

Our Ref: CAS-2616603-N3B0W0



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Sent via email to all interested parties  
without appeal rights

4<sup>th</sup> June 2020

Dear Sir/Madam,

**Re: No significant change relocation to 4 Market Street, Whittlesey, Peterborough,  
Cambridgeshire, PE7 1BD by Boots UK Ltd**

NHS England has considered the above application and I am writing to confirm that it has been granted. Please see the enclosed report for the full reasoning.

Yours faithfully,

A handwritten signature in cursive script, appearing to read 'F. Asif'.

Faiza Asif  
Market Entry Officer

**CAS-2616603-N3B0W0**

**Boots UK Ltd T/A Boots:**

**Application for inclusion in a pharmaceutical list: Excepted No Significant Change Relocation application**

**From: 8 – 10 High Causeway, Whittlesey, PE7 1AE**

**To: 4 Market Street, Whittlesey, PE7 1BD**

The Pharmaceutical Services Regulations Committee (hereafter referred to as “the Committee”) considers all pharmaceutical services applications on behalf of NHS England & NHS Improvement East of England in accordance with the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 as amended (hereafter referred to as “the Regulations”).

The Committee was asked to consider this application from Boots UK Ltd for a relocation within a HWB area that does not result in significant change to pharmaceutical services provision and as such is an excepted application under regulation 24(1).

From the application the following was noted:

- Boots are vacating their current premises at the above location and are applying to relocate the contract to a new location. Boots acknowledge there is a pharmacy trading from the proposed premises which is owned by Whittlesey Pharmacy Ltd. This pharmacy has submitted a closure notice and will cease trading. It is the intention that this pharmacy will close immediately before the relocation takes place
- Boots confirmed that at no point will there be 2 contracts operating from the same address. If the application is granted, they will not relocate until the other contract has closed and removed from the pharmaceutical list
- Boots do not believe that for all the patients groups accustomed to accessing pharmaceutical services at the current location, the proposed premises will be significantly less accessible.
- Boots state the journey is straight forward and the distance is approximately 120 metres or a 1 minute walk. There are no barriers to access between the two locations. The route is flat and has well maintained pavements.
- Boots submit that there are no barriers to access and the new premises are not significantly less accessible.
- Boots has identified 6 possible patient groups and has provided a detailed description of how these groups will access the services and feel that these groups will not find the proposed premises significantly less accessible
- Boots submit that the relocation is straight forward and do not believe it will have any effect on the current provision that is currently in place
- A floor plan has been provided
- Boots has confirmed the services will remain the same
- Boots has confirmed there will be no interruption in service provision

A google search confirms the distance from the current premises to the proposed new premises to be approximately 0.1 miles – 3 minute walk.

It was noted from additional information taken from NHS.UK that there is one other pharmacy within Whittlesey at 0.1 miles from the proposed premises and a further 14 pharmacies within a 5 mile radius which extends into Peterborough.

A letter of representation was received from the Cambridgeshire & Peterborough LPC:

- The LPC reviewed the application and appropriate declarations of interest made.

- The LPC is aware that there is a 100 hour pharmacy, Whittlesey Pharmacy, operating from 4 Market Street, Whittlesey. The LPC confirms that a closure notice has been submitted by this pharmacy and that statutory bodies will be informed 28 days prior to the date of any permanent closure.
- The LPC accepts that the distance and route from the current Boots premises to the proposed premises is as described by the applicant.
- The LPC asks that NHSE ensures the application meets the requirements of Regulation 24(1) and that NHSE are satisfied this application should not be refused pursuant to Regulation 31.

The Committee noted the comments made by Cambridgeshire & Peterborough LPC and noted no other representations were received.

### **Consideration**

The Committee first considered Regulation 31 which states:

*31.—(1) An application—*

*(a) for inclusion in a pharmaceutical list by a person not already included; or  
(b) by a person already included in a pharmaceutical list for inclusion also in respect of premises other than those already listed in relation to that person, must be refused where paragraph (2) applies.*

*(2) This paragraph applies where—*

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

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

*(ii) adjacent premises; and*

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

*For an application to be refused pursuant to Regulation 31, both 31(2)(a) and (b) must apply.*

The 100 hour pharmacy, Whittlesey Pharmacy Ltd T/A Whittlesey Pharmacy, that is currently providing NHS services at the proposed premises has submitted a valid notice of withdrawal to NHSE&I under Regulation 75 and will permanently close prior to the relocation.

Judicial guidance in respect of 31(2)(b) is available in the case of R (on the application of Pharmacy Care Plus Ltd) v Family Health Services Appeals Unit [2013] EWHC 824 (Admin)

The applicant cites the above Judicial guidance and a recent appeals case from NHS Resolution as to why the application should not be refused under Regulation 31 and has confirmed the companies have no shared directors, shareholders, employees, premises or any other features that might lead to the conclusion they are connected.

The applicant has provided assurance that if their application is granted, there will not be two pharmacies operating from the same or adjacent premises.

The Committee agreed there was no evidence or information to suggest that the application should be refused under Regulation 31.

**Regulation 24** —(1) *Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to an application from a person already included in a pharmaceutical list to relocate to different premises in the area of the relevant HWB (HWB1) if—*

*(a) for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible.*

The applicant states that the new premises is not significantly less accessible. This was not disputed by other parties.

The Committee agreed there was no evidence or information to suggest that the location of the new premises is not significantly less accessible.

*b) in the opinion of the NHSCB, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list—*

*(i) in any part of the area of HWB1, or*

*(ii) in a controlled locality in the area of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;*

The Committee agreed there was no evidence or information to suggest that the move would lead to any significant changes in pharmaceutical arrangements.

*(c) the NHSCB is satisfied that granting the application would not cause significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1;*

The Committee agreed there was no evidence or information to suggest that the move would lead to any significant changes to proper planning in respect of the provision of in pharmaceutical arrangements.

*(d) the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises (whether or not, in the case of enhanced services, the NHSCB chooses to commission them); and*

This has been assured by the applicant. The Committee agreed there was no reason to doubt this.

*(e) the provision of pharmaceutical services will not be interrupted (except for such period as the NHSCB may for good cause allow).*

This has been assured by the applicant. The Committee agreed there was no reason to doubt this.

## **Decision**

In summary, the Committee agreed this appeared to be a straightforward application with a very short distance between the 2 sites and very well defined patient groups.

The Committee agreed that the application meets the regulatory criteria of Regulation 24.

The Committee therefore granted the application.

Appeal rights: The Committee agreed that there were no substantive representations received from interested parties therefore no third party right of appeal will apply.