

HABITAT REGULATIONS ASSESSMENT A SCREENING OPINION FOR THE PROPOSED DEVELOPMENT AT GANDHI'S TEMPLE, SOUTH SHIELDS



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A SUMMARY

E3 Ecology Ltd was commissioned by Fitz Architects Ltd to develop a screening opinion to inform a Habitat Regulations Assessment (HRA) for a proposed restaurant development at Gandhi's Temple, South Shields.

This HRA Screening Report will determine whether the development may have a likely significant effect on two nearby Natura 2000¹ sites, the Northumbria Coast Special Protection Area and RAMSAR Site and Durham Coast Special Area of Conservation. If there is a likely significant effect on either then an appropriate assessment will be required for the development.

It is proposed to redevelop the existing structure and public toilets into a restaurant, works will be undertaken between April and October. The proposed development site comprises a built structure and associated hard standing, with two small areas of regularly mown grassland. The site is found within an area currently heavily used by tourists with existing restaurants present adjacent to the site.

E3 Ecology Ltd have undertaken a large number of assessments for developments close to the Northumberland and Durham coastal Natura 2000 sites, including projects with two years monitoring of bird numbers and disturbance interactions. Based on this experience we have a good degree of confidence that a scheme of this size and nature, in a large urban area, and away from the main focus of activity for the qualifying species, is not likely to have a significant effect on the Natura 2000 sites.

In combination effects are hard to assess, however in this case as no impacts are predicted, it is considered that there will be no contribution to cumulative impacts on the Natura 2000 sites and therefore no requirement to consider in combination effects. This screening assessment has been undertaken to provide more confidence in the conclusion that there are no likely significant effects.

This screening opinion considers two elements of the proposals, firstly the potential direct effect of the development on the SPA and SAC and their qualifying features, and secondly the potential indirect effects of the development on these sites and their cited features. Indirect impacts are considered to comprise primarily of recreational impacts, particularly through increased numbers of people visiting the coast and constructional disturbance (noise).

Given the nature of the habitats on site and adjacent, its location in an urban area, and the high levels of disturbance, the site itself is considered unsuitable to support any of the qualifying species listed under the Northumbria Coast SPA. As such no direct impacts on the qualifying features of the SPA are envisaged. Furthermore, given the distance between the site and the Durham Coast SAC, no direct impacts on this site are envisaged: it is designated for its maritime species-rich plant communities supported on magnesian limestone.

It is accepted that developments within close proximity to the coast have the potential to have indirect effects on both the SPA qualifying species and SAC qualifying habitats. New householders with dogs, for example, are considered to have particular potential to cause bird

¹ Internationally important sites (Special Protection Areas and Special Areas of Conservation) designed to protect the most seriously threatened habitats and species across Europe.

disturbance as the dogs will likely be walked twice a day, and may be exercised off the lead, causing more disturbance to birds, erosion and increased nutrient loading to sensitive botanical habitats. In this instance, however, the nature of the development is unlikely to increase dog walkers to the area and it is likely that the biggest increases in visitor numbers will be seen in summer, when disturbance levels are already high and the qualifying species of the SPA will be absent.

The site is found within an area that is actively marketed for tourism and has the infrastructure to deal with the increased levels of visitors and is already sees high levels of disturbance². This is demonstrated by the area being used as the finish line for the Great North Run every autumn. As such, it is not considered that the proposed development will have a significant impact on disturbance levels and there are predicted to be no indirect effects on the designated sites.

Based on this no mitigation measures are proposed.

Overall, no potential adverse effects on the SPA and SAC, and the SSSIs that comprise them, are anticipated. It is therefore concluded that an appropriate assessment is not required in respect of the development proposals for land at Gandhi's Temple.

If you are assessing this report for a local planning authority and have any difficulties interpreting plans and figures from a scanned version of the report, E3 Ecology Ltd would be happy to email a PDF copy to you. Please contact us on 01434 230982.

² Arcus Ltd. (2014-2015) Non-breeding Season Report Sunderland & South Tyneside Bird Surveys

B INTRODUCTION

E3 Ecology Ltd was commissioned by Fitz Architects Ltd to develop a screening opinion to inform a Habitat Regulations Assessment (HRA) for a proposed restaurant development at Gandhi's Temple, South Shields. The screening opinion addresses whether the residential development will have a likely significant impact on Natura 2000 sites, namely the Northumbria Coast SPA and Durham Coast SAC.

B.1 Background to Development

The site is located at the southern end of the South Shields Promenade at an approximate central grid reference of NZ 378 669. The site location is illustrated below in Figure 1.



Figure 1 – Site Location

(Reproduced from the ordnance survey map with the permission of the controller of Her Majesty's stationery office. CJ Crown Copyright reserved. Licence number 100039392.)

It is proposed to redevelop an existing public toilet into an amenity facility with bar/restaurant use at the first floor level and a takeaway and associated toilets.

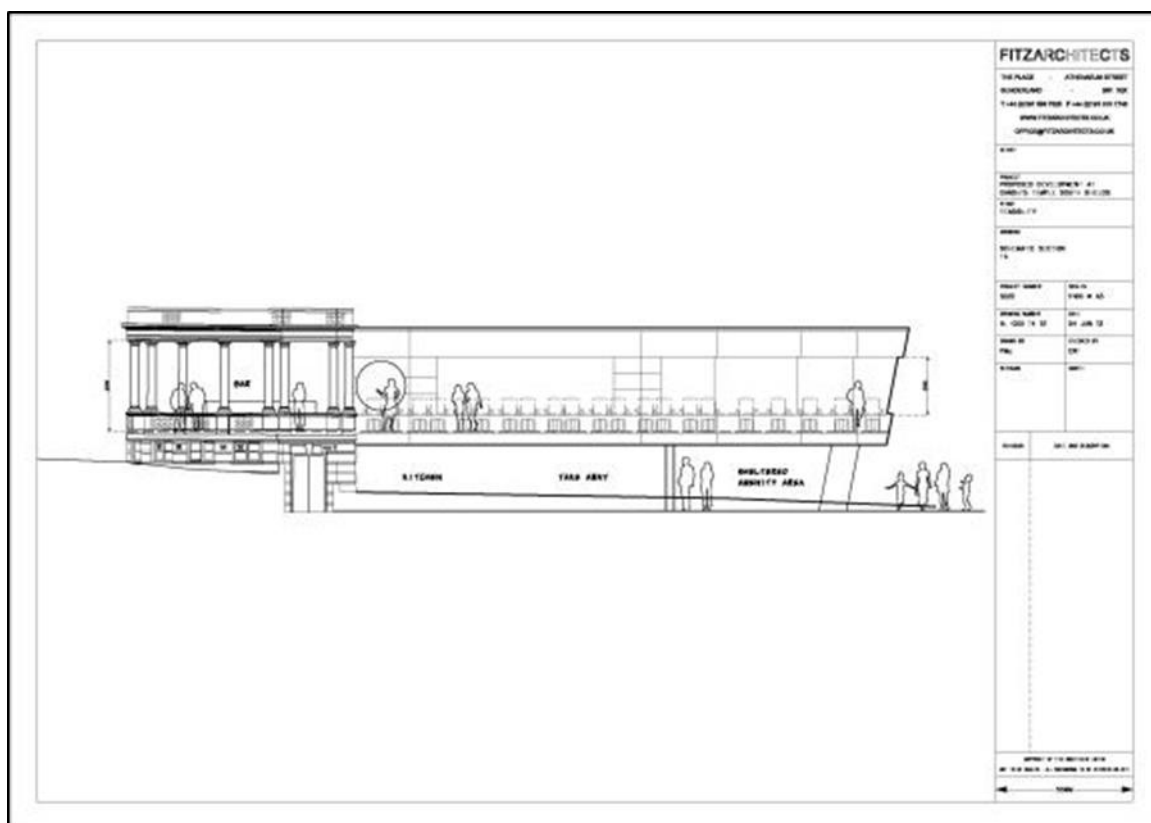


Figure 2 – Development Proposals

B.2 Background to the report

The Habitats Directive applies a precautionary principle to developments that may affect Natura 2000 sites. Proposals can only be permitted once it has been ascertained that there will be no likely significant effects on the integrity of the sites in question, unless there are no alternatives and the development is of over-riding public interest.

Habitat Regulations Assessment (HRA) seeks to assess plans in order to determine whether they are **likely** to have significant effects on a Natura 2000 site. HRA comprises a four stage process; screening, appropriate assessment and integrity testing, identifying alternative solutions and identifying compensation measures where imperative reasons of overriding public interest are proven. The first screening stage sets out to identify development plans which can be screened out of the need for further assessment i.e. they are determined as not likely to have a significant effect on the relevant Natura 2000 sites.

In order to provide a screening opinion on the development the following steps were taken to assess whether the proposals would contravene the Conservation of Habitats and Species Regulations 2010.

1. Identify a reasonable zone of influence around the development area and determine whether any Natura 2000 sites (SPAs and SACs) are within this area;

2. Assess whether there is any possible mechanism by which the project can affect any Natura 2000 site focusing on those sites within the identified buffer or zone of influence;
3. Assess the qualifying features and conservation objectives of any Natura 2000 sites within this zone;
4. Determine whether the possible mechanisms identified in point 2 are likely to have a significant impact on the qualifying features and conservation objectives assessed in point 3; and
5. Determine whether the project would be likely to have a significant effect on the Natura 2000 sites identified in point 1 in combination with other plans or projects.

If likely significant effects relating to points 4 and 5 are identified then the development will require an Appropriate Assessment.

B.3 Personnel

Survey work and reporting was undertaken by:

- Mark Osborne BTech (Hons) CEcol MCIEEM

Details of experience and qualifications are available at www.e3ecology.co.uk.

B.4 Objectives of Study

The objectives of this study are to determine whether the re-development of the site to a restaurant and associated car parking will have a likely significant effect on the conservation objectives of the Northumbria Coast SPA and Durham Coast SAC.

C RELEVANT LEGISLATION AND PLANNING CONTEXT

C.1 The Birds Directive 1979/2009

The Article of the Directive relevant to this report is Article 4 which, in summary, requires:

The identification and classification of Special Protection Areas (SPAs) for rare or vulnerable species listed in Annex I of the Directive, as well as for all regularly occurring migratory species, paying particular attention to the protection of wetlands of international importance (Article 4). Together with Special Areas of Conservation designated under the Habitats Directive, SPAs form a network of European protected areas known as Natura 2000.

C.2 The Habitats Directive 1992

The Habitats Directive 1992 is European legislation which governs the management of Natura 2000 sites, which in the UK are designated as Special Areas of Conservation or SACs. The relevant article to this assessment is provided below:

The Habitats Directive Article 6 (3) states: 'Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.'

C.3 The Conservation of Habitats and Species Regulations 2010 (as amended)

The aspect of the Conservation of Habitats and Species Regulations 2010 (as amended) which will be assessed as part of this screening assessment is Regulation 61. Regulation 61 states:

1. A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which —
 - a) 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) is not directly connected with or necessary to the management of that site,

must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

D SURVEY AREA AND METHODOLOGY

D.1 Assessment Area

The assessment area will be different for potential direct and indirect effects of the development on the SPA and SAC and their cited features.

The assessment area for direct impacts is considered to comprise the area within the development boundary termed 'the site' and a 200m buffer around it where there may be direct impacts, for example from changes in hydrology or direct disturbance during construction and use of the site.

For indirect impacts, principally relating to additional recreational pressure through increased visitor numbers, visiting the coast for leisure activities, walking and particularly dog walking on a regular basis, a 6km buffer from the site has been used. This 6km buffer is considered to be excessively precautionary, but was used by Durham County Council for their Habitat Regulations Assessment of their development plan on the Northumbria Coast SPA and Durham Coast SAC³. Durham Coast SAC and the Northumbria Coast SPA both lie within this 6km buffer area. The latest advice for Durham is to use buffers of 0.4km and 6km. There are no European protected sites within 0.4km of the Gandhi's Temple site.

In addition, there is the potential for constructional disturbance associated with the redevelopment to disturb qualifying species utilising the closest areas of SPA.

Figure 3 below illustrates the site boundary, whilst figure 4 shows the site with a 1km buffer, as well as the location of the two Natura sites:

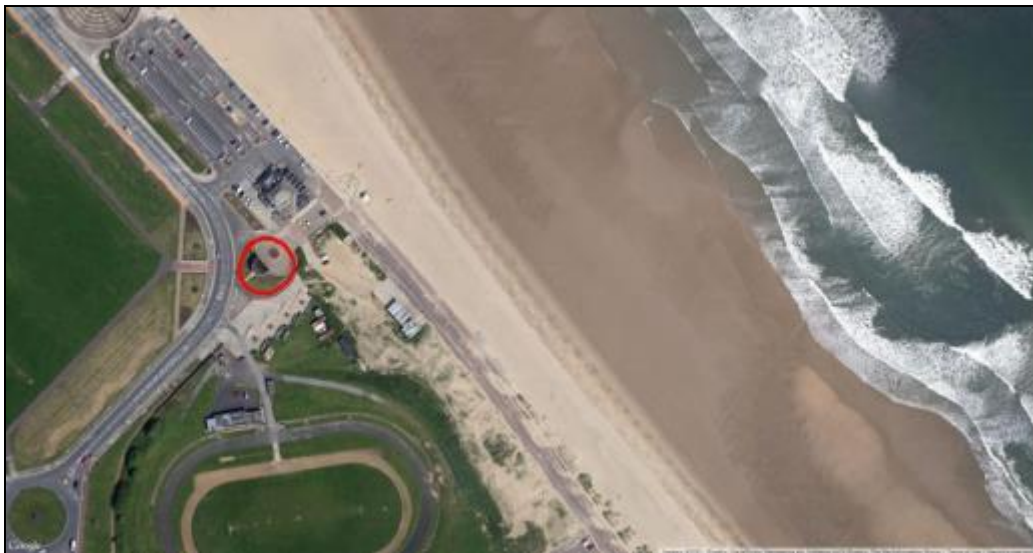


Figure 3 – Aerial photograph illustrating the extent of the site with a redline boundary
(Reproduced under licence from Google Earth Pro.)

³ Durham County Council (2013) The County Durham Plan Pre-Submission Draft Local Plan Habitat Regulations Assessment Report.

D.2 Methodology

The methods described below were utilised to provide information for steps 1-5 (section A2) above.

D.2.1 Desk Study

Initially, the site was assessed from aerial photographs and 1:25000 OS plans. Following this, the MAGIC website was checked for notable sites or habitat or species records as well as to identify specific areas of Natura 2000 sites that lie within a 6km radius of the proposed development. Qualifying features and conservation objectives of any Natura 2000 sites were then identified through the JNCC website.

D.2.2 Field Survey

Field survey was undertaken by E3 Ecology Ltd on 12th February 2014.

The following items of equipment were utilised during survey work and analysis:

- 10 x 42 binoculars.
- Olympus “tough” digital camera.

The site visits comprised a walkover to assess habitats on site, as well as footpaths and other walking routes in and around the site.

E ASSESSMENT

E.1 Qualifying Features and Conservation Objectives

E.1.1 Durham Coast SAC

The Durham Coast SAC was designated in April 2002 and stretches, in distinct units, from South Shields to the south of County Durham. These units are designated for the maritime vegetation that they support on magnesian limestone which creates rare and species-rich communities.

The qualifying features of the site are stated as being vegetated sea cliffs of the Atlantic and Baltic coasts. The Conservation Objectives for these habitats are:

- To avoid the deterioration of the habitats of the qualifying natural habitats and the habitats of qualifying species and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving Favourable Conservation Status of each of the qualifying features.
- Subject to natural change, to maintain or restore:
 - The extent and distribution of the habitats of the qualifying features;
 - The structure and function (including typical species) of qualifying natural habitats and habitats of qualifying species
 - The supporting processes on which qualifying natural habitats and habitats of qualifying species rely;
 - The populations of the qualifying species;
 - The distribution of the qualifying species within the site.

The Natura 2000 standard data form for the site states that: vegetated sea cliffs range from vertical cliffs in the north with scattered vegetated ledges, to the magnesian limestone grassland slopes of the south. Parts of the site are managed as a National Nature Reserve, and plans provide for the non-interventionist management of the vegetated cliffs. The majority of the site is in public ownership and an agreed management plan is being developed to protect nature conservation interests.

E.1.2 Northumbria Coast SPA and RAMSAR

This area of coastline was designated in 2004 and comprises sections of coastline between north Northumberland and the south of County Durham. The area of the SPA being assessed within this report is between the South Shields Pier and Marsden Cliffs

There are no other areas of the SPA within the identified zone of influence.

The SPA comprises areas of rocky shore supporting a food resource for wading birds which are cited on the designation. There are three species listed on the citation for the protected area, these are purple sandpiper (*Calidris maritima*), ruddy turnstone (*Arenaria interpres*) and little tern (*Sterna albifrons*). The site is designated for the non-breeding use of the site by the first two species listed and for breeding use by the latter species.

The Conservation Objectives of the site include:

- The avoidance of the deterioration of the habitats of the qualifying features, and the significant disturbance of the qualifying features, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Birds Directive.
- Subject to natural change, to maintain or restore:
 - 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 populations of the qualifying features;
 - The distribution of the qualifying features within the site.

There are a number of SSSI units within the SPA which are components of the larger designated site. The most recent assessment of these components found that around 63% was classed as in favourable condition, with the remaining 37% being unfavourable recovering.

Little Tern

Little tern is the smallest species of tern breeding in the UK, nesting exclusively on beaches, spits or inshore islets. Colonies are found around much of the coastline, but the main concentration is in south and east England. The closest breeding colony is >50km distant.

Purple Sandpiper

The purple sandpiper is a medium-sized wading bird that is larger, stockier and darker than a dunlin. This species is mainly a winter visitor to almost any rocky coast in the UK. Most are found in Orkney, Shetland and along the east coast of Scotland and northern England – the species is scarce south of Yorkshire, other than in Devon and Cornwall. Wintering numbers in the UK are approximately 13,000 birds (October-March)⁴.

Turnstone

Smaller than a redshank, turnstones have a mottled appearance with brown or chestnut and black upperparts and brown and white or black and white head pattern, whilst their underparts are white and legs orange. Wintering numbers in the UK are approximately 51,000 birds (October-March)⁵.

E.2 Identification of Receptors

E.2.1 Direct Effects

There are no Natura 2000 sites within the development boundary of the proposal though both the Durham Coast SAC and Northumbria Coast and RAMSAR site are present approximately 500m distant.

E.2.2 Indirect Effects

In County Durham a 6km buffer was identified by the Durham County Council Habitat Regulations Assessment of their Core Strategy (2013)¹ as an appropriate distance within

⁴ <http://rspb.org.uk>

⁵ <http://rspb.org.uk>

which new residential development may have an impact on Natura 2000 sites which may be prone to recreational disturbance.

This 6km buffer was based on the following supporting documents:

- A Study into Recreational Disturbance at the Teesmouth and Cleveland Coast European Marine Site (2011) Simpson, K
- Durham Heritage Coast Sustainable Tourism Strategy (2004) PLB Consulting Ltd
- Durham Visitor Survey (2010) ONE North East
- Accessing the Countryside: Barriers and Best Practice (undated) Matthews, J
- Visits to the Natural Environment (2011) Natural England

Although not a residential development, the same buffer has been used in relation to this development proposal as a precautionary measure. It is therefore concluded that for this site, the Durham Coast SAC and the Northumbria Coast SPA are potential receptors to the impacts of the development.

No strict buffer can be applied to impacts associated with constructional disturbance, as each individual case, will differ depending on works undertaken, the surrounding landscape and environmental conditions at the time of works. As such each project will be assessed independently to quantify the potential impacts.

E.3 Assessment of Potential Mechanisms of Effect

E.3.1 Direct Effects

Survey work of the site has shown it to be dominated by hard standing, heavily disturbed as within an amenity area, and unsuitable to support any of the qualifying species listed for the Northumbria Coast SPA, namely wintering purple sandpiper and ruddy turnstone and breeding little tern. The adjacent beach is also considered largely unsuitable for these species, with both wintering waders typically found on rocky shore and the closest populations of breeding little tern being 20km distant.

The boundary of the SPA lies over 450m from the site and as such no direct impacts, on the qualifying features of the SPA, through habitat loss or constructional disturbance are envisaged.

Given the distance between the site and the Durham Coast SAC (over 450m), no direct impacts on this protected site are envisaged; it is designated for its species rich plant communities, supported on magnesian limestone.

E.3.2 Indirect Effects

The site, currently used as a public toilet facility, is found within an amenity/recreational area of the South Tyneside coast, between the lifeguard station and an existing restaurant.

It is proposed to convert the structure into a bar and restaurant facility with approximately 21 associated car parking spaces.

It is proposed that a new restaurant facility will be constructed on site, and section D2.2 above identifies that the Northumbria Coast SPA and Durham Coast SAC lie within a potential zone of influence. The Durham County Council HRA found that human recreational disturbance within Natura 2000 sites can impact on bird assemblages either directly or indirectly through behavioural changes such as changes to feeding behaviour and physiological changes resulting from movement responses generated from disturbance which may have an impact on the local population¹. There is also a risk that increased use of the coastal footpath network could damage habitats, particularly through erosion or nutrient enrichment from dog fouling.

Redevelopment of the site has the potential to disturb the qualifying species using the closest areas of SPA, through increased noise levels, though as the site is recognised as already being within a high disturbance zone⁶, impacts are likely to be minimal.

E.4 Baseline Survey

Existing Survey Work

E.4.1.1 Extended Phase 1 Habitat Survey of the Site

Survey in February 2015 found that the site is dominated by a large built structure, whilst habitats on site comprise two small areas of regularly mown amenity/semi-improved grassland and hard standing. The site as a whole is considered to be of low ecological value. The structure is considered to have negligible potential of supporting roosting bats. Full survey details can be found within the Preliminary Ecological Appraisal.

E.4.1.2 South Tyneside Council Open Space Strategy (2009)⁷

The Open Space Strategy identifies that the Borough has long been a regional tourist attraction for its beaches and traditional seaside location, with the beaches being the most highly rated spaces. As such the strategy highlights the importance of:

“Promoting and enhancing the foreshore, the seaside resort of South Tyneside, as a key focus for leisure and recreation, consolidating and diversifying existing uses, upgrading the environment, and protecting the designated ‘developed coast’ from the sea.”

E.4.1.3 South Tyneside: South Tyneside’s Tourism Strategy (2007)⁸

This strategy sets out clear aims and objectives and has a dynamic action plan which will ensure that South Tyneside will play a full role in contributing to a thriving and prosperous region.

This document sets out the primary objective which is:

“To maximise the economic benefits of tourism by developing, promoting and managing South Tyneside as a quality, exciting and sustainable visitor destination.”

⁶ Arcus Ltd. (2014-2015) Non-breeding Season Report. Sunderland & South Tyneside Bird Surveys

⁷ Wilson, S. (2009) South Tyneside Council Open Space Strategy (2009)

⁸ South Tyneside’s Tourism Strategy (2007)

The Strategy has a number of objectives, one of which is to:

- Increase visitor numbers and improve visitor satisfaction

In addition, Visit South Tyneside⁹ actively encourages visitors to this location.

E.4.1.4 Local Knowledge

Discussion with an E3 Ecology ornithologist with good knowledge of the local area provided the following information on bird use:

- The Durham coast is considered to hold moderate numbers of wading birds, including low numbers of purple sandpiper and ruddy turnstone.
- Wader numbers are likely to peak in November to February, with waders being virtually absent in late spring to summer. Diversity of wader species may be highest between July and September, when species such as greenshank, common sandpiper and whimbrel will be present in addition to wintering species.
- The majority of waders on the coast are likely to be present on intertidal rocks, which may also be used as roosting sites. Grasslands along the coast are likely to be less well used, although they will attract small numbers of oystercatcher and curlew that will commute from the intertidal rocks. Intertidal mud is lacking, and generally species that rely on this habitat will be absent (for example dunlin, bar-tailed godwit, grey plover). An exception to this is knot, a species that prefers intertidal mud, but may be present in the low hundreds feeding on the intertidal rocks. Sanderling are likely to be present on sandy stretches.
- Disturbance along this area of the coast is considered to be high given the proximity of the amenity area, existing restaurants and lifeguard station.
- The areas that are used by the birds are away from the typical “visitor friendly” areas, due to a combination of high cliffs and large grassed areas, with footpaths on the cliff tops, which will discourage regular visitors to the rocky shore areas used by waders.

E.5 Assessment of Impacts

E.5.1 Direct Impacts

Given that the site and adjacent land is considered unsuitable to support any of the qualifying species listed under the Northumbria Coast SPA, no direct impacts on the qualifying features of the SPA are envisaged. Furthermore, given the distance between the site and the Durham Coast SAC, no direct impacts on this site are envisaged, as it is designated for its species rich plant communities supported on magnesian limestone. Both sites lie over 450m from the proposed development site.

E.5.2 Indirect Impacts

It is considered that there are several “pathways” that could contribute to indirect habitat and species loss or fragmentation at Natura 2000 sites, comprising effects of recreational pressure, including trampling, disturbance and dog fouling and effects of urbanisation including spread of invasive plant species and increased predation by domestic cats, urban foxes and so on¹.

⁹ <http://www.visitsouthtyneside.co.uk/article/12554/south-shields-more-than-the-traditional-seaside-town>

In this case, the development is not predicted to have an adverse impact on either the SAC or SPA in this area for the following reasons:

- The proposal is for a single restaurant development within an area where tourists and visitors are actively encouraged.
- It is considered likely that the majority of visitors will use the site as a destination and that it will not increase footfall to the protected areas.
- Due to the nature of the development there is unlikely to be an increase in dogs using the site; as such there will be no predicted impact, through increased disturbance on the SPA qualifying species or increased eutrophication of the SAC as a result of visitors with dogs.
- The closest points of the Northumbria Coast SPA are less accessible to the public, with the beach and promenade likely to see far greater usage. Visits to the areas used by key bird species are likely to be far less frequent, with the birds utilising areas at the bottom of cliff faces and on the pier.
- The coastal access points at this location are designed for visitor access and comprise large areas of species-poor grassland habitats and sandy beach, less favoured by the SPA qualifying species.
- The construction works, will be undertaken between April and October to address the low residual risk of constructional disturbance impacting the qualifying species present within the SPA.

E.5.3 Mitigation

Assessment indicates that no direct or indirect effects on Natura 2000 sites are anticipated, and that given the scale of the development no residual effects are predicted. As such no mitigation is recommended.

The following measures could be installed to help further reduce the risk of significant impacts on Natura 2000 sites:

- Provision of an interpretation panel at the access point to the beach indicating the importance of the sites and how impacts can be avoided

E.5.4 In Combination Effects

Overall, given the small nature of this development and the fact that no impacts are predicted it is considered that there will be no cumulative or contribution to in combination effects on the designated sites as a result of the development.

F CONCLUSIONS

F.1.1 Direct Impacts

It is considered that there are no likely direct impacts upon either the Durham Coast SAC or Northumbria Coast SPA and RAMSAR site. The site is dominated by hardstanding and surrounded by managed grassland and sandy beach and is found within a disturbed urban area. As such SPA qualifying species are considered absent. No direct land take from the SPA or SAC will occur, and given the distance from the site to the both sites, no direct impacts are envisaged.

F.1.2 Indirect Impacts

Based on the nature of the development, the proposed timing of construction works and the distance of the protected areas from the site it is considered that the proposals will have no indirect impacts on either of the designated sites.

The conclusion therefore remains that there are no likely significant effects from this development, no residual effects and hence no requirement for an appropriate assessment.