

**NHS England South East (Thames Valley)  
Pharmaceutical Services Regulations Committee**

**Decision  
26<sup>th</sup> February 2020**

**Consolidation Application / Boots UK Ltd**

- Site 1:(remaining site) Unit 40, 48 The Orchard Centre, Didcot, Oxfordshire, OX11 7LG
- Site 2: (site to close), 5 Lostock Place, Didcot, Oxfordshire, OX11 7XT
- Oxfordshire CCG / Oxfordshire HWB

A Consolidation onto an existing site application had been received from Boots UK Ltd on 12<sup>th</sup> December 2019.

The Committee was now required to consider the application in accordance with Regulations 26A of the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended.

**CONSIDERATION**

The Committee considered the following:

- The NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, as amended
- The application form provided by the applicant –
  - The Committee noted that the applicant was proposing to provide essential, enhanced and advanced services, if commissioned.
  - The application states that the current total core hours for site 1 is 42.5 hours, the Committee noted that this is an error and should state core hours of 09:30-13:00; 14:00-17:30 Monday to Friday and 09:30-13:00; 14:00-15:30 on Saturdays. Which totals 40 core hours per week.
  - The current total opening of site 1 is 60 hours per week.
  - The Committee considered the applicants statement as to why granting the application would not create a gap in pharmaceutical service provision that could be met by a routine application to meet a current or future need for pharmaceutical services, of to secure improvements or better access to pharmaceutical services. The Applicant has stated:

*“We believe that granting the application will not cause a gap in the provision of pharmaceutical services for the following reasons:*

- 1 – The two sites are located a short distance apart. The distance between the sites is approximately 0.7 miles or a 15 minute walk.*
- 2 – The Boots Pharmacy (site 1) offers access to pharmaceutical provision for a greater length of time, therefore providing greater access at to patients than is currently available at site 2. There are four pharmacies within a mile of site 2 (according to NHS Choices). The next nearest being Lloyds Pharmacy who offer extended hours provision. We therefore do not believe there would be a gap in provision in this locality.*
- 3 – The Boots Pharmacy (site 1) will continue to provide all the services it currently provides along with any currently provided at site 2.*
- 4 – Patients will continue to have a choice of pharmaceutical services in the locality as well as a choice of service provider. There are four pharmacies within a mile.*
- 5 – The Oxfordshire Pharmaceutical needs Assessment 2018 has not highlighted any gap in pharmaceutical provision in this locality.*
- 6 – We have enclosed a map showing the proximity of the two sites.”*

- The Report and annexes prepared by Primary Care Commissioning (PCC) and NHS England:
  - The Committee noted that the applicant’s fitness to practise had previously been considered and approved.
  - All additional information, including location, site visit, opening times and distances of surrounding pharmacies and GP Surgeries, housing developments, demographic information, dispensing figures, travel options were noted and considered by the Committee.
- The Committee considered the representations made by Oxfordshire and Berkshire Local Pharmaceutical Committee (Thames Valley LPC), Lloyds Pharmacy Ltd and Oxfordshire HWB (Health and Wellbeing Board). – and noted the comments made by the interested parties.
- The Committee noted that the Oxfordshire and Berkshire Local Pharmaceutical Committee (Thames Valley LPC) supported the application.
- The Committee noted the representation made by Oxfordshire HWB on the 22<sup>nd</sup> January 2020, which states:
 

*“This application was discussed further at Oxfordshire Primary Care Commissioning Operational Group (OPCCOG) recently and the following response has been received:*

*We are disappointed by this proposal from Boots, particularly in view of the large population growth expected in Didcot, but also the resulting loss of pharmacist advice to patients that helps reduce demand on Primary Care services in the area.*

*We also note that the consolidated site is further away from the Great Western and Valley Park site where new housing is currently being built, and where much of the new population will reside.”*
- The Committee noted the further representation made by Oxfordshire HWB on the 24<sup>th</sup> January 2020, which states:
 

*“A clarification on the discussion at the Oxfordshire Primary Care Commissioning Operational Group (OPCCOG) is that*

  - *The group is not opposing the consolidation (and therefore neither is the Oxfordshire Health and Wellbeing Board)*
  - *They would like consideration to be given to a future review of the provision of pharmacy services in the area because of the growth of the population as new homes are built.”*
- The Committee noted that the HWB did not indicate either way if they thought a gap in pharmaceutical provision would be created should the application be approved.
- The Committee noted that 114 unsolicited comments from members of the public and councillors were received and that they opposed the application.

## **DECISION**

Having considered the application, representations received and all additional information, the Committee determined to **refuse** the application.

## **REASONS FOR DECISION**

The reasons for this decision are as follows:

The application (which was to be determined in accordance with the procedures in Schedule 2 to the Regulations) was submitted by the Applicant based on a consolidation onto an existing site (pursuant to Regulation 26A).

The committee considered whether the consolidation onto an existing site satisfied the elements of Regulation 26A which reads as follows:

**Regulation 26A(1)** A person already included in a pharmaceutical list may make an application pursuant to this paragraph (“a consolidation application”) in respect of the consolidation onto the site (S1) of listed chemist premises in the area of the relevant HWB (HWB1) of the provision of pharmaceutical services provided at or from S1 and other listed chemist premises (S2) in the area of HWB1.

**Regulation 26A(2)** Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to a consolidation application by a person already included in a pharmaceutical list for inclusion in respect of premises not already listed in relation to that person.

**Regulation 26A(3)** Subject to paragraph (4), a consolidation application—

- (a) must be made by the person (P1) included in the pharmaceutical list in relation to S1; and
- (b) if different persons are listed in relation to S1 and S2, must include as part of the application an application by P1 to change the ownership of S2.

The Committee was satisfied that Regulation 26A(3)(a) was met. And that Regulation 26A(3)(b) did not apply.

**Regulation 26A(4)** If different persons are listed in relation to S1 and S2, and the person (P2) listed in relation to S2 is seeking to become the person listed in relation to S1, a consolidation application—

- (a) must be made by P2; and
- (b) must include as part of the application an application by P2 to change the ownership of S1.

The Committee noted that Regulation 26A(4) did not apply.

**Regulation 26A(5)** The NHSCB must refuse a consolidation application—

- (a) if it is satisfied that granting the application would create a gap in pharmaceutical services provision that could be met by a routine application—
  - (i) to meet a current or future need for pharmaceutical services, or
  - (ii) to secure improvements, or better access, to pharmaceutical services; or
- (b) if either S1 or S2 are distance selling premises or appliance contractor premises.

The Committee discussed the location of site 2 and the travel options and times available to the residents of the Ladygrove estate. The committee was in agreement that the railway line and limited access route into the estate separated the Ladygrove area from Didcot town centre where site 1 is located.

The Committee noted the limited bus service from the Ladygrove area, the walking times and distances to reach an alternative pharmacy from all areas of the Ladygrove estate.

The Committee noted that the Nobel housing development to the North of the Ladygrove estate had commenced construction. When completed it would bring a further 1,800 homes, two primary schools and a secondary school to the area increasing the need for pharmaceutical provision.

The Committee considered that the pharmacy at site 2 is in a discreet location separate from the town centre and that patients using the pharmacy in that location would not find services in the town centre as accessible.

The number of prescriptions dispensed at site 2 indicate that the pharmacy is well used in its current location.

The Committee was satisfied for the purposes of Regulation 26A(5)(a)(i) &(ii) that granting the application would create a gap in pharmaceutical services provision that could be met by a routine application.

The Committee noted that neither S1 or S2 are distance selling premises or appliance contractor premises.

**Regulation 26A(6)** In the case of an application to which paragraph (3) applies, the NHSCB must refuse the application unless it is satisfied—

- (a) if the NHSCB intends to commission from P1 at or from S1 enhanced services which P2 provides at or from S2 but which P1 has not been providing at or from S1, that the provision of those services will not be interrupted except for such period as the NHSCB may for good cause allow;
- (b) in the case of an application to which paragraph (3)(b) applies, that—
  - (i) P2 consents to the change of ownership of S2, and
  - (ii) P1 and P2 consent to S2 ceasing to be listed chemist premises as a consequence of the application; and
- (c) in the case of an application to which paragraph (3)(b) does not apply, that P1 consents to S2 ceasing to be listed chemist premises as a consequence of the application.

The Committee was satisfied that Regulation 26A(6)(a)&(b) does not apply. The Committee noted that in accordance with paragraph (3)(c) that P1 consents to S2 ceasing to be listed chemist premises as a consequence of the application

**Regulation 26A(7)** In the case of an application to which paragraph (4) applies, the NHSCB must refuse the application unless it is satisfied—

- (a) that P2 is proposing to carry on at S1, in place of P1, the business in the course of which P1 is providing pharmaceutical services at S1;
- (b) that P2 is undertaking to provide the same pharmaceutical services as those that P1 is providing (whether or not P2 is also to provide other services that P2 is providing at S2);
- (c) that the provision of pharmaceutical services at S1 is not to be interrupted, except for such period as the NHSCB may for good cause allow;
- (d) if the NHSCB intends to commission from P2 at or from S1 enhanced services which P2 provides at or from S2 but which P1 has not been providing at or from S1, that the provision of those services will not be interrupted except for such period as the NHSCB may for good cause allow; and
- (e) that—
  - (i) P1 consents to the change of ownership of S1, and
  - (ii) P1 and P2 consent to S2 ceasing to be listed chemist premises as a consequence of the application.

The Committee noted that Regulation 26A(7) does not apply.

**Regulation 26A(8)** If two or more consolidation applications are being considered together, as regards the issue of a gap in provision, as mentioned in paragraph (5)(a), each application may be refused on the basis of the cumulative effect on provision of all the applications being considered together.”.

The Committee noted that Regulation 26A(8) does not apply.