

**Pharmaceutical Services Regulations Committees meeting in common for:
Buckinghamshire, Oxfordshire and Berkshire West ICB, Hampshire & IoW ICB & Frimley ICB**

Annex 6.1 & 6.2 to the minutes of the meeting held on Wednesday 26th June 2024.

Applications offering Unforeseen Benefits being considered together and in relation to each other:

Application 1: LP SD One Hundred Seven Limited

- ME3093- CAS-261308-H8K8C7
- Kingsland Centre, The Broadway, Thatcham, RG19 3HN
- West Berkshire HWB.
- Buckinghamshire, Oxfordshire and Berkshire West ICB.

Application 2: Bolcer Ltd

- CAS-270183-Q5R4N4
- Gaywood Drive Shops, Newbury, RG14 2PR. Map covering best estimate area depicted below, with proposed best estimate sites located within blue box.
- West Berkshire HWB.
- Buckinghamshire, Oxfordshire and Berkshire West ICB.

1. Introduction and background

- 1.1 Unforeseen benefits applications had been received as detailed above. The Committee was now required to consider the applications in accordance with Regulations 18 and 19 of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.
- 1.2 Full details of the applicant's proposals had been notified to the various interested parties in accordance with the regulations.
- 1.3 It had been previously agreed and notified that the two applications would be considered together.

2. Consideration by the Committee - Applications

Summary of application from LP SD One Hundred Seven Limited.

- 2.1 The applicant proposed core opening of 40 hours per week and total proposed opening of 61.30 hours per week.
- 2.2 The hours proposed as indicated in section 3.1 of the application form are:

2.2.1 Proposed core opening hours:

| Monday-Friday | Saturday | Sunday | Total |
|---------------|----------|--------|-------|
| 09:00-17:00 | None | None | 40 |

2.2.2 Total proposed opening hours:

| Monday | Saturday | Sunday | Total |
|-------------|-------------|-------------|-------|
| 08:30-18:00 | 09:00-17:00 | 10:00-16:00 | 61.30 |

- 2.3 The applicant proposed to provide essential, enhanced, and advanced services, if commissioned.
- 2.4 The Applicant had not provided a floor plan.

- 2.5 At part 6 of the application form, the applicant describes the unforeseen benefit they are offering to secure as: *“Since the last PNA the number of closures stands as 3 and now with recent news that Boots FE788 will be closing the contract on the 17th of January 2024 the number of closures will stand at 4. With no remaining contract offering 7day a week service that cover the opening hours of the two main two surgeries in Thatcham.”*

“Currently if a patient within the area of Thatcham requires pharmacy service provisions on a Sunday they will have to travel and have the means of travelling over 3 miles away to access these services.”

“The closure of the 3 pharmacies (excluding the boots closure that is in sight) saw a reduction in the overall availability of essential provision in the district. The closures have led to an increase in the average number of items dispensed in other pharmacies. Remaining contractors were able to accommodate an increase in capacity but since they have absorbed the pharmacy provision needs since the said closures, it is unlikely that they have more capacity to cover the dispensing volume of the boots that is closing (roughly 14,000 items per month) specifically the corporate operators”.

- 2.6 *The Applicant also stated;*
“Our delivery service will run 7 days a week as well as our Pharmacy opening provisions. Not only will we be able to improve the provisions in the area for patients but also by being more accessible with opening times and location between other services providers will have a means of providing seamless care to patients that require it out of hours E.G. on a Sunday. There is also several large developments going ahead in Thatcham and the PNA also did not account for the increase in housing/population”

Representations

- 2.7 The Committee noted the applicant’s proposals were notified to various interested parties in accordance with the Regulations.

- 2.8 Representations have been received from:

- 2.8.1 Healthcare Plus Consulting on behalf of Bolcer Ltd stated *“My client agrees with the Applicant that a new pharmacy is required in the Newbury/Thatcham area, however, asserts that the application from Bolcer Ltd should be preferred.*

It is of note that the Applicant’s proposed site is only 0.3 miles from existing pharmaceutical provision, with the next nearest pharmacy also being only 0.6 miles away. By contrast, the site proposed by my client is situated in a dense residential area and is 1.5 miles away from the nearest pharmacy. Clearly granting my client’s application would provide much greater access and choice to pharmaceutical provision for the localised population.

We also note that the Applicant has only provided 40 core hours, whereas my client has provided 45.5 core hours. The Applicant appears 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.”

- 2.8.2 Halo Pharmacy stated

“Patient Journeys

In terms of access, the Applicant cannot claim that their proposed pharmacy would be more accessible. Halo Pharmacy is only a 0.3-mile/ 5-minute walk from the proposed premises. A patient journey to the proposed location would essentially be the same as a patient journey to Halo Pharmacy. Indeed, the proposed site and Halo pharmacy are linked by a one-stop bus journey which is practically a door-door service. The proposed site is not more accessible when considering patient journeys.

Recent closures

The Lloyds pharmacy in Reading was situated over 10 miles away from the Applicants proposed site. It is highly unreasonable to suggest that this closure would have any effect on local residents.

The Lloyds pharmacy in Newbury was situated over 3 miles away in a neighbouring town. Again, it is unreasonable to suggest that this closure would have any consequential effect on local residents.

The Boots pharmacy in Thatcham Health centre is granted 0.3 miles from the proposed site. However, this pharmacy is directly opposite Halo pharmacy, and we are well placed and prepared to absorb these patients and provide adequate pharmaceutical access. Indeed, the migration of patients has already begun prior to the Boots closure, and we are unaware of any complaints regarding our service and any capacity issues. We are taking all necessary steps to even improve on the experience patients have ever had even before the closures.

In regard to recent closures, we conclude that the Lloyds in Sainsburys closures are not relevant to an application at the proposed location. The upcoming closure of the Boots will not leave a gap in access, with reasonable choice being upheld by Halo pharmacy.

Opening hours

The Applicant also references improvements in accessibility through the opening hours it proposes, with a particular emphasis on Sunday opening hours.

The Applicant raises the issue of Sunday opening pharmacies not being available for 3 miles, however we highlight that this has been the case in Thatcham for a while (many years) and certainly since the publishing of the last PNA in 2022, where no gaps in Sunday provision were identified.

The closing Boots is not open on a Sunday, and other closures are over 3 miles distant. As a local operator we are unaware of a need for Sunday opening, however, will happily oblige should NHS England commission us to do so. We already have plans to open for longer as soon as the Boots in Thatcham closes doors.

We note that despite placing emphasis on a need for additional opening hours, especially on a Sunday, the Applicant has submitted an application for the minimum 40 core pharmaceutical hours. The remaining 21 and a half hours are supplementary hours, which we highlight can be easily terminated with 3 months notification. It is clear that the Applicant has not committed to providing extended opening hours, despite what is written in the application.

We also note that the Applicant (LP SD ONE HUNDRED SEVEN LIMITED) is already a local operator, currently operating Thatcham Pharmacy, Unit 2 Burdwood Centre, Station Road, Thatcham, RG19 4YA. This pharmacy is 0.7 miles from the proposed site and does not currently open on a Sunday. We suggest that if the Applicant feels that there is a need for Sunday opening provision (a notion that we do not agree with), then an easier remedy would be for the Applicant to open on a Sunday through their current premises and provide all the benefits they have highlighted.

We maintain that there is currently sufficient access and reasonable choice of opening hours.

Other matters

The Applicant also highlights the provision of a delivery service. We note that delivery is not an NHS commissioned service, and much like supplementary opening hours,

can be stopped at any time. As a local operator, we are also unaware of any complaints regarding delivery services.”

- 1.1.1 West Berkshire Health and Wellbeing Board (HWB) stated
“There have been four pharmacies that have closed in Newbury and Thatcham since the Pharmaceutical Needs Assessment was carried out in 2022. Two years ago, the ratio of pharmacies per 10,000 population was 1.3 in West Berkshire, compared to 2.2 for England as a whole, but as a result of the closures across the district in the period since the PNA was completed, the ratio has fallen to just 1.0 per 10,000 population.

When the Health and Wellbeing Board considered the above closures, it did not consider that they had created a significant gap in the provision of pharmaceutical services in the Thatcham area that was sufficient to justify a review of the PNA or publication of a Supplementary Statement. This was because there were no additional households placed outside a 1 mile / 20 minute travel time to their nearest pharmacy as a result of the closures, and because the Local Pharmaceutical Committee had provided reassurance that there would be sufficient capacity at the remaining pharmacies to be able to process the displaced activity.

Notwithstanding this decision, the Board would welcome additional pharmacies in Gaywood Drive, Newbury, and within the Kingsland Centre in Thatcham town centre as a means of helping to increase capacity and choice for patients, and to improve the overall resilience of the pharmacy sector within West Berkshire. The additional pharmacies would also help to support the Pharmacy First Service, which will see greater numbers of referrals to pharmacies for a variety of conditions and minor illnesses.

... the proposed pharmacy at the Kingsland Centre would enhance accessibility for patients living in Thatcham, since the location is well served by local walking, cycling and public bus networks. The Kingsland Centre has its own car park and there is plenty of on-street parking within the town centre, with level, step-free access from both directions. Furthermore, the location is close to a number of sheltered housing / retired living developments and so would be easily accessible by residents of these facilities.

The proposed pharmacy would be the only one in Thatcham to open seven days a week, which would be welcomed, since patients currently have to travel to Newbury to access a pharmacy that is open on Sundays. The application also indicates that the pharmacy will offer free home delivery, which would deliver significant benefits for patients who are less mobile and / or on low incomes.

Although the pharmacy would be in Thatcham Central ward, which has low levels of deprivation, it would be used by all Thatcham residents, including those living in Thatcham North-East, which has significant pockets of deprivation (20% of LSOAs within this ward are in the third decile on the Index of Multiple Deprivation). We see a correlation between poorer health (and health behaviours such as smoking and substance misuse) and increased deprivation. We would therefore expect to see a greater demand on pharmacy services (including Advanced and Enhanced Services, such as smoking cessation and needle and syringe exchange services) serving more deprived areas.

It should also be noted that the West Berkshire Local Plan Review proposes to allocate 1,500 additional homes to the north-east of Thatcham and these residents would also be likely to use the proposed pharmacy at the Kingsland Centre.

In summary, the Board is supportive of both applications and believes that they will deliver significant additional benefits for patients. The Board does not foresee any significant negative effects as a result of the proposal.”

1.1.2 Boots UK Ltd had no comments to make on the application.

1.2 The Committee noted the applicant did not provide a response to the consultation responses, but West Berkshire HWB did provide a response.”

1.2.1 The West Berkshire HWB stated that

“We would like to add the additional comments:

- Our previous comments remain unchanged, and our previous points around improved access still stand.
- The Halo Pharmacy objection does not mention that there was previously a pharmacy in the Kingsland Centre, which closed between the PNA being undertaken and adopted.
- Sunday opening hours would be a material consideration, since patients currently need to travel to Newbury to access a pharmacy on Sundays, which would be challenging for those without access to a car.

In summary, the Board’s position remains unchanged, and supportive of both applications believing that they will deliver significant additional benefits for patients.”

Summary of Application from Bolcer Ltd.

1.3 The applicant proposed core opening of 45.5 hours per week and total proposed opening of 50.5 hours per week.

1.4 The applicant had also indicated which hours they proposed to be the 40 core hours, and which hours were proposed as additional core hours (the additional core hours/directed hours were 18:00-18:30 Monday to Friday and 10:00-13:00 on Saturdays)

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

1.5.1 Proposed core opening hours:

| Monday-Friday | Saturday | Sunday | Total |
|-------------------------|-------------|--------|-------|
| 09:0-13:00; 14:00-18:30 | 10:00-13:00 | None | 45.5 |

1.5.2 Total proposed opening hours:

| Monday | Saturday | Sunday | Total |
|-------------|-------------|--------|-------|
| 09:00-18:30 | 10:00-13:00 | Closed | 50.5 |

1.6 The applicant proposed to provide essential, enhanced and advanced services, if commissioned.

1.7 The Applicant had not provided a floor plan, but would provide one when once the premises had been secured.

1.8 At part 6 of the application form, the applicant describes the unforeseen benefit they are offering to secure as:

“We understand that there is currently no pharmacy situated in either ward. We believe that the recent closure of the following pharmacies have left/ will leave a significant gap in pharmaceutical services for Newbury and Thatcham:

- Lloyds in Sainsburys, Hectors way, Newbury, RG14 5AB – Closed June/ July 2023
- Superdrug, Northbrook Street, Newbury, RG14 1AE – Closed 16/09/2023
- Boots, Thatcham Health Centre, Thatcham, RG18 3HD – Closing 17/02/2024

- 1.9 The Applicant also stated *“In our view, the closure of the Lloyds in Sainsbury’s and Superdrug in Newbury town centre, coupled with the upcoming closure of the Boots in Thatcham Medical Practice will leave a significant gap in pharmaceutical services for Newbury and Thatcham.*

Local residents and those who are using the local amenities would benefit significantly from having a pharmacy located on the parade of shops on Gaywood Drive.

It is clear from the map above that there is a huge gap in geography where pharmaceutical services are required; a gap this application proposes to fill.

By Foot from Proposed site to current nearest pharmacy (Boots, RG14 1DJ)

As can be seen from the map on the following page, this journey is 1.5 miles or 32 minutes, equating to a 1 hour 4-minute round-journey. It is worth reiterating that distance in itself is a barrier to access. This journey is far greater than the 1-mile PNA maximum distance and is clearly excessive, especially considering the sizeable 7000+ population in the Newbury Clay Hill ward who have to endure such a lengthy journey.

Such poor access by foot is especially relevant when we understand that 40.3% of residents access pharmaceutical services by foot in West Berkshire, per the PNA public engagement survey.

We cannot consider a 3-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’.

It follows that other pharmaceutical provision is also not accessible by foot on account of the greater distances involved. The Day Lewis pharmacy in Newbury town centre is 1.6 miles away, and Halo pharmacy in Thatcham is 1.8 miles away. Thus, there is a lack of reasonable choice and access to pharmaceutical services for those travelling by foot.

We also note that car parking is an issue for those accessing the Boots due to its location in Newbury town centre. We understand that there is no car parking outside of the shop with the nearest parking situated in Camp Hopson car park. This car park is pay and display and thus may present a barrier to people who would like to access pharmaceutical services but may be deterred from doing so frequently due to parking charges.

As per the images above, street car parking at the proposed site is ample and free of charge and would introduce reasonable choice and eliminate the current barriers to access.

Granting this application would secure better access to pharmaceutical services, especially when we consider the huge gap in geography that exists and access difficulties by foot, bus, and car. 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 a different pharmaceutical provider for those in the local area.

Representations

- 1.1 The Committee noted the applicant’s proposals were notified to various interested parties in accordance with the Regulations.

- 1.2 Representations have been received from:

- 1.2.1 LP SD One Hundred Seven Limited stated

“1. A reasonable choice of pharmacy.

Although, the applicant has explained that there have been several closures in the area (Lloyds Pharmacy, (RG14 5AB), Superdrug Pharmacy (RG14 1AE), and Boots (RG18 3HD), there is still a reasonable choice of pharmacies available. The applicant has said that the distance of the next closest pharmacy is more than what is deemed acceptable, we highlight below that the distance between the proposed site and the two closest pharmacies is 1.1 mile, equating to 22 minutes give or take, a non-significant difference between what is stated in the PNA as acceptable.

(I want to also use this opportunity to flag that the PNA is extremely outdated considering the vast change in pharmaceutical provisions in the area since it was published)

The services offered by pharmacies in the area needs to be considered, whether they are less than, or more than, a mile away from the proposed site. Patients in the geographical area that the applicant is seeking to offer better access to, have the options to use the likes of distant selling pharmacies or even local patient facing pharmacies who offer the delivery service such as Thatcham Pharmacy - a free service to all with no inclusion or exclusion criteria for eligibility.

LP SD ONE HUNDRED SEVEN LIMITED has also applied for a new contract to be granted offering unforeseen benefits at a more suitable location with reference: CAS-261308-H8K8C7. This application which has already been supported by the Health and Well Being Board of West Berkshire, offering an additional choice of pharmacy to the residents of this area with a 7-day a week opening service, with over 200 parking spaces.

A consensus of Berkshire showed that 10% of the population had no use of a vehicle and since this consensus was completed there has been a documented increase in road users which demonstrates that the population the applicant is seeking to accommodate have no issues or difficulties in accessing existing pharmacy contractors for services

There is a slight concern that the applicant is submitting an application on the basis that there is now a vacant geographical gap in provision of services following the closures of pharmacies at the following postcodes, however the distance of the proposed site to the now closed sites is not different or improved, so it begs the question that what further benefit is there for the residents if they were already accessing services from these pharmacies regardless of distance?

2) How easy it is for people who live or work near the applicant's proposed pharmacy to travel to other existing pharmacies?

In our most humble opinion, the applicant comes across quite passionately regarding distances covered by patients in the current pharmacy provision, hence the "considerable" improvement that their application could bring to the surrounding community. Upon further looking into it, we firmly believe that as a matter of fact, the application sought does not have a significant positive impact on what is already being offered by the closest pharmacies, in terms of accessibility, i.e. bus routes, car parks or opening times.

The closest car park to the proposed location is a 24-min walk, as opposed to 7-min to Boots in Newbury town centre. Also, the proposed location has no designated parking spaces, and no designated spaces for those that may require a disable parking bay.

As mentioned above, LP SD ONE HUNDRED SEVEN with its application reference number CAS-261308-H8K8C, seeks to considerably improve the opportunity for accessibility for patients in terms of distance and connectivity by bus, with buses running every 30min from Newbury town into Thatcham Broadway, with the bus-stop right outside our proposed location. As opposed to the applicant failing to improve the access for their patients, as they will still have to walk from their bus stop to the proposed location and back. So, again no significant improvement is sensed here.

3) Walking routes, bus services and access by car (including parking)

4) Whether people who are disabled, elderly, have young children or have other needs currently have problems using local pharmacies, and would benefit from the proposed pharmacy.

With regards to point 3 & 4: You will see that the distance from the proposed site (RG14 2PR) to the pharmacies which have closed, is no different to the distance from the proposed site to the next closest pharmacy: Day Lewis, Strawberry Hill, bringing a doubt over whether there is in fact any benefit to the local population, seeing as they are already being serviced by a pharmacy outside of the immediate locality, irrespective of distance, transport, public transport etc..

5) Whether opening another pharmacy would have any significant negative effects

I believe, with the residential build up that exists in the immediate surrounding area to the proposed site, there is what I would call an acceptable level of traffic in the area for the residents to face. However, by introducing a new pharmacy that will lead to a huge increase in traffic that will no doubt raise issues with the residents and create a nuisance. A residential location will always bring the question of suitability, based on how easy it is for patients visiting the location to park and be seen with no time constrictions, as well as not disturbing the already congested and busy neighbourhood life, something we are quite sceptical about, and could potentially lead to local complaints in the long run as well as bringing an unnecessary amount of traffic around a primary school situated less than 300 meters away from the proposed site, bringing much more higher risks of road traffic incidents with young children.

Accessibility is something very important to consider, the proposed site does not have adequate means of access for wheelchair users/patients with disabilities.”

1.2.2 Thames Valley LPC stated

“There has been no Supplemental Statements issued against the current PNA published in 2022.

The LPC states that:

- there is already a reasonable choice with regard to obtaining pharmaceutical services;*
- there is no evidence of people sharing a protected characteristic having difficulty in accessing pharmaceutical services; and*
- there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services.*

There at least 2 Pharmacies (Boots Northbrook and Thatcham Pharmacy within a 9 minute drive, or 20 minutes by a well served public transport system.”

1.2.3 West Berkshire HWB stated

“There have been four pharmacies that have closed in Newbury and Thatcham since the Pharmaceutical Needs Assessment was carried out in 2022. Two years ago, the ratio of pharmacies per 10,000 population was 1.3 in West Berkshire, compared to 2.2 for England as a whole, but as a result of the closures across the district in the period since the PNA was completed, the ratio has fallen to just 1.0 per 10,000 population.

When the Health and Wellbeing Board considered the above closures, it did not consider that they had created a significant gap in the provision of pharmaceutical services in the Thatcham area that was sufficient to justify a review of the PNA or publication of a Supplementary Statement. This was because there were no additional households placed outside a 1 mile / 20 minute travel time to their nearest pharmacy as a result of the closures, and because the Local Pharmaceutical Committee had provided reassurance that there would be sufficient capacity at the remaining pharmacies to be able to process the displaced activity.

Notwithstanding this decision, the Board would welcome additional pharmacies in Gaywood Drive, Newbury, and within the Kingsland Centre in Thatcham town centre as a means of helping to increase capacity and choice for patients, and to improve the

overall resilience of the pharmacy sector within West Berkshire. The additional pharmacies would also help to support the Pharmacy First Service, which will see greater numbers of referrals to pharmacies for a variety of conditions and minor illnesses.

The proposed pharmacy at Gaywood Drive would be the only one within the Newbury Clay Hill Ward to the north-east of the town centre, which has a population of 7,547 residents according to the 2021 Census. It would also serve parts of Thatcham West ward, as well as major new housing developments that are currently being built to the north of Newbury and on Lower Way, Thatcham.

Both Newbury Clay Hill and Thatcham West Wards have a higher proportion of families with very young children compared with the West Berkshire and England averages. These would be more likely to need pharmacy services than the wider population.

The Gaywood Drive site has good accessibility for a suburban location, with easy walking access from surrounding residential areas, as well as a bus routes and bus stops nearby, and plenty of on-street parking in the vicinity of the site.

The proposed pharmacy would have late evening and Saturday opening, which would be welcomed. Prior to closing in 2023, the Lloyds Pharmacy in Sainsbury's would have been the closest one to offer late evening opening for many residents of Newbury Clay Hill. Currently, residents have to travel to one of the pharmacies on the southern fringe of the town to be able to get to a pharmacy open after 6pm. Therefore, the Gaywood Drive pharmacy would enhance evening access.

In summary, the Board is supportive of both applications and believes that they will deliver significant additional benefits for patients. The Board does not foresee any significant negative effects as a result of the proposal."

1.9.1 Boots UK Ltd had no comments to make on the application.

1.3 The Committee noted that Healthcare Plus Consulting on behalf of the applicant provided a response to the consultation responses.

1.3.1 The response stated that:

- *It is undisputed that the late evening hours proposed by my client will improve evening access to pharmaceutical provision.*
- *It is undisputed that parking charges form a barrier to access current nearest - pharmaceutical provision.*
- *It is undisputed that pharmaceutical provision in Newbury and Thatcham is currently poor with an effective 10.3 pharmacies per 100,000 residents - half the average for England (20.6 / 100,000)*

It is worth noting that my client's proposed site, within the Newbury clay hill ward, is situated within one of the most densely populated areas in the whole of West Berkshire and is far cry from what could be considered as 'rural'. Yet the nearest pharmacy is still over 30-minute walk away, far in excess of the 20 minute maximum stipulated. The map below of population densities within the West Berkshire highlights how the Newbury Clay Hill Ward is in fact the most densely populated area in the whole of West Berkshire. It is obvious that pharmaceutical provision is required at my clients proposed location.

The other Applicant states that 'there is still a reasonable choice of pharmacies available'. We interpret such a comment as contradictory; if another applicant believes there is already a reasonable choice of pharmaceutical vision, why have they submitted an unforeseen benefits application? It is clear that the committee must treat representation made by the other applicant with scepticism.

The other applicant states that the ‘two closest pharmacies is 1.1 mile’. We highlight to the committee that this distances as the crow flies and not in fact the correct distance by the most practical route The journey is in fact 1.5 miles - well in excess of what could be considered reasonable.

The Other Applicant highlights that only 10% of the population surrounding the proposed site has no access to a vehicle. We vehemently contest these claims and analyse the census data an LSOAs (Lower-Layer Super Output areas) that surrounds the proposed site. We can see that there are a large proportion of residents who reside near the proposed site who do not have access to a vehicle. These patients will see huge improvements in pharmaceutical accessibility should my client’s application be granted.

The Other Applicant also mentions that the site proposed by my client is not the same as that of recent pharmacy closures. We submit that that is true; we believe that a pharmacy other proposed location provides much better access to the wider population opposed to the pharmacy closure sites. Indeed, it is often that case that pharmacy is closed due to unviability at certain locations. My client has chosen the proposed site as it not only provides much better geographical access, but also provides better viability opposed to pharmacy closure sites.

The Other Applicant raises concern with the parking provision at my client’s proposed site. As ratified by the HWB, parking is plentiful at my client’s proposed site and directly outside the proposed premises. There is not a need for dedicated disabled spaces as most spaces are accessible, as is usual for suburban areas. This is in stark contrast to the inner-town location proposed by the Other Applicant where car parks are busy and dangerous. It is noteworthy that parking at my client site is free whereas the other app can site is subject to parking charges.

2. Further Consideration by the Committee

2.1 The Committee also considered:

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

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

2.1.3 The Report which included:

- maps of the location,
- opening times and distances to surrounding pharmacies and GP Practices,
- a site visit report,
- West Berkshire PNA 2022-25 extracts and a link to the full PNA,
- public transport information,
- prescription information,
- a previous decision report for another unforeseen benefits application in Newbury and,
- the relevant Regulations (18, 19, 31, 51 and 65).

2.1.4 In relation to the applications, the Committee noted the Applicants Fitness to Practise Status:

Application from LP SD One Hundred Seven Limited.

The Committee noted that the applicant’s fitness information had previously been considered and approved.

Application from Bolcer Ltd.

Fitness information was determined and approved on 26th June 2024.

- 2.2 The Committee considered information from a site visit of the Newbury & Thatcham area that had been undertaken by Pharmacy Commissioning Hub representatives who were present at the meeting.

Newbury is a market town in West Berkshire situated in the valley of the River Kennet, it is 26 miles south of Oxford and 20 miles west of Reading. Thatcham is a market town situated to the east of Newbury which now only have one field separating the two town boundaries.

The A339 runs vertically through the centre of Newbury, to the North of Newbury town centre the A4 runs to the east through Thatcham, this is the main link road between the two towns.

- 2.3 The Committee noted the decision made by Buckinghamshire, Oxfordshire and Berkshire West ICB on 6th March 2024 to approve an application offering to provide unforeseen benefits for the Central/South Newbury area. The Committee noted that this decision is now under appeal with NHS Resolution.

3. Regulation 31 – Refusal: same or adjacent premises

- 3.1 The Committee first considered Regulation 31(2)(a)(i) and was of the view that Regulation 31(2)(a)(i) is not met as there is currently no person on the pharmaceutical list at the premises to which the application relates.
- 3.2 The Committee went on to consider paragraph (a)(ii) of Regulation 31(2); whether there is a person on the pharmaceutical list providing pharmaceutical services from adjacent premises.
- 3.3 The Committee was satisfied that there is no pharmacy providing pharmaceutical services within the area of the best estimate address/proposed premises of either application. The applications did not therefore need to be refused in accordance with Regulation 31.

4. Regulations 40,41 and 44

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

5. Regulation 50

- 5.1 There are 33 dispensing patients living within 1.6km radius of the proposed best estimate address of application 1, LP SD One Hundred Seven Limited and
- 5.2 6 dispensing patients living within 1.6km radius of the proposed best estimate address of application 2, Bolcer Ltd.
- 5.3 Therefore, the Committee noted that if either of the applications were approved it would be required to consider the discontinuation of arrangements for the provision of pharmaceutical services by doctors to the affected patients under Regulation 50.
- 5.4 The Committee agreed that if either of the application is approved, it was inclined that the service provided by the dispensing doctors to the affected patients should be discontinued, and that the discontinuation should be postponed in order to give the doctors reasonable notice of the discontinuation, as follows –

Application from LP SD One Hundred Seven Limited: 33 Dispensing patients

- Chapel Row Surgery for a period of one (1) month – (33 patients)

Application from Bolcer Ltd: 6 patients

- East Lane Surgery Chieveley for a period of one (1) month – (6 patients)

6. Oral Hearing

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

7. Regulation 18 – Unforeseen benefits application

- 7.1 The Committee noted that this was an application for “unforeseen benefits” and fell to be considered under the provisions of Regulation 18 which states:
(1) if –
(a) the NHSCB receives a routine application and is required to determine whether it is satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and
(b) the improvements or better access that would be secured were or was not included in the relevant pharmaceutical needs assessment in accordance with paragraph 4 of Schedule 1,
in determining whether it is satisfied as mentioned in section 129(2a) of the 2006 Act (regulations as to pharmaceutical services), the NHSCB must have regard to the matters set out in paragraph (2).
- 7.2 The Committee considered that **Regulation 18(1)(a)** was satisfied in that it was required to determine whether it was satisfied that granting the application, or granting it in respect of some only of the services specified in it, would secure improvements, or better access, to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB
- 7.3 The Committee went on to consider whether **Regulation 18(1)(b)** was satisfied, i.e. whether the improvements or better access that would be secured if the application was granted were or was included in the Pharmaceutical Needs (the ‘PNA’) in accordance with paragraph 4 of Schedule 1 of the Regulations.
- 7.4 The Committee had regard to the West Berkshire PNA 2022-2025 (issue date 1st October 2022) (the ‘PNA’) and noted that no supplementary statements had been issued.
- 7.5 The Committee also noted that, having considered the entire West Berkshire locality including the area of Newbury & Thatcham, the HWB had reached the conclusion that “The results of the PNA concluded that there are no current gaps in the provision of essential services during normal working hours in their lifetime of this PNA.” And “The results of the PNA concluded that there are no current gaps in the provision of essential services during normal working hours in their lifetime of this PNA.” [Page 120, West Berkshire PNA, 2022-25].
- 7.6 The Committee noted that the HWB had considered access (distance, travelling times and opening hours’) to assess how current service provisions will meet the needs of the population within the lifetime of the PNA.
- 7.7 The Committee noted that the improvements or better access that the Applicants were claiming would be secured by their application were not included in the relevant pharmaceutical needs’ assessment in accordance with paragraph 4 of Schedule 1.
- 7.8 The Committee was satisfied that the improvements or better access which the applicants were proposing to secure were not identified in the PNA, and an ‘unforeseen benefits’ application is the correct type of application.

- 7.9 In order to be satisfied in accordance with Regulation 18(1), the Committee went on to consider those matters set out at Regulation 18(2).
- 7.10 **Regulation 18(2)(a)(i)** - *whether or not granting the application would cause significant detriment to the proper planning in respect of the provision of pharmaceutical services.*
- 7.11 The Committee was not aware of any plans that would be affected and concluded that granting the application would not have an adverse effect on any future plans. Neither of the submissions included any comment or evidence in regard to this matter. Therefore, the Committee concluded that granting an application would not cause significant detriment in this regard.
- 7.12 **Regulation 18(2)(a)(ii)** - *whether or not granting the application would cause significant detriment to the arrangements in place for the provision of pharmaceutical services.*
- 7.13 Neither of the submissions included any evidence on this question and the Committee found no proof to support the suggestion that if an application was to be granted, it would cause significant detriment to the arrangements in place for pharmaceutical services in the area.
- 7.14 The Committee did not find any significant detriment to proper planning or to the arrangements in place for the provision of pharmaceutical services and therefore was not obliged to refuse an application under Regulation 18(2)(a).
- 7.15 **Regulation 18(2)(b)(i)** – *whether notwithstanding that the improvements or better access were not included in the relevant PNA, it is satisfied that, having regard in particular to the desirability of – there being a reasonable choice with regard to obtaining pharmaceutical services in the area of the relevant HWB – granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.*
- 7.16 The Committee noted that in the area of Newbury & Thatcham, there have been a number new housing developments and population growth. Following the closure of four pharmacies over the past 2 years there is a now significant decrease of pharmaceutical service provision in the area.
- 7.17 In order to determine whether patients in the area already had a reasonable choice, the Committee considered access (distance, travelling times and opening hours) as an important factor in determining the extent to which the current pharmaceutical service provision meets the needs of the population in the Newbury & Thatcham area.
- 7.18 The Committee considered the location and distance of the pharmacies in the Newbury & Thatcham Area from the proposed locations as detailed in the site visit report and noted there was no pharmaceutical provision in the North East area of Newbury (in the area of Bolcer Ltd.'s proposed location).
- 7.19 In particular the Committee noted the location of the two nearest pharmacies to the proposed locations are:

| Application from LP SD One Hundred Seven Limited | Distance from Applicant Distances given are in a straight line. |
|---|---|
| Halo Pharmacy 3-5 Crown Mead, Bath Road, Thatcham, RG18 3JW | 0.2 miles |
| Thatcham Pharmacy Burdwood Centre, Station Road, Thatcham, RG19 4YA | 0.5 miles |
| Application from Bolcer Limited | Distance from Applicant |

| | |
|--|---|
| | Distances given are in a straight line. |
| Day Lewis Pharmacy Access House, Strawberry Hill Rd, Newbury, RG14 1GE | 1.1 miles |
| Boots the Chemists 4-5 Northbrook Street, Newbury, RG14 1DJ | 1.1 miles |

- 7.20 The Committee noted the details around the nature of the journey to the nearest pharmacies, road layouts and parking.
- 7.21 The Committee was provided with information on local bus service routes through Newbury and Thatcham showing services run approximately every hour Monday to Saturday for the 1a & 1c bus service.
- 7.22 On balance, having considered the factors above, the Committee was not satisfied that following the closure of the four pharmacies that residents of the Newbury & Thatcham area have reasonable choice with regard to obtaining pharmaceutical services.
- 7.23 The committee went on to consider the merits of each of the two applications in relation to choice, based on the proposed locations.

7.23.1 The Committee considered the proposed location of the application from LP SD One Hundred Seven Limited and noted that the proposed location was situated in the main shopping area of Thatcham, with plenty of parking but mainly paid parking except for approx. 23 spaces.

The Committee considered the location of the proposed premises in relation to other pharmacies within the Newbury & Thatcham area. The Committee noted that although the proposed location was in the main shopping area of Thatcham it was geographically close to the nearest pharmacy, which was a 6 min 0.3 mile walk from the proposed location and that the second nearest pharmacy was 0.5 miles away and therefore, may not provide the best location to secure better access for the wider population of Newbury and Thatcham.

7.23.2 The Committee considered the proposed location of the application from Bolcer Ltd and noted that the proposed location was situated in a parade of shops with free parking and people already accessed this location for some daily needs.

The Committee considered the location of the proposed premises in relation to other pharmacies within the Newbury & Thatcham area. The Committee noted that the 2 nearest pharmacies to the proposed location were a 33 & 35 minute (1.5 & 1.6 mile) walk.

The Committee noted that the proposed location was nearest to the two new housing developments of Taylor Wimpey/Shaw Valley and David Wilson Homes/Donnington Heights, both of which are nearing completion.

The Committee considered the location of the proposed premises in relation to the Newbury and Thatcham area as a whole and noted that the proposed location was accessible for the residents of the new housing developments, those who live in the north east of the area and the wider population of Newbury and Thatcham.

- 7.24 The Committee noted there are several practices dispensing to patients within 1.6km of the proposed location of both applications.

- 7.25 **Regulation 18(2)(b)(ii)** - *whether notwithstanding that the improvements or better access were not included in the relevant PNA, it is satisfied that, having regard in particular to the desirability of – people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that, in the area of the relevant HWB, are difficult for them to access - granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.*
- 7.26 The Committee reminded itself that it was required to address itself to people who share a protected characteristic having access to services that meet specific needs for pharmaceutical services that are difficult for them to access. The Committee was also aware of its duties under the Equality Act 2010 which include considering the elimination of discrimination and advancement of equality between patients who share protected characteristics and those within such characteristics.
- 7.27 The Committee noted that whilst Bolcer Ltd had included statements in their application regarding people who share a protected characteristic there was no evidence provided that identified a group of patients in the Newbury & Thatcham area, sharing a protected characteristic with difficulty accessing services that meet a specific need.
- 7.28 The Committee felt that none of the applications had addressed the matter of patients with protected characteristics in any detail or suggested any group has difficult accessing services.
- 7.29 The Committee concluded that based on the information provided, granting an application would not confer significant benefits on people sharing a protected characteristic.
- 7.30 **Regulation 18(2)(b)(iii)** - *whether notwithstanding that the improvements or better access were not included in the relevant PNA, it is satisfied that, having regard in particular to the desirability of – there being innovative approaches taken with regard to the delivery of pharmaceutical services - granting the application would confer significant benefits on persons in the area of the relevant HWB which were not foreseen when the relevant PNA was published.*
- 7.31 The applicants have not offered any information or evidence to demonstrate that their application brings any innovative approaches in the delivery of pharmaceutical services. Therefore, the Committee concluded that there is no evidence that innovative approaches would be taken with regard to the delivery of pharmaceutical services.
- 7.32 In the absence of any suggestion by the applicants that there would be such benefits, the Committee was satisfied that granting the application would **not** lead to any significant benefits by virtue of innovation.
- 7.33 **Other Considerations**
- 7.33.1 **Regulation 18(2)(c)-(f)** - The Committee had previously determined that there was no need to defer the application under Regulation 18(2)(c) to (f).

8. Overall Decision

- 8.1 The Committee concluded that it was not required to refuse the applications under the provisions of Regulation 31.
- 8.2 The Committee had 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 was not satisfied that it would not.

- 8.3 The Committee determined an application should be granted under the requirement of Regulation 18(2)(b)(i), there is not already a reasonable choice with regard to obtaining pharmaceutical services.
- 8.4 The Committee was of the view it was only necessary to grant one of the applications and so proceeded to consider which application should be granted.
- 8.5 The Committee compared the applications.
- 8.5.1 It was agreed that application from LP SD One Hundred Seven Limited was situated too close to two other existing pharmacies (Halo Pharmacy & Thatcham Pharmacy) to provide improved access for the residents of Newbury and Thatcham.
- 8.5.2 The Committee noted that the residents in the area of the Bolcer Ltd's proposed location currently have to travel a greater distance than other areas of Newbury & Thatcham in order to access to pharmaceutical services. The Committee felt that this proposed location offered the best accessibility for the wider population of Newbury and Thatcham, and in particular the residents of the north east of the area.
- 8.5.3 It was noted that application from Bolcer Ltd has declared more core opening hours (including core opening hours on a Saturday) than the application from LP SD One Hundred Seven Limited and proposes the additional hours over the standard 40 core hours will be Directed (not supplementary), which the Committee noted is currently subject to a 3-year commitment under a Direction arrangement.
- 8.5.4 The Committee noted that although the application from LP SD One Hundred Seven Limited provided more opening hours on Saturdays and Sundays, they were supplementary hours which could be removed with 5 weeks' notice.
- 8.6 The Committee agreed that application from Bolcer Ltd is the preferred application. The Application from Bolcer is therefore granted and the application from LP SD One Hundred Seven Limited, is refused.

9. Core opening hours conditions.

- 9.1 Bolcer Ltd undertakes to provide pharmaceutical services at the proposed pharmacy premises for more than 40 core opening hours per week.
- 9.2 The applicant and Buckinghamshire, Oxfordshire and Berkshire West ICB have agreed that pharmaceutical services are to be provided at the proposed pharmacy premises during those additional opening hours that exceed the 40 core opening hours at set times and on set days, and
- 9.3 The application was granted having regard to that undertaking and that agreement.
- 9.4 Bolcer Ltd has confirmed that the 40 core opening hours are 09:00-13:00; 14:00-18:00 Monday to Friday.
- 9.5 The applicant and Buckinghamshire, Oxfordshire and Berkshire West ICB have agreed that the additional opening hours are 18:00-18:30 Monday to Friday and 10:00-13:00 on Saturdays.

10. Rights of appeal – Application from LP SD One Hundred Seven Limited, CAS-261308-H8K8C

- 10.1 The application is refused so the applicant, LP SD One Hundred Seven Limited, has the right to appeal.

10.2 The Committee decided not to grant third party rights of appeal to the LP SD One Hundred Seven Limited decision to any of the parties that responded during the consultation period because the application had been refused.

11. Rights of appeal, Application from Bolcer Ltd: CAS-270183-Q5R4N4

11.1 The application is granted so the applicant, Bolcer Ltd, does not have appeal rights.

11.2 LP SD One Hundred Seven Limited had made a reasonable attempt to express their grounds for opposing the application adequately in their representations.

11.3 The Committee decided that the parties that should have third party rights of appeal are LP SD One Hundred Seven Limited.