

**Meeting:** Planning and Development Committee      **Agenda Item:** **3**

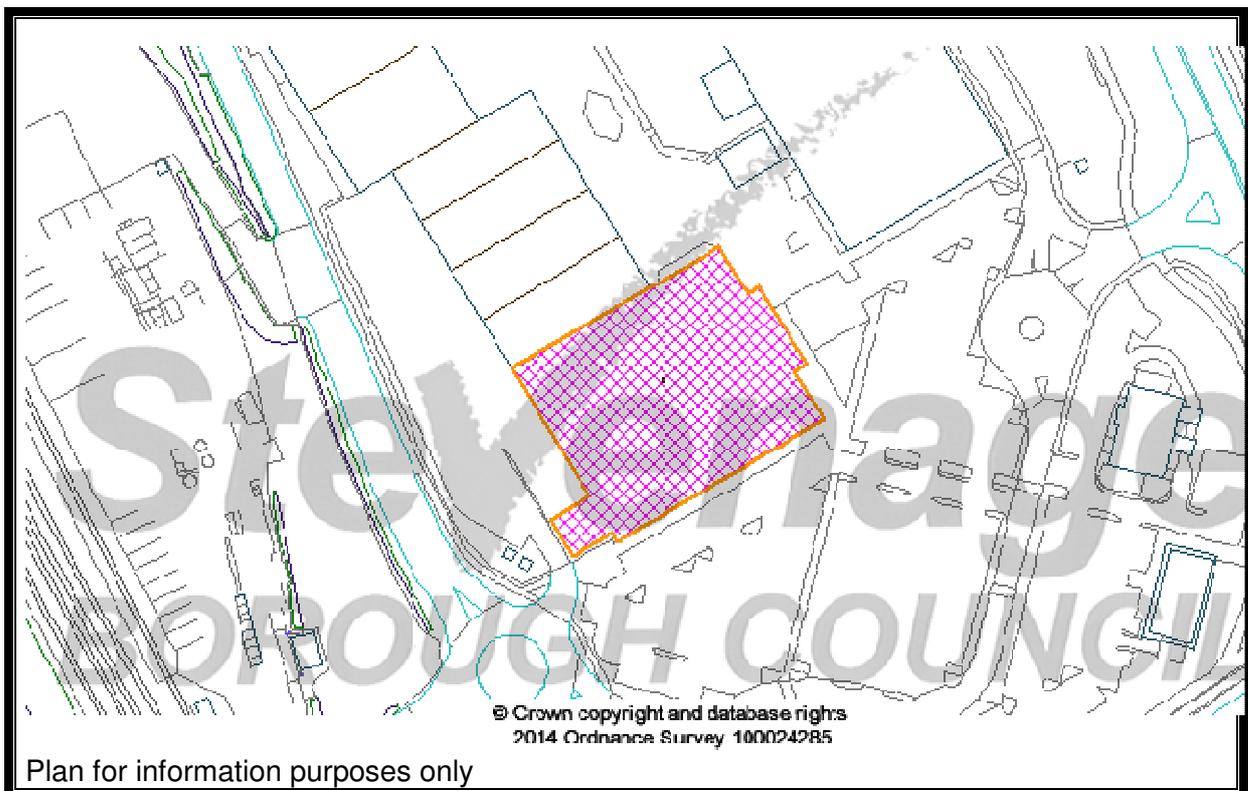
**Date:** 28 October 2014

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Application No.:	14/00111/FPM
Location:	Unit 5 Roaring Meg Retail Park, London Road, Stevenage, Herts.
Proposal:	Partial redevelopment and extension of Unit 5 to provide additional floorspace including ancillary café and amendments to car park and landscaping.
Drawing Nos.:	1184-009RevD, 1184-015RevD, 1184-016RevB, 1184-017RevA, 1184-018, 1184-0119RevB, 1184-020, 1184-022 and 1184-023.
Applicant:	Aberdeen Asset Management Ltd
Date Valid:	28 February 2014
Recommendation:	GRANT PLANNING PERMISSION



## **1. SITE DESCRIPTION**

- 1.1. The application site comprises the existing Unit 5 Roaring Meg, its associated service yard to the rear, the adjacent car park and a pedestrianised area to the north-east of the building. Unit 5 is located towards the southern end of the Roaring Meg North Retail Park and is at the southern end of an adjoining terrace of retail units (units 7A to 6B). The Roaring Meg Retail Park is located approximately 1.3km to the south of the town centre and comprises a total of 17 purpose built retail and leisure units plus three restaurants, a public house and community centre which provides approximately 40,000m<sup>2</sup> total floor area. Unit 5 is one of the larger units on the site and comprises a gross internal area of 4,096m<sup>2</sup> at ground floor with a mezzanine of 941m<sup>2</sup>. The unit is currently occupied by Toys R Us. The application site is bounded by London Road to the west, the adjacent retail units and car park to the north, the northern terrace of retail units and Monkswood Way to the east and by the southern end of the Retail Park and Broadhall Way to the south. The Retail Park can be accessed both off of Monkswood Way to the east and London Road to the west.
- 1.2. The application site comprises an area of 2.3 hectares.

## **2. RELEVANT PLANNING HISTORY**

- 2.1. 2/0052/85 Sub-regional comparison goods retail warehouse complex including “ice sports centre” and leisure facilities with ancillary flats, car parks, public conveniences and landscaping. Planning permission granted 11<sup>th</sup> July 1985.
- 2.2. 2/0048/87 Sub-regional durable goods retail warehouse complex, ice rink and leisure unit, residential flat, licensed restaurant, 2 fast food units, community arts centre and car and coach parking facilities and improvements to water meadow. Planning permission granted 3<sup>rd</sup> April 1987.
- 2.3. 99/00097/OP Demolition of ice rink, bowling alley; redevelopment to include new retail unit, new bowling alley unit, community arts pavilion, internal access roads, revised car parking and landscaping. Planning permission refused 21<sup>st</sup> May 1999. (Allowed on appeal).
- 2.4. 00/00371/FP Variation of condition no. 3 of planning permission 2/0048/87 to allow sale of cold lunchtime snacks up to a gross floor area of 19sqm, baby food & milk products up to a gross floor area of 19sqm and children’s and baby clothing. Application withdrawn 24<sup>th</sup> May 2001.
- 2.5. 00/00489/FP Entrance alterations. Planning permission granted 19<sup>th</sup> December 2000.
- 2.6. 01/00121/RM Reserved matters application pursuant to outline planning permission (ref no. 99/00097) for partial redevelopment involving demolition, extension and new build, improved internal circulation and adjustment of car parking and landscaping. Reserved matters approval granted 4<sup>th</sup> June 2001.
- 2.7. 01/00419/FP Entrance lobby to retail building for which outline planning permission was granted (reference number 99/00097/OP) and approval of details was granted (reference number 01/00121/RM. Planning permission granted 19<sup>th</sup> September 2001.
- 2.8. 04/00128/FP Variation of condition 3 of planning permission 2/0048/87 to allow the unrestricted sale of non-food goods in 929 square metres of the Roaring Meg Retail Park. Planning application withdrawn 13<sup>th</sup> August 2004

- 2.9. 04/00458/FP Variation of condition 3 of planning permission 2/0048/87 to allow the unrestricted sale of non-food goods in 627m<sup>2</sup> of the Roaring Meg Retail Park. Planning permission refused 18<sup>th</sup> November 2004.
- 2.10. 06/00681/CLED Certificate of lawful existing development relating to the addition of mezzanine floors in units 3, 6A and 7. Certificate of lawfulness approved 6<sup>th</sup> February 2007.
- 2.11. 06/00214/FP Alterations to external elevations of units, relocation of Moben unit, erection of a café building and alterations to car park and landscaping. Planning permission granted 3<sup>rd</sup> July 2006.
- 2.12. 08/00081/CLPU Certificate of lawfulness of proposed use of the sub-divided units within Unit 7 Roaring Meg for unrestricted sale of retail goods within Class A1. Allowed on appeal 6<sup>th</sup> April 2009.
- 2.13. 08/00186/FP Extension to car park. Planning application withdrawn 27<sup>th</sup> May 2008.
- 2.14. 11/00126/CLPU Certificate of lawfulness for the unrestricted sale of goods within Class A1 (Retail). Units 2A and 2B. Certificate of lawfulness approved 1<sup>st</sup> April 2011.
- 2.15. 11/00129/CLPU Certificate of lawfulness for the unrestricted sale of goods under Use Class A1 (Retail). Units 6A and 6B. Certificate of lawfulness approved 1<sup>st</sup> April 2011.
- 2.16. 12/00536/FP Erection of 6no. roof mounted ventilation turrets onto the roof of an existing retail unit as part of a new passive ventilation system. Planning permission granted 3<sup>rd</sup> January 2013.

### **3. THE CURRENT APPLICATION**

- 3.1. The current application seeks planning permission for the partial redevelopment and extension of Unit 5 to provide an additional 4,253m<sup>2</sup> non-food retail floorspace including ancillary café and amendments to the car park layout and landscaping in order to accommodate a department store operator. The application also includes a proposed new sub-station and sprinkler tank within a two metre high enclosure within the service yard.
- 3.2. The unit would be increased from 4,096m<sup>2</sup> to 5,110m<sup>2</sup> gross internal area at ground floor level and from 941m<sup>2</sup> to 4,180m<sup>2</sup> at the upper mezzanine floor to accommodate the department store with ancillary café. The total internal area of the redeveloped building would therefore be 9,290m<sup>2</sup>.
- 3.3. The applicant proposes to enhance Unit 5 to provide what is described as a “statement building”. The proposed building would be approximately 83.5m in length by 70m in width. Whilst the building would appear to be flat-roofed from ground floor level it would actually be a series of shallow pitches which would allow rain water to drain. The maximum height of the building at the ridges would be 11m and this would fall to 10m in the valleys. The proposal provides for up to 20 cycle parking spaces and a further covered 20 cycle parking spaces for staff at the rear of the building. Overall the proposal would result in the loss of 41 car parking spaces from the 1044 currently available at the retail park to 1003 that would be available after development. 27 parking spaces for staff would also be provided at the rear of the building. The reduction in the amount of parking available is a consequence of the increased width of the proposed building over the existing building.

The existing car park would be reconfigured to accommodate this and the existing car park to the north would also be extended in front of Unit 7B.

- 3.4. New areas of landscaping would be introduced in the car park to the south-east of the building to break up this area of parking and which would be similar to the existing low-level landscaping within the existing parking area. Two bus stops on the internal access road are also indicated on the proposed site layout drawing.
- 3.5. The applicant has stated that the completed building would vastly improve the energy performance of the existing building and would exceed current legislation. The applicant has also stated that 200 full-time equivalent positions would be created, which would be an increase of 150 positions over the existing occupier.

## **4. PUBLIC REPRESENTATIONS**

- 4.1. The application has been publicised by site notices posted at the site, a press notice as well as letters to adjacent occupiers. At the time of drafting this report four letters of objection have been received from the occupiers of no. 3 Lawrence Close, Hitchin, Gateley LLP on behalf of WD Westgate Partners LLP, CBRE Ltd on behalf of CBRE Global Investors, and Planning Works Ltd on behalf of Stevenage Properties Ltd, the Strathclyde Pension Fund, Pennyroyal Ltd and Redevco UK 1 BV. These representations are summarised below:

- A department store needs to be in the town centre and not on a retail park. Stevenage town centre is desperate for regeneration and a department store would kick start that, it would also bring other much needed mid-range stores that Stevenage town centre lacks. If a department store was to open on the Roaring Meg site and not the town centre the likelihood of any large scale development happening along with a department store in the town centre is very slim. The development would take trade away from the town centre and not all town centre sites have been considered. Debenhams in the town centre would breathe much needed life into a dying centre, having it on a retail park will kill it off.
- The proposal is fundamentally at odds with the underlying principles of both national and local planning policy. The proposal fails the sequential test as there are options available to develop a department store format within the town centre which are both suitable and deliverable. A redevelopment and reconfiguration of the Westgate Shopping Centre can create a two floor department store of circa 9,000 square metres. As the sequential test is failed the application should be refused.
- The retail impact work clearly lacks both realism and robustness and does not demonstrate that there will be no likely significant adverse impact on the Town Centre's vitality and viability. The impact test has therefore also been failed and consent should be refused on that reason alone. The application has been considered on the basis of a Debenhams department store operating from this unit and the unit could, potentially, be occupied by another department store operator which could have a significantly greater impact than that assessed in the current application. Additionally, the trade draw will be from the residents of Stevenage and its tight catchment area who do not have access to a similar offer at the present point in time. It is, therefore, realistic to assume that a much greater percentage of the store's turnover is likely to be drawn from Stevenage Town

Centre and, consequently, the impacts on Stevenage Town Centre are significantly understated.

- The fall-back position and the proposal are not of the same kind and the fall-back position is incapable of accommodating the proposal which is being put forward. The fall-back position is not a genuine fall-back position and is, therefore, not a material consideration. Even if it is accepted to be a material consideration to be taken account of in the decision making process, then the weight which should be attached to it is negligible.
- The assumptions in respect of the Traffic Statement are flawed and fail to take a proper view of the traffic impacts of the proposal.
- It is clear that with a trade draw of approximately 50% and with sensitivity testing of occupation by other occupiers the likely impact of the proposal upon the vitality and viability of Stevenage Town Centre will be very significant indeed and exacerbated by the impact on potential investment in new retail floor space/department store within Stevenage Town Centre. The retail impact assessment significantly understates the impact and has simply not analysed the real impacts of the proposal.
- WD Westgate as landowner working with the adjacent landowner is trying to bring forward investment and rejuvenation within Stevenage Town Centre. This inevitably needs a major retail anchor in the form of a department store or larger retail unit. Either option would be precluded by a development of this scale of out of centre retail floor space.
- The applicant has not provided justification over why a store of this size is required and therefore an assessment of demonstrating flexibility in terms of the scale of the store is unable to be taken. Therefore the applicant has not adequately demonstrated that there are no sequentially preferable sites.
- The applicant has underestimated the potential impact of the development on the town centre and planned investment due to only considering the sales density of the proposed operator and the trade draw assumptions that have been made.
- More consideration should be given to the impact the proposals will have on the planned redevelopment for Stevenage town centre. A department store such as Debenhams could act as an anchor to a town centre redevelopment scheme; however, if the development at Roaring Meg was to go ahead it is unlikely that a competing department store would locate in the town centre.
- In relation to the Supplementary Retail Statement prepared by England & Lyle dated June 2014, there is nothing in this retail statement which alters the nature of the objections and concerns that have been raised in previous correspondence. The rejection of the Westgate Centre site put forward as a sequentially preferable site is based purely on assertion and is not informed by any evidence or factual analysis. A further option for the development of the Westgate Centre to provide a 90,000 square foot unit has also been put forward which is available and deliverable in a practical sense. The sequential test is failed and therefore the application should be refused in line with the NPPF.

- The applicant needs to undertake an impact assessment on the comparison goods element of the town centre in accordance with guidance in the National Planning Practice Guidance.
- The proposals being advanced by WD Westgate Partners LLP for the expansion of their Westgate Shopping Centre represent a sequentially preferable site. The testing carried out by the applicant is flawed. Additionally, with regard to the impact assessment the applicant does not explain how turnover levels between Debenhams stores can vary as clearly the spread between average and high turnover stores could be significant. The figures currently presented could seriously underestimate turnover and therefore the impact on the Town Centre. Secondly, the applicants do not seek to tie permission to Debenhams in any way.
- Although it appears that there are only a nominal number of voids in the Town Centre, this is not an accurate reflection of the state of the market. The letting market in Stevenage remains very fragile and very few multiple retailers currently have requirements for new stores in Stevenage. The addition of a department store at Roaring Meg will have a detrimental impact on what is already a challenging outlook at Stevenage Town Centre.
- The development options within the Westgate Centre are suitable, viable, available and deliverable. This satisfies the test of suitability in the NPPF as well as guidance in the NPPG.
- We note that the fall-back position has now been abandoned. As the lack of a fall-back position has now been conceded, then the original stance that the application needs to satisfy both the sequential and the impact tests is the baseline against which matters have to be assessed. The application fails to meet the sequential test and if implemented would have a significantly adverse effect within the terms of the NPPF. Therefore, planning permission must be refused on those bases and there is no fall-back position to set against this.
- As the fall-back position has been conceded the entire basis of the traffic analysis falls away and must be entirely reconsidered.
- Finally, Gateley have directed the Local Planning Authority to a decision of the Planning Inspectorate at the Blackwater Shopping Park in Farnborough, Hampshire which they state is pertinent to the planning application. Here the Inspector refused planning permission in part due to a failure to comply with the sequential test. As in the appeal decision it is stated that the applicant is demonstrating no flexibility whatsoever and is putting forward a rigid business model to deliberately side step and frustrate the requirements of the sequential test.

Given the detailed and complicated nature of the representations that have been received in this application process, the full content of the letters that have been received are available to view on the Council's website.

## **5. CONSULTATIONS**

### **5.1. Hertfordshire County Council as Highway Authority**

5.1.1 Hertfordshire County Council as Highway Authority has considered that the proposal would not significantly increase the traffic generation or the vehicle movement to the site. Additionally, the operational arrangement of the car park would be acceptable. The proposal has been considered not to have a significant effect on the safety and operation of the adjoining highways and consequently the Highway Authority would have no objections on highway grounds.

## **5.2. Environmental Health**

5.2.1 If ground is to be broken a phase one investigation desk top study will need to be undertaken. This can be a condition of any planning permission. Following this initial response the applicant has now submitted a Phase I & II Geo-environmental Site Investigation which the Environmental Health team consider to be acceptable.

## **5.3. Herts Fire and Rescue Service**

5.3.1 Access for a pump fire appliance appears to meet the 50% requirement as laid down in The Building Regulations 2010 (As Amended) (Approved Document B Vol 2 Table 19). In respect of water supplies, provided that the existing fire hydrants remain in situ after the completion of building works, then the existing provisions are considered satisfactory. Should any fire hydrants need to be relocated the applicant will need to contact the Fire Officer for early consultation on advice on new locations. It is recommended that a sprinkler system to BS 12845 should be provided for these premises.

## **5.4. Environment Agency**

5.4.1 No objection to the proposals. The submitted flood risk assessment (FRA) satisfactorily outlines the surface water management scheme and flood risk mitigation measures for the site. The development should be carried out in accordance with the FRA and associated plans.

# **6. RELEVANT PLANNING POLICIES**

## **6.1. Background to the Development Plan**

6.1.1 In the determination of planning applications development must be in accordance with the statutory development plan unless material considerations indicate otherwise. For Stevenage the statutory development plan comprises:

- Hertfordshire Waste Local Plan 1999
- Hertfordshire Minerals Local Plan 1998
- The Stevenage District Plan Second Review 2004.

The former Draft Core Strategy and Development Management Policies were withdrawn on 1<sup>st</sup> February 2012. However, the Site Specific Policies Plan, the Old Town Area Action Plan and the Gunnels Wood Area Action Plan have all been approved locally by the Council's executive as material considerations in the determination of planning applications and continue to be used for Development Management purposes. Additionally, the Council's Interim Planning Policy Statement adopted in April 2012 is a material consideration in the determination of planning applications registered on or after the 18 April 2012.

6.1.2. Where a Development Plan Document has been submitted for examination but no representations have been made in respect of relevant policies, then considerable weight

may be attached to those policies because of the strong possibility that they will be adopted. The converse may apply if there have been representations which oppose the policy. However, much will depend on the nature of those representations and whether there are representations in support of particular policies.

- 6.1.3. In considering the policy implications of any development proposal the Local Planning Authority will assess each case on its individual merits, however where there may be a conflict between policies in the existing Development Plan and policies in any emerging Development Plan Document, the adopted Development Plan policies currently continue to have greater weight.

## **6.2. Central Government Advice**

- 6.2.1 In March 2012 the National Planning Policy Framework (NPPF) was published and in doing so it replaced many documents including all Planning Policy Guidance Notes and Planning Policy Statements. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. Annex 1 of the NPPF provides guidance on how existing local plan policies which have been prepared prior to the publication of the NPPF should be treated. Paragraph 214 states that for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework. However this only applies if the development plan has been adopted following the procedures of the Planning and Compulsory Purchase Act 2004. Whilst the District Plan Second Review was adopted in December 2004 its preparation was undertaken prior to the enactments of The Planning and Compulsory Purchase Act 2004. Accordingly the advice at paragraph 215 of the NPPF applies which states that only due weight should be afforded to the relevant policies in the adopted local plan according to their degree of consistency with this framework.
- 6.2.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is itself a material consideration. Given that the advice that the weight to be given to relevant policies in the local plan will depend on their degree of consistency with the NPPF, it will be necessary in the determination of this application to assess the consistency of the relevant local plan policies with the NPPF. The NPPF applies a presumption in favour of sustainable development. In addition to the NPPF advice in the National Planning Practice Guidance (March 2014) also needs to be taken into account.

## **6.3. Adopted District Plan**

TW1	Sustainable Development
TW8	Environmental Safeguards
TW9	Quality in Design
TW11	Planning Requirements
T6	Design Standards
T12	Bus Provision
T13	Cycleways
T14	Pedestrians
T15	Car Parking Strategy
EN13	New trees in Developments
EN38	Energy Conservation and Supply

## **6.4. Supplementary Planning Documents**

Parking Provision Supplementary Planning Document January 2012

Stevenage Design Guide October 2009

## **6.5 Interim Planning Policy Statement for Stevenage April 2012**

IP01	Sustainable Development Principles
IP02	Planning Requirements
IP03	Town Centre Development Principles
IP11	Flood Risk and Drainage
IP13	Carbon Dioxide Emissions and Energy Performance

## **6.6 The Stevenage Retail Study April 2013**

# **7. APPRAISAL**

7.1 The main issues for consideration are: the acceptability of the proposal in land use policy terms; a sequential analysis of alternative sites, the effect on existing, committed and planned investment in the town centre and on its vitality and viability; the impact on the character and appearance of the area; the effect of the proposals on the highway network; the adequacy of the proposed parking provision, flood risk and other issues that have been raised in the application process.

## **7.2. Land Use Policy Considerations**

7.2.1 The application site is not designated for any specific use within the Stevenage District Plan Second Review 1991-2011 adopted 2004. Additionally, previous Local Plan policies TR5 and TR6, which related to retail developments, were not saved from September 2007. Accordingly, in relation to retail issues, the proposal falls to be assessed against the provisions of the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

7.2.2 The NPPF reaffirms the Government's objectives for ensuring the vitality of town centres. For proposals that are not in an existing centre the NPPF states that a sequential test must be undertaken giving preference to town centre sites and then edge of centre sites before consideration is given to out of centre sites. Secondly, the NPPF states that for proposals of this scale (above the default threshold of 2,500m<sup>2</sup>) an impact assessment must be undertaken which considers impact on existing, committed and planned public and private investment in centres and impact on vitality and viability of defined centres. There is no requirement for the applicant to demonstrate a need for the development.

7.2.3 The NPPG (2014) reaffirms the 'town centre first' principle, that compliance with the sequential and impact tests does not guarantee that permission will be granted and that the Local Planning Authority will have to take into account all material considerations in reaching a decision. With regards to the sequential test the NPPG states that the applicant must demonstrate flexibility. A town centre site does not have to accommodate precisely the scale and form of the proposed development and consideration should be given to the contribution that more central sites are able to make.

7.2.4 To address these two tests the applicant has submitted a Retail Statement dated December 2013, a Supplementary Retail Statement dated June 2014 and a letter from the applicant's retail consultants dated 2<sup>nd</sup> July 2014 which consider the Plaza site in the town centre. These documents contain a significant amount of technical information and judgements on the suitability and availability of alternative sites and the likely impacts from the proposed development. To assist in examining and testing this information a retail consultant has been appointed by the Council.

#### Sequential Assessment

7.2.5 To properly consider the sequential assessment it is necessary to be clear that the proposal is to create 9,289m<sup>2</sup> open A1 floorspace, notwithstanding that the net physical expansion of floorspace is 4,285m<sup>2</sup>. Unit 5 is currently restricted by condition to 'no food, fashion or footwear' retail. It is also clear that the application is an out-of-centre site in terms of retail planning policy.

7.2.6 In considering the suitability of alternative sites it is necessary to have regard to the characteristics of any site that must be met in order to satisfy the applicant's business model. Legal decisions have confirmed that the sequential test is directed at what the developer is proposing, not some other proposal which the planning authority may seek to substitute for it which is something less than that sought by the developer. The applicant has confirmed that the requirement for the proposed occupier (Debenhams) is a store of 100,000 sq ft (9,290m<sup>2</sup>) on a maximum of two floors with free on-site car parking which, it is stated, is needed to allow customers to use its 'click and collect' service.

7.2.7 The NPPG provides guidance on undertaking the sequential test. It states that with regard to the requirement to demonstrate flexibility, the suitability of more central sites to accommodate the proposal must be considered. However, it goes on to state that it is not necessary to demonstrate that a potential town centre site can accommodate precisely the scale and form of the development proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal. Finally the guidance states that if there are no suitable, sequentially preferable locations, the sequential test is passed.

7.2.8 The NPPG states that it is for the applicant to demonstrate compliance with the sequential test. Accordingly, the applicant has submitted a Retail Statement dated December 2013, a Supplementary Retail Statement dated June 2014 and a letter dated 2<sup>nd</sup> July 2014. Within these documents the following sites have been considered:

- Stevenage Town Centre Regeneration Proposal;
- Stevenage Leisure Park;
- The Firs Retail Park;
- St George's Way Multi-storey Car Park;
- Brickdale House Complex;
- Other Town Centre Opportunities;
- Westgate Shopping Mall;
- Matalan Site; and
- The Plaza Site.

7.2.9 Taking into consideration the NPPG and the decision of the Supreme Court in the Tesco Stores Ltd v Dundee City Council (2012) case, the Local Planning Authority has, with the assistance of its Retail Consultant, considered the above sites. With regard to the Stevenage Town Centre Regeneration Proposal, this achieved a resolution to grant

planning permission in January 2012, subject to the completion of a s106 agreement which, to date, has not been signed. The proposal sought to redevelop the bus station and the surrounding underutilised sites. Approximately 45,000m<sup>2</sup> floorspace was proposed, including a department store, a hotel and residential units. However, the proposed development partnership has withdrawn their interest in the scheme. Given this, it is considered that this proposal is neither available within the necessary timeframe required by the developer, nor is it viable in terms of the costs of implementing the scheme. Accordingly, this scheme does not represent a sequentially preferable option.

- 7.2.10 In relation to Stevenage Leisure Park, Unit 1 is currently available but only comprises 1,880m<sup>2</sup> floor area. It is not, therefore, considered to be large enough for the proposed department store. The Firs Retail Park currently has no vacant premises and also does not have any units large enough. St George's Way multi-storey car park is owned by the Council, is still in use and incorporates the Indoor Market. The ability to utilise the site would be dependent on the relocation of the indoor market and provision of alternative parking facilities. The site is therefore considered to be unavailable within a reasonable timescale. Whilst the Brickdale House complex provides circa 10,560m<sup>2</sup> floorspace and is potentially large enough in terms of floorspace, the current configuration of the floorspace is unsuitable and redevelopment of the complex accommodation would not be viable. Finally, a number of vacant retail premises are available within the town centre, however, none of these premises are large enough to accommodate the proposed floorspace of the department store either individually or if co-joined where available. In addition to the size, the configuration of the available floorspace is not suitable for the application proposal. These sites have all been tested by the Council's Retail Consultant who agrees that none of these sites represent sequentially preferable options.
- 7.2.11 In their Supplementary Retail Statement dated June 2014 and letter of the 2<sup>nd</sup> July 2014, the applicant has also considered the Matalan and Plaza sites. The Matalan site is considered to be too small to provide the necessary amount of floorspace and necessary car parking and servicing space. Similarly, the Plaza site is considered to be too small to provide the necessary floorspace, car parking and servicing space. This assessment that these sites are too small to provide the necessary format for a department store is accepted.
- 7.2.12 Finally, the site of the Westgate Shopping Mall needs to be considered. During the course of the planning application the owners of the Westgate Centre have objected to the proposal on the basis that, amongst other reasons, a sequentially preferable site for a department store is available utilising the Westgate Centre. Various iterations demonstrating a similar amount of floorspace to the application proposal and car parking have been submitted. Accordingly, the Local Planning Authority has carefully considered this site.
- 7.2.13 The owners of the Westgate Centre initially produced three variations of a scheme for the extension of the Westgate Centre which could accommodate a department store. However, these layouts included land within the ownership of Stevenage Borough Council and it is not considered that the redevelopment of the proposed sites could be achieved within a reasonable timescale of 3-5 years given the complexities involved. Additionally, proposals 2 and 3 were considered by the applicant to be too small to accommodate a department store of the size required. The third option would require an area to be redeveloped which currently comprises 12 shops and service units in Town Square, which are all occupied, plus two floors of offices. Given this the applicant considered that this site could not be redeveloped for a department store within the

timescale required by the proposed department store operator and even within 3-5 years. The Council's Retail Consultant also stated that there would be uncertainty as to whether vacant possession could be achieved within a three year development period.

- 7.2.14 Following these comments, the owners of the Westgate Centre produced two further iterations of a scheme but this time wholly within the ownership of WD Westgate LLP. The first of these schemes showed a store on three levels with a new car parking deck constructed at Level 3. This first scheme had a 10,000 sq ft presence at the Mall level within the Westgate Centre. This scheme was subsequently amended to reduce the amount of floorspace at the ground floor mall level by 4,900 sq ft and showed an increased floorspace at the first floor level to a similar amount. The latest scheme demonstrated a replacement raised car park level at Level 3 and a new car park level at Level 4. In considering this latest proposal the advice of the Council's Retail Consultant has been relied upon.
- 7.2.15 It is the Council's Retail Advisor's opinion that this scheme, as it currently stands, has a number of serious issues which are likely to result in the space being rejected by a department store. Firstly, it is stated that the store would have a very limited presence at ground floor level and this would be limited to being internal to the Mall only. Much of the ground floor floorspace would be taken up by escalators leaving a very limited amount of poorly configured sales space at ground floor. Secondly, the floorspace that has been added at the first floor is stated as being tucked away and would, in all probability, be discounted by retailers. Finally, the floor to ceiling height (slab to slab) which is shown on the latest drawings as 4.0m would not be adequate to allow for suspended ceilings and on a larger unit our retail consultants considered that the units would be oppressive.
- 7.2.16 The various scheme drawings do indicate that the Westgate Centre could be extended to provide sufficient floorspace to accommodate a department store of the size being proposed. However, it is almost certain that such a scheme would need to involve other interests, such as the Borough Council as landowner/development partner and would require the acquisition of a number of leases. It is the Local Planning Authority's view that this is unlikely to be achieved without major redevelopment of the town centre and such a scheme may be many years away, even if a department store is not built at Roaring Meg. No scheme as such currently exists and even on the most optimistic view, there seems little prospect of a sequentially preferable site being delivered other than towards the end of a five year period and, in all reality, much later. There is therefore no sequentially preferable site as far as the current application at Roaring Meg is concerned. Accordingly, it can therefore be concluded that the application passes the sequential test.

#### Impact Assessment

- 7.2.17 The NPPF advises that when assessing applications for *inter alia* retail outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold. Stevenage Borough Council does not have a locally set threshold and therefore the default threshold of 2,500m<sup>2</sup> has to be used. The assessment should include the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area and the impact of the proposal on town centres vitality and viability. The proposal is to create a 9,289m<sup>2</sup> department store and thus an impact assessment has been provided by the applicant.

- 7.2.18 An assessment of impact is essentially determined by the projected turnover of the proposed development, where this trade will be drawn from and the ability of the existing centre to absorb the predicted impact.

#### Predicted Turnover of the Proposed Development

- 7.2.19 Firstly, the predicted turnover of the proposed development has been considered. The Council's Retail Advisor has stated that by applying a company average turnover for Debenhams (the proposed occupier) and allowing for increased sales efficiency in the intervening period, that the store would have a predicted turnover of £20.31m in 2017 (the test year for the proposed development i.e. the year the store would become operational).
- 7.2.20 The owners of the Westgate Centre in their letter dated 22nd April point out that if the store were to be occupied by a different retailer such as Marks and Spencer or John Lewis then a much higher company benchmark would have been used resulting in a higher turnover and impact on the town centre. Planning Works on behalf of four freehold owners of property in the town centre also say that the benchmark figure is an average of the trading performance of all Debenham's stores and no attempt is made to describe the variation around this average.
- 7.2.21 The Council has been advised that both of these points are valid and echo the comments of the Retail Consultant that the use of the Debenham's benchmark figures generates a relatively low predicted turnover. As Planning Works say, there will be Debenhams stores producing higher turnover per sq m figures but by the same token there will be stores generating lower figures and there has been no attempt by the applicant to demonstrate where the proposed store is likely to sit in this range. It is also the case that if the analysis were to be remodelled using benchmark turnovers for either Marks and Spencer or John Lewis that a greater predicted impact would result. However, there is no evidence that any other retailer is interested in operating this store and certainly none that there is any reasonable prospect of a retailer with higher benchmark values such as Marks & Spencer or John Lewis occupying this store. The Local Planning Authority has been advised that John Lewis has no requirement in Stevenage given their presence in Welwyn Garden City and that the applicant has a lease in place with the proposed occupier.
- 7.2.22 Whilst sensitivity testing would show the potential variation in possible impacts on the town centre ultimately a 'most likely' figure would, in any event, have to be selected. In this context it is the size of the store, its location, local demographics and levels of competition that will determine the actual turnover of a store rather than its fascia brand. It is considered, in this context, that the benchmark figure is a reasonable one. The Local Planning Authority has been advised that in predicting potential turnovers it is usual practice to adopt company benchmark figures for the retailer concerned.

#### Predicted Trade Draw

- 7.2.23 Predicting where a proposed store will derive its trade is a matter of judgement informed by factors such as distance from competing stores and centres and the size and retail composition of those centres. The applicant's assessment of this issue is based on 20% of the proposed store's turnover being drawn from Stevenage Town Centre with the same amount being drawn from Welwyn Garden City. Smaller amounts would be drawn from Hitchin (10%), Letchworth (8%), Biggleswade (5%) and Hatfield (5%). In addition, the applicant's model assumes that 10% would be drawn from centres outside the catchment area and a further 10% 'claw back' of leakage to existing department stores outside the catchment area.

7.2.24 The advice to the Council from its Retail Advisor is that the applicant's assessment of the trade draw from Stevenage Town Centre is too low. Whilst there is no department store as such in Stevenage, there are a number of retailers specialising in mid-range clothing which is the main offer of the proposed department store. The owners of the Westgate Centre take a view that 60% of the proposed store's turnover would be derived from the town centre. It is acknowledged that a department store located at Roaring Meg would attract shoppers from the catchment area that do not regularly shop in Stevenage Town Centre due to the town's limited offer at the mid-upper end of the retail spectrum. However, it is considered that an allowance of 50% 'new' customer spend is an adequate allowance and accordingly that a predicted trade diversion of 50% of the proposed store's turnover being derived from Stevenage Town Centre is entirely reasonable. A 50% share of turnover diverted from Stevenage Town Centre would result in a trade diversion of £10.16m and this would equate to an impact of 9.59% in 2017.

#### Effect on the Vitality and Viability of Stevenage Town Centre

7.2.25 The ability of a centre to absorb impacts depends on the underlying health of that centre. The NPPG advises that a judgement as to whether the likely impacts are significant and adverse can only be reached in light of local circumstances. It is also the case that a healthy, buoyant centre will be more capable of absorbing impacts than a centre which is fragile.

7.2.26 Bearing this in mind the Council's Retail Consultant has stated that their own observations about the health of Stevenage Town Centre in April 2014 remain consistent with the Stevenage Retail Study April 2013. The Retail Study identifies some weaknesses of Stevenage Town Centre particularly its dated appearance and in its ability to provide a good retail offer to its natural catchment area. However, it is also the case that the town centre appears to meet the needs of much of the town's population and the health check indicators such as vacancy and rental levels and investment rates show that the town is performing slightly better than the national average. The Retail Consultant noted good levels of pedestrian flows in the core areas of the town centre. Given this the advice to the Local Planning Authority is that the town centre is reasonably healthy in terms of viability and vitality.

7.2.27 Therefore the advice to the Local Planning Authority from its Retail Consultant on this issue is that the predicted impact of circa 10% is not so significantly adverse as to warrant a refusal of this application on impact grounds. However, it is regarded that this level of impact is towards the upper level of what could be safely termed acceptable. For this reason it is considered that the effect of any further additional (non-bulky goods) out-of-centre comparison floorspace should be closely assessed and controlled particularly until the actual trading patterns of the proposed Debenhams store can be clearly understood. However, this is an issue that cannot be controlled through this planning application but will need to be addressed by the Council in the preparation of the emerging Stevenage Borough Local Plan.

7.2.28 Given the demonstrated impact of circa 10% on the existing town centre which is on the threshold of being significant, and given the uncertainties inherent in the modelling of retail impact, it is considered to be reasonable that the Local Planning Authority seek to mitigate this impact to ensure that the development is acceptable. Firstly, a contribution of £30,000 is sought to fund household surveys within the catchment area of the proposal before the development is carried out and at least one defined point in time once the department store is opened. This would enable the Local Planning Authority to better

assess the impact of the development. This contribution request has been agreed with the applicant.

- 7.2.29 Secondly, to specifically mitigate the impact on the town centre, it is considered to be reasonable that the applicant part funds the cost of a town centre promotion campaign. This has been put to the applicant and a figure of £80,000, to part fund a promotional campaign, has been agreed. Thirdly, a contribution towards public transport improvements of £70,000 has been agreed and please see paragraph 7.2.42 below.
- 7.2.30 It is recognised that whilst an impact of 10% has been demonstrated on Stevenage Town Centre as a result of the proposal, this would not be felt uniformly across all retail sectors in Stevenage and it is likely to be the case that there would be greater impacts on a limited number of retailers. However, when considering whether the impact of the proposed development store is significant it is important to take into account the health of the centre as a whole. It is considered, as demonstrated above, that there is no evidence of significant problems overall in Stevenage Town Centre's vitality and viability.
- 7.2.31 Finally, in addition to trade diversion from Stevenage Town Centre, it is evident that the proposed department store would also divert trade from a number of other town centres including Biggleswade, Hatfield, Hitchin, Letchworth and Welwyn Garden City. On the basis that it is estimated that approximately £10m of trade will be diverted in total from these centres, it is not considered that the individual impact on any of these centres would be significant and adverse.

#### Impact on Investment

- 7.2.32 The NPPF (paragraph 26) states that, in assessing impact, account should be taken of the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal.
- 7.2.33 Firstly, as has been set out in paragraph 7.2.9 above, the Stevenage Town Centre Regeneration Proposal is now moribund as the consortium has withdrawn its interest. Whilst a scheme based on the major redevelopment of the town centre could be resurrected it is likely that the delivery of such a scheme may be many years away, even if a department store is not built at Roaring Meg. Given this position it cannot be argued that there is a committed scheme.
- 7.2.34 Additionally, the policy status of the investment needs to be considered. Saved policies from the Stevenage District Plan Second Review 1991-2011 provide the development plan framework when determining planning applications. Policy TR2 of the Local Plan allocated 'Town Centre Development Sites' and previously provided the policy framework for the Stevenage Town Centre Regeneration Proposals. Notably, Policy TR2 was not saved and no other saved policies within the Local Plan are specifically concerned with the Town Centre Redevelopment Proposals. In this context it is considered that the town centre regeneration proposals no longer benefit from the support of the statutory planning framework.
- 7.2.35 However, in the absence of an up-to-date Local Plan, the Council has published an Interim Planning Policy Statement (IPPS) in April 2012 and which is a material consideration in the determination of planning applications. Policy IP03 of the IPPS relates to Town Centre Redevelopment Principles. This policy sets out a number of principles for the town centre and in the last paragraph states that "development proposals which do not meet these principles, or prejudice our ability to do so in the future

will be refused.” Whilst the proposal has been demonstrated as having a circa 10% impact on the town centre it has also been shown that the existing town centre is relatively healthy and thus the judgement reached that it would be able to absorb the impact of a department store opening at Roaring Meg. It is not considered that there is evidence that this proposal would undermine a vital and viable town centre such that it would be contrary to Policy IP03.

- 7.2.36 Given the moribund status of the Stevenage Town Centre Regeneration Proposals and the lack of Development Plan policy to protect such a scheme, it must be concluded that there would be no adverse impact on planned investment in Stevenage Town Centre. Additionally, there is no other planned investment which the proposed development could frustrate.

#### The Fall Back Position

- 7.2.37 The applicant originally placed weight on a fall-back position that was considered to exist at the Roaring Meg Retail Park and the original Retail Statement (December 2013) set out this issue in detail. Whilst this position has now been conceded by the applicant it is still necessary to set out this issue for Members so that representations made by objectors relating to the fall-back position can be understood.
- 7.2.38 The original planning permission for the Roaring Meg Retail Park included a condition restricting the range of goods to be sold at the site and which expressly excluded the sale of foodstuffs, clothes and footwear (other than for sport) or other fashion goods. Subsequent to this a number of applications for the subdivision of the original units were received and permissions granted that did not re-impose the original restrictive condition. A High Court decision decided that the granting of the planning permission for the subdivision of Unit 7 created two new planning units and marked the start of a new chapter in their history. Accordingly, the outcome of this decision was that the sub-divided units at Unit 7 were not encumbered by the restrictive condition and had the benefit of an open A1 lawful use. Further applications for Lawful Development Certificates at Units 2A, 2B and 6A and 6B were also approved such that it was confirmed that Units 2A, 2B, 6A, 6B, 7A and 7B all benefitted from an open A1 lawful use.
- 7.2.39 The applicant originally asserted that the planning application should be considered in the context of the fall-back position that there are open A1 consents on these units which represent a total floorspace of 7,350m<sup>2</sup>. The applicant stated that they were prepared to surrender these open A1 consents in return for a department store at Unit 5. However, during the planning application process the applicant has received a legal opinion from Christopher Lockhart-Mummery QC from Landmark Chambers following a Supreme Court decision in the Peel litigation case. The Supreme Court refused to grant permission for Peel to take the case further which means that the Court of Appeal judgement stands. The Court of Appeal rejected the contention that the sub-division of retail units the subject of occupancy restrictions, resulted in open A1 lawful use free of those restrictions. The effect of this case law is that the Lawful Development Certificates for Units 2A, 2B, 6A, 6B, 7A and 7B can no longer be relied upon. In a letter dated 15<sup>th</sup> August 2014 the applicant confirmed that they have conceded the fall-back position and given this it is no longer considered that there is a relevant fall-back position to be considered.

#### Other Retail Policy Issues

- 7.2.40 The NPPG states that compliance with the sequential and impact tests does not guarantee that permission will be granted and that the local authority will have to take into

account all material considerations in reaching a decision. Additionally, the NPPF states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

- 7.2.41 Whilst it is agreed that the application site is out of centre, it is shown in paragraph 1.1 above that the site is only 1.3km to the south of the town centre. Additionally, the site is considered to be fairly accessible by modes of transport other than the private car as there are bus stops in close proximity both on Monkswood Way to the east and London Road to the west. There are also good footpaths and cycleway links to the site from the town centre and it would take approximately 15 minutes to walk to the site from the town centre and approximately 5 minutes to cycle. As both the footpath and cycleway networks that connect the site to the town centre are good it is not considered necessary to seek any improvements. However, there is an opportunity to improve the bus linkages from the application site to the town centre which could in turn increase the number of linked trips between this site and the town centre.
- 7.2.42 To assist in this, the applicant has shown bus stops and a straightened internal access road through the site that would allow for buses to access the site. These improvement works can be controlled through a condition attached to any planning permission. Additionally, Stevenage Borough Council is exploring the possibility of an electric or hybrid bus service linking, amongst other areas, the town centre and Roaring Meg. It is considered reasonable that, should this bus service come to fruition, a contribution of £70,000 is provided by the developer to subsidise the operation of this bus service in its early years. This contribution request is considered to be reasonable as it would both assist in making the site more accessible via public transport and therefore in accordance with the NPPF, and also would assist those visitors wishing to make linked trips to both the town centre and Roaring Meg. Establishing a specific and more direct bus service between the application site and the town centre (i.e. that actually enters the retail park) could increase the opportunities for linked trips which would assist in further mitigating the impact of the proposal. This bus service could potentially provide a situation where the proposal would complement the existing town centre retail offer. The applicant has agreed to this £70,000 contribution request.
- 7.2.43 Paragraph 197 of the NPPF stipulates that in the determination of development proposals, there is a presumption in favour of sustainable development. The NPPF seeks to build a strong, competitive economy and states that there is a commitment from Government to ensure that the planning system does everything it can to support sustainable economic growth.
- 7.2.44 The proposed development would seek to redevelop an ageing unit on this retail park creating further floorspace and providing for 150 new job opportunities above those that exist at the current retailer. Additionally, the applicant has stated that the development would secure significant levels of investment into the site which is in need of regeneration and modernisation and would provide an approximate one year construction programme.
- 7.2.45 Further to this, the site is considered to be within walking and cycling distance of the town centre and is accessible by public transport. With the improvements shown and a commitment by the applicant to part subsidise any electric/hybrid bus scheme, the site is considered to be in a relatively sustainable location. Given this the proposal would help with the overarching aims of delivering sustainable development as well as supporting the economic vitality of the area, which are key objectives of the NPPF.

7.2.46 To conclude this section on retail planning policy it has been demonstrated that the application passes both the sequential test and the retail impact test. Whilst it has been shown that the proposal would have a predicted negative impact of 10% on town centre turnover, the Local Planning Authority considers that developer contributions are necessary to assist in reducing this impact. With these contributions the impact is not considered to be significantly adverse, particularly as the town centre is considered to be reasonably healthy. Finally, there is not considered to be a committed town centre proposal or policy framework for such a scheme. Therefore the conclusion has been reached that there would be no adverse impact on town centre investment.

### **7.3. Impact upon the Character and Appearance of the Area**

7.3.1 The application proposes the part redevelopment and extension of the existing Unit 5 to create a new building for a department store operator. Specifically to facilitate the mezzanine floor the existing building would need to be demolished in part and redeveloped with a higher roof. Part of the original floor slab and roof line adjacent to Unit 6B, which adjoins Unit 5 along the majority of the north elevation, would be retained to provide a progression from the existing terrace of units (2A to 6B) to the new unit. The applicant has stated that their design approach has been to create a landmark building on this prominent gateway site. The proposal is considered to have an acceptable impact on the character and appearance of the area for the following reasons.

7.3.2 Firstly, the scale of the building proposed is considered to be acceptable. The existing Unit 5 along with Units 4 and 10 are some of the larger units on the retail park now that many of the original units have been subdivided. Whilst the proposed building would have a larger footprint and higher roof than the existing building it would still relate well to both the adjacent units and those opposite. This prominent corner site within the retail park is able to accommodate this larger building.

7.3.3 Secondly, the retail park is characterised by generally rectangular retail units of various sizes with shallow pitched roofs. Accordingly, the form of development proposed is considered to be entirely appropriate in this retail park.

7.3.4 Finally, the detailed design of the building is considered to be acceptable and the landmark building approach is welcomed on this site. The existing Unit 5 building now looks dated and tired. Whilst the proposed building has not been designed to blend in with the existing buildings on the retail park, its contemporary design and use of high quality materials would have a positive impact on the character and appearance of the area and would assist in enhancing the profile of the retail park. The building would be divided horizontally into two parts represented by ground and mezzanine shop windows and glass and cladding in contrast. The building would have its main entrances on the front corners which would give ready access into the public areas. These entrances would be appropriately defined by cutting and recessing these corner areas to emphasise their importance as access points into the building. Further, the use of high quality materials is proposed. The building would use 'Trespa' cladding panels, 'Kingspan' insulated wall panels, glazing and blockwork. The specific materials can be controlled by a condition on any planning permission but the indicated materials are considered to be of a suitable quality. Together these features would assist in creating a contemporary landmark building which is considered to be of a high quality and would thus also have an acceptable impact on the character and appearance of the area.

#### **7.4. Impact upon Neighbouring Amenity**

- 7.4.1 Given the location of the proposed development within the existing retail park, the proposal would not adversely affect any residential amenity either through the construction phase or operation.
- 7.4.2 Additionally, the proposed building would maintain a similar relationship to the adjacent Unit 6B. It is recognised that the proposed building would be higher than the existing building at the front of the building adjacent to Unit 6B. However, this increased height of 3.7m would not materially harm the working or operating conditions of Unit 6B.

#### **7.5. Impact on the Highway Network**

- 7.5.1 The proposal would not require any alteration to the existing access points on to the public highway either on London Road or Monkswood Way. The existing parking arrangement at the site would need to be reconfigured and some minor amendments to the internal car park arrangements and internal access road are required to enable bus access through the site. Given that no changes are proposed to the access points onto the public highway, Hertfordshire County Council as Highway Authority have no comments with regard to vehicular access.
- 7.5.2 The Highway Authority has also considered the trip generation of the proposal both with an assessment of the fall-back position initially proposed by the applicant and also without this fall-back position given that it is considered that the fall-back position is longer valid (paragraph 7.2.39 refers). Without the fall-back position, the Highway Authority still considers that the trip generation levels are acceptable. It is stated that the proposal would not significantly increase the traffic generation or vehicle movement to the development and the operational arrangement of the car park would be acceptable. The proposal has been considered not to have a significant effect on the safety and operation of the adjoining highways and consequently the Highway Authority would have no objections on highway grounds. The County Council as Highway Authority consider that a Travel Plan should be prepared for the occupier and that disabled parking and cycle parking are implemented. These details can be covered by conditions attached to any planning permission.

#### **7.6. Parking Provision**

- 7.6.1 The existing retail park has 1044 car parking spaces available, 46 of which are available for disabled users. The proposal demonstrates a wider building than the existing which would necessitate building on some of the existing parking. Accordingly, the proposal would reduce the amount of car parking to 1003 (a loss of 41 spaces), with 43 of these spaces being for disabled parking. The proposal is to redevelop a unit within a non-food retail park for a department store operator and thus the individual land use component is known. In accordance with the Council's Parking Provision Supplementary Planning Document (SPD) the car parking standards for this type of development are to be decided in each case on the individual merits taking into account shared parking and an overall reduction in provision, taking into account linked trips on site.
- 7.6.2 The applicant has stated that the existing car park has the benefit of a 'parking eye' which continually monitors parking to ensure compliance with the parking management scheme in place. As a result of this the capacity of the car park can be accurately provided and has indicated that there is a reserved capacity of around 400 spaces at any one time. This level of reserved capacity is considered to be acceptable to accommodate the reduced

level of car parking provision (41 spaces) and both the increased floor area of the new building and its open A1 (retail) use. Additionally, the Highway Authority has stated that the availability of parking spaces at the development has been surveyed and the reserved capacity of 400 spaces has been considered as acceptable to accommodate any short fall in parking provision caused by the displaced parking demand resulting from the new development.

- 7.6.3 In relation to disabled parking the Council's Parking Provision SPD requires that on more than a 200 space car park 4 spaces plus 4% of the total capacity are required. In this instance this would be 4% of 1003 (40 spaces) plus 4 spaces equating to 44 disabled parking spaces. The application proposes that 43 disabled parking spaces are provided which is considered to be sufficient provision in this instance.
- 7.6.4 With regard to cycle parking the application proposes 20 cycle parking spaces for customers and 20 cycle parking spaces for staff. The Council's Parking Provision SPD requires 12 spaces for customers (short term spaces) and 20 spaces for staff (long term spaces). The proposal thus provides sufficient cycle parking in accordance with the SPD and the details of the cycle parking can be covered by condition to ensure that it is safe and secure.

## **7.7. Flood Risk**

- 7.7.1 Unit 5 is identified as lying within Flood Zone 3 within the Environment Agency's flood risk maps. Flood Zone 3 is defined as land that has a 1 in 100 or greater annual probability of river flooding and land which has a high probability of flooding. Accordingly, the applicant has provided a Flood Risk Assessment (FRA) in support of the application which investigates the potential of the site to be affected by flooding or to increase flooding elsewhere.
- 7.7.2 The accompanying FRA has investigated the river system within the vicinity of the retail park and indicates that the Stevenage Brook main river runs in a culvert under the retail park. The culvert has been investigated on site in relation to its capacity to accommodate additional flood waters. As a consequence of the investigations, the FRA concludes that the Flood Zone maps do not appropriately reflect the potential for flooding in this area and the risk of flooding or potential to increase flood risk elsewhere from the increased footprint from Unit 5 is minimal.
- 7.7.3 Notwithstanding this, the Local Planning Authority also needs to undertake a sequential assessment of the proposal given its defined Flood Zone 3 location.
- 7.7.4 Firstly, in physical terms the proposal seeks to redevelop and extend the existing building. To allow the existing Unit 6B to continue operating the floor level relationship of the proposed redeveloped unit adjoining Unit 6B has to be maintained at the existing height and the extension continues the height of that slab level, retaining the ground floor level as existing. It is unreasonable to expect the extension of the existing unit to be relocated elsewhere, since the extension is to Unit 5 and cannot be disaggregated elsewhere. Should the development not proceed, Unit 5 will remain in situ.
- 7.7.5 Whilst the sequential assessment as part of the retail assessment required the applicant to assess potentially alternative available sites for the enlarged store, in terms of flood risk the sequential assessment relates solely to the extension and not to the existing building which would be retained on site should the development not proceed. The NPPG provides guidance on this issue and states then when considering planning applications

for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere.

7.7.6 Given that the proposal is to extend and redevelop the existing Unit 5 it is not considered reasonable that alternative locations for the extended floor area are progressed in this instance. Accordingly, it is considered that the proposal passes the sequential test for flood risk in this instance. Additionally, the proposed use is classed as less vulnerable development by the Technical Guidance to the NPPF and as such it is not necessary to undertake the exception test.

7.7.7 It should be noted that the extended footprint of the building would be constructed on the existing, impermeable, hard surfaced car park. Therefore, in relation to flood water, the extension is not being constructed on land which would otherwise provide a natural soakaway for flood water. Finally, the applicant has provided a flood risk assessment to accompany the application. The Environment Agency has stated that the FRA satisfactorily outlines the surface water management scheme and flood risk mitigation measures for the site and that there is no objection to the proposal. The proposal can be conditioned to be subject to the detailed requirements of the FRA. With such a condition it is not considered that the proposal would have an unacceptable flood risk or would result in an increased flood risk elsewhere.

## **7.8. Other Considerations**

### Sustainability

7.8.1 The applicant has stated that the demolition and construction phases of the proposed development will take into account the need for sustainable use of materials, will reduce waste to a minimum throughout the construction phases, re-use and recycle materials on site wherever possible and will deliver a sustainable, energy efficient building. This attention to sustainability principles is welcomed.

### The Existing Occupier

7.8.2 The proposal would result in the existing retailer (Toys R Us) on the site to relocating. The applicant has stated that the existing occupier is currently in advanced negotiations to facilitate the store's relocation within the retail park to smaller accommodation which is now more suitable to the retailer. Whilst there would be some loss of employment (currently circa 50 full time equivalent positions) from this site as a result of this, it has been shown that the proposal would generate approximately 200 full time equivalent positions.

## **8. CONCLUSIONS**

8.1 The proposed partial redevelopment and extension of Unit 5 to provide additional floorspace, ancillary café and amendments to the car park and landscaping is considered to be acceptable in land use policy terms. Specifically, it has been demonstrated that the proposal passes both the sequential test and retail impact test. All the possible alternative sites have been assessed and it is considered that none are suitable or available within the necessary realistic timescale. In relation to the retail impact it has been demonstrated that the proposal would result in a circa 10% negative effect on town centre turnover. This is considered to be on the threshold of being significantly adverse and, as such, it is considered reasonable that developer contributions are sought to seek to mitigate this

impact. It is noted that the original fall-back position relied upon is no longer available to the applicant and that there is currently no committed investment in the town centre, or a policy framework for this such that it has to be concluded that there would be no adverse impact on existing, committed and planned town centre investment.

8.2 In relation to other issues, the impact of the proposal on the character and appearance of the area is considered to be acceptable as the proposal comprises a high quality designed, landmark building. The proposal would not adversely affect any neighbouring amenity, the Highway Authority has raised no objection to the proposals and sufficient parking provision is still considered to be available. In relation to flood risk, the proposal passes the sequential test and the attention to sustainability in construction and fit-out is welcomed.

8.3. With improvements to the site to allow improved bus access and a contribution towards an electric/hybrid bus service, the proposal would increase opportunities to access the site through alternative modes of transport to the private car. This would increase the sustainability of the site and assist visitors who wish to conduct linked trips to both the town centre and the Roaring Meg site. Taking into account all these factors, the proposal is considered to be a sustainable form of development in accordance with the NPPF and the development plan. Accordingly, it is recommended that planning permission be granted.

## 9. RECOMMENDATION

9.1 That planning permission be granted subject to:-

A) no intervention from the Secretary of State for Communities and Local Government following reference of the application under the Town and Country Planning (Consultation) (England) Direction 2009;

B) the applicant having first entered into and completed a s106 legal agreement to secure/provide financial contributions towards:-

- Household surveys pre and post development;
- Subsidising the operation of the proposed electric/hybrid bus service;
- Part funding the cost of a town centre promotion campaign;

The detail of which would be delegated to the Head of Planning, Regeneration and Transport in liaison with the Head of Legal Services.

9.2 The proposal be subject to the following conditions:-

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 1184-009RevD, 1184-015RevD, 1184-016RevB, 1184-017RevA, 1184-018, 1184-0119RevB, 1184-020, 1184-022, 1184-023 and the Flood Risk Assessment from Cole Easdon Consultants Ltd dated February 2014.

**REASON:** - For the avoidance of doubt and in the interests of proper planning.

2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**REASON:** - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. No construction shall take place until a schedule and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

**REASON:** - To ensure the development has an acceptable appearance.

4. The landscaping shown on drawing number 1184-015RevD shall be implemented within the first available planting season following the completion of the development. Any trees or plants comprised within the scheme of landscaping shown on drawing number 1184-015RevD, which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

**REASON:** - To ensure a satisfactory appearance for the development.

5. The building hereby permitted shall not be occupied until the internal access road and reconfigured parking arrangement shown on drawing number 1184-015RevD have been fully constructed, surfaced and permanently marked out.

**REASON:** - To provide a sufficient level of parking provision to serve the new building.

6. The building shall not be occupied until details of the cycle storage facilities have been submitted to and agreed in writing by the Local Planning Authority. The building shall not be occupied until the arrangements as agreed have been implemented.

**REASON:** - To ensure the suitable provision of cycle storage.

7. The building shall not be occupied until a Travel Plan for the proposed operator of the building has been submitted to and approved in writing by the Local Planning Authority. On the first day of the opening and use of the building the approved Travel Plan shall be implemented and shall thereafter be used in perpetuity.

**REASON:** - To promote access to the site by alternative means of transport to the private car.

8. The range of goods to be sold from the development shall expressly prohibit food sales other than for consumption in the café on the premises and ancillary sales off the premises.

**REASON:** - The impact of the development has been modelled on the basis of a department store on this site.

### **Pro-active Statement**

Planning permission has been granted for this proposal. The Council acted pro-actively through early engagement with the applicant at the pre-application stage which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and

in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

## **10. BACKGROUND DOCUMENTS**

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage District Plan Second Review 1991-2011.
3. Central Government Advice contained in the National Planning Policy Framework March 2012 and National Planning Policy Guidance March 2014.
4. Stevenage Borough Council Supplementary Planning Documents – Parking Provision adopted January 2012 and the Stevenage Design Guide adopted October 2009.
5. Responses to consultations with statutory undertakers and other interested parties referred to in this report.
6. Letters received containing representations referred to in this report.
7. Interim Planning Policy Statement for Stevenage April 2012.
8. The Town and Country Planning (Consultation) (England) Direction 2009.
9. The Stevenage Retail Study April 2013.