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South Bank Site Remediation

**Shadow Habitats Regulations
Assessment: Stage 1 Screening and
Stage 2 Appropriate Assessment
Revision A
Final**

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Contents

Introduction	3
Project title	3
Project description	3
Legislation	5
HRA – the four stages	6
HRA stage 1 screening assessment	6
HRA stage 2 appropriate assessment	10
In-combination assessment	10
Conclusion	11
References	11

1. Introduction

1.1 This document has been prepared by INCA on behalf of Teesworks (formerly South Tees Development Corporation (STDC)) in connection with a full detailed planning application.

This report provides information to inform both Stage 1 Screening and Stage 2 Appropriate Assessment (AA) of a Habitats Regulations Assessment (HRA). It has been prepared to inform the ‘competent authority’, Redcar and Cleveland Borough Council (RCBC) about the implications of the proposed development on nearby internationally important sites, as required under Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (hereafter referred to as the ‘Habitats Regulations’)*. The report has been prepared in accordance with the Habitats Regulations.

* These regulations have been amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

2. Project title

2.1 South Bank Site Remediation.

3. Project description

3.1 The project involves the remediation of previously developed [industrial] land to provide a stable area of land with appropriate access roads for future development and is described in the planning application as:

“Engineering operations associated with ground remediation and preparation and alterations to access arrangements”

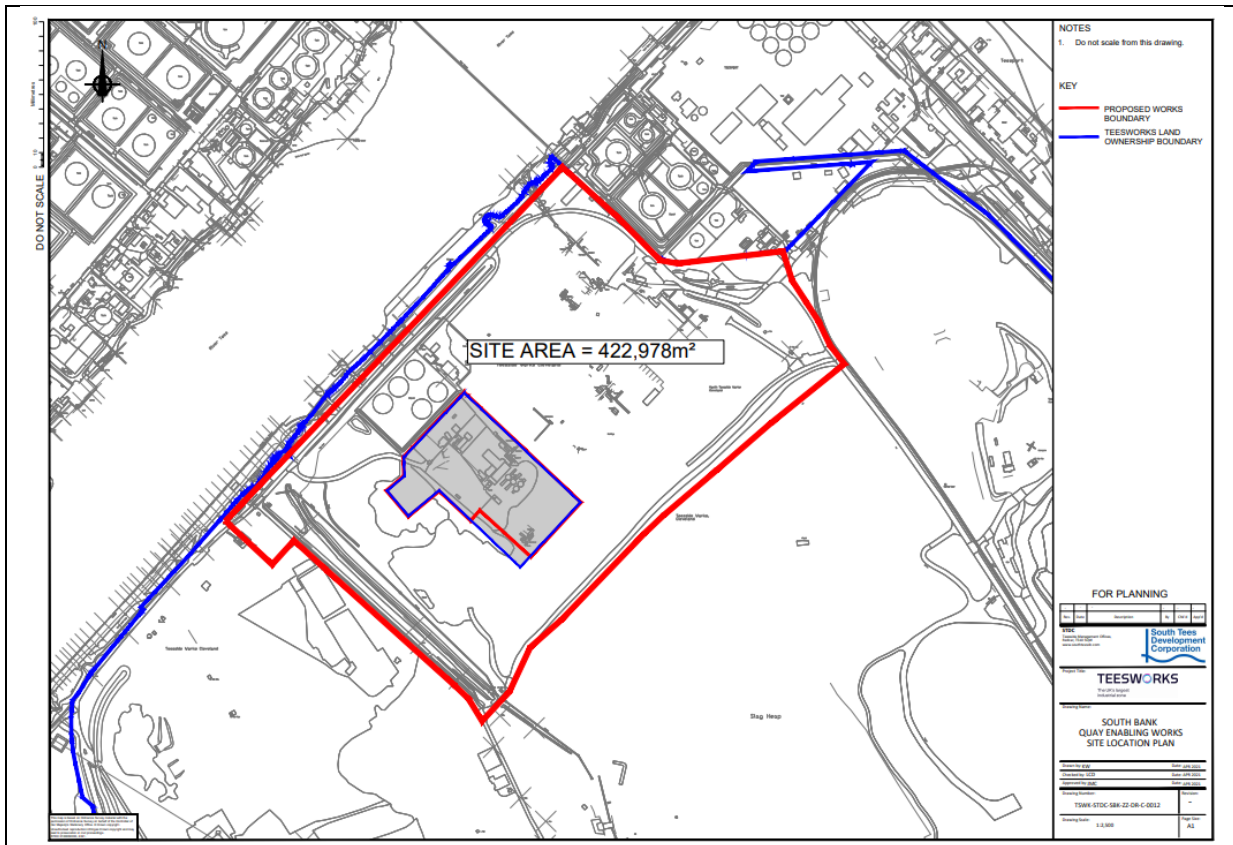
The site is in the borough of Redcar and Cleveland and is on industrial land north of the area known as South Bank (Figure 1). It is at Ordnance Survey grid reference NZ 538-226. It is part of the much larger Teesworks site, for which there is a master plan [1]. The site covers 42.3 Ha.

3.2 The development site is approximately rectangular in shape. Its frontage is the River Tees. A site access road borders much of the site, with internal tracks leading into the site. Until very recently, a large portion of the site was used for a sand and gravel screening operation and a smaller compound is currently in operation as a cement making plant. The latter is excluded from the red line boundary and the planning application (Figure 2). There are lengths of perimeter bund and several buildings and storage compounds on the site.

Figure 1. Location of the site (red oval).



Figure 2. Plan of South Bank Quay Enabling Works, showing red line boundary.



4. Legislation

4.1 The EC Habitats Directive (92/43/EEC) and Birds Directive (2009/147/EC) have established a network of protected areas which comprise:

- Special Protected Areas (SPAs). These are designated under Article 3 (2) of the Birds Directive in particular for species listed under Annex 1 of the Directive and migratory species.
- Special Areas of Conservation (SACs). These are designated under the Habitats Directive in order to ensure the restoration or maintenance of natural habitats and species of Community interest.

These sites have been combined to form the Nature 2000 or N2K network and are collectively known as European Sites.

The Habitats Directive is translated into UK legislation through The Conservation of Habitats and Species Regulations 2017 also known as the Habitats Regulations.

Within the context of local planning, Regulation 63 (1) applies (Chapter 2 - Planning). The competent authority must undertake an appropriate assessment of the implications of a project in view of the European Site's conservation objectives, where:

- (a) it is likely to have a significant effect on a European Site or a European offshore marine site (either alone or in combination with other plans or projects), and
- (b) it is not directly connected with or necessary to the management of the Site.

4.2 In addition to SPAs and SACs, a suite of wetland sites of international importance has been designated under the Ramsar Convention. Although these are not European Sites, as a matter of law, the UK Government has chosen to apply the same procedures to them as to European Sites. In the case of the Ramsar site considered in this assessment, Teesmouth & Cleveland Coast, its boundaries coincide with the respective SPA, except where the SPA includes a marine element, though the Ramsar designation cites some additional species as interest features. The assessment of Likely Significant Effect (LSE) on both of these sites considers both the SPA and Ramsar site interest features. The term 'European Site', used below, is to be interpreted as meaning both European and Ramsar sites.

4.3 Whilst European Sites overlies Sites of Special Scientific Interest (SSSIs), HRA relates only to the qualifying interest features of the European Site. HRA is only considered for operations that are not connected with, or necessary to, the management of European Sites.

4.4 A HRA is required where significant effects upon the notified interest features of a European Site are likely. Significance is defined in terms of the designated interest features and conservation objectives of the site. Natural England guidance indicates that any effect that compromises a Site's ability to support and sustain the features for which it has been designated is likely to be considered significant, excluding trivial or inconsequential effects. In determining the likely "significance" of an effect, the EC recommends considering "the probability, of the impact; the duration, frequency and reversibility of the impact". If it is not possible to clearly rule out a significant effect, based on objective information, then further assessment is required, in line with the precautionary principle. This view has been supported by recent European case law. That is, it is necessary to demonstrate that significant effects are not likely.

4.5 Neither the Habitats Directive nor the Habitats Regulations specify how the stages of HRA should be undertaken, or the depth of analysis of issues that is required; it must, however, be fit for purpose.

5. HRA – the four stages

5.1 A Habitats Regulations Assessment is a step-by- step process.

Stage 1 – Screening

To test whether a plan or project either alone or in combination with other plans and projects is likely to have a significant effect on an international site;

Stage 2 – Appropriate Assessment

To determine whether, in view of an international site’s conservation objectives, the plan (either alone or in combination with other projects and plans) would have an adverse effect (or risk of this) on the integrity of the site with respect to the site structure, function and conservation objectives. If adverse impacts are anticipated, potential mitigation measures to alleviate impacts should be proposed and assessed;

Stage 3 – Assessment of alternative solutions

Where a plan is assessed as having an adverse impact (or risk of this) on the integrity of an international site, there should be an examination of alternatives (e.g. alternative locations and designs of development); and

Stage 4 – Compensation

Assessment where no alternative solutions remain and where adverse impacts remain: In exceptional circumstance (e.g. where there are imperative reasons of overriding public interest), compensatory measures to be put in place to offset negative impacts.

5.2 The first stage in this process is screening for any LSE. Screening evaluates the potential for a project to have a significant effect on the interest features for which a European Site is designated. A significant effect is defined as: ‘any effect that may reasonably be predicted as a consequence of a plan or project that may affect the conservation action objectives of the features for which the Site was designated but excluding trivial or inconsequential effects’.

6. HRA Stage 1 screening assessment

6.1 The initial information for stage 1 is presented in Table 1.

Table 1. Assessment information.

Type of permission:	Local Planning Authority (LPA) - Full detailed planning application.
LPA planning reference:	to be confirmed.
Is the proposal directly connected with or necessary to the management of the site for nature conservation?	No

European Sites screened for stage 1.

6.2 This HRA stage 1 screening assessment covers all European Sites within 12km of the application site. It uses the source-pathway-receptor model to assess LSE. The source is always the application site and the receptors are the European Sites. European Site interest features, qualifying features, conservation objectives, vulnerabilities and Natural England IPENS (Improvement Programme for England Natura 2000 Sites) are considered.

Four European sites are within 12km of at least part of the application site:

- North York Moors SPA
- North York Moors SAC

- Teesmouth and Cleveland Coast SPA
- Teesmouth and Cleveland Coast Ramsar

6.3 The westernmost units of the North York Moors SPA and North York Moors SAC are approximately 9km away from their closest point to the closest part of the application site. They are screened out due to their separation from the site by farmland, urban development and infrastructure.

6.4 The T&CC SPA and the T&CC Ramsar site shares the same boundary except where the SPA includes a marine component. The T&CC SPA is adjacent to the application site. The T&CC Ramsar is approximately 0.4km to the west of the application site. These two European Sites are screened in.

Screened in European Sites

Teesmouth and Cleveland Coast (T&CC) SPA

6.5 The Teesmouth and Cleveland Coast Special Protection Area (SPA) was first classified in 1995 for its numbers of European importance of breeding Little Tern *Sternula albifrons*, passage Sandwich Tern *Thalasseus sandvicensis*, wintering Red Knot *Calidris canutus* and passage Common Redshank *Tringa totanus*, as well as an assemblage of over 20,000 waterbirds. Extensions to the Teesmouth and Cleveland Coast SPA were formally classified on 16 January 2020. The SPA is now 12,226.28 ha in size and includes additional areas of marine and wetland habitats important for waterbirds.

Natural England has extended the SPA to include marine foraging areas for breeding Little Tern and breeding and foraging areas for Common Tern, the latter being a new qualifying feature in the light of recent increases in the size of the breeding population within the SPA. The extension also includes additional areas of terrestrial habitats such as wet grassland, saltmarsh, deep and shallow pools and intertidal areas important for other foraging and roosting waterbirds which were existing features of the SPA. Non-breeding Ruff *Calidris pugnax* and breeding Pied Avocet *Recurvirostra avosetta* have also been classified as new qualifying features of the SPA.

The boundary of the SPA extension covers an area from Castle Eden Denemouth in the north to Marske-by-the-Sea in the south and includes the River Tees up to the Tees Barrage. The seaward boundary has been drawn to include waters out to around 3.5km from Crimdon Dene, to include the areas of greatest importance to the Little Terns at that colony, and out to around 6km offshore further south to include the areas of greatest importance to the Common Terns at the Saltholme colony.

Teesmouth and Cleveland Coast (T&CC) Ramsar

6.6 The Teesmouth and Cleveland Coast Ramsar boundary has also been extended to include the additional terrestrial wet grassland, saltmarsh, deep and shallow pools and intertidal areas for breeding and non-breeding waterbirds, as for the SPA. The T&CC Ramsar site is now 1,247.31 ha in size. Historically the Teesmouth SPA and Ramsar boundaries have been virtually coterminous and their interest features very similar. However, the Ramsar extension only covers the terrestrial extension areas of the SPA down to Mean Low Water (not the large marine addition). Although not a qualifying feature, the Ramsar site citation recognises that the site supports a rich assemblage of invertebrates, including the following seven Red Data Book species: *Pherbellia grisescens*, *Thereva valida*, *Longitarsus nigerrimus*, *Dryops nitidulus*, *Macrolea mutica*, *Philonthus dimidiatipennis* and *Trichohydriobius suturalis*.

6.7 The qualifying features for the Teesmouth and Cleveland Coast SPA/Ramsar are given in Table 2. The number of birds in the Ramsar assemblage is greater than for the SPA as it includes Mute Swan *Cygnus olor* and Greylag Goose *Anser anser*, both of which are resident all year, while the SPA only protects migratory and wintering waterbirds along with Annex I species. As the Ramsar is to a large extent a sub-set of the SPA the term SPA as it relates to the Teesmouth and Cleveland Coast is taken to refer to both unless otherwise stated.

Table 2. Qualifying features for Teesmouth and Cleveland Coast SPA/ Ramsar

Feature	Count (period)	% of Population	Interest type	Selection Criteria	New feature (Y/N)
Sandwich Tern <i>Thalasseus sandvicensis</i>	1,900 individuals (1988-1992)	4.3% GB, 1.3% Western Europe/Western Africa	Annex 1 (non-breeding)	Stage 1.1 (SPA), Criterion 6 (Ramsar)	N
Little Tern <i>Sternula albifrons</i>	81 pairs (2010-2014)	4.3% GB	Annex 1 (breeding)	Stage 1.1	N
Common Tern <i>Sterna hirundo</i>	399 pairs (2010-2014)	4.0% GB	Annex 1 (breeding)	Stage 1.1	Y
Pied Avocet <i>Recurvirostra avosetta</i>	18 pairs (2010-2014)	1.2% GB	Annex 1 (breeding)	Stage 1.1	Y
Ruff <i>Calidris pugnax</i>	19 individuals (2011/12-2015/16)	2.4% GB	Annex 1 (non-breeding)	Stage 1.1	Y
Red Knot <i>Calidris canutus</i>	5,509 individuals (1991/92-1995/96)	1.6% NE Canada/Greenland/Iceland/UK population	Migratory (winter)	Stage 1.2 (SPA), Criterion 6 (Ramsar)	N
Common Redshank <i>Tringa totanus</i>	1,648 individuals (1987-1991)	1.1% East Atlantic population	Migratory (passage)	Stage 1.2 (SPA), Criterion 6 (Ramsar)	N
Feature	Count (period)	Average number of individuals		Selection Criteria	
Waterbird assemblage	2011/12-2015/16	26,014 individuals (SPA assemblage), 26,786 individuals (Ramsar assemblage)		Stage 1.3 (SPA), Criterion 5 (Ramsar)	

6.8 The conservation objectives for the SPA and the individual species and/or assemblage of species for which the site has been classified are:

‘Subject to natural change, ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features;
- The structure and function of the habitats of the qualifying features;
- The supporting processes on which the habitats of the qualifying features rely;
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site’.

6.9 European sites are underpinned by Sites of Special Scientific Interest (SSSI) with SSSIs being divided into management units. In this case the relevant SSSI is Teesmouth and Cleveland Coast. The closest management unit to the application site is Unit 7 River Tees for which there is currently “no identified condition threat” according to Natural England. Common Terns use these reaches of the tidal River Tees for foraging in the summer months, while Redshank and Curlew *Numenius arquata* feed and roost on the intertidal margins during the non-breeding season.

HRA Stage 1. Consideration of Likely Significant Effect

6.10 Likely Significant Effects on European Sites can be direct through such impacts as land take or damage, or indirect by, for example, increased disturbance (Table 3). The significance of an effect depends on the sensitivity of the interest feature that might be affected.

Table 3. Source-Pathway-Receptor for LSE issues for T&CC European Sites

Potential source of LSE	Pathway type	Pathway mechanism	Screened in (Y/N)
Loss of designated site habitat	Direct	Destruction or degradation of European Sites	N
Loss of availability of functional land	Indirect	Destruction or degradation of non-European Site land used by European Site species (birds)	Y
Disturbance of species by noise & human presence	Indirect	Construction, traffic movements, human workforce movements affecting European Site species (birds)	Y
Disturbance to bird species through increased recreational pressure	Indirect	Recreational activities affecting European Site species (birds)	N
Changes to flight lines or sight lines for waterbirds occasioned by the development	Indirect	Tall infrastructure causing a visual obstruction to European Site species (birds)	N
Discharges to water caused by the development	Indirect	Pollution of feeding and/or roosting areas of European Site species (birds)	N
Emissions to air caused by the development	Indirect	Airborne particulates or pollutants affecting behaviour of European Site species (birds)	N

6.11 Five potential LSEs are screened out. The reasons are given in Table 4.

Table 4. Reasons LSE is screened out.

Potential LSE	Reason screened out
Loss of designated site habitat	The application site is not part of the European Sites designation
Disturbance to bird species through increased recreational pressure	The application is for the industrial sector & will not provide recreational opportunities
Changes to flight lines or sight lines for waterbirds occasioned by the development	The application is to create a 'development platform', i.e., a flat, open and level base
Discharges to water caused by the development	Minimal water use is planned during engineering works (water will be needed for dust suppression) and this should be managed via an approved condition for construction methods
Emissions to air caused by the development	The only anticipated emission is dust, and this will be suppressed using water, and should be detailed in an approved condition for construction methods

6.12 Two potential LSEs are screened in and these need to be assessed at stage 2.

7. HRA Stage 2 appropriate assessment

7.1 HRA stage 2 assesses the potential for screened in Likely Significant Effects to cause an Adverse Effect on Integrity (AEIO). Two potential LSEs are screened in. These are considered below (Table 5).

Table 5. stage 2 appropriate assessment

Potential LSE	Consideration	Outcome
Loss of availability of functional land	INCA has no records of the site being used by European Site birds for either foraging or roosting. The site is not part of the BTO led WeBS (Wetland Bird Survey) count for the Tees Estuary. Until very recently, a large portion of the site was in use as a working sand and gravel screening plant and is assessed as unsuitable for either feeding or foraging European Site birds. Much of the rest of the site is grassland with scrub and trees, and mounds of spoil and is assessed unsuitable for either feeding or foraging European Site birds.	Screened out
Disturbance of species by noise & human presence	INCA has no records of the site being used by European Site birds for either foraging or roosting and the site is assessed as being unsuitable for them. It is assessed that there are no (or few) birds to be affected.	Screened out

7.2 All potential causes of LSE have been screened out. Therefore, there can be no AEOI from this project on the T&CC SPA/ Ramsar.

8. In-combination assessment

8.1 HRA requires the project to be assessed in its own right, and also ‘in combination’ with other plans and projects.

8.2 Large areas of previously used industrial land are being similarly developed in line with the approved South Tees Area SPD [1]. This SPD has its own HRA [2], which concludes:

This HRA of the emerging South Tees Area Supplementary Planning Document takes account of the previous HRAs of the Redcar and Cleveland Local Plan. In this context, this HRA confirms there have been no changes to the European Sites requiring consideration, neither are there any changes to the plans or projects considered in-combination with the Local Plan, with the exception of the new Redcar & Cleveland Teesmouth and Cleveland Coast Special Protection Area Recreation Management Plan (RMP) and the other Strategies which are to be commissioned by STDC in 2018 to provide further detail regarding the guidance set out in the SPD, in order to facilitate the effective delivery of the STDC area.

The key Development Principle within the SPD of relevance to this HRA is Development Principle STDC7, which seeks to ensure that redevelopment proposals protect and where possible enhance the environment. This Principle, given delivery of development described within the SPD, can only be applied in accordance with protective mitigation measures already provided in the Local Plan (most notable Policy N 4) and the RMP to which it refers. The SPD therefore would not lead to adverse effects on the integrity of any European Sites, taking into account the mitigation measures described within Local Plan Policy N4, the RMP, and confirmed within the HRAs of the Local Plan.

This HRA Report has identified opportunities to improve the wording within Development Principle STDC7 and elsewhere within the SPD, which would provide greater clarity and consistency with the wording within relevant policies within the Local Plan. Recommendations in this regard have been provided and it is understood that RCBC are content to incorporate the suggested changes into the SPD. For the avoidance of doubt, these HRA recommendations do not affect the fundamental

conclusion that the SPD would not lead to adverse effects on the integrity of the European Sites within the Zone of Influence of the SPD area, either alone or in combination with other plans or projects.

8.3 In addition to the HRA for the RCBC (2018) South Tees Area SPD, individual projects require a HRA to be submitted to NE (via the LPA). It is assessed that there are no in-combination adverse impacts likely.

9. Conclusion

9.1 The proposed development will not cause adverse effect to the integrity of the Teesmouth and Cleveland Coast SPA and Ramsar sites, either alone or in combination with other plans or projects.

9.2 This ends the HRA process.

10. References

[1] RCBC (2018) South Tees Area SPD. <https://www.redcar-cleveland.gov.uk/resident/planning-and-building/local-plan/Pages/South-Tees-Area-SPD.aspx>

[2] South Tees Area Supplementary Planning Document Habitats Regulations Assessment. [Other Reports Template \(redcar-cleveland.gov.uk\)](#)