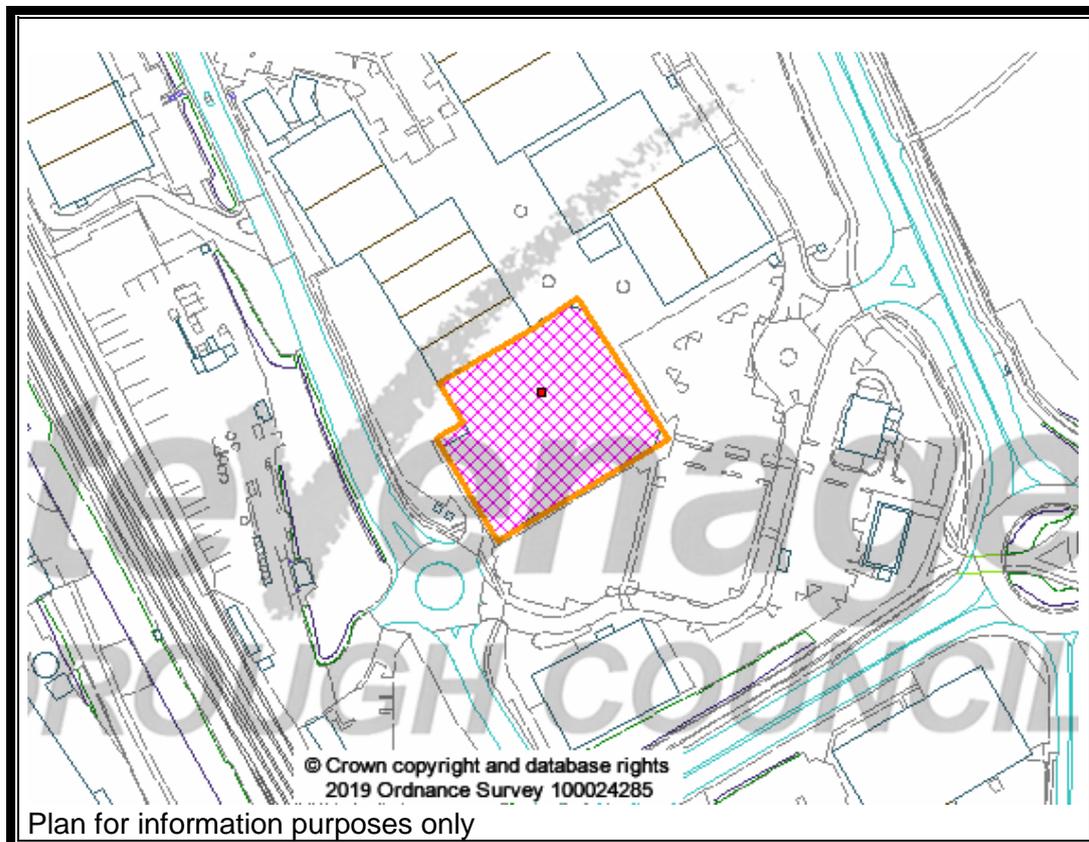


**Meeting:** Planning and Development Committee  
**Agenda Item:**  
**Date:** 27 May 2021  
**Author:** Rebecca Elliott 01438 242836  
**Lead Officer:** Zayd Al-Jawad 01438 242257  
**Contact Officer:** Rebecca Elliott 01438 242836

Application No:	21/00260/FPM
Location:	Unit 5 Roaring Meg Retail Park, London Road, Stevenage
Proposal:	Variation of Condition 1 (Approved Plans) and removal of Condition 8 (Food Sales Restriction) of Planning Permission 14/00111/FPM to allow for minor external alterations to the building and the sale of food not associated with a café or restaurant use in store.
Drawing Nos.:	2264-U5-L01; 2264-U5-P01; 2264-U5-P02; 2264-U5-P03; 2264-U5-X01; 2264-U5-X02; 2264-U5-X03; 2264-U5-X04.
Applicant:	Stevenage Retail Ltd
Date Valid:	18 March 2021
Recommendation:	GRANT PLANNING PERMISSION



## **1. SITE DESCRIPTION**

- 1.1 Unit 5 Roaring Meg Retail Park is the former Debenhams site located to the south of the retail park. The Roaring Meg Retail Park is divided into two distinct areas to the north and south, with a pedestrian area centrally located and separating the two parking areas associated with each half of the park. Unit 5 was redeveloped and extended as a Debenhams flagship store following permission being granted in 2014. The unit included various café/restaurant uses including Nandos and Patisserie Valerie. The retail park also includes businesses such as Smyths Toys Superstore, Boots, Hobbycraft, Currys PC World, Furniture Village and Argos. Buildings to the south east house fast food eateries like Burger King and Pizza Hut.
- 1.2 The site is accessed by vehicles and pedestrians from the south west off London Road and also from the east off Monkswood Way. Pedestrian access is also from the northern car park, with the rear service yard accessed from London Road.

## **2. RELEVANT PLANNING HISTORY**

- 2.1 Planning permission was granted under reference 14/00111/FPM for the partial redevelopment and extension of Unit 5 to provide additional floorspace including ancillary cafe and amendments to car park and landscaping. Various amendments have been approved relating to car parking, pedestrian routes and elevational treatments/glazing of the building.
- 2.2 Application reference 15/00308/FP was approved for the provision of a sub-station, sprinkler pump, 2 nos. sprinkler tanks, staff cycling, new fencing, enclosed waste and recycling bin and replacement lighting columns.
- 2.3 Advertisements have been approved for various signage including fascia signs, hanging/projecting signs and totem poles under references 16/00674/AD, 17/00244/AD, 17/00409/AD, 17/00515/AD and 17/00735/AD.
- 2.4 External seating areas associated with the restaurant uses at the site were approved under reference 17/00377/FP.
- 2.5 Running alongside the current application, application reference 21/00364/FP seeks permission for alterations to the South Car Park including a new link road, creation of new cycle parking facilities, landscaping works, provision of 6 no. electric vehicle charging spaces, provision of additional parent and child and disabled parking, and provision of 6 no. trolley bays. This application is still under assessment and pending consideration.

## **3. THE CURRENT APPLICATION**

- 3.1 The current application seeks to vary condition 1 (Approved plans) and remove condition 8 (Food Sales Restrictions) of permission 14/00111/FPM to allow for external alterations to the building and the sale of food and drink from the unit not associated with a restaurant or café use.
- 3.2 The proposed external alterations include replacement of existing glazed entrance doors at both entrances with bi-parting doors and new glazed screens to side, removal of existing glazed doors associated with ground floor restaurants and replacement with glazed curtain walling, new light weight screen to loading bay area, and new louvres at first floor height within existing cladding to rear. In terms of the removal of condition 8, this would allow for the provision of up to 1,674 sq.m of Unit 5 to be utilised for the sale of food and drink goods.
- 3.3 The application comes before committee as it is classed as a major application.

## 4. PUBLIC REPRESENTATIONS

- 4.1 This application has been advertised in the Local Press, Site Notices have been erected and neighbouring properties were notified about the application via letter. There have been 132 third party observations to date, all in support of the application proposal.

## 5. CONSULTATIONS

### 5.1 Hertfordshire County Council Highways

- 5.1.1 No objection raised subject to the following condition being imposed following satisfactory agreement of the Travel plan submitted.

*The development shall be carried out in accordance with the Travel Plan R07-ADM-Travel Plan dated May 2021. The Plan shall be implemented in full thereafter.*

**REASON:-** To promote sustainable travel measures to the development, in accordance with paragraphs 108 and 110 of the National Planning Policy Framework (2019), Policies SP6 and IT4 of the Local Plan 2011-2031 (2019) and Hertfordshire County Council's LTP4 Policies 1, 3, 5, 6, 7, 8, 9, 10.

### 5.2 Hertfordshire County Council as Lead Local Flood Authority

- 5.2.1 The proposed development site lies within Flood Zone 2 and 3. The Lead Local Flood Authority (LLFA) note that there are no changes being proposed to the ground floor and the footprint of the building will remain unchanged. Therefore, in relation to this variation of conditions, the LLFA has no comment to make, as it does not impact on surface water management on the site previously approved.
- 5.2.2 However, the LLFA would advise the Local Planning Authority (LPA) that at detailed design stage and pre-commencement of any development on the site the applicant should provide a detailed drainage strategy scheme to clarify how the entire development site will be drained not to increase floor risk on or off site.

### 5.3 The Council's Business Relationship Manager

- 5.3.1 The Council's Business Relationship Manager is fully supportive of the application which meets a number of key Economic Growth aims for Stevenage: It supports investment into Stevenage through a great anchor store, a much sort after quintessentially British Brand, which is primarily great news for the town and wider economy. The investment by M&S would relay a number of messages to both the wider town and investment community that Stevenage is a prime location for new and future investment. This could inevitably encourage and land other anchors to Stevenage, to support a superb retail offer for both its residents and visitors to the town. The investment also brings an additional quality component to the retail offer, to the already successful Roaring Meg Retail Park, complementing existing businesses located there, as well as bringing additionality to the national chains and independents located in the town centre and the distinct and unique Historic Old Town offer. Furthermore, the investment would enable Stevenage to support an attractive proposition for future investment to all three of these retail centres and raise its profile as a business destination.
- 5.3.2 The investment would also support existing businesses in the town through supply chain activities relating to M&S landing at the Retail Park. The investment would also support a sustainable location, as currently shoppers who choose to shop at M&S have to travel outside of the town to Welwyn Garden City and Biggleswade and therefore, this would go towards reducing the local carbon footprint. The investment by M&S will also encourage more shoppers to shop local and support the local economy and jobs.

- 5.3.3 The investment by M&S could also act as an enabler to assist in attracting new investment in retail and other industries in the town, supporting long term vibrancy and buoyancy of the area. The investment would also support additional foot fall into the town centre and commercial centres from discerning customers on other complimentary offers including food and beverage to support the wider visitor economy. The application builds on recent investment at the Science Park in Stevenage, through its world class Cell and Gene Therapy activities placing Stevenage on a global map for life sciences, along with the additional commitments by many of the towns global key players, including; Airbus Defence and Space and MBDA, who have made considerable investment at their respective sites, and the recent investments in the town centre through its multi-million regeneration programme.
- 5.3.4 The application will also go towards safeguarding current employment land, as well as ensuring the existing unit does not remain empty but support the landing of the anchor store. The investment by M&S into the Retail Park would go towards replacing the jobs lost in the town through the departure of Debenhams and will provide an opportunity for those skilled in this sector to reenter the workplace, as well as provide an opportunity for local residents to enter the labour market to access direct employment opportunities, therefore growing the current skills base. The investment will also create much needed job opportunities for young people and women in retail, who have been adversely impacted by the current pandemic. The investment would also support a number of indirect employment opportunities through activities to support the adjustments to the building.

## **6. RELEVANT PLANNING POLICIES**

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

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the decision on the planning application should be in accordance with the development plan unless material considerations indicate otherwise. For Stevenage the statutory development plan comprises:

- The Stevenage Borough Council Local Plan 2011-2031
- Hertfordshire Waste Development Framework 2012 and Hertfordshire Waste Site Allocations Development Plan Document (adopted 2012 and 2014); and
- Hertfordshire Minerals Local Plan 2002 – 2016 (adopted 2007).

### **6.2 Central Government Advice**

6.2.1 A revised National Planning Policy Framework (NPPF) was published in February 2019. This largely reordered the policy substance of the earlier 2012 version of the NPPF albeit with some revisions to policy. The Council are content that the policies in the Local Plan are in conformity with the revised NPPF and that the Local Plan should be considered up to date for the purpose of determining planning applications. The NPPF provides that proposals which accord with an up to date development plan should be approved without delay (para.11) and that where a planning application conflicts with an up to date development plan, permission should not usually be granted (para.12). This indicates the weight which should be given to an up to date development plan, reflecting the requirements of section 38(6) of the 2004 Act. The NPPF and the PPG, with which Members are fully familiar, are both material considerations to be taken into account in determining this application.

### **6.3 Planning Practice Guidance**

6.3.1 The PPG contains guidance supplementing the NPPF and with which Members are fully familiar. The PPG is a material consideration to be taken into account together with the National Design Guide (2019) which has the same status as the PPG.

## **6.4 Stevenage Borough Local Plan 2011-2031 (Adopted 2019)**

- SP1 Presumption in Favour of Sustainable Development
- SP2 Sustainable Development in Stevenage
- SP3 A Strong Competitive Economy
- SP4 A Vital Town Centre
- SP5 Infrastructure
- SP6 Sustainable Transport
- SP8 Good Design
- SP11 Climate Change, Flooding and Pollution
- TC13 Retail Impact Assessments
- IT4 Transport Assessments and Travel Plans
- IT5 Parking and Access
- GD1 High Quality Design
- FP3 Flood risk in Flood Zone 2 and Zone 3

## **6.5 Supplementary Planning Documents**

Parking Provision Supplementary Planning Document October 2020.  
Stevenage Design Guide Supplementary Planning Document January 2009.

## **6.6 Community Infrastructure Levy Charging Schedule**

- 6.6.1 Stevenage Borough Council adopted a Community Infrastructure Levy Charging Schedule in 2020. This allows the Council to collect a levy to fund infrastructure projects based on the type, location and floorspace of a development.

# **7 APPRAISAL**

- 7.1 The main issues to consider in the determination of this application are the visual impact of the external alterations proposed and the impact of the proposed sale of food and drink from within the unit on the retail hierarchy and highways and parking.

## **7.2 Impact of External Alterations**

- 7.2.1 The variation of condition 1 Approved Plans seeks to allow for various external alterations, predominantly to existing entrances to the shop by either replacing the main doors with a different type of glazed bi-fold door, and with the closing off of the existing glazed doors which serve the multiple restaurants/eateries on site. These openings would be replaced with glazed curtain walls. The changes would not materially affect the appearance of the building.
- 7.2.2 Further alterations include a screen by the rear loading bay and two new louvres at roof level at the rear of the building. These alterations would not harm the appearance of the building or the wider area.

## **7.3 Impact of the Sale of Food and Drink**

- 7.4.1 The NPPF reaffirms the Government's objectives for ensuring the vitality and viability 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. For reference, under Annex 2: Glossary of the NPPF identifies that retail development is a main town centre use. Additional to this, the NPPF states that for proposals of this nature (above the default threshold of 2,500m<sup>2</sup> – if there is no locally set threshold) an impact assessment must be undertaken which has to consider the following:-

- a) the impact of the development on existing, committed and planning public investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the development on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment.
- 7.4.2 The Planning Practice Guidance (PPG) (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 PPG 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.
- 7.4.3 Policy TC13: Retail impact assessments of the adopted Local Plan (2019) states that for main town centre uses, an impact assessment is required for any proposal in excess of 300m<sup>2</sup> for main town centre uses located outside of the town centre. This policy goes onto state that this should include an assessment of:
- i. The impact of the proposal on existing, committed and planned public and private investment in centres in the catchment area; and
  - ii. The impact of the proposal on town centre vitality and viability, including consumer choice and trade in the Town Centre and wider area, up to five years from the time that the application is made. For major schemes, where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time that the application is made.
- 7.4.4 To address the two tests, the applicant has submitted a Planning Statement and Retail Statement. This document contains a significant amount of technical information and judgements on the suitability and availability of alternative sites and the likely impacts from the proposed development. These have been carefully assessed in the following sections of this report.

#### The principle of development

- 7.4.5 The 2014 application that permitted the extension of the original unit 5 and its occupation by Debenhams imposed a condition restricting the sale of food and drink where it was not associated with a café/restaurant use. Condition 8 specifically stated –
- 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.*
- 7.4.5 As stated in the condition reason, the Retail Impact Assessment provided with the 2014 application looked very closely at the impact of the store as a ‘typical’ department store and it was through the advice of an independent Retail Consultant that the Council took the view it could reasonably limit food sales given the retail market at the time.
- 7.4.6 Paragraph 80 of the National Planning Policy Framework (NPPF) states that ‘policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity’. Furthermore, the NPPF in Chapter 7 highlights the importance of the Town Centre and a need for LPA’s to ensure a retail hierarchy and the requirement for a sequential test for town centre uses out of town.

## Sequential Test

- 7.4.7 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. The definition of "suitability" is pertinent in the consideration on flexibility of format and scale. This definition has been clarified by the Supreme Court in *Tesco Stores v Dundee City Council*. Since this time, the judgement has been recognised by the High Court, Secretary of State and Inspectors as being applicable to the NPPF. In the Dundee judgment, it identifies that provided the applicant has demonstrated flexibility with regard to format and scale, the question is whether the alternative site is suitable for the proposed development, not whether the proposed development could be altered or reduced so that it can be made to fit the alternative site.
- 7.4.8 The aforementioned is important in the case of this application, as there is no requirement in either the NPPF or Planning Practice Guidance for applicants to demonstrate scope of disaggregation. This was confirmed in the *Warner Retail (Moreton) Ltd v Cotswold District Council* Court of Appeal Decision in 2016 as well as by the Secretary of State in his appeal decisions. The *Mansfield Judgment (Aldergate V Mansfield DC & Anor 2016)* affirms that, in applying the sequential test, the decision maker will generally be required to consider the type and format of the proposed development, rather than the requirements of any specific named operator. It identifies that the area and sites covered by the sequential test search should not vary from applicant to applicant according to their identify, but from application to application based on their content.
- 7.4.9 In accordance with the above case law and with the requirements of paragraph 87 of the Framework, the applicant is required to look at the format and space requirements of the new store so that opportunities to utilise suitable town centre or edge-of-centre sites are fully explored. The applicant has advised that firstly, the store would require a floor space of between 8,528 sq.m and 10,423 sq.m (showing a degree of flexibility) in order to meet the business model of M&S. Further, the format, space requirements and need for adjacent car parking are all key factors for the out-of-town store. Given the requirements of the proposed store, the applicant is only required to consider sites which can accommodate the entirety of the floor space required by TWF, i.e. at a minimum of 8, 258 sq.m.
- 7.4.10 The sequential assessment when considering available sites would have to take into account the following Guidance Principles:
- 1) Availability – whether a site is currently available or are likely to become available for development within an acceptable timeframe.
  - 2) Suitability – with due regard to the requirements to demonstrate flexibility, whether sites are suitable to accommodate the need or demand which the proposal is intended to meet.
  - 3) Viability – whether there is a reasonable prospect that development will occur on a site at a particular point in time. However, the importance of demonstrating viability of alternative depends in part on the nature of the need and timescale over which is to be met.
- 7.4.11 Further to the above, the Guidance states that if the applicant asserts that the proposal by virtue of its nature is locationally specific and cannot be accommodated in a more central location, or that it is not possible to adopt a flexible approach to accommodate any need/demand more centrally to justify the applicant's position, then this has to be taken into consideration in the determination of the application.

7.4.12 The sequential test undertook a comprehensive assessment of vacant properties within Stevenage Town Centre. The applicant also assessed the Matalan application and the BHS applications in terms of suitability to accommodate the development. The applicant also undertook an assessment of the town centre regeneration scheme SG1. The sequential assessment identified the vacant premises as well as the town centre regeneration scheme would not be sequentially preferable for the proposed development. In addition, the applicant also undertook an assessment of vacant premises within the Town's neighbourhood centre and none of these centres could accommodate the proposal.

7.4.13 The applicant also undertook an assessment of the six Major Opportunity Areas (MOAs) which are detailed in the Local Plan (2019). These areas include the following:-

- Southgate Park;
- Centre West;
- Station Gateway;
- Central Core;
- Northgate; and
- Marshgate.

7.4.14 The more relevant area which could accommodate the proposed development is Northgate Major Opportunity Area (Policy TC6) as it makes reference to the delivery of a new foodstore. For reference, this policy states that planning permission will be granted where it included, but not limited to, new Class A1, A3 and A4 uses and the replacement Use Class A1 major food store. The supporting text of PolicyTC6 makes reference to the Tesco Extra Store, but, it does set out that this site is unlikely to come forward until the end of the plan period, transitioning into the post 2031 period. Consequently, as the application site is currently vacant and available for occupation, the Northgate MOA is not considered to be a sequentially preferable site on the basis of availability.

7.4.15 With regards to the Old Town, the only vacant premises of notable size is 74 and 74a High Street which is the former Waitrose. This property was vacated in October 2019 with the two units comprising 600 sq.m and 760 sq.m. The unit is being marketed as two separate units as the intention is for it to be split, combined with the fact the unit is under two separate ownerships. Consequently, these units would not be of a sufficient size to accommodate the proposed development as they are significantly below the stores requirements. In addition, whilst there is a pay and display car park to the rear, this is not suitable to a value food operator and would not satisfy the requirements of the business model. As such, whilst the units are vacant, they are not deemed sequentially preferable on the basis of suitability or viability.

7.4.16 Given the aforementioned assessment, the Sequential Test which has been submitted by the applicant sufficiently demonstrates that there are no sequentially available sites within the town centre. In addition, the supporting documentation provided as part of this application emphasises the fact that the existing unit could be occupied by M&S now without the provision of a food hall. However, it has been made clear that the model on which M&S are proposing their re-instatement in Stevenage only works with the provision of a food hall, and that having separate Food Hall and retail units in Stevenage would not work for the company.

7.4.17 The LPA also recognises that the current retail and economic market is very different from the original 2014 application, especially considering the global Coronavirus pandemic that has seen many businesses close due to the necessitated lockdowns in the UK. Furthermore, it is important to note that there is no prospect of the Debenhams Store re-opening since its closure. This is due to the company in terms of its website and brand being purchased by "Boohoo" which operates as an online retailer only. Therefore, it can be deduced that the application site is the only sequentially preferable site to support this development, the

sequential test is as such, considered to be acceptable and in accordance with the NPPF (2019) and the Council's adopted Local Plan (2019).

### Retail Impact Assessment

7.4.18 Paragraph 89 of the NPPF identifies that planning applications for retail development outside a town centre, not in accordance with an up to date Local Plan, should be assessed in terms of the following impacts on centres:

1. 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; and
2. The impact of the proposal on town centre vitality

7.4.19 Confirmation of how the retail impact test should be used in decision taking is set out in paragraph 17 of the 'Planning for Town Centre Vitality and Viability' section of the NPPG. The guidance states that the impact test should be undertaken in a proportionate and locally appropriate way, drawing on existing information where possible. The NPPF also 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 a development is over a proportionate, locally set floorspace threshold. As set out under paragraph 7.2.4 Stevenage Borough Council has a locally set threshold set threshold of 300m<sup>2</sup>.

7.4.20 It is not considered a full Retail Impact Assessment is required as part of the application as the retail use of the unit is already established, in line with Policy TC13 of the Local Plan. However a Retail Statement has been submitted with the application specifically looking at the impact of the proposed food hall, at a floor area of 1,674 square metres within the 9,475 square metre unit, to give a like for like comparison. Looking then at the impact on the Town Centre as the nearest relevant centre, the conclusion is that there would be a likely 3% and 2% reduction in the anticipated impact on Benchmark Turnover of Tesco The Forum and Iceland respectively.

7.4.21 The PPG advises that a judgement of the impacts can only be reached in light of local circumstances. On balance, whilst there is likely to be an impact on the Tesco and Iceland stores identified in the town centre, the impact is not considered to be significant in this case. The LPA places great weight on the benefits of M&S occupying the large vacant Debenhams store, especially given the current economic market and retail sector struggles. In addition, the assessment identifies the town centre is relatively vital and viable centre, with a good mix of national and independent retailers. Moreover, the proposal would not have a discernible impact on any future investments in the town centre which include its wider regeneration.

7.4.22 The removal of condition 8 from the 2014 permission 14/00111/FPM is therefore considered acceptable on balance, with the M&S model to provide a 1,647 square metre food hall within the unit unlikely to have significant impacts on the named food shops, and bringing a positive and welcomed large high street business to the town. It can therefore, be demonstrated that the proposal will not have any discernible impact on existing shopping patterns by virtue of its limited scale.

## **7.5 Highways and Parking**

7.5.1 The application is accompanied by a Transport Statement (TS) and Travel Plan (TP). The Local Highways Authority has assessed the proposal and raise no objections to the information contained in the TS and have advised of the requirement to impose a condition in respect of the TP.

7.5.2 The TS looks specifically at the impact of the introduction of food sales at the unit on the impact on the local highway network, including trip generations above the existing retail non-food use. An additional 108 two-way new trips have been calculated using comparable TRICS

data. These have been considered reasonable by the Local Highways Authority, with the conclusion that the introduction of food sales at the store would not adversely impact the local highway network capacity.

- 7.5.3 In terms of parking, the proposal would see a likely increase in demand for spaces in particular on a Saturday afternoon by 56 spaces. However, the current parking provision at the Retail Park is sufficient to consume this demand increase. The proposed food sales use would require 118 spaces, with non-food retail parks being determined on their merits. Given the site can accommodate a total of 1,016 cars (north and south car parks) the additional likely need of 56 spaces is considered to be absorbed in the existing provision acceptably.

## **7.6 Other Matters**

### **7.6.1 SuDs and Flooding**

7.6.1.1 The site is located in Flood Zones 2 and 3 on the Environment Agencies map. The Lead Local Flood Authority has been consulted and they have no comments to make as the proposal does not see an increase in floor space.

7.6.1.2 The Environment Agency have recently updated their matrix for consulting on applications and whilst the floor space of the site constitutes the proposal as a major application and it is located in Flood Zone 2 and 3, as the main use as retail is not changing, and there is no increase in Gross Floor Area (GFA) they have confirmed they would not wish to be consulted on the application.

## **7.7 Human Rights and Equalities**

7.7.1 Consideration has been given to Articles 1 and 8 of the First Protocol of the European Convention on Human Rights. It is not considered that the decision would result in a violation of any person's rights under the Convention.

7.7.2 When considering proposals placed before Members it is important that they are fully aware of and have themselves rigorously considered the equalities implications of the decision that they are taking. Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the Council's obligations under the Public Sector Equalities Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers

7.7.3 The Equalities Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share protected characteristics under the Equality Act and persons who do not share it. The protected characteristics under the Equality Act are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex and sexual orientation.

7.7.4 It is not considered the proposed development would impact upon the protected characteristics under the Equality Act. This is because the proposal does not comprise the removal of disabled parking spaces and there would be sufficient space on the public footpath for person(s) who are disabled to safely pass the outdoor seating area without hindrance.

## **8 CONCLUSIONS**

8.1 The variation of condition 1 and removal of condition 8 of permission reference 14/00111/FPM are considered acceptable. The external changes would not materially impact the appearance

of the building or wider retail park. The provision of food and drink sales not associated with a café or restaurant use are considered acceptable in light of the information provided and on balance in respect of the wider positive economic and viability impacts the proposed occupation of the unit by Marks and Spencer would have for the town.

## **9 RECOMMENDATION**

9.1 That permission is granted subject to the conditions listed in section 9.2, and, any minor changes to the conditions listed in 9.2 to be delegated to the Assistant Director of Planning and Regulation and the Chairman of the Planning and Development Committee

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: 2264-U5-L01; 2264-U5-P01; 2264-U5-P02; 2264-U5-P03; 2264-U5-X01; 2264-U5-X02; 2264-U5-X03; 2264-U5-X04.

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

2. The development shall be carried out in accordance with the Travel Plan R07-ADM-Travel Plan dated May 2021. The Plan shall be implemented in full thereafter.

**REASON:-** To promote sustainable travel measures to the development, in accordance with paragraphs 108 and 110 of the National Planning Policy Framework (2019), Policies SP6 and IT4 of the Local Plan 2011-2031 (2019) and Hertfordshire County Council's LTP4 Policies 1, 3, 5, 6, 7, 8, 9, 10.

3. The sale of convenience products on site shall not exceed a total of 1,647 square metres of floor space within the total 9,475 square metre unit without the written agreement of the Local Planning Authority by way of submitting a planning application for consideration of the impact of the increased area of food sales on retail and highways.

**REASON:-** The impact of the provision of convenience product sales has been assessed on the basis of 1,647 square metres of floor space only.

## **INFORMATIVES**

**The Council has acted Pro-Actively for the following reason:-**

Planning permission has been granted for this proposal. The Council acted pro-actively through positive 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 (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

## **BACKGROUND DOCUMENTS**

1. The application file, forms, plans and supporting documents having the reference number relating to this item.

2. Stevenage Borough Local Plan 2011-2031.

3. Stevenage Borough Council Supplementary Planning Documents – Parking Provision adopted October 2020; Stevenage Design Guide 2009.

4. Hertfordshire County Council Local Transport Plan LTP4 2018-2031
5. Central Government advice contained in the National Planning Policy Framework February 2019 and the National Planning Practice Guidance 2014, as amended.
6. Responses to consultations with statutory undertakers referred to in this report.
7. Responses to third party consultations referred to in this report.