

REPORT TO EXECUTIVE

Date of Meeting: 7 October 2014

Report of: Assistant Director City Development

Title: Strategy and Governance for European Site Development Impact Mitigation

Is this a Key Decision?

No

Is this an Executive or Council Function?

Executive

1 What is the report about?

- 1.1 This report seeks Executive approval of a joint approach with East Devon and Teignbridge District Councils to securing mitigation of adverse impacts that could arise from development on the key wildlife sites of the Exe Estuary, Dawlish Warren and the East Devon Pebblebed Heaths.

2 Recommendation:

- 2.1 That Members agree proposals to establish a joint committee that would oversee and prioritise funds for mitigation projects. Mitigation projects should be approved on the basis of unanimous agreement between committee members. Further discussion at the next meeting of Council Leaders should address how the committee will operate before it is first convened.

3 Reasons for Recommendation:

- 3.1 It is a statutory requirement for the Council to mitigate the impacts of new development on European Sites. A cross boundary approach is considered the most effective solution to achieving this.

4. What are the resource implications including non financial resources?

- 4.1 The proposed approach will have implications for future decisions on the use of Community Infrastructure Levy funding. The proposed approach (including joint committee) would be resourced using funds from the mitigation moneys that are being secured.

5. Section 151 Officer comments:

- 5.1 There are no additional financial implications for the Council contained in this report.

6. What are the legal aspects?

It is a statutory requirement for the Council to mitigate the impacts of new development on European Sites. The approach of using a Joint Committee seems a logical and justifiable approach to ensuring that the impacts on all of the European Sites are properly and fairly mitigated. There are specific legal requirements in terms of establishing such a committee (set out in Section 102 of the Local Government Act 1972 and associated Regulations) which will need to be adhered to when setting up the Committee and formulating its remit/terms of reference. In that regard the Council (along with the partner authorities) will need to formally delegate the appropriate powers to it once it has been established. There will be further work and authorisations required and further approval from Executive will be necessary.

7. Monitoring Officer Comments:

7.1 Monitoring Officer is happy with the principle of establishing a Joint Committee. However, careful consideration will need to be given to issues such as:

- a) The committee's terms of reference?
- b) The composition of the committee?
- c) Will member substitution be accepted?
- d) Will the committee be politically balanced?
- e) What will be the scrutiny arrangements?
- f) Who will support the committee in terms of committee admin workload?
- g) Where will the meetings take place?

8. How does the decision contribute to the Council's Corporate Plan?

8.1 The proposed joint committee would make decisions relating to conserving natural habitats and wildlife that would contribute towards implementation of the Green Infrastructure Strategy.

9 Background

8.1 The Habitat Regulations 2010 protect important wildlife on designated 'European Sites'. Whilst building directly on any designated wildlife site can typically result in the greatest adverse impacts it is also the case that development some distance away can have adverse impacts. Of greatest relevance in respect of this report is where new house building will lead to greater population levels and therefore increased human activity on or at the designated sites.

8.2 Under the Habitat Regulations it is not just the impacts that development in Exeter will have on the European Site in Exeter (the Exe Estuary) that need to be considered. All authorities need to consider impacts of development on designated sites within and beyond their boundaries. In this respect, and for Exeter, East Devon, and Teignbridge, there are three critical sites that are vulnerable to adverse impacts and on which a common approach to mitigation is appropriate, these are:

- the Exe Estuary (falling in Exeter, East Devon and Teignbridge);
- the Pebblebed Heaths (in East Devon only); and
- Dawlish Warren (in Teignbridge only).

8.3 The Exeter Core Strategy already commits to securing mitigation for the impacts of new development on the European Sites. Projects that would achieve this feature at the top of the Council's list of CIL funded infrastructure.

9. Evidence of Impacts

9.1 Of great importance at all three sites are the bird populations they support. The sites are key feeding, roosting and breeding locations and human activity on, at or close to the sites can cause significant disturbance to birds, the death of birds and population decline. With a projected increase in human population levels, resulting as a consequence of more houses being built, clear evidence has been prepared for the Councils that predicts more activity on the European Sites. If mitigation is not put in place this will lead to greater adverse impacts.

9.2 To help understand more about the nature, scale and location of human impacts, and the underlying ecology of the sites, the three councils, in partnership with Natural England and the Royal Society for the Protection of Birds (RSPB) (the 'stakeholders'), have commissioned a series of reports. These

have culminated in the South-East Devon European Site Mitigation Strategy. Extensive research and survey work has gone into the production of this report and it establishes the appropriateness of a 10 kilometre buffer around the designated sites within which new residential development should contribute to mitigation. This buffer is informed by the distance beyond which the visit rate per house to sites falls off to a very low proportion of the whole (see appendix 1).

10 Mitigation Measures

10.1 The mitigation strategy also sets out recommendations in respect to approaches to mitigation. Therein, it proposes specific projects. Mitigation measures need to be put in place to ensure that impacts in the future, after any new housing is built, will not exceed those that are occurring at present. Rather than each separate planning application needing to be accompanied by its own assessment and package of mitigation measures, the Mitigation Strategy takes into account the cumulative impacts of all planned developments and provides for a collective approach that can be applied to all (relevant) applications.

10.2 Mitigations measures fall into two categories. These are:

- a) **On Site Works** – works on, at or directly related to the designated site. These for example might relate to access to, or use of, a site.
- b) **SANGs** - or Suitable Alternative Natural Greenspaces. These involve works to create or upgrade less sensitive areas away from the designated site, which will then attract users who would otherwise cause adverse impacts to the European site.

On Site Measures

10.3 In respect of on-site projects, the mitigation strategy identifies schemes that include:

- a) reducing access to more sensitive areas and promoting access to less sensitive areas and to locations outside of designed sites;
- b) planting and screening of sensitive areas;
- c) controlling/regulating access on to and through sensitive areas;
- d) public education initiatives and signposting;
- e) better and more warden service; and
- f) changing by-laws and other means to control/influence user activity

SANGs

10.4 In terms of SANGs there are three proposals that relate to Exeter. One is for a new country park in Teignbridge between Alphington and Exminster and north of the M5 motorway at South West but it is not proposed that the Council collect funds for this project on the basis that more cost effective solutions can be achieved within Exeter's existing valley parks.

- a) **Clyst Valley Regional Park** – this park proposal is in and around the 'West End' of East Devon. The park will cover an extensive area and within it will be a number of areas that will qualify as SANGs. It needs to be stressed that the park in totality provides a far wider role and function than just being a SANGs. A Green Infrastructure Strategy has already been produced for the Growth Point area and the Clyst Valley Regional Park sits within this overarching strategy. A dedicated officer post is in place to help deliver this park.
- b) **Riverside and Ludwell Valley Parks** - utilising the existing Valley Parks, the intention is to enhance the attractiveness of a series of linked areas and spaces that function as SANGs. In respect of relevance to habitat mitigation the key output from these SANGs will be their

ability to attract recreational users away from the Exe (beyond Bridge Road), in particular this will mean dogs and dog walkers; and to some extent walkers, cyclists and others. An Expression of Interest has been submitted to the HCA for funding of a masterplan and a dedicated officer post is in place to help deliver these improvements

Mitigation Officer Post

10.5 The Mitigation Strategy is clear that mitigation projects will only succeed if there is staff resource available to implement the projects and monitor impacts. Within the three authorities there is not currently a staff resource to undertake these functions and for this reason it is proposed that a new post is created. The collective view from all stakeholders is that this post would best sit within the New Growth Point Team. The proposal is that post holder would be responsible to a new cross-authority Committee and it is proposed that an initial contract would be for a three year period. The cost of the post would be met proportionate to the mitigation monies collected and as such there would be no direct budget implications/costs for the three local authorities.

11 Joint Mitigation Committee

11.1 The stakeholders also agree that it would be appropriate to establish a Committee to oversee the mitigation proposals and work. This would be similar to an established approach in Dorset in respect of management of impacts on the Dorset Heaths European site. The expectation is for a Committee that would meet on an occasional basis, would be advised by the mitigation officer and other officers, and that could draw on experts from other interest areas that could, for example, include recreation bodies, the Environment Agency and the Exe Estuary Management Partnership who are already responsible for managing different aspects of the Exe Estuary. The Committee could meet on the same day as the existing Green Infrastructure Board.

11.2 The proposal is that the voting powers of the Committee will rest with three elected members, one drawn from each constituent authority. The Members will receive recommendations for projects and expenditure of monies and set priorities for future action. It is considered that it would be most desirable if it were a new formal Committee that has decision making powers, rather than making recommendations to the constituent authorities' Executive Committees. This option has been considered, but it is proposed to build on the joint work that has already been undertaken by the three authorities.

11.3 The approach of using a Joint Committee seems a logical and justifiable approach to ensuring that the impacts on all of the European Sites are properly and fairly mitigated. Before the Committee can proceed, further work and authorisation will be required, including further approval from Executive.

12 Funding for Mitigation

12.1 The three constituent authorities are already securing mitigation under the Habitat Regulations, through Section 106 agreements. It is a legal requirement (we have no choice) that Habitat Regulations are complied with. There is an existing interim approach whereby £350 per dwelling is collected based on initial simple cost assessments. The new Mitigation Strategy now justifies and requires that higher levels of money are secured.

12.2 The Mitigation Strategy costs now identified mean an increase in the costs of securing habitat mitigation. Clearly this will have a bearing on the amount of funding available for other infrastructure but mitigation must be secured if planning permission for new housing is to be granted. As a result the payment of the habitat mitigation contribution through CIL will have to be prioritised with monies relating to each qualifying development dedicated directly from CIL receipts.

12.3 The South-East Devon European Site Mitigation Strategy identifies development of 30,170 new homes in the current/emerging local plans, across the three local authority areas and within the buffer zones shown on the map at Appendix A. The mitigation projects in the strategy are estimated at £23,533,767.

12.4 Of the total cost some £14.4 million is accounted for through SANGs and £9.15 million through On-Site measures. The Mitigation Strategy tabulates costs per dwellings for on-site measures, providing a breakdown for the various zones at Appendix 3 of this report.

On Site Costs

12.5 The Strategy identifies on site costs for mitigating impacts on each European Site and divides them by the number of dwellings planned for within that site’s ‘zone’. The Exe zone covers the entire city and the Pebblebed zone encompasses all land north of the River Exe and east of a line running approximately between ‘Millbrook Village’, Topsham Road and Polsloe Bridge Station (see appendix 1). Charges relevant to both zones would apply to the Newcourt and Monkerton/Hill Barton strategic allocation but not where planning permission has already been granted.

SANGs

12.6 For the SANGs measures the mitigation strategy does not show overlapping SANGs zones (see Appendix 2). The mitigation strategy shows a total SANGs cost of £14.4 Million. This divided by the 30,170 homes gives an average cost per home of £477. However, City Council officers have provided cost estimates for making improvements to the Riverside and Ludwell Valley Parks (as an alternative to a new country park proposed in Teignbridge at SW Exeter. These suggest a cost of £220 per dwelling in Zone B.

12.7 The figure for Zone B may be subject to future revisions arising from the proposed valley parks masterplan. Work is also ongoing to review the cost figure for Zone C but it is recommended that £477 per dwelling is set aside in the meantime. Based on the current costs however, it is proposed that the Council set aside the following amounts per dwelling depending on development location.

Total Costs in Exeter

12.8 Across all three authority areas there will be 9 separate charging zones with costs per dwelling ranging from £343 to £1420. The following table combines the SANGs and on-site zones relevant to Exeter and sets out the various costs applicable to each. Appendix 3 illustratively maps the 4 charging zones

Table 1 : Costs per dwelling in Exeter

Zone (See Appendix 3)	Charge for On-Site Measures	Charge For SANGs	Total Charge Per New Dwelling
A	£123	£220	£343
B	£272	£220	£492
C	£272	£477	£749
D	£123	£477	£600

When?	What?
September / October 2014	Agreement of all three local authorities is being sought for: <ul style="list-style-type: none"> - establishment of the Committee (in principle) - employment of the Mitigation Officer - all other required measures.
October 2014	The new charging approach will be applied across all three authority areas
October 2014	Advertisement placed for the mitigation officer post, interviews are expected in September 2014
Autumn 2014	Officer in post and the Committee formally established
Winter 2014/2015	Executive formally delegate the appropriate powers to the Joint Committee

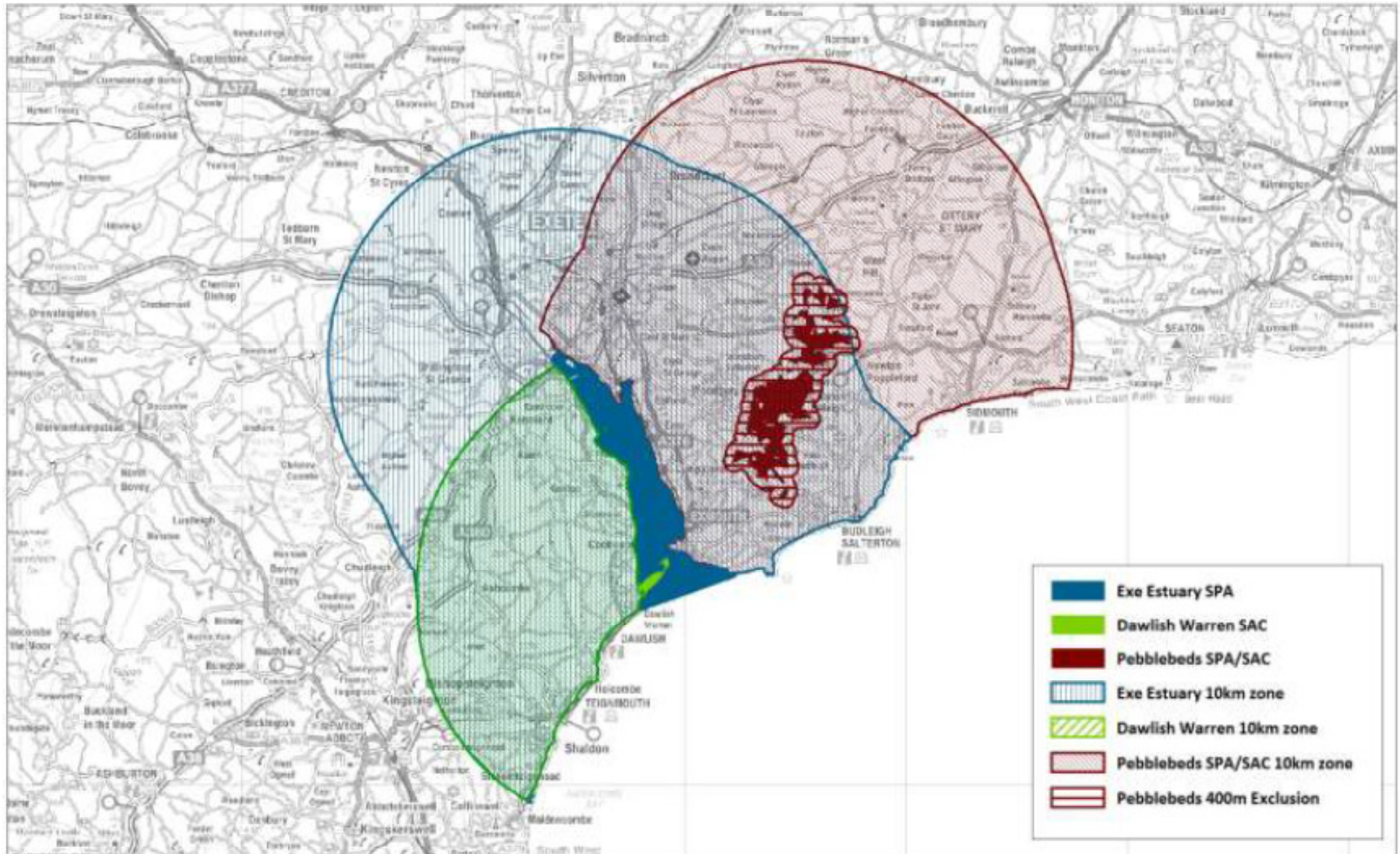
14 **Planning Member Working Group**

Planning Member Working group considered a version of this report on 26 August 2014 and offered support for the joint mitigation strategy and proposed joint committee. It was suggested that discussions between the Leader and respective Leaders of East Devon and Teignbridge District Councils would help to finalise the structure, procedures and constitution of the committee before the appropriate powers are formally delegated. Members indicated a preference for the committee's approval of mitigation projects to rely on unanimous agreement.

Assistant Director City Development

Contact for enquiries
 Democratic Services (Committees)
 Room 2.3
 01392 265275

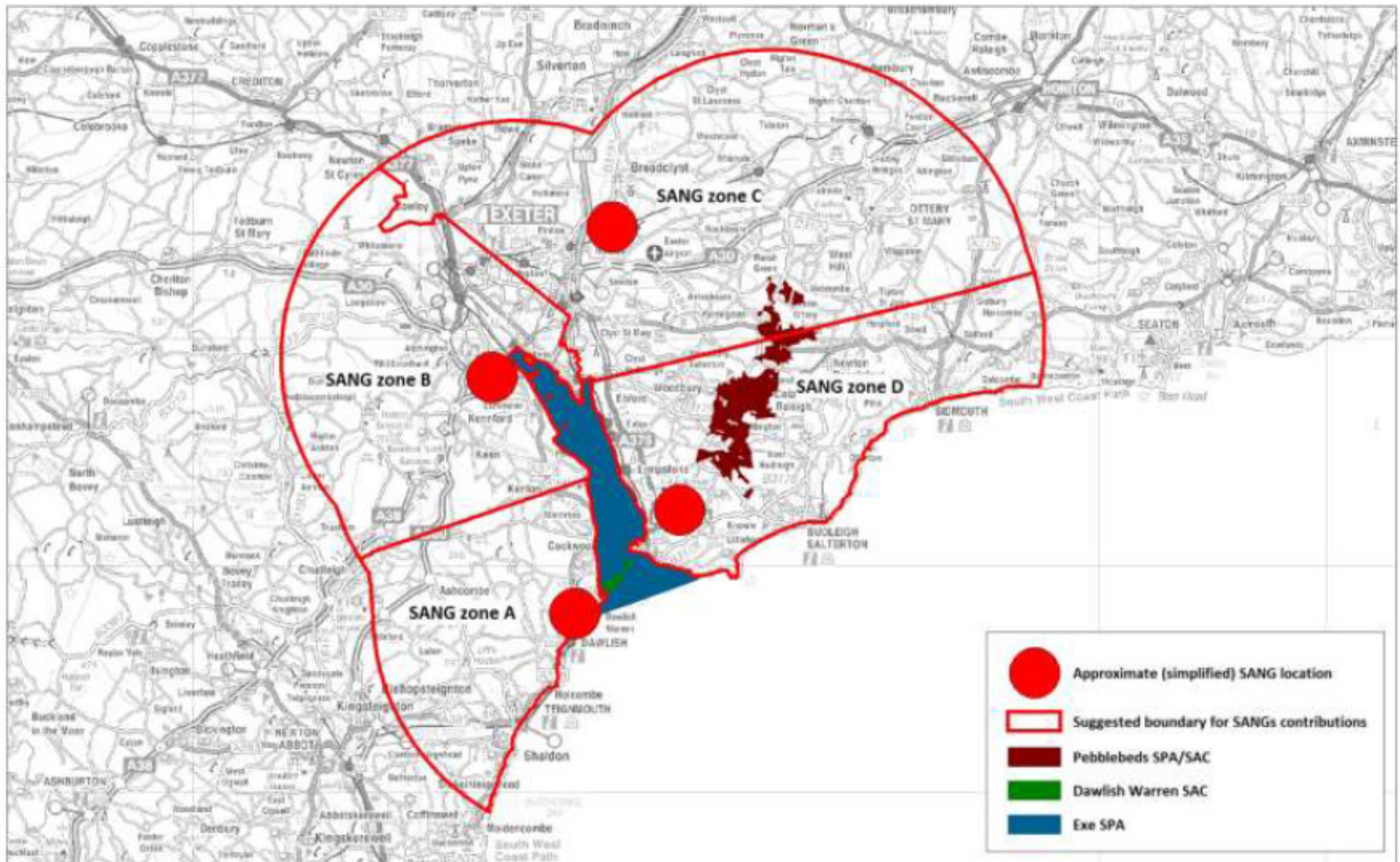
Appendix 1: 'On Site' Zones



Map 19: Suggested Zoning for Developer Contributions

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Appendix 2: 'SANGs' Zones



Map 20: Geographic breakdown of areas for SANGs contributions

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Appendix 3: Indicative Combined Charging Zones in Exeter

