

## Planning policy consultation

# Draft Affordable Housing Supplementary Planning Document

Screening report for Strategic Environmental Assessment and Habitats Regulations



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## 1. Overview

- 1.1 The purpose of this screening report is to assess the potential impacts of the Affordable Housing supplementary planning document (October 2019), to determine whether it requires:
- Strategic Environmental Assessment (SEA)
  - Habitats Regulations Assessment (HRA)
- 1.2 This report contains separate sections which set out the findings of the screening assessment for these two issues.
- 1.3 Following the first round of public consultation over March to May 2019, this screening report is being published for consultation alongside the draft supplementary planning document (SPD) from Tuesday 14 January until Friday 28 February (at 5pm). The SPD and supporting documents can be seen on our website:  
<http://eastdevon.gov.uk/planning/planning-policy/housing-issues/affordable-housing/>
- 1.4 Consultation responses must be submitted in writing by email to [planningpolicy@eastdevon.gov.uk](mailto:planningpolicy@eastdevon.gov.uk) or by post to Planning Policy, East Devon District Council, Blackdown House, Border Road, Heathpark Industrial Estate, Honiton EX14 1EJ. Consultation responses will be published on the council's website. This will include your name and address but contact details and signatures will be redacted.

### Data Protection

- 1.5 Any personal information which you provide will be held and used by East Devon District Council for the purpose of the Affordable Housing supplementary planning document and may inform other planning policy work. Your information may also be shared within East Devon District Council for the purposes of carrying out our lawful functions. Otherwise your personal information will not be disclosed to anybody outside East Devon District Council without your permission, unless there is a lawful reason to do so, for example disclosure is necessary for crime prevention or detection purposes. Your information will be held securely and will not be retained for any longer than is necessary. There are a number of rights available to you in relation to our use of your personal information, depending on the reason for processing. Further detail about our use of your personal information can be found in the relevant [Privacy Notice](#).<sup>1</sup>

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<sup>1</sup> The relevant Data Protection Privacy Notice can be seen at: <http://eastdevon.gov.uk/media/2764832/planning-policy-considering-representations-in-respect-of-neighbourhood-plans-and-development-plans.pdf>

## 2 Strategic Environmental Assessment

### Introduction

- 2.1 This section of the screening report assesses the Affordable Housing SPD to determine whether it requires a Strategic Environmental Assessment (SEA) in accordance with The Environmental Assessment of Plans and Programmes Regulations 2004, which implement the requirements of the European Directive 2001/42/EC.<sup>2</sup> This Directive (known as the “SEA Directive”) seeks to provide a high level of protection to the environment by integrating environmental considerations into the process of preparing certain plans and programmes, with a view to promoting sustainable development.
- 2.2 Under this legislation, SEA is required for plans that could have significant environmental effects. National guidance states that in exceptional circumstances an SEA may be required when producing an SPD.<sup>3</sup>
- 2.3 This report has been sent to the three consultation bodies specified in the regulations (Historic England, Environment Agency and Natural England) for their consideration, but is open to comments from any organisation or individual alongside consultation on the draft Affordable Housing SPD.

### Screening process

- 2.4 To determine whether SEA is required, a “screening” exercise is undertaken to evaluate a plan (or programme) against the criteria for determining the likely significance of effects on the environment, as set out in the regulations.<sup>4</sup> If the screening exercise indicates that the plan (or programme) is likely to have significant environmental effects, a ‘full’ SEA that follows the process in the regulations should be prepared alongside the plan. If screening concludes that a full SEA is not required, this will be documented in the screening assessment – this conclusion will be revisited if there are significant changes to the plan as it is being prepared.
- 2.5 The diagram below (figure 2.1) shows how the SEA Directive should be applied when considering whether a plan (or programme) requires SEA.

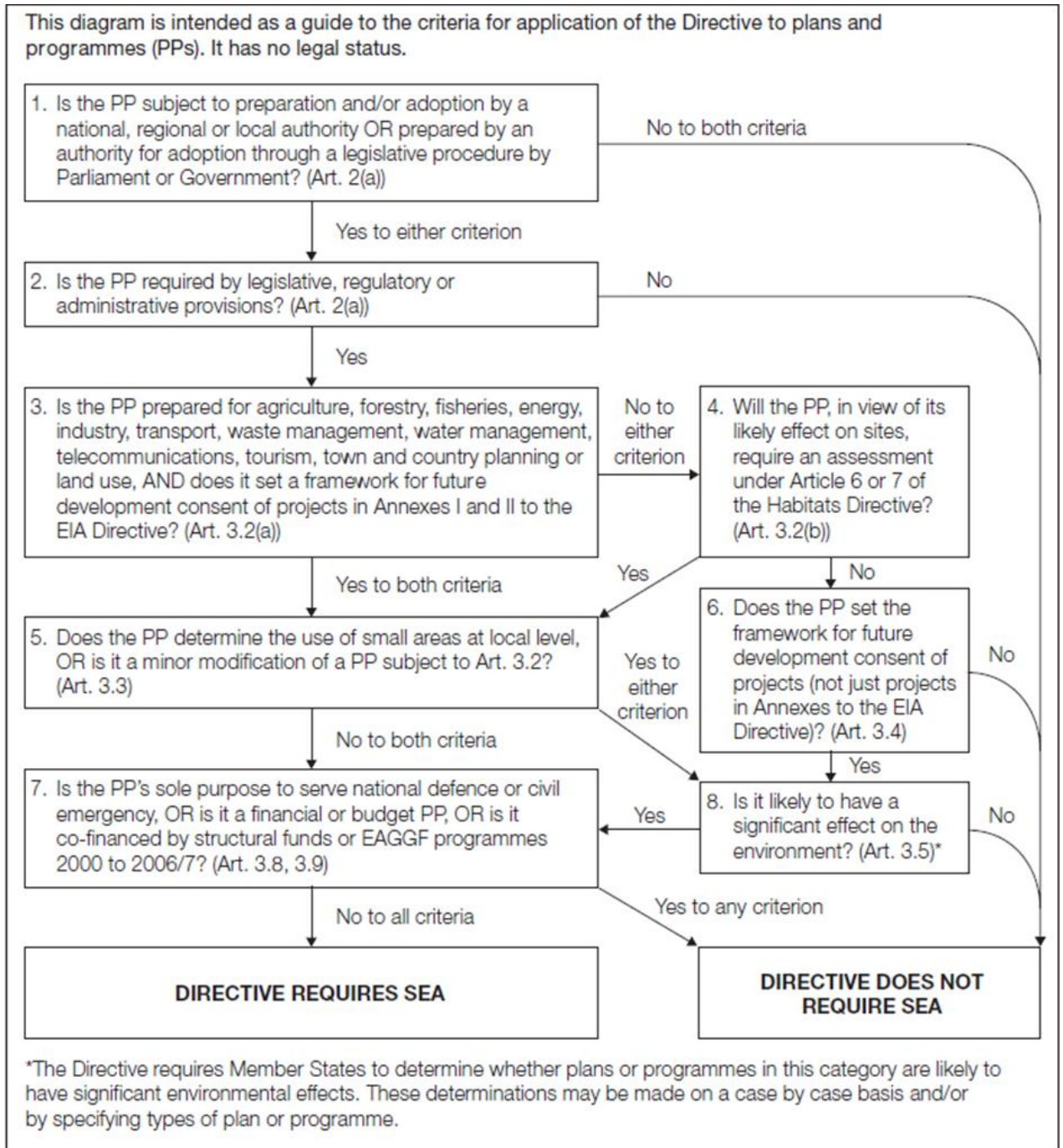
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<sup>2</sup> The Environmental Assessment of Plans and Programmes Regulations 2004: <http://www.legislation.gov.uk/ukxi/2004/1633/contents/made> ; European Directive 2001/42/EC: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32001L0042>

<sup>3</sup> Planning Practice Guidance, Reference ID: 12-028-20140306: <https://www.gov.uk/guidance/local-plans--2#local-plans-adoption>

<sup>4</sup> The Environmental Assessment of Plans and Programmes Regulations 2004, Regulation 9 and Schedule 1: <http://www.legislation.gov.uk/ukxi/2004/1633/contents/made>

**Figure 2.1: Application of the SEA Directive to Plans and Programmes<sup>5</sup>**



2.6 The following section applies this process to the Draft Affordable Housing SPD.

<sup>5</sup> Diagram taken from 'A Practical Guide to the Strategic Environmental Assessment Directive', ODPM: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/7657/practicalguide\\_sea.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7657/practicalguide_sea.pdf)

## Screening assessment of the Draft Affordable Housing Supplementary Planning Document

- 2.7 The purpose of the Affordable Housing supplementary planning document (SPD) is to provide guidance on the implementation of affordable housing policies in the adopted East Devon Local Plan 2013 to 2031, and the Cranbrook Plan (when adopted). The SPD explains when and how affordable housing will be secured in order to deliver sustainable communities in East Devon. It reflects national Government policy on affordable housing in the National Planning Policy Framework.
- 2.8 It is important to note that the affordable housing policies in the Local Plan were subject to Sustainability Appraisal, which incorporated the requirements of the SEA regulations. Therefore, the likely significant environmental effects of affordable housing policies have already been identified and addressed – the SPD merely provides guidance on these existing policies. The SA of the Local Plan has informed this SPD screening assessment.<sup>6</sup>
- 2.9 The table below applies the process shown in figure 2.1, to screen whether the Draft Affordable Housing SPD requires an SEA. Note that the question numbers are not chronological in some places, as the yes/no answer dictates the next question to consider.

**Figure 2.2: Assessment of the application of the SEA Directive against the Draft Affordable Housing SPD**

Stage	Yes / No	Reason
1. Is the SPD subject to preparation and/or adoption by a national, regional or local authority OR prepared by an authority for adoption through a legislative procedure by Parliament or Government? (Art. 2(a))	Yes	The SPD will be prepared and adopted by East Devon District Council.
2. Is the SPD required by legislative, regulatory or administrative provisions? (Art. 2(a))	Yes	The SPD meets the characteristics set out in the Government's Practical Guide to the SEA Directive in that that it will be publicly available, prepared in a formal way and involve consultation with interested parties.
3. Is the SPD prepared for agriculture, forestry, fisheries, energy, industry,	No	The SPD is prepared for 'town and country planning' and 'land use'

<sup>6</sup> East Devon Local Plan – updated Sustainability Appraisal Report:  
<http://eastdevon.gov.uk/media/1515306/psd2015w-2-sareportincpropchangesaug2015.pdf>

Stage	Yes / No	Reason
transport, waste management, water management, telecommunications, tourism, town and country planning or land use, <b>AND</b> does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Art 3.2(a))		but, whilst some developments to which the guidance applies will be of a scale that would fall within Annex II of the EIA Directive at a local level, the guidance does not specifically plan for or allow it.
5. Does the SPD determine the use of small areas at local level, OR is it a minor modification of a PP subject to Art. 3.2? (Art. 3.3)	No	The SPD will not determine the use of small areas at a local level.
8. Is it likely to have a significant effect on the environment? (Art. 3.5)	No	See screening assessment for environmental effects in figure 2.3 of this report.

### DIRECTIVE DOES NOT REQUIRE SEA

2.10 Stage 8 above asks whether the SPD is likely to have a significant effect on the environment. The following figure 2.3 provides a detailed answer to this by assessing the SPD against the criteria for determining the likely significance of effects.

**Figure 2.3: Assessment as to whether the Draft Affordable Housing SPD is likely to have a significant effect on the environment**

Criteria for determining the likely significance of effects <sup>7</sup>	Is the SPD likely to have a significant environmental effect?	Justification
The degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources.	No	The SPD provides guidance on implementing affordable housing policies in the adopted East Devon Local Plan 2013 – 2031, (and Cranbrook Plan when adopted). Therefore, the SPD is implementing an existing framework, setting a

<sup>7</sup> As set out in The Environmental Assessment of Plans and Programmes Regulations 2004, Schedule I: <http://www.legislation.gov.uk/ukxi/2004/1633/contents/made> ; and European Directive 2001/42/EC, Article 3.2: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32001L0042>



<b>Criteria for determining the likely significance of effects<sup>7</sup></b>	<b>Is the SPD likely to have a significant environmental effect?</b>	<b>Justification</b>
		framework for projects and other activities to only a limited degree.
The degree to which the plan or programme influences other plans and programmes including those in a hierarchy.	No	The SPD is adding detail to the adopted East Devon Local Plan and other policies in the development plan. It should also be consistent with national policy, the relevant regulations and European Directive. Therefore, it is not considered to have a particular influence on any other plans and programmes.
The relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development.	No	The SPD has limited relevance for the integration of environmental considerations, but promotes the 'social' objective of sustainable development by providing guidance on the delivery of affordable housing.
Environmental problems relevant to the plan or programme.	No	There are no significant environmental problems relevant to the SPD.
The relevance of the plan or programme for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste management or water protection).	No	The SPD has no relevance for the implementation of Community legislation on the environment.
The probability, duration, frequency and reversibility of the effects.	No	The SPD will not cause any of these effects as it just adding detail to affordable housing policies in the Local Plan.
The cumulative nature of the effects.	No	The SPD will not cause any cumulative effects as it just adding detail to affordable housing policies in the Local Plan.
The trans-boundary nature of the effects.	No	The SPD will not lead to any trans-boundary effects as it just adding detail to affordable housing policies in the Local Plan and does not

Criteria for determining the likely significance of effects <sup>7</sup>	Is the SPD likely to have a significant environmental effect?	Justification
		influence the location of development.
The risks to human health or the environment (e.g. due to accidents).	No	The SPD will not cause risks to human health or the environment as it just adding detail to affordable housing policies in the Local Plan.
The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected).	No	The SPD will not cause any of these effects as it just adding detail to affordable housing policies in the Local Plan, and does not influence the location of development.
The value and vulnerability of the area likely to be affected due to: special natural characteristics or cultural heritage; exceeded environmental quality standards or limit values; intensive land-use.	No	The SPD will not lead to significant effects on the value and vulnerability of the area as it just adding detail to affordable housing policies in the Local Plan, and does not influence the location of development.
The effects on areas or landscapes which have a recognised national, Community or international protection status.	No	The SPD does not influence the location of development, so will not cause effects on protected landscape sites.

### Consultation responses to SEA and HRA Screening Report, March to May 2019

- 2.11 Of the three consultation bodies, only Natural England responded to consultation on the Draft Affordable Housing SPD (March 2019). This response states that SPD only requires SEA in exceptional circumstances, as set out in Planning Practice Guidance.
- 2.12 No other consultation responses referred to SEA.

### Conclusion

- 2.13 Based upon the screening assessment in figures 2.2 and 2.3 above, it is considered that the Draft Affordable Housing SPD (October 2019) does not require a full Strategic Environmental Assessment to be undertaken. This conclusion will be revisited if there are significant changes to the plan following the second round of public consultation.

## 3 Habitats Regulations Assessment

### Introduction

- 3.1 Habitats Regulations Assessment (HRA) is a systematic process through which the performance of a plan or project can be assessed for its likely impact on the integrity of a European site. These sites have been given the highest levels of protection in the hierarchy of sites designated to protect important features of the natural environment.
- 3.2 European sites are defined in legislation,<sup>8</sup> and include: Special Protection Areas (SPA), Special Areas of Conservation (SAC), candidate Special Areas of Conservation, and any relevant Marine Sites. National policy also gives the same protection to potential Special Protection Areas, possible Special Areas of Conservation, listed or proposed Ramsar sites, and sites identified or required for compensatory measures for adverse effects on (European or) these sites.<sup>9</sup>
- 3.3 The Conservation of Habitats and Species Regulations 2017 (the “Habitats Regulations”) transpose the requirements of the European Habitats Directive 1992<sup>10</sup> and the Wild Birds Directive 2009<sup>11</sup> into national law. The Habitats Directive and Regulations afford protection to plants, animals and habitats that are rare and vulnerable in a European context.
- 3.4 In accordance with Article 6(3) of the EU Habitats Directive and Regulation 63 of the Conservation of Habitats and Species Regulations 2017, this screening report determines whether or not the Affordable Housing SPD requires a HRA. 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 and projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives”.*
- 3.5 As the SPD covers the whole of East Devon, the impact upon all European Sites in the district (and potentially beyond) should be considered. It is important to note that the affordable housing policies in the Local Plan were subject to Habitats Regulations

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<sup>8</sup> Conservation of Habitats and Species Regulations 2017, Regulation 8:  
[http://www.legislation.gov.uk/uksi/2017/1012/pdfs/ukxi\\_20171012\\_en.pdf](http://www.legislation.gov.uk/uksi/2017/1012/pdfs/ukxi_20171012_en.pdf)

<sup>9</sup> National Planning Policy Framework, paragraph 176:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740441/National\\_Planning\\_Policy\\_Framework\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf)

<sup>10</sup> European Council Directive 92/43/EEC.

<sup>11</sup> European Council Directive 2009/147/EC.

Assessment.<sup>12</sup> This found no likely significant effects relating to the affordable housing policies (Strategy 34, 35). The HRA of the Local Plan has informed this SPD screening assessment.

- 3.6 Following a European Court of Justice ruling (People Over Wind & Sweetman v Coillte Teoranta, April 2018), it is not appropriate to take account of mitigation measures when screening plans or projects for their effects European protected habitats. This means that if a likely significant effect is identified at the screening stage of a habitats assessment, an 'appropriate assessment' must be undertaken.
- 3.7 This screening report has been sent to Natural England for their consideration, but is open to comments from any organisation or individual alongside consultation on the draft Affordable Housing SPD.

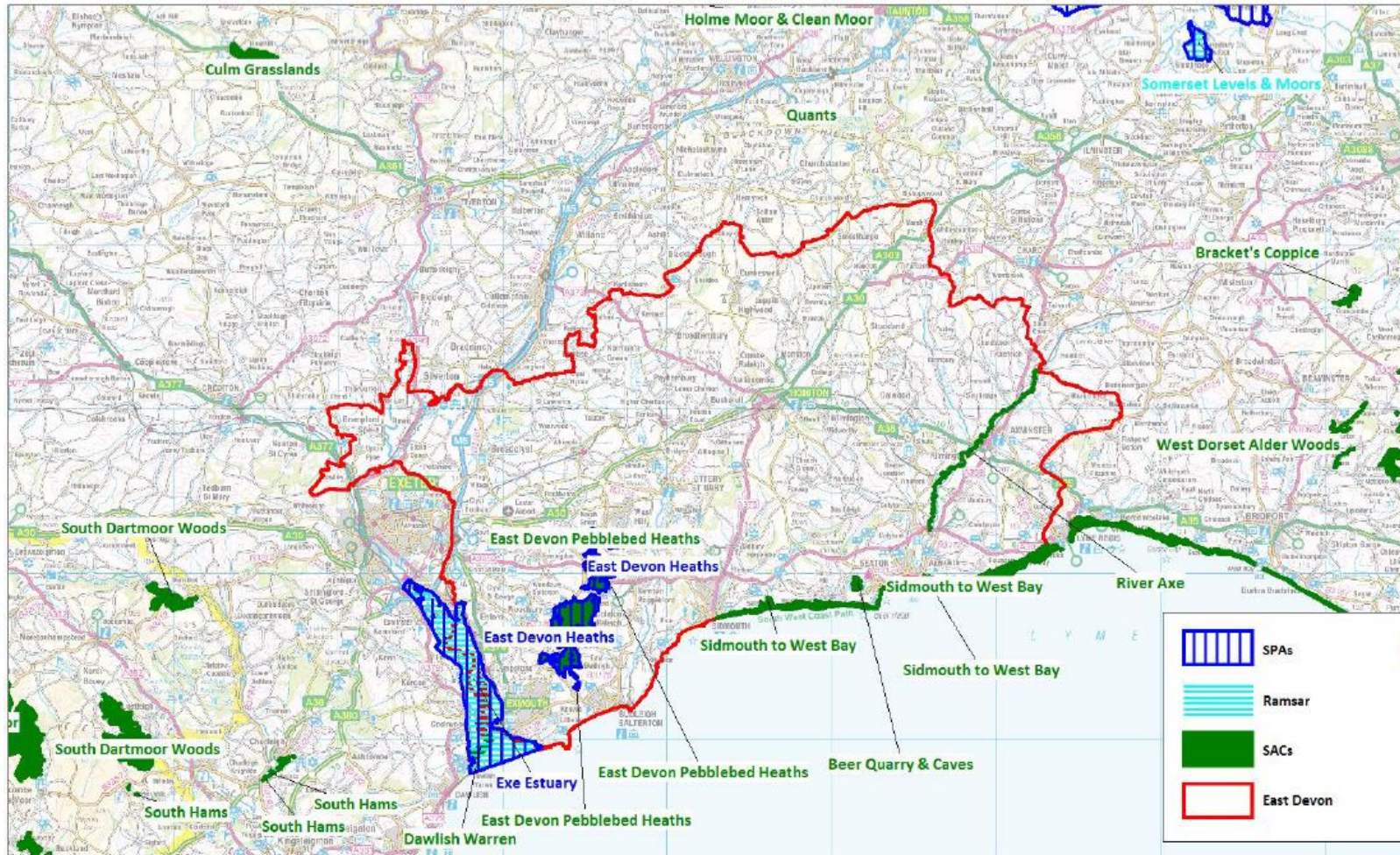
### **Screening assessment of the Draft Affordable Housing Supplementary Planning Document**

- 3.8 The purpose of the screening stage is to determine whether the SPD is likely to have a significant effect on any European site. A map of European sites within or in the vicinity of East Devon is shown on the following page (figure 3.1).

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<sup>12</sup> Habitats Regulations Assessment of the East Devon Local Plan: <http://eastdevon.gov.uk/planning-libraries/evidence-document-library/chapter8.4-environment/env025-habitatsregulationsassessmentoftheedlp2012.pdf>

Figure 3.1: Map of East Devon boundary with SPA, SAC, and Ramsar sites (taken from Habitats Regulations Assessment of the East Devon Local Plan, November 2012)



3.9 A series of screening criteria questions are used to make a screening assessment, detailed under questions a) to c) below.

a) *Is the SPD directly connected with, or necessary to the management of a European site for nature conservation?*

No.

b) *Does the SPD propose new development or allocate sites for development?*

No, the SPD does not propose development – the scale and location for new development is already established in the adopted East Devon Local Plan 2013 – 2031. The SPD supports and adds detail to the Local Plan by providing guidance on the implementation of Local Plan policies relating to affordable housing.

The SPD accords with the Local Plan which has been subject to an HRA. A screening opinion was undertaken early in the Local Plan preparation process, and a HRA informed the adopted Local Plan. It indicated that the Local Plan will have sufficient policy provisions to enable the subsequent delivery of necessary measures to avoid and mitigate adverse effects on the integrity of European sites. The HRA found no likely significant effects relating to the affordable housing policies (Strategy 34, 35).

c) *Are there any other projects or plans that together with the SPD could impact on the integrity of a European site?*

No.

### **Consultation responses to SEA and HRA Screening Report, March to May 2019**

3.10 Of the three consultation bodies, only Natural England responded to consultation on the Draft Affordable Housing SPD (March 2019). In terms of habitat regulations assessment, Natural England stated that while SPDs are unlikely to give rise to likely significant effects on European Sites, they should be considered under the Habitats Regulations in the same way as any other plan or project.

### **Conclusion**

3.11 The draft Affordable Housing SPD (October 2019) is unlikely to have an adverse effect on a European site, alone or in combination with other plans and projects. It does not propose a level of development significantly over and above that in the adopted Local Plan (which was itself subject to HRA). Therefore, an 'appropriate assessment' is not required. This conclusion will be revisited if there are significant changes to the plan following the second round of public consultation.

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