

20 August 2025

REF: SHA/26412

**APPEAL AGAINST NHS NORFOLK AND WAVENEY ICB
DECISION TO REFUSE AN APPLICATION BY HURN
CHEMISTS LTD FOR INCLUSION IN THE
PHARMACEUTICAL LIST OFFERING UNFORESEEN
BENEFITS UNDER REGULATION 18 AT RETAIL UNIT, 1
CHASTON PLACE, HIGH STREET, WATTON,
NORFOLK, IP25 6XE**

8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU

Tel: 020 3928 2000
Email: nhsr.appeals@nhs.net

REF: SHA/26415

**APPEAL AGAINST NHS NORFOLK AND WAVENEY ICB DECISION TO REFUSE AN
APPLICATION BY FOSCHELL LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING
UNFORESEEN BENEFITS UNDER REGULATION 18 AT WESSEX DRIVE, VULCAN PLACE
SHOPS, WATTON, THETFORD, IP25 6XU (BEST ESTIMATE)**

1 Outcome

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

A copy of this decision is being sent to:

Mr [R], on behalf of Hurn Chemists Ltd
Healthcare Plus Consulting, on behalf of Foschell Ltd
PCSE, on behalf of Norfolk and Waveney ICB
Pharmacy Sales and Consultancy, on behalf of Rosemead Ltd

REF: SHA/26412

**APPEAL AGAINST NHS NORFOLK AND WAVENEY ICB
DECISION TO REFUSE AN APPLICATION BY HURN
CHEMISTS LTD FOR INCLUSION IN THE
PHARMACEUTICAL LIST OFFERING UNFORESEEN
BENEFITS UNDER REGULATION 18 AT RETAIL UNIT, 1
CHASTON PLACE, HIGH STREET, WATTON,
NORFOLK, IP25 6XE**

8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU

Tel: 020 3928 2000
Email: nhsr.appeals@nhs.net

REF: SHA/26415

**APPEAL AGAINST NHS NORFOLK AND WAVENEY ICB DECISION TO REFUSE AN
APPLICATION BY FOSCHELL LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING
UNFORESEEN BENEFITS UNDER REGULATION 18 AT WESSEX DRIVE, VULCAN PLACE
SHOPS, WATTON, THETFORD, IP25 6XU (BEST ESTIMATE)**

- 1 A summary of the applications, decision, appeals and representations and observations are attached at Annex 1.
- 2 **Site Visit**
 - 2.1 The Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution (which comprised of Mrs Sheila Hewitt, Mr Michael Smith, Mr Stephen Chappell) declared that they had no conflicts of interest relating to this case. Each Committee member made separate site visits.
 - 2.2 **Site visit to Watton 10 and 26 July 2025.**
 - 2.3 Arriving in Watton from the South on the A1075, to access the Medical Centre and Total Care Pharmacy at IP25 6FA it was necessary to turn left just before the lights controlled junction with the B1105 and then immediately right. Gregor Shanks Way [G S Way] is then on the left; a cul-de-sac with a little housing, the Medical Centre and Pharmacy. The medical centre car park is large, around 30 spaces and an additional 20 for staff. Disabled spaces are adjacent to the entrance. The pharmacy is directly opposite and has a single step and also a ramp to the entrance. The pharmacy has a large retail area devoted to a miscellany of merchandise arranged in a somewhat random way. The dispensary is at the further end of the shop and appears both large and functional. There are separate counters for retail sales and prescription collection. At 12.30pm there were six members of staff. There were also about six customers, two seated waiting for prescriptions and the others browsing, possibly also waiting for prescriptions. Seating for customers is limited. A consultation room is clearly marked and a sign invites customers to ask if they wish to have a private conversation. Parked outside was a delivery van in the Total Care livery. On a very hot day the pharmacy was pleasantly cool.
 - 2.4 Efforts to identify a pedestrian shortcut to the High Street revealed none.
 - 2.5 Heading to the application site for Hurn Chemists, there is a left turn at the end of G S Way to High Street then left again. The estimate for the walking distance to be 300 – 400m. The route by car is longer since the road from G S Way is one-way North > South.

- 2.6 The Hurn application site is a prominent shop unit on the south side of High Street, adjacent to the Crown Hotel. It is in the centre of a very typical small country town array of shops which include both a Post Office and a Post Office operated 'Banking Hub'. There is on street parking and designated on-street disabled parking bays outside the application site and a covered bus stop directly outside. There is a large free Car Park at the crossroads in the town centre and a large Tesco supermarket, also with a car park on Thetford Road directly opposite the road to G S Way. There was no signposting to the Medical Centre / Pharmacy from the High Street or Thetford Road.
- 2.7 From the Hurn Chemist site the drive was west along High Street past the Library, Primary School, shops, and a Methodist Church until the end of the town in that direction. And then back to the lights controlled crossroads.
- 2.8 The drive East was along Norwich Road to the Foschell application site which was adjacent to a roundabout on the B1108. The distance is 1.4 miles. The shops and parking bays are visible from the roundabout but vehicle access is up Lancaster Avenue for a short way then around the back of the shops. There is pedestrian access from the roundabout. The shops comprise a Coffee shop, Dominos Pizza and a three unit Spar shop incorporating Costa Coffee, Subway and ATM. There is a vacant unit between Dominos Pizza and the Spar. The Spar shop stocks a reasonable range of over-the-counter medicines, baby requisites and toiletries.
- 2.9 Observed over 20 minutes from 13.10hrs, there was a steady stream of customers using the Spar for small purchases, presumably lunch, arriving by car and on foot. The area is characterised by commercial / industrial units on the North side of the road. The New Green Business Park included Screwfix, a carpet warehouse, tyre warehouse and a car show room and car wash.
- 2.10 A recently opened Lidl supermarket with car park is in this location. The South side of the road between Watton and the site is a ribbon development of largely 1930's housing with spurs of newer development. Directly behind the application site are established houses along a group of roads named after WWII aircraft [e.g. Lancaster & Spitfire]. A care home is under construction. Other side roads leading off the Norwich Road to the south are lined with housing that is predominantly well established and varied in style.
- 2.11 The only new development located in this immediate area is Heritage Park, Bennett Homes. This is nearing completion and appears to have up to 100 units and a large area of open green space. The site is somewhat dominated by a huge satellite pylon to the east of the approach road. The other major development nearing completion is Wayland Fields, Barratt Homes, which is one mile south of the Tesco on Thetford Road.
- 2.12 The overall impression is of a small market town at the centre of a wide radius of sparsely populated open country where the residential population would necessarily rely on NHS medical and pharmaceutical provision in Watton.
- 2.13 **Site visit to Watton 8 July**
- 2.14 The Committee member drove into Watton on the A1075, approaching from the south and arrived at 9:00 AM. The Committee member decided to visit the Wessex Drive location first (IP25 6XU). Traffic was building up at the time so turned right on to the B1108. The journey time out of Watton to the location of the proposed pharmacy was impacted by road works. It was a 10-minute journey over 1 mile. As the Committee member drove out eastwards they saw on my right-hand side some new housing being marketed by Bellway Homes. On the left-hand side they saw the Lidl supermarket. They made the right hand turn into Wessex Drive and drove behind the parade of shops finding a parking space quite easily. They counted up 28 parking spaces, including two

disabled parking bays. The parade of shops consists of a coffee shop, Domino's Pizza, vacant premises (presumably the proposed location) and the Spar supermarket with a Costa and Subway attached. There is also an ATM machine. At the time of the visit there were plenty of free parking spaces.

- 2.15 The Committee member noted that to the rear of the shopping parade the housing appeared to be of recent construction. There was also a 24-hour care home nearby. They then took the short walk to Lidl which took two or three minutes in the direction of the town passing a bus stop. There was no time table displayed at this bus stop which would have been for journeys into Watton. The bus stop did not display a timetable but invited passengers to a bar code for information – the Committee member tried this but was unsuccessful.
- 2.16 The Committee member crossed the road to Lidl – the store looked like it had been built recently. It was quiet with not many customers about. It has parking for those who patronise the shop and also disabled bays. They parked without any difficulty. The parking sign said this was free parking of 1.5 hours for all Lidl customers. There were disabled bays and electric charging points. There was a bus stop outside Lidl with buses going in the direction of Norwich. The Committee member examined the timetable on the bus stop and this showed the 3,3B,3 C and 6 service to Norwich – the Sunday service is one every 2 hours starting at 08:14 and finishing at 16:34. On other days the service is more frequent.
- 2.17 The Committee member went back to my car and then drove into Watton – a distance of 1.4 miles – the traffic had eased – it was 09:45am by then. Going into Watton travelling west there is a very slight incline. At some points there is a marked pedestrian walk way, on other points in the journey the pavement seemed to be a little narrow. The Committee member believes that there were dropped kerbs but could not be sure that this was a consistent feature as they were not on foot.
- 2.18 On arrival in Watton at 10:00am the Committee member found a free car park close to Chaston Place. The car park was busy but spaces could be found – there were disabled bays. There is also parking available in bays on the High Street Monday to Friday 08:00 – 18:00 for one hour.
- 2.19 The Committee member found Chaston Place. There is a car park for Budgens customers at the rear (two hour stay). They located the unit where Boots was and where it is proposed the other pharmacy would be located (IP 25 6XE). This is a central location just off the High Street.
- 2.20 The Committee member then walked round to Total Health Pharmacy (a couple of minutes on foot to IP25 6FA) which is close to the Doctors' Surgery. They are next door to each other but it is the Surgery that has the car park. At around 10:30am this was well used but there was the odd space available but not congested. It did not appear that the pharmacy had dedicated parking as there is residential accommodation nearby and the parking seemed to be for those residents. There were two bays near the pharmacy entrance where it was unclear if this was for disabled persons or for deliveries – at the time of my visit one of the bays was being used for deliveries.
- 2.21 Disabled access to the premises for those on foot was catered for and the Committee member saw two people separately using their motorised wheelchairs to approach the pharmacy. The premises themselves were light and airy and well laid out. There were four customers inside – there were some chairs for people to wait for their prescriptions and one person was waiting but not for long. There was a separate consultation room. There was a health information zone with useful information. The Committee member counted six members of staff in attendance. The Committee member was asked more

than once if they needed assistance. There was no excessive queuing and everything seemed calm and orderly.

- 3 The above observations were provided to those in attendance. They were invited to comment upon them or indicate if any of the observations appeared to be inaccurate.

3.1 Mr [R] [Hurn Chemist] made a submission that the car park was for use by surgery patients.

3.2 Mr [E] [Total Healthcare] stated that he had met the GPs at the Medical Centre in December 2024 and they had expressed no problem with pharmacy clients using their car park.

4 **Oral Hearing Submissions**

4.1 The Committee decided to refuse late submissions from Foschell Ltd emailed on the morning of the oral hearing on 28 July 2025. Permission had been granted on 25 July 2025 for Norfolk and Waveney ICB to attend and make representations at the oral hearing.

Application SHA/26412

4.2 **Hurn Chemist represented by Mr [R]**

4.3 Pharmaceutical services are not just dispensing medication, but more emphasis is on providing clinical services to help manage acute and long-term conditions and supporting GPs in primary care. This unforeseen benefits application focuses on the significant improvement and choice for these services. Our vision of how community pharmacy is developing (shifting from dispensing to clinical services) has now been ratified by the NHS 10yr plan focusing on neighbourhoods and pharmacy care provision locally.

4.4 Distance Selling Pharmacies (DSP) are not permitted to offer face to face services and will be even more restricted from October 2025 due to changes in NHS regulation. They will only be able to offer dispensing services. Provision of clinical pharmaceutical services are hence even more necessary.

4.5 The original application was submitted January 2024 using relevant data which demonstrates the poor provision of advanced and enhanced pharmaceutical services. Though it appears improvements are slowly occurring, the level of provision compared to national data, it is still below expectations. Improvements by Total Healthcare are extremely specific and does not offer the full suite of service provision to the public services users of the Watton area. They have had 17 months to improve hence our application must be considered on facts within our application and supporting information.

4.6 Core hours must only be considered hence comments such as 'we will open earlier if needed' etc are irrelevant. Our core hours are synergistic to those of Watton medical practice and Total Health Pharmacy hence allowing continuous access to all services in the area (dispensing and clinical) from 08:30 to 21:00, a significant improvement.

4.7 Both appellants have demonstrated need but in different ways and arrived at the same conclusion, hence location should be the key determinant. Hurn Chemist have supporting documentation for agreement in principle for our confirmed location. Being in the central hub of Watton, it is better placed for all service users and complements all activities which residents access (banking, post office, medical and dental, shopping, lifestyle) and is well served by public and private transport.

- 4.8 Residential development is 360° around Watton (not just in one area) now and in the future so centralised service locations offer the most beneficial and practical solutions.
- 4.9 High volume dispensing such as Total Health Pharmacy which currently provides 21,000 items per month, requires planned and specific professional support staff. Total Health Pharmacy do not have any employed qualified GPhC registered pharmacy technicians or accuracy checking technicians (ACTs) or initiated training of such, hence are unable to effectively delegate key roles to employed staff instead relying on locum pharmacists. Previously (under my ownership) this was a priority hence dispensing services easily coped with higher volumes (in excess of 24,000 items per month) whilst still providing and delivering all services. We challenge the submission that Total Health Pharmacy employ an ACT pharmacy technician 3-4 times per week regularly.
- 4.10 Total Health Pharmacy in their initial response (16th January 2025) to our application stated they will have a second consultation room added 'within the next few months' and are 'in advanced stage to have a robot installed'. This has not occurred to date.
- 4.11 Total Health Pharmacy only occasionally have two pharmacists (one being Mr [E] when he is present). Today I confirmed Total Health Pharmacy only had one pharmacist on duty.
- 4.12 Watton Town Council have provided a letter expressing the need for a second pharmacy (but do not offer support for a particular applicant). In the absence of Health Watch or the HWB organising public surveys, the Town Council are the representatives for the residents of Watton and carries the weight of public opinion.
- 4.13 The ICB dismissed our reference to 'innovation'. Our detailing of independent pharmacist prescribing services are most definitely innovative.
- 4.14 Our application is fair, considered, and complementary to Total Health Pharmacy. There have been two pharmacies in Watton since 2005. There is no reason to suggest that restoring Watton back to two pharmacy status for the benefit of significantly improving service provision and implementation of the 10yr NHS plan would adversely affect Total Health Pharmacy's viability. Nor would it allow the 100hr (now 72hrs) contract to be able to further reduce core hours as this is not within the regulations.
- 4.15 In answer to questions, Mr [R] stated that Hurn had not canvassed public support as it is "not my role". Miss [G] commented that in making its decision the ICB was aware of Saturday 9am-1pm opening hours proposed by Hurn and that there was a typing error in the decision letter.

Application SHA/26415

4.16 **Foschell Ltd represented by Ms [D], Healthcare Plus Consulting**

- 4.17 The application put forward by our client centres around a number of key points following the closure of Boots:
- 4.17.1 Capacity issues with Total Health Pharmacy, the only remaining pharmacy in Watton
- 4.17.2 Population growth and developments to the east of Watton
- 4.18 Watton is a market town situated in the middle of Norfolk within the Breckland district, with a population of 11,543 residents according to 2021 Census data. This represents a 51% increase since the 2001 census, and a 29% increase since the 2011 Census.

We can see that Watton has grown significantly within the past decade and continues to grow.

- 4.19 Due to the rural nature of the surrounding areas, healthcare provision in Watton also serves surrounding villages such as Saham Hills, Carbrooke, Griston, and Ovington. The patient list size of Watton Medical Practice is 14,200, who are reliant on healthcare provision within Watton.
- 4.20 Extrapolating the population figure allows us to conclude that Watton now only has seven pharmacies per 100,000 people following the closure of the Boots pharmacy. This is less than half the average for Norfolk and England, which is 17.2 per 100,000 and 20.6 per 100,000 people respectively.
- 4.21 The Watton Ward has a high elderly population, with 29.1% of residents aged 65 and above according to 2021 Census data. The elderly have higher health needs, and are therefore more likely to rely on pharmaceutical services. One pharmacy serving 14,200 residents is not representative of reasonable choice.
- 4.22 Total Health Pharmacy/Google Reviews
- 4.23 Following the closure of the Boots Pharmacy last year, residents have been forced to utilise Total Health Pharmacy, which dispenses approximately c. 20,500 items per month, putting Total Health as one of the largest community pharmacies in the UK, dispensing over double the average number of items. Total Health are simply unable to cope with the pressures placed upon it. Six Google Reviews show the negative experiences and lack of reasonable choice when accessing pharmaceutical services at Total Health. We note that these reviews were from early last year [2024], prior to the change of ownership in November 2024.
- 4.24 We submitted an additional four Google Reviews, two of these provided 1-star ratings and the other two only praised the staff. These comments were submitted earlier this year under the new ownership of Delta and North Limited, which does not demonstrate improvements to the accessibility and service levels at Total Health Pharmacy for the large reliant population. Last week, Total Health Pharmacy received a 1-star rating on Google and a comment stating "terrible service".
- 4.25 We called Total Health Pharmacy last Thursday [24.7.25] at 4pm and told that the lead time was to receive a prescription was 7 days proving that Total Health are inundated and are continuing to provide an inadequate service.
- 4.26 In the Quality Assurance Site Visit to Total Health Pharmacy by the Norfolk and Waveney ICB in March 2024, it was noted that "On the day of the visit they reported being approximately two days behind where they wanted to be, as their target was 24 hours. However customers are encouraged to order 7-10 days before they are due so in most cases the prescription will be ready." The 7-day lead time is the same it was over 1 year ago.
- 4.27 Total Health Pharmacy had over 100 incidents of temporary closures during contracted hours due to insufficient pharmacist/staff coverage from April 2022-November 2023. We are pleased that Total Health Pharmacy now acknowledge these closures.
- 4.28 Total Health Pharmacy have stated that they now have two pharmacists working at the pharmacy. Despite this one month ago, a local resident has revealed that pharmacists are arriving late to open up periodically indicating that Total Health Pharmacy are not fulfilling their current contracted hours.

- 4.29 Given these recent patient experiences of a 7-day lead time and then waiting in queues to access pharmaceutical services is not representative of reasonable choice or sufficient access.
- 4.30 Distance Selling Pharmacies
- 4.31 Local residents are increasingly turning to accessing pharmaceutical services via delivery and through Distance Selling Pharmacies due to the inaccessibility of alternative bricks and mortar pharmacies.
- 4.32 Following data as of March 2025 of items prescribed by Watton Medical Practice:
- 4.32.1 66.07% items dispensed at Total Health Pharmacy
 - 4.32.2 12.23% items dispensed at Pharmacy2U, Distance Selling Pharmacy
 - 4.32.3 8.06% items dispensed at Remedium, Distance Selling Pharmacy
 - 4.32.4 3.63% of the surgery's items dispensed at Boots Pharmacy in Hingham
 - 4.32.5 2.75% of the surgery's items dispensed at Universal Pharmacy, Distance Selling Pharmacy
- 4.33 Prior to the Boots closure in January 2024, less than 10% of Watton Medical Practice's items were dispensed via Distance Selling Pharmacies, this has increased to c. 23% due to the lack of pharmaceutical choice within Watton.
- 4.34 Whilst Distance Selling Pharmacies can deliver medication, this still does not represent sufficient access for a number of residents. There will be a number of residents who are unable to navigate the internet. Elderly residents can often have changing medication and require a local pharmacist to aid with any medication changes, and with adherence to prescribed medication. With the advent of Pharmacy First, that it is important to have pharmacies located within communities. Residents are more likely to access minor ailments services and advice, leading to better health outcomes and reducing pressure on GP services.
- 4.35 From March 2026, distance selling pharmacies will not be able to administer COVID & Flu jabs. Some drugs need to be signed for, and it is not always a guarantee that a resident will be at home to receive these drugs. For some residents, missing a delivery as they were not home can have serious medical consequence.
- 4.36 The Google Reviews and Facebook comments uploaded within the past month show that local residents do not have reasonable choice or sufficient access to pharmaceutical services.
- 4.37 We understand that Total Health Pharmacy since their change of ownership are working hard to meet the needs of Watton. However, the recent patient experiences and increasing use of DSPs is evidence that their needs are unmet and Total Health Pharmacy simply cannot cope with this level of pharmaceutical demand within Watton.
- 4.38 Proposed Site/Eastern Watton
- 4.39 The east side of Watton has grown significantly within recent years.
- 4.39.1 Blenheim Grange Development, 545 new homes completed
 - 4.39.2 Poppyfields Development, 70 new homes completed

- 4.39.3 Heritage Park Development, 80 new homes completed - 90% sold
- 4.39.4 Rokeles Green Development (Abel Homes) – 45 new homes completed
- 4.39.5 Wayland Fields Development – 180 new homes completed - c. 97% sold
- 4.39.6 Saddlers Rise Development – 110 new homes completed
- 4.39.7 Hus+46 Development (Abel Homes) – 101 new homes completed
- 4.39.8 Hare's Green Development (Abel Homes) – 98 new homes completed and sold
- 4.40 Assuming an occupancy rate of 2.5 per household, we submit there is now an additional c. 3,000 residents living to the east of Watton. Our client proposes to reinstate pharmaceutical provision to serve this new community.
- 4.41 Eastern Watton also contains a number of amenities that local residents access as part of their daily lives. These include: a Spa and Post Office, Subway, Domino's Pizza, Costa Express, Café, ATM, Care Home, Community Centre, Beauty Salon, Gym, Petrol Station, Nursery and Pre-School, Children's Play Centre, Car Wash. Car Dealership, Home Furniture Shop, Tyre Shop and Auto Parts Store
- 4.42 The new, large Lidl Supermarket along Norwich Road is located a 5-minute walk away from the proposed site, and local residents will be able to access their weekly shopping in connection with accessing pharmaceutical services. Currently residents are forced to make journeys to the overwhelmed Total Health Pharmacy in the town centre.
- 4.43 The proposed site is within the top 20% most deprived areas in England and 6% of residents with bad/very bad health, greater than the Breckland Local Authority average of 5.4% and the England average of 5.2%. A high proportion of the local population are long-term sick or disabled.
- 4.44 It is clear that there are greater health needs for the local population near our clients proposed site. We submit that these residents would benefit significantly from having a locally accessible pharmacy.
- 4.45 Patient Journeys
- 4.46 When we look at patient journeys, Total Health Pharmacy is located 1.4 miles away from our client's proposed site.
- 4.47 By Foot
- 4.48 The journey by foot would take 31 minutes, equating to a 1 hour and 2 minute round journey, a distance which in itself is a barrier to access, we do not consider this as providing a reasonable choice to pharmaceutical services. Groups with protected characteristics do not have sufficient access by foot.
- 4.49 By Public Transport
- 4.50 The 3/3B/3C/6 bus service is a c. 15-minute journey. However, these services are infrequent, with buses operating approximately only every 30-minutes Monday-Saturday. It operates even more infrequently on Sunday, the earliest service is at 08:14am on the 3 KonectBus and operates once every 2 hours. Such poor choice of pharmaceutical access is felt especially by the elderly and disabled.

- 4.51 An adult day ticket is £3.50 for a bus within the Watton Town Zone. This can be a barrier to accessing pharmaceutical services, particularly for those living at/near the proposed site in the top 20% most deprived areas in the country and the large proportion of residents who live in social rented accommodation near the proposed site.
- 4.52 By Car:
- 4.53 In the catchment area, 20.6% of residents are without access to a car/van, significantly higher than the Breckland Local Authority of 13.3%. Petrol costs can be a barrier to accessing pharmaceutical services, as the local area suffers from high levels of deprivation.
- 4.54 Those who drive can encounter traffic congestion and the journey can be up to a 14-minute one-way journey, and therefore a 28-minute round drive which does not provide reasonable choice.
- 4.55 We reiterate that car parking at our client's proposed site is ample, set back from the road and free of charge.
- 4.56 Concluding: We agree with Hurn Chemists Ltd that there is a need for additional pharmaceutical provision in Watton. However, we believe that the Foschell application should be preferred for its better location and offering better core opening hours: 46 core opening hours, including Saturdays and Sundays, more than Hurn's proposed 44 core opening hour. They have not provided any core opening hours on Sundays. Whilst Hurn has proposed a number of supplementary hours, these can be withdrawn with given notice and no weight should be placed upon this. Thus, notwithstanding the location, from a pure opening hours perspective we submit that our client's application should be preferred.
- 4.57 Residents have to put up with the poor service and long waiting times at Total Health Pharmacy or utilise a distance selling pharmacy. We submit that being forced to utilise a distance selling pharmacy is clearly not representative of reasonable choice or access to pharmaceutical provision.
- 4.58 In answer to questions, Miss [D] said she had not done a site visit, and had used Google Maps to base her calculation of 14 minutes [only twice walking pace] to cover the 1.4 mile distance by car between the Foschell proposed site and Total Health. She accepted that those in the care home, Griston Prison and HMP Weyland, all in the Foschell catchment area would contribute to the statistics she had quoted for "bad/very bad health" and "economically inactive". She accepted that the 7-10 days lead in time, could be for the total time from request by the patient for the prescription from the surgery to it being dispensed. Miss [D] also accepted that Google reviews of an average of 4.2/5 was a good score, showing a wide local appreciation of services provided by Total Health.
- 4.59 **TOTAL HEALTH represented by Mr [H], Pharmacy Sales and Consultancy**
- 4.60 Rosemead are a small pharmacy group operating pharmacies mainly across East Anglia but also have a few branches nationwide. They acquired Total Health Pharmacy a number of years ago from Mr [R]. It was originally opened as a 100 hour pharmacy by Mr [R].
- 4.61 The pharmacy operated well for a number of years under Rosemead's ownership but, as challenges in the locum pharmacist market became more acute in recent years (led by an increase in practice pharmacists and PCN pharmacists and latterly the sale of group pharmacies such as Lloyds which were acquired by former locums), it became more difficult to secure reliable and good quality pharmacists. This has not been an

uncommon issue with rural pharmacies, and those who have extended opening hours have had particular difficulties.

- 4.62 When the regulations changed in 2023, to allow the reduction in opening hours for 100 hour pharmacies, our client took advantage of that opportunity in an attempt to mitigate the issues of finding reliable pharmacist cover. However, the changes still required these pharmacies to open until 9pm Monday to Saturday and to open their full contracted hours on Sunday. Despite the misunderstanding on the part of Foschell, the core hours on Sundays at Total Health have been retained throughout, as confirmed by NHS England.
- 4.63 There have been some difficulties, both in terms of unplanned closures and the service levels at times. But this was due almost entirely to problems with pharmacist cover and were largely unconnected to the closure of the Boots store, apart from a two- or three-month period. For the calendar year 2024, immediately after the Boots closure, the pharmacy averaged 21,556 items per month, barely any increase at all compared to the time when Boots was open when it typically dispensed 20-21,000 items per month. So the issues were not down to increased dispensing volumes. The business was sold to Delta & North Limited, owned by Mr [E], in November 2024.
- 4.64 The applications by Hurn Chemists and Foschell were submitted in response to the closure of the Boots Pharmacy in Watton. The applicants have also made much about service levels of Total Health Pharmacy, and their case is that there were two pharmacies in Watton previously, so the closure of one of these must have left a gap in pharmacy provision. The supporting information they have both provided is an attempt to justify that narrative.
- 4.65 Whilst the closure of one or more pharmacies may have some relevance, when considering an application for a new pharmacy, it does not diminish the need for the applicant to prove that the tests set out in Reg 18 are met. It is our clients' position that they are not.
- 4.66 Boots Pharmacy branch dispensed fewer than 5,000 items per month historically, well below the national average of 7,000. In fact, it was winding down well before it closed, dispensing 2,854 items in September, 2,753 in October, 2,091 in November and only 674 in December 2023. It was almost two years since Boots started the process of closing that branch, and does not support the submission that its closure left a significant gap.
- 4.67 Hurn are not claiming any meaningful geographical difference between their proposed pharmacy and Total Health, both located within the town centre. Total Health is located just a few metres away from the High Street and adjacent to the only medical centre in the town. Nobody has sought to argue that granting the Hurn application will make pharmaceutical services physically easier to access than they are currently. They do, however, claim that their opening hours would ensure the continuous provision of services, so would improve access in respect of opening hours and confer significant benefits.
- 4.68 Hurn have core hours that start at 8.30am. This ties in with the first appointment at the medical centre. If the appointments are running to time, when the first patient comes out of the medical centre it may be 8.45 or 8.50. In practice the pharmacy will open a few minutes before 9am generally once the staff are there. So there may be a few minutes at most that a patient would have to wait for the pharmacy to open if they had attended that first appointment.
- 4.69 Total Health Pharmacy closes between 1pm and 2pm. There is negligible activity at the surgery during that time so it is very rare that the pharmacy opens at 2pm to find

patients who are waiting. If a patient was unable to wait until the pharmacy opened at 9am or 2pm after lunch, they can, of course, come back in the evening at any time up to 9pm. This is exceptionally good access in respect of opening hours bearing in mind Watton is a small rural Norfolk town. There is no evidence that patients are dissatisfied with the opening hours of Total Health Pharmacy.

- 4.70 Foschell have proposed core hours nothing beyond the core opening hours for Total Health. They initially claimed that their Sunday core hours offered opening hours beyond those provided in the town but they have subsequently accepted that there is already core hours provision on Sundays.
- 4.71 Other than service levels, the main case Foschell make is around the location for their proposed pharmacy.
- 4.72 Firstly there is a huge car park at the shopping parade. It's clear that this has been designed with an expectation that most people will come by car.
- 4.73 Secondly it's at the far eastern end of the town and questionable whether the location is even in Watton but closer to a location known locally as Carbrook.
- 4.74 Thirdly most of the housing in the immediate area is modern housing and car ownership in the area is well above the national average. The new houses either have driveways or dedicated parking spaces nearby.
- 4.75 Fourthly, most of the area to the north of Norwich Road is light industrial and occupied by small businesses. It is not residential and there has been no evidence provided that the people who work in these businesses currently have an unmet need for pharmaceutical services. In relation to the demographic data provided by the appellant. Most of the area highlighted by this appellant (Breckland 010F) is not near its proposed site and includes a care home and the prison so it's not surprising that levels of ill health and disability are higher than average and that many people living in the area are economically inactive. It's also not clear if the 2021 census data reflects the modern houses built nearby. Based on the profile of similar modern residential areas, the area closest to the proposed site is likely to be largely occupied by young families who are in relatively good health and where at least one of the occupants is in work.
- 4.76 In relation to the care home residents, invariably dispensed medication is delivered to them and if they require pharmacy services these are usually carried out at the care home itself. Buckingham Lodge provides a combination of nursing, dementia and residential care, so there is little prospect of its residents walking to a pharmacy no matter how close it is. In this case we understand that the care home receives its dispensing services from one of the local DSPs [Remedium in Dereham]. If any resident required medication outside the normal opening hours of that DSP, care home staff could obtain this from Total Health until late into the evening.
- 4.77 In terms of the people that do live near this proposed site, most will be able to drive into the town centre in less than five minutes and park free of charge within a few metres of the pharmacy. For the small number of people who do not have access to a car, there is a bus service every 30 minutes that travels into the town centre.
- 4.78 There are very few amenities at the appellant's proposed site. Residents who live in the Carbrooke area will frequently travel into the town centre to access a wide range of facilities, including the only medical centre. The Lidl supermarket on the road between the proposed site and the town was not built just to serve the needs of residents living at the far eastern edge of the town. It will be accessed by people from across the town as well as the villages in the wider area. The same applies with the small businesses to the north of Norwich Rd, many of which will provide services to residents of the entire

town and beyond. The reality is that residents of Watton travel throughout the town to access a range of amenities.

- 4.79 The most suitable place for services to be provided in Watton is the town centre. It is not a big enough town to justify opening another pharmacy at the far eastern edge of the town, particularly in a location with relatively few residents. The residents who do live there travel into the town to meet the majority of their daily needs.
- 4.80 Foschell have not provided any evidence that patients find it difficult to access pharmaceutical services in the town centre. The proposed site is not the right place for a community pharmacy and it would not confer significant benefits on patients.
- 4.81 Service levels
- 4.82 Our client's assertion is that the historical service issues have been addressed in full, both prior to and following the change of ownership. There are claims made by the appellants that the item numbers at Total Health Pharmacy would rise significantly following the Boots closure and that they would not be able to cope. However, the evidence is that there was no massive increase in dispensing items. The c.20,000 items being dispensed by Total Health is spread out across 78 hours per week, so the pharmacy is able to manage the workload by dealing with acute prescriptions when they come in and repeat prescriptions at quieter times.
- 4.83 Prior to the Boots closure approximately 80% of the items in the town were dispensed by Total Health and 20% were dispensed by Boots. Patients were exercising choice and some choose to use Boots. When Boots was closing, patients who lived outside the town, particularly on the eastern side, would have been encouraged to use Boots in Hingham. Mr [E] was actually working in Boots at that time and can confirm this.
- 4.84 This would not have suited all patients, and competitors in the wider area (in this case DSPs) took the opportunity to market their services to Watton residents. For some, having their medication delivered by one of these DSPs was an attractive prospect, so they exercised choice and moved their nominations to a different pharmacy. They were not 'forced' to do this as has been claimed by Foschell. The ICB quite rightly took DSPs into account when considering whether patients have reasonable choice.
- 4.85 In terms of other services, Hurn in their application (page 230) talk about granting the application to enable Pharmacy First to be delivered. This service is already being provided along with NMS, Urgent medicines consultations, Minor illness consultations, Hypertension Case Finding, the NHS Contraception service and the Discharge Medicines service. Flu and Covid vaccinations will be provided for the 2025 winter season.
- 4.86 The ICB's Quality Assurance [QA] report is at page 198. The ICB carried out their first visit in November 2023 where there were clearly some issues identified just as Boots were closing. Rosemead, the owners at that time, put measures in place to address these issues and by March 2024 every single one of those issues had been closed. Whilst there has not been a further QA visit since Delta and North took over, the pharmacy has clearly continued to improve under new ownership.
- 4.87 When issues arose in respect of service levels these were corrected and can now clearly be regarded as historic. In terms of public support for a new pharmacy, there is a brief letter from the council dated February 2024. It is a year and a half old and does not provide evidence in respect of patients finding pharmaceutical services difficult to access for any reason. There is some reference in the ICB's report in respect to correspondence with the local MP but again this is historical. The ICB have confirmed that there has been no further recent correspondence from the MP.

- 4.88 Foschell have provided a few Google reviews, but most of these are from some time ago. On page 213 they provide a selection of more recent reviews of which three showed one star, two had no commentary at all so we have no idea what these patients were unhappy about or indeed whether that really was anything to do with the pharmacy. In the last month there have been two 5 star reviews, two 4 star reviews, one 3 star, one 2 star and one 1 star.
- 4.89 There is little evidence from local residents to support the claims made by the appellants around service levels, access difficulties or opening hours. Engagement with local residents may take the form of emails, letters of support or patient surveys. Applicants also do bring along witnesses to oral hearings to describe problems. This might be local councillors, GPs, Patient Participation Groups, or other community representatives who can expand on the difficulties being experienced by patients. There is not as a single e-mail from any local resident. And there is nobody here speaking on behalf of these patients.
- 4.90 They base the need for a new pharmacy on :
- 4.90.1 People living at the edge of the town having to travel 1.4 miles to a pharmacy.
- 4.90.2 Somebody attending an early morning GP appointment might have to wait a few minutes for the pharmacy to open.
- 4.90.3 Over a year ago there were some problems with unplanned pharmacy closures and with patients having to wait longer than they should to have their prescriptions dispensed.
- 4.91 The appellants don't have any actual evidence that this is causing difficulties for patients today.
- 4.92 There has been reference within the bundle about the relevance of supplementary statements published by the HWB. The Norfolk HWB has now published its draft new PNA for consultation and its conclusion in the Executive Summary is as follows:
- 4.93 NHS pharmaceutical services are well distributed across Norfolk, serving all the main population centres. There is adequate access to a range of services commissioned from pharmaceutical service providers. As part of this assessment no gaps have been identified in provision either now or in the next three years for pharmaceutical services deemed necessary by the Norfolk HWB. Whilst this PNA is not yet in force, there is no evidence from the HWB that they believe there is any need for new pharmacy in Watton.
- 4.94 Regulatory tests
- 4.95 18(2)(a), the matter of detriment, whilst this is not the core of my clients' argument, we do ask the committee to be mindful of the potential destabilisation of the existing pharmacy provision in the town if a new application is granted in the midst of a financially challenging time for the sector, particularly as the pharmacy has stabilised after a difficult period 18 months ago.
- 4.96 18(2)(b)(i)
- 4.97 Whether there is a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB.
- 4.98 Our client's case is:

- 4.98.1 Watton is an area with high car ownership. The vast majority of people, whether they live in Watton or the surrounding villages, can therefore drive to a pharmacy, either in Watton or, as the ICB have suggested, surrounding villages and towns, particularly if they are commuting to work.
- 4.98.2 There is a regular public transport service that can be used by residents living in the outskirts of Watton to access the town centre from the outskirts or for residents of the town to get to pharmacies further afield if they wish. A service which runs every 30 minutes is more than adequate in a rural area.
- 4.98.3 Most people living in the town are within a mile of the town centre. Residents of average mobility can walk to the pharmacy if they wish in less than 20 minutes, a measure used in the PNA to consider accessibility.
- 4.98.4 The current pharmacy, Total Health, opens for 78 hours a week of which 72 are core. There is no evidence that these opening hours do not fully meet the needs of patients.
- 4.98.5 Despite the predictions made by appellants, when Boots closed there wasn't a massive influx of patients to Total Health. These patients exercised their right to choose and many now use other pharmacies in the wider area, including DSPs.
- 4.98.6 There is no recent evidence of any unplanned closures or service issues at Total Health Pharmacy. In fact the pharmacy has gone from strength to strength under new ownership and the ICB are using it as an example of best practice for other pharmacies in the area.
- 4.99 It is clear in our opinion that for these reasons patients do have reasonable choice already.
- 4.100 18(2)(b)(ii)
- 4.101 Whether people who share a protected characteristic have access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access
- 4.102 The applicants have provided no meaningful evidence in respect of this test so we have nothing more to add other than to advise caution when relying on demographic data supplied by Foschell which relates largely to an area which is some distance away from its proposed site.
- 4.103 18(2)(b)(iii)
- 4.104 We note that the Hurn Chemists have tried to make a case for providing innovative services, but we agree with the ICB that nothing proposed is innovative in the context of this test.
- 4.105 For the committee to be persuaded that one or more of these applications should be granted, you would need to be satisfied that doing so would confer significant benefits on persons in the area of the relevant HWB.
- 4.106 It's not enough to conclude that it might be convenient for a few residents to have a pharmacy closer to home or to conclude that a few people might like to access a pharmacy before 9am or between 1 and 2pm.

- 4.107 In the context of the existing level of provision and taking into account the nature of the town, the benefits proposed by the two applicants are not significant.
- 4.108 In conclusion, the appellants have not provided evidence that will lead you to conclude that the tests in regulation 18 have been met. That being the case we respectfully request that you refuse both applications.
- 4.109 Mr [E] attended as a witness for Rosemead Ltd, trading as Total Health.
- 4.110 Having spent 23 years in community pharmacies, he took over Total Health in December 2024. His staff are committed to their jobs but he accepts there remain some challenges. To meet these the workforce has increased to 21 staff, queues have dropped and prescriptions get turned around more quickly. There are two, sometimes 3-4 ACTs The ageing local population need a face to face service. He has had two meetings with the Patient Participatory Group [PPG] in January and February 2025, with a follow up phone call two weeks ago. This indicated that there are no problems with opening times. Patients are texted when their prescriptions are ready. An interactive app has been developed which goes live imminently, to enable prescriptions to be ordered on line, and inform when medication is ready for collection, and to send reminders for reordering medication.
- 4.111 Mr [E] said he had met with the Medical Surgery GPs and no issues were raised. Total have expanded their home delivery service which is provided on request to any patient. The 7 day lead time begins when the repeat prescription is re ordered at the surgery. There is a 24 hour turn around and sometimes “we are waiting for the Surgery to send in prescriptions”. We are open every Bank Holiday by choice. The modern systems enhances dispensing accuracy. He said he did not recognize a pharmacist being late. Staff all come in usually at 8am each day. He also does not recognize one of his pharmacist being rude or being verbally abusive as was suggested by the Google review submitted. In answer to a question, Mr [E] stated that he is now providing blood pressure monitoring , contraception, and smoking cessation services. Covid and flu vaccinations will be provided during winter season 2025.
- 4.112 **Norfolk and Waveney ICB represented by Miss [G]**
- 4.113 Miss [G] referred to her previous written submissions in response to the two unsuccessful applications. The draft PNA which is out for consultation currently, had not identified any gaps in provision. There have been 11 Supplementary Statements up to September 2024, none of which had identified any gaps including since the Boots closure.
- 4.114 Distant Selling Pharmacies are used by Watton residents, including those in the Bucklodge Care Home. She stated that an Independent Prescriber is not an innovative practice as has been suggested by Hurn. She stated that local residents had no difficulty accessing Total Health, by car and public transport, bus passes being available to those eligible. The initial complaints had been addressed by intervention by the ICB. In terms of population, not all residents in the new housing developments will be new to Watton: many will be as a result of family breakups or divorce. The high volumes dispensed by Total are not out of line for rural areas and market towns. In terms of Pharmacy First, Total had a high delivery level, 67 in January 2025 and 101 in May 2025, and included contraception, hypertension monitoring, and covid/flu vaccination. Performance concerns were noted and the ICB have taken related action. To address complaints, the ICB can and does issue breach proceedings; the ICB is satisfied that Total is taking action to address them. The Google reviews are one sided. The GP surgery website states that the lead in time for prescriptions is 48 hours.

5 Consideration

- 5.1 The Committee 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 pharmacies.
- 5.2 It also had before it the responses to NHS Resolution's own statutory consultations.
- 5.3 The Committee had regard to the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the Regulations").

Regulation 31

- 5.4 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") 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).

- 5.5 The Committee noted that Hurn Chemists Ltd had stated "*The proposed site (Retail unit, 1 Chaston Place) is on the busy Watton high street which is **not** adjacent to or in close proximity to the existing contractor. There are no direct links between both sites and requires a walk of 5mins (400m)*" and that Foschell Ltd had stated "*N/A There is no pharmacy currently trading from/ adjacent to the proposed site.*" The Committee noted that the Commissioner had determined for each application that it was "... *not required to refuse the application under the provisions of Regulation 31*" and that there was no dispute from other parties. The Committee therefore determined that it was not required to refuse the applications under the provisions of Regulation 31.
- 5.6 The Committee noted that, if the application by Foschell Ltd were granted, Foschell Ltd 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 Foschell Ltd 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

- 5.7 The Committee noted that the applications were 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)."*

- 5.8 The Committee considered that Regulation 18(1)(a) was satisfied in that it was required to determine whether it was satisfied that granting an 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
- 5.9 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 applications were granted were or was included in the Pharmaceutical Needs Assessment ("the PNA") in accordance with paragraph 4 of Schedule 1 of the Regulations.
- 5.10 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).
- 5.11 The Committee considered the PNA prepared by Norfolk Health and Wellbeing Board, conscious that the document provides an analysis of the situation as it was assessed at the date of publication. The Committee bears in mind that, under Regulation 6(2), the body responsible for the PNA must make a revised assessment as soon as reasonably practicable (after identifying changes that have occurred that are relevant to the granting of applications) 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). Such a statement then forms part of the PNA. The Committee noted that the PNA was dated 2022 and that supplementary statements had been issued on 28 September

2022, 3 March 2023, 14 November 2023, 7 June 2024, 17 September 2024 and two which were undated.

- 5.12 The Committee had regard to Section 7 of the PNA which contains the following conclusions regarding service provision in the Norfolk HWB area:

5.12.1 *"There is no current gap in the provision of Necessary Services during normal working hours across Norfolk to meet the needs of the population."*

5.12.2 *"There are no current gaps in the provision of Necessary Services outside normal working hours across Norfolk to meet the needs of the population."*

5.12.3 *"No gaps have been identified in the need for pharmaceutical services in specified future circumstances across Norfolk."*

5.12.4 *"There are no gaps in the provision of Advanced Services at present or in the future that would secure improvements or better access to Advanced Services in Norfolk."*

5.12.5 *"No gaps have been identified that if provided either now or in the future would secure improvements or better access to Enhanced Services across Norfolk"*

5.12.6 *"Based on current information no current gaps have been identified in respect of securing improvements or better access to Locally Commissioned Services either now or in specific future circumstances across Norfolk to meet the needs of the population."*

- 5.13 The Committee noted parties' views that a gap in provision has been created by the closure of Boots Pharmacy, 1 Chaston Place, 29 High Street, Watton, IP25 6XE in January 2024. The Committee noted that a note of the closure had been made in an undated Supplementary Statement. The Committee had regard to the Commissioner's comments that the HWB had misunderstood the purpose of supplementary statements. The Committee was mindful that a gap in provision may be identified in a supplementary statement, however it was satisfied in this case that there was no indication in the statement that the closure had created a gap in provision.

- 5.14 The Committee noted that the Applicants seek to provide unforeseen benefits to the patients of Watton. The Committee noted that the improvements or better access that the Applicants were claiming would be secured by their applications were not included in the relevant PNA in accordance with paragraph 4 of Schedule 1.

- 5.15 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)

- 5.16 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"

- 5.17 The Committee noted the Commissioner had stated with regard to both applications that *"... there was no evidence to suggest granting the application would cause*

significant detriment to proper planning in the area..." and that there was no dispute on the matter from other parties.

- 5.18 On the basis of the information available, the Committee was not satisfied that, if an application was 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.
- 5.19 The Committee was therefore not satisfied that significant detriment to the proper planning of pharmaceutical services would result from a grant of an application.

Regulation 18(2)(a)(ii)

- 5.20 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"

- 5.21 The Committee noted the Commissioner had stated with regard to both applications that *"... there was no evidence to suggest granting the application would cause significant detriment ... for any arrangements the ICB has in place for the provision of pharmaceutical services in the area."* and that there was no dispute on the matter from other parties.
- 5.22 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 an application.
- 5.23 In the absence of any significant detriment as described in Regulation 18(2)(a), the Committee was not obliged to refuse the applications and went on to consider Regulation 18(2)(b).

Regulation 18(2)(b)

- 5.24 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)

- 5.25 The Committee is not persuaded by the arguments put forward by both Hurn Chemist and Foschell that their respective applications provided evidence of or offer significant benefits, in terms of location and core opening hours. There is no evidence to suggest local residents do not have reasonable access or are dissatisfied with access, either by foot, car or by bus to their nearest pharmacy, this being Total Healthcare. Since the closure of the High Street Boots in January 2024, patients are having their prescriptions dispensed either by Total Healthcare or by distance selling pharmacies. In the Committee's view, both of these provide reasonable choice.
- 5.26 The Commissioner attended the oral hearing on 28 July 2025 and gave evidence that the earlier performance service issues have now been addressed and that under new management, these can be treated as historical. This is corroborated by the oral evidence of the new owner of Total Healthcare, Mr [E]. The Committee found him credible and convincing. The Committee were impressed by his commitment and engagement, both with the GPs at the Watton Medical Centre and with the local Patient Participatory Group. The purpose being to enable him to understand and continue to address any new issues which may come up from time to time. The Committee have little evidence of any which have arisen currently. The Google reviews quoted are very few in number and a score of 4.2/5 in the most recent responses is sufficiently respectable in the current context, to cause no concern. There is no evidence provided to the Committee of patients being concerned about opening hours or physical access to Total Healthcare.
- 5.27 Therefore the Committee was not satisfied that, having regard to there being a reasonable choice with regard to obtaining services, granting the applications would confer significant benefits by way of physical access on persons.
- 5.28 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 applications would confer significant benefits on persons.
- 5.29 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. There has been only very general reference by Hurn Chemist about the elderly and disabled having access problems, and no evidence to support this. Foschell made similar general comments.
- 5.30 The Committee considered that there was not a robust body of evidence that enabled it to be satisfied that a pharmacy at the proposed site would convey significant benefits pursuant to Regulation 18(2)(b)(ii).

- 5.31 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 pharmaceutical services that are difficult for them to access, granting the applications would confer significant benefits on such persons.
- 5.32 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. Hurn Chemist has submitted that their application offers an Independent Pharmacist Prescriber, and two consultation rooms. The Committee did not consider these to be innovative. Foschell did not make submissions on this point.
- 5.33 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 applications would confer significant benefits on persons.

Regulation 18(2)(b) generally

- 5.34 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 applications would confer significant benefits (in relation to opening hours) on persons.
- 5.35 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.
- 5.36 The Committee was of the view that in accordance with Regulation 18(2)(b) the granting of either of the two applications would not confer significant benefits on persons in the area of the HWB which were not foreseen when the PNA was published.

Other considerations

- 5.37 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).
- 5.38 No deferral or refusal under Regulation 18(2)(f) was required in this case.
- 5.39 The Committee had regard to Regulation 18(2)(g) and found that it was not applicable.
- 5.40 The Committee considered whether there were any further factors to be taken into account and concluded that there were not.
- 5.41 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 sites would provide better access to pharmaceutical services.
- 5.42 Pursuant to paragraph 9(1)(a) of Schedule 3 to the Regulations, the Committee may:
- 5.42.1 confirm the Commissioner's decisions;
 - 5.42.2 quash the Commissioner's decisions and redetermine the applications;

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

6 DECISION

- 6.1 In respect of both applications, the Pharmacy Appeals Committee ("Committee"), appointed by NHS Resolution, confirms the decision of the Commissioner.
- 6.2 The Committee concluded that it was not required to refuse either of the applications under the provisions of Regulation 31.
- 6.3 The Committee has considered whether the granting of an 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;
- 6.4 The Committee determined that the applications should be refused on the following basis:
- 6.4.1 In considering whether the granting of the applications would confer significant benefits, the Committee determined that –
- 6.4.1.1 there is already a reasonable choice with regard to obtaining pharmaceutical services;
- 6.4.1.2 there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and
- 6.4.1.3 there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services;
- 6.4.2 Having taken these matters into account, the Committee is not satisfied that granting the applications would confer significant benefits as outlined above that would secure improvements or better access to pharmaceutical services.

Committee Chair



Resolution

Annex 1

REF: SHA/26412

**APPEAL AGAINST NHS NORFOLK AND WAVENEY ICB
DECISION TO REFUSE AN APPLICATION BY HURN
CHEMISTS LTD FOR INCLUSION IN THE
PHARMACEUTICAL LIST OFFERING UNFORESEEN
BENEFITS UNDER REGULATION 18 AT RETAIL UNIT, 1
CHASTON PLACE, HIGH STREET, WATTON,
NORFOLK, IP25 6XE**

8th Floor
10 South Colonnade
Canary Wharf
London
E14 4PU

Tel: 020 3928 2000
Email: nhsr.appeals@nhs.net

REF: SHA/26415

**APPEAL AGAINST NHS NORFOLK AND WAVENEY ICB DECISION TO REFUSE AN
APPLICATION BY FOSCHELL LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING
UNFORESEEN BENEFITS UNDER REGULATION 18 AT WESSEX DRIVE, VULCAN PLACE
SHOPS, WATTON, THETFORD, IP25 6XU (BEST ESTIMATE)**

1 The Applications

By application dated 23 February 2024, Hurn Chemists Ltd applied to Norfolk and Waveney ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Retail Unit, 1 Chaston Place, High Street, Watton, Norfolk, IP25 6XE.

1.1 Details of the application by Hurn Ltd can be found in Annex A below.

By application dated 18 January 2024, Foschell Ltd applied to Norfolk and Waveney ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Wessex Drive, Vulcan Place Shops, Watton, Thetford, IP25 6XU (best estimate).

1.2 Details of the application by Foschell Ltd can be found in Annex B below.

2 The Decisions

The Commissioner considered the two applications and decided to refuse both.

- 2.1 The decision letter for Hurn Ltd dated 8 November 2024 can be found in Annex A below.
- 2.2 The decision letter for Foschell Ltd dated 8 November 2024 can be found in Annex B below.

3 The Appeals

Hurn Ltd and Foschell Ltd appealed against the decisions.

- 3.1 The appeal letter from Hurn Ltd dated 4 December 2024 can be found in Annex A below.
- 3.2 The appeal letter from Foschell Ltd dated 8 December 2024 can be found in Annex B below.

4 Summary of Representations

This is a summary of representations received on the appeals.

4.1 THE COMMISSIONER

- 4.1.1 **“SHA/ 26412 - HURN CHEMISTS LTD – APPLICATION FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS AT RETAIL UNIT, 1 CHASTON PLACE, HIGH STREET, WATTON, NORFOLK, IP25 6XE**
- 4.1.2 Please note that from the 1 April 2023, community pharmacy contracting and commissioning has been delegated to Integrated Care Boards (ICBs). Hertfordshire and West Essex (HWE) ICB are hosting the function on behalf of the six East of England ICBs.
- 4.1.3 NHS Resolution will note that Foschell Ltd had also submitted an unforeseen benefits application in respect of Wessex Drive, Vulcan Place Shops, Watton, Norfolk, IP25 6XU. The distance between the two postcodes is approximately 1.5 miles. Due to the proximity between the two sites, the Foschell Ltd application was considered and determined alongside that for Hurn Chemists Ltd.
- 4.1.4 Please find below information we wish to be considered in relation to Hurn Chemist Ltd.
- 4.1.5 The appeal has been submitted by Mr [R], advisor on behalf of Hurn Chemist Ltd and shall be referred to as the Appellant within this document.
- 4.1.6 Having reviewed the grounds of the appeal, the ICB remains of the opinion that the application should be refused.
- 4.1.7 The Appellant appears to be appealing on the following grounds:
 - 4.1.7.1 Lack of adequate access to pharmaceutical service provision on the Watton area.

4.1.7.2 Residents do not have a choice of provider in the area.

- 4.1.8 In considering and determining the application and subsequent appeal, the ICB has reviewed the 2022-2025 Norfolk Pharmaceutical Needs Assessment (PNA). The Norfolk PNA can be found at [Pharmaceutical Needs Assessment \(PNA\) updated - Norfolk Insight](#) along with the published supplementary statements.
- 4.1.9 The 2022-2025 Norfolk PNA does not identify any gaps in the provision of pharmaceutical services, either within normal working hours or outside of them. It does not articulate any current or future needs for, or current or future improvements or better access to, a particular pharmaceutical service or pharmaceutical services in general.
- 4.1.10 The Appellant refers to the closure of Boots the Chemist in January 2024 (*page 2 of the appeal document*) which has left one remaining pharmacy to serve the population of Watton and surrounding areas. The ICB acknowledges that it has had to address some concerns raised regarding services at this pharmacy and two complaints were received by Norfolk and Waveney Integrated Care Board (N&W ICB) between January and March 2024. The ICB were also contacted informally by the local GP practice.
- 4.1.11 As NHS Resolution will be aware, contractors will occasionally experience issues and receive complaints. The ICB has arrangements in place to deal with these matters and the solution is not always that a new pharmacy is needed. The ICB visited both the GP practice and pharmacy and a clinical quality visit was undertaken. A further meeting was held around April 2024 and since that time there have been no problems or issues reported.
- 4.1.12 There has also been a change of ownership at Total Health Pharmacy in the latter part of last year (November 2024), and services continue to be delivered without issue.
- 4.1.13 The Appellant has stated the reference made by the Pharmaceutical Services Regulations Committee (PSRC), that the nearest pharmacy to the remaining one in Watton is over 7 miles away. The Appellant argues that *"This is over 7 miles away, requires local transport to access (disadvantaging all service users especially those with protected characteristics) and can not be reasonably considered as accessible nor local."* (*page 2 of the appeal document*).
- 4.1.14 On review of the data held on the Census 2021 website, the map and associated data clearly shows that 83.9% of residents own one or more cars or vans. It also shows that 36.6% of those residing in Watton travel 6 miles or more to get to work. It could therefore be concluded that these residents obtain pharmaceutical services whilst travelling around Norfolk, on route to work, home, school, leisure activities etc. The PNA also states that *"travel times to access an open pharmacy on a Sunday may be longer, which reflects the rural nature of Norfolk and would be similar to accessing other services,"* (PNA, page 116). In addition to this, the PNA shows (*page 74, 3.4.1, Table 26*), that due to the rurality of the area, travel times of 30 minutes by car, on foot and public transport would be considered the norm. [Census maps provided]
- 4.1.15 For those residents that use public transport, Google maps shows there are two buses that run every 30 minutes between the applicant's postcode and the Boots Pharmacy in Higham. It could therefore be concluded that patients who use public transport are able to access pharmaceutical services. [Google map provided]

4.1.16 On page 3 of the appeal document, the Appellant refers to the reduction in hours at Total Health Pharmacy. Total Health Pharmacy was included in the pharmaceutical list under the 100 hours condition and reduced their hours in line with the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended (the Regulations).

4.1.17 The ICB recognises that the introduction of 100 hour pharmacies was not assessed on need. The recent changes in reductions to 100 hour pharmacies are likely attributed to over provision of pharmaceutical services in areas. It is pertinent to highlight that Total Health Pharmacy would not have undertaken the decision to reduce its core hours if it was believed that the community's needs could not be adequately met. Total Health Pharmacy provides a total of 72 core hours Monday to Sunday and 6 supplementary hours Monday to Saturday:

	Current									72:00	6:00
	S1		C1		S2		C2		S3		C3
Monday	9:00	10:00	10:00	13:00			14:00	21:00			
Tuesday	9:00	10:00	10:00	13:00			14:00	21:00			
Wednesday	9:00	10:00	10:00	13:00			14:00	21:00			
Thursday	9:00	10:00	10:00	13:00			14:00	21:00			
Friday	9:00	10:00	10:00	13:00			14:00	21:00			
Saturday	9:00	10:00	10:00	13:00			14:00	20:30			
Sunday			8:00	13:00			13:00	20:30			

4.1.18 The Appellant states that *"Our application (Hurn Chemist Ltd) has core hours that compliment Watton Medical Practice and are deliberately synergistic to the core hours of Total Health Pharmacy hence providing unbroken access to pharmaceutical services"*

	Current									40:00	10:00
	S1		C1		S2		C2		S3		C3
Monday			8:30	12:00	12:00	13:00	13:00	17:30	17:30	18:30	

Tuesday			8:30	12:00	12:00	13:00	13:00	17:30	17:30	18:30		
Wednesday			8:30	12:00	12:00	13:00	13:00	17:30	17:30	18:30		
Thursday			8:30	12:00	12:00	13:00	13:00	17:30	17:30	18:30		
Friday			8:30	12:00	12:00	13:00	13:00	17:30	17:30	18:30		
Saturday												
Sunday												

Watton Medical Practice opening times		
Monday	08:30	18:30
Tuesday	08:30	13:00 14:30 18:30
Wednesday	08:30	18:30
Thursday	08:30	18:30
Friday	08:30	18:30
Saturday	Closed	
Sunday	Closed	

(NHS Website)

4.1.19 Whilst the core and supplementary hours within the application do mirror the opening hours of the surgery, little weight is put on the supplementary hours as these can be removed at any time in line with the required notice period. This is also highlighted within the appeal document, where the Appellant states *“Only core hours can be reliably used for such decisions” (page 3 of appeal document)*. Therefore, if the Appellant removed the evening supplementary hours, the pharmacy would close at 17:30 Monday to Friday. Likewise with the lunchtime hours 12:00-13:00. This does not provide better access or choice. Any patient who accessed their GP surgery from 17:30 with an acute need, would need to travel to Total Health Pharmacy to have that medication dispensed.

4.1.20 The ICB of course recognises that the provision of pharmaceutical services is more than the dispensing of prescriptions or the provision of over-the-counter sales. It encompasses a range of services including all essential services, advanced services such as NHS Pharmacy First, contraception services and enhanced services. Whilst the Appellant is proposing hours that mirror the local GP practice, from a wider health perspective, hours that exceed (or are staggered to encompass earlier or later hours) those offered by the GP practice are more beneficial as it provides patients with access to a health care provider

when the GP practice is closed. Any member of the public who needs to access pharmaceutical services post 18:30 when the GP practice is closed, can (and do) access Total Health Pharmacy that closes at 21:00 Monday to Friday and 20:30 on a Saturday and Sunday.

- 4.1.21 On page 3 of the appeal document, the Appellant states: *“The Pharmaceutical Needs Assessment (PNA) referred to was published in 2022 at which time correctly stated there is no gap in pharmaceutical provision. The supplementary statement published March 2024 correctly details the closure of Boots and clearly raised the question that the HWB were suggesting this created a gap in provision, yet the committee have incorrectly dismissed this and assumed that HWB have misunderstood the statement. We challenge this view. Additionally, the reduced core hours for Total Health Pharmacy were highlighted in September 2024 PNA supplementary statement- It is in our view that as these supplementary statements do not specifically state ‘no gap in pharmaceutical service’ they correctly suggest gaps now exist.*
- 4.1.22 *All these inaccuracies and assumptions demonstrate that the committee were incorrect that there is reasonable patient choice to adequate pharmaceutical services.”*
- 4.1.23 The ICB maintains the position that the Health and Wellbeing Board (HWB) has misunderstood the purpose of supplementary statements. The HWB must have arrangements in place whereby a review of the PNA is initiated if the HWB were informed of a change that would affect the granting of an application. The HWB has not initiated a revised assessment and publication of the PNA based on the reduction in hours at Total Health Pharmacy and the closure of Boots. It can be concluded that the HWB were not of the view that either of these changes were detrimental to the provision of pharmaceutical services otherwise a revised publication would have been initiated. (The ICB is aware that the PNA is being revised – this is not due to a response to a change in pharmaceutical services but due to the routine 3-yearly publication of the PNA).
- 4.1.24 If the HWB thought a revised assessment of the PNA was disproportionate, it can issue a supplementary statement.
- 4.1.25 Supplementary statements are statements of fact which show there has been a change to the availability of pharmaceutical services since the PNA was written. They are not a vehicle for updating what the PNA says about the need for pharmaceutical services.
- 4.1.26 A change of ownership is not a change to the availability of pharmaceutical services that will affect the granting of a future application. A supplementary statement should not be published to reflect a change of ownership and yet these are included on the supplementary statement. It strongly suggests that the HWB are unclear of the purpose of the supplementary statement.
- 4.1.27 The reduction of hours – whilst this is a change to the availability of pharmaceutical services, it may not be relevant to the granting of an application for inclusion in the pharmaceutical list. If people can continue to access pharmaceutical services at times that meet their needs, then it is not relevant, and a supplementary statement does not need to be published.
- 4.1.28 Furthermore, if it was the intention of the HWB to say that a gap has been provided by including the closure of Boots, it is not enough to say, “there is a gap.” The HWB has a duty to articulate specifically what that gap is e.g. what

specific service, or services are required, at what specific times etc. Vague and incomplete statements could lead to applications being granted inappropriately because the applicant is not offering the service that is required, or the location of their premises is in the wrong place, their opening times are not at a time that produces an additional benefit or they are refused inappropriately being the ICB is unclear as to what the need, improvement or better access is to know whether the applicant is offering to meet it.

- 4.1.29 As no specific services or detail has been articulated by the HWB on any possible “gap”, it has to be concluded that their inclusion of every change, regardless of whether it was relevant to the granting of an application has been included due to a misunderstanding on their part not because they are advising of a specific gap.
- 4.1.30 The Appellant states that *“We strongly disagree with the view of the committee that distance selling pharmacies (DSP) offer choice” (page 2, appeals document)*. Whilst this is the view of the Appellant, it would be inappropriate to disregard the services offered by DSPs and acknowledge that they are the preferred choice for some people.
- 4.1.31 Since PSRC were presented with dispensing data during the October 2024 meeting, there have been some changes to the way in which the residents of Watton and surrounding areas choose to have their medication dispensed: [screenshots provided]
- 4.1.32 From the data above, we can see that Total Health Pharmacy still remains the top dispenser of prescriptions issued by Watton Medical Practice. Overall, the data still demonstrates that residents of Watton and the surrounding area are exercising their right to choose where they have their medications dispensed and how they access wider pharmaceutical services. The data shows that patients are accessing a significant number of different pharmacies, including DSPs. In this case, two DSPs are within the top ten. Whilst the ICB recognises that DSPs are not the preference for all patients, some residents will choose to obtain their services from this type of contractor as not all essential and advanced services require face to face contact at the pharmacy premises.
- 4.1.33 The Appellant refers to Watton being a *“large rural community but is rapidly growing with approved housing developments actively being built and more to come. The committee have ignored this growth which will disproportionately impact current pharmaceutical and primary care services. The impact of this growth has been highlighted in our original application.” (page 4, appeal letter)*
- 4.1.34 PSRC did consider all the supporting information that was supplied on the application form by Hurn Chemist Ltd. The PSRC also had consideration for information included in the PNA. The Norfolk PNA 2022-2025 acknowledges the population growth and new housing development plans for the lifespan of the PNA (to 2025). The HWB considered the growth and still concurred that no gaps in necessary services are identified (*page 98 and 99, Norfolk PNA*). It was also noted that the test is whether or not those living in Watton have reasonable choice with regard to obtaining pharmaceutical services in the area of Norfolk HWB, not just the town of Watton.
- 4.1.35 The Appellant refers to *“The committee also incorrectly state in their decision letter that no innovative approaches to delivery of pharmaceutical services have been detailed by our application. The inclusion of independent pharmacist prescriber services was detailed on our original application which is an innovative service currently not available in the area (our application*

states the provision of two consultation rooms to compliment innovative services)” (page 4, appeal letter).

- 4.1.36 The PSRC remains of the view that independent pharmacist prescribing services whilst extremely beneficial are not innovative. Whilst it might be new for the Appellant, independent prescribing is happening across the country. Likewise having two consultation rooms is not innovative.
- 4.1.37 The Appellant states *“It is evident that the refusal of our application was based on inaccurate information and assumptions and disregarded key facts. There is no longer reasonable choice to accessible pharmaceutical services; core hours of our application do compliment both the medical practice whilst being synergistic to the new core hours of Total Health Pharmacy resulting in continuous access to pharmaceutical services by residents of Watton and surrounding areas” (page 4, appeal document).*
- 4.1.38 The PSRC refutes this statement in its entirety. PSRC determined the application in line with the Regulations and following a thorough review of the factual information within the Norfolk 2022-2025 PNA and the information presented to it by the Appellant in the application.
- 4.1.39 The Appellant states that *“Our application offers a full range of advanced and enhanced services along with innovative services as well as engaging with bank holiday rotas. It is noted that no Christmas or New Year bank holiday cover is being offered by Total Health pharmacy resulting in no pharmaceutical cover for this winter period” (page 4, appeal document).*
- 4.1.40 Provision of pharmaceutical services on Christmas Day is irrelevant to the determination of this application. There is no regulatory requirement for contractors to open on Christmas Day, instead a requirement for the ICB to ensure there is adequate provision in place for people who may need to access pharmaceutical services. A contractor may wish to provide services on Christmas Day each year however the ICB may have no need to commission a particular pharmacy to open.
- 4.1.41 As requested in your letter, the regulations and PSRC’s decisions in question will now be addressed:
- 4.1.42 **Regulation 31**
- 4.1.43 PSRC noted that there are no existing services being provided by anyone on the pharmaceutical list from the proposed premises or at adjacent premises, therefore Regulation 31 does not cause the application to be refused.
- 4.1.44 **Regulation 18**
- 4.1.45 Watton is within the Breckland locality and therefore, when the application was assessed, it was assessed against references to the Breckland locality within the Norfolk PNA 2022-2025. The assessment concluded with the following statements:
- 4.1.45.1 No gaps in the provision of Necessary Services have been identified for Breckland locality (page 99, 6.2.1.2 Norfolk PNA 2022-2025).
- 4.1.45.2 No gaps have been identified that if provided either now or in the future would secure improvements or better access to Advanced

4.1.46 Regulation 18(1)(a)

4.1.47 PSRC noted it was required to determine this routine application and determine whether it is satisfied that granting the application or granting it in respect of some 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.

4.1.48 Regulation 18(1)(b)

4.1.49 PSRC agreed that the improvements or better access that the applicant is claiming would be secured by its application, were not included in the relevant PNA in accordance with paragraph 4 of schedule 1.

4.1.50 PSRC further agreed that in order to be satisfied in accordance with Regulation 18(1), regard is to be had to those matters set out at Regulation 18(2).

4.1.51 Regulation 18(2)(a)(i) & (ii)

4.1.52 PSRC noted that there is no plan for the provision of pharmaceutical services in the area. Granting the application would therefore not cause significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of Norfolk HWB.

4.1.53 PSRC noted there was no evidence to suggest granting this application would cause significant detriment to the arrangements the ICB has in place for the provision of pharmaceutical services in that area.

4.1.54 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).

4.1.55 Regulation 18(2)(b)(i)

4.1.56 PSRC noted that even with the closure of the Boots Pharmacy 1 Chaston Place, 29 High Street, Watton, Thetford, Norfolk, IP25 6XE, there are no reports of people being unable to obtain their medicines or access pharmaceutical services.

4.1.57 PSRC took into account all the information and data presented to it and noted that patients are using a wide range of pharmacies for their pharmaceutical needs, and therefore it could be said that patients are exercising their choice. No evidence had been provided to demonstrate that those living in Watton are currently unable to exercise a choice in obtaining pharmaceutical services across the HWB.

4.1.58 Regulation 18(2)(b)(ii)

4.1.59 PSRC noted the applicant provided no evidence with regard to the matter set out in Regulation 18(2)(b)(ii). Whilst it is accepted that there would be people with protected characteristics living in Watton and that some may need pharmaceutical services as a result, there is no evidence that they have any difficulty accessing such services. The Appellant makes one reference to

service users with protected characteristics in relation to travel to the second nearest pharmacy only (*page 2, appeal document*).

- 4.1.60 PSRC were 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 in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published.
- 4.1.61 **Regulation 18(2)(b)(iii)**
- 4.1.62 PSRC noted the applicant provided no evidence regarding innovative approaches in the delivery of pharmaceutical services, therefore were 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 in the area of the relevant HWB which were not foreseen when the Norfolk PNA, 2022 - 2025 was published.
- 4.1.63 **Conclusion**
- 4.1.64 In summary, we remain of the opinion that the application should be refused.
- 4.1.65 In the publication of the 2022 – 2025 Norfolk PNA, the HWB has remained of the opinion that there is no gap in the provision of pharmaceutical services in this part of its area, or indeed any part of Norfolk, that would require needs, improvements or better access to be identified.
- 4.1.66 We appreciate there may be some convenience in having a new pharmacy, however this is different to one conferring significant benefits. Our priority is ensuring patients can access pharmaceutical services.
- 4.1.67 The regulatory requirements to identify an unforeseen benefit not in the PNA accompanied by the significant benefit considerations is a high threshold. We respectfully suggest that this appeal is without any substantive new or compelling evidence. We petition NHS Resolution to refuse the application as granting it will not confer significant benefits that were not foreseen when the PNA was published.”
- 4.1.68 **“SHA/ 26415 - FOSCHELL LTD - APPLICATION FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS AT WESSEX DRIVE, VULCAN PLACE SHOPS, WATTON, THETFORD, IP25 6XU (BEST ESTIMATE)**
- 4.1.69 Please note that from the 1 April 2023, community pharmacy contracting and commissioning has been delegated to Integrated Care Boards (ICBs). Hertfordshire and West Essex (HWE) ICB are hosting the function on behalf of the six East of England ICBs.
- 4.1.70 NHS Resolution will note that Hurn Chemists Ltd had submitted an unforeseen benefits application in respect of Retail Unit, 1 Chaston Place, High Street, Watton, Norfolk, IP25 6XE. The distance between the two postcodes is approximately 1.5 miles. Due to the proximity between the two sites, the Hurn Chemists Ltd application was considered and determined alongside that for Foschell Ltd.

- 4.1.71 Please find the information below we wish to be considered in relation to Foschell Ltd.
- 4.1.72 The appeal has been submitted by Healthcare Plus Consulting, advisor on behalf of Foschell Ltd and shall be referred to as the Appellant within this document.
- 4.1.73 The Appellant appears to be appealing on the following grounds:
- 4.1.73.1 The Pharmaceutical Services Regulations Committee (PSRC) failed to acknowledge or discuss the impact of new housing developments.
 - 4.1.73.2 Consideration was not given to the journeys the residents in the developments would have to make.
 - 4.1.73.3 PSRC failed to place weight on undisputed evidence submitted by the applicant.
- 4.1.74 In considering and determining the application and subsequent appeal, the ICB has reviewed the 2022-2025 Norfolk Pharmaceutical Needs Assessment (PNA). The Norfolk PNA can be found at [Pharmaceutical Needs Assessment \(PNA\) updated - Norfolk Insight](#) along with the published supplementary statements.
- 4.1.75 The 2022-2025 Norfolk PNA does not identify any gaps in the provision of pharmaceutical services, either within normal working hours or outside of them. It does not articulate any current or future needs for, or current or future improvements or better access to, a particular pharmaceutical service or pharmaceutical services in general.
- 4.1.76 The Appellant refers to the closure of Boots the Chemist, Chaston Place, 29 High Street, Watton, IP25 6XE in January 2024 (*page 3 of the appeal document*) which has left one remaining pharmacy to serve the population of Watton and surrounding areas - Total Health Pharmacy, 14 Gregor Shanks Way, Watton, Norfolk, IP25 6FA. The Appellant states *"This closure has left a significant gap in pharmaceutical services within Watton; hence this application is offering unforeseen benefits not captured within the PNA," (page 3 of the appeal document)*.
- 4.1.77 The ICB notes that the closure of one pharmacy does not lead to the granting of an application for another. If the Norfolk Health and Wellbeing Board (HWB), was of the view that the closure of the Boots pharmacy would affect the granting of an application, it has arrangements in place to initiate a revised assessment of the PNA. The HWB has not initiated a revised assessment and publication of the PNA based on the closure of Boots.
- 4.1.78 It can be concluded that the HWB were therefore not of the view that this change was detrimental to the provision of pharmaceutical services, otherwise a revised publication would have been initiated. (The ICB is aware that the PNA is being revised – this is not due to a response to a change in the availability of pharmaceutical services but due to the routine 3-yearly publication of the PNA).
- 4.1.79 If the HWB thought a revised assessment of the PNA was disproportionate, it can issue a supplementary statement.

- 4.1.80 Supplementary statements are statements of fact which show there has been a change to the availability of pharmaceutical services since the PNA was written. They are not a vehicle for updating what the PNA says about the need for pharmaceutical services. Whilst the closure of Boots may be noted on a supplementary statement, it is not enough to say, "there is a gap." The HWB has a duty to articulate specifically what that gap is e.g. what specific service, or services are required, at what specific times etc. The HWB have not done this so it can be concluded that they were not of the opinion that the closure of Boots identified any sort of gap.
- 4.1.81 On review of the PNA 2022-2025, Watton and the surrounding areas is included within the Breckland locality. The PNA takes into consideration the population of the Breckland locality as well as future population growth and future housing developments. The PNA concludes after taking these factors into account: *"No gaps have been identified that if provided either now or in the future would secure improvements or better access to Advanced Services across Breckland locality,"* (PNA, page 100, 6.2.1.4).
- 4.1.82 The Appellant refers to the population size of Watton, the surrounding areas and the patient list size of Watton Medical Practice. The Appellant states *"Thus, when assessing the population that utilise pharmaceutical services in Watton, it is more prudent to assess the patient list size of local doctor's surgeries. Watton medical practice, situated in Watton, is the only doctor's surgery for 5 miles and has a patient list size of 14,394",* (page 3, appeal document).
- 4.1.83 The ICB notes there is nothing in the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended (the Regulations) that allows for applications to be granted or considered differently based on the size of a GP practice. There is no formula that says when a registered list size exceeds "X" an additional pharmacy is required. The image below shows that there are a number of registered patients that live outside of the practice boundary: [image provided]
- 4.1.84 It could be considered that those who reside out of the [sic] would use pharmaceutical services closer to their residence rather than travelling into Watton to use the pharmaceutical services provision available there. Likewise, if people can travel to access GP services, they are able to travel to access pharmaceutical services.
- 4.1.85 On review of the data held on the Census 2021 website, the map and associated data clearly shows that 83.9% of residents own one or more cars or vans. It also shows that 36.6% of those residing in Watton travel 6 miles or more to get to work. It could therefore be concluded that these residents obtain pharmaceutical services whilst travelling around Norfolk, on route to work, home, school, leisure activities etc. [Census maps provided]
- 4.1.86 The Appellant has stated *"Extrapolating this population figure allows us to conclude that Watton now only has 7 pharmacies per 100,000 people – well below the average for Norfolk (17.2/100,000) and England (20.6/100,000). Thus, it is apparent that pharmaceutical provision is dire in Watton, and common sense alone would dictate that there is a requirement for another pharmacy; however, we have set out distinct benefits of granting this application further on within this document,* (page 3, appeals document).
- 4.1.87 The PNA states the following for the Breckland locality: *"There are 21 community pharmacies including one DSP in this locality and the estimated*

average number of community pharmacies per 100,000 population is 14.9, which is lower than the Norfolk (17.2) and England (20.6) averages.

- 4.1.88 *There are nine dispensing GP practices. When the dispensing GP practices are added to the community pharmacies, the rate of pharmaceutical providers per 100,000 population increases to 21.2. (Note: "there are a further six dispensing GP branch practices in Breckland)." (PNA 6.2.1.1, page 98).*
- 4.1.89 The Norfolk HWB was therefore aware when assessing pharmaceutical needs that the average number of community pharmacies per 100,000 is lower than the Norfolk average however it accepted that when combined with the dispensing GP practices, there was adequate provision. If this was not the case, then the HWB would have articulated a specific gap.
- 4.1.90 Furthermore, the Norfolk PNA 2022-2025, looks at the pharmaceutical services provision within the Breckland locality as a whole rather than individual towns and villages. Whilst it might be helpful and convenient to have a pharmacy in every village and town, this is different from there being a need. The test is whether people can access pharmaceutical services within the Norfolk HWB. There is nothing to suggest that people within the Norfolk HWB cannot obtain their medicines and access pharmaceutical services.
- 4.1.91 There has been development and population growth in Watton however an increase in population does not automatically lead to the requirement to grant an application. The best estimate location given within the application states there is a Subway, Domino's pizza and a convenience store (*page 3, appeal document*). These take away food stores and the convenience store are not likely to cater for the entirety of residents' needs and therefore people will be travelling further afield for their shopping, leisure, education and work purposes. There is no evidence to suggest that people who live in Watton or who are moving into the area will not be able to access pharmaceutical services.
- 4.1.92 The Appellant describes in their appeal, the unforeseen benefits that will be offered and how they will secure improvements or better access to pharmaceutical services or pharmaceutical services of a specified type in the HWB area, (*page 6, appeal letter*).
- 4.1.93 The Appellant begins with population growth and lists the number of new homes that have been built within the east side of Watton (*page 7, appeals document*). The Appellant states:
- 4.1.94 *"The proposed location is at the epicentre of the majority of the above developments. All developments consist of large family homes and even at conservative levels we estimate that there are at least 3000 new residents surrounding the proposed site.*
- 4.1.95 *For the residents of Watton and especially for those residing within Watton's new housing developments, granting this application would secure better access and reasonable choice to pharmaceutical services," (page 7, appeal document).*
- 4.1.96 The Norfolk PNA refers to the new housing developments planned within the Breckland locality stating: *"New housing developments are planned for the locality during the period of this PNA; approximately 5,000 dwellings to house nearly 12,000 people. The area of highest development (based on the maps)*

is around Attleborough, where there are two community pharmacies” (PNA, 6.2.1.2, page 98).

- 4.1.97 The PNA also states *“Norfolk HWB will continue to monitor pharmaceutical service provision in specific areas within the locality where major housing developments are planned, to ensure there is capacity to meet potential increases in service demand” (PNA 6.2.1.2, page 99).*
- 4.1.98 Taking the above information from the PNA into account and noting the lifespan of the PNA (late 2025), it can be concluded that the HWB were assured that there are sufficient pharmaceutical services available for the population, noting the potential increase in population as residents occupy properties within the new developments.
- 4.1.99 It is also important to note that the Appellant refers to “new” residents. People choosing to live in a rural area would have made an assessment regarding the availability of local services and amenities and therefore would recognise that there are not several pharmacies in proximity as in an urban setting.
- 4.1.100 The Appellant has included on pages 8 and 9 of the appeal six reviews from Google in relation to Total Health Pharmacy. Of these six reviews, four are two stars or below, one is three stars, and one is five stars. All reviews are over a year old and relate to a time when the pharmacy was managed by a different corporate body. The Appellant has been selective with the reviews for inclusion. Within this timespan, there are over 50 reviews where 4 and 5 stars are given.
- 4.1.101 Recognising the Appellant’s reference to the *“reliant 15,000 population”* and the six reviews selected, 4 reviews at two star and below is not significant.
- 4.1.102 Noting the above, the ICB is always concerned to read feedback from patients who have not had a good experience when attending a community pharmacy.
- 4.1.103 The ICB acknowledges that it has had to address some concerns raised as two complaints were received by Norfolk and Waveney ICB between January and March 2024. The ICB were also contacted by the local GP practice.
- 4.1.104 As NHS Resolution will be aware, contractors will occasionally experience issues and receive complaints. The ICB has arrangements in place to deal with these matters and the solution is not always that a new pharmacy is needed and not a reason within the Regulations to grant a market entry application. The ICB visited both the GP practice and pharmacy and a clinical quality visit was undertaken. A further meeting was held around April 2024 and since that time there have been no problems or issues reported.
- 4.1.105 In November 2024, a change of ownership took place at Total Health Pharmacy and since this date there have been no reported issues or concerns.
- 4.1.106 Since PSRC were presented with dispensing data during the October 2024 PSRC meeting, there have been some changes to the way in which the residents of Watton and surrounding areas choose to have their medication dispensed and receive other pharmaceutical services: [Screenshots provided]
- 4.1.107 From the data above, Total Health Pharmacy still remains the top dispenser of prescriptions issued by Watton Medical Practice. Overall, the data still demonstrates that residents of Watton and the surrounding area are exercising their right to choose where they have their medications dispensed and how

they access wider pharmaceutical services. The data shows that patients are accessing a significant number of different pharmacies (some many miles from Watton) including distance selling pharmacies (DSP). In this case, two DSPs are within the top ten. Whilst the ICB recognises that DSPs are not the preference for all patients, some residents will choose to obtain their services from this type of contractor as not all essential and advanced services require face to face contact at the pharmacy premises.

4.1.108 The Appellant refers to the reduction of core hours at Total Health Pharmacy (*page 10, appeals document*). The ICB recognises that the introduction of 100-hour pharmacies was not assessed on need. The recent changes in reductions to 100-hour pharmacies are likely attributed to over provision of pharmaceutical services in areas.

4.1.109 It is pertinent to highlight that Total Health Pharmacy would not have undertaken the decision to reduce its core hours if it were believed that the community's needs could not be adequately met. Total Health Pharmacy provides a total of 72 core hours Monday to Sunday and 6 supplementary hours Monday to Saturday:

	Opening Hours										100:00	0:00
	S1		C1		S2		C2		S3		C3	
Monday			8:00	13:00			13:00	23:00				
Tuesday			8:00	13:00			13:00	23:00				
Wednesday			8:00	13:00			13:00	23:00				
Thursday			8:00	13:00			13:00	23:00				
Friday			8:00	13:00			13:00	23:00				
Saturday			8:00	13:00			13:00	20:30				
Sunday			8:00	13:00			13:00	20:30				

(Hours pre reduction)

	Current										72:00	6:00
	S1		C1		S2		C2		S3		C3	
Monday	9:00	10:00	10:00	13:00			14:00	21:00				

Tuesday	9:00	10:00	10:00	13:00			14:00	21:00				
Wednesday	9:00	10:00	10:00	13:00			14:00	21:00				
Thursday	9:00	10:00	10:00	13:00			14:00	21:00				
Friday	9:00	10:00	10:00	13:00			14:00	21:00				
Saturday	9:00	10:00	10:00	13:00			14:00	20:30				
Sunday			8:00	13:00			13:00	20:30				

(Hours post reduction)

4.1.110 The Appellant incorrectly states within the table on page 10 of the appeal document, that Total Health Pharmacy does not provide core hours on a Sunday following the reduction in hours. Total Health Pharmacy have always and continues to provide core opening hours on a Sunday from 08:00 to 20:30.

4.1.111 The Appellant further notes on page 13 of the appeals document: *“Per the current PNA, we understand that Total Health Pharmacy was previously open on Sundays serving the 15,000- reliant population. However, this is no longer the case, and we believe that this lack of Sunday opening hours has created a gap in provision”* (page 13, appeal document). The Appellant is incorrect. Total Health Pharmacy have always and continues to provide core opening hours on a Sunday from 08:00 to 20:30.

4.1.112 In addition, the ICB have checked all entries on the Directory of Services (DOS) and can confirm that the Sunday core hours for Total Health Pharmacy have never been removed nor have there been any changes to opening hours since the change of ownership in November 2024.

4.1.113 Therefore, the Appellant’s subsequent statement of *“Currently, the nearest pharmacy opening on a Sunday is the Tesco Pharmacy, NR19 1WB, which is 8.2miles away. For those seeking to access pharmaceutical services on a Sunday, this is clearly not a reasonable choice, especially for those residing in Watton and the surrounding villages. Clearly, by granting this application, access and reasonable choice to pharmaceutical services on a Sunday weekend as a whole will be significantly better”* (page 13, appeals document) is invalid.

4.1.114 From pages 11 to 13, the Appellant details the journey required to and from the estimated location of Wessex Drive, Watton, IP25 6XU to Total Health Pharmacy at 14 Gregor Shanks Way, Watton, Thetford, IP25 6FA. Total Health Pharmacy is just over one mile from the estimated location for the Appellant’s proposed pharmacy.

4.1.115 The Appellant refers to the journey for people wishing to access Total Health Pharmacy by foot, by car, and by public transport.

- 4.1.116 The Appellant notes that people travelling by foot from the proposed location to Total Health Pharmacy would walk 1.4 miles and reiterates that this journey *“is a barrier to access.”* The ICB notes that this is a rural area and those people who can or want to walk to their pharmacy may choose to do so. Having a longer journey on foot does not equate to the conclusion the Appellant has made that a 1.4 mile walk means there is not reasonable choice. Those people who do not or cannot travel by foot have the choice to access pharmaceutical services via private transport (e.g. car) or by public transport (e.g. bus) or a mixture of both.
- 4.1.117 The ICB notes that for any person travelling to Total Health Pharmacy (whether that be by car, public transport or on foot), depending on starting point, may have further to travel to get to the Appellant’s proposed location. Alternatively, the distance is such that a second pharmacy would not provide better access e.g. if you are driving 5 miles to Total Health Pharmacy, if this application were to be granted on appeal, you may then travel 4 miles. This would not likely change the way a person travelled to access their pharmaceutical services. In the example given above, they would still need to travel by car. The Appellant has not provided any evidence to demonstrate that those who use private transport are currently having difficulty in accessing the existing pharmaceutical provision in the area of the HWB.
- 4.1.118 For people travelling by public transport the Appellant details a 13-minute bus journey. This journey time is not excessive. Buses are every 50 minutes. Noting the rural setting and acknowledging that people who use public transport will be aware of the services and times, again, the ICB does not consider this excessive. Again, the Appellant has not provided any evidence to demonstrate that those who use public transport are currently having difficulty in accessing the existing pharmaceutical provision in the area of the HWB.
- 4.1.119 The HWB considered access and the journey people would take to access pharmaceutical services. It was content that the travel time was acceptable as the Norfolk PNA 2022-2025 concludes *“For some residents, the nearest provider of pharmaceutical services may be across the border in a neighbouring HWB area. Given the largely rural nature of Norfolk, many residents will be familiar with significant travel times, particularly in the evenings and at weekends, to access other services such as a supermarket”* (PNA, 3.9, page 78).
- 4.1.120 **Temporary Suspensions**
- 4.1.121 The Appellant refers to *“hundreds of temporary suspensions.”* The source of this information is Facebook. The ICB does not review Facebook and can only act on information raised directly with the ICB or via other stakeholders. The ICB does acknowledge however that it is concerning to read the experiences from patients. Whilst we do not review Facebook, as outlined earlier in this document, when the ICB were made aware of concerns, these matters were immediately dealt with by the ICB in line with the contractual framework. Action was taken, meetings were held with the parties involved and a clinical quality visit was undertaken by the ICB. Following these visits, the situation improved, and further issues and concerns have not been made.
- 4.1.122 It is also important to note that the Facebook screenshots and are in relation to the previous body corporate. Since the change of ownership there have been no temporary suspensions of service reported and no issues or concerns have been raised with the ICB.

4.1.123 As requested in your letter, the Regulations will now be addressed:

4.1.124 Regulation 31

4.1.125 PSRC noted that the applicant had provided the address of Wessex Drive, Vulcan Place Shops, Watton, Thetford, IP25 6XU for the location of the proposed pharmacy premises. The Committee noted that there are two nearest pharmacies. PSRC were not required to refuse the application under the provisions of Regulation 31.

4.1.126 Paragraph 31, Schedule 2 – conditional grant of applications where the address of the premises is unknown

4.1.127 PSRC noted that this Regulation does not apply as the applicant has provided the address of the proposed premises.

4.1.128 Regulation 18

4.1.129 Watton is within the Breckland locality and therefore, when the application was assessed, it was assessed against references to the Breckland locality within the Norfolk PNA 2022-2025. The assessment concluded with the following statements:

4.1.129.1 No gaps in the provision of Necessary Services have been identified for Breckland locality (*page 99, 6.2.1.2. Norfolk PNA 2022-2025*).

4.1.129.2 No gaps have been identified that if provided either now or in the future would secure improvements or better access to Advanced Services across the Breckland locality (*page 100, 6.2.1, Norfolk PNA 2022-2025*).

4.1.130 Regulation 18(1)(a)

4.1.131 PSRC noted it was required to determine this routine application and determine whether it is satisfied that granting the application or granting it in respect of some 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.

4.1.132 Regulation 18(1)(b)

4.1.133 PSRC noted the evidence within the Norfolk PNA 2022/2025 and took into consideration the supplementary statements. PSRC noted that Norfolk HWB had not detailed any gaps. PSRC further agreed that in order to be satisfied in accordance with Regulation 18(1), regard is to be had to those matters set out at Regulation 18(2).

4.1.134 Regulation 18(2)(a)(i) & (ii)

4.1.135 PSRC noted that there is no plan for the provision of pharmaceutical services in the area. Granting the application would therefore not cause significant detriment to the proper planning in respect of the provision of pharmaceutical services in the area of Norfolk HWB.

4.1.136 PSRC noted there was no evidence to suggest granting this application would cause significant detriment to the arrangements the ICB has in place for the provision of pharmaceutical services in that area.

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

4.1.138 Regulation 18(2)(b)(i)

4.1.139 PSRC noted that since 6 January 2024 there were no reported concerns relating to the closure of Boots Pharmacy, 1 Chaston Place, 29 High Street, Watton, Thetford, Norfolk, IP25 6XE outlining that residents have been unable to access pharmaceutical services or obtain their medication. Therefore, there is no evidence to suggest that patients cannot access pharmaceutical services.

4.1.140 It has since been evidenced on page 9 of this representation document, that the ICB has in fact received 2 patient complaints with regards to the perceived lack of pharmaceutical services since the closure of Boots in January 2024.

4.1.141 PSRC noted that patients are using a wide range of pharmacies for their pharmaceutical needs, and therefore it can be said that patients are exercising their choice. No evidence had been provided to demonstrate that those living in Watton, and the surrounding areas are currently unable to exercise a choice in obtaining pharmaceutical services within the Norfolk HWB.

4.1.142 PSRC took into account all the information and data presented to it and concluded that there is reasonable patient choice available. Patients use a variety of pharmacies within the wider area, which may be nearer to their home or work for example. It was clear that patients can access pharmaceutical services within the area of Norfolk HWB. It was evident that some patients are choosing to access Distant Selling Pharmacies (online services).

4.1.143 Regulation 18(2)(b)(ii)

4.1.144 PSRC noted the applicant provided no evidence with regard to the matter set out in Regulation 18(2)(b)(ii). Whilst it is accepted that there would be people with protected characteristics living in Watton and that some may need pharmaceutical services as a result, there is no evidence that they have any difficulty accessing such services. The Appellant makes one or two references to service users with protected characteristics in relation to travel to the second nearest pharmacy (page 2, appeal document). These are generic assumptions, and the Appellant has not identified any specific services which those with a protected characteristic are having difficulty accessing.

4.1.145 PSRC were 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 in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published.

4.1.146 Regulation 18(2)(b)(iii)

4.1.147 PSRC noted the applicant provided no evidence regarding innovative approaches in the delivery of pharmaceutical services, therefore were 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 in the area of the relevant HWB which were not foreseen when the Norfolk PNA, 2022 - 2025 was published.

4.1.148 The Appellant acknowledges in their appeal document that it *“does not seek to rely on 18(2)(b)(iii).”*

4.1.149 **Conclusion**

4.1.150 In summary, we remain of the opinion that the application should be refused.

4.1.151 In the publication of the 2022 – 2025 Norfolk PNA, the HWB has remained of the opinion that there is no gap in the provision of pharmaceutical services in this part of its area, or indeed any part of Norfolk, that would require needs, improvements or better access to be identified.

4.1.152 We appreciate there may be some convenience in having a new pharmacy, however this is different to one conferring significant benefits. Our priority is ensuring patients can access pharmaceutical services.

4.1.153 The regulatory requirements to identify an unforeseen benefit not in the PNA accompanied by the significant benefit considerations is a high threshold. We respectfully suggest that this appeal is without any substantive new or compelling evidence. We petition NHS Resolution to refuse the application as granting it will not confer significant benefits that were not foreseen when the PNA was published.”

4.1.154 Supporting information at Appendix D.

4.2 HEALTHCARE PLUS CONSULTING, ON BEHALF OF FOSCHELL LTD

4.2.1 “Thank you for your letter dated 19th December 2024. We have reviewed the appeal by Hurn Chemists. At this stage of the process we have no further comments, but attach our prior comments made at ICB level for re-consideration below.

4.2.2 We maintain that the application from Hurn Chemists Ltd should be refused, and the application by Foschell Ltd should be granted. This is due to our client’s application offering more core hours at a more accessible location. In particular the weekend core hours proposed by my client improve accessibility.”

Letter to the Commissioner dated 6 May 2024

4.2.3 “Thank you for your letter dated 26th March 2024. I act for Foschell Ltd and have been instructed by my client to object to the above application.

4.2.4 My client agrees with the Applicant that a new pharmacy is required in Watton, however, asserts that the application from Foschell Ltd should be preferred for the following reasons:

4.2.4.1 The location proposed by my client is situated in East Watton, where the vast majority of housing has been built. Indeed, we estimate that East Watton has seen over 1000 new homes built over recent years. Current pharmaceutical provision is 1.4 miles from my client’s proposed site, however the location proposed by Hurn Chemists is a mere 0.2 miles from current pharmaceutical provision. Clearly granting my client’s application would provide much greater access and choice to pharmaceutical provision.

4.2.4.2 We note that Hurn Chemists offer 40 core opening hours Monday-Friday, much like my client. However, my client offers 6 core opening

hours on the weekend, compared to the 4 core hours proposed by Hurn Chemists. It is noteworthy that my client has proposed 7-day a week opening compared to the 6-days proposed by Hurn Chemists; thus, providing better access to pharmaceutical provision. Hurn Chemists appear to have offered a number of supplementary hours, however as the committee will be aware, supplementary hours can be withdrawn easily and thus no weighting should be placed on them.

4.2.4.3 Therefore, this application from Hurn Chemists Ltd should be refused, and the application by Foschell Ltd should be granted.”

4.3 PSC, ON BEHALF OF ROSEMEAD LTD

4.3.1 “We act for Rosemead Ltd (trading as Total Health Pharmacy) and have enclosed a letter of authorisation from our client accordingly.

4.3.2 Our client has passed us a copy of your letter informing them of the above appeals against the refusal of both applications named above.

4.3.3 Rosemead Ltd had been notified of the original application in accordance with Para 19 of Schedule 2 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (as amended) (“ the Regulations”) and made representations on the application. They were notified of the appeal on the 27th March 2025 in accordance with paragraph 3(1) of Schedule 3 of the same Regulations and are exercising their right to make representations. This right is awarded them pursuant to paragraph 3(2) of the Regulations.

4.3.4 On behalf of Rosemead Ltd, who provided pharmaceutical services from premises at 14 Gregor Shanks Way, Watton, Norfolk, IP25 6FA, I wish to object and make the following representations.

4.3.5 Regulatory tests

4.3.6 This application has been submitted pursuant to Regulation 18 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (as amended).

4.3.7 The appeal panel is required to determine whether granting the application would secure improvements in, or better access to, pharmaceutical services in the HWB's area which were not included in the relevant pharmaceutical needs assessment.

4.3.8 The appeal panel must have particular regard to the matters set out in regulation 18(2). It must consider whether it is satisfied, having regard in particular to the desirability of-

4.3.8.1 There being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB;

4.3.8.2 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;

4.3.8.3 There being innovative approaches taken with regard to the delivery of pharmaceutical services

- 4.3.9 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.
- 4.3.10 To the extent that there is a burden of proof, it is submitted that this rests with the applicant. That is, it is for the applicant to demonstrate to the ICB that the application meets the regulatory test, not for our client to demonstrate that it does not meet the relevant regulatory test.
- 4.3.11 The applicant is invited, in part 6 of the application form, to “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.”
- 4.3.12 We submit that the information provided by either of the appellants is not sufficient to satisfy that the requirements of Regulation 18 have been met.
- 4.3.13 a) Accessibility
- 4.3.14 Total Health Pharmacy is located adjacent to the only medical centre in Watton, within the centre of the town near to a large Tesco and the services and amenities that are available on the High Street that residents access in the course of normal living.
- 4.3.15 Total Health Pharmacy offers extended opening hours until 9pm five days a week and is also open until 8.30pm on a Saturday and Sunday. It is located not more than 0.2 miles from the proposed location of Hurn Chemists Ltd application and 1.4 miles from the site proposed location of Foschell Ltd. The existing hours (78 hours) far exceed those proposed in either application.
- 4.3.16 Total Health pharmacy was granted as a 100 – hour pharmacy and applied within the amended regulations from May 2023 to reduce the trading hours to 78. The hours reduction has been wholly in keeping with the Regulations. The appellant, Hurn Chemists, has mis-read the supplementary statements as it clearly states on the updated supplementary statements that they are to be read in conjunction with the PNA. The PNA specifically states “ *As part of this assessment no gaps have been identified in provision either now or in the next three years for pharmaceutical services deemed necessary by the Norfolk HWB.*”
- 4.3.17 Whilst we appreciate that supplementary hours can be changed with 5 weeks’ notice, our client has no intention of amending their trading hours to core hours only and is in fact reviewing the opening hours to extend them in line with surgery opening hours as part of the takeover plan. Even if it did, the 72 core hours it is required to open far exceeds those offered in either application. Furthermore, if the ICB felt there were any gaps with the current opening hours they could introduce directed hours with Total Health Pharmacy to cover any perceived need for pharmacy services during any other hours.
- 4.3.18 From both of the proposed locations, accessibility to the existing pharmacy is possible by both public and private transport. It is also possible to walk between the sites.
- 4.3.19 Car ownership in this area is significantly higher than the East of England as a whole, with only 13.3% of households not having access to a private vehicle in the Watton area when compared to 16.8% of households in the whole of the East of England and an England average of 23.5%.

Furthermore, the number of households with two or more vehicles is also greater with 43.9% when compared to 41.6% for the whole of the East of England. This is in keeping with locations that are more rural in nature and the expectation of having to travel further to access employment or major services. Car parking is available within the town centre in a number of free car parks which also have disabled parking spaces.

- 4.3.20 Buses operate every 30 minutes throughout Watton. Appendices 1,2 and 3 provide copies of the bus routes available that connect Watton to Thetford, Norwich, Dereham and the surrounding areas across routes 3,3B,6,11, 11A and 81. Whilst we appreciate that traffic can sometimes cause delays, this is the same in any area in England and is not limited to this area alone. In our opinion this bus service is entirely acceptable for a rural area.
- 4.3.21 Furthermore, the terrain across the Watton areas is flat with illuminated wide pavements and dropped kerbs for access by wheelchairs, mobility scooters and pushchairs.
- 4.3.22 As residents are mobile and have the ability to access pharmacies out with Watton, there are pharmacies which are accessible within a 10-mile radius by the most practical route and residents do so on a frequent basis. This is discussed in further detail below as it also relates to choice. These pharmacies offer a range of opening hours including an extended hour pharmacy operated by Tesco in Dereham.
- 4.3.23 Additionally, whilst there has been a record of historical closures of the pharmacy between April 2022 and November 2023, these issues have now been resolved. There is now a full-time pharmacist, supported by a second pharmacist working in the pharmacy so there is limited reliance on locum pharmacists which has improved the availability of pharmacy services in the locality. The company also has a bank of regular locums to ensure that the pharmacy has a pharmacist present during all of its opening hours and accessible to the reliant population.
- 4.3.24 In summary, the pharmacy is located within Watton and is easily accessible to the resident population and those in the surrounding area and the ICB correctly applied the regulatory test.
- 4.3.25 b) Protected characteristics
- 4.3.26 Both appellants have failed to describe what patient groups with protected characteristics exist within the area and how access for these groups of patients would be improved upon by granting the application.
- 4.3.27 Given that the burden of proof rests with the applicants, it is up to them to demonstrate that people who share a protected characteristic do not have *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))*.
- 4.3.28 They have failed to provide evidence to support this.
- 4.3.29 c) Reasonable choice
- 4.3.30 Choice exists within Watton for pharmaceutical services. It is our position that one pharmacy provides adequate choice (and NHS Resolution have often

found this to be the case) but when considering where patients have their prescriptions dispensed that originate at Watton Medical Centre it is even more evident.

- 4.3.31 In September 24, data from Pharmdata shows that Watton Medical Centre prescribed 28,505 items and these prescriptions were dispensed over 81 different pharmacies. When focusing on more than 100 dispensed items in community, there are 10 different pharmacies dispensing this medication. Appendix 2 breaks this information down per pharmacy. The location of these pharmacies is in excess of 6 miles (Hingham) and often 10 miles (Dereham). This reflects the fact that Watton is within a rural area and patients registered with the surgery here travel into the town from far and wide.
- 4.3.32 This supports the ICB decision that choice exists across the Watton and ICB area as a whole, as patients have access to dispensing services where it is convenient for them in the course of normal living, i.e. close to their place or work or study.
- 4.3.33 Whilst dispensing is only one element of pharmaceutical services, as pharmaceutical services are being accessed in pharmacies other than Watton, it would then follow that if a patient can access dispensing services where they find themselves in the course of normal living then enhanced and advanced services would also be equally accessible within a reasonable distance, offering a choice of these services.
- 4.3.34 Total Health Pharmacy already offers all essential services, including the discharge medicines service and is in talks with the ICB to extend the already provided enhanced, advanced and locally commissioned services that are commissioned by the ICB.
- 4.3.35 The pharmacies in the wider area are owned and operated by different pharmacy contractors so supporting the argument that choice of contractor also exists in addition to a choice of location.
- 4.3.36 d) Securing improvements
- 4.3.37 The appellant, Foschell Ltd, has stated that having another pharmacy located within Vulcan Place shops would improve access by reducing the journey time to the existing pharmacy located within the town centre. We contend that having a pharmacy located on every street corner would arguably improve access to pharmaceutical services, but this would not be needed to meet the needs of the residential population and would be a financial burden on the NHS.
- 4.3.38 The pharmacy within Watton, and those pharmacies in the surrounding area, are accessible within a reasonable distance for a mobile population. The pharmacy location proposed by Foschell Ltd is removed from the town centre with very few other services and amenities surrounding it, as it is primarily a residential development. By the appellant's own admission, there are good transport links to the proposed location and following this thought, the reverse would also be true i.e. the area is connected to Watton town centre as well as surrounding areas.
- 4.3.39 Furthermore, there have been supplementary statements issued by the HWB since the closure of the Boots pharmacy and no unmet pharmaceutical need has been identified. If a gap had been identified this would be included in the supplementary statement as a current or future need.

- 4.3.40 The burden of proof for a pharmaceutical need is on the applicant and the application still has to fully satisfy the regulatory test and no evidence has been provided.
- 4.3.41 e) Future developments and housing developments
- 4.3.42 The applicants have made reference to future housing developments but not what the pharmaceutical needs are for the growing population or how these will remain unmet if the applications were not granted. Furthermore, the appellants have failed to identify what pharmaceutical needs are currently unmet within the existing population, as well as those of the future population. The burden of proof is on them to establish there is any unmet pharmaceutical need but broad reference to future population growth fails to meet this test.
- 4.3.43 f) Service Innovation
- 4.3.44 The applicant, Hurns Chemists Ltd, has stated that they will have an independent prescriber located in the pharmacy but has failed to describe how their pharmacy will be innovative. Pharmacists being independent prescribers is a regular occurrence in community pharmacy and cannot be considered innovative. Additionally, having two consultation rooms in community pharmacy is now common and cannot be considered innovative. Total Health Pharmacy will have a second consultation room added within the next few months and is already in an advanced stage to have a robot installed in the pharmacy as part of the business improvement plan.
- 4.3.45 The ICB have correctly assessed information provided against the Regulatory test and their decision is correct.
- 4.3.46 g) Impact on proper planning or provision in the local area.
- 4.3.47 The ICB would be aware of any plans that they have for further planning of pharmaceutical provision in their area. We are not aware of any plans that may be impacted as a result of the grant of either of these applications.
- 4.3.48 Further considerations
- 4.3.49 The closure of one pharmacy does not automatically lead to a granting of a replacement without there being a pharmaceutical need and an application that fully satisfies the regulatory test.
- 4.3.50 The appellants have provided screen shots of the comments on social media regarding the closure of the pharmacy on Sundays to suggest that this provides evidence of a lack of accessibility to pharmacy services. It is worth noting that this evidence is from April 2022 - November 2023 and is not recent evidence. These closures were occurring at the time when there was an industry wide challenge on locum availability especially in more rural areas. This has now been resolved and the ICB carried out a Quality Assurance Site Visit (report included in Appendix 5) and the pharmacy was deemed to have Full Assurance.
- 4.3.51 Since this visit, the pharmacy has undergone a change of ownership and is now owned and operated by Delta and North Ltd, who have a robust operational plan to ensure that there is always locum cover available to cover days off/ sickness to ensure the terms of service are consistently met. Furthermore, one of the regular locums is an independent prescriber. A visit by the ICB also occurred on the 13th January 2025 for them to visit the new owner

and they have agreed plans for the provision of a full range of enhanced and advanced service already available, along with any future service developments, including the full time pharmacist working in the pharmacy is currently undertaking training to be an independent prescriber, and to be involved in future rotas to cover opening on all bank holidays.

- 4.3.52 Appendix 6 are screen shots of the positive feedback left on Google, NHS choices, and local social media groups that show the improvements to the accessibility and service levels for the reliant population. Furthermore, Total Health Pharmacy has been open across the Easter period and has made a commitment to be open on all further bank holidays.
- 4.3.53 In conclusion, this application falls a long way short of providing any evidence that might lead the appeal panel 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.
- 4.3.54 Should the panel decide to hold an oral hearing I can confirm that our client would wish to attend."
- 4.3.55 Supporting information at Appendix E.

5 Observations

5.1 HURN CHEMISTS LTD

- 5.1.1 "I am making comment in response to and in support of our unforeseen benefits application detailed above based on the comments received from interested parties.
- 5.1.2 Our comments are:
- 5.1.3 The basis of objection to our application from HWE ICB is based solely around the HWB PNA not identifying gaps in pharmaceutical service provision and the lack on any supplementary statements. HWE ICB also raise concern about HWB 'misunderstanding' of the purpose of the PNA and supplementary statements. We believe that gaps do now exist and as the PNA is in process of being updated, effort is not being placed on supplementary statement updates so cannot be relied on for accuracy of pharmaceutical provision.
- 5.1.4 HWE ICB seems to have the view that rural locations do not afford equitable access to pharmaceutical services and new residents locating to such areas 'take this into account'. The census data about car ownership and bus timetables is irrelevant in context of reasonable access to pharmaceutical services. Watton is a major rural town with no near neighbours. Watton is a higher deprivation area and also has a higher older population so additional living costs are a reasonable consideration.
- 5.1.5 HWE ICB state it is 'likely' residents of Watton access pharmaceutical services on their travels to and from work. This is non evidenced and unsupported. The nearest pharmacy is Boots, Hingham and only receive 470 items per month from Watton surgery (out of 32,000 issued).
- 5.1.6 Whilst Total Health Pharmacy dispense more than 20,000 items per month this only represents 67% of the total output from Watton medical practice. As a sole pharmacy, this is a low proportion indicating dissatisfaction with service provision as more than 20% of items are dispensed by DSP pharmacies. DSP

pharmacies are unable to provide face2face consultations so accessing services other than dispensing is restricted. This does not represent choice.

- 5.1.7 HWE ICB state that the reduction in core hours for Total Health Pharmacy (from 100hrs to 72hrs) is likely based on initial over provision of service and would have not occurred if this meant needs were [sic] not met. If this was the case, why have pharmaceutical services not been delivered in line with national data expectations (refer to initial supporting data). Current PharmData to October 2024 still show an under delivery of services based on the high dispensing volumes and population of the area. Also, it is noted that all 100hr Norfolk pharmacies have reduced their core hours to the 72hr minimum indicating this is purely a commercial decision not based on need.
- 5.1.8 Our core hours do compliment the local surgery whilst being synergistic to that of Total Health Pharmacy resulting in both pharmacies, together, providing overall continual core opening throughout the week. Our application was keen to highlight and recognise the workforce and financial pressures endured by community pharmacy so, as mentioned by HWE ICB, considered core hour provision can still ensure needs are met, whilst reducing the possibility of non-viability. This does not imply we feel needs are met currently, far from it hence our unforeseen benefits application, but reasons why our core hours are what they are. Too often, pharmacies are in competition with each other rather than working together for the benefit of pharmaceutical service provision to the population.
- 5.1.9 Our belief it [sic] that the needs of the population are often not considered. Representatives of the town (Town Council) and local MP support the need for a second pharmacy in Watton and have a better understanding of need. Patient surveys have never been utilised to collate views of the population. Basing decisions on the number of complaints received is a very outdated non inclusive process. Where no choice is available, services users tend not to complain, especially within community pharmacy. We would support HWB actively surveying patient population of Watton to determine need.
- 5.1.10 Our understanding of innovative services is those that deliver additional benefit to the population and support NHS aims. Innovation should also be based on what is NOT currently being offered. Independent pharmacist prescribing would be extremely beneficial to the area and better support the NHS agenda of pharmacy first.
- 5.1.11 Overall, Watton population is growing faster than average, is a rural community, has limited transport links and a higher older population. Pharmaceutical services are not simply dispensing services. Pharmaceutical healthcare services from community pharmacies are the NHS agenda and are currently very under provided based on actual services provisions against national expectations. Patients of Watton do not have reasonable choice or access.
- 5.1.12 We would welcome the opportunity to attend an oral hearing to better represent our views."

5.2 HEALTHCARE PLUS CONSULTING, ON BEHALF OF FOSCHELL LTD

- 5.2.1 "Thank you for your letter dated 30th April 2025. We note the responses made by interested parties on my client's appeal and respond accordingly here.

5.2.2 **Observations**

- 5.2.3 Total Health Pharmacy state that additional pharmacy provision would be a financial burden on the NHS. We submit that this claim is ultimately incorrect. It will be known to the Committee that UK pharmacies operate under a fixed funding model, and all pharmacies are funded from the same fixed pot of money. Whether there is an increase or decrease in pharmacies; there will not be an increase/ decrease in the cost to the NHS. We submit that this is likely why the regulations speak to securing 'better access' opposed to considering financial matters.
- 5.2.4 We reiterate that a new pharmacy would provide better access to meet the needs of the growing population, especially when we consider the greater health needs in the area.
- 5.2.5 According to the 2019 Index of Multiple Deprivation, we note that there are pockets of deprivation within Watton, with some areas among the top 20% most deprived areas in the country. This is especially pertinent when we consider that one of these pockets includes the area of our client's proposed site (Breckland 010F LSOA).
- 5.2.6 According to 2021 Census data, the Watton Ward has 29.1% of residents aged 65 and over, which is significantly higher when measured against the Breckland Local Authority average (25%) and England average (18.3%).
- 5.2.7 We highlight the bad/very bad health metrics of the Breckland 010F LSOA, which reveals there to be 6.3% of residents with bad/very bad health. When we compare this to the Breckland Local Authority average (5.4%) and the England average (5.2%), we can clearly see that the area of the proposed site is of much poorer health.
- 5.2.8 We also note that a significant proportion of residents living in the Breckland 010F LSOA are not economically active. There are 48.5% of residents who are economically inactive which, when compared to the local average (41.9%) and the national average (39.1%), is clearly representative of poor economic outcomes within the local population.
- 5.2.9 In their representation, Total Health Pharmacy also comment that residents in Watton are mobile. When we look at the number of residents who are disabled under the Equality Act 2010 in the Breckland 010F LSOA, we submit there are 24.7% of local residents who are disabled. When compared to the local average (19.6%) and national average (17.3%), it is clear that there are residents who are limited in mobility near the proposed site. Thus, when looking at data, that residents near the proposed site do not in fact have great mobility.
- 5.2.10 It is clear that the residents living in the area of the proposed site have poor health; poor mobility; and poor economic outcomes. We submit that these residents do not have reasonable choice or sufficient access to pharmaceutical provision.
- 5.2.11 Total Health Pharmacy also draw attention to levels of car ownership in this area, but we note that there are still 13.3% of households which do not have access to a car. Given that there are pockets of deprivation within Watton which fall under the top 20% most deprived areas in the country, including the LSOA of the proposed site, we submit that the cost of travel i.e. petrol costs and bus fares can present barriers to access for the residents living in this deprived area. Therefore, excessive distances or costs can deter people from accessing pharmaceutical services. With the advent of Pharmacy First, it is

important to have pharmacies located within communities. Residents are more likely to access minor ailments services and general advice in connection with other amenities as part of their daily lives, leading to better health outcomes. This holds especially true for those residents who live near the proposed site who, as demonstrated above, have much greater health needs.

- 5.2.12 It is also pleasing to hear that Total Health Pharmacy now acknowledge the significant amount of pharmacy closures conducted during contracted core hours. It is apparent that the ICB appear to have been unaware of these closures.
- 5.2.13 In their representation, Total Health Pharmacy mention that there are two pharmacists working in the pharmacy. We submit that having two pharmacists is not a compulsory NHS service and thus not enforceable under the contract. Total Health Pharmacy can reduce their pharmacist count to one at any time and thus no weight should be placed on this.
- 5.2.14 Total Health Pharmacy also cite the Quality Assurance Site Visit as evidence highlighting that issues are no longer present. However, upon review of the documentation, it does not appear that the ICB assess adherence to core opening hours in these visits. We also note that the conclusion given by the ICB reported 'Full Assurance' opposed to the quality benchmark of 'Substantial Assurance'. We submit that a second pharmacy in Watton would ease the clear pressures on Total Health Pharmacy and actually help pharmaceutical provision in the area achieve 'Substantial Assurance' – an important benchmark for healthcare settings.
- 5.2.15 We also note that Total Health Pharmacy claim to not have received any complaints regarding the service provided since a change in core hours and ownership. They have also included screenshots of some feedback online. We have provided Google Reviews below with recent negative feedback. [See Appendix F]
- 5.2.16 The images above show two recent 1-star reviews (one from as recent as one week ago), followed by another 1-star review. It is clear that there are still issues with the service provided by Total Health Pharmacy. Notably, even the positive reviews surrounding Total Health Pharmacy still note how busy the pharmacy is.
- 5.2.17 [XXX] states that the pharmacy *"requested me to wait for my prescription for an hour"*. We do not consider an hour long wait to receive a prescription as representative of reasonable choice, especially when we consider that Total Health Pharmacy is the only pharmacy to serve the large reliant population. We submit that such lengthy waiting times are symptomatic of patients having no pharmaceutical choice, much less than the threshold of 'reasonable choice'.
- 5.2.18 The reviews on social media which Total Health did include in their representation also largely appear to praise the staff. However, we submit that there was also a review on this local community group which does not demonstrate improvements to the accessibility and service levels for Watton's large reliant population.
- 5.2.19 We have included this below: [See Appendix F]
- 5.2.20 The patient above comments that they have been given the wrong medication. To read that *"this is the second time in 4 months that they have issued an incorrect prescription"* is not only very concerning but indicates that Total

Health Pharmacy are indeed struggling with capacity and have been for a while.

- 5.2.21 Total Health Pharmacy also raise concerns surrounding our client's proposed location, stating that it is removed from the town centre with very few other services and amenities surrounding it. We do not understand how this conclusion has been drawn. We reiterate that the parade itself includes shopping and food amenities, which we have listed below:

5.2.21.1 SPAR Convenience Store (including a Post Office)

5.2.21.2 Subway

5.2.21.3 Domino's Pizza

5.2.21.4 Costa Express

5.2.21.5 ATM

- 5.2.22 We reiterate that there is also a large Lidl supermarket located a 5-minute walk away from the proposed site. This Lidl supermarket is newly built and will attract residents from all over Watton to the area.

- 5.2.23 We submit that patients can easily combine daily shopping activities in connection with a visit to the pharmacy at the proposed site. Providing the comprehensive list of amenities located near the proposed site:

5.2.23.1 Lidl

5.2.23.2 Care Home

5.2.23.3 Community Centre

5.2.23.4 Beauty Salon

5.2.23.5 Gym

5.2.23.6 Petrol Station

5.2.23.7 Nursery and Pre-School

5.2.23.8 Children's Play Centre Car Wash

5.2.23.9 Car Dealership

5.2.23.10 Home Furniture Shop

5.2.23.11 Tyre Shop

5.2.23.12 Auto Parts Store

5.2.23.13 Massage Therapists

5.2.23.14 Brow Beauty Services

5.2.23.15 SPAR Convenience Store (including a Post Office)

5.2.23.16 Subway

5.2.23.17 Domino's Pizza

5.2.23.18 Costa Express

5.2.23.19 ATM

5.2.24 According to recent data, Total Health Pharmacy dispensed 22,205 items as of October 2024 (Pharmdata). We submit that this figure is much greater than the average number of items dispensed by a pharmacy in the UK. There are evidently significantly higher pressures on the single pharmacy in Watton than normal.

5.2.25 Total Health Pharmacy note that the items prescribed by Watton Medical Centre were dispensed across 81 pharmacies. We highlight to the Committee that Total Health Pharmacy dispenses c.68% of the surgery's items, so very much has the lion's share of the market.

5.2.26 Pharmacy2U is the next largest dispenser, dispensing c.12% of the surgery's items. We note that items originating from Watton Medical Practice to Pharmacy2U prior to the Boots closure in January 2024, was c.3% of the surgery's items. Evidently, people have been forced to go to DSPs following the closure of the Boots Pharmacy, owing to a lack of choice within Watton.

5.2.27 The next 3 largest dispensers for items originating from Watton Medical Practice are also DSPs. This can be seen from the snip overleaf: [See Appendix F]

5.2.28 It is clear that residents of Watton are being forced to utilise DSPs as Total Health Pharmacy is unable to cope with demand, and alternative bricks-and-mortar pharmacies are not accessible.

5.2.29 Whilst we appreciate that Distance Selling Pharmacies deliver medication, this still does not represent sufficient access for a number of residents. Firstly, there will be a number of residents who are unable to navigate the barrier that is the internet. Also, elderly residents can often have vastly changing medication and require a regular local pharmacist to aid the patient with any medication changes, and with adherence to prescribed medication. Moreover, DSPs cannot deliver face to face services such as COVID or flu jabs.

5.2.30 **Conclusion**

5.2.31 We maintain that granting our client's application would secure better access and improvements to pharmaceutical services in Watton and the surrounding areas.

5.2.32 Our client's application intends to meet the needs of Watton's high elderly and deprived communities by introducing pharmaceutical provision in one of the most deprived areas in Watton.

5.2.33 Additionally, our client's application seeks to support the existing primary care network by offering extensive core opening hours coverage for 7 days a week.

5.2.34 We emphasise that our client's proposed site is located in eastern Watton. We submit this is the most appropriate location for a new pharmacy due to the

large number of housing developments being concentrated on the east side of Watton, and the erection of the new Lidl Supermarket at this location.

- 5.2.35 A pharmacy at my client's proposed site would not only improve physical access to pharmacy provision, but it would also relieve the clear pressures on Total Health Pharmacy.
- 5.2.36 We submit that Regulation 18 has been met through all representation and thus we invite the Committee to grant our client's application."
- 5.2.37 Supporting information at Appendix F.

ANNEX A

REF: SHA/26412

APPEAL AGAINST NHS NORFOLK AND WAVENEY ICB DECISION TO REFUSE AN APPLICATION BY HURN CHEMISTS LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT RETAIL UNIT, 1 CHASTON PLACE, HIGH STREET, WATTON, NORFOLK, IP25 6XE

1 The Application

By application dated 23 February 2024, Hurn Chemists Ltd applied to Norfolk and Waveney ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Retail Unit, 1 Chaston Place, High Street, Watton, Norfolk, IP25 6XE. In support of the application it was stated:

- 1.1 **Please describe the unforeseen benefit(s) that you are offering to secure and how it will secure improvements or better access to pharmaceutical services, or pharmaceutical services of a specified type in the HWB's area.**
- 1.2 "The current HWB Pharmaceutical Needs Assessment published 2022 (PNA) did not identify any gaps in pharmaceutical service provision **BUT** was determined with two contractors open in the Watton area i.e., Boots the Chemist (Watton) and Total Health Pharmacy Ltd.
- 1.3 The recent unplanned closure of Boots in January 2024 and the reduction in core hours (100hr to 72hrs) of the only remaining pharmacy, Total Health Pharmacy Ltd has, in our opinion, created a significant gap in pharmaceutical provision and greatly reduced choice and access, to adequate pharmaceutical services for residents of Watton and surrounding areas. This represents a 50% reduction of available core pharmaceutical services hours and are no longer synergistic to the core opening times for Watton Medical Practice.
- 1.4 To our knowledge, no supplementary statement has been published in relation to pharmacy services within this area. Therefore, this application is properly made to provide 'unforeseen benefits' to the local community in accordance with Regulation 18.
- 1.5 This application is not made in competition to the current provider (Total Health Pharmacy Ltd) but a replacement for the loss of a long-established pharmacy contractor (Boots), the reduction of core hours and as a result the unforeseen loss of access and choice to adequate pharmaceutical services to residents of Watton and surrounding area.
- 1.6 Watton has been served by two pharmacy contractors since 2005 when Total Health Pharmacy Ltd first opened.
- 1.7 **We believe that, should NHS England ("NHSE") grant this application it will secure improvements in terms of both the access to pharmaceutical services and choice for the local population as well as the range of services provided in the wider area. Granting this application will also deliver NHSE Pharmacy First initiative within the Watton area and reduce pressure on local primary care GP services.**
- 1.8 Please see attached additional supporting information for more detailed [sic]"

- 1.9 **Please explain how you intend to secure the unforeseen benefit(s).**
- 1.10 "To our knowledge, no supplementary statement to the Pharmaceutical Needs Assessment (PNA) has been published in relation to pharmacy services within this area. Therefore, this application is properly made to provide 'unforeseen benefits' to the local community in accordance with Regulation 18.
- 1.11 **The unforeseen benefit(s) would be secured by:**
- 1.12 Replacing the 'lost' core hours from the unplanned closure of Boots **and** the reduction in core hours of Total Health Pharmacy Ltd, whilst structuring Hurn Chemists Ltd.'s core and supplementary hours to compliment that of Total Health Pharmacy Ltd (without unnecessary duplication) and the Watton Medical Practice. Granting this unforeseen benefits application will provide (together with Total Health Pharmacy Ltd core hours) continuous access and provision of pharmaceutical services to residents of Watton and surrounding area from 08:30 to 21:00 Monday to Friday, and 08:00 to 20:30 Saturday and Sunday.
- 1.13 It would be unreasonable to require residents of Watton and surrounding area to access the next nearest pharmacy (Boots Hingham, 6 miles away) when they need access to pharmaceutical services before 10:00am and between 13:00 and 14:00 Monday to Friday. This is particularly relevant to those without vehicle access and/or of protected characteristics (elderly, less able, families with young children).
- 1.14 The active provision of, and access to, a fuller range of advanced and local enhanced pharmaceutical services (which are currently not being offered or delivered) to residents of Watton and surrounding area will contribute greatly to the health and wellbeing of the local population."
- Supporting information
- 1.15 **"Background information**
- 1.16 Watton Medical Practice has a patient list size of approximately 14,320 patients (Dec 2023). The catchment area includes the immediate town and the surrounding hinterlands/villages.
- 1.17 Watton population data from 2021 census is 14,205 which covers the town of Watton and surrounding villages (Walton County Electoral Division).
- 1.18 Like a lot of rural towns, Watton has experienced a significant and consistent increase in population over the last 10 years, and this continues with multiple residential developments occurring in all directions (N, S, E and W) around Watton. The Breckland local plan highlights further residential development. Currently large-scale building is occurring south along Thetford Road (Barratt Homes) and West, 180 houses are planned off the Brandon Road. The proposed pharmacy at Chaston Place remains centrally located to these new developments.
- 1.19 Watton is a typical Norfolk linear market town with the main business hub centralised around the high street. Watton residents have access to multiple varied retailers, small and large, a banking hub, post office, newsagents, building societies, dentist, Health clinic, supermarkets, cafes and eateries, library, schools, pubs, offices of the Parish Council, a sports and social club, churches, and a large purpose built Medical Practice. There is also a long-established and popular weekly market held on the high street every Wednesday.

- 1.20 There is a reliable and frequent bus service (Konectbus route 3 and 6) into Watton High Street which has buses running every 30mins enabling residents living in the outer parts of Watton easy and reliable access to high street businesses include [sic] Walton Medical Practice. Norfolk County Council operate the popular 'Wayland Flexibus' service linking outlying Wayland villages to Watton Town Centre.
- 1.21 Watton is also connected by Norfolk County Council's community car scheme 'Transport Plus' specifically for Medical, Health and wellbeing, and shopping purposes to improve access to these essential services.
- 1.22 Watton town also has plenty of free, convenient car parking allowing easy access to high street services.
- 1.23 **Current Pharmaceutical Services**
- 1.24 Total Health Pharmacy Ltd dispenses approximately 21,000 prescription items per month, and Boots had a volume of approximately 5000 prescription items per month (NHS data).
- 1.25 With the closure of Boots, it is reasonable to assume that Total Health Pharmacy will be required to absorb this additional prescription volume. Dispensing data shows only a small percentage of items are dispensed from pharmacy contractors outside of Watton (NHS information portal). Concern about the ability of Total Health Pharmacy Ltd to manage this sudden unplanned increase in demand has been raised by Watton Town Council in their letter supporting this application for a second pharmacy contract. Social media evidence and NHS service reviews also exists highlighting increased concern with poor service levels.
- 1.26 The next nearest pharmacies to Watton are:
- 1.26.1 Boots, Hingham (6 miles)
 - 1.26.2 Well Pharmacy, Swaffham (7.8 miles)
 - 1.26.3 Boots, Swaffham (7.9 miles)
 - 1.26.4 Wellbeing Pharmacy, Toftwood (8.1 miles)
 - 1.26.5 Allied Pharmacy, Attleborough (8.8 miles)
- 1.27 Total Health Pharmacy have recently (February 2024) reduced their core NHS contracted hours from 100hrs to 72hrs per week. Monday to Sunday. The official NHS service finder website details opening hours as: (NHS service finder website)
- 1.27.1 10:00 to 13:00 and 14:00 to 21:00 Monday to Friday
 - 1.27.2 10:00 to 13:00 and 14:00 to 20:30 Saturday
 - 1.27.3 08:00 to 20:30 Sunday.
- 1.28 This reduction (along with the loss of Boots contracted core NHS hours) significantly further reduces access to pharmaceutical services for Watton and surrounding residents.
- 1.29 Watton Medical Practice operate the following times: (NHS service finder website)
- 1.29.1 08:30 to 18:30 Monday

- 1.29.2 08:30 to 13:00 and 14:30 to 18:30 Tuesday
- 1.29.3 08:30 to 18:30 Wednesday and Thursday
- 1.29.4 08:30 to 17:00 Friday
- 1.29.5 Closed Saturday and Sunday
- 1.30 As can be seen, currently patients are denied access to any pharmaceutical services between 08:30 and 10:00, and 13:00 and 14:00 Monday to Friday due to the reduction in core NHS contracted hours. Total Health Pharmacy do not offer any supplementary hours. This has consequently created a further gap in access to adequate pharmaceutical services.
- 1.31 Total Health Pharmacy Ltd have unfortunately experienced a significant number of unforeseen closures as well as many unauthorised planned closures including most contractual Sundays and lunchtimes (notified only via their social media posts – refer to Facebook for details). We are aware that workforce pressures are a root cause of such closures, but NHS pharmacy business continuity planning has failed, and this is of further concern with the only other pharmacy contractor in Watton now closed (Boots), resulting in the adequate access to pharmaceutical services being severely compromised.
- 1.32 National statistics (detailed within Pharmaceutical Needs Assessment 2022 PNA) demonstrates that in England there are 20.6 community pharmacies per 100,000 population. The county of Norfolk has 17.2 pharmacies per 100,000 population i.e. Norfolk already has an under provision of pharmaceutical services. Specific to Watton, with the loss of Boots, there is now an equivalent provision of only 7 pharmacies per 100,000 population clearly demonstrating that access to adequate pharmaceutical services and choice is now severely compromised and hence unsustainable.
- 1.33 The NHS service finder website profile for Total Health Pharmacy Ltd lists limited additional patient services (over and above dispensing). Access to Pharmacy First, Smoking Cessation, Hypertension case finding, Sexual Health services, Discharge medicine services (which is an essential contractual service) appear not to be offered as service activity is nil (Community Pharmacy England contractor services dashboard). Some or most of these services were offered by Boots but their closure has created a significant gap in access to patient services to Watton and surrounding residents ultimately creating increased demand on overstretched GP services. The current and ongoing NHS initiative is focussed on utilisation of community pharmacy services to better support GP practices and reduce pressure on GP appointments. Granting this application will secure improvements to and give better access to pharmaceutical services within the Watton area.
- 1.34 This application also seeks to develop innovative approaches to pharmaceutical services as mentioned in Regulation 18(2)(b) part iii i.e. independent Pharmacist Prescribing initiative supported by Health Education England (HEE).
- 1.35 **Proposed location (Retail unit, 1 Chaston Place)**
- 1.36 Pharmaceutical services have successfully been provided from this site for many years (>40 yrs) and patients, GP's and out of hours service providers are familiar with the location and its convenience, accessibility and transport links.
- 1.37 The site is serviced by a regular, reliable Konectbus service from the immediate and surrounding areas giving all residents easy access to a full range of pharmaceutical services. There are plenty of convenient car parking facilities locally.

- 1.38 Residents currently and continue to utilise all business services within the town centre and plan their journeys accordingly.
- 1.39 As previously mentioned, residential development is occurring in all directions around Watton and consequently centralisation of pharmaceutical provision is not only logical but desirable to ensure equitable access to pharmaceutical services for service users, including those with protected characteristics (elderly, less able, families with young children).
- 1.40 The NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 are focussed on securing improved or better access to pharmaceutical services (which this application has clearly demonstrated). As a business and contractor to the NHS, it is critical (especially considering the recent and ongoing financial and workforce crisis) that any granted application is also feasible and sustainable hence a location that primarily delivers improved access and better choice but is also business robust is essential.
- 1.41 Co-ordinated working between Watton Medical Practice, out of hours providers, NHS111, Total Health Pharmacy and Hurn Chemists Ltd is essential for delivering improved patient services and contributing to the NHS goal of freeing up 10 million general practice team appointments. It is our view that location of services within the town of Watton is preferable and has a proven record. There is a great and likely risk of underutilisation of patient services (and hence viability concerns) if located out of town where only a specific community/development would benefit.
- 1.42 **Improvements and better access to pharmaceutical services**
- 1.43 We are required by NHS England to address two specific questions in this supporting information:
- 1.43.1 (i) 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).
- 1.43.2 (ii) Please explain how you intend to secure the unforeseen benefits.
- 1.44 When considering these questions, it is worth noting the provisions of Regulation 18(2)(b) as highlighted below: [quotes regulation in full]
- 1.45 The implication is NHS England does not have to find evidence in respect of all three of these matters. These are simply matters it is required [sic] to take into account when deciding the application. We believe that at least two of these considerations have been satisfied from the information presented in this application i.e. (i) and (iii).
- 1.46 In fact, even if it does not find that any of the three matters discussed in 18(2)(b) apply, the overarching test is whether granting the application would secure improvements, or better access, to pharmaceutical services in the area of the HWB.
- 1.47 In our opinion, and for the detailed reasons contained within our application and supporting evidence, there is clear evidence that it would.
- 1.48 Therefore, we conclude that, in our opinion, this regulation 18 application should be granted."
- 1.49 Supporting information at Appendix A.

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 8 November 2024 states:

- 2.1 “Norfolk and Waveney 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.”

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

- 2.2 **“UB Application for inclusion in a pharmaceutical list: routine application offering to secure unforeseen benefits: Hurn Chemists Ltd, Retail Unit, 1 Chaston Place, High Street, Watton, Norfolk, IP25 6XE**

- 2.3 The Pharmaceutical Services Regulations Committee (hereafter referred to as “the Committee”) considers all pharmaceutical services applications for the 6 Integrated Care Boards (ICB) within the East of England footprint. NHS Hertfordshire & West Essex ICB (HWE ICB) hosts the meeting on behalf of the 6 ICBs, in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as “the Regulations”).

- 2.4 The Committee considered this routine application offering to secure unforeseen benefits within the Norfolk HWB area under Regulations 18 and 19.

- 2.5 The Committee noted that Foschell Ltd have also submitted an Unforeseen Benefits application in respect of Wessex Drive, Vulcan Place Shops, Watton, Norfolk, IP25 6XU. The distance between the two postcodes is approximately 1.5 miles. Due to the proximity between the two sites, this application will be heard alongside that for Hurn Chemists Ltd.

- 2.6 Maps, the Norfolk PNA and details of nearest GP and pharmaceutical providers were distributed to the Committee prior to the meeting.

- 2.7 The Committee considered Regulation 31.

- 2.8 The Committee noted that the applicant has provided the address of Retail Unit, 1 Chaston Place, High Street, Watton, Norfolk, IP25 6XE for the location of the proposed pharmacy premises.

- 2.9 The Committee noted that there are two nearby pharmacies. The Committee were not required to refuse the application under the provisions of Regulation 31.

- 2.10 **Paragraph 31, Schedule 2 – conditional grant of applications where the address of the premises is unknown**

- 2.11 The Committee noted that this Regulation does not apply as the applicant has provided the address of the proposed premises.

- 2.12 **Regulation 32 – Is the application to be deferred?**

- 2.13 The Committee noted this Regulation does not apply as the proposed listed pharmacy premises is not an LPS designated premises.

- 2.14 **Regulation 40 to 44 - Applications in a controlled locality**

- 2.15 The Committee noted that the proposed location is not within a controlled locality or reserved locality, so these Regulations do not apply.

- 2.16 **Regulation 18(1) – does the need on which the applicant based its application satisfy the elements of Regulation 18(1)?**
- 2.17 The Committee considered that Regulation 18(1)(a) is satisfied in that it is required to determine whether it is satisfied that granting the application or granting it in respect of some of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB.
- 2.18 **Regulation 18(1)(b)**
- 2.19 The Committee then considered whether Regulation 18(1)(b) is satisfied i.e. whether the improvements or better access that would be secured if the application was granted were or were not included in the relevant pharmaceutical needs assessment (PNA) in accordance with Paragraph 4 of Schedule 1.
- 2.20 The Committee noted that the applicant has stated the following within the embedded document in their application: [at section 1 above]
- 2.21 Norfolk has 55 dispensing GP practices providing pharmaceutical services, with the locality of Breckland having 9.

Table 25: Number of dispensing practices by localities

District	Main practice	Of which dispensing	Branch surgery	Of which dispensing
Breckland	16	9	8	6
Broadland	11	8	6	3
Great Yarmouth	7	1	8	2
King's Lynn and West Norfolk	17	13	9	4
North Norfolk	12	12	7	5
Norwich	16	0	7	0
South Norfolk	14	12	7	6
Total	93	55	52	26

**source Norfolk PNA 2022-2025*

- 2.22 The Committee noted the current Norfolk PNA 2022-2025 concludes:
- 2.22.1 "Provision of current pharmaceutical services and locally commissioned services are well distributed, serving all the main population centres. There is excellent access to a range of services commissioned from pharmaceutical service providers. As part of this assessment no gaps have been identified in provision wither now or in the next three years for pharmaceutical services deemed necessary by the Norfolk HWB".

- 2.23 The Committee noted there have been supplementary statements published since the application was received, most recently September 2024 (viewed on the Norfolk Insight website). Within the supplementary statements, the HWB have not identified any changes to the needs, improvement or better access in pharmaceutical services.
- 2.24 The Committee were made aware of the supplementary statement published in March. The supplementary statement noted the closure of the Boots Store. The Committee discussed whether the HWB were suggesting that a gap had been created by the closure of the pharmacy, hence the inclusion of the closure on the supplementary statement.
- 2.25 The Committee considered how much weight to put on the supplementary statement. It was noted that it is likely the HWB have misunderstood the purpose of the statement and have reflected every single change that has happened, rather than those changes that would affect the granting of an application. It was noted that the statement includes change of ownerships which do not need to be included, hence the Committee concluded it was likely to be an error.
- 2.26 The Committee also noted that even if the HWB had thought there was a gap, they have not detailed what the gap is.
- 2.27 The Committee were of the view that the improvements or better access that the applicant is claiming would be secured by its application, were not included in the relevant PNA in accordance with Paragraph 4 of schedule 1.
- 2.28 The Committee noted that in order to be satisfied in accordance with Regulation 18(1), regard has to be had to those matters set out in Regulation 18(2).
- 2.29 **Regulation 18(2)(a)(i) & (ii)**
- 2.30 The Committee considered whether it is satisfied that granting the application would cause significant detriment to—
- 2.30.1 *proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB, or*
- 2.30.2 *the arrangements the [ICB] has in place for the provision of pharmaceutical services in that area.*
- 2.31 The Committee noted that there was no evidence to suggest granting the application would cause significant detriment to proper planning in the area and for any arrangements the ICB has in place for the provision of pharmaceutical services in the area.
- 2.32 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).
- 2.33 **Regulation 18(2)(b)(i)**
- 2.34 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Norfolk PNA 2022 - 2025, it is satisfied that, having regard in particular to the desirability of—
- 2.34.1 *there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also the [ICB'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))

granting the application would confer significant benefits on persons in the area of Norfolk HWB that were not foreseen when the PNA was published.

2.35 The Committee noted that the applicant states the following points:

2.35.1 *“The recent unplanned closure of Boots in January 2024 and the reduction in core hours (100hr to 72 hrs) of the only remaining pharmacy, Total Health Pharmacy Ltd has, in our opinion, created a significant gap in pharmaceutical provision and greatly reduced choice and access, to adequate pharmaceutical services for residents of Watton and surrounding areas. This represents a 50% reduction of available core pharmaceutical services hours and are no longer synergistic to the core opening times for Watton Medical Practice.”*

2.36 The Committee were advised that the Pharmacy and Optometry Team (P&O team) have not received patient complaints or concerns relating to the closure of Boots Pharmacy, 1 Chaston Place, 29 High Street, Watton, Thetford, Norfolk, IP25 6XE as of 6 January 2024 resulting in residents being unable to access pharmaceutical services or obtain their medication.

2.37 Therefore, there is no evidence to suggest that patients cannot access pharmaceutical services.

2.38 In December 2023, Norfolk and Waveney ICB responded to a MP enquiry following a concern raised by a local constituent prior to the closure of Boots Pharmacy, Watton. A formal response was provided at the time and this MP enquiry was closed.

2.39 The Committee were advised that colleagues from Norfolk and Waveney ICB received further correspondence from the local MP in February 2024. The ICB met virtually with the MP to discuss the matter and since this, have confirmed that following the stabilisation of Total Health Pharmacy they have not had further patient or MP enquiries regarding this contractor.

2.40 The Committee noted that the nearby pharmacy, Total Health Pharmacy Ltd provides 72 core hours and 6 supplementary hours from 09.00 – 10.00, Monday to Saturday, therefore providing a total of 78 hours.

Core & Supplementary Hours

	Current									72:00	6:00
	S1		C1		S2		C2		S3		C3
Monday	9:00	10:00	10:00	13:00			14:00	21:00			
Tuesday	9:00	10:00	10:00	13:00			14:00	21:00			
Wednesday	9:00	10:00	10:00	13:00			14:00	21:00			
Thursday	9:00	10:00	10:00	13:00			14:00	21:00			
Friday	9:00	10:00	10:00	13:00			14:00	21:00			

Saturday	9:00	10:00	10:00	13:00			14:00	20:30				
Sunday			8:00	13:00			13:00	20:30				

- 2.41 The Committee noted the data circulated prior to the meeting, showing the top 20 dispensing locations for prescriptions issued by Watton Medical Practice.
- 2.42 The Committee noted that Total Healthcare were dispensing 21,000 prescriptions per month whereas Boots were only dispensing 5,000. This is a relatively small number and there is nothing to suggest that Total Healthcare Pharmacy couldn't absorb these numbers.
- 2.43 It was evident from the data that patients are having prescriptions dispensed by Total Health Pharmacy who are conveniently located in close proximity to Watton Medical Practice.
- 2.44 It was concluded that there is reasonable patient choice available. Patients use a variety of pharmacies within the wider area, which may be nearer to their home or work for example. It was clear that patients can access pharmaceutical services within the area of Norfolk HWB. It was evident that some patients are choosing to access Distance Selling Pharmacies (online services).
- 2.45 The Committee noted that patients are using a wide range of pharmacies for their pharmaceutical needs, and therefore it can be said that patients are exercising their choice. No evidence has been provided to demonstrate that those living in Watton are currently unable to exercise a choice in obtaining pharmaceutical services.
- 2.46 The P&O Team confirmed that Total Health Pharmacy provide advanced services which include Hypertension Case Finding, Pharmacy First and Contraception Services.
- 2.47 Additionally, pharmacies within the wider local area provide the same advanced services and also offer flu vaccinations.
- 2.48 The overall provision of pharmaceutical services is through using those established pharmacies already being utilised by those living in the Watton area.
- 2.49 The Committee noted that no current or future gaps in provision of pharmaceutical services have been identified in the current Norfolk PNA 2022 - 2025 or in the supplementary statements that have been issued since, most recently September 2024.
- 2.50 The Committee noted that the test is whether or not those living in Watton have reasonable choice with regard to obtaining pharmaceutical services in the area of Norfolk HWB, not just in the area of Watton.
- 2.51 The Committee considered Regulation 18(2)(b)(ii)
- 2.52 The Committee noted the applicant provided no evidence to meet the criteria of Regulation 18(2)(b)(ii). Whilst it is accepted that there would be people with protected characteristics living in Watton and that some may need pharmaceutical services as a result, there was no evidence that any specific groups had any difficulty accessing such services.
- 2.53 The Committee were 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 in the area of the relevant HWB which were not foreseen when the relevant pharmaceutical needs assessment was published.

- 2.54 The Committee then considered Regulation 18(2)(b)(iii)
- 2.55 The Committee noted the applicant provided no evidence regarding innovative approaches in the delivery of pharmaceutical services, therefore were 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 in the area of the relevant HWB which were not foreseen when the Norfolk PNA, 2022 - 2025 was published.
- 2.56 **Representations**
- 2.57 During the 45-day notification period, representations were received from:
- 2.57.1 Pharmacy Sales & Consulting Services (on behalf of Rosemead Ltd, T/A Total Health Pharmacy)
- 2.57.2 Community Pharmacy Norfolk & Suffolk
- 2.57.3 Foschell Ltd, c/o Healthcare Plus Consulting
- 2.58 Representations were made available to the Committee prior to the meeting.
- 2.59 The Committee noted that all those who made representations, raised substantial comments and therefore all except for Community Pharmacy Norfolk & Suffolk may be granted appeal rights, if the Committee decided to grant the application.
- 2.60 **Regulation 18(2)(b) generally**
- 2.61 The Committee considered the opening hours of those pharmacies that are closest to the proposed postcode. The Committee noted that supplementary hours can be withdrawn at any time in line with the Regulations.
- 2.62 The Committee noted that the ICB were made aware of Total Health Pharmacy not providing pharmaceutical services at such times as needed and this was dealt with contractually following local dispute resolution. This subsequently resulted in the contractor reducing their 100 core hours to 72 hours and then implementing 6 additional supplementary hours. This was in line with current Regulations.
- 2.63 The P&O team confirmed that since the introduction of the revised core hours and additional supplementary hours, no concerns relating to the opening hours for Total Health Pharmacy have been reported. In addition to this, no temporary suspensions have been reported by the contractor.
- 2.64 The Committee noted that within their application, the applicant has proposed 44 core hours and 10 supplementary hours. The Committee noted the proposed 10 supplementary hours can be withdrawn at any time following the required notice period.
- 2.65 The applicant proposed to provide 4 core hours on Saturday morning from 09.00 – 13.00. The Committee noted that Total Health Pharmacy have Saturday opening hours from 09.00 – 13.00 and 14.00 – 20.30 (supplementary hours from 09.00 – 10.00) and Boots, Hingham, NR9 4AF have Saturday opening hours from 09.00 – 16.00 (supplementary hours from 10.15 – 16.00).

- 2.66 The Committee noted the applicant referenced the reduction in core hours by Total Health Pharmacy but noted that the proposed hours by the applicant would not cover any perceived gap in opening hours.
- 2.67 The Committee considered whether there are any other factors that would confer significant benefits including on patients who share protected characteristics based on the information provided by the applicant. The Committee noted the applicant provided no evidence to satisfy that there are other factors that would confer significant benefits on patients who shared protected characteristics.
- 2.68 **Regulation 50 – Discontinuation of arrangements for the provision of pharmaceutical services by doctors**
- 2.69 The Committee noted the proposed location is not within a controlled locality.
- 2.70 **Regulation 65 – Core opening hours conditions**
- 2.71 The Committee noted that should the application be granted, core opening hours conditions will need to be agreed before the pharmacy opens. The applicant is proposing 44 Core Hours with 10 supplementary hours.
- 2.72 **Regulation 66 – Conditions relating to providing directed services**
- 2.73 The applicant has undertaken to provide the following directed services if the application is granted.
- 2.73.1 New medicine service (NMS)
 - 2.73.2 Community Pharmacy Seasonal Influenza Vaccination
 - 2.73.3 Pharmacy First (formally CPCS)
 - 2.73.4 Hypertension Case Finding Service
 - 2.73.5 Sexual Health Services
 - 2.73.6 Smoking Cessation Service (inc NRT supply)
 - 2.73.7 Pharmacy Contraception Service (Tier 1 and Tier 2)
 - 2.73.8 Discharge Medicines Service (DMS)
 - 2.73.9 Supervised Consumption and Substance Misuse Services (inc needle stick exchange service)
 - 2.73.10 Norfolk Medicine Support Services (NMSS)
 - 2.73.11 Commissioned Bank Holiday Rota Services (when required)
 - 2.73.12 Independent Pharmacist Prescriber services (if commissioned by ICB) HEE/ICB Initiative
- 2.74 Regulation 66(4) therefore applies if the application is to be granted, and the inclusion of the applicant and the pharmacy premises in the pharmaceutical list for the area of Norfolk HWB would be subject to the condition set out in Regulation 66(5).

- 2.75 The Committee noted that the applicant has detailed services that are neither advanced nor enhanced services e.g. DMS.
- 2.76 The Committee also noted that some services are advanced services and some are enhanced services. If the application is granted, consideration would be given to whether or not to specify a date by which the condition to provide these services is to take effect.
- 2.77 **Decision**
- 2.78 The Committee refused the application on the following basis, under Regulation 18(2)(b):
- 2.78.1 There was no evidence that there is not already a reasonable choice with regard to obtaining pharmaceutical services in the area of Norfolk HWB.
- 2.78.2 There was no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services that meet their specific needs for such services in the area of Norfolk HWB.
- 2.78.3 There was no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services in the area of Norfolk HWB. The granting of this application would not offer significant benefits to people within the area of Norfolk HWB.
- 2.79 There is no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore the Committee were 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.
- 2.80 For all the above reasons the view in accordance with Regulation 18(2)(b) is that the granting of this application would not confer significant benefits on persons in the area of the Norfolk HWB which were not foreseen when the Norfolk PNA 2022 - 2025 was published.
- 2.81 The Committee agreed that appeal rights are granted to the applicant, Hurn Chemists Ltd.”

3 The Appeal

By the ‘On line form for pharmacy application appeals’ dated 4 December 2024, Hurn Chemists Ltd, through its representative Mr [R], appealed against Norfolk and Waveney’s (“the Commissioner”) decision. The grounds of appeal are:

- 3.1 “We disagree with the refusal of this unforeseen benefits application due to both factual inaccuracies and assumptions made by Norfolk and Waveney ICB which in turn has resulted in the ICB not fully understanding the full extent of the lack of adequate access to pharmaceutical service provision in the Watton area.
- 3.2 The closure of Boots the Chemist in Watton (January 2024) has left the population of Watton and surrounding areas with only one remaining pharmacy. The decision letter refers to Boots (Hingham) as a second local accessible pharmacy. This is over 7 miles away, requires local transport to access (disadvantaging all service users especially those with protected characteristics) and can not be reasonably considered as accessible nor local.

- 3.3 Only having one available pharmacy severely limits access and more importantly does not allow any choice of pharmaceutical services. We strongly disagree with the view of the committee that distance selling pharmacies (DSP) offer choice. If this principle is applied, every service user in England has choice as DSP are not geographically bound. Also, DSP only provide non patient facing access to prescription medication. Access to pharmaceutical services (other than medication) are a key choice for service users and builds on the NHS agenda for allied healthcare supporting primary care specifically community pharmacy.
- 3.4 Since the closure of Boots (Watton), the only remaining pharmacy (Total Health Pharmacy) has also reduced core opening hours by 28 hours per week and no longer support the core hours of the only medical practice (Watton Medical Practice). This reduction plus the loss of Boots core hours (40hrs) has resulted in a total loss of access of over 68hrs per week. The decision letter states that supplementary hours can be withdrawn at any time yet references these additional opening hours of Total Health Pharmacy to demonstrate adequate patient choice. Only core hours can be reliably used for such decisions. Our application (Hurn Chemist Ltd) has core hours that compliment Watton Medical Practice and are deliberately synergistic to the core hours of Total Health Pharmacy hence providing unbroken access to pharmaceutical services. The decision letter incorrectly states:
- 3.5 *"The committee noted the applicant referenced the reduction in core hours by Total Health Pharmacy but noted that the proposed hours by the applicant would not cover any perceived gap in opening"*
- 3.6 **This is incorrect as core hours start at 08:30 Monday to Friday and cover the lunchtime closures of Total Health Pharmacy.** Please refer to original application.
- 3.7 The Pharmaceutical Needs Assessment (PNA) referred to was published in 2022 at which time correctly stated there is no gap in pharmaceutical provision. The supplementary statement published March 2024 correctly details the closure of Boots and clearly raised the question that the HWB were suggesting this created a gap in provision, yet the committee have incorrectly dismissed this and assumed that HWB have misunderstood the statement. We challenge this view. Additionally the reduced core hours for Total Health Pharmacy were highlighted in September 2024 PNA supplementary statement - It is in our view that as these supplementary statements do not specifically state 'no gap in pharmaceutical service' they correctly suggest gaps now exist. [Applicant's emphasis]
- 3.8 All these inaccuracies and assumptions demonstrate that the committee were incorrect that there is reasonable patient choice to adequate pharmaceutical services.
- 3.9 The committee state that the closure of Boots has a minor impact to the area as only 5000 items were dispensed, and this is easily absorbed by Total Health Pharmacy. The committee acknowledged the need for 'local resolution' due to contractual noncompliance but assume this has now been resolved based on the lack of formal patient complaints. Whilst we acknowledge the formal NHS complaints process, it is our view that such processes within community pharmacy are not proactively offered to patients so it can not be assumed that compliance is consistently achieved. It is locally acknowledged that unplanned closures still occur and not notified to ICB. This is difficult to formally evidence yet should not be disregarded. We would welcome proactive patient surveys and input from representative stakeholders such as the Town council, local member of parliament (MP) and the medical practice. Local social media comments is a better barometer of patient views.
- 3.10 BUT, pharmaceutical services are more than a dispensing service; access to essential, advanced and enhanced services to compliment primary care agendas are equally, if

not more important, highlighted by services such as NHS pharmacy first services. The committee have not referred to the information in our original application which details the lack of engagement of Total Health Pharmacy in service provision compared to national data comparisons. The population of Watton and surrounding areas are not being granted access to these important services. Granting our application would secure significant patient benefits to access and delivery of all pharmaceutical services. It is noted that the lack of provision of the essential service i.e. Discharge Medicines Service (DMS) is in breach of the contractual requirements. Boots (Watton) delivered a lot more services than Total Health Pharmacy (see original application supporting information) and now this option has been lost due to closure, patients are being denied adequate access or choice to extended pharmaceutical services. This also impacts the local medical practice by increasing pressures on GP services.

- 3.11 Watton is already a large rural community but is rapidly growing with approved housing developments actively being built and more to come. The committee have ignored this growth which will disproportionately impact current pharmaceutical and primary care services. The impact of this growth has been highlighted in our original application.
- 3.12 The committee also incorrectly state in their decision letter that no innovative approaches to delivery of pharmaceutical services have been detailed by our application. The inclusion of independent pharmacist prescriber services was detailed on our original application which is an innovative service currently not available in the area (our application states the provision of two consultation rooms to compliment innovative services).
- 3.13 It is evident that the refusal of our application was based on inaccurate information and assumptions and disregarded key facts. There is no longer reasonable choice to accessible pharmaceutical services; core hours of our application do compliment both the medical practice whilst being synergistic to the new core hours of Total Health Pharmacy resulting in continuous access to pharmaceutical services by residents of Watton and surrounding areas.
- 3.14 Our application offers a full range of advanced and enhanced services along with innovative services as well as engaging with bank holiday rotas.
- 3.15 It is noted that no Christmas or New Year bank holiday cover is being offered by Total Health pharmacy resulting in no pharmaceutical cover for this winter period.
- 3.16 We appeal the refusal of our application and request that all the information in our original application is reconsidered.
- 3.17 We would welcome an oral hearing."

ANNEX B

REF: SHA/26415

APPEAL AGAINST NHS NORFOLK AND WAVENEY ICB DECISION TO REFUSE AN APPLICATION BY FOSCHELL LTD FOR INCLUSION IN THE PHARMACEUTICAL LIST OFFERING UNFORESEEN BENEFITS UNDER REGULATION 18 AT WESSEX DRIVE, VULCAN PLACE SHOPS, WATTON, THETFORD, IP25 6XU (BEST ESTIMATE)

1 The Application

By application dated 18 January 2024, Foschell Ltd applied to Norfolk and Waveney ICB ("the Commissioner") for inclusion in the pharmaceutical list offering unforeseen benefits under Regulation 18 at Wessex Drive, Vulcan Place Shops, Watton, Thetford, IP25 6XU (best estimate). In support of the application it was stated:

1.1 "Watton New Contract Supporting Information"

1.2 Background

1.3 This application is in respect of opening a new pharmacy to provide better pharmaceutical access and choice for residents of Watton and the surrounding areas.

1.4 We understand that, until recently, there were two pharmacies serving Watton and the surrounding villages; however, the closure of the Boots Pharmacy, Chaston Place, 29 High Street, Watton, IP25 6XE on the 6th January 2024 has reduced provision to a single pharmacy. This closure has left a significant gap in pharmaceutical services within Watton; hence this application is offering unforeseen benefits not captured within the PNA.

1.5 The best estimate of the proposed site we wish to open a new pharmacy is located on Wessex Drive, Vulcan Place Shops, Watton, Thetford, IP25 6XU.

1.6 Watton can be described as a rural town with numerous surrounding villages. Per 2021 Census data, we can see that Watton houses 11,543 residents. However, due to the rural nature of the surrounding areas, healthcare provision in Watton also serves surrounding villages such as Saham Hills, Carbrooke, Griston, and Ovington to name a few. Thus, when assessing the population that utilise pharmaceutical services in Watton, it is more prudent to assess the patient list size of local doctor's surgeries. Watton medical practice, situated in Watton, is the only doctor's surgery for 5 miles and has a patient list size of 14,394.

1.7 Extrapolating this population figure allows us to conclude that Watton now only has 7 pharmacies per 100,000 people – well below the average for Norfolk (17.2/100,000) and England (20.6/100,000). Thus, it is apparent that pharmaceutical provision is dire in Watton, and common sense alone would dictate that there is a requirement for another pharmacy; however, we have set out distinct benefits of granting this application further on within this document.

1.8 Proposed Location

1.9 The proposed location is situated amongst a busy parade of communal shops, at the heart of Watton's new housing developments.

- 1.10 The parade is home to a Subway; a Domino's pizza; and a convenience store. The parade is also adjacent to Buckingham Lodge Care Home and nearby to a newly opened Lidl supermarket. These are typical amenities that would be found in the local community; all well-served by wide well-lit walkways; ample parking; and good disabled access. There is good access by foot, car, and public transport.
- 1.11 The map overleaf illustrates the location of current pharmaceutical provision in Watton, and the location of the proposed site. [Map at Appendix B]
- 1.12 From the map above we can see that Watton and the surrounding villages currently only have one pharmacy to serve the entire population, Total Health Pharmacy, IP25 6FA.
- 1.13 The next nearest pharmacy is the Boots, 4 Market Place, Hingham, NR9 4AF. This pharmacy is over 5 miles away from the proposed site and over 6 miles away from the current pharmacy in Watton (Total Health Pharmacy). This highlights how alternative pharmaceutical provision is sparse in the areas surrounding Watton.
- 1.14 **Site images**
- 1.15 [Images at Appendix B]
- 1.16 **Regulations**
- 1.17 We are required by NHS England to address the overarching question in an Unforeseen Benefits application:
- 1.18 "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".
- 1.19 When considering the above question, the provisions of Regulation 18(2)(b) should be noted: [quotes Regulation 18(2)(b) in full]
- 1.20 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*.
- 1.21 For the benefit of the committee, this application does not seek to rely on Regulation 18(2)(b)(iii).
- 1.22 We have addressed these regulations overleaf.
- 1.23 **Population Growth**
- 1.24 Watton has experienced rapid population growth in years of late. The 2021 census population of Watton, estimated at 11,543, represents a 51% increase over the 2001 census and a 29% increase over the 2011 census. When we also consider growth of the surrounding villages, single pharmaceutical provision is simply inadequate to support such a large population.
- 1.25 Much of this rapid growth is due to housing developments concentrated on the East side of Watton:
- 1.25.1 Blenheim Grange Development: 545 new homes

- 1.25.2 Poppyfields Development: 70 new homes
- 1.25.3 Heritage Park Development: 80 new homes
- 1.25.4 Rokeles Green Development: 45 new homes
- 1.25.5 Wayland Fields Development: 180 new homes
- 1.25.6 Saddlers Rise Development: 110 new homes
- 1.25.7 Hus+46 Development: 101 new homes
- 1.25.8 Saham Road Development: 73 new homes
- 1.25.9 Watton Green Development: 98 new homes
- 1.26 The proposed location is at the epicentre of the majority of the above developments. All developments consist of large family homes and even at conservative levels we estimate that there are at least 3000 new residents surrounding the proposed site.
- 1.27 For the residents of Watton and especially for those residing within Watton's new housing developments, granting this application would secure better access and reasonable choice to pharmaceutical services.
- 1.28 **Current provision**
- 1.29 **Volume**
- 1.30 As highlighted above, when looking at patient list sizes the true population for healthcare purposes is likely to be approaching 15,000 residents.
- 1.31 To reiterate, it is obvious that single pharmaceutical provision is incapable of serving such a large population adequately.
- 1.32 The remaining pharmacy, Total Health Pharmacy (IP25 6FA), already averages c. 20,000 items per month. When we consider that the recently closed Boots averaged c. 5,000 items per month alongside the fact that the next nearest pharmacy is over 6 miles away; it is reasonable to conclude that Total Health Pharmacy will likely capture most of these items and see monthly item figures increase to c. 25,000 per month. There is already evidence that this pharmacy is struggling to cope with the demand placed on it by the large population. It is difficult to envisage Total Health Pharmacy being able to cope with this extra volume with the full impact of the recent Boots closure yet to be felt.
- 1.33 This is demonstrated by recent google reviews overleaf. [Google reviews at Appendix B]
- 1.34 Residents have gone out of their way to write reviews in their own time trying to warn people about the pharmaceutical services that are currently being provided. However, as there are currently no other pharmacies for at least 6 miles residents are forced to endure poor service. It is clear that residents do not have any choice of pharmaceutical provision much less than the threshold of 'reasonable choice'.
- 1.35 Comments highlight the need for repeat visits to the pharmacy as well as multiple comments surrounding hour long wait times for medication. Hour long wait times and repeat visits do not represent sufficient access and reasonable choice to

pharmaceutical services. Residents have also described the pharmacy as being a 'shambles' and 'chaos'; such terms are concerning to hear about a healthcare setting.

1.36 From the comments, it is clear that Total Health Pharmacy is struggling to adequately dispense medication in reasonable timescales. When we consider that this is an essential pharmaceutical service, it places question upon whether important NHS Advanced and Enhanced services are being sufficiently provided.

1.37 It is clear that this pharmacy needs help in serving the local population, and granting this application would restore reasonable choice and access to pharmaceutical services.

1.38 **Total Health Pharmacy closures**

1.39 When considering reasonable choice and access to pharmaceutical provision it is also important to highlight the regular closures of Total Health Pharmacy during contracted core hours. As a 100-hour pharmacy, Total Health Pharmacy was contracted to 100-hour openings prior to 25th May 2023, and at least 72 core hours thereafter (we do not have knowledge on the exact date of the reduction of core hours).

1.40 Exact opening times are set out as below:

	Prior to core hour reduction	Post core hour reduction
Monday	08:00-23:00	08:30-21:00
Tuesday	08:00-23:00	08:30-21:00
Wednesday	08:00-23:00	08:30-21:00
Thursday	08:00-23:00	08:30-21:00
Friday	08:00-23:00	08:30-21:00
Saturday	08:00-18:30	09:00-18:00
Sunday	08:00-18:30	Closed
Total Hours	100	72.5

1.41 The applicant understands that between the periods 01/04/2022 to 17/01/2024, there have been approximately 100 instances of store closures during contracted hours. Such closures are well documented on the Total Health Pharmacy official Facebook page, and evidence can be found in the appendix below. Whilst it is not up to the applicant to investigate such matters, such numerous closures during contracted hours highlight how Total Health Pharmacy cannot be relied upon to provide reliable access to pharmaceutical services. For the 15,000 reliant population, consistent random closures of the only reasonably accessible pharmacy does not represent reasonable choice to pharmaceutical services at all.

1.42 Thus, it is vital to the reliant population that this application is granted, so patients have reasonable choice and access to pharmaceutical services, especially when Total Health Pharmacy is closed during its contractual hours.

1.43 **Patient Journeys**

1.44 When considering securing better access, we 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.

1.45 It must be noted that distance in itself is a barrier to access. Above we identified approximately 3,000 new residents additional to the historic population in the East side of Watton who would likely access pharmaceutical services at the proposed site.

1.46 Using the proposed site, IP25 6XU, as an arbitrary marker to represent these residents; we can see that the next nearest pharmacy, Total Health Pharmacy, is 1.4 miles away. For residents currently residing near the proposed site, current pharmaceutical services are difficult to access by foot and public transport.

1.47 **By Foot from Proposed site to current nearest pharmacy (Total Health Pharmacy, IP25 6FA)**

1.48 As can be seen from the map on the following page, this journey is 1.4 miles or 31 minutes, equating to a 1 hour 2-minute round-journey. It is worth reiterating that distance in itself is a barrier to access, and this journey length is clearly excessive. [Map at Appendix B]

1.49 We cannot consider a 2.8-mile round walk to access pharmaceutical services as sufficient access, nor can we consider this as having a reasonable choice to pharmaceutical services. In fact, for residents near the proposed site, we would consider this as no pharmaceutical choice at all, much less than the threshold of 'reasonable choice'.

1.50 Such an extended journey may prove difficult/ inaccessible for the elderly, disabled, or parents with young children. Hence, groups with protected characteristics do not have sufficient access by foot.

1.51 It should be noted that residents living to the South of the proposed site can experience an even longer round journey to access pharmaceutical services. Some residents will have to endure a 1.7 mile walk or 3.4 mile round-journey to access current pharmaceutical services. Again, this is even less accessible than the journey above. Granting this application would reduce this to a 0.5-mile journey – a significantly more accessible trip.

1.52 It follows that other pharmaceutical provision is also not accessible by foot on account of the greater distances involved. The next nearest pharmacy is over 5 miles away and thus there is a lack of reasonable choice and access to pharmaceutical services for those travelling by foot.

1.53 **By Car from Proposed site to current nearest pharmacy (Total Health Pharmacy, IP25 6FA)**

1.54 The journey by car to Total Health Pharmacy, IP25 6FA, can be a 14-minute one-way journey during busy traffic hours.

1.55 Again, we cannot consider a 28-minute round drive to access pharmaceutical services as sufficient access, nor can we consider this as having a reasonable choice to pharmaceutical services.

- 1.56 We also note that car parking at Total Health Pharmacy is shared with Watton Medical Practice and thus may become overcrowded at peak times. As per the images above, car parking at the proposed site is ample and free of charge.
- 1.57 **By Public Transport from Proposed site to current nearest pharmacy (Total Health Pharmacy, IP25 6FA)**
- 1.58 The journey to Total Health Pharmacy, IP25 6FA, is not the best served by public transport. Patients would obtain the 3/3B/3C/6 bus from Camp Main Gate bus stop. The journey is generally 13-minutes via these services; however, provision can be infrequent with buses sometimes arriving only every 50-minutes. Once a patient has arrived at a pharmacy, they could be waiting up to 50 minutes for the return journey. Clearly this does not provide adequate access to pharmaceutical services, especially when we consider that the return journey by foot is also inaccessible.
- 1.59 Such poor choice of pharmaceutical access is felt especially by the elderly and disabled. These patient groups could face having to wait up to 50 minutes for a return bus in the shivering 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 1.4-mile distance back home, it is obvious that current pharmaceutical provision is inadequate and such scenarios stem from a lack of reasonable choice.
- 1.60 A pharmacy at the proposed site would mean pharmaceutical services are accessible by foot and thus residents do not need to suffer excessive waits for public transport. Thus, granting this application would introduce reasonable choice and sufficient access to pharmaceutical provision.
- 1.61 **Opening Hours**
- 1.62 When considering better access, we must also consider the current provision of opening hours, and the reasonable choice that patients have on each day of the week.
- 1.63 The applicant recognises that access to pharmaceutical services on a weekend is especially important, particularly given new the Pharmacy First Service proposed by NHSE and has thus committed to core Saturday & Sunday morning opening hours.
- 1.64 Per the current PNA, we understand that Total Health Pharmacy was previously open on Sundays serving the 15,000-reliant population. However, this is no longer the case, and we believe that this lack of Sunday opening hours has created a gap in provision.
- 1.65 Currently, the nearest pharmacy opening on a Sunday is the Tesco Pharmacy, NR19 1WB, which is 8.2 miles away. For those seeking to access pharmaceutical services on a Sunday, this is clearly not a reasonable choice, especially for those residing in Watton and the surrounding villages. Clearly, by granting this application, access and reasonable choice to pharmaceutical services on a Sunday and weekend as a whole will be significantly better.
- 1.66 **Conclusion**
- 1.67 In our view, the closure of the Boots Pharmacy, IP25 6XE, has created a significant gap in pharmaceutical services for Watton and the surrounding villages.
- 1.68 Granting this application would secure better access to pharmaceutical services, especially on a Sunday. The elderly, disabled, and the wider population are likely to find the proposed pharmacy significantly more accessible than their current choices. It would also introduce reasonable choice of pharmaceutical provider for those in Watton

and the surrounding villages, when we consider the pressures that the Total Health pharmacy is under and the unreliability of its opening hours.

- 1.69 We would like to note that granting this application would not cause significant detriment to access of pharmaceutical services, as this application is seeking to fill a gap vacated by the Boots closure; and notwithstanding the fact that the nearest pharmacy to the proposed site is located 1.4 miles away.
- 1.70 On the evidence outlined above, we believe that a new pharmacy contract should be granted.”
- 1.71 Supporting information at Appendix B.

2 The Decision

The Commissioner considered and decided to refuse the application. The decision letter dated 8 November 2024 states:

- 2.1 “Norfolk and Waveney 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.”

[Any reference to ‘Committee’ in this section is not to be confused with the Pharmacy Appeals Committee of NHS Resolution]
- 2.2 **“UB Application for inclusion in a pharmaceutical list: routine application offering to secure unforeseen benefits: Foschell Ltd, Wessex Drive, Vulcan Place Shops, Watton, Thetford, IP25 6XU**
- 2.3 The Pharmaceutical Services Regulations Committee (hereafter referred to as “the Committee”) considers all pharmaceutical services applications for the 6 Integrated Care Boards (ICB) within the East of England footprint. NHS Hertfordshire & West Essex ICB (HWE ICB) hosts the meeting on behalf of the 6 ICBs, in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as “the Regulations”).
- 2.4 The Committee considered this application for a routine application offering to secure unforeseen benefits within the Norfolk HWB area under Regulations 18 and 19.
- 2.5 The Committee noted that Hurn Chemists Ltd have submitted an Unforeseen Benefits application in respect of Retail Unit, 1 Chaston Place, High Street, Watton, Norfolk, IP25 6XE. The distance between the two postcodes is approximately 1.5 miles. Due to the proximity between the two sites, this application will be heard alongside Foschell Ltd.
- 2.6 Maps, the Norfolk PNA and details of nearest GP and pharmaceutical providers were distributed to the Committee prior to the meeting.
- 2.7 The Committee considered Regulation 31.
- 2.8 The Committee noted that the applicant has provided the address of Wessex Drive, Vulcan Place Shops, Watton, Thetford, IP25 6XU for the location of the proposed pharmacy premises. The Committee noted that there are two nearest pharmacies.
- 2.9 The Committee were not required to refuse the application under the provisions of Regulation 31.

- 2.10 **Paragraph 31, Schedule 2 – conditional grant of applications where the address of the premises is unknown**
- 2.11 The Committee noted that this Regulation does not apply as the applicant has provided the address of the proposed premises.
- 2.12 **Regulation 32 – Is the application to be deferred?**
- 2.13 The Committee noted this Regulation does not apply as the proposed listed pharmacy premises is not an LPS designated premises.
- 2.14 **Regulation 40 to 44 - Applications in a controlled locality**
- 2.15 The Committee noted that the proposed location is not within a controlled locality or reserved locality, so these Regulations do not apply.
- 2.16 **Regulation 18(1) – does the need on which the applicant based its application satisfy the elements of Regulation 18(1)?**
- 2.17 The Committee considered that Regulation 18(1)(a) is satisfied in that it is required to determine whether it is satisfied that granting the application or granting it in respect of some of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB.
- 2.18 **Regulation 18(1)(b)**
- 2.19 The Committee then considered whether Regulation 18(1)(b) is satisfied i.e. whether the improvements or better access that would be secured if the application was granted were or were not included in the relevant pharmaceutical needs assessment (PNA) in accordance with Paragraph 4 of Schedule 1.
- 2.20 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).
- 2.21 The Committee noted that the applicant has stated the following within the embedded document in their application: [at section 1 above]
- 2.22 Norfolk has 55 dispensing GP practices providing pharmaceutical services, with the locality of Breckland having 9.

Table 25: Number of dispensing practices by localities

District	Main practice	Of which dispensing	Branch surgery	Of which dispensing
Breckland	16	9	8	6
Broadland	11	8	6	3
Great Yarmouth	7	1	8	2

King's Lynn and West Norfolk	17	13	9	4
North Norfolk	12	12	7	5
Norwich	16	0	7	0
South Norfolk	14	12	7	6
Total	93	55	52	26

*source Norfolk PNA 2022-2025

2.23 The Committee noted the current Norfolk PNA 2022- 2025 concludes:

2.23.1 "Provision of current pharmaceutical services and locally commissioned services are well distributed, serving all the main population centres. There is excellent access to a range of services commissioned from pharmaceutical service providers. As part of this assessment no gaps have been identified in provision either now or in the next three years for pharmaceutical services deemed necessary by the Norfolk HWB".

2.24 The Committee noted there have been supplementary statements published since the application was received, most recently September 2024 (viewed on the Norfolk Insight website). Within the supplementary statements, the HWB have not identified any changes to the needs, improvement or better access in pharmaceutical services.

2.25 The Committee were made aware of the supplementary statement published in March. The supplementary statement noted the closure of the Boots Store. The Committee discussed whether the HWB were suggesting that a gap had been created by the closure of the pharmacy, hence the inclusion of the closure on the supplementary statement.

2.26 The Committee were of the view that the improvements or better access that the applicant is claiming would be secured by its application, were not included in the relevant PNA in accordance with Paragraph 4 of schedule 1.

2.27 The Committee noted that in order to be satisfied in accordance with Regulation 18(1), regard has to be had to those matters set out in Regulation 18(2).

2.28 **Regulation 18(2)(a)(i) & (ii)**

2.29 The Committee considered whether it is satisfied that granting the application would cause significant detriment to—

2.29.1 *proper planning in respect of the provision of pharmaceutical services in the area of the relevant HWB, or*

2.29.2 *the arrangements the [ICB] has in place for the provision of pharmaceutical services in that area.*

2.30 The Committee noted that there was no evidence to suggest granting the application would cause significant detriment to proper planning in the area and for any arrangements the ICB has in place for the provision of pharmaceutical services in the area.

- 2.31 In the absence of any significant detriment as described in Regulation 18(2)(a), the Committee were not obliged to refuse the application and should go on to consider Regulation 18(2)(b).
- 2.32 **Regulation 18(2)(b)(i)**
- 2.33 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Norfolk PNA 2022-2025, it is satisfied that, having regard in particular to the desirability of—
- 2.33.1 *there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB (taking into account also the [ICB'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))*
- granting the application would confer significant benefits on persons in the area of Norfolk HWB that were not foreseen when the PNA was published.*
- 2.34 The Committee noted that the applicant states:
- 2.34.1 *“when considering reasonable choice and access to pharmaceutical provision it is also important to highlight the regular closures of Total Health Pharmacy during contracted core hours. As a 100-hour pharmacy, Total Health Pharmacy was contracted to 100-hour openings prior to 25th May 2023, and at least 72 core hours thereafter (we do not have knowledge of the exact date of the reduction of core hours). The applicant understands that there have been approximately 100 instances of store closures during contracted hours. Such numerous closures during contracted hours highlight how Total Health Pharmacy cannot be relied upon to provide reliable access to pharmaceutical services. For the 15,000 reliant population, consistent random closures of the only reasonably accessible pharmacy does not represent choice to pharmaceutical services at all”.*
- 2.35 The P&O team have reviewed contracting files and can confirm that they have not received patient complaints or concerns relating to the closure of Boots Pharmacy, 1 Chaston Place, 29 High Street, Watton, Thetford, Norfolk, IP25 6XE as of 6 January 2024 resulting in residents being unable to access pharmaceutical services or obtain their medication. Therefore, there is no evidence to suggest that patients cannot access pharmaceutical services.
- 2.36 In December 2023 Norfolk and Waveney ICB responded to a MP enquiry following a concern raised by a local constituent about the forthcoming closure of Boots Pharmacy, Watton. A formal response was provided at the time and this MP enquiry was closed.
- 2.37 The Committee were advised that colleagues from Norfolk and Waveney ICB received further correspondence from the local MP in February 2024. The ICB met virtually with the MP to discuss the matter and since this, have confirmed that following the stabilisation of Total Health Pharmacy they have not had further patient or MP enquiries regarding this contractor.
- 2.38 The Committee noted that Total Health Pharmacy Ltd provides 72 core hours and 6 supplementary hours from 09.00 – 10.00, Monday to Saturday, therefore providing a total of 78 hours.

Core & Supplementary Hours

	Current										72:00	6:00
	S1		C1		S2		C2		S3		C3	
Monday	9:00	10:00	10:00	13:00			14:00	21:00				
Tuesday	9:00	10:00	10:00	13:00			14:00	21:00				
Wednesday	9:00	10:00	10:00	13:00			14:00	21:00				
Thursday	9:00	10:00	10:00	13:00			14:00	21:00				
Friday	9:00	10:00	10:00	13:00			14:00	21:00				
Saturday	9:00	10:00	10:00	13:00			14:00	20:30				
Sunday			8:00	13:00			13:00	20:30				

- 2.39 The Committee noted the data circulated prior to the meeting, showing the top 20 dispensing locations for prescriptions issued by Watton Medical Practice. It was evident from the data that patients are having prescriptions dispensed by Total Health Pharmacy who are conveniently located in close proximity to Watton Medical Practice.
- 2.40 It was concluded that there is reasonable patient choice available. Patients use a variety of pharmacies within the wider area, which may be nearer to their home or work for example. It was clear that patients can access pharmaceutical services within the area of Norfolk HWB. It was evident that some patients are choosing to access Distant Selling Pharmacies (online services).
- 2.41 The Committee noted that patients are using a wide range of pharmacies for their pharmaceutical needs, and therefore it can be said that patients are exercising their choice. No evidence had been provided to demonstrate that those living in Watton are currently unable to exercise a choice in obtaining pharmaceutical services.
- 2.42 The P&O Team confirmed that Total Health Pharmacy provide advanced services which include Hypertension Case Finding, Pharmacy First and Contraception Services. Additionally, pharmacies within the wider local area provide the same advanced services and also offer flu vaccinations. The overall provision of pharmaceutical services is through using those established pharmacies already being utilised by those living in the Watton area.
- 2.43 The Committee noted that no current or future gaps in provision of pharmaceutical services have been identified in the current Norfolk PNA 2022-2025 or in the supplementary statements that have been issued since, most recently September 2024.
- 2.44 The Committee noted that the test is whether or not those living in Watton have reasonable choice with regard to obtaining pharmaceutical services in the area of Norfolk HWB, not just in the area of Watton.
- 2.45 No evidence had been provided to demonstrate that those living in Watton are currently unable to exercise a choice in obtaining pharmaceutical services.
- 2.46 The Committee considered Regulation 18(2)(b)(ii)

- 2.47 Based on the information presented, the Committee were 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 cannot be 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 on persons in the area of the relevant HWB which were not foreseen when the Norfolk PNA 2022-2025 was published.
- 2.48 **Regulation 18(2)(b)(iii)**
- 2.49 The Committee considered whether, notwithstanding that the improvements or better access were not included in the Norfolk PNA 2022-2025, it is satisfied that, having regard in particular to the desirability of—
- 2.49.1 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)),
- granting the application would confer significant benefits on persons in the area of Norfolk HWB that were not foreseen when the PNA was published.
- 2.50 The Committee noted the applicant provided no evidence regarding innovative approaches in the delivery of pharmaceutical services, therefore the Committee were not satisfied that, granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the Norfolk PNA 2022-2025 was published.
- 2.51 **Representations**
- 2.52 During the 45-day notification period, representations was received from:
- 2.52.1 Pharmacy Sales & Consulting Services (on behalf of Rosemead Ltd, TA Total Health Pharmacy)
- 2.52.2 Community Pharmacy Norfolk & Suffolk
- 2.53 Representations were made available to the Committee prior to the meeting.
- 2.54 The Committee noted that all those who made representations, raised substantial comments and therefore all except for Community Pharmacy Norfolk & Suffolk may be granted appeal rights, if the Committee decided to grant the application.
- 2.55 **Regulation 18(2)(b) generally**
- 2.56 The Committee considered the opening hours of those pharmacies that are closest to the proposed postcode. The Committee noted that supplementary hours can be withdrawn at any time in line with the Regulations.
- 2.57 The Committee noted that the ICB were made aware of Total Health Pharmacy not providing pharmaceutical services at such times as needed and this was dealt with contractually following local dispute resolution. This subsequently resulted in the contractor reducing their 100 core hours to 72 hours and then implementing 6 additional supplementary hours. This was in line with current Regulations.
- 2.58 The P&O team confirmed that since the introduction of the revised core hours and additional supplementary hours, no concerns relating to the opening hours for Total

Heath Pharmacy have been reported. In addition to this, no temporary suspensions have been reported by the contractor.

- 2.59 The Committee noted that within their application the applicant has provided a selection of screenshots taken from Total Health Pharmacy Facebook page. These range from April 2022 to November 2023.
- 2.60 The P&O team have reviewed the Total Health Pharmacy Facebook page where the screenshots have been taken from and confirmed that Total Health Pharmacy use social media to actively engage and support their patients, ensuring that the patient comments and questions are responded to.
- 2.61 The Committee noted that the selection of social media comments provided by the applicant was during the timeframe whereby Total Health Pharmacy were not fulfilling their contracted hours, and as noted within this report the P&O team dealt with this contractual issue and the situation was remedied.
- 2.62 The Committee considered whether there are any other factors that would confer significant benefits including on patients who share protected characteristics based on the information provided by the applicant.
- 2.63 The Committee noted that within their application, the applicant has proposed 46 core hours (see table below under heading Regulation 65). The applicant is proposing to provide core hours from 10.00 – 13.00 on Saturday and Sunday.
- 2.64 The Committee are to note that Total Health Pharmacy have Saturday core opening hours from 09.00 – 13.00 and 14.00 – 20.30 (supplementary hours from 09.00 – 10.00) and Sunday core opening hours from 08.00 – 20.30. Boots, Hingham, NR9 4AF have Saturday opening hours from 09.00 – 16.00 (supplementary hours from 10.15 – 16.00)
- 2.65 The Committee noted the applicant provided no evidence to satisfy that there are other factors that would confer significant benefits on patients who shared protected characteristics.
- 2.66 **Regulation 50 – Discontinuation of arrangements for the provision of pharmaceutical services by doctors**
- 2.67 The Committee noted the proposed location is not within a controlled locality.
- 2.68 **Regulation 65 – Core opening hours conditions**
- 2.69 The Committee noted that the applicant is proposing 46 Core Hours.

Proposed										46:00	0:00
	S1		C1		S2		C2		S3		C3
Monday			09:00	13:00			14:00	18:00			
Tuesday			09:00	13:00			14:00	18:00			
Wednesday			09:00	13:00			14:00	18:00			
Thursday			09:00	13:00			14:00	18:00			

Friday			09:00	13:00			14:00	18:00				
Saturday			10:00	13:00								
Sunday			10:00	13:00								

2.70 Regulation 66 – Conditions relating to providing directed services

2.71 The applicant has undertaken to provide the following directed services if the application is granted.

2.71.1 Emergency Supply

2.71.2 Norfolk Medicine Support Service (NMSS)

2.71.3 NHS Health Checks

2.71.4 Palliative Care

2.71.5 Smoking Cessation Service (inc NRT supply)

2.71.6 Pharmacy First (formally CPCS)

2.71.7 Hypertension Case Finding Service

2.71.8 New medicine service (NMS)

2.71.9 Healthy Start Vitamins

2.71.10 Needle Exchange

2.71.11 Supervised Consumption

2.71.12 Naloxone

2.72 Regulation 66(4) therefore applies if the application is to be granted, and the inclusion of the applicant and the pharmacy premises in the pharmaceutical list for the area of Norfolk HWB would be subject to the condition set out in Regulation 66(5).

2.73 The condition is that, at the pharmacy premises, the applicant must:

a) Provide the directed services mentioned in the application and

b) Not withhold agreement to a service specification for those services unreasonably

if the ICB commissions the services from the applicant within three years of the date of either the grant of the application or, if later, the listing in relation to the applicant of the pharmacy premises, unless thereafter the ICB ceases to commission the services (if it has commissioned them).

2.74 The Committee noted that some services are advanced services, and some are enhanced services. If the application is granted, the Committee is to consider whether or not to specify a date by which the condition to provide these services is to take effect.

2.75 Decision

2.76 The Committee refused the application on the following basis, under Regulation 18 (2)(b):

2.76.1 There is no evidence that there is not already a reasonable choice with regard to obtaining pharmaceutical services in the area of Norfolk HWB.

2.76.2 There is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services that meet their specific needs for such services in the area of Norfolk HWB.

2.76.3 There is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services in the area of Norfolk HWB. The granting of this application would not offer significant benefits to people within the area of Norfolk HWB.

2.77 There is no information provided to support a finding that pharmaceutical services are not currently provided at such times as needed and therefore the Committee were 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.

2.78 For all the above reasons the view in accordance with Regulation 18(2)(b) is that the granting of this application would not confer significant benefits on persons in the area of the Norfolk HWB which were not foreseen when the Norfolk PNA 2022-2025 was published.

2.79 The Committee were not satisfied that granting the application would confer significant benefits as outlined above or would secure improvements or better access to pharmaceutical services.

2.80 The Committee agreed that appeal rights are granted to the applicant, Foschell Ltd."

3 The Appeal

In a letter dated 8 December 2024 addressed to NHS Resolution, Foschell Ltd, through its representative Healthcare Plus Consulting Ltd, appealed against the Commissioner's decision. The grounds of appeal are:

3.1 "Thank you for your letter dated 8th December 2024 to my client. Foschell Ltd have instructed us (Healthcare Plus Consulting Ltd) to act on their behalf for this appeal, please find authorisation letter attached.

3.2 We would like to appeal the decision made in relation to the above unforeseen benefits application.

3.3 Having reviewed the decision minutes by the Pharmacy Services Regulations Committee (PSRC), it is clear that not all points raised by my client were considered properly or in some cases, considered at all.

3.4 The PSRC failed to acknowledge or discuss the impact of the considerable new housing developments within Watton. They did not consider whether residents in these developments had reasonable choice and also failed to consider the lengthy journeys that these residents face to access pharmaceutical provision.

- 3.5 We also note that the PSRC state there is *“no evidence to suggest that patients cannot access pharmaceutical services.”* We are unsure as to how the PSRC came to this conclusion, given my client provided undisputed evidence of frequent non-contractual, sporadic, closures of the only pharmaceutical operator in Watton, Total Health Pharmacy. From April 2022 to November 2023 there is overwhelming evidence highlighting over 100 closures of Total Health Pharmacy during contracted hours – this equates to approximately one closure every week. We do not consider regular closures during contracted hours of the only available pharmacy as representing sufficient access to provision.
- 3.6 We submit that the Committee have made a decision not taking into account all the facts, and not placing sufficient weight on undisputed evidence presented by my client. Thus, we appeal this decision and trust that NHS Resolution will reevaluate this application with proper considerations of the facts.
- 3.7 We attach all previous correspondence for redetermination by NHS Resolution.
- 3.8 We maintain that granting this application would secure better access and improvements to pharmaceutical services for residents of Watton and the surrounding areas. Regulation 18 has been met through previous representation by my client and thus we invite NHS Resolution to grant my client’s application.”
- 3.9 Supporting information at Appendix C.