

Planning & Retail Statement

Unit 2 Cowley Retail Park, West Drayton

Firstplan Ref: 23330/MM/JH/AM

Date: 18 January 2024

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Appendices

Appendix 1 – Photographs of the Smyths Toys product range and trading format.

Appendix 2 – Previous Smyths Toys Planning Permissions

Appendix 3 – Sequential site assessment appraisal sheets.

Section 1 Introduction

- 1.1 This Planning Statement has been prepared by Firstplan in support of an application by Smyths Toys (UK) Ltd at Unit 2 Cowley Retail Park, West Drayton UB8 2TE (**the Application Site**).
- 1.2 The application submitted to the London Borough of Hillingdon (**the Council**) seeks planning permission for the variation of condition 2 attached to planning permission ref. 48612/G/98/2348. The application proposal will facilitate the occupation of Unit 2 by Smyths Toys, the leading toys and children's entertainment retailer. Smyths Toys are expanding their operation across the UK and have a long-standing requirement for a store in this part of west London.
- 1.3 Smyths Toys trades exclusively from retail warehouse units across the UK as the trading format is predominantly dedicated to the retail sale and display of bulky goods. The Application Site meets the operational requirements of the business and will enable Smyths Toys to be represented in the borough of Hillingdon.
- 1.4 The existing user restriction set out in Condition 2 attached to planning permission ref. 48612/G/98/2348 allows for the sale of non food bulky goods, together with associated and ancillary products where the latter equates to no more than 20% of the total sales of the unit. Smyths Toys is principally a 'bulky goods' retailer and could trade in accordance with this condition. However, in line with modern retail warehouse formats, whilst there are some sections of the store devoted entirely to the sale of bulky items (e.g outdoor play equipment, bikes and wheeled products), in practice large and unwieldy items are sold across the store and generally form part of an overall 'bulky' shopping basket with smaller items rather than the entire product range for the store. Therefore Smyths Toys requires further certainty in terms of the wording of the user condition in order to operate and planning permission is sought to allow for the Smyths Toys product range to be sold from the unit.
- 1.5 The Application Site is situated within Cowley Retail Park, approximately 400 metres to the north of Yiewsley District Centre. Whilst the site is clearly in close proximity to a defined centre, in terms of the definitions set out in the National Planning Policy Framework (2023) and the associated Planning Practice Guidance, the Application Site is strictly an out of centre site, requiring a sequential test and retail impact assessment to be undertaken.

1.6 Accordingly, this statement will demonstrate that the proposal should be supported on the following grounds:-

- There are no available, suitable and viable sequentially preferable sites in Uxbridge Metropolitan Centre, Yiewsley District Centre or other defined centres in the catchment area that meet the operational requirements of the Smyths Toys business model and therefore the location of the new store in an existing retail location is in accordance with the local development plan strategy;
- There is currently a limited choice of toy retailing in Hillingdon. As a result, the vitality and vibrancy of Uxbridge Metropolitan Centre and district centres is not underpinned by toy retailers (unlike clothing and footwear for example). Accordingly, Smyths Toys can co-exist with the Metropolitan Centre and other defined centres without individually or cumulatively undermining their vitality and viability.

1.7 The remainder of this report is structured as follows:

- Section 2 – Background information including site location and planning history;
- Section 3 – A description of the product range and trading format of Smyths Toys;
- Section 4 – A description of the variation to condition 2 sought;
- Section 5 - Planning policy summary
- Section 6 – Sequential assessment
- Section 7 – Retail impact considerations
- Section 8 – Conclusions

Section 2 Background Information

a) Site Description

- 2.1 The Application Site forms part of Cowley Retail Park, an established retail park which is located approximately 400 metres to the north of Yiewsley District Centre. The site is accessed via High Road (A408) which provides connections to West Drayton to the south and Uxbridge to the north.
- 2.2 The Application Site was occupied by Curry's until they vacated the site in March 2023. The unit extends to 1,504 sq m (ground floor footprint) with an additional 240 sq m non trading space at mezzanine level. The associated car park is shared with the other retail units occupied by Carpetright and Pets at Home, with parking spaces found directly outside each store.
- 2.3 There are two bus stops located adjacent to the Application Site serving route 222 which runs between Hounslow and Uxbridge with weekday services every 10 minutes. Accordingly, the Application site has good accessibility by transport modes other than the car.

b) Planning History

- 2.4 The Application Site was built pursuant to a planning permission granted on 12 March 1996 for the erection of 4 retail warehouses comprising a total of 3,326 sqm together with associated car parking (**ref: 48612/A/95/0231**). A condition was attached to the decision notice (condition 12) which limits the use of the units to the sale of non-food bulky goods only.
- 2.5 In 1999 planning permission was granted for the variation of Condition 12 to allow for the retailing of non-bulky non-food goods as a minority item (**ref. 48612/G/98/2348**). The condition was included as condition 2 on this permission and reworded as follows:

" The premises shall be used primarily for the sale of non-food bulky goods, together with associated and ancillary products (sales of the latter accounting for no more than 20% of the total sales at the premises) and for no other purpose. Upon the reasonable request of the Local Planning Authority, the occupants of the unit shall provide a written breakdown of sales in sufficient detail to allow verification of compliance with this condition."

2.6 Planning permission was granted on 2 July 2010 for the installation of a mezzanine level for use as additional Class A1 retail space (683 sq m) (ref. 51267/APP/2010/992). The same user restriction was imposed on this floorspace as per application ref. 48612/G/98/2348 that was approved in 1999. However, this planning permission was not implemented.

2.7 The following section will provide details of the Smyths Toys product range and trading format and Section 4 will set out the amendment sought to condition 2.

Section 3 Smyths Toys

3.1 This section of our report provides information on Smyths Toys' business model under three headings: the range and nature of the products sold, peak trading periods, and its role in relation to high street toy retailers. The implications of these factors for the sequential and retail impact assessments are explained in Sections 6 and 7 of this Planning and Retail Statement.

a) **The range and nature of the products sold**

3.2 Smyths Toys is Europe's largest toy retailer, with 120 stores throughout the UK. It sells an extensive range of products in the 'toys', 'baby', 'sports', 'outdoor' and 'gaming' categories and caters for all ages from nursery, pre-school and school years.

3.3 Smyths Toys' format is predominantly dedicated to the retail sale and display of bulky goods. The definition of 'bulky' used by Smyths Toys relates to items which exceed the volume of 37 litres, which is the cubic capacity of Smyths' standard carrier bag. This size is, in itself, larger than the bags used by other retailers such as supermarkets, which usually range from 10 to 20 litres in volume. The following products, which are to be sold from the proposed West Drayton store, exceed the 37 litre threshold:

Nursery	Car seats (approximately 30 different varieties available); Cots/Junior Beds (approximately 20 varieties available in store); Mattresses; Highchairs; Pushchairs/prams (approximately 30 varieties); Walkers; Wardrobes/dressers; Changing units; Bouncers; Baths; Carry cots; Rocking/feeding chairs.
Outdoor	Trampolines; Swings; Basketball stands; Sports Tables Playcentres (combining swings, slides, climbing frames); Football goals (approximately 11 varieties);

	Wendy houses Sandpits and sand Paddling pools Bouncy castles / Inflatables; Children's garden furniture
Wheeled	Bicycles/tricycles (approximately 30 varieties); Ride-ons including electric; Scooters; Flikers; Go Karts
General	Dolls houses and accessories; Play kitchens; TVs/DVD players; Computer games hardware (e.g. X Box 360/PS3); Art easels; Large soft toys Remote-controlled toys; Musical instruments (including keyboards, drumkits and guitars); Rocking horses (6 varieties).

3.4 In addition to being in excess of 37 litres in volume, these products can also be bulky by reason of their weight, due to being sold in multiple boxes (for example, a trampoline comprises six different components all intended to be purchased in the same transaction), or due to the fact that they tend to be bought in packages rather than in isolation (for example, sandpit purchases are typically accompanied by the sale of 5 or 6 bags of play sand, each weighing 15kg).

3.5 Figure 1.1 overleaf comprises photographs of existing Smyths Toys stores which show the large goods typically displayed and sold, including assembled swing sets, slides, cots, trampolines, and sandpits. Further photographs of Smyths Toys' typical format are provided in **Appendix 1**.

Figure 1.1 Examples of 'bulky goods' sold in a Smyths Toys store





3.6 Due to the bulky nature of its products, Smyths Toys provides its customers with giant bags with a cubic capacity of 90 litres (as shown in Figure 1.2). On average, each customer uses 1.5 giant bags per visit.

Figure 1.2 – Smyths Toys giant bags



3.7 Thus, Smyths Toys stores require adjacent, safe, surface-level parking in order to cater for car-borne customers purchasing large or heavy goods.

3.8 A key aspect of Smyths Toys' business model relates to its baby/toddler car seat fitting service. Employees install car seats directly within customer's cars to ensure that they are fitted safely and correctly. Access to car parking is also necessary to allow staff to carry out this service.

3.9 Moreover, the access to each store must be suitable for parents with small children and pushchairs, and capable of allowing customers to transfer bulky purchases without encumbrance.

3.10 Another essential requirement is a large, regular floorplate at ground level, to allow staff and customers to easily manoeuvre with bulky goods. Hence the vast majority of Smyths Toys' stores trade from edge and out-of-centre retail park locations where there is sufficient space for staff to host demonstrations and for customers to view assembled products such as trampolines, remote controlled toys and go-karts, paddling pools, swings, and other bulky goods typical of a large format toy store.

3.11 The Smyths Toys business model requires 1,394 sq.m/15,000 sq ft retail floorspace as a minimum footprint, with space for a 7ft to 9ft distance between aisles. This is required in order to ensure the full standard range of products sold within each store can be displayed and arranged on a consistent basis across their portfolio of stores.

3.12 As a consequence, all Smyths Toys stores in England, Wales and Scotland are accommodated within retail warehouses, overwhelmingly in out-of-centre retail parks and/or co-located with other standalone retail warehouse units. While there are a small number of examples of Smyths Toys stores in town centre locations, such as the Farnborough store, these premises are also purpose-built retail warehouses with dedicated car parking. There are no examples of Smyth Toys' business model being accommodated within high street shop units in the UK.

3.13 There is also a requirement for a 'goods-in store', usually measuring around 70 sq.m, to allow for the easy loading and unloading of pallets of heavy goods. No new mezzanine floorspace is proposed as Smyths Toys will use the existing floorspace for storage and the provision of staff toilets, canteen and office areas. There will be no customer access to the mezzanine level (unlike the existing situation with Curry's).

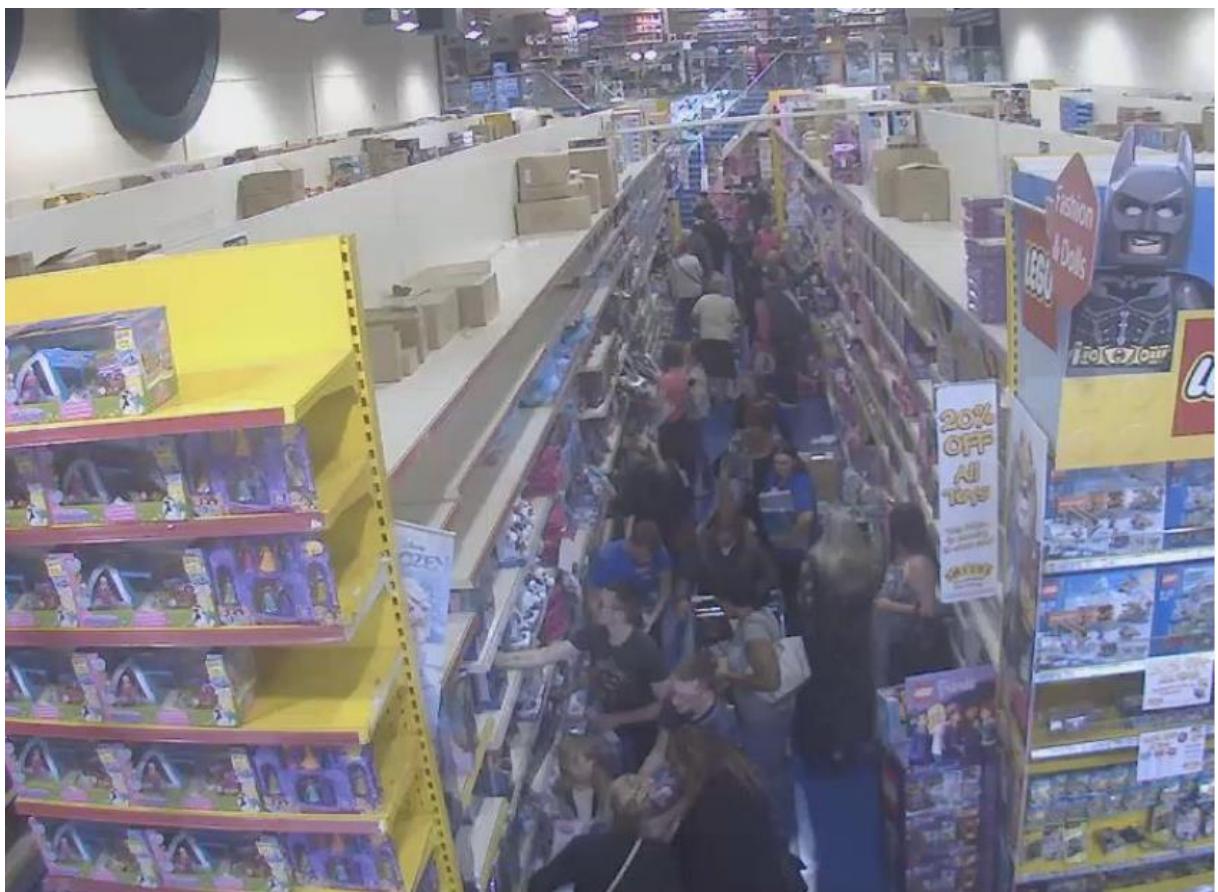
b) Peak trading periods

3.14 As with most toy retailers, the run-up to Christmas represents Smyths Toys' critical trading period. As much as 60% of annual turnover can be derived in a few weeks during October and December.

3.15 As a result, an essential part Smyths Toys' business model is the use of the canopy space above the standard height shelf for storage (as shown in Figure 1.3 below). This allows swift replenishing of products during the trading day. Whilst the main restocking of the shelves takes place after trading hours, having ready access to top selling products during peak hours, particularly during the Christmas period, is a vital part of the business model and essential to the viability of the store. Smyths Toys therefore requires sufficiently high ceiling heights of at least 4 metres in order to achieve this.

3.16 Figure 1.3 shows an influx of customers in a typical Smyths Toys store during a busy period. Ample car parking space and wide aisles of approximately 7ft to 9ft (which are capable of accommodating trolleys) are necessary in order to ensure sufficient capacity for customer numbers at peak times, particularly in the run-up to Christmas.

Figure 1.3 – Use of canopy space within a typical Smyths Toys store



3.17 The nature of toy retailing also means that, for part of the year, Smyths Toys can incur “*staying open*” costs, of which a significant proportion comprises property rents and rates. Accordingly, it is critical to the success of the business throughout the year that a viable rental level can be secured.

c) Role in relation to high street toy retailers

3.18 The format of Smyths Toys stores differs from traditional toy retailers, such as those trading within town centres. Town centre stores generally trade from small units of between 200 sq.m and 400 sq.m. In contrast, Smyths Toys outlets, which typically have a gross ground floor area of 1,400 sq.m (15,070 sq. ft) and are based on a top-quality ‘superstore warehouse style’ fit out. The larger floorspace means that extended product ranges can be provided when compared with smaller toy stores, with Smyths stores typically carrying over 13,000 different lines of stock.

3.19 High street toy retailers such as The Entertainer’s retail offer is focussed on relatively portable goods which can be easily carried around the town centre by customers travelling on foot. Wheelable baskets are provided, rather than trolleys, so that aisles can be narrower than in Smyths Toys stores and the merchandise can be laid out in a way which works around obstructions such as internal pillars. The ceiling heights are much lower than what would be seen in a typical Smyths Toys store.

3.20 Due to the differences in the range and nature of products sold, Smyths Toys stores tend to act as ‘destination’ retail facilities which attract visitors from a relatively wide catchment, whereas town centre retailers tend to serve a more localised catchment and are usually sited close to supporting retail and other main town centre uses to take advantage of pass-by trade.

3.21 Smyths Toys primarily competes on a ‘like for like’ basis with other retailers offering a similarly comprehensive range of products (e.g. formerly Toys R Us) or other mixed goods retail warehouse format operators such as Mothercare (nursery goods, baby equipment etc), Halfords (children’s bikes and wheeled products) and mixed goods retailers such as B&M Homestores (indoor and outdoor children’s play equipment). Such retailers tend to be out-of-centre and do therefore not benefit from policy protection.

d) Precedent

3.22 It has previously been accepted by Councils across the UK that Smyths Toys is principally a ‘bulky goods’ operator and this is demonstrated by the decision notices attached at **Appendix 2**.

3.23 Planning permission was granted in January 2023 for Smyths Toys to occupy a unit at Holywood Retail Park in Barrow in Furness. The Committee Report (also attached at Appendix 2) confirms that Smyths Toys principally sells 'bulky goods' and would not have an impact on existing centres given "*the very limited competition posed by the application proposal to high street toy retailers, due to the limited overlaps in their business models and size and the nature of the goods sold*" (para 4.58).

e) **Conclusions**

3.24 This statement has described the retailer's business model, the reasons why Smyth's Toys trade from retail warehouse premises and identified the key characteristics which demonstrate that Smyth's Toys have a strong synergy with, and can be considered to fall within, the category of 'bulky goods' retailing.

Section 4 The Application Proposal

a) Proposed variation to the condition sought

4.1 As summarised in the section 2, the user restriction attributable to the Application Site allows for the sale of non food bulky goods, together with associated and ancillary products where the latter equates to no more than 20% of the total sales of the unit.

4.2 The previous section of this report demonstrates that Smyths Toys could trade within this 'bulky goods' consent. However, the wording of the existing condition (ie linking non bulky items to turnover) does not reflect that fact that often large and unwieldy items often form part of an overall 'bulky' shopping basket together with smaller items. It follows therefore that the smaller items, alongside the bulky items are required to assemble a larger product and given anticipated sales of such items the wording of the existing condition could preclude this.

4.3 For example, a trampoline is made up of numerous components purchased are sold across the alongside bulky items rather than the entire product range for the store.including a ladder; a safety skirt; an enclosure; tie down kit; and the trampoline itself. This is essentially six different components for one product; four of which are smaller items, but the suite of different components is intended to be purchased together as one 'bulky' transaction. A further example is within the electronic games section of a typical store. Games consoles, DVD players and TVs fall within the definition of 'bulky goods' because of their size and weight, but a range of smaller products that are directly related to/associated with the bulky item are also sold (e.g. electronic games, children's DVDs) and are intended to be purchased together in one transaction (i.e. part of an overall 'bulky' shopping basket). Another example would be the sale of art easels. The store will stock several varieties of easels and a range of associated paints, art products to enable the large easel to be used. Again, it is intended that such products would be sold as one transaction rather than the smaller items being purchased on an individual basis.

4.4 Accordingly, Smyths Toys requires further certainty and flexibility in terms of the wording of the user condition and planning permission is sought to allow for the Smyths Toys product range to be sold from the unit. It is proposed to vary condition 2 attached to planning permission reference 48612/G/98/2348 to allow for the sale of the following from Unit 2:-

“When the premises are occupied by a toy retailer, toys, children’s sports goods and equipment, wheeled goods and associated equipment, play equipment, baby equipment and associated accessories, electronic games and equipment and other products associated with toys and children’s entertainment may be sold from the premises. Otherwise the premises shall be used primarily for the sale of non-food bulky goods, together with associated and ancillary products (sales of the latter accounting for no more than 20% of the total sales at the premises) and for no other purpose. Upon the reasonable request of the Local Planning Authority, the occupants of the unit shall provide a written breakdown of sales in sufficient detail to allow verification of compliance with this condition.”

4.5 The above wording will allow for occupation of the unit by Smyths Toys, but in tandem will still retain the original condition wording in accordance with the objectives of the condition.

b) Benefits of the proposal

4.6 The Application Site presents an ideal opportunity to establish a Smyths Toys store in West Drayton. The unit is physically suitable to accommodate the store concept and the proposed development will deliver a range of benefits, including:

- A substantial capital investment into West Drayton;
- The creation of 30 new jobs in the Borough (ranging from retail assistants to management positions), with a further 15 temporary positions in the run up to Christmas;
- Increased opportunities for bulky goods toy shopping, and therefore increased consumer choice for such products in Hillingdon;
- The re-use of a prominent unit which has already been vacant for nine months.

4.7 Overall, the proposal is considered to represent sustainable economic development which will support the national and local growth agenda while contributing to the NPPF’s objective of creating the conditions in which businesses can invest, expand and adapt.

Section 5 Planning Policy Summary

5.1 This section of the report sets out key planning policy relating to the application proposals and considers the relevant national, regional and local policies and guidance. The Development Plan for the site consists of the Hillingdon Local Plan Part 1 Strategic Policies (2012) and the Local Plan Part 2: Development Management Policies (2020). The London Plan (2021) and the National Planning Policy Framework (2023) are also considerations.

a) **National Planning Policy Framework (2023)**

5.2 The most recent iteration of the NPPF was published by the government in September 2023 and provides the current national-level overarching guidance on planning policy. The NPPF is a material consideration in the determination of planning applications.

5.3 The NPPF provides a framework within which locally prepared plans can be produced. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions.

5.4 **Paragraph 11** outlines that plans and decisions should apply a presumption in favour of sustainable developments. Applications proposals that accord with an up-to-date development plan should be approved ‘without delay’ (11c) and in instances where the development plan is silent, or policies which are most important for determining the application are out of date, planning permission should be granted unless “the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed”.

5.5 **Paragraph 38** emphasises that local authorities should approach decisions on proposed developments in a positive and creative way. It states that “*decision-makers at every level should seek to approve applications for sustainable development where possible*”.

5.6 **Paragraph 47** also states that whilst “*planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate*

otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing”.

- 5.7 **Paragraph 81** states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt.
- 5.8 **Paragraph 87** requires sequential assessment for planning applications for ‘main town centre uses’ (which include retail uses) are neither in an existing centre nor in accordance with an up-to-date plan.
- 5.9 **Paragraph 91** refers to the conditions regarding sequential test where an application fails to satisfy the sequential test or it is likely to have a significant adverse impact on one or more of the considerations in **Paragraph 90**, should be refused.
- 5.10 **Paragraph 168** states that applications for minor developments and change of use should not be subject to sequential or exception tests but should still meet the requirements for site-specific flood risk assessment if the site falls into flood zones 2 and 3.

b) **The London Plan (2021)**

- 5.11 The London Plan is the overall spatial development strategy for London, setting out an integrated economic, environmental, transport and social framework for the development of London for next 20-25 years.
- 5.12 **Policy GG2** ‘Making the best use of land’ confirms that sites that are well connected by existing or planned public transport should be prioritised.
- 5.13 **Policy SD7** ‘Town Centres: development principles and development plan documents’ states that sequential test is required for out-of-centre sites, and they should only be considered if it is demonstrated that no suitable sites are available within the town centre or edge of town centre locations. Applications that fail the sequential test should be refused.
- 5.14 **Policy E9** ‘Retail, markets and hot food takeaways’ states that a successful, competitive and diverse retail sector, which promotes sustainable access to goods and services should be supported in line with the wider objectives of this plan.
- 5.15 **Policy SI 12** ‘Flood risk management’ states the development proposals should ensure that flood risk is minimised and mitigated, and that residual risk is addressed.

c) **Local Plan Part 2: Development Management Policies (2020)**

5.16 **Policy DMTC 1** ‘Town Centre Developments’ states that proposals for ‘main town centre uses’ in out of centre locations will only be permitted where it has been demonstrated that there are no available or suitable in centre or edge of centre sites. In addition, proposals for ‘main town centre uses’ in out of centre locations will only be permitted where there is no harm to residential amenity. Development proposals which exceed 200 sq m of gross retail space in ‘out of centre’ locations will also require an impact assessment.

d) **Conclusions**

5.17 This Section has identified a series of development plan documents and other material considerations, including national policy, to be considered in the determination of this application. A full assessment of the scheme’s compliance with policy, including the principle of development, is carried out in Sections 6 and 7 of this Statement.

Section 6 Sequential Assessment

6.1 In this section, we apply the sequential test to the proposed development. This section is structured as follows:

- The policy requirement for the sequential test is explained, with reference to case law where relevant;
- The approach to flexibility is explained and the parameters of the sequential test set;
- A detailed assessment of potentially sequentially preferable sites has been undertaken including vacant units and applicable site allocations included in the adopted Development Plan.

a) Introduction

6.2 The current version of the NPPF (2023) (paragraph 87) sets out the approach to the sequential test to planning applications for main town centre uses (such as retail or leisure) which are not in an existing centre and are not in accordance with an up-to-date development plan. The order of preference for the sequential approach is:

- First, locations within existing town centres;
- Second, edge-of-centre locations, with preference given to accessible sites that are well-connected to the centre; and then
- Out-of-centre sites, only in circumstances where there are no in-centre or edge-of-centre sites available. Preference should again be given to accessible sites that are well-connected to the town centre.

6.3 For the purposes of national retail policy, an ‘edge-of-centre’ retail development is defined as a location that is “*well connected and up to 300m from the primary shopping area*”. By implication, an ‘in-centre’ site is one which falls within the primary shopping area, whilst an out-of-centre site is one which lies beyond 300m from the primary shopping area. The Framework is clear that in determining whether a site falls within the definition of ‘edge-of-centre’, account should be taken of local circumstances.

6.4 Whilst the application site is just 400 metres to the north of Yiewsley District Centre, in this instance, the application site is just ‘*out-of-centre*’.

6.5 Paragraph 88 requires applicants and local planning authorities to '*demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.*'

6.6 There is no further guidance contained within the NPPF in respect of the sequential approach. However, the Planning Practice Guidance (PPG) provides further detail on how the sequential approach outlined within the NPPF should be undertaken. At paragraph 010, under the heading '*How should the sequential test be used in decision-taking?*', the Guidance states that:

"The application of the test should be proportionate and appropriate for the given proposals" (our emphasis)

6.7 The Guidance then sets out a 'checklist' of considerations to take into account:

"with due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge-of-centre or out-of-centre location, preference should be given to accessible sites that are well connected to the town centre. Any associated reasoning should be set out clearly.

Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge-of-centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.

If there are no sequentially preferable locations, the sequential test is passed."

6.8 There are a number of points which arise from this checklist. It reaffirms the need to assess the suitability and availability of more central sites, particularly those well connected to the centre. Crucially the PPG emphasises the scope for flexibility should be based on the proposal being considered and not any other hypothetical scheme. As with the NPPF, no requirement for disaggregation is set out in the PPG.

6.9 Connected to this, the PPG also clarifies matters around operator requirements under the heading '*How should location requirements be considered in the sequential test?*' as detailed below:

"Use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification must be provided where this is the case, and land ownership does not provide such a justification" (our emphasis)

6.10 This links directly to the requirement to demonstrate appropriate flexibility as a certain business model in many cases can only operate in certain locations. This leads to the issue of viability which the NPPF itself is silent on in terms of decision taking. However, the PPG again provides clarity on this issue under the heading "*How viability should be promoted?*"

"The sequential test seeks to deliver the Government's 'town centre first' policy. However as promoting new development on town centre locations can be more expensive and complicated than building elsewhere local planning authorities need to be realistic and flexible in terms of their expectations" (our emphasis)

b) Interpretation of the sequential test

6.11 Before applying the sequential test, it is necessary to ensure that its meaning is understood as a matter of law. Once the meaning of the test is clear, then the test can be applied using appropriate planning judgement.

6.12 In this respect, the courts have provided helpful decisions that ensure that the meaning if the test is clear. The Supreme Court's ruling in the case of **Tesco Stores Limited v Dundee City Council [2012]** establishes that '*suitability*' of alternative sites is very much related to the applicant's or retail occupier's own requirements. Paragraph 29 of the Judgement (Lord Reed) in this case states that where consideration has been given to accommodating the development in a different form and where sequentially preferable locations have been thoroughly assessed then the question remains '*whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site.*'

6.13 The principle regarding suitability of an alternative site was further established by the Administrative Court judgement in the case of **R North Lincolnshire Council [2012] EWHC 3708 (Admin)**. We draw particular attention to paragraphs 61 and 62 of the Judgement, which states that:

"61. It is important to mark that developers, and planning authorities, work in the real world. Marks & Spencer has assessed the only available town centre alternative to the Site, and had concluded that a development that was smaller than that proposed, or one with a more restricted range of goods, was neither commercially viable nor suitable for their commercial requirements.... developments of this kind are generated by the developer's assessment of the market that he seeks to serve. If (alternative sites) ... do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism to which Lord Reed refers..., they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest of doing so."

6.14 The principle has been further upheld in the more recent Aldergate Properties case. In his judgement Ouseley J held that:

"... 'suitable' and 'available' generally mean 'suitable' and 'available' for the broad type of development which is proposed in the applicant by approximate size, type and range of goods. This incorporates the requirement for flexibility in (24) NPPF, and excludes, generally, the identity and personal or corporate attitudes of an individual retailer. The area and sites covered by the sequential test search should not vary from applicant to applicant according to their identity, but from application to application based on their content."

6.15 In summary, the courts have made clear that what falls to be assessed, in the correct application of the sequential test, is the development that is proposed in the planning application scheme (subject to a reasonable degree of flexibility).

Flexibility and Parameters of Search

6.16 Applying the principles outlined above means that it is important to recognise the commercial rationale and the intended catchment of the scheme as these are likely to be important characteristics of the broad type of development proposed. In this situation, the scheme seeks a minor change to an existing planning condition in order to facilitate occupation of an existing retail unit by a principally 'bulky goods' retailer. proposes the change of use to a toy store with a focus on bulky goods.

6.17 Although the corporate identity of Smyth Toys is not relevant to the operation of the sequential test, its business model is based on commonalities that would be relevant to any large format toy retailer,

which is the broad type of development proposed in the application. Given the case law outlined above, the specific nature of the proposal is an important consideration when assessing sequential alternatives and flexibility.

6.18 In view of the requirements of Smyths Toys explained in Section 3, we suggest the adoption of the following site search criteria, which we consider demonstrate a sufficient degree of flexibility as required by the NPPF:

- Capable of accommodating between 1,200 sq.m and 1,800 sq.m of gross floorspace at ground floor level which represents a deviation in the quantum of proposed floorspace of -20%;
- Adequate storage space for a large range of bulky goods;
- Space for offices and 'back of house' staff facilities (this can be provided on a separate level);
- A rectangular shaped and level floorplate that can be laid out in a logical manner to allow for the display and transportation of bulky goods such as trampolines and sandpits;
- Sufficiently wide aisles (of at least 7ft to 9ft in width) to safely accommodate customer trolleys and high visitor numbers at peak times and, ideally, which are free of obstructions in the form of columns, pillars, or other structural elements;
- Ceiling heights of at least 4m to meet shelving and operational requirements;
- Unencumbered access to adequate surface-level car parking which allows customers to use trolleys to easily transfer bulky goods from the store to their cars and provides enough space for surges in customer numbers during peak periods (particularly in the build-up to Christmas);
- Level and safe access to the store to provide suitable access for parents with small children and pushchairs and for ease of access for customers transferring bulky goods through the store;
- Suitable dedicated access to the store for deliveries and unconstrained servicing arrangements to allow access for HGVs.
- Available for let or sale at a viable cost.

6.19 Whilst Smyths Toys will try to work around some minor limitations in respect of individual sites, there comes a point when a site has too many limitations to be workable. As discussed, the nature of toy

retailing is that it is particularly important that the store can trade successfully and meet the needs of customers in the run up to Christmas from October to December each year and any material deviation from the above will severely impact on this critical trading period.

6.20 In terms of identifying the relevant centres to assess, we have had regard to the catchment area adopted by Montagu Evans in their Planning and Retail Statement in support of the previous application for a mezzanine floor at the application site (ref: 51267/APP/2010/992) and agreed by the Council. For the purposes of the sequential approach, the following centres were assessed:-

- Uxbridge (Metropolitan Strategic Centre)
- Hayes (Town Centre)
- Yiewsley/West Drayton (Town Centre)
- Uxbridge Road, Hayes (Minor Town Centre)
- North Hillingdon (Local Centre)
- Hillingdon Heath (Local Centre)

6.21 In order to be consistent and robust, we have undertaken a search of alternative sites within each of the above centres. The search has been divided into vacant premises and a review of site allocations set out in the adopted Hillingdon Local Plan.

c) **Vacant Units**

6.22 Using multiple commercial property databases, we have searched within the defined centres in addition to a site visit that was conducted on the 2nd of November. The following vacant premises were identified that meet the criteria set out in paragraph 5.19 above:-

Site reference	Site name & address	Size Sq m (gross)	Notes	Use class	Source	Does it meet size requirement
Uxbridge Metropolitan Centre						
1	The Pavilions Shopping Centre Ground, Unit 28	2692	Former Wilko Store	E	Commercial property Database	Yes
2	Unit 116 Intu Uxbridge High Street	9823	Former Debenhams Store	E	Commercial property Database	Yes
3	Pemberton House 2 Bakers Rd	2,990	Office space	E	Commercial property Database	Yes

4	Harman House, 1 George Street, Uxbridge UB	1335	Office space	E	Commercial property Database	Yes
Yiewsley District Centre						
5	191 High St Yiewsley West Drayton	1551	1 st and 3 rd floor offices	E	Commercial property Database	Yes
6	1A Fairfield Rd, West Drayton UB7 8EY	2750	Former Wilko Store	E	Commercial property Database	Yes
Hayes District Centre						
7	1 Pump Ln, Hayes Town, Hayes UB3 3NB	2700	Former Wilko Store	E	Commercial property Database	Yes
North Hillingdon Local Centre						
None identified.						
Hillingdon Heath Local Centre						
None identified.						
Uxbridge Road Hayes Minor Centre						
None identified.						

6.23 The sites in office use identified above have all been discounted given that they are purpose-built office accommodation over multiple floors and are therefore not suitable or viable to convert to retail warehouse floorspace.

6.24 We have undertaken an assessment of the remaining vacant retail units identified above. The appraisal sheets are attached at **Appendix 3**. For the reasons identified in the appraisal sheets, it is considered that none of the identified sites offer a sequentially preferable alternative site to the Application Site.

d) Site Allocations

6.25 We have only identified one site allocation for retail and/or other town centre uses as set out below.

Site Allocation Reference	Size (ha)	Notes	Development Plan Document
Uxbridge Metropolitan Centre			
No relevant site allocations found			

West Drayton District Centre			
No relevant site allocations identified.			
Yiewsley District Centre			
No relevant site allocations identified.			
Hayes District Centre			
No relevant site allocations identified.			
North Hillingdon Local Centre			
SA14 'Master Brewer and Hillingdon Circus, Hillingdon'	2.1	<ul style="list-style-type: none"> - Site A + B - Secure the provision, where appropriate, of leisure, social and community facilities 	Hillingdon Local Plan Part 2: Site Allocations and Designations (2020)
Hillingdon Heath Local Centre			
No relevant site allocations identified.			
Uxbridge Road Hayes Minor Centre			
No applicable site allocations identified.			

SA14 'Master Brewer and Hillingdon Circus, Hillingdon'

6.26 Site Allocation ref. SA14 'Master Brewer and Hillingdon Circus, Hillingdon' is identified within the Hillingdon Local Plan Part 2: Site Allocations and Designations (2020). The allocated site comprises a 2.1 ha site that is divided into two adjacent plots of land, labelled Site A and Site B, in which both sites are found within North Hillingdon Local Centre.

*i) **Site A***

6.27 Site A is located on the western side of Long Lane, with the majority of the site comprising an area of scrubland. The northern section of the site accommodates a surface level car park that provides parking for Hillingdon Railway Station which is located towards the northern boundary of the site. A pub is located in the north eastern corner of the site, whilst the land situated along the eastern boundary is utilised for the storage of construction materials. Site A is planned to provide the appropriate mix of leisure, social and community facilities, providing that the scale of any retail or leisure development is in keeping with North Hillingdon's status as a local centre.

6.28 The area of scrubland found towards the centre of the site is not subject to any live planning applications and is considered available whilst the others uses including the car park, pub and storage yard remain in active use and cannot be considered available. It is not considered that Site A is a suitable location for the proposed retail operation as the development proposal does not provide a mixed use development that provides the appropriate mix of leisure, social and community facilities. Hypothetically, a dedicated car park would need to be constructed to support a new retail store so there is not a detrimental impact upon the surface level car park supporting Hillingdon Train Station. As such, a new retail unit and supporting car park would occupy a significant proportion of the approximate 1 ha of scrubland, preventing other uses intended for the site coming to fruition in the future. Overall, the application proposal does not comprise a comprehensive development scheme for the whole site and is therefore considered contrary the policies found in the adopted Development Plan. Accordingly, this is not a sequentially preferable site to the Application Site.

*ii) **Site B***

6.29 Site B comprises a brownfield site which formerly accommodated the 106-room Master Brewer Motel and Public House which was demolished in 2009 and has been derelict ever since. Site B is planned to provide environmental improvements and landscaping as necessary to enhance the local shopping and residential environment. In addition, a predominantly residential scheme would be accepted, although the council will allow a proportion of other uses that are appropriate to the site's location within the North Hillingdon Local Centre, including a hotel, restaurant and small-scale retail. Similar to Site A, the development proposal would not provide a comprehensive development scheme for the whole site and is therefore considered contrary the policies found in the adopted Development Plan. Accordingly, this is not a sequentially preferable site either.

e) Summary

6.30 In this section we have set out our assessment of the suitability and availability of units within and on the edge of identified centre locations including Uxbridge, Hayes and Yiewsley. As has been demonstrated, no suitable sites have been identified.

6.31 In the absence of any sequentially preferable sites within or on the edge of a designated centre, the NPPF states that accessible out-of-centre locations should be given preference. The application site is highly accessible, being located less than 400 metres to the north of Yiewsley District Centre and is connected by foot, bus and car transport links. Reflecting Paragraph 87 of the NPPF, the sequential

assessment undertaken is considered proportionate to the nature and scale of the application proposals.

6.32 The requirements of the NPPF and Local Plan Policy DMTC 1, from a sequential test perspective, have therefore been satisfied.

Section 7 Retail Impact Considerations

7.1 In this Section, we explain our assessment of retail impacts. The assessment is undertaken to inform a judgement on the potential impacts from the proposed retail floorspace on existing centres, consistent with paragraph 90 of the NPPF (2023). Our assessment has been undertaken in '*a proportionate and locally appropriate way, drawing on existing information where possible*' in accordance with the advice contained in the National Planning Practice Guidance.

7.2 Paragraph 90 of the NPPF requires an impact assessment to be undertaken for planning applications for retail development outside of town centres that are not in accordance with an up-to-date plan where a local floorspace threshold is set. In this regard Policy DMTC1 identifies that an impact assessment is required where there would be a gross external floorspace increase of 200sqm in locations set away from the defined centres.

7.3 Our impact assessment focusses on the centres of Yiewsley, Uxbridge and Hayes due to their proximity to the application site. We have not included the three local centres in this assessment given that their role is to serve day to day convenience needs and therefore Smyths Toys would not directly compete with such facilities. We consider the two key indicators set out at paragraph 90 of the NPPF, namely:

- potential qualitative impacts of the proposed development on town centre vitality and viability, including local consumer choice and trade in the town centre; and
- potential qualitative impact from the proposed development on existing, committed and planned public and private investment in a centre.

7.4 It should be noted that some diversion of trade from a centre, does not automatically result in a policy conflict. The impact needs to be '*significantly adverse*', and likely to occur, to warrant a refusal under paragraph 91 of the NPPF (2023). The NPPG explains that '*a judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances.*'

7.5 As explained in Section 3 of this Planning and Retail Statement, the particular type of development proposed at the application site is anticipated to pose limited competition to town centre toy retailers which typically sell a more limited range of smaller or more specialist goods. Paragraph 2b-015-20190722 of the NPPG notes that: '*As a guiding principle, impact should be assessed on a like-for-like basis in respect of that particular sector (e.g. it may not be appropriate to compare the impact of an out*

of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with their most comparable competitive facilities”.

7.6 For this proposal, the nearest comparable facilities are the existing Smyths Toys stores at Greenford and Slough, which are both in out of centre locations. There may be some limited competition with the Costco Warehouse at Hayes, mixed goods retailers with a toy offer such as B&M at the Argent Centre, Hayes or TK Maxx, Lombardy Retail Park, Hayes and large supermarket superstores in the locality (eg Tesco Superstore at Chantry Place to the south of the site). We would emphasise, however, that these and other similar facilities are not situated within defined centres, and therefore do not benefit from policy protection.

a) **Impact on the vitality and viability of existing centres**

i) Existing toy provision

7.7 Our site visits to the defined centres in the catchment area note that there is very limited provision of toy retailers in each centre. The existing retailers are as follows:-

Uxbridge	The Entertainer, Pavilions Shopping Centre Toy Town, Chimes Shopping Centre DHS Toys Ltd, Pavilions Shopping Centre
Yiewsley	None
Hayes	None
Uxbridge Road, Hayes	None

7.8 It is clear from the above that toy retailing does not underpin the vitality and viability of existing centres. As explained in Section 3 of this Planning and Retail Statement, and in accordance with the ‘like with like’ principle outlined in the NPPG, there would be limited overlap between the offers of these high street retailers and Smyths Toys. The differences between their business models can be briefly summarised as follows:

- **Size of Goods:** Smyths Toys’ offer predominantly centres on bulky goods requiring trolleys to transport, whereas the high street retailers tend to focus on relatively small and portable goods which can be easily carried around the town centre by customers travelling on foot.

- **Range of Goods:** Smyths Toys stores typically carry over 13,000 different lines of stock, whereas high street toy stores usually offer a smaller range of more specialist goods (such as model aeroplanes, advanced jigsaw puzzles, etc.)
- **Catchment:** Smyths Toys stores tend to act as 'destination' retail facilities which attract visitors from a relatively wide catchment, whereas the town centre toy retailers serve a more localised catchment and are sited close to supporting retail and other main town centre uses to take advantage of pass-by trade

7.9 It has been shown that an out of centre Smyths Toys store complements, rather than competes with, more specialised toy retailers within defined centres. For example in a London context, Smyths Toys opened their Greenford store in October 2018. Whilst there were no toy retailers in Greenford District Centre itself at that time, there was one independent shop (Toy Galaxy) in Ealing Town Centre, three miles to the south-east (a comparable distance between the application site and Uxbridge Town Centre). It is noteworthy that Toy Galaxy continues to trade well in Ealing Town Centre as of November 2023.

ii) Impact on trade and turnover

7.10 The application does not propose additional retail sales area. Therefore the only means of assessing the impact on in-centre turnover is to consider any potential increase in turnover which would arise as a result of Smyths Toys occupying the unit rather than Currys.

7.11 Based on Currys occupying the unit, the turnover of the existing unit is estimated to be in the region of £8.6m. This is on the basis of a sales floorspace of 1,200 sq m (80% of the ground floor area) and sales per sq m of £7,200, which is derived from Mintel.

7.12 By comparison, it is estimated that the turnover of the proposed Smyths Toys store will be circa £4.2m. This is on the basis of sales floorspace of 1,200 sq m (80% of ground floor area accounting for the mezzanine used for storage) and sales of £3,500 per sq m. The turnover per sq m figure is based on the available published data for toy retailers in Mintel.

7.13 Accordingly, the occupation of Unit 2 by Smyths Toys will result in a significantly lower turnover than the existing occupier. Indeed, it will be less than half of the turnover of Currys. As a result, the overall impact on the turnover of existing centres from occupation of the unit by Smyths Toys can only be lower than the previous occupier.

7.14 As a consequence, we consider that the application proposal will have a neutral or even positive effect on the vitality and viability of existing centres, including local consumer choice and trade, and certainly not a 'significant adverse' impact as set out in paragraph 91 of the NPPF. On the contrary, Smyths Toys is an operator with a retail warehouse format which is suited to the Application Site and will help to strengthen the overall retail offer in West Drayton.

b) Potential qualitative impact from the proposed development on existing, committed and planned public and private investment in a centre

7.15 We are not aware of any significant planned regeneration or investment schemes in each of the centres within the catchment area. It is understood that the Council is in the early stages of preparing a Masterplan for Uxbridge Town Centre which will look to enhance the town centre's image, economic and environmental sustainability, and accessibility. As set out above, Smyths Toys will complement rather than compete directly with the smaller town centre toy shops and therefore it is not considered that the application proposal will have any impact on the objectives of this Masterplan.

c) Summary

7.16 Owing to the specific nature of its bulky goods toy retail format, the application scheme will result in very low levels of trade diversion from existing centres within the catchment. The proposal is expected to compete on a 'like-for-like' basis with comparable out-of-centre facilities that do not benefit from policy protection, rather than town centre retail operators.

7.17 We consider, therefore, that the application passes the two retail impact tests set out in Paragraph 90 of the NPPF, and the impact test component of Policy DMTC1.

Section 8 Conclusions

8.1 This Planning and Retail Statement is submitted in support of a full planning application for the variation of Condition 2 attached to planning permission reference 48612/G/98/2348 to allow Smyths Toys, a principally bulky goods retailer to trade from Unit 2 at Cowley Retail Park, West Drayton.

8.2 The application proposal will deliver a range of benefits for the residents of West Drayton and the surrounding areas which are important to consider in the planning balance exercise. These benefits include:

- A substantial capital investment into West Drayton;
- The creation of 30 new local jobs (ranging from retail assistants to management positions), with a further 15 temporary positions in the run up to Christmas;
- Increased opportunities for bulky goods toy shopping, and therefore increased consumer choice and competition;
- The re-use of a prominent unit which has been vacant for nine months.

8.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the statutory development plan, unless material considerations indicate otherwise.

8.4 The application site is considered to be 'out-of-centre' for the purposes of local and national policy. Nevertheless, the sequential and impact assessments set out in Sections 6 and 7 of this report have demonstrated that:

- there are no sequentially preferable sites that are suitable and available for the broad type of development proposed in the application; and that
- the proposal would not cause a significant adverse impact in relation to the vitality and viability of Yiewsley, Hayes or Uxbridge defined centres, or in relation to existing, committed and planned public and private investment.

8.5 Overall, the current proposal can be regarded as compliant with development plan policy. The Government has acknowledged the need to prioritise, promote and encourage sustainable economic

development, and has emphasised its commitment to achieving long-term economic growth. The application proposal is exactly the type of development Government policy advises should be approved.

- 8.6 To conclude, the application is in accordance with the NPPF and the development plan, will deliver a range of benefits, and should be supported.



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