

MAGUIRE

&

ASSOCIATES

CHARTERED ENGINEERS

CHARTERED TOWN PLANNERS

6, Railway Terrace,
Dublin Road.
Naas.
Co. Kildare
W91 NYK3

Telephone No. (045) 876384
Mobile No. (087) 2680888
E-mail. admin@manda.ie

Our Ref: 623.2020 (Appeal)

An Bord Pleanála,
64 Marlborough Street,
Dublin, 1.

Re: Exempted Development Ref: ED/00838

Applicants: Ziba Coffee House Limited
Planning Authority: Kildare County Council
Development: Use of Shop Unit 3 as Coffee Shop at 6 Railway Terrace, Dublin Road, Naas, Co. Kildare W91 NKY3
Development at: Shop Unit 3, 6 Railway Terrace, Dublin Road, Naas, Co. Kildare W91 NYK3
Our Clients: Ziba Coffee House Limited

AN BORD PLEANÁLA	
LD 2 nd March 2021	037712-21
ABP-	
22 MAR 2021	
Fee: € 220.00	Type: _____
Time: 5:00pm	By: hand

Dear Sir/Madam,

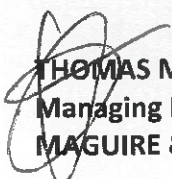
We act on behalf of Ziba Coffee House Limited who have instructed us to appeal against the decision of Kildare County Council to refuse to grant a Declaration of Exempted Development under Section 5 of the Planning and Development Act 2000 (as amended) at the above address.

We are enclosing the following documents:

1. Copy of Kildare County Council's Declaration of Development and Exempted Development under Section 5 of the Planning and Development Act 2000 (as amended) decision dated 24th February 2021
2. Planning Submission
3. Appeal Fee in the sum of €220.00

Kindly confirm in writing receipt of this Planning Submission.

Yours sincerely,


THOMAS MAGUIRE
Managing Director
MAGUIRE & ASSOCIATES

MAGUIRE & ASSOCIATES
- 1 MAR 2021
RECEIVED

Comhairle Contae Chill Dara

Kildare County Council



AN BORD PLEANÁLA
LDG- _____
ABP- _____
22 MAR 2021
Fee: € _____ Type: _____
Time: _____ By: _____

**Declaration of Development & Exempted Development under
Section 5 of the
Planning and Development Act 2000 (as amended)**

ED/00838

WHEREAS ZIBA Coffee House Ltd., c/o Maguire & Associates, 6 Railway Terrace, Dublin Road, Naas, Co. Kildare has sought a Declaration as to whether the use of Unit 3, 6 Railway Terrace, Naas, Co. Kildare, as a coffee shop, is or is not development and is or is not exempted development:

- AND WHEREAS** Kildare County Council, in considering this referral, had regard particularly to –
- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
 - (b) Section 3(1) of the Planning and Development Act, 2000, as amended,
 - (c) Section 5(1) of the Planning and Development Act, 2000, as amended,
 - (d) Article 5(1) and Article 10(1) of the Planning and Development Regulations, 2001, as amended,
 - (e) Class 1 of Part 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
 - (f) the planning history of the site,
 - (g) the permitted use of the premises as a shop,
 - (h) the information submitted by the referrer as to the current use of the premises

AND WHEREAS Kildare County Council has concluded that -

(a) the current use of the subject premises does not constitute use as a “shop” under Article 5(1) of the Planning and Development Regulations, 2001, as amended, because the sale of hot drinks and to a lesser extent other food and drinks for consumption off the premises, are in combination, the predominant rather than the subsidiary use of the premises and so this use does not come within the scope of Paragraph (d) of this Article,

(b) the current use of the subject premises does not come within the scope of paragraph (a) of Article 5(1) of the Planning and Development Regulations 2001 as amended due to the qualifying statement at the end of the definition of shop and Paragraphs (b), (c), and (e) – (i) are not applicable to this use,

(c) the current use of the subject premises has resulted in a change of use of these premises from their authorised use as a shop and this change of use raises issues that are material in terms of the proper planning and sustainable development of the area, including issues in relation to the planning policy on retailing set out in the current Naas Town Development Plan 2011-2017, the potential for litter and management of waste arising from the primary use of the sale of coffee, sandwiches and other food for consumption off the premises, and the potential for differing pedestrian and vehicular traffic as compared to the former retail use, and the change of use is, therefore, “development” within the meaning of Section 3 of the Planning and Development Act, 2000, as amended, and

(d) there are no exemptions in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations, 2001, as amended, by which this change of use would constitute exempted development

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by section 5 (2) (a) of the 2000 Act, hereby decides that the use of Unit 3, 6. Railway Terrace, Dublin Road, Naas, Co. Kildare currently operating as ZIBA Coffee House, **is development and is not exempted development.**

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

24th February 2021

Logan Ryan
Director of Services

MAGUIRE

&

ASSOCIATES

CHARTERED ENGINEERS

CHARTERED TOWN PLANNERS

6, Railway Terrace,
Dublin Road.
Naas.
Co. Kildare
W91 NYK3

Telephone No. (045) 876384
Mobile No. (087) 2680888
E-mail. admin@manda.ie

Our Ref: 623.2020 (Appeal)

PLANNING SUBMISSION

CLIENT'S NAME: ZIBA COFFEE HOUSE LIMITED

CLIENT'S ADDRESS: SHOP UNIT 3,
6 RAILWAY TERRACE,
DUBLIN ROAD,
NAAS,
COUNTY KILDARE.
W91 NYK3

APPLICANT'S NAME: ZIBA COFFEE HOUSE LIMITED

DEVELOPMENT: USE OF SHOP UNIT 3 AS SPECIALIST COFFEE SHOP AT 6
RAILWAY TERRACE, DUBLIN ROAD, NAAS, CO. KILDARE W91
NYK3

ADDRESS OF DEVELOPMENT: SHOP UNIT 3,
6 RAILWAY TERRACE,
DUBLIN ROAD,
NAAS,
COUNTY KILDARE.
W91 NYK3

EXEMPTED DEVELOPMENT REFERENCE: ED/00838

PLANNING AUTHORITY: KILDARE COUNTY COUNCIL

DATE OF DECISION: 24TH FEBRUARY 2021

DATE OF APPEAL: 22ND MARCH 2021

CHARTERED ENGINEERS

MAGUIRE & ASSOCIATES

CHARTERED TOWN PLANNERS

6, Railway Terrace, Dublin Road, Naas, County Kildare W91 NYK3
Tel No. (045) 876384. Mobile No. (087) 2680888. E-mail: admin@manda.ie.

CURRENT PROPOSAL

We have been instructed by our client's Ziba Coffee Shop Limited to prepare a Planning Submission to seek a Section 5 Declaration that the speciality use of Shop Unit 3 at 6 Railway Terrace, Dublin Road, Naas, Co. Kildare W91 NYK3 as a Coffee Shop is exempted development.

ORIGINAL WRITTEN PLANNING SUBMISSION OF "MAGUIRE & ASSOCIATES" TO KILDARE COUNTY COUNCIL

We have submitted a copy of the above in **Appendix I** of this Planning Submission to An Bord Pleanala

DECISION OF KILDARE COUNTY COUNCIL

We have submitted a copy of the decision of Kildare County Council together with a copy of the Planner's Report in **Appendix II** of this Planning Submission.

SITE LOCATION

Shop Unit 3 of 6 Railway Terrace is located on the Dublin Road in Naas set back from the main Naas to Dublin Road. This shop forms part of a building known as 6 Railway Terrace where Shop Unit 1 is currently vacant, Shop Unit 2 is in use as a Nail Bar and Shop Unit 3 is currently in use as a Coffee Shop. The first floor of this building is in office use.

OTHER INDIVIDUAL LAND USES IN THE IMMEDIATE VICINITY

We attach in **Appendix III** copy of map of this area showing the land uses in the immediate vicinity of the site. The individual land uses of the properties in the area are shown below: -

No: 1 Railway Terrace	Chinese Restaurant use and Takeaway
No: 2 Railway Terrace	Auctioneers Office on ground floor Medical Offices on first floor
No: 3 Railway Terrace	Laser Clinic
Railway Mews (Rear No: 3 Railway Terrace)	Office Use
No: 4 Railway Terrace	Hairdressers on ground floor Medical Office on first floor
No: 5 Railway Terrace	Solicitors Office
No: 6 Railway Terrace	Shop Unit 1 – Vacant - ground floor Shop Unit 2 – Nail Bar - ground floor Shop Unit 3 – Coffee Shop - ground floor Offices on first floor
St. David's School	Sticky Fingers Childcare Centre

Directly across the Dublin Road is the "Maxol Filling" Station, Shopping Units and Tesco's which are zoned town centre use.

The Sycamores Housing Scheme and Victoria Terrace are residential land uses located to the rear of 6 Railway Terrace.

CAR PARKING

The car parks of Naas Town Centre, Shopping Units and Tesco's are shown on this Site Location Map.

NAAS TOWN DEVELOPMENT PLAN 2011-2017

The shop unit is located within the "Town Centre A" area of Naas Town where in Table 14.2 Land Use Zoning Objectives of the Naas Town Development Plan 2011-2017 it states: -

"To provide for the development and improvement of appropriate town centre uses including retail, residential, commercial and civic uses."

We attach in **Appendix IV** copy of Core Retail Map Ref: 6.1 of the Naas Town Development Plan showing the extent of the town centre zoning. We include extract from Draft Naas Local Area Plan 2021-2027 showing the extent of the town centre zoning.

THE QUESTION THAT AN BORD PLEANALA IS BEING ASKED IN THIS INSTANCE IS AS FOLLOWS: -

"CHANGE OF USE FROM SHOP TO "COFFEE SHOP" WHERE THE SALE OF COFFEE TO VISITING MEMBERS OF THE PUBLIC IS THE PRIMARY USE OF THIS SPECIALITY RETAIL SHOP AND THE SALE OF HOT CHOCOLATE, MINERALS, PASTRIES, SANDWICHES AND ROLLS TO VISITING MEMBERS OF THE PUBLIC IS A SUBSIDIARY RETAIL USE TO THE PRIMARY SPECIALITY RETAIL USE OF THE SALE OF COFFEE"

"IS THE ABOVE EXEMPTED DEVELOPMENT?"

COFFEE SHOP

Shop Unit 3 is a speciality retail shop where the primary use is the selling of coffee to members of the public for consumption off the premises.

Article 5(1) states the following:

"shop" means a structure used for any or all of the following purposes where the sale, display or service is principally to visiting members of the public."

(a) For the retail sale of goods

Definition of Goods in Business

"Goods are tangible things that are purchased, bought or sold, then finally consumed".
Surely a "cup of coffee" is a tangible thing that is produced in this specialist coffee shop, sold and finally consumed off the premises by visiting members of the public!!

The main goods for sale in this speciality retail shop is coffee (some 60% of the overall sales from the speciality retail shop comprises coffee). This figure has not been disputed by Kildare County Council in the Planner's Report. The other retail goods for sale in this specialist coffee shop to members of the public for consumption off the premises include hot chocolate, minerals, pastries, sandwiches and rolls. These are considered a subsidiary retail use to the main retail use of selling coffee.

(d) for the sale of sandwiches or other food for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use"

It is clearly evident that the sale of hot chocolate, minerals, pastries, sandwiches and rolls are retail goods which are subsidiary to the main retail use of selling coffee for consumption off the premises in this speciality retail shop.

This coffee shop is a specialist retail shop which normally sells large volumes of a particular product which in this instance is coffee.

This coffee shop could not be considered a Café or Restaurant as there are no toilets available to visiting members of the public and no seating in the coffee shop for visiting members of the public.

We would suggest that no material change of use has occurred in this instance.

However should the Bord consider that a change of use has arisen then the question arises as to whether this change of use constitutes development hinges on whether it is a material one.

The legal case of Monaghan V Brogan established that the test for materiality pertains to whether the change of use in question would raise material planning considerations if the change of use were to be the subject of a planning application: -

1. Where the use would be compatible with the land use policy of the Naas Town Development Plan 2011-2017.

It is evident from the documentation submitted that a speciality coffee shop use is compatible with the land use policy of the Naas Town Development Plan 2011-2017 as well as the Draft Naas Local Area Plan 2021-2027. The boundaries of the Town Centre Land Use are similar in both these plans.

The size and scale of the specialist coffee shop will not have a profound or fundamental effect on the area having regard to the existing land uses in the immediate vicinity of the specialist coffee shop.

- 2. Whether the use would generate odours that would require ventilating.**
“Ventilation” must now be provided for all types of specialist retail shops including coffee shops in accordance with the building regulations.
This specialist retail coffee shop would be no different to any retail shop and the existing coffee shop is currently ventilated to prevent odours and smells emanating from the specialist retail coffee shop. (see section on works)
Existing “Internal Extraction System” is not producing any odours or smells.
- 3. Whether servicing the use would generate vehicle movements and the type, number, and timing of such movements and their accommodation within the existing roads in the area in a manner that would make for good traffic management and the promotion of road safety.**
The documentation submitted with this Planning Submission clearly shows that the traffic associated with this specialist retail coffee shop would not add to the existing traffic movements in the area and would not create a traffic hazard.
There is on street car parking in the vicinity of the specialist coffee shop whilst Naas Town Centre car parking with 535 car parking spaces is within 60/70 metres.
See map showing car parking in the area in **Appendix III**.
The provision of a modest size specialist coffee shop is unlikely to attract significant levels of parking demand in its own right, and therefore is unlikely to exacerbate parking and traffic issues in this area.
- 4. Whether the use would heighten the risk of littering and, if so, mitigation of the same, together with the management of waste.**
There are existing Kildare County Council litter bins within 15 metres and 20 metres of this specialist retail coffee shop.
The “waste” associated with this premises will be collected in bins in the same manner as all other land uses in the area. The waste bins are currently stored to the rear of 6 Railway Terrace due to ongoing building works. There is a designated “waste bin” at the back of 6 Railway Terrace, where these waste bins will be stored once the building works are completed.
The introduction of a small scale specialist coffee shop will not change the existing situation.
- 5. Where the use would operate in the evening/at night and any associated need to control opening times.**
The hours of opening at 9.00am to 5.00pm are similar to other land uses in the immediate vicinity of this small scale specialist retail coffee shop.

“Works”

All the works carried out to the specialist coffee shop are internal and are therefore exempt under Section 4 (l) (h) of the act. The Extract Ventilation System has been

6, Railway Terrace, Dublin Road, Naas, County Kildare W91 NYK3
Tel No. (045) 876384. Mobile No. (087) 2680888. E-mail: admin@manda.ie.

installed internal to comply with the ventilation requirements of the building regulations. As such this internal Extract Ventilation System ensures that there are no odours or smells emanating from the coffee shop.

KINDLY NOTE THAT A SITE INSPECTION WILL CONFIRM THE ABOVE.

"External Works"

We enclose copy of our letter in **Appendix V** to Kildare County Council dated 21st January 2021 regarding the "external painted mural" and the "external canopies". It should be noted from this letter that the external mural will be painted over and the external canopies removed, once the lifting of Covid 19 Restrictions allows our clients to comply.

COMMENT ON PLANNER'S REPORT OF KILDARE COUNTY COUNCIL OF 24TH FEBRUARY 2021

The central issue in this case regarding the use of the permitted shop as a coffee shop falls within the definition of shop as set out under Article 5(1) (a) of the Planning and Development Regulations 2001 (as amended). Clearly this specialist retail coffee shop is no different that a specialist clothing shop selling clothes to visiting members of the public or a hairdressing salon selling services to visiting members of the public. This specialist retail coffee shop complies with the Statement **(a) for the retail sale of goods**. The specialist retail coffee shop with a floor area of 27.7 sqm is small in scale with 60% of the turnover of the specialist retail coffee shop is the sale of coffee. This is not disputed by Kildare County Council. The remainder of the retail goods for sale include hot chocolate, minerals, pastries, sandwiches and rolls which are subsidiary to main retail use of selling coffee. These comply with the statement **(d) for the sale of sandwiches or other food for consumption off the premises, where the sale of such food is subsidiary to the main retail use**, which in this instance is the sale of coffee.

This particular coffee shop is very different to many of the Bord's decision on Section 5 references on coffee shops including RL3810 where there are considering if a "Starbucks Coffee" should be exempt. We have examined a considerable number of the Bord's decisions which we attach to this Planning Submission in **Appendix VI**.

COMMENT IN RELATION TO EXEMPTIONS IN RESPECT OF COFFEE SHOPS

It appears from our examination of An Bord Pleanala decisions over many years that there are numerous types of premises suggesting that they are coffee shops such as Cafes and Restaurant style properties. There is one clear conclusion drawn from these An Bord Pleanala decisions that no two cases of reference of coffee shops to An Bord Pleanala are the same. An Bord Pleanala in their decision making process have decided that each individual case is different and the decision will be made on the merits of each individual case.

It should be noted that we have dealt elsewhere in this Planning Submission with the issue of the material change of use, works and development.

SUMMARY OF PLANNING SUBMISSION

The arrival of the Covid 19 pandemic to Ireland in early 2020 has led to a material change in circumstances which has led to members of the public exercising more and walking more. This has led to a huge demand for small specialist coffee shops in all areas of the country. This small specialist coffee shop comprising 27.70 sq metres (298 sq feet) is considered an essential retail outlet under current Government Level 5 Restrictions. We have demonstrated in this Planning Submission that the main retail use of this small specialist coffee shop is the selling of coffee, which are considered goods as defined. This small specialist coffee shop complies with Section 5(1)(a) where the predominant use is the sale of coffee which are goods, for consumption off the premises to visiting members of the public. The sale of other retail goods such as hot chocolate, minerals, pastries, sandwiches and rolls which are considered goods, for consumption off the premises to visiting members of the public is a subsidiary use to the main retail use of selling coffee and complies with Section 5(1)(d).

The internal works carried out to the specialist coffee shop are considered to be exempted development under Section 4(1)(h) while applying the rules for material change of use as set out clearly demonstrates that no case of material use has taken place in this instance. The small specialist coffee shop will have no greater or less impact on the area than the existing shop use and other current land uses in the immediate vicinity of this small specialist coffee shop.

CHARTERED ENGINEERS

MAGUIRE & ASSOCIATES

CHARTERED TOWN PLANNERS

6, Railway Terrace, Dublin Road, Naas, County Kildare W91 NYK3
Tel No. (045) 876384. Mobile No. (087) 2680888. E-mail: admin@manda.ie.

CONCLUSION

This small scale specialist coffee shop, comprising 27.70 sq metres (2.98 sq feet) where the main retail use is the sale of coffee which are considered goods, for consumption off the premises, with the ancillary sale of other goods including hot chocolate, minerals, pastries, sandwiches and rolls are subsidiary to the main use of selling coffee off the premises, would be considered development and is exempted development.

The "works" associated with the small scale specialist coffee shop is exempt development while there is no material change of use associated with this small scale specialist coffee shop.

CHARTERED ENGINEERS

MAGUIRE & ASSOCIATES

CHARTERED TOWN PLANNERS

6, Railway Terrace, Dublin Road, Naas, County Kildare W91 NYK3
Tel No. (045) 876384. Mobile No. (087) 2680888. E-mail: admin@manda.ie.

APPENDIX I

ORIGINAL SUBMISSION
OF
MAGUIRE & ASSOCIATES
TO
KILDARE COUNTY COUNCIL
DATED: 8TH FEBRUARY 2021

MAGUIRE & ASSOCIATES

CHARTERED ENGINEERS

CHARTERED TOWN PLANNERS

6, Railway Terrace,
Dublin Road.
Naas.
Co. Kildare
W91 NYK3

Telephone No. (045) 876384
Mobile No. (087) 2680888
E-mail. admin@manda.ie

PLANNING REPORT

ON
COFFEE SHOP
AT
SHOP UNIT 3
6, RAILWAY TERRACE,
DUBLIN ROAD.
NAAS.
CO. KILDARE
FOR
ZIBA COFFEE HOUSE LIMITED

8th February 2021

INTRODUCTION

We have been instructed by our clients, Ziba Coffee House Limited, to seek a *Section 5 Declaration* from Kildare County Council that the use of Shop Unit 3, at 6 Railway Terrace, Dublin Road, Naas, Co. Kildare as a Coffee Shop is Exempt Development.

SITE LOCATION

The Coffee Shop is located at Shop Unit 3, 6 Railway Terrace, Dublin Road, Naas, Co. Kildare. The Coffee Shop occupies part of the ground floor of this building, while the adjoining shop unit is in use as a "Nail Bar" and the other shop unit is currently vacant. The site occupies a prime location within the Town Centre area of Naas across the Dublin Road from the Maxol Filling Station and Tesco. Directly opposite this Coffee Shop is the Sticky Fingers Creche and Childcare facility. The Sycamores Housing Estate and Victoria Terrace are located the rear.

EXISTING SITUATION

The Coffee Shop is currently situated on the ground floor comprising a floor area of 27.70 sq.mtrs (298sq. feet) with pedestrian access from the Dublin Road side. The internal layout comprises counters, coffee machines and other associated equipment. There is a staff toilet to the rear of the Coffee Shop with direct pedestrian access to the rear yard of 6 Railway Terrace. The hours of opening of the premises are 9.00 am to 4.00 p.m. while the primary item being sold is coffee (over 60 % of turnover) with subsidiary goods such as hot chocolate, minerals , pastries, sandwiches and rolls available for sale . Currently the 2 Waste Bins for Waste Disposal are stored directly outside the back door of the Coffee Shop Unit as a Temporary measure . There is ongoing construction on site which has made the Bin Store unavailable for the moment . The Bin Store coloured Yellow is shown on Site Layout Plan Drawing no . 623-2002 . It is evident from a Site Inspection that all equipment is self contained within the Coffee Shop and that there is no Noise

associated with the Development . The Pedestrian and Vehicular Traffic associated with this Coffee Shop is similar to the other Shop Uses in the immediate vicinity of the Site along Railway Terrace .

POLICY CONTEXT

Naas Town Development Plan 2011 – 2017

The lands are Zoning Objective A – Town Centre.

RELEVANT PLANNING HISTORY OF SHOP UNIT 3.

Planning permission was granted on 25th May 1990 to Thomas Maguire for Shop Use at Unit 3, Ground floor, 6 Railway Terrace, Dublin road, Naas, Co. Kildare, subject to 6 conditions (copy of this Planning Permission is attached in **APPENDIX 1**).

S.I 364/2005 – PLANNING AND DEVELOPMENT REGULATIONS 2005.

Article 5(1) of the Regulations (S.I. No. 600 of 2001) is hereby amended by the substitution of the following definition for the definition of 'shop':

"shop" means a structure used for any or all of the following purposes, where the sale display or service is principally to visiting members of the public –

(a) for the retail sale of goods,

(b) as a post office,

(c) for the sale of tickets or as a travel agency,

(d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use and "wine" is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the means of the Finance (1909 – 1910) Act, 1910) 10 Edw. 7. & 1 Geo. 5, c.8,

- (e) for hairdressing*
 - (f) for the display of goods for sale,*
 - (g) for the hiring out of domestic or personal goods or articles,*
 - (h) as a launderette or dry cleaners,*
 - (i) for the receipt of goods to be washed cleaned or repaired,*
- but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies.”.*

SUMMARY OF KEY PLANNING ISSUES

The Coffee Shop is in use for the Retail Sale of Goods and the sale of sandwiches or other food for consumption off the premises where it is subsidiary to the main retail use, which is the sale of Coffee. This is in accordance with the definition of Shop as outlined in the Planning Regulations, S.I 600/2000, as amended. The proposed coffee Shop is in accordance with the Terms and Conditions of the Grant of PP reg. ref. 2439. The small size and scale of the Coffee Shop at 27.70sq.mtrs (298 sq. feet) with the current occupancy of 3 will ensure that no additional pedestrian or vehicular traffic will be generated. The traffic use is similar to the previous Shop Uses in Shop Unit 3. The Waste Storage bins for the Coffee Shop will be located in the Bin Store shown coloured Yellow on Site Layout Plan scale 1-200 Drawing No. 623-2002 to the rear of 6 Railway Terrace, once construction works on Site are completed. The retail sale of goods associated with the Coffee Shop are sold principally to visiting members of the public. There is no seating available within the Coffee Shop and hence no litter will be generated by the shop use. There are 2 litter bins provided by Kildare County Council directly outside the Coffee Shop, which are shown on the Site Layout Plan scale 1-200 Drawing no. 623-2001. There are

located a distance of 14 metres and 20 metres respectively, from the front door of the Coffee Shop . The opening hours of the Coffee Shop are 9.00am to 5.00pm which are similar to normal Shop Uses . This should ensure that there is no interference with the Residential Amenities of the Adjoining Residents in The Sycamores and Victoria Terrace . These opening hours would be similar to the opening hours of the previous Shop Uses in this Shop UNIT 3 .

CONCLUSION

It is our opinion that the Coffee Shop Use at Shop Unit 3 , is Exempted Development and Kildare County Council should issue a Section 5 Declaration to that effect .

CHARTERED ENGINEERS

MAGUIRE & ASSOCIATES

CHARTERED TOWN PLANNERS

6, Railway Terrace, Dublin Road, Naas, County Kildare W91 NYK3
Tel No. (045) 876384. Mobile No. (087) 2680888. E-mail: admin@manda.ie.

APPENDIX 1

**COPY OF PLANNING PERMISSION
REGISTER REF: 2439**

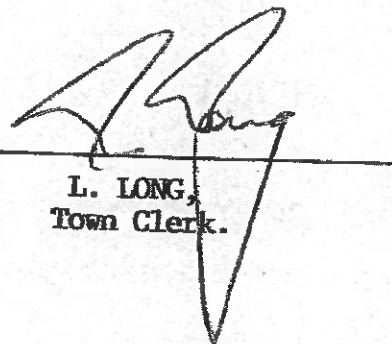
SCHEDULE

CONDITIONS

1. The development shall be carried out in accordance with drawings submitted to the Planning authority on 22/3/90, except where altered or amended by conditions in this permission.
2. No advertising signs other than hand painted or equivalent non-illuminated signs located on the proposed fascia boards shall be erected on or projecting from these premises. No canopies nor roller shutters shall be erected.
3. The shop unit shall not be used nor converted for use for any of the purposes outlined in Class 1 of Part IV of the 3rd Schedule to the Local Government (Planning & Development) Regulations 1977 nor as a betting office or amusement arcade or funfair.
4. All water supplies to the premises to be metered in accordance with the requirements of the local authority. Details to be agreed with the local authority before change of use occurs.
5. Only foul waste to discharge to public foul sewer.
6. Uncontaminated storm water to discharge to public storm sewer.

Date: 25th May 1990.

Signed on behalf of
the said Council



L. LONG,
Town Clerk.

REASONS FOR CONDITIONS

1. To enable the Planning Authority to check the proposed development when completed, by reference to approved particulars.
2. In the interests of visual amenity.
3. To restrict the use of the shops to uses which are considered acceptable in this area in the interests of traffic safety and residential amenity.
4. To ensure proper development.
5. In the interests of pollution control.
6. In the interests of pollution control.

PART 111 - (continued)

Column 1 Description of Development	Column 2 Conditions
<p>width, of roofless cubicles, open loose yards, self feed silo or silage areas, feeding aprons, assembly yards, milking parlours, sheep dipping units or structures for the making or storage of silage, having an aggregate floor area not exceeding 400 square metres, and any ancillary provision for effluent storage.</p>	<ol style="list-style-type: none"> 2. No such structure for the housing of pigs or poultry, or for the making, storage or feeding of silage shall be situated within 100 metres of any dwellinghouse save with the consent of the owner and occupier thereof. 3. No such structure within 100 metres of any public road shall exceed 7 metres in height above ground level. 4. No effluent from such structure shall be stored within 100 metres of any dwellinghouse save with the consent of the owner and occupier thereof.
<p>CLASS 9</p> <p>The construction, extension, alteration or replacement, on land not less than 10 metres from any public road the metalled part of which at the nearest point is more than 4 metres in width, of any store, barn, shed, glasshouse or other agricultural building not being of a type specified in Class 7 or 8 of this Part of this Schedule.</p>	<ol style="list-style-type: none"> 1. No such structure shall be used for a purpose other than the purpose of agriculture or forestry. 2. No such structure within 100 metres of any public road shall exceed 7 metres in height above ground level.

PART 1V

CLASSES OF USE

CLASS 1 - Use as a shop for any purpose except as -

- (a) a fried fish shop or a shop for the sale of hot food for consumption off the premises,
- (b) a shop for the sale of pet animals or birds,
- (c) a shop for the sale or display for sale of motor vehicles other than bicycles.

CLASS 2 - Use as an office for any purpose.

CLASS 3 - Use as a light industrial building for any purpose.

CLASS 4 - Use as a general industrial building for any purpose.

CHARTERED ENGINEERS

MAGUIRE & ASSOCIATES

CHARTERED TOWN PLANNERS

6, Railway Terrace, Dublin Road, Naas, County Kildare W91 NYK3
Tel No. (045) 876384. Mobile No. (087) 2680888. E-mail: admin@manda.ie.

APPENDIX II

**(A) DECISION OF KILDARE COUNTY COUNCIL DATED 24TH
FEBRUARY 2021.**

(B) PLANNER'S REPORT DATED 24TH FEBRUARY 2021

- 1 MAR 2021

RECEIVED



**Declaration of Development & Exempted Development under
Section 5 of the
Planning and Development Act 2000 (as amended)**

ED/00838

WHEREAS ZIBA Coffee House Ltd., c/o Maguire & Associates, 6 Railway Terrace, Dublin Road, Naas, Co. Kildare has sought a Declaration as to whether the use of Unit 3, 6 Railway Terrace, Naas, Co. Kildare, as a coffee shop, is or is not development and is or is not exempted development:

AND WHEREAS Kildare County Council, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended,
- (c) Section 5(1) of the Planning and Development Act, 2000, as amended,
- (d) Article 5(1) and Article 10(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 1 of Part 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the permitted use of the premises as a shop,
- (h) the information submitted by the referrer as to the current use of the premises

AND WHEREAS Kildare County Council has concluded that -

(a) the current use of the subject premises does not constitute use as a "shop" under Article 5(1) of the Planning and Development Regulations, 2001, as amended, because the sale of hot drinks and to a lesser extent other food and drinks for consumption off the premises, are in combination, the predominant rather than the subsidiary use of the premises and so this use does not come within the scope of Paragraph (d) of this Article,

(b) the current use of the subject premises does not come within the scope of paragraph (a) of Article 5(1) of the Planning and Development Regulations 2001 as amended due to the qualifying statement at the end of the definition of shop and Paragraphs (b), (c), and (e) – (i) are not applicable to this use,

(c) the current use of the subject premises has resulted in a change of use of these premises from their authorised use as a shop and this change of use raises issues that are material in terms of the proper planning and sustainable development of the area, including issues in relation to the planning policy on retailing set out in the current Naas Town Development Plan 2011-2017, the potential for litter and management of waste arising from the primary use of the sale of coffee, sandwiches and other food for consumption off the premises, and the potential for differing pedestrian and vehicular traffic as compared to the former retail use, and the change of use is, therefore, "development" within the meaning of Section 3 of the Planning and Development Act, 2000, as amended, and

(d) there are no exemptions in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations, 2001, as amended, by which this change of use would constitute exempted development

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by section 5 (2) (a) of the 2000 Act, hereby decides that the use of Unit 3, 6. Railway Terrace, Dublin Road, Naas, Co. Kildare currently operating as ZIBA Coffee House, **is development and is not exempted development.**

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

24th February 2021

Logan Ryan

Director of Services

KILDARE COUNTY COUNCIL



PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

Section 5 declaration & referral on development & exempted development

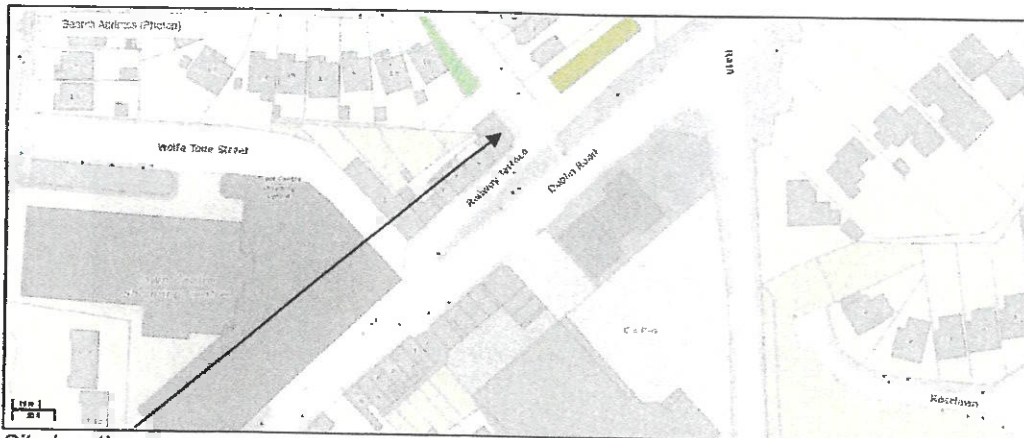
Planning & Development Act 2000 (as amended)

Reference No. ED/00838

Referrer:	ZIBA Coffee House Ltd.
Address Of Development:	Unit 3, 6. Railway Terrace, Dublin Road, Naas.
Is Fee paid (€ 80)	Yes
Development Description:	Use of Shop as Coffee Shop.
Is Building Protected	No

Site location & context

The site is located at the ground floor of Unit 3 within the corner building at 6 Railway Terrace, Dublin Road, Naas, a mixed-use commercial / residential area to the north east of Naas Town Centre. The site is located outside of the designated Naas Architectural Conservation Area.



Site location

Planning History

PP2439 – Naas UDC Permission granted to T Maguire for shop use at Unit 3, ground floor, 6 Railway Terrace, Naas. Permission granted in May 1990.

UD7467 – Warning Letter issued to owner regarding change of use of Unit 3, external wall mural and retractable awnings.

Legislative Context

Section 2(1) Planning and Development Act 2000 (as amended) states the following:
“land” includes any structure and any land covered with water (whether inland or coastal);
“structure” means any building, structure, excavation, or other thing constructed or made on, in or under land, or any part of a structure so defined, and – (a) where the context so admits, includes the land on, in or under which the structure is situate...
“use”, in relation to land, does not include the use of land by the carrying out of any works thereon;
“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

Section 3(1) states the following: In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Article 10 Part 4 Schedule 2 Planning and Development Regulations 2001 (as amended)
Class 1
Use as a shop.
Article 5(1) of the Planning and Development Regulations 2001 (as amended): Definition of Shop as set out at
‘shop’ means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public –
(a) for the retail sale of goods,
(b) as a post office,
(c) for the sale of tickets or as a travel agency,

(d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and "wine" is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the meaning of the Finance (1909-1910) Act,
(e) for hairdressing,
(f) for the display of goods for sale,
(g) for the hiring out of domestic or personal goods or articles,
(h) as a launderette or dry cleaners,
(i) for the reception of goods to be washed, cleaned or repaired,
but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies;
Article 10 of the Planning and Development Regulations 2001 (as amended) states that Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—
(a) involve the carrying out of any works other than works which are exempted development,
(b) contravene a condition attached to a permission under the Act,
(c) be inconsistent with any use specified or included in such a permission, or
(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

The Referral

The Referral comprises the following element:

- 1) Whether the use of the unit no. 3, 6 Railway Terrace, Dublin Road, Naas by ZIBA Coffee House Ltd as a Coffee Shop is exempt development;

The previous use of the unit was a retail shop and, most recently a hairdressing/barber shop. The Referral application seeks a declaration of exemption for the use of the unit only and does not refer to any external works.

The Referrer indicates that the Coffee Shop occupies a portion of the ground floor of 6 Railway Terrace which has been divided into 3 separate units. The Coffee Shop has a floor area of 27.7 sq m and comprises a sales counters, coffee machines and other equipment. It is submitted that there is 1 no. staff toilet on the premises. It is submitted that 60% of the turnover of the Coffee Shop is the sale of coffee. The remainder is made up of subsidiary items including the sale of other hot drinks, minerals, pastries, sandwiches and rolls.

The Referrer contends that the use of the unit is for the retail sale of goods to visiting members of the public – i.e. coffee and with the subsidiary sale of sandwiches / other

food for consumption off the premises and that this is in accordance with the definition of Shop and sub item (d) as set out in the Regulations.

It is also contended that the Coffee Shop is principally for the sale of goods to visiting members of the public and there is no seating on the premises. It is submitted that no additional pedestrian or vehicular traffic will be generated and no additional litter. Opening hours are 9-5pm.

Planning Precedent

There have been numerous referrals to An Bord Pleanála concerning coffee shops. It would appear from an examination of a number of referral cases that the conclusion regarding coffee shops tends to be on a case by case basis, with those coffee shops involving extensive seating areas and eating on the premises, often being regarded as *sui generis* uses more akin to café/restaurant use.

However, a recent decision of An Bord Pleanála, in 2018 Ref RL3810 for a coffee shop without seating concluded the following:

...the current use of the subject premises does not constitute use as a "shop" under Article 5(1) of the Planning and Development Regulations, 2001, as amended, because the sale of hot drinks and to a lesser extent hot food for consumption off the premises are in combination the predominant rather than the subsidiary use of the premises and so this use does not come within the scope of Paragraph (d) of this Article.

Assessment

The authorised use of the subject premises is as a shop which is verified by both the Referrer and the planning history of the site. The central issue regarding the use, is whether the use of the permitted shop as a coffee shop falls within the definition of a shop as set out under Article 5(1) of the Planning and Development Regulations 2001 (as amended).

The subject premises is currently being operated as a coffee shop selling coffee and hot drinks and other food and drinks for consumption off the premises. The sale of hot drinks such as coffee is very often accompanied by the purchase of additional items such as sandwiches, pastries, bottles of water/minerals, which is the case with the subject use. In essence, the additional items sold on the premises are not considered subsidiary to the main use but in combination with hot drinks, the predominant rather than the subsidiary use. The provision set out in the Regulations for the sale of sandwiches or other food for consumption off the premises subsidiary to the main retail use as set out at item (d) does not therefore apply in this instance.

It is considered therefore on the basis of the foregoing and having regard to the precedent set by An Bord Pleanála in similar cases, that the use of the subject premises does not come within the definition of shop, under Article 5(1), and thus lies outside of Class 1 of Part 4 of Schedule 2 to Article 10. Given that the authorised use of these premises is that

of a shop, a change of use has arisen. Whether this change of use constitutes development hinges on whether it is a material one.

Material change of use

"Development" as set out at Section 3(1) of the Planning and Development Act 2000 as amended, means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

To test whether a material change of use has occurred on the premises, it is considered that the use should be assessed on the basis of what material planning considerations would arise if the change of use were to be the subject of a planning application.

Note: Monaghan Co. Co v Brogan (1986 WJSC-HC 1308) established that the test for materiality pertains to whether the change of use in question would raise material planning considerations if the change of use were to be the subject of a planning application.

If this test is applied to the current change of use, it is anticipated that the following material planning considerations would be raised:

- Whether the use would be compatible with the land use policy of the Naas Town Development Plan 2011-2017;
- Whether servicing the use would generate vehicle movements and the type, number, and timing of such movements in a manner that allow for traffic management and the promotion of road safety,
- Whether the use would generate odours that would require air handling, ducting or ventilation;
- Whether the use would heighten the risk of additional noise or littering and, if so, mitigation of same, and
- Whether the use would operate in the evening/at night and any associated need to control opening times.

Having regard to the above and the acknowledgement of similar considerations in the Referrers Planning Report, it is considered that the above items are of material concern to the use of the premises as a coffee shop. To this end, it is considered that a material change of use has occurred on site i.e. a material change of use from the authorised use of these premises as a shop and so "Development" has occurred under Section 3(1) of the Planning and Development Act, 2000 (as amended).

In light of the foregoing, the use of the subject premises does not lie within the scope of Class 1 of Part 4 of Schedule 2 to Article 10 of the Planning and Development Regulations, 2001 – 2017. Article 10 provides for changes of within classes of use, that are deemed to be exempted development. None of these changes of use pertain to the use of the subject premises. To this end, the use does not lie within the scope of any of the other said Classes and is considered therefore to be a *sui generis* use.

No other provisions either within the relevant Regulations or Act bestow exempted development status on the change of use that has taken place on site.

It is concluded therefore, that the development, which has taken place on site, **is development and is not exempted development.**

As the development is not exempted development, the question as to any restrictions on exempted development does not arise.

EIA Screening

Nature of proposal: Use of shop as Coffee Shop.

Location: within an existing commercial building, Naas Town centre.

Size: not relevant – use is in an existing building.

Having regard to the nature, size and location of the development and at this stage in the assessment process, it is not considered that there is a requirement for an Environmental Impact Assessment.

Appropriate Assessment Screening

See attached Screening Report which has indicated that there is no impact on the integrity of the Natura 2000 Network arising from the proposal.

Recommendation

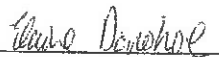
It is recommended that a Declaration of Exemption be refused as per foregoing assessment – see Draft wording attached.



Fiona Breen
Executive Planner

24/02/2021

Signed:



A/Senior Executive Planner

24/02/2021



Emer Uí Fhátharta
Senior Planner

24th February 2021

ED838

**Section 5 of the
Planning and Development Act 2000 (as amended)**

WHEREAS ZIBA Coffee House Ltd., care of Maguire & Associates, 6. Railway Terrace, Dublin Road, Naas has sought a Declaration as to whether the use of Unit 3, 6 Railway Terrace, Naas, Co. Kildare as a coffee shop is or is not development or is or is not exempted development:

AND WHEREAS Kildare County Council, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended,
- (c) Section 5(1) of the Planning and Development Act, 2000, as amended,
- (d) Article 5(1) and Article 10(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 1 of Part 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the permitted use of the premises as a shop,
- (h) the information submitted by the referrer as to the current use of the premises

AND WHEREAS Kildare County Council has concluded that -

- (a) the current use of the subject premises does not constitute use as a "shop" under Article 5(1) of the Planning and Development Regulations, 2001, as amended, because the sale of hot drinks and to a lesser extent other food and drinks for consumption off the premises, are in combination, the predominant rather than the subsidiary use of the premises and so this use does not come within the scope of Paragraph (d) of this Article,
- (b) the current use of the subject premises does not come within the scope of paragraph (a) of Article 5(1) of the Planning and Development Regulations 2001 as amended due to the qualifying statement at the end of the definition of shop and Paragraphs (b), (c), and (e) – (i) are not applicable to this use,
- (c) the current use of the subject premises has resulted in a change of use of these premises from their authorised use as a shop and this change of use raises issues that are material in terms of the proper planning and sustainable development of the area, including issues in relation to the planning policy on retailing set out in the current Naas Town Development Plan 2011-2017, the potential for litter and management of waste

arising from the primary use of the sale of coffee, sandwiches and other food for consumption off the premises, and the potential for differing pedestrian and vehicular traffic as compared to the former retail use, and the change of use is, therefore, "development" within the meaning of Section 3 of the Planning and Development Act, 2000, as amended, and

(d) there are no exemptions in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations, 2001, as amended, by which this change of use would constitute exempted development

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by section 5 (2) (a) of the 2000 Act, hereby decides that the use of Unit 3, 6. Railway Terrace, Dublin Road, Naas, Co. Kildare currently operating as ZIBA Coffee House, is development and is not exempted development.

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

Signed: _____



APPROPRIATE ASSESSMENT SCREENING REPORT AND CONCLUSION STATEMENT

(A) Project Details			
Planning File Ref	ED00838		
Applicant name	ZIBA Coffee House Ltd		
Development Location	Unit 3, 6. Railway Terrace, Dublin Road, Naas, Co. Kildare		
Site size	n/a		
Application accompanied by an EIS (Yes/NO)	No		
Distance from Natura 2000 site in km	8.5km west of Red Bog SAC 8.6 east of Mouds Bog SAC		
Description of the project/proposed development			
Use of SHOP as COFFEE SHOP			
(B) Identification of Natura 2000 sites which may be impacted by the proposed development			
	Yes/No If answer is yes, identify list name of Natura 2000 site likely to be impacted.		
1	Impacts on sites designated for freshwater habitats or species. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley,	<i>Is the development within a Special Area of Conservation whose qualifying interests include freshwater habitats and/or species, or in the catchment (upstream or downstream) of same?</i>	No

	Pollardstown Fen, Ballynafagh lake		
2	<p>Impacts on sites designated for wetland habitats - bogs, fens, marshes and heath.</p> <p><u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Mouds Bog, Ballynafagh Bog, Red Bog, Ballynafagh Lake</p>	<i>Is the development within a Special Area of Conservation whose qualifying interests include wetland habitats (bog, marsh, fen or heath), or within 1 km of same?</i>	No
3	<p>Impacts on designated terrestrial habitats.</p> <p><u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh Lake</p>	<i>Is the development within a Special Area of Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m of same?</i>	No
4	<p>Impacts on birds in SPAs</p> <p><u>Sites to consider:</u> Poulaphouca Reservoir</p>	<i>Is the development within a Special Protection Area, or within 5 km of same?</i>	No

Conclusion:

If the answer to all of the above is **No**, significant impacts can be ruled out for habitats and bird species.

No further assessment in relation to habitats or birds is required.

If the answer is **Yes** refer to the relevant sections of **C**.

(G) SCREENING CONCLUSION STATEMENT

Selected relevant category for project assessed by ticking box.

1	AA is not required because the project is directly connected with/necessary to the conservation management of the site	
2	No potential significant affects/AA is not required	X
3	Significant effects are certain, likely or uncertain. Seek a Natura Impact Statement Reject proposal. (Reject if potentially damaging/inappropriate)	

Justify why it falls into relevant category above (based on information in above tables)

Scale of proposal, change of use, no significant construction works. No impact on integrity of Natura 2000 sites.

Name:	Fiona Breen
Position	Executive Planner
Date:	23/02/2021

CHARTERED ENGINEERS

MAGUIRE & ASSOCIATES

CHARTERED TOWN PLANNERS

6, Railway Terrace, Dublin Road, Naas, County Kildare W91 NYK3
Tel No. (045) 876384. Mobile No. (087) 2680888. E-mail: admin@manda.ie.

APPENDIX III

SITE LOCATION MAP
SHOWING
INDIVIDUAL LAND USES IN THE AREA
AND
CAR PARKING

CHARTERED ENGINEERS

MAGUIRE & ASSOCIATES

CHARTERED TOWN PLANNERS

6, Railway Terrace, Dublin Road, Naas, County Kildare W91 NYK3
Tel No. (045) 876384. Mobile No. (087) 2680888. E-mail: admin@manda.ie.

APPENDIX IV

(A) MAP 6.1 OF THE NAAS TOWN DEVELOPMENT PLAN 2011-2017

(B) EXTRACT FROM DRAFT NAAS LOCAL AREA PLAN 2021-2027

CHARTERED ENGINEERS

MAGUIRE & ASSOCIATES

CHARTERED TOWN PLANNERS

6, Railway Terrace, Dublin Road, Naas, County Kildare W91 NYK3
Tel No. (045) 876384. Mobile No. (087) 2680888. E-mail: admin@manda.ie.

APPENDIX V

**OUR LETTER TO KILDARE COUNTY COUNCIL
DATED 21ST JANUARY 2021**

MAGUIRE & ASSOCIATES

CHARTERED ENGINEERS

CHARTERED TOWN PLANNERS

6, Railway Terrace,
Dublin Road.
Naas.
Co. Kildare
W91 NYK3

Telephone No. (045) 876384
Mobile No. (087) 2680888
E-mail. admin@manda.ie

Our Ref: 623.2020

21st January 2021

BY HAND

Attention: Ms. Veronica Cooke
Kildare County Council,
Head Office,
Aras Chill Dara,
Devoy Park,
Naas,
Co. Kildare.

Re: Kildare County Council Reference: UD7647
Our Clients: Ziba Coffee House Limited
Address: 6 Railway Terrace, Dublin Road, Naas, Co. Kildare.
Re: Warning Letters

Dear Veronica,
We act on behalf of Ziba Coffee House Limited in relation to the above. We set out hereunder our clients response as follows: -

(a) Change of use from Shop to Coffee Shop on ground floor

We will be communicating a detailed response to Kildare County Council within the next 14 days in respect of the change of use from Shop to Coffee Shop use

(b) Associated External Signage including Mural to side/north facing external elevation

Our client will re-paint this side/north facing external elevation within 28 days of the lifting of the Covid 19 restrictions. Our clients will require time to organise the painters once Covid 19 restrictions are lifted

(c) 3 no. Retractable Awings to side/north facing external elevation

Our client will remove the 3 no. Retractable Awings to side/north facing external elevation within 28 days of the lifting of the Covid 19 restrictions. Our clients will require time to organise the workers once Covid 19 restrictions are lifted

We trust that the above is in order.

Yours sincerely,

THOMAS MAGUIRE
Managing Director
MAGUIRE & ASSOCIATES

Directors: Thomas Maguire, B.E., CEng MIEI., Dip. MRTPI. Dip. Proj-Mgmt.,
Dip. Phy.Plan.Eng., Dip. Fire Safety Pract., Dip. EIA Mgmt.,

Goldwick Services Limited.
Registered in the Rep. of Irl. No. 232392
VAT Reg. No. IE 8232392K

CHARTERED ENGINEERS

MAGUIRE & ASSOCIATES

CHARTERED TOWN PLANNERS

6, Railway Terrace, Dublin Road, Naas, County Kildare W91 NYK3
Tel No. (045) 876384. Mobile No. (087) 2680888. E-mail: admin@manda.ie.

APPENDIX VI

LIST OF BORD'S DECISIONS

LIST OF BOARD DECISIONS

- ABP-303989-19 Change of Use to Coffee Shop 31st July 2019
- ABP-303791-19 Restaurant Use to a Takeaway 6th March 2020
- ABP-302188-18 Takeaway within Supermarket 15th May 2019
- ABP-303153-18 Partial Change of Use to Coffee Shop
- RL.28 RL3810 Use of Premises as Starbucks Coffee Shop

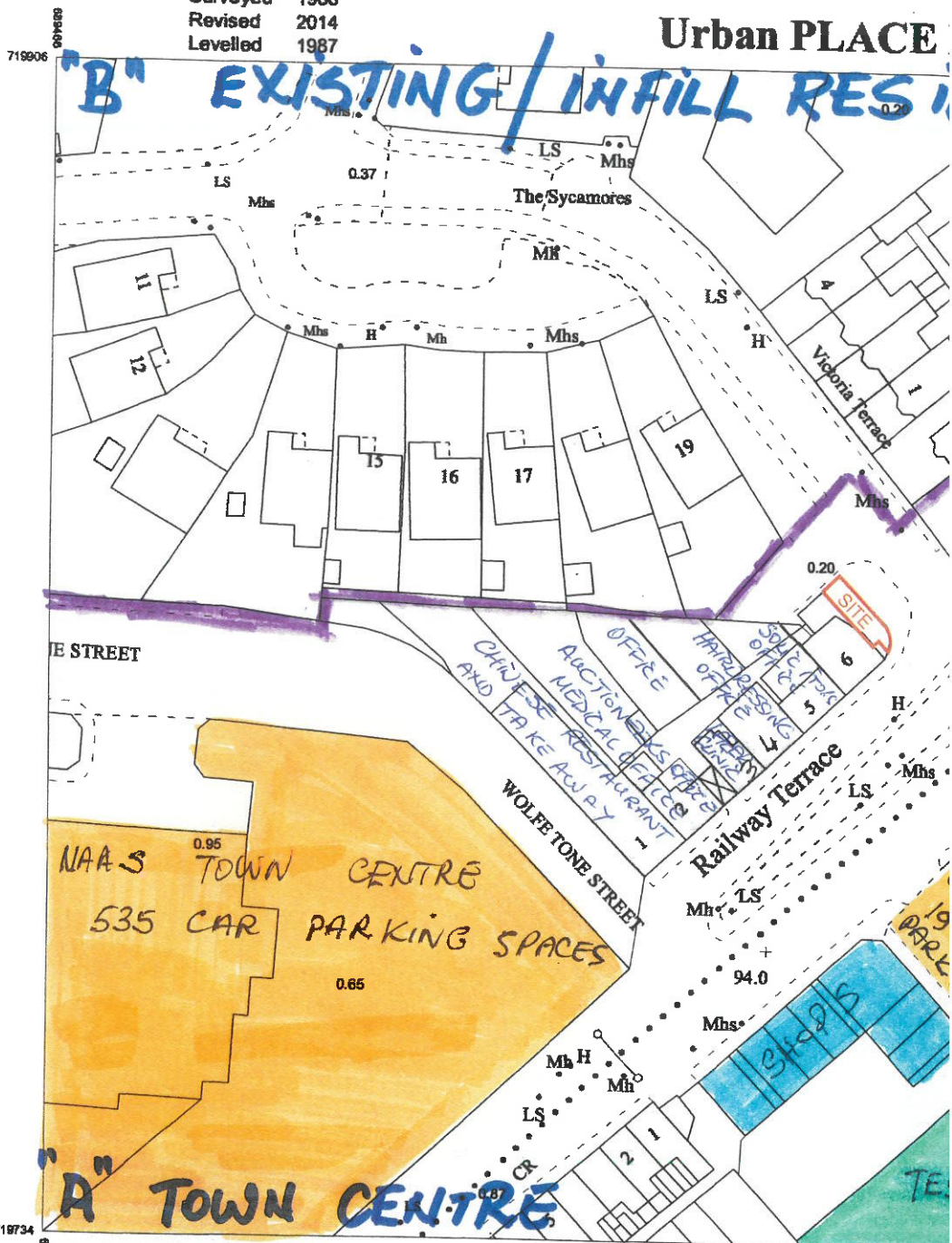
This is the Bord Reference referred to in Kildare County Council's Planner's Report dated 24th February 2021 (see Appendix II)

- RL.3809 Use of Premises as Cafe
- 28 RL 3515 Use of Premises as Starbucks Coffee Shop

NOTE: THIS IS NOT AN EXHAUSTIVE LIST OF DECISIONS. THERE ARE MANY MORE CROSS REFERENCES OF CASES IN THE ABOVE WHICH ARE NOT LISTED.

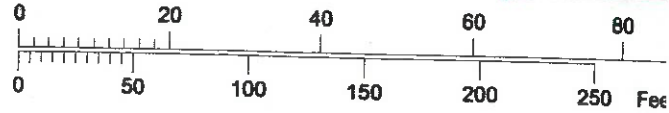
Surveyed 1988
 Revised 2014
 Levelled 1987

Urban PLACE



719734
 804488

Scale:- 1:1,000
 Scála:- 1:1,000



CAR PARKING SPACES IN

MAGUIRE & ASSOCIATES

CHARTERED ENGINEERS CHARTERED TOWN PLANNERS

6 RAILWAY TERRACE,
 DUBLIN ROAD,
 NAAS,
 CO. KILDARE.

TEL: 045 876384
 MOB: 087 2680888
 E-MAIL: info@manda.ie

TITLE: LAND USES IN THE AREA

SCALE: 1:1000

KILDARE OS NO: 3559 - 02
 3559 - 03

Ordnance Survey Ireland Licence No. AR 0000920
 Copyright of Government of Ireland

CI
 PF
 DA
 DV
 DF



Filter Beds

Grand Canal

Sarto Park

St Gabriel's Place

SARTO ROAD

LIMERICK ROAD

NEWBRIDGE ROAD

STREET

Far Green

Lake

uck

rbally Court

ugh

Anagh

School

St. Paul's Park

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

St. Gabriel's

7878
7879
7880
7881
7882
7883
7884
7885
7886
7887
7888
7889
7890
7891
7892
7893
7894
7895
7896
7897
7898
7899
7900

