

Kildare County Council

**Naas Local Area Plan 2021-2027**

AA Conclusion Statement

Ref/1

Final | November 2021

This report takes into account the particular instructions and requirements of our client.

It is not intended for and should not be relied upon by any third party and no responsibility is undertaken to any third party.

Job number 278388-00

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## 1 Introduction

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This Statement forms part of the Appropriate Assessment (AA) of the adopted Naas Local Area Plan (LAP) 2021 - 2027 ('The Plan'). This Concluding Statement is the final stage of the AA process.

The purpose of this Concluding Statement is to summarise how AA was integrated with the various stages of the Plan process in order to ensure that the ecological implications of the Plan do not impact upon any areas designated as European Sites.

## 2 The Naas LAP 2021-2027

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The Naas LAP 2021 - 2027 is a statutory document containing guidelines as to how Naas should develop over the plan period. The adopted Naas LAP provides the overall strategy for the proposed planning and sustainable development within the plan area in the context of the Kildare County Development Plan 2017 - 2023 and the Regional Spatial and Economic Strategy for the Eastern and Midlands Region (2019-2031). It represents the main public statements of planning policies and objectives for the plan area.

The policies and objectives are critical in determining the appropriate location and form of different types of development as the Naas LAP is the primary statutory land use policy framework against which planning applications are assessed. The objectives also guide Kildare County Council's activities and indicate priority areas or action and investment such as focusing on attracting employment into town, improving infrastructure or enhancing the town as a centre for sustainable tourism.

Current planning legislation identifies mandatory objectives which a plan must address including land use zoning and provision of services and infrastructure, the integration of social, community and cultural requirements, sustainable development and protection of the environment amongst others. In addition to these mandatory objectives, Naas LAP also includes a section which details the plan's compliance with the Core Strategy contained in Kildare County Development Plan 2017-2023 and sets out medium to longer term quantitative targets for the plan area. The Core Strategy sets out the overall population projection for the county and the extent of population growth to be accommodated in the towns, villages and rural areas and demonstrates that the Naas LAP and its objectives are consistent with the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midlands Region (2019-2031).

The draft Naas LAP was subject to Strategic Environmental Assessment (SEA), Strategic Flood Risk Assessment (SFRA) and Appropriate Assessment (AA).

### 3 The AA Screening Process

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The purpose of AA is to identify the possible effects of implementing a plan (or project) on the conservation status of designated European sites within the sphere of influence of the plan (or project).

The Habitats Directive provides legal protection for habitats and species of European importance. Article 2 of the Habitats Directive requires the maintenance or restoration of habitats and species of interest to the EU in a favourable condition. The Directive was transposed into Irish law by the European Communities (Natural Habitats) Regulations, SI 94/1997.

Under Article 6(3) of the Habitats Directive an AA must be undertaken for any plan or project that is likely to have a significant effect on the conservation objectives of a European site.

The AA Screening Stage is used to identify whether a Plan, either alone or in combination with other plans or projects, is likely to have a significant effect on a European site.

The key to deciding if an AA of a plan would be required is determined by an assessment of whether the plan and its policies and objectives are likely to have a significant effect on a European site.

When screening the plan and its policies and objectives there are two possible outcomes:

- the plan poses no risk of a significant effect and as such requires no further assessment; or
- the plan has potential to have a significant effect (or this is uncertain) and AA of the plan is necessary.

Screening can be used to establish which policies and objectives have potential to have significant effects, and therefore the ones that require further attention at the AA stage.

### 4 How the Findings of the Appropriate Assessment Were Factored into the Plan

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In identifying the potential issues which could affect the integrity of European Sites, a range of factors were taken into account, including the possibility of effects manifesting themselves in the short, medium and long-term, in combination effects and the potential impacts of climate change. In addition, the precautionary principle was adhered to in the carrying out of this assessment.

Where potential effects were identified, the following solutions were considered:

- amending an objective or policy of the Draft Plan so that significant effects on European sites are avoided.
- including a caveat or conditional approach to indicate that before certain policies or objectives are implemented certain things have to happen so that when implemented, will have no significant effect, or adversely impact on the integrity of a European site.
- recommending that additional mitigation policies be included or that certain objectives/policies be rejected so as to ensure that significant adverse effects on the Conservation Objectives of European sites are avoided.

## 4.1 AA Screening of the Draft Plan

In accordance with Regulation 42(6) of the European Communities (Birds and Natural Habitats) Regulations 2011 as amended, Arup, on behalf of Kildare County Council, prepared a report for the purposes of AA Screening.

As outlined in the Report for the Purposes of AA Screening, there are eight European sites located within 15km of the LAP boundary. The assessment of the plan provisions concluded that significant adverse impacts on any of these European sites are extremely unlikely. It was determined that none of the objectives, policies or land-use zonings set out in the Plan are likely to give rise to direct or indirect effects on any of these European sites as there is no pathway for impacts between the LAP and those European sites or their qualifying features.

Other plans and projects within the Kildare/Greater Dublin Area which have the potential for cumulative effects when considered with the Naas LAP were also considered. As outlined in the Report for the Purposes of AA Screening, it is considered extremely unlikely that significant in-combination or cumulative effects arising from in-combination/cumulative effects with other plans or projects could arise as each plan or project has either been subject to the AA process or provides for biodiversity protection. Each Stage 2 AA or Stage 1 AA Screening concluded that significant effects on European sites arising from the plan or project in question were considered extremely unlikely.

Ultimately, no amendments to the provisions of the Naas LAP were recommended on foot of the findings of the Report for the Proposes of AA Screening.

It should be noted however that various provisions relating to the protection of European sites have been integrated into the text of the Plan through the iterative Plan preparation and SEA and AA processes. These include AA-related measures that were recommended as mitigation measures as part the Strategic Environmental Report. These measures identified in **Table 3.1** below:

**Table 3.1** Measures relating to AA which were integrated into the Plan as part of the SEA Process

<b>Biodiversity</b>	<b>To afford the highest level of protection to all designated European sites and species in accordance with the relevant legislation</b>
	To require all planning applications for development that may have (or cannot rule out) likely significant effects on European Sites in view of the site’s Conservation Objectives, either in isolation or in combination with other plans

	or projects, to submit a Natura Impact Statement in accordance with the requirements of the EU Habitats Directive and the Planning and Development Act, 2000 (as amended)
	To recognise and afford appropriate protection to any existing, new, or modified SPAs or SACs that are identified during the lifetime of the LAP
	To implement Article 6(3) and where necessary 6(4) of the Habitats Directive and to ensure that Appropriate Assessment is carried out in relation to works, plans and projects likely to impact on European sites (SACs and SPAs), whether directly or indirectly or in combination with any other plan(s) or project(s)
	To have regard to Appropriate Assessment of Plans and Projects in Ireland – Guidelines for Planning Authorities 2009 or any updated version.
	To actively promote the conservation and protection of areas designated as an NHA (including proposed sites) and to only consider proposals for development within or affecting an NHA where it can be clearly demonstrated that the proposed development will not have a significant adverse effect on the NHA or pNHA;
	To identify and afford appropriate protection to any new, proposed or modified NHAs identified during the lifetime of this plan.
	To ensure the protection and conservation of areas, sites, species and ecological networks/corridors of biodiversity value outside of designated sites throughout the country and to require an ecological assessment to accompany development proposals likely to impact on such areas or species.

## 4.2 AA Screening of the Material Alterations to the Draft Naas Local Area Plan 2017-2027

In accordance with Section 20 of the Planning and Development Act 2000, as amended, it was resolved by the Members at a Special Meeting of Kildare County Council on the 5th July 2021 to amend the Draft Naas LAP, and that these modifications constituted a material alteration to the Draft LAP.

The 76 No. amendments related to a change in the plan area as well as modifications to some objectives and the provision of additional objectives. A screening exercise was undertaken, and an appraisal matrix was developed to facilitate the AA Screening of these proposed material alterations. The screening exercise identified that none of the proposed material alterations has the potential to give rise to significant effects to the ecological integrity of any European site and that amendments to these material alterations were proposed.

The findings of this assessment were set out in an Addendum to the Report for the Purposes of AA Screening.

## 5 Public Consultation

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The Report for the Purposes of AA Screening was put on public display, alongside the Draft Plan in order to gather feedback in accordance with legislative requirements. The documents were sent to statutory stakeholders and made available for public viewing at Kildare County Council's dedicated online public consultation portal and a public notice in the Leinster Leader. Upon completion of the consultation period, a Chief Executive's Report on the 915 No. submissions received was prepared to take into consideration the comments and observations made. Submissions were reviewed to consider any comments received in relation to the AA. None of the submissions related directly to AA and no changes to the draft Plan were therefore required to be carried out following public consultation for reasons pertaining to AA.

The Addendum to the Report for the Purposes of AA Screening was also put on public display, alongside the Proposed Material Alterations of the Plan, from 23rd July to 23rd August 2021 inclusive. Some 160 No. submissions were received in relation to this consultation on the material amendments to the Draft Plan. None of the submissions related directly to AA and no changes to the draft Plan were therefore required to be carried out following public consultation for reasons pertaining to AA.

## 6 AA Draft Determination

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Following their review of the findings of the Report for the Purposes of AA Screening, Kildare County Council, as the competent authority for AA issued a determination on 8th March 2021 which set out the Council's opinion that,

*“Having regard to the content of the Draft Naas Local Area Plan 2021-2027 and consideration of the potential for significant impacts arising from its implementation which may have the potential to adversely affect any European site; with regard to their Qualifying Interests and Conservation Objectives, it was determined as part of the Screening for Appropriate Assessment on the basis of the findings of the report for Appropriate Assessment Screening, that there is no likelihood of significant effects on European sites from the Draft Naas Local Area Plan (LAP) 2021-2027. This decision has been informed by analysis prepared by Arup in addition to the Issues Paper and other material pertinent to the European Sites held by the Council.*

*It was also determined as part of this screening that there was no potential for effects or in-combination effects on European sites as a result of the implementation of the LAP.*

*In conclusion, in accordance with Article 6(3) of the Habitats Directive and Section 177U of the Planning and Development (Amendment) Act 2010 (as amended), taking into account all matters relevant it has been determined that, on the basis of objective information available at this stage, that there is no likelihood of significant effects on European sites from the Draft LAP, individually or in combination with other plans or projects.*

*A final AA determination will be made on the LAP before adoption takes place. This determination will take into account any other documents prepared and submitted during the plan preparation process and any written submissions made on the draft plan and associated documents while they are on public display.”*

## **7 AA Final Determination**

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See overleaf.



*AA Screening Determination for Naas Local Area Plan 2021-2027***Naas Local Area Plan 2021-2027****Appropriate Assessment (AA) Screening Determination in accordance with the EU's Habitats Directive Article 6(3) and the Section 177U of the Planning and Development Act 2000 (as amended)**

An Appropriate Assessment (AA) Screening determination has been made by Kildare County Council regarding the Naas Local Area Plan 2021-2027.

The Naas Local Area Plan, through a series of Objectives and Policies, will set out the vision and direction for the future development of the Naas area up to 2027. Proposed land use plans and proposed variations must undergo a formal 'test' or 'screening' to ascertain whether they are likely to result in any significant adverse effects on specific sites designated for their nature conservation importance. These sites are those designated under the European Commission's Natura 2000 network of sites (hereafter 'European sites'). These sites are designated on the basis of the presence of certain habitats and species that are deemed to be of international importance. The Irish Government and local planning authorities have a legal obligation to protect these sites. The EC Habitats and Birds Directives are the framework for the designation of these sites. The EC Habitats Directive requires the 'screening' of plans and projects under Article 6(3). If the screening process results in a judgement that likely significant effects may occur or cannot be ruled out, then a more detailed 'appropriate assessment' (AA) is required.

**Determination**

Having regard to the content of the Naas Local Area Plan 2021-2027 and consideration of the potential for significant impacts arising from its implementation which may have the potential to adversely affect any Natura 2000 site; with regard to their Qualifying Interests and Conservation Objectives, it was determined as part of the Screening for Appropriate Assessment on the basis of the findings of the report for Appropriate Assessment Screening, and is concluded that the Naas Local Area Plan (LAP) 2021-2027 individually or in combination with other plans or projects, would not be likely to have a significant effect on European sites, in view of the said sites' conservation objectives.

This decision has been informed by:

- The AA Screening Report for the Draft Naas Local Area Plan 2021-2027
- The AA Addendum Report for the proposed material alterations to the Draft Plan
- Submission made on the Draft Plan, proposed material alterations and associated documents whilst on public display, and
- Ongoing advice on AA from the Council's agents.

*AA Screening Determination for Naas Local Area Plan 2021-2027*

In conclusion, in accordance with Article 6(3) of the Habitats Directive and Section 177U of the Planning and Development Act 2000 (as amended), taking into account all matters relevant it has been determined that the Naas LAP individually or in-combination with other plans or projects, would not be likely to have a significant effect on European sites, in view of the said sites' conservation objectives.

An appropriate assessment is not, therefore, required

**Signed**

  
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**Date**

**21 October 2021**

**Signatory (Approved Officer):**

**Director of Services, Planning and Strategic  
Development**