



South Tyneside Council

Reference:	250715
Location:	River Tyne & Land to East of River Don, Jarrow
Ward:	Bede
Description:	Application for Prior Approval under Section 77 of the Habitats Regulations 2017 in respect of ground investigation works associated with the National Grid Tyne Crossing project.
Recommendation:	Prior Approval Required & Given
Case Officer:	Seán Gallagher
Case Officer Contact No.:	07741109463

Description of the Site and proposal

National Grid are proposing to bore a 1.6km long and 4.0m wide tunnel crossing under the River Tyne (from shoreline to shoreline), with underground electricity transmission cables and associated infrastructure between North Tyneside and South Tyneside. The overall purpose of this development is to allow for the safe passage of vessels and cargo with heights close to or above the height of the existing ZZA overhead transmission line.

The Project in South Tyneside is comprised of the following principal elements:

- The boring of a 1.6km tunnel under the River Tyne;
- Installation of new underground cables in the tunnel; with one cable per phase initially but with an option to increase this to be two cables per phase;
- Associated infrastructure including one new Tunnel Head House (THH),
- A new Cable Sealing End Compound (CSEC)
- Two new 275Kv OHL towers, and modifications to existing overhead lines; and
- Removal of the existing overhead line and towers from ZZA063 to ZZA0687.

As part of the above works, a number of boreholes are proposed.

This application seeks prior approval under Section 77 of the Conservation of Habitats and Species Regulations 2017 in respect of boreholes BH204, BH301, BH302 and BH304 as labelled on the submitted Ground Investigations HRA Screening Map 2 of 2 Rev P01.1. It should be noted that the request also references borehole BH201, which is located on the River Tyne, however this is located to the northern portion of the river and hence outside of South Tyneside and within North Tyneside (as the boundary runs along the middle of the river).

The overall project also includes boreholes BH101, BH102, BH103, BH104, BH 105, BH106, BH107, BH108, & BH202. These boreholes fall outside of South Tyneside.

Publicity / Consultations (Expiry date 15/12/2025)

1) Neighbour responses

None

2) Other Consultee responses

South Tyneside Council Countryside Team

Under the Habitats Regulations, a competent authority is the body that grants or authorises development. For permitted development rights (PDR), planning permission is granted nationally by the GPDO, but National Grid does not become a competent authority—it remains the developer. The competent authority role falls to the local planning authority, which must give written approval under Regulation 77 before any PDR works that could affect a European site proceed.

The applicant has submitted the following document to inform the application:

- **TYNE CROSSING GROUND INVESTIGATION WORKS.** Report to Inform Habitat Regulations Assessment - Appropriate Assessment. Version – First Draft, dated 17th November 2025 by WSP.

With regards data for the desk study for this and future HRA's, the LPA has commissioned bird surveys in multiple years as part of our evidence base for the Local Plan and HRA work. Two of these (from 2019/20 and 2015/16) included surveys at the Port of Tyne and I have included the pertinent maps showing key results below. These results show that birds from the SPA use this area and, based on the NE advice in Table 1.1 of the report, should therefore be considered to be functionally linked land.

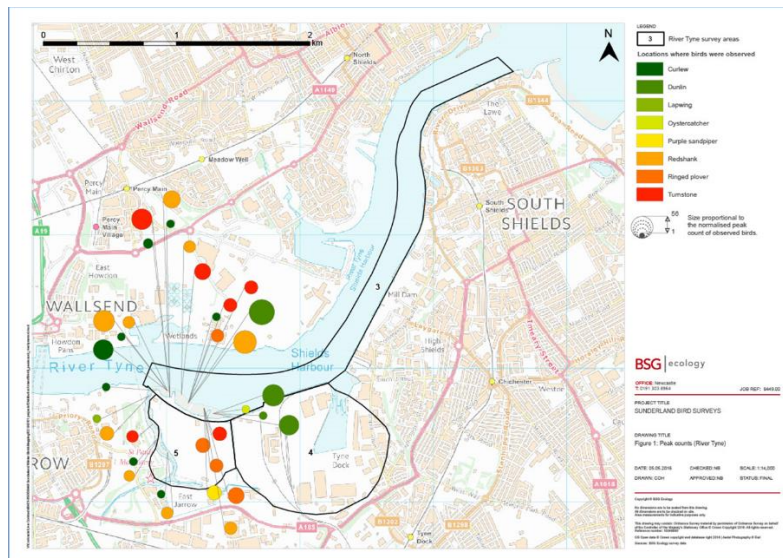
This figure is from the 'Non-Breeding Bird Survey of the South Tyneside, Sunderland and County Durham Coast 2019/2020' by Whittingham Ecology and Associates, available here: [Non-Breeding Bird Survey 2019-20, Whittingham et al](#)

Survey area 9 - Tyne Docks



Figure 24. Max counts of four SPA/SSSI notified species in survey area 9 during high tide (left panel) and low tide (right panel) surveys from October 2019 to March 2020.

This figure is from 'Inland sites - Sunderland and South Tyneside 2015-2016 Non-Breeding Bird Survey Report', BSG, August 2016. I can provide this report on request:



The submitted report has been informed by survey work mentioned within the body of the report and should be included in Appendix E – but none of the appendices are included in the submission. The studies mentioned above do record Turnstone at Jarrow Slake Mudflats LWS and River Don Saltmarsh LWS, and the report states a precautionary approach assuming the birds are present has been followed. On that basis, I will comment in the absence of the survey information, but this really should have been provided.

I am in agreement with the Screening section of the submitted report which concludes:
“6.3.1. Likely Significant Effects have been ruled out for all impact pathways to qualifying features of purple sandpiper, and all breeding Arctic tern and little tern for Northumbria Coast SPA & Ramsar, either alone or in-combination with other projects.
6.3.2. Likely Significant Effects from noise and visual disturbance to turnstone, and waterborne pollution to Durham Coast SAC, Northumbria Coast SPA & Northumbria Coast Ramsar cannot be ruled out and will be assessed within Stage 2, Appropriate Assessment.”

The Appropriate Assessment section of the report sets out the proposed measures to mitigate the potential for turnstone to be disturbed from noise and visual elements of the project. These can be summarised as follows:

- Eco-Acoustic Panels at rigs: BH107, BH108, BH201, BH204, BH301, BH302 and BH304, to reduce noise to 60dB within 5m of each rig. Beyond this distance noise is considered to be lowered sufficiently so as to minimise disturbance impacts on turnstone.
- Natural vegetation screens rigs BH301, BH302 and BH304. Rig BH107 will be moved to minimise impacts.

The risks of LSE from waterborne pollution on the SPA and the SAC will be managed through embedded mitigation as follows:

- standard pollution prevention and management measures, including control measures such as use of plant nappies for static machinery and spill kits and drip trays during refuelling to be set out in a CEMP (not supplied).

The report states that these mitigation measures will be sufficient to conclude that there will be no LSE on the designated sites from the proposed project.

However, it is noted that in Table 1.1, Natural England, whilst largely agreeing with the conclusion of the draft HRA AA, provided the following advice;

“We advise that you include a mitigation measure due to the timing of the activity that the GI works are suspended after 5 days of freezing weather and then they can only re-start after there has been 3 days of thaw conditions.”

This has not been included in the submitted Report to Inform Habitat Regulations Assessment.

I would therefore advise the Case Officer that the submitted Report to Inform Habitat Regulations Assessment can be adopted as the LPA's HRA of the proposed project subject to the addition of the mitigation measure advised by Natural England.

Natural England

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

Natural England considers that without appropriate mitigation the application would have an adverse effect on the integrity of the Northumbria Coast Special Protection Area and Ramsar Site and the Durham Coast Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- The use of eco-acoustic panels where deemed required to reduce noise impacts.
- Relocation of BH107 16m to minimise disturbance impacts.
- A Construction Environmental Management Plan (CEMP)

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. A lack of objection does not mean that there are no significant environmental impacts. Natural England advises that all environmental impacts and opportunities are fully considered, and relevant local bodies are consulted. Natural England's further advice on designated sites and advice on other natural environment issues is set out below.

Further advice on mitigation

Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

The mitigation measures are set out in section 7 of the HRA and are as follows:

- Eco-acoustic panels (Echo Acoustic Quilt H8) to be installed around rigs used at BH107, BH108, BH201, BH204, BH301, BH302 and BH304 to reduce noise disturbance.
- Relocating BH107 to be 16m from the current proposed location to minimise impacts from noise and visual disturbance.
- A Construction Environmental Management Plan detailing pollution prevention and management measures.

Assessment

Article 3(1) of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended states that planning permission for development described as permitted development in Schedule 2 is granted subject to the provisions of the Order, and Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations).

Regulation 75 of the Conservation of Habitats and Species Regulations 2017 states that it is a condition of any planning permission granted by a general development order (such as the GPDO) that development which is likely to have a significant effect on a European Site 'must not be begun' until the developer has received written notification of the approval of the local planning authority under Regulation 77.

This development is located in close proximity to the following sites:

International Statutory Designated Sites

- Northumbria Coast Ramsar Site 3.08km north east
- Northumbria Coast Special Protection Area (SPA) 3.09 km north east
- Durham Coast Special Area of Conservation (SAC) 3.79 km east

National Statutory Designated Sites

- Northumberland Shore SSSI 2.73km northeast
- West Farm Meadow, Boldon SSSI 2.84km south
- Durham Coast SSSI 3.08 km north east
- Harton Down Hill SSSI 4.18 km east
- Cleadon Hill SSSI 4.04km east
- Boldon Pastures SSSI 4.49km south east

Local Statutory Designated Sites

- Primrose Local Nature Reserve (LNR) 1.34 km south west
- Wallsend Dene LNR 2km west
- Station Burn LNR 2.08 km south
- Tilesheeds LNR 3.32 km southeast
- Pelaw Quarry Pond LNR 3.8 km southwest
- Harton Down Hill LNR 4.05 km east
- Marsden Old Quarry LNR 4.15 km southeast
- Cleadon Hills LNR 4.18k km southeast
- Marsden Quarry LNR 4.5 km north east

Local Non-statutory Designated Sites

- River Tyne tidal extent (Newcastle Local Wildlife Sites (LWS) and Northumberland LWS located within the Site boundary
- Howdon Wetlands LWS within the Site boundary
- Jarrow Slake Mud Flats LWS located within the Site boundary
- Towers ZZA066 and ZZA067 lie within the River Don Salt Marsh LWS

- Straker Street LWS is located 445m southwest
- Cemetery Road LWS is located 750m southwest
- Temple Park West LWS is located approximately 1.8km southeast of the Site
- Station Burn LWS is located 2.07 km south of the Site
- Newton Garths LWS is located 2.13km south of the Site

When developers apply for planning permission for the type of development proposed within the coastal zone of influence, the LPA has to fulfil its obligations under the Wildlife and Countryside Act (for SSSIs) and the Conservation of Habitats and Species Regulations (for SPAs, SACs and Ramsar Sites), by ensuring that the development will not have adverse impacts on designated sites.

Regulation 76 provides that an applicant may first apply in writing to the appropriate nature conservation authority for its opinion as to whether their development is likely to have a relevant effect. However, this present application represents a submission under Regulation 77 of the Conservation of Habitats Species Regulations for the Council's confirmation as to whether or not the proposal would have an adverse effect on European sites.

Regulation 77(1) of the Habitats Regulations states that an application must be made to the Local Planning Authority and for the purposes of its consideration, the Local Planning Authority must assume that the development is likely to have a relevant effect (2). As per Section (3) of the Regulation, the appropriate nature conservation body (in this case, Natural England) must be consulted on the application. Where the nature conservation body does not consider that the development is likely to have a relevant effect, their representation must be forwarded to the applicant (4 and 5).

Regulation 77(6) states that 'In any other case in which the application has been sent to the appropriate nature conservation body, the local planning authority must, taking account of any representations made by the appropriate nature conservation body, make an appropriate assessment of the implications of the development for the European site or European offshore marine site in view of that site's conservation objectives.

Regulation 77(7) then states that: In the light of the conclusions of the assessment the local planning authority may approve the development only after having ascertained that it will not adversely affect the integrity of the site. Conversely, if it cannot be ascertained that the development would not result in an adverse effect, the local planning authority may refuse the application.

The application has been considered in light of the assessment requirements of Conservation of Habitats Species Regulations by South Tyneside Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.

Natural England have raised no objections subject to the following mitigation measures:

- Eco-acoustic panels (Echo Acoustic Quilt H8) to be installed around rigs used at BH107, BH108, BH201, BH204, BH301, BH302 and BH304 to reduce noise disturbance.
- Relocating BH107 to be 16m from the current proposed location to minimise impacts from noise and visual disturbance.
- A Construction Environmental Management Plan detailing pollution prevention and management measures.

The Council's Countryside Team have raised no objections to the development subject to the mitigation measures as set out by Natural England.

A condition is proposed to require the submission of a Construction Environmental Management Plan which would include the use of Eco-acoustic panels. With regards to the mitigation relating to the relocation of borehole BH107, the applicant has noted in their submission that this borehole would be relocated to minimise impacts. However this borehole is not included within the scope of this application and so it is considered not reasonable to require its relocation.

Having regard for the above, and subject to the above mitigation measures, it is considered that the project would not adversely affect the integrity of any European site. In making that decision the competent authority took account of the potential for the project to contribute to cumulative effects of other plans or projects.

Conclusion

In deciding whether to grant prior approval the Council must have due regard to the 3 equality aims contained in Section 149 of the Equality Act 2010 (the public sector equality duty). A preliminary assessment of the potential equality impacts of any grant of prior approval in this case has been undertaken. There are no apparent equality impacts of the proposed development which give rise to the need to undertake a more detailed equality impact assessment.

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Having regards to the above the Local Planning Authority consider that the proposal would not result in a significant adverse impact on the integrity of nearby designated sites. The Council can therefore approve the development under Regulation 77 of the Habitats Regulations. It is therefore recommended that, although prior approval is required, it is hereby approved.

Conditions

- 1 The development shall be carried out in accordance with the approved plan(s) as detailed below

Appropriate Assessment received 18/11/2025

Ground Investigations HRA Screening Map 2 of 2 Rev P01.1 received 18/11/2025

Any minor material changes to the approved plans will require a formal planning application under S73 of the Town and Country Planning Act 1990 to vary this condition and substitute alternative plans.

In order to provide a procedure to seek approval of proposed minor material change which is not substantially different from that which has been approved.

- 2 The development hereby approved shall not commence until a Construction Environment Management Plan (CEMP) in respect of the development, together with a supporting plan, has been submitted to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to throughout the period during which the ground investigation works comprising the development are undertaken. The CEMP and supporting plan shall provide for:
- a) Pollution prevention and management measures
 - b) The installation of eco-acoustic panels (Echo Acoustic Quilt H8) around rigs used at BH204, BH301, BH302 and BH304

In the interests of biodiversity in accordance with Policies DM7 and EA3 of the South Tyneside LDF and the NPPF.

Case officer: Seán Gallagher

Signed: SG

Date: 09/12/2025

Authorised Signatory: G.Horsman

Date: 11/12/2025