

An Bord Pleanála



Inspector's Report

Appeal Reference No: PL09.245905

Development: Standalone café / restaurant unit to be located within car park, signage, outdoor seating area.
Globe Retail Park, Monread Road, Naas, Co. Kildare.

Planning Application

Planning Authority: Kildare County Council

Planning Authority Reg. Ref.: 15/853

Applicant: Green REIT (ROI) Ltd.

Planning Authority Decision: Refuse Permission

Planning Appeal

Appellant(s): Green REIT (ROI) Ltd.

Type of Appeal: First Party v Refusal

Observers: None on file

Date of Site Inspection: 9th March 2016

Inspector: Sarah Moran

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The development site is situated within an existing retail warehousing complex, the Globe Retail Park, located on the northern outskirts of Naas, Co. Kildare and approx. 2.5km from Naas town centre. The complex is immediately adjacent to M7 junction 9 (the 'Big Ball') motorway interchange and is visible to the south of the motorway. The southern side of the complex fronts onto and is accessed from the Monread Road, a local road that serves an area with a mix of light industry and residential developments. The retail park is within a cluster of employment, commercial and light industrial land uses at the eastern end of the Monread Road, including Larchfield Nursing Home, Naas Industrial Estate, Maudlins Industrial Estate, Monread Commercial Park and the Department of Education and Science. With regard to retail development, there is a 'Centra' neighbourhood convenience store c. 0.33km to the west and a large 'Tesco Extra' complex with associated outlets including a 'Costa' café at Monread District Shopping Centre c. 1.7km to the west at the R407 Sallins Road. There is also an 'Aldi' discount supermarket on the Sallins road, adjacent to the Tesco store.
- 1.2 The existing retail warehousing park contains 9 units in total, including a large 'Woodies DIY' hardware store and associated garden centre as the anchor tenant. There is one vacant unit. The remaining units are occupied by chain outlets that are often found in such out-of-town retail warehousing centres, i.e. 'Heatons', 'Smyths Toys' (a store occupying 2 units), 'EZ Living Furniture', 'Harry Corry' décor store, 'Expert' electrical retailer and 'Maxi Zoo' pet store. The park is accessed directly off the Monread Road. There is a large surface car park in front of the retail units. The development site has a stated area of 0.0867 sq.m. and is located at the western end of the car park, close to the access road. It is currently used for car parking.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed development comprises a standalone café / restaurant unit within the car park of the Globe Retail Park. The drawings on file indicate a 'Costa' café. The stated total floor space is 245 sq.m. The structure has a modern design with large areas of glazing and is 4.7m high. The development includes signage for the unit, outdoor seating area (136 sq.m.), landscaping and all associated site works. The development would connect to existing drainage and water services.

3.0 PLANNING HISTORY

3.1 Reg. Ref. 02/2504 PL09.204114 Original Globe Retail Park Permission

- 3.1.1 The Globe Retail Park development included:
- Total stated area of site was 3.79 ha, part of which was used for vehicular access;

- 9 retail warehouse units and an ancillary garden centre;
- Total stated GFA 11,760 sq.m., net sales space approx. 9,336 sq.m.;
- 481 no. public car parking spaces including 35 no. staff parking spaces;
- Signage, landscaping and other ancillary works.

The site was outside the development boundary of Naas and had an agricultural land use zoning under the Kildare County Development Plan 1999. Kildare County Council granted permission on 5th August 2003, following a material contravention procedure. Permission was subject to 57 no. conditions. Condition no. 12 restricted development on the site to the sale of bulky goods, as defined in Annex I of the Retail Planning Guidelines (RPG) 2000.

3.1.2 A third party appeal was withdrawn. I note that an Inspector's Report was prepared prior to the appeal being withdrawn. This recommended refusal on grounds relating to contravention of County Development Plan land use zoning; prematurity of development pending the production of a detailed retail strategy for the Kildare County and Naas Town Development Plans; contravention of the 2000 RPG due to the location adjacent to a motorway interchange; serious injury to the amenities of the area due to size and location of the site, scale of development, proximity of the building to the northern boundary and the expanse of the car parking area to the front of the building and its visibility from the Monread Road.

3.2 02/500153 Monread Road Access

3.2.1 Permission granted by Naas Town Council for a new roundabout junction and vehicular access from Monread Road to serve the retail park on 11th August 2003.

3.3 05/0607 and 14/600 Unit 5 of Globe Retail Park

3.3.1 Permission granted by Kildare County Council for alterations to Unit 5 comprising the construction of a mezzanine floor level area 466 sq.m., to be used as retail floorspace under 05/0607. Permission granted for an extension of 213.7 sq.m. to the existing internal first floor mezzanine area for retail use under 14/600.

3.4 06/1001 Smyths Toys at Globe Retail Park

3.4.1 Retention permission granted by Kildare County Council to Smyths Toys Ltd. for internal mezzanine to be used for storage, stated area 264.91 sq.m. Condition no. 2 of the permission limited the use of the mezzanine to storage purposes only.

3.5 05/2100 Unit 3 Globe Retail Park

3.5.1 Permission granted for a mezzanine area, signage and satellite dish and minor modifications to the ground floor, all non-retail uses.

3.6 12/500011 and 12/500080, PL.73.241763 IDA Park Naas

3.6.1 Permission sought to demolish 2 no. existing single storey industrial units at nos. 3 and 4 IDA Industrial Estate and to construct a single storey replacement unit to be used as 2 no. restaurants under both of these applications. The IDA industrial estate is located on the Monread Road, c. 1.1km west of the development site and close to Monread District Centre. Both applications were refused by Naas Town Council. I note that the Board refused a first party appeal of 12/500080, ref. PL.73.241763 on 9th July 2013, for the following reason:

The site of the proposed development is located on lands zoned for H 'Industry and Warehousing', where the overriding objective as expressed in the Naas Town Development Plan 2011-2017 is "to provide for and improve industrial and warehousing development". The proposed development of the demolition of existing industrial units and replacement with two restaurants would fail to promote the objectives of the zoning of the site and would set an undesirable precedent for further such development at locations peripheral to the main commercial centre and nearby zoned District Centre areas. The proposed development would, therefore, be contrary to the policies and objectives of the Naas Town Development Plan 2011-2017 and be contrary to the proper planning and sustainable development of the area.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and Technical Reports

- 4.1.1 Environmental Health Officer comment 20th October 2015. Requires further information.
- 4.1.2 Naas Area Engineer comment 29th October 2015. Refers to road design report.
- 4.1.3 National Road Design Office (NRDO) comment 6th November 2015. Recommends permission subject to conditions.
- 4.1.4 Environment Section report 6th November 2015. No objection subject to conditions.
- 4.1.5 Kildare County Fire Service comment 9th November 2015. No objection.
- 4.1.6 Kildare County Council Transportation Department comment 10th November 2015. Recommends refusal for: (1) development would result in a large shortfall of car parking spaces for the entire development; (2) development does not conform with the required 31m setback from a regional road.
- 4.1.7 Irish Water comment 13th November 2015. Require further information for details of watermain layout and sewers. Water Services report 13th November 2015. Require further information r.e. storm water attenuation.
- 4.1.8 Planning report 19th November 2015. Recommends refusal on grounds relating to contravention of condition no. 12 of 02/2504; contravention of Naas Town Development Plan; traffic and parking issues. Attached Appropriate Assessment screening report notes that the site is approx. 1.9 km from Grand Canal pNHA. AA screened out, NIS not required.

4.2 Planning Authority Decision

- 4.2.1 The PA issued a notification of a decision to refuse permission on 19th November 2015 for 3 no. reasons relating to: (1) material contravention of condition no. 12 of 02/2504; contravention of Kildare County Development Plan 2011-2017 and Naas Town Development Plan 2011-2017 objective RO3 and policy TC1 (2) (a) development would result in a displacement of c. 40 car parking spaces resulting in a large shortfall of car parking provision for the entire development and associated traffic hazard (b) development sited approx. 15m from the public road does not conform with the required building setback outlined in table 18.8 of the County Development Plan.

5.0 GROUNDS OF FIRST PARTY APPEAL

5.1 The appeal has been submitted by John Spain Associates Planning & Development Consultants on behalf of the applicant Green REIT (ROI) Ltd. The main points made may be summarised as follows.

5.2 Land Use Zoning / Retail Impact

- The site is located within a significant employment area of Naas with a number of commercial and industrial parks including Monread Commercial Park, Naas Industrial Estate and Monread Industrial Estate. The area to the south west of Monread Road is a substantial and well established residential area of Naas.
- The development is an appropriate land use for the retail park with regard to the relevant County Development Plan zoning objective. The proposed standalone café would complement the design and form of the existing retail park. It would provide an attractive and welcoming approach to the retail park when viewed from Monread Road. The design is high quality and would include hard landscaping and an outdoor terrace to provide for an animated use at this location.
- Standalone café / restaurant units such as this are an increasingly established ancillary feature of retail parks across the country. Table 1 of the appeal provides a list of 30 such units at 21 no. retail parks around the country. The appeal provides details of 2 no. cases that are cited as precedents for permissions for similar developments, ref. PL06F.233535, Airside Retail Park, Swords, Co. Dublin and PL06D.240090, The Park, Glenamuck Road South, Carrickmines, Co. Dublin.
- The development would not contravene condition no. 12 of 02/2504 as it involves a new development within the car park and does not specifically relate to the retail warehouse units permitted in that case. The development is a separate standalone permission. The RPG should not be applied to this application as the development involves 'café / restaurant' use rather than retail. The applicant is happy to accept a condition restricting the unit to café / restaurant use. This would ensure that it is not used for the sale of convenience or non-bulky comparison goods, to comply with the land use zoning objective. A further change of use application would be required to use the unit for retail purposes.
- The proposed café / restaurant would be ancillary to and would enhance the quality and offer of the Globe Retail Park as a retail warehouse facility. It would improve the range of facilities for customers and employees of the retail park and of adjacent industrial estates and commercial parks. There are currently limited facilities to serve employees in this established industrial zone. The development would reduce the need for employees to travel from the retail park to avail of facilities elsewhere. There is currently an existing small coffee shop within the Globe Retail Park but the proposed development would be a more suitable café / restaurant offer for all visitors to the retail park.

- The proposed café / restaurant does not constitute a scale or form of development which has the potential to impact upon the role and function of Naas town centre, or its vitality and viability. A modest standalone café / restaurant unit at this location would not change the relationship between the retail park and the town centre. In accordance with its Level 2 County Retail Centre designation, Naas town centre acts as a higher order comparison centre and offers a broad range of ancillary facilities, including restaurants and cafés.
- The appeal quotes section 7.15 of the DoECLG *Development Management Guidelines for Planning Authorities* 2007. It is submitted that the PA refusal only briefly refers to County Development Plan policy TC1 and objective RO3. It is not clearly set out, particularly given the scale of the development and that restaurant use is open for consideration under the relevant zoning objective, how the development is contrary to either the Kildare County Development Plan 2011-2017 or the Naas Town Development Plan 2011-2017.

5.3 Traffic and Parking

- The existing car park contains a total of 460 no. spaces, 425 of which are for public use and 35 no. spaces for staff use. The development would result in the loss of 39 no. spaces with a total provision of 386 spaces at the retail park.
- The development is not expected to generate any additional traffic or parking demand and therefore would have no impact on the local road network. The development would be ancillary to the overall retail warehouse use and would primarily be utilised by patrons as part of a linked trip.
- There are several precedents where the Board has granted café / restaurant uses in existing retail parks where such a proposal would result in the loss of existing car parking. The appeal cites 2 no. examples, i.e. PL06F.233535 Airside Retail Park and PL06D.240090, as mentioned previously.
- An Engineering Services Report was submitted with the application, which justifies the development from a traffic and car parking perspective and demonstrates that the loss of car parking would not have a material impact on the operation of the Retail Park. Extensive parking is already available and the development is acceptable in terms of traffic safety.
- A parking survey submitted with the Engineering Services Report found a maximum occupancy of 176 vehicles on Friday 22nd May 2015 and 178 vehicles on Saturday 23rd May 2015. Thus, there is considerable reserve parking available at the Retail Park. CBRE, the current management company at the site, confirm that the findings of the survey are not

abnormal and that there is a constant excess supply of car parking at the site.

- An additional parking survey was conducted by Nationwide Data Collection on behalf of O'Connor Sutton Consulting Engineers (OCSC) on the weekend of 11th and 12th December 2015 and the 18th and 19th December 2015. These would be the busiest shopping periods of the year and would equate to seasonable peak demand. Demand would be considerably lower at the vast majority of times outside this period. Demand peaked at 261 no. spaces on 4th December 2015; 351 no. spaces on 5th December 2015; 234 no. spaces on 11th December 2015 and 301 no. spaces on 12th December 2015. Taking into account the vacant Unit 8 on a pro rata basis based on size, this would equate to a maximum demand for 375 public spaces for a fully occupied retail park, which is below the 386 spaces that would be available if the proposed development is approved.
- The County Development Plan does not include a car parking standard for retail warehouse development. Development plan table 19.9 provides standards for 'Shops (250 – 1,000 sq.m.)', 'Large Shop (>1,000 sq.m.)' and 'Warehousing'. It is considered that 'Shops' would consist of small to medium convenience and comparison stores and 'Large Shop' would consist of large anchor convenience and comparison stores. The warehousing use does not relate to retail warehousing. Retail warehousing generally requires less car parking than conventional retail units.
- The permitted floorspace at Globe Retail Park under 02/2504 allowed for a car parking ratio of 1 space per 27 sq.m. GFA of retail warehouse floorspace. The existing ratio, taking other permissions into account, is 1 space per 30 sq.m. GFA. The proposed car parking ratio with the café / restaurant unit and taking into account the loss of 39 no. car parking spaces, would be 1 space per 33 sq.m. GFA. Table 7 of the appeal cites the car parking standards for retail warehousing in the County Development Plans of several neighbouring PAs, i.e. Fingal, Meath, South Dublin and Dun Laoghaire Rathdown. The standards range from 1 space per 20 sq.m. GFA (Meath) to 1 space per 50 sq.m. GFA (DLR). It is submitted that the proposed ratio is acceptable in this context.

5.4 Setback From Public Road

- Section 19.6.2 of the Kildare County Development Plan 2011-2017 states that the setbacks required in Table 19.8 of the plan relate to developments permitted in rural areas. The Roads Department of Kildare County Council has confirmed that the Monread Road is a local road (L3012). It is situated in the urban area of Naas. This policy does not apply to urban roads such as Monread Road. Thus, the setback requirements set out in table 19.8 of the County Development Plan should not apply to the subject development.

- There are several precedents along Monread Road where setbacks of c. 15m or less exist, e.g. Aldi supermarket, housing at Alymer Park, Maudlins Industrial Park. An aerial photograph is submitted in support of this statement. The proposed development achieves a setback of 16.8m from the Monread Road.
- It is submitted that the development is appropriate for the subject site, accords with the surrounding pattern of development and does not materially contravene any relevant requirement for building line setbacks along the Monread Road.

5.5 Other Issues

5.5.1 The following points are made in relation to other issues raised in the technical reports on file:

- The applicant was not provided with an opportunity to respond to issues raised in the Irish Water submission to the PA, also issues raised in the Water Services report on file. A response by OCSC is submitted as Appendix 4 of the appeal.
- The Environmental Health Officer report raised 6 no. points of further information. It is submitted that the points raised do not have material planning impacts on the proposed development and it would be standard practice to deal with such requirements by way of condition or through compliance with other codes. Section 34(5) of the Planning and Development Act 2000 (as amended) provides for points of detail to be agreed between the PA and the person carrying out the development.
- The Board will assess the application *de novo*. The applicant considers that the submitted design scheme is satisfactory, subject to the necessary detail being provided through compliance with conditions. The applicant is happy to deal with issues raised in the other technical reports on file by way of conditions.

6.0 RESPONSE OF PLANNING AUTHORITY TO FIRST PARTY APPEAL

6.1 The PA response states no further comment.

7.0 POLICY CONTEXT

7.1 Retail Planning Guidelines for Planning Authorities 2012

7.1.1 These guidelines update and replace the 2005 RPG. They state an overarching objective to enhance the vitality and viability of city and town centres in all their functions through sequential development. They include a range of caps on the size of convenience and retail warehouse stores with the aims of ensuring both competitiveness in the retail sector and strong city and town centres. The following key policy objectives are identified:

- Ensuring that retail development is plan-led;

- Promoting city / town centre vitality through a sequential approach to development;
- Securing competitiveness in the retail sector by actively enabling good quality development proposals to come forward in suitable locations;
- Facilitating a shift towards increased access to retailing by public transport, cycling and walking in accordance with the Smarter Travel strategy; and
- Delivering quality urban design outcomes.

There is a general presumption against large out-of-town retail centres, in particular those located adjacent or close to existing, new or planned national roads / motorways.

7.1.2 Section 3.8 recommends that planning authorities carefully consider the zoning of land for any additional retail warehousing development in their areas, given the level of provision of this category of development in recent years in and around the main centres of population, the levels of vacancy in such centres and thus pressure to entertain uses inappropriate to the edge-of-centre or out-of-centre locations of many of these developments.

7.1.3 Section 4.1.2 relates to development management of retail parks and retail warehouses. It notes that the number of retail parks has grown substantially over the past decade, reaching saturation point in some areas, leading to vacancy in some cases. It also notes a blurring of the definition of the goods permitted to be sold in these parks. Due to the fact that the range of goods being sold from retail warehouse parks often includes non-bulky durables, there is potential for a detrimental impact on city / town centres as indicated by the increasing numbers of vacant units in urban centres where retail parks exist on the periphery. The RPG therefore recommend a presumption against further development of out-of-town retail parks.

7.1.4 Annex I defines 'retail warehouse' as follows:

“A large single-level store specialising in the sale of bulky household goods such as carpets, furniture and electrical goods, and bulky DIY items, catering mainly for car borne customers.”

7.2 Regional Retail Strategy for the Greater Dublin Area 2008-2016

7.2.1 The Regional Retail Strategy for the Greater Dublin Area 2008-2016 (RSGDA) sets out a retail hierarchy for the GDA. The RSGDA reviews changes in expenditure, economic growth and retail markets since the previous retail strategy in 2001. Retail trading trends showed that Kildare had reduced a level of leakage from the county since the 2001 strategy. Naas is listed as a County Town Centre at Level 2 of the retail hierarchy. Section 4.33 notes that developments then underway in the centre of Naas town would meet the general comparison shopping needs of the town's resident

and future population. It also states that Naas, as the County town with the Council, General Hospital and numerous higher order services, as well as key industries, has a high degree of local employment and could in the future support further expansion of the retail core.

7.2.2 Section 4.45 notes a significant increase in retail (warehousing) park schemes since the adoption of the 2001 RPG, with all of the larger provincial towns in the GDA having competitive retail parks. Section 4.46 notes a recent trend towards a blurring of the division between bulky and non-bulky goods retailers, with some parks now containing major clothing chains and food retailers. It states:

“Continuing to allow this mixing of uses such as fashion chains into retail parks is likely to result in a negative impact on adjoining town centres as the large size units readily available in retail parks are easily accessible by car, but not public transport, and divert trade away from the town core.”

7.2.3 Section 6.30 defines retail warehousing as follows:

“...large floorspace stores specialising in the sale and/or display of bulky household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering mainly for car-borne customers.”

It notes a trend for the provision of retail parks where a number of warehouses are grouped together sharing parking arrangements and located on the fringes of built up areas, accessible from ring road or distributor road networks, also that there are a number of such developments associated with and adjacent to Major Town Centres. Developers of proposals for new retail warehouse developments out of centre are to demonstrate why the scheme cannot be located within town centres as part of the sequential test. Conditions are to be applied to restrict the range of goods to be sold, limit floorspace including mezzanines and restrict subdivision to smaller units where appropriate.

7.2.4 Section 6.33 states the following objectives:

“To promote and encourage the enhancement and expansion of retail floorspace in the County Town of Naas to reflect its role as a major town centre and the significant population growth experienced in the past decade and to create a thriving active town centre.”

“To support the attractiveness and viability of the key linked towns of Newbridge and Kilcullen, which form along with Naas a ‘Primary Dynamic Cluster’ in the RPGs, and to encourage the regeneration of land and buildings in the town centres to provide opportunities for further mixed use developments; and to enhance the vibrancy of the town centres.”

7.3 Kildare County Development Plan 2011-2017 (Incorporating Co. Kildare Retail Strategy)

7.3.1 The Globe Retail Park, including the subject site, lies mainly within the Kildare County Council Area. A small area at the vehicular access was formerly located within the Naas Town Council boundary, however this changed following local government re-organisation and the site is now in the administrative area of Kildare County Council and subject to the provisions of the Kildare County Development Plan 2011-2017.

7.3.2 Chapter 9 of the plan sets out retail policy, based on a review of the 2008–2016 Kildare County Retail Strategy. Naas and Newbridge are listed as ‘*Twin County Town Centres*’ in the retail hierarchy. Policy R2 states:

“To guide retail development where practical and viable in accordance with the framework provided by the Sequential Approach to enable the vitality and viability of existing town, village and district centres to be sustained and strengthened.”

Section 9.5.1 notes that Naas is one of the fastest growing towns in the GDA and country and is a designated Large Growth Town (1) in the Regional Planning Guidelines. Although the largest town in the county, until recently Naas had substantially less retail floorspace than Newbridge, the County’s other Level 2 Hinterland Area Twin County Town Centre. However, Naas has become the largest retail centre in the County, largely as a result of its critical mass of bulky goods floorspace located in modern retail parks in the town’s environs. These combine to make Naas one of the best bulky goods shopping locations in the GDA. While it has a greater quantum of retail floorspace than Newbridge, the quality of its offer and in particular its comparison offer still does not match its role and potential as a key retail destination that is comparable to Newbridge or the majority of other Level 2 centres in the GDA. Policy R5 states:

“To promote and encourage major enhancement and expansion of retail floorspace and town centre functions in the Hinterland Area Twin County Town of Naas, to reflect its role as a major town centre and further develop its competitiveness and importance as a key centre in the GDA.”

7.3.3 Section 9.6.4 states policy on retail warehouse parks. It notes that there has been increasing pressure in the County in recent years for alternative forms of retailing to bulky goods shopping to be permissible in retail parks, specifically main food and discount convenience and mainstream comparison floorspace. This pressure has been resisted in order to protect the vitality and viability of the county’s town centres and avoid retail parks emerging as out of centre shopping centres. The following policies are stated:

“R43: To prohibit mainstream and discount convenience retail developments in retail parks.

R44: To prohibit mainstream comparison floorspace or retailers in retail parks.”

7.3.4 Section 9.6.5 states policy on retail development in business parks and employment areas. It notes that the introduction of local shopping and services provision is an important ingredient in the attraction to and competitiveness of such areas. In respect of older employment areas, retail provision is to be limited unless it directly interfaces with existing and expanding residential areas and forms part of a strategic approach to provision in the suburbs of the county’s main centres. Any further retail floorspace in employment areas is to be restricted to the wholesale sector. The following policies are stated:

“R45: To ensure that the level of retail and local services provision in existing and new major employment areas sustains and enhances their attraction as locations for investment.

R47: To limit the level of shopping and local services provision in existing industrial estates or parks. Standalone mainstream and discount convenience or comparison floorspace will not be permitted in existing employment areas unless it is proven to be part of the wholesale retail market sector.”

7.3.5 Chapter 18 Environs Plans provides zoning objectives for Naas environs. Most of the subject site is zoned “NE2: Existing / Permitted Retail / Commercial”. Chapter 19 sets out development management standards.

7.4 Naas Town Development Plan 2011-2017

7.4.1 The development boundary of Naas town straddles the southern part of the site. The Core Strategy set out in Chapter 2 of the Town Development Plan states an overall economic strategy to direct and encourage economic growth toward areas zoned for employment uses and particularly towards the Northwest Quadrant area which is identified as being the most appropriate location to facilitate major new employment growth. The strategy promotes the consolidation and expansion of the existing town centre and it is envisaged that parts of Naas Town Centre would be developed / redeveloped to accommodate high quality urban development whilst also protecting its unique character.

7.4.2 Chapter 5 sets out policies for the town centre. The stated aim is to support, protect and reinforce the role of Naas Town Centre as the primary retailing

and service area of Naas through the consolidation and expansion of the town centre, to facilitate the provision of a high level and broad range of uses, to facilitate high quality urban design and through the provision of high quality public realm to promote the town centre as an attractive place for all to enjoy. Policy TC1 states:

“To promote the vitality and viability of the town centre area so that it becomes a high quality environment for shopping, working and visiting.”

7.4.3 Chapter 6 sets out retail policy. Naas Environs is included as part of Naas town for the purposes of the retail strategy and assessment of retail floorspace. The stated aim is to promote and encourage enhancement and expansion of retail floorspace and town centre functions in Naas, to reflect its role as a Major Town Centre and County Town, and further develop its competitiveness and importance as one of the key retail centres in the county and in the wider Greater Dublin Area. The core shopping area is to form the primary focus and preferred location for new retail development, with a priority to deliver middle and higher order comparison floorspace. The sequential approach is to be adopted with regard to proposals for new retail schemes. District Centres such as Monread are to complement the town centre. The following retail objectives are noted in this regard:

“RO1: To reinforce the heart of the town as the priority location for new retail development, with quality of design and integration/linkage within the existing urban form/layout being fundamental prerequisites.

RO3: To encourage and facilitate the preservation and enhancement of the retail and services role of Naas.”

Chapter 9 notes that Naas’ retail profile is dominated by bulky goods floorspace, which accounts for some 44.1% of the total, growing from a negligible amount in 2001. As a result of the quality and quantum of the town’s retail park offer, it is now one of the most important bulky goods shopping destinations in the GDA. Section 6.7 states that no additional lands are zoned for retail warehousing in the Development Plan. In addition, alternative forms of shopping have not been permitted in retail parks, in order to protect the vitality and viability of Naas town centre and avoid retail parks emerging as out of town shopping centres. The following policies are noted:

“RP13: To sustain Naas’ role and importance as a key bulky goods shopping destination in the county and wider GDA.

RP21: To retain retail warehouse parks for bulky goods and not permit convenience retail shopping in retail parks.

RP22: To retain retail warehouse parks for bulky goods and not permit mainstream comparison floorspace or retailers in retail parks.”

7.4.4 The following policies relating to business parks and employment areas are noted:

“RP23: To ensure that the level of retail and local services provision in existing and new major employment areas sustains and enhances their attraction as locations for investment.

RP25: To limit the level of shopping and local services provision in existing industrial estates or parks. Standalone mainstream and discount convenience or comparison floorspace will not be permitted in existing employment areas unless it is proven to be part of the wholesale retail market sector.”

8.0 ASSESSMENT

8.1 The following are the issues considered relevant in this case:

- Principle of development
- Contravention of Reg. Ref. 02/2054
- Retail impact
- Traffic and parking
- Other issues
- Conclusion

Each of these may be considered separately as follows:

8.2 Principle of Development

8.2.1 The development site is primarily located outside the development boundary of Naas and subject to the provisions for Naas Environs as set out in Chapter 18 of the Kildare County Development Plan 2011-2017. It has the zoning “NE2: Existing / Permitted Retail / Commercial”. The Plan states:

“The purpose of this zone is to identify existing and permitted retail and commercial activities, serving Naas Town Environs. Future development within this zoning must be in accordance with the Draft County Retail Strategy and the County Retail Policy, as set out in Chapter 9. Any specific development proposal must have due regard to the location of the site within the wider town context and be in accordance with the proper planning and sustainable development of the area.”

The land use ‘restaurant’ is listed as ‘open for consideration’ under this zoning objective in the Naas Environs zoning matrix. Section 18.2 states:

“Land uses shown as ‘Open for Consideration’ are uses that are not considered acceptable in principle in all parts of the relevant use zone. However, such uses may be acceptable in circumstances where the Council

is satisfied that the proposed use would not conflict with the general objectives for the zone and the permitted or existing uses as well as being in the interests of the proper planning and sustainable development of the area.”

- 8.2.2 The lands to the immediate south of the development site, including the road access to the Globe Retail Park, are located within the development boundary of Naas and are subject to the provisions of Naas Town Development Plan 2011-2017. They have the zoning objective “*H: Industry & Warehousing*”. Section 14.2.3 of the Plan states:

The purpose of this zoning is to provide for industrial and warehousing uses. Other uses, ancillary or similar to industry and warehousing will be considered on the merits of the proposed development and may be acceptable in this zone. Where employment is a high generator of traffic, the location of new employment facilities at an appropriate scale, density, type and location will be encouraged to reduce demand for travel. Residential or retail uses (including retail warehousing) or incinerators/thermal treatment plants will not be acceptable in this zone. Where any Industrial / Warehousing land adjoins other land uses, particularly residential uses, a buffer zone (approximately 10-15 metres) shall be provided for and landscaped in accordance with Chapter 13 of this Plan.

The use ‘restaurant’ is listed as ‘Open for consideration’ under this zoning objective, i.e.:

“... generally acceptable except where indicated otherwise and where specific considerations associated with a given proposal (e.g. scale) would be unacceptable or where the development would be contrary to the proper planning and sustainable development of the area.”

- 8.2.3 It is considered that the proposed development should be considered on its merits with regard to the above provisions.

8.3 Contravention of Reg. Ref. 02/2504

- 8.3.1 Refusal reason no. 1 states that the development would contravene condition no. 12 of 02/2504, which restricted the use of the permitted development as follows:

The proposed development shall be limited to the sale of bulky goods as defined in Annex I (page 28-29) of the Retail Planning Guidelines for Planning Authorities, December 2000. Convenience goods, books, newspapers and magazines shall not be sold and the development shall not contain a Builders Providers outlet.

Reason: To protect the viability of the established commercial centre of Naas Town and in the interest of the proper planning and development of the area.

8.3.2 The proposed restaurant use would clearly contravene this condition, given that it involves a use outside of those specified. However, 14 years have elapsed since 02/2504 was granted. A new County Development Plan and a new Naas Town Development Plan have been adopted in the interim and the Retail Planning Guidelines were updated twice in 2005 and 2012. The surrounding area has changed, with the construction of the Monread District Centre and changes to the local road network. There have been changes in local government administration with the abolition of Naas Town Council under the Local Government Reform Act 2014. Having regard to the changed context and to the current zoning provisions as outlined above, it is considered that the proposed development should be considered on its merits, notwithstanding its non-compliance with condition no. 12 of 02/2504.

8.4 Retail Impact

8.4.1 I consider that the development would not contravene policies set out in the Kildare County Development Plan 2011-2017 and Naas Town Development Plan 2011-2017, which aim to guide retail development towards the town centre. It is a café / restaurant and would not involve the creation of any new retail floorspace. The grounds of appeal submit that there is an increasing trend for such standalone café units in retail parks and provides a list of such units at 21 no. retail parks around the country. I am familiar with several of the locations listed and I acknowledge that similar type developments have been permitted in many retail parks and, in fact, they have become a common component of such retail parks. The appeal cites several ABP cases as precedent, ref. PL06F.233535 at Airside Retail Park, Swords, Co. Dublin and PL06D.240090 at The Park, Carrickmines, Co. Dublin. I note that the Board refused permission for a restaurant at the IDA Industrial Estate, further to the west along the Monread Road, ref. PL.73.241763. However, in that case there were concerns about impacts on the adjacent Monread District Centre, which is over 1km from the subject site.

8.4.2 Having regard to the limited nature and size of the proposed unit and to its isolated location, I consider that it is likely to have local impact only and to be used by customers and employees of the Globe Retail Park and other business / industrial units in the immediate vicinity. I therefore accept that the development would be ancillary to the retail park in which it is situated and is unlikely to make a significant material impact on the vitality or viability of the town centre or Monread District Centre.

8.5 Traffic and Parking

8.5.1 The report of the Transportation Department on file dated 10th November 2015 recommends refusal on the grounds that (1) the development would

result in a large shortfall of car parking spaces for the entire retail park and (2) the development does not conform with the required 31m setback from a regional road. These issues may be considered separately as follows.

8.5.2 Parking Provision

Table 19.9 of the County Development Plan includes the following car parking standards:

| Type of Development | Maximum Car Parking Standard |
|-------------------------------------|---|
| Shops (< 250 sq. m. gross) | 1 car space / 24 sq.m. of GFA |
| Shops (250–1,000 sq. m. gross) | 1 car space / 18 sq.m. of GFA |
| Large stores (> 1,000 sq. m. gross) | 1 car space / 12 sq.m. of GFA |
| Warehousing | 1 car space / 100 sq. m. of GFA |
| Restaurants | 1 car space / 4.5 sq. m. of public floorspace |

There is no standard for ‘retail warehousing’. The original permission granted under 02/2504 proposed a total of 481 no. car parking spaces, including 35 no. staff parking spaces. The development as constructed had a reduced total of 460 no. spaces. The Engineering Services Report on file by OCSC Consulting Engineers, which was submitted with the subject application, states that this figure was agreed in compliance with Kildare County Council and submits documentation to confirm same. The restaurant development would result in the removal of 39 no. spaces and the creation of 245 sq.m. of additional floorspace, seating area 170 sq.m. It would require a provision of 38 no. spaces to comply with the above parking standards, which would leave a total of 383 no. spaces to serve the existing retail warehousing units (348 no. spaces for public use if 35 spaces are allocated for staff only).

I note the following figures provided in the OCSC report dated 24th September 2015:

- The existing parking provision at the site is 1 space per 30 sq.m. retail GFA, taking into account the subsequent permissions for additional floor space granted under Reg. Ref. 05/607, 05/2100, 06/2100 and 14/600.
- The proposed development would result in a provision of 1 space per 33 sq.m. retail GFA.

The appeal states that this provision would generally be in accordance with car parking standards for retail warehousing required by the development plans of neighbouring counties. The proposed provision is based on the assumption that spaces would be shared between the retail and restaurant use, i.e. no space allocation for the proposed development. It is submitted that the development would primarily be used by customers of the retail park and the unit itself would not be a major trip generator. This argument is generally accepted given the above retail analysis, i.e. the development would primarily draw customers from the immediate area and some limited local traffic. In

addition, there are good pedestrian connections to the surrounding area including a footpath in front of the site and a pedestrian crossing along Monread Road to the west. The site is not visible from the motorway and no signage is proposed along the motorway to indicate the presence of the development.

I note the following results of car parking surveys by OSOC Consulting Engineers, as submitted with the original application and the grounds of appeal:

| Date | Max Car Park Occupancy |
|---|-------------------------------|
| Friday 22 nd May 2015 | 176 no. spaces at 12.00 pm |
| Saturday 23 rd May 2015 | 178 no. spaces at 16.30 pm |
| Friday 4 th December 2015 | 261 no. spaces at 11.30 am |
| Saturday 5 th December 2015 | 351 no. spaces at 16.00 pm |
| Friday 11 th December 2015 | 234 no. spaces at 11.30 am |
| Saturday 12 th December 2015 | 301 no. spaces at 14.00 pm |

It is submitted that these results indicate the availability of considerable reserve parking, notwithstanding the vacant Unit 8. Analysis by OSOC states that a pro rata increase to take Unit 8 into account would equate to a maximum demand of 375 public spaces for a fully occupied retail park during the peak December period.

Having regard to the above, I conclude that extensive parking exists within the retail park to cater for the proposed development.

8.5.3 Setback From Public Road

County Development Plan section 19.6.2 states:

“It is the policy of the Council where developments are permitted in rural areas along National, Regional and County Roads that they must conform to the minimum setbacks listed in Table 19.8 below. All measurements are taken from the nearest edge of road surface. Other building lines may be specified in recognition of local conditions.”

| Table 19.8 Building Lines from Public Roads | |
|--|--------|
| Regional Road | 31.0 m |
| Urban/County Road | 18.5 m |
| Distributor | 18.5 m |

The development would be adjacent to the entrance to Globe Retail Park from Monread Road. Monread Road is a local road serving the northern outskirts of Naas. It joins the R445 Naas to Johnstown road to the east of Globe Retail Park and the R407 Sallins road c. 1.7km to the west at Monread District Centre. Given that the development is not located in a rural area and is not in

the vicinity of a regional road, it is considered that a setback of 31.0m, as specified in the report of the Transportation Department, should not apply. There is no established building line along the northern side of the Monread Road at this location, see enclosed aerial photograph. However, I am satisfied that the proposed layout would not result in a traffic hazard or adverse visual impact. The location of the development in relation to the road is therefore acceptable.

8.4 Other Issues

- 8.4.1 I note that the report of the Environmental Health officer dated 25th September 2015 requires further information in relation to minor issues, which are outside the planning code.
- 8.4.2 The application included drainage proposals and a site specific Flood risk Assessment by OSOC Consulting Engineers. Kildare County Council Water Services comment on 13th November 2015 requires further information in relation to the proposed and existing storm water attenuation system within the Globe Retail Park. Irish Water comment on 13th November 2015 requires details of the proposed watermain layout, foul and surface water sewers. Additional details of the proposed drainage, watermains and sewerage connection are submitted with the appeal. These issues may be agreed by condition if the Board is minded to grant permission.
- 8.4.3 There are no designated Natura 2000 sites in the vicinity. Having regard to the nature and scale of the development within a fully serviced suburban location, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.5 Conclusion

- 8.5.1 I note that the proposed development would contravene condition no. no. 12 of 02/2504. However, having examined the matters arising, I consider that the nature and scale of the development is such that it is acceptable at this location, is compatible with the zoning objective and if permitted would not detract from the vitality and viability of Naas town centre or the Monread District Centre. Having regard to the location of the site, impacts on residential amenity are not relevant to this case. I consider that extensive parking exists within the retail park. Due to its location, it is my opinion that the proposed development would not result in the creation of specific trips. I have no information before me to believe that the proposal if permitted would lead to the creation of a traffic hazard nor be prejudicial to public health. I do not have undue concerns in relation to impacts on visual amenity.
- 8.5.2 Having regard to all of the above, I consider that the proposed development is

acceptable and consistent with the proper planning and sustainable development of the area. Accordingly, I recommend that permission is granted notwithstanding the previous condition limiting land uses within the overall Globe Retail Park site.

9.0 RECOMMENDATION

- 9.1 Having regard to the foregoing, I recommend that permission be granted for this development for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to the location of the proposed restaurant in a retail park area where there is extensive parking already available and to the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed single-storey building would not detract from the vitality and viability of Naas town centre or the Monread District Centre, would not be visually incongruous within the context of the existing pattern of development, would not have an adverse impact on residential amenity, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the planning authority on the 25th day of September, 2015 and as lodged with the appeal to the Board on 16th November 2015, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. Traffic, access, lighting and parking arrangements shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public safety and to ensure a proper standard of development.

4. The use of the restaurant shall be restricted between the hours of 07.00 and 23.00 hours.

Reason: To protect the amenities of the adjoining properties.

5. Prior to commencement of development, details of the materials, colours and textures of all external finishes inclusive of fascia treatment and signage shall be submitted to the planning authority for written agreement.

Reason: In the interest of visual amenity.

6. No additional signs, symbols, nameplates or advertisements shall be erected on the proposed site without a prior approval of the planning authority whether or not such development would otherwise constitute exempted development.

Reason: In the interest of visual amenity.

7. Prior to the commencement of any works on site, the applicants shall ascertain and comply with all requirements of the Environmental Health Officers Department

Reason: In the interests of public health.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Sarah Moran,
Senior Planning Inspector
29th March 2016**