("the PNA") in accordance with paragraph 4 of Schedule 1 of the Regulations.

7.12 Paragraph 4 of Schedule 1 requires the PNA to include: "a *statement of the pharmaceutical services that the HWB had identified (if it has) as services that are not provided in the area of the HWB but which the HWB is satisfied (a)*

***would*** *if they were provided….secure improvements or better access, to pharmaceutical services… (b)* ***would*** *if in specified future circumstances they were provided…secure future improvements or better access to pharmaceutical services…"* (emphasis added).

7.13 The Committee considered the PNA prepared by Cornwall and Isles of Scilly Council, conscious that the document provides an analysis of the situation as it was assessed at the date of publication. The Committee bears in mind that, under Regulation 6(2), the body responsible for the PNA must make a revised assessment as soon as reasonably practicable unless to do so appears to be a disproportionate response to those changes. Where it appears disproportionate, the responsible body may, but is not obliged to, issue a supplementary statement under Regulation 6(3) explaining changes to the availability of pharmaceutical services since the publication of its PNA. Such a statement then forms part of the PNA. A supplementary statement must not provide a new analysis of service provision. The Committee noted that the PNA was dated 9 October 2025 and that no supplementary statements had been issued.

7.14 There is no dispute that the 2025-2028 PNA is the current PNA. The Committee noted the statement in the PNA that "*Current Service Provision: Community pharmacies have strong service provision with the exception of services to people receiving drug and alcohol treatment which are at capacity. Improvements and Better Access could be secured through provision of additional services to people receiving drug and alcohol treatment at existing pharmaceutical service providers in Falmouth*."

7.15 The Committee noted that the Applicant seeks to provide unforeseen benefits to the patients of Falmouth. The Committee noted that the improvements or better access that the Applicant was claiming would be secured by its application were not included in the relevant PNA in accordance with paragraph 4 of Schedule 1.

7.16 In order to be satisfied in accordance with Regulation 18(1), regard is to be had to those matters set out at 18(2). The Committee's consideration of the issues is set out below.

**Regulation 18(2)(a)(i)**

7.17 The Committee had regard to

> *"(a) whether it is satisfied that granting the application would cause significant detriment to—*
>
> *(i) proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB"*

7.18 The Committee noted the Commissioner's finding on this point that "*The SW Committee was satisfied that granting the application would not cause significant detriment to the proper planning or arrangements in place for provision of pharmaceutical service*" and that no party had sought to dispute that finding.

7.19 On the basis of the information available, the Committee was not satisfied that, if the application were to be granted and the pharmacy to open, the ability of the Commissioner thereafter to plan for the provision of services would be affected in a significant way.

7.20 The Committee was therefore not satisfied that significant detriment to the proper planning of pharmaceutical services would result from a grant of the application.

**Regulation 18(2)(a)(ii)**

7.21 The Committee had regard to

> *"(a) whether it is satisfied that granting the application would cause significant detriment to— …*
>
> *(ii) the arrangements NHS England has in place for the provision of pharmaceutical services in that area"*

7.22 The Committee noted the Commissioner's finding on this point that, "*The SW Committee was satisfied that granting the application would not cause significant detriment to the proper planning or arrangements in place for provision of pharmaceutical service*", which no party had sought to dispute.

7.23 The Committee was therefore not satisfied that significant detriment to the arrangements currently in place for the provision of pharmaceutical services would result from a grant of the application.

7.24 In the absence of any significant detriment as described in Regulation 18(2)(a), the Committee was not obliged to refuse the application and went on to consider Regulation 18(2)(b).

**Regulation 18(2)(b)**

7.25 The Committee had regard to

> *"(b) whether, notwithstanding that the improvements or better access were not included in the relevant pharmaceutical needs assessment, it is satisfied that, having regard in particular to the desirability of—*
>
> *(i) there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also NHS England's duties under sections 13I and 13P of the 2006 Act (duty as to patient choice and duty as respects variation in provision of health services)),*
>
> *(ii) people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access (taking into account also NHS England's duties under section 13G of the 2006 Act (duty as to reducing inequalities)), or*

*(iii) there being innovative approaches taken with regard to the delivery of pharmaceutical services (taking into account also NHS England's duties under section 13K of the 2006 Act (duty to promote innovation)),*

*granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published"*

**Regulation 18(2)(b)(i) to (iii)**

7.26 The Applicant stated that the application is intended to improve access to pharmaceutical services for residents of Falmouth, particularly those living "*to the Southwest of the main railway line which connects Falmouth to Truro*". The Committee noted the Applicant's submission that the nearest pharmacy to the proposed site is a Day Lewis pharmacy, located 0.8 miles away.

7.27 The Committee noted that the Applicant proposes to open a pharmacy to the southwest of the railway line, in an area described as "*geographically separated from the rest of Falmouth*". The Applicant submits that the railway line acts as both a "*physical and psychological barrier to access*". The Committee also had regard to the Applicant's statement that the proposed site is situated within a parade of shops and close to a range of local amenities, including the following:

7.27.1 "*Co-operative Supermarket*

7.27.2 *Charity Shop*

7.27.3 *Barbers*

7.27.4 *Hair Salon*

7.27.5 *Fish and Chip Shop*

7.27.6 *Coffee Shop/cafe*

7.27.7 *Penmere Manor Hotel*

7.27.8 *Café / Arts and craft shop*

7.27.9 *Beauty and tanning salon*

7.27.10 *Village gift shop*

7.27.11 *Post-box*

7.27.12 *St Francis CofE Primary School*

7.27.13 *St Mary's Catholic Primary School*

7.27.14 *Marlborough School."*

7.28 The Applicant submits in its appeal that approximately 10,500 residents are likely to access pharmaceutical services at the proposed location and that

those residents do not currently have reasonable choice or adequate access to pharmaceutical services in Falmouth. In support, the Applicant refers to the Boslowick Ward having its own community centre and to 805 pupils attending the local primary school, which it says demonstrate the self-contained nature of the area. It also refers to the amenities surrounding the proposed location and submits that residents must currently travel outside the area to obtain pharmaceutical services, separately from their usual daily routines. The Committee noted the letters of support from local Councillors, who state that a pharmacy at the proposed location "*near a community hub, a busy local shop*" would "*complement the existing local services and enable residents to obtain essential advice and medication closer to home*." The Committee also noted the comment that for residents of the social housing estate, "*lives would be improved if there was a pharmacy within walking distance*". The Committee accepted that a pharmacy at the proposed location would be convenient for some residents using the local centre. It also noted, however, that the local range of shops and services was limited and that residents may already travel elsewhere for a wider range of amenities, during which they may be able to access existing pharmaceutical services.

7.29 The Committee noted the Commissioner's statement in the decision report that "*there are 4 pharmacies in Falmouth located within 0.5–1.5 miles of the best estimate location*". The Applicant disputed that statement as "misleading", submitting that "*There are no pharmacies within a 0.5-mile radius of our client's best estimate location, with all provision being closer to 1-mile away*". The Committee took both descriptions into account when assessing access to existing pharmacies.

7.30 The Committee considered access on foot to the nearest existing pharmacies. The information provided to the Committee concerning access on foot related to the nearest pharmacy, Day Lewis Pharmacy on Killigrew Street, Falmouth. The Applicant states that, "*the journey is 0.8 miles or 18 minutes, equating to a 36-minute round journey."* This journey time is undisputed by Day Lewis Pharmacy who state that, "*the distance from the proposed site to the nearest pharmacy for those patients who do wish to walk is 0.8 miles, a walk of less than 20 minutes for most people*." The Applicant goes on to state that the journey between these sites "*involves patients ascending a large hill."* The Applicant described how "*Residents must walk along the Boslowick Road and Penmere Hill … the incline on this road has an average gradient of 1 in 10 for c.370 metres, with points as steep as almost 1 in 5. For context, guidance states that a disabled access ramp should have a gradient of no more than 1 in 20 for a maximum ramp length of 10 metres*." The Committee noted the Commissioner's response regarding the hill that "*there is no evidence to show patients are finding the routes difficult*." Further, the Committee had regard to Day Lewis Pharmacy's comments that "*it **is** disputed that Penmere Hill is "extremely steep" and that it "acts as a barrier to access*"". Day Lewis states that "*Falmouth is a hilly town and residents are accustomed to this. Those who are able to walk and choose to do so are not deterred by the hill mentioned by the appellant*." In addition, the Commissioner states "*that there is no evidence provided that for those choosing to walk the distance it is excessive or that the hill is a significant obstacle. The slope is not for the entire distance*." The Committee accepted that there was a hill but there was some conjecture about its severity and impact. The Committee also noted the photographs provided

by the Applicant and that the pavements appear to be in good order with raised kerbs.

7.31 The Applicant further states that the journey involves a "*narrow walkway beneath the railway underpass*" and that "*residents will find this section of the journey particularly difficult to traverse, especially residents with protected characteristics such as those relying on mobility aids or parents with young children and strollers*." The Committee noted the Google Streetview images provided by the Applicant of the railway underpass and noted the presence of a pavement to one side. The Committee noted that no evidence was provided from residents to demonstrate that they found the route or underpass challenging or that it constituted a barrier to access. The Committee also noted the Commissioner's response concerning pedestrian access, namely that *"there is no evidence to show patients are finding the routes difficult*." Day Lewis also comments on the railway bridge in its representations, stating that "*In terms of the railway bridge depicted by the appellant, the walkway referred to by the appellant is wide enough for pedestrians, wheelchair users and residents with mobility scooters*." Day Lewis further states that "*residents living to the south of the railway, and to the east of the proposed location may cross the railway at Pennace Road, where the road passes over the railway without any incline*". The Committee noted the photograph provided by Day Lewis of the route on Pennace Road and that the pavements appear to be in reasonable order with raised kerbs. The Committee had regard to the Applicant's statement that "*For the majority of residents within the Boslowick Ward, to cross the railway via Pennance Road would involve traversing Swanpool Hill … Swanpool Hill is unpaved and does not present a viable route for patients*." The Committee had regard to the Google Streetview image provided by the Applicant and noted the lack of pavements on Swanpool Hill. Having considered the information as a whole, the Committee found that the evidence did not establish that the railway underpass, the alternative route or any other aspect of the pedestrian journey currently prevented or materially impeded access on foot for residents of the Boslowick Ward. It nevertheless recognised that the gradient, route conditions and walking distance could make the journey more difficult for some residents, including some people with limited mobility. The Committee was satisfied that there would also be residents who were able and willing to access the nearest pharmacies on foot.

7.32 The Committee went on to consider access to existing pharmacies by public transport. It had regard to the Commissioner's comment that "*there is an hourly bus service connecting residents to both sides of the railway line and this frequency of services is not unreasonable*". The Applicant states that the number 63 bus service runs from the Boslowick Shops, at the proposed site, to Day Lewis. The journey takes three minutes, followed by an additional one-minute walk to the pharmacy premises. The Applicant states that the return journey takes six minutes. The Committee also had regard to the Applicant's comment that passengers using the bus may have to wait up to 60 minutes for a return journey to the Boslowick Shops. Day Lewis Pharmacy indicates that the Appellant's proposed site is "*served by routes 63 and 65A, with departures towards the town centre every hour daily until 6.47 PM… This is a regular service and is used by those residents who need it. There is no evidence from the appellant that residents are forced to use taxis*." The Committee recognised that an hourly service and the possible return wait could be inconvenient,

particularly for people who depended on public transport. However, it found that a reliable service was available, with short journey times and that the evidence did not demonstrate that public-transport users were currently unable, or experiencing material difficulty, to access the existing pharmaceutical provision.

*7.33* For those with access to private transport, the Committee noted the Applicant's reliance on 2021 Census data, showing that "*296 households in the Falmouth Boslowick Ward have no access to a car/van, and a further 1,219 households only have access to one car/van.*" The Applicant concludes that "*56.1% - over half of the number of households in the Falmouth Boslowick Ward – have either no access or limited access to a personal vehicle*." The Committee noted the map provided by Boots in their representations which shows "*car ownership in Falmouth South & West being 86.8%".* The Committee treated households with no vehicle as distinct from households with one vehicle, because the latter may still have access to private transport but may face constraints on when it is available. The Committee noted the Applicant had provided an email of support from a member of public residing in the Boslowick area who highlights difficulties parking in the centre of Falmouth. The Committee noted the information that collecting prescriptions could be "challenging" when using private transport, but this was not substantiated by further examples of difficulties accessing existing pharmaceutical services in Falmouth.

7.34 Taking all of the above into consideration, the Committee was of the view that there is already reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB, such that it was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits by way of physical access on persons.

7.35 In considering Regulation 18(2)(b)(ii) the Committee reminded itself that it was required to address itself to people who share a protected characteristic under the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation) having access to services that meet specific needs for pharmaceutical services that, in the relevant area, are difficult for them to access. The Applicant referred generally to people affected by age, illness or disability and to features of the pedestrian route that might present greater difficulty for some people using mobility aids or travelling with young children. The Applicant had also referred to a higher proportion of over 65s in the area. The Committee accepted that distance, gradient and route conditions could affect some residents more than others. However, the evidence did not identify the pharmaceutical services required by any particular group, the extent to which those services were difficult to access, or the number and circumstances of people affected. The Committee was therefore not satisfied that, having regard to the desirability of people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access, granting the application would confer significant benefits on persons.

7.36 In considering Regulation 18(2)(b)(iii) the Committee had regard to the desirability of innovative approaches to the delivery of pharmaceutical services. In doing so, the Committee would consider whether there was something more

over and above the usual delivery of pharmaceutical services that might be expected from all pharmacies, some 'added value' on offer at the location. The Committee noted that the Applicant had confirmed that they were not relying on innovation in this application. The Committee was not satisfied that, having regard to the desirability of there being innovative approaches taken with regard to the deliverability of pharmaceutical services, granting the application would confer significant benefits on persons.

**Regulation 18(2)(b) generally**

7.37 The Committee noted that the Applicant was proposing to open for 45.5 hours a week of which 40 would be core hours. The Committee noted that there would be provision of pharmaceutical services from 8:30am to 6pm Monday to Friday with core hours being from 9am to 1pm and 2pm to 6pm. The Applicant was proposing to open on a Saturday morning from 9am to 12noon with all of these hours being supplementary. The Committee noted that the Applicant was not proposing any hours, either core or supplementary on a Saturday afternoon or a Sunday. Day Lewis opens until 6pm and Boots until 6pm on Sundays.

7.38 The Committee was of the view that there was no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore it was not satisfied that, having regard to the desirability of there being a reasonable choice with regard to obtaining services, granting the application would confer significant benefits (in relation to opening hours) on persons.

7.39 The Committee has considered whether there are any other factors that would confer significant benefits including on patients who share protected characteristics. The Committee had regard to the need to eliminate discrimination and advance equality of opportunity and foster good relations between these patients and those who do not share their protected characteristics.

7.40 The Committee was of the view that in accordance with Regulation 18(2)(b) the granting of this application would not confer significant benefits on persons in the area of the HWB which were not foreseen when the PNA was published.

**Other considerations**

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

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

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

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

7.45 The Committee was not satisfied that the information provided demonstrates that there is difficulty in accessing current pharmaceutical services such that a pharmacy at the proposed site would provide better access to pharmaceutical services.

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

7.46.1 confirm the Commissioner's decision;

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

7.46.3 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.

7.47 The Committee determined that the decision of the Commissioner must be confirmed.

## 8 DECISION

8.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of the Commissioner.

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 considered whether the granting of the application would cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area covered by the HWB, or the arrangements in place for the provision of pharmaceutical services in that area and is not satisfied that it would.

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

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

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

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

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

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

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