

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 06 March 2023

Portfolio:	Planning and Development
Subject:	Community Infrastructure Levy - Consultation
Report of:	Director of Planning and Regeneration
Corporate Priorities:	Providing Housing Choices Protect and Enhance the Environment Dynamic, Prudent and Progressive Council

Purpose:

To seek approval to the content of a consultation on the Borough's Community Infrastructure Levy (CIL) draft Charging Schedule.

Executive summary:

The Council commissioned Three Dragons to undertake a CIL Review Viability Assessment for the Borough, to determine whether a new CIL rate could be applied without negatively impacting on the delivery of housing and other forms of development associated with the emerging Fareham Local Plan 2037.

Following the conclusion of the assessment, the report recommends new rates for residential and some non-residential uses that align to the evidence collected through the CIL Review Viability Assessment.

This report seeks Executive approval to consult on the attached draft Charging Schedule and the proposed rates therein. Secondly, the report seeks delegated authority to commence the examination process following the consultation.

Recommendation:

That the Executive recommends that the Council:

- (a) approves the Community Infrastructure Levy Draft Charging Schedule as set out in Appendix A to this report for public consultation for a period of 6 weeks;
- (b) agrees that the Director of Planning and Regeneration be authorised to make any necessary minor amendments, following consultation with the Executive Member for Planning and Development, and delegates to him the authority to submit the draft Charging Schedule for Examination;

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and

- (c) delegates to the Director of Planning and Regeneration, in consultation with the Executive Member for Planning and Development, the authority to procure and appoint an independent examiner to conduct the examination on the draft Charging Schedule.

Reason:

To consult on a revised Community Infrastructure Levy Draft Charging Schedule that is considered to meet the requirements of the Community Infrastructure Levy Regulations 2010 (as amended) including setting an appropriate rate in relation to Regulation 14.

Cost of proposals:

There will be a cost to the Council to undertake the examination. This will be mainly focused on the cost of the independent Examiner. Depending on the number of days that the Examiner has to work (which depends on the number and depth of comments that are received from the consultation) an estimate of £30,000 for the 2023/24 financial year has been included in the budget.

Appendices: **A:** Draft Charging Schedule for Consultation

B: Three Dragons Fareham CIL Review

Background papers: None

Reference papers:

Fareham Community Infrastructure Levy Review – Viability Assessment 2023

Infrastructure Delivery Plan

Fareham Borough Council Local Plan 2037

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Executive Briefing Paper

Date:	06 March 2023
Subject:	Community Infrastructure Levy - Consultation
Briefing by:	Director of Planning and Regeneration
Portfolio:	Planning and Development

INTRODUCTION

1. The Community Infrastructure Levy (CIL) is a planning charge on new development that involves a net increase in building floorspace, to fund infrastructure. The ability for a local planning authority to charge the levy came into effect from April 2010.
2. In April 2013, following two periods of consultation and an independent examination, the Council approved its Charging Schedule, effective from 1 May 2013. The Charging Schedule set a rate of £105 per square metre, applicable to all residential development across the borough, with a different rate applied to out-of-town retail developments. These rates are index linked using the RICS CIL index applied each November.
3. With indexation, as of January 2023, the CIL rates are actually £156/sqm for residential £178/sqm for 'out of town' retail, £52/sqm for hotels and £89/sqm for care homes. The schedule excludes Welborne which, as a garden village with substantial on-site infrastructure costs secured through a section 106 agreement, was zero-rated for CIL in 2021
4. The Council has been very successful to date in collecting CIL receipts since adoption and has collected over £10 million from development sites across the borough, which has been used to fund a range of infrastructure projects.
5. It is clear that the infrastructure requirements relating to new development have evolved, culminating in the updated Infrastructure Delivery Plan (prepared to support the emerging Local Plan 2037). On that basis, a review into the level of the future CIL charge has been undertaken to determine whether or not any alterations could and should be made to the CIL rates across the Borough.
6. Whilst the implementation of CIL across the borough has proved successful to date, in undertaking the viability assessment for the Local Plan, it is clear that

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there remains significant headroom in development viability which has significantly increased since the evidence was gathered to set the original charge in 2013.

7. This report presents the outcomes of the Viability Assessment for the CIL review, including proposed charging rates, and seeks approval from Executive to consult on a new Charging Schedule that will better reflect the up to date evidence.

COMMUNITY INFRASTRUCTURE LEVY VIABILITY ASSESSMENT 2023

8. In 2022, following the completion of viability evidence prepared for the Local Plan examination, the Council commissioned Three Dragons to undertake a further viability assessment at a strategic level to provide an assessment of typical development sites, consideration of Local Plan requirements and other costs, to inform the possible setting of new CIL rates in light of positive viability conclusions resulting from earlier viability work to support the emerging Local Plan (undertaken from 2019-2021).
9. The 2023 CIL Review viability evidence is intended to assist Fareham Borough Council in preparing its CIL Draft Charging Schedule for residential and non-residential uses.
10. As set out above, the current Charging Schedule applies a zero rate charge for all development to the whole area defined as Welborne. As the evidence supporting the zero rating of Welborne was submitted in 2021, it is considered that it remains a suitable basis for the charging rate, and so this review proposes to take forward the zero rating of Welborne for all development.
11. The viability testing for the 2023 report was designed to assess the amount of CIL that residential and non-residential development can reasonably support, including whether there are differences in viability across the borough or between different types of development that are sufficient to justify different CIL rates. It draws on a review of the policy requirements in the emerging Local Plan 2037 and information on the types of development likely to come forward throughout the plan period, as well as government guidance that may have implications for development viability, such as future standards on energy efficiency in buildings¹.
12. The Viability Assessment 2023 considers different typologies of development, for example, whether the site is greenfield or brownfield, and the site's size for the following uses:
 - Residential
 - Older person homes
 - Offices
 - Industrial/warehouse
 - Retail
 - Hotels

¹ The requirement, beginning in 2025, will require CO2 emissions produced by new homes to be 75-80% lower than those built to current standards. Homes will need to be 'zero carbon ready', with no retrofit work required to benefit from the decarbonisation of the electricity grid and the electrification of heating. Fossil fuel heating (such as gas boilers) will be banned in new homes, with an expected shift to reliance on heat pumps and heat networks.

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13. Rather than assessing viability on specific sites, the Viability Assessment considers typologies of development that reflect the typical forms of development which are likely to come forward over the plan period. This is common practice for this type of plan-led viability assessments. Thirteen typologies at 3, 8, 15, 30, 50, 120, 600 and 1,000 dwellings for housing led schemes on both brownfield and greenfield sites were tested. Testing of four typologies of 20, 40, 80 and 150 dwellings for flatted schemes on brownfield sites was also undertaken, as well as a range of typologies for other forms of development.
14. Each typology was subjected to a detailed financial appraisal. This included a range of policy costs, such as those that would be expected through a section 106 agreement in order to make the development acceptable in planning terms. The types of policy costs included in the assessment are:
 - accessibility costs
 - affordable homes at the appropriate rates
 - standard s106 (education, transport, open space)
 - the current CIL rates have not been included
 - provision for EV chargers
 - provision for biodiversity net gain
 - nitrate and habitat mitigation
 - allowances for changes to Part L
 - custom and self-build at 10% of homes (on sites of 40 or more homes)
15. As part of the financial appraisal, development costs and land values were factored in, as well as a level of developer profit. This is to ensure that the viability assumptions are reasonable and generate a realistic financial appraisal which can be used to identify whether the development is viable or not, and if so, the amount of 'headroom' on which a CIL charge could be applied.
16. A number of sensitivity tests were also carried out to reflect potential and likely policy or market changes which could affect future viability of developments. These looked at higher costs of financial borrowing, higher section 106 costs in line with the Council's review of the Planning Obligations SPD as well as looking at the new Future Homes Standard requirements¹.

VIABILITY EVIDENCE - SETTING A CHARGE

17. To fulfil relevant legislative requirements of the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), the charging schedule should set an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district. There is no prescribed approach to setting a CIL rate and the preferred method varies across Councils that have implemented CIL. Best practice dictates that the charge should be informed by the evidence on CIL headroom but does not have to follow prescriptively the results of the testing. Setting a CIL rate too high may impact the scheme's delivery or can put pressure on the Council to accept a lower level of

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affordable housing than its policies would require. This situation is best avoided, hence a slightly cautionary approach to not raising the CIL rates too high, which might create 'market shock'.

18. A judgement needs to be made based on a range of factors that are bespoke to Fareham borough including house price data, charging zone simplicity, market shock, local plan objectives (such as regeneration proposals) and impact on delivery, and ultimately the balance between funding infrastructure and delivering the Local Plan.
19. Reasonableness is also an important factor when setting a charge, with an established approach (recommended by Examiners of other recently examined CIL charging schedules) of setting the charge at no more than 5% of Gross Developable Value² (GDV). This level is unlikely to put development at risk.
20. The approach used by Fareham Borough Council considers the viability headroom in each typology and then;
 - a) If the viability headroom is positive, applies a 50% buffer to determine a charge;
 - b) If the 50% value 'feels' unreasonable, then 5% of the GDV of the scheme is considered to set the charge.

PROPOSED CIL RATES

21. The result of the residential testing shows that all the typologies are viable with significant headroom. Flatted development is less viable and given the importance of this form of development in meeting regeneration objectives in Fareham town centre, it is considered appropriate for the Council to consider a zero rate. Assisted and care supported homes for older people are not viable to pay a CIL charge for most types tested and therefore should be zero rated but sheltered retirement living on greenfield sites is considered viable and therefore a charge is applied. Sheltered housing, sometimes referred to as retirement housing, is self-contained housing allowing residents to live independently, but allows for support on hand such as help from a scheme manager (warden), or support staff, 24-hour emergency help through an alarm system, communal areas, such as gardens or lounges and social activities for residents. This differs from Assisted and Extra Care schemes where the facilities may also include; bar/lounge, kitchen/dining room with hot meals available, laundry, crafts room, and 24 hour care services available to all residents from an on-site team.
22. In terms of non-residential rates, the analysis shows that small scale comparison retail is either unviable or barely viable and is therefore unable to support a charge. Speculative out-of-town retail uses are still considered to be viable and able to support a charge. No other non-residential use shows sufficient viability to support a charge if speculatively built, including office or industrial uses. Office, Industrial and Warehousing uses are all considered to be unviable based on local evidence. Land values remain high in the area, and all schemes are struggling to break even. This is reflected locally with there

² an estimate of what the completed development may be worth on the open market once all development works have been completed.

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being no other neighbouring authorities charging for these uses either. A zero rate will contribute to the objective of improving competitiveness in attracting new business and employment, by not adding additional financial burdens.

23. The proposed CIL rates are set out in the table below:

Zone and/or use	Proposed CIL rate
Residential development	£195 m ²
Residential development consisting of flats in Fareham town centre	£0 m ²
Residential development comprising retirement living (sheltered) on greenfield sites	£28m ²
All retail (outside centres)	£80 m ²
Comparison retail (within centres)	£0 m ²
All other development	£0 m ²
Welborne (all uses)	£0 m ² (continued rate)

24. The proposed rates are set out in the Draft Charging Schedule in Appendix A. It is this Draft Charging Schedule which will be the focus of the next step, the process of consultation followed by independent examination.

CONSULTATION ON THE DRAFT CHARGING SCHEDULE 2023

25. As the Council already applies CIL, this review of CIL is technically called a 'revision' within the legislation. A revision to the charging schedule must follow the same process as the preparation, examination, approval, and publication of a new charging schedule.
26. As Charging Authority, it is the Council's responsibility to prepare and publish the evidence base and prepare and publish a draft charging schedule. Representations are then required to be sought on the draft, before submitting the draft schedule for examination.
27. It is for the Charging Authority to decide how they wish to consult, and the regulations do not specify for how long or how many times the authority should consult, however Examiners must consider whether adequate time for consultation has been provided. It is therefore recommended that following approval to progress with the review of the Charging Schedule, a consultation period on the draft schedule will be undertaken for a period of six weeks from mid-March to late April 2023.
28. It is proposed that, similar to previous consultations on CIL matters, the consultation is publicised on the Council's website and emails and letters are sent to all statutory consultees and other relevant individuals and organisations on the Council's Planning Strategy consultation database.

EXAMINATION AND APPROVAL

29. Following consultation, the charging schedule must be examined in public by an independent person appointed by the Council, who is deemed to have appropriate qualifications and experience to fulfil the role.

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30. This report therefore also seeks delegated authority to the Director of Planning and Regeneration following consultation with the Executive Member for Planning and Development, to appoint an Examiner following the consultation.
31. An informal hearing format is usually the most appropriate form of examination for the Community Infrastructure Levy. If no-one has requested the right to be heard, the Examiner also has the option of conducting the examination by written representations. The Examiner must report their recommendations to the charging authority in writing. The Examiner may recommend that the draft charging schedule should be approved, rejected, or approved with specified modifications. The Examiner must give reasons for those recommendations.
32. On receipt of the Inspector's report, and pending a successful outcome, the proposed Charging Schedule will be brought back to the Executive and Full Council for approval and adoption.

CONCLUSION

33. For the reasons set out above, the Executive is asked to approve the Community Infrastructure Levy Draft Charging Schedule for consultation for a six-week public consultation between mid-March and late April, and delegate authority to the Direction of Planning and Regeneration following consultation with the Executive Member for Planning and Development to submit the charging schedule for examination.

Enquiries:

For further information on this report please contact Gayle Wootton, Head of Planning Strategy and Economic Development (Tel. 01329 824328)

Appendix A: Draft Charging Schedule for Consultation

FAREHAM BOROUGH COUNCIL

Community Infrastructure Levy

Charging Schedule

Purpose

This schedule sets out the Community Infrastructure charging rates set by Fareham Borough Council.

Charging Rates

Type of Development ¹	CIL charge per m ²	
	Rest of Fareham Borough	Welborne ²
Residential falling within Class C3(a) & (c) and C4 with the exception of older person sheltered housing.	£195	£0
Residential development consisting of flats in Fareham town centre as shown on figure 2 in the maps annexed to this schedule.	£0	£0
Development falling within Class C3 comprising retirement living (sheltered ³) on greenfield sites.	£28	£0
All retail falling within Class E outside of centres as shown on figure 3 in the maps annexed to this schedule.	£80	£0
Comparison retail ⁴ falling within Class E(a) in the centres as shown on figure 3 in the maps annexed to this schedule.	£0	£0
Standard Charge (applies to all development not separately defined above, for example: offices, warehouses and leisure and educational facilities)	£0	£0

¹ References above to Classes are to the Use Classes as set out in the Town and Country Planning (Use Classes) Order 1987 (as amended).

² For the purposes of this Schedule, the area defined as Welborne is that as set out by Welborne Plan, Part 3 of the Fareham Borough Local Plan. See Figure 1

³ Sheltered housing is self-contained housing, normally developed as flats or other small units, with the provision of facilities not associated with independent accommodation (main entrance, warden, residents lounge, emergency alarm service).

⁴ Reference to "comparison retail" means the selling of clothing and fashion accessories, footwear, household appliances (electric or gas), carpets and other floor coverings, furniture, household textiles, glassware, tableware and household utensils, computers, books, stationary and art materials, recorded music/videos, recording media and equipment, audio-visual equipment, musical instruments and accessories, games and toys, photographic, video and optical equipment, DIY equipment for the maintenance and repair of dwellings, tools, jewellery, clocks and watches, sports equipment, goods for outdoor recreation, telephony equipment and bicycles and accessories. See Figure 3.

Indexation

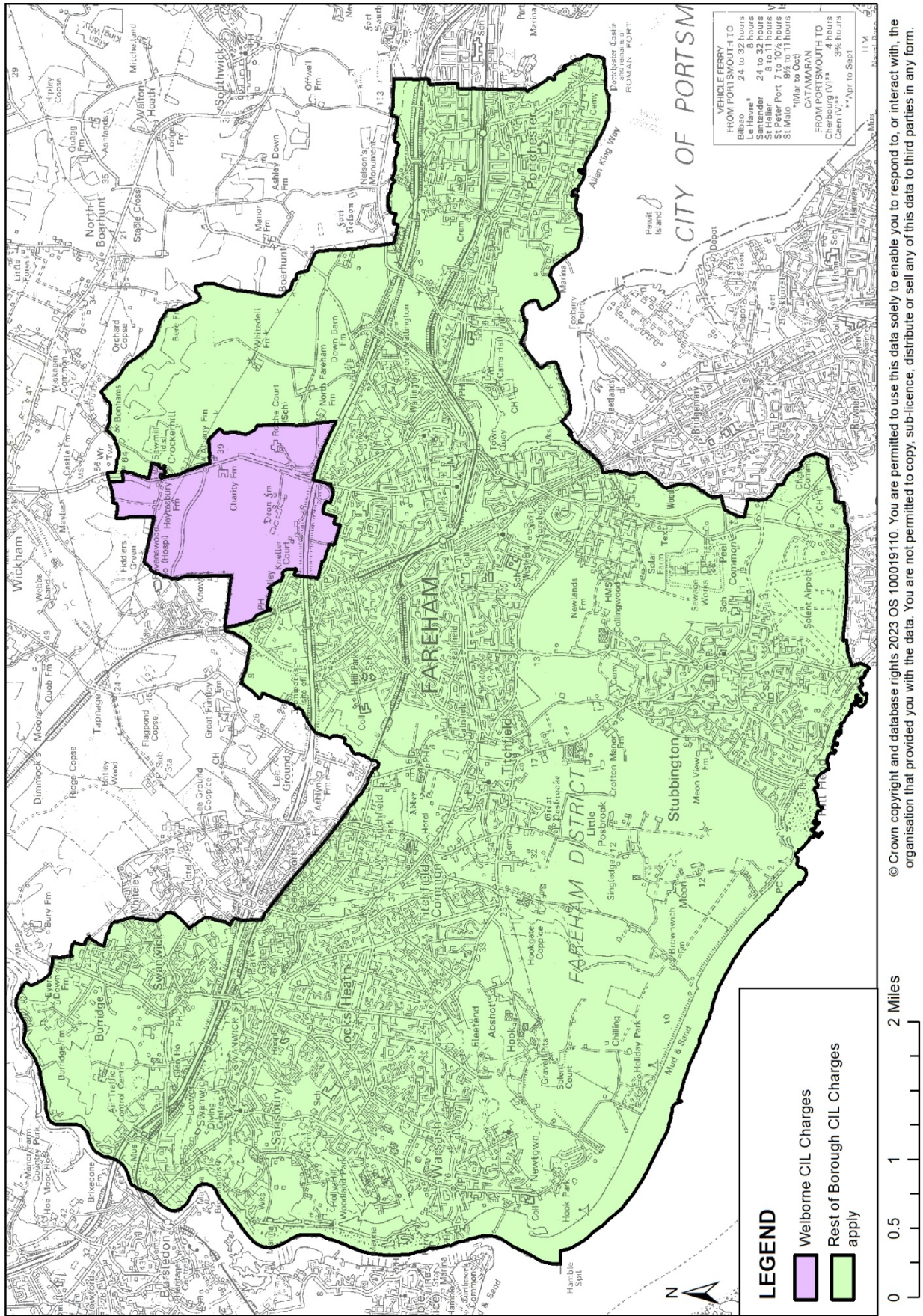
The Community Infrastructure Levy Regulations apply a form of indexation to the relevant rate in the charging schedule. National All-in Tender Price Index published from time to time by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors; and the figure for a given year is the figure for 1st November of the preceding year. In the event that the National All-in Tender Price Index ceases to be published, the index to use will be The Retail Prices Index.

Calculating the Chargeable amount of CIL

CIL is charged on all new developments which create more than 100m² of floorspace and on those developments, which create 1 or more new dwellings, even where the floorspace is less than 100m². The chargeable amount of CIL is calculated on the gross internal area of the net increase in floor area. The amount to be charged for individual developments will be calculated in accordance with Schedule 1 of the Community Infrastructure Levy Regulations 2010, as amended.

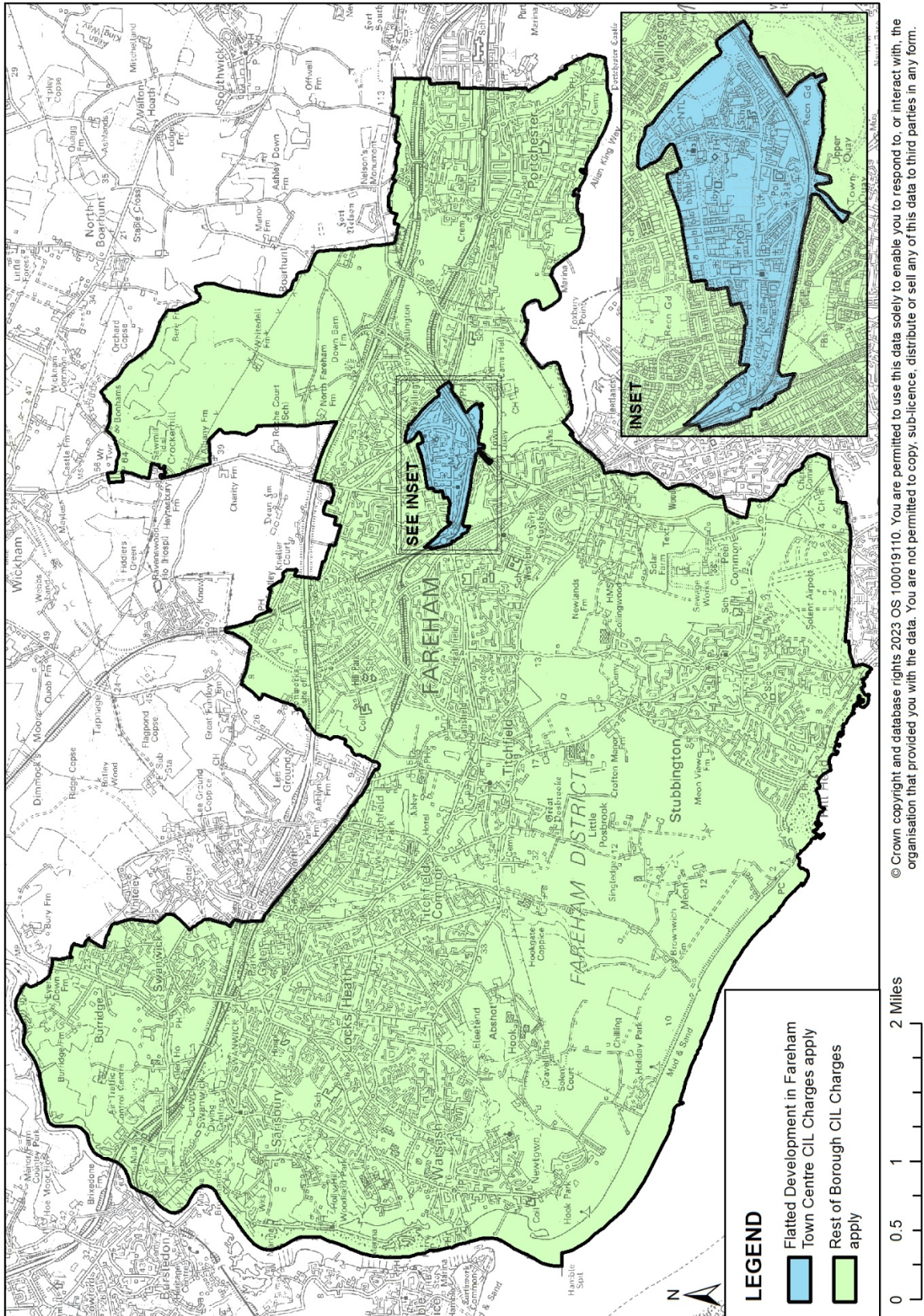
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Figure 1: Welborne and Rest of Borough



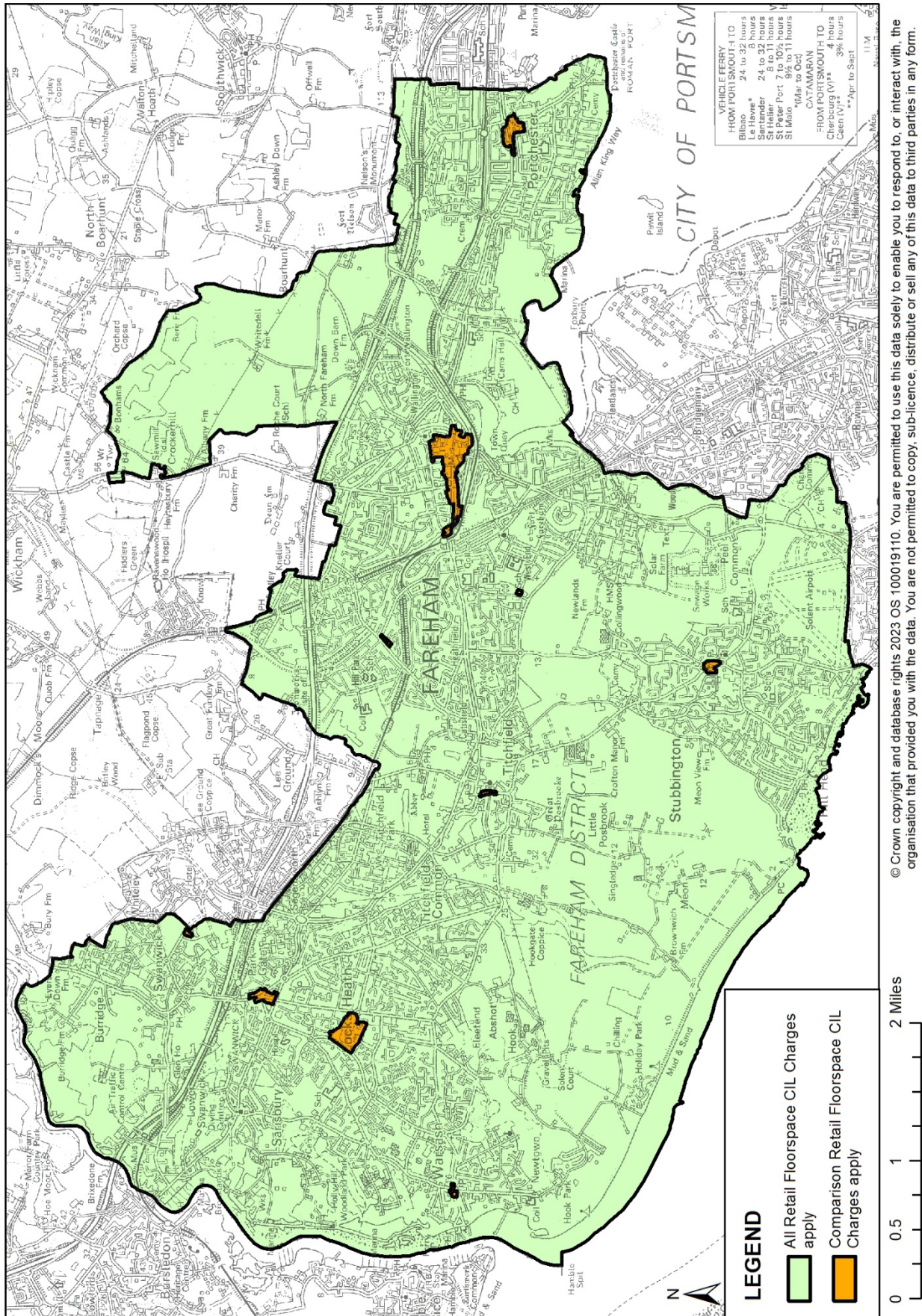
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Figure 2: Fareham Town Centre Flatted Development Area



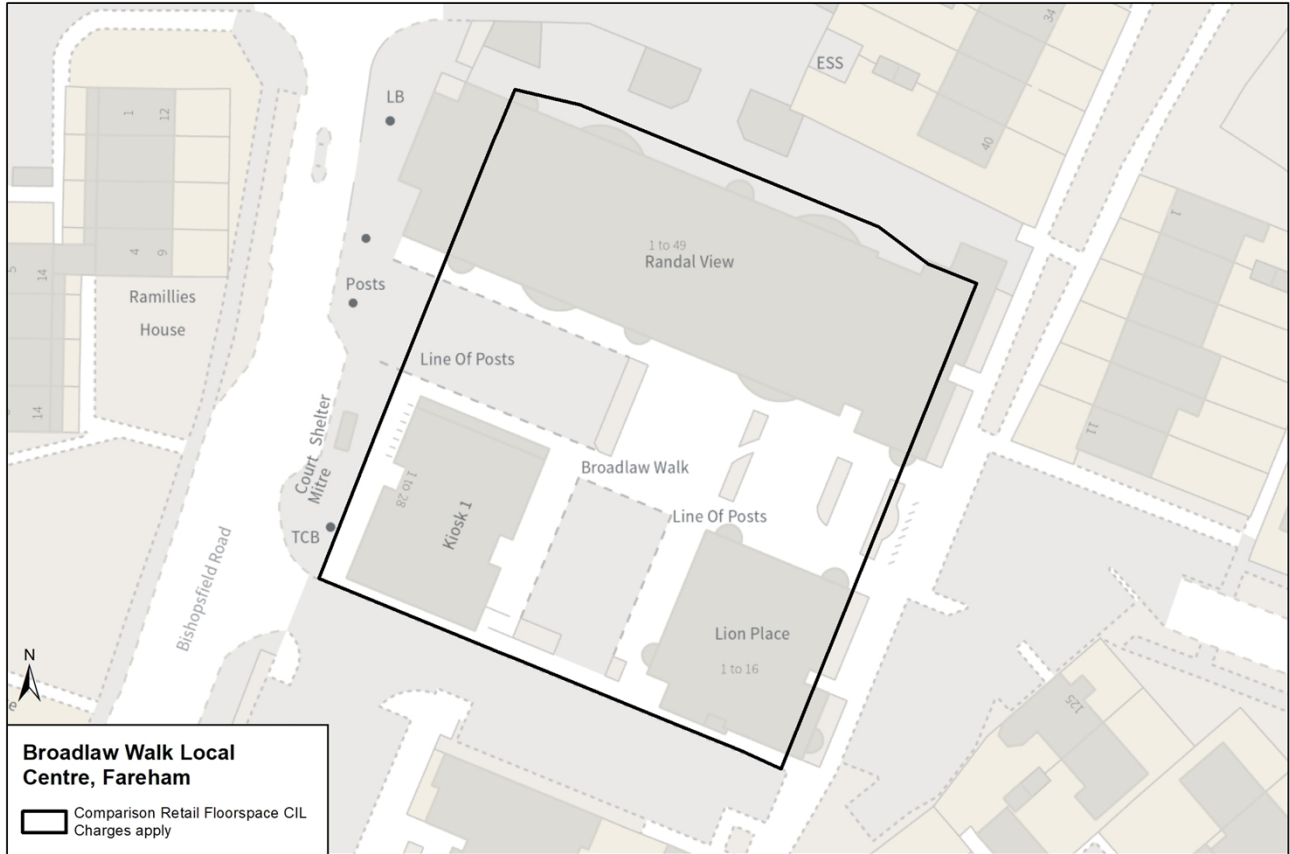
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Figure 3: Comparison Retail Charging Zones

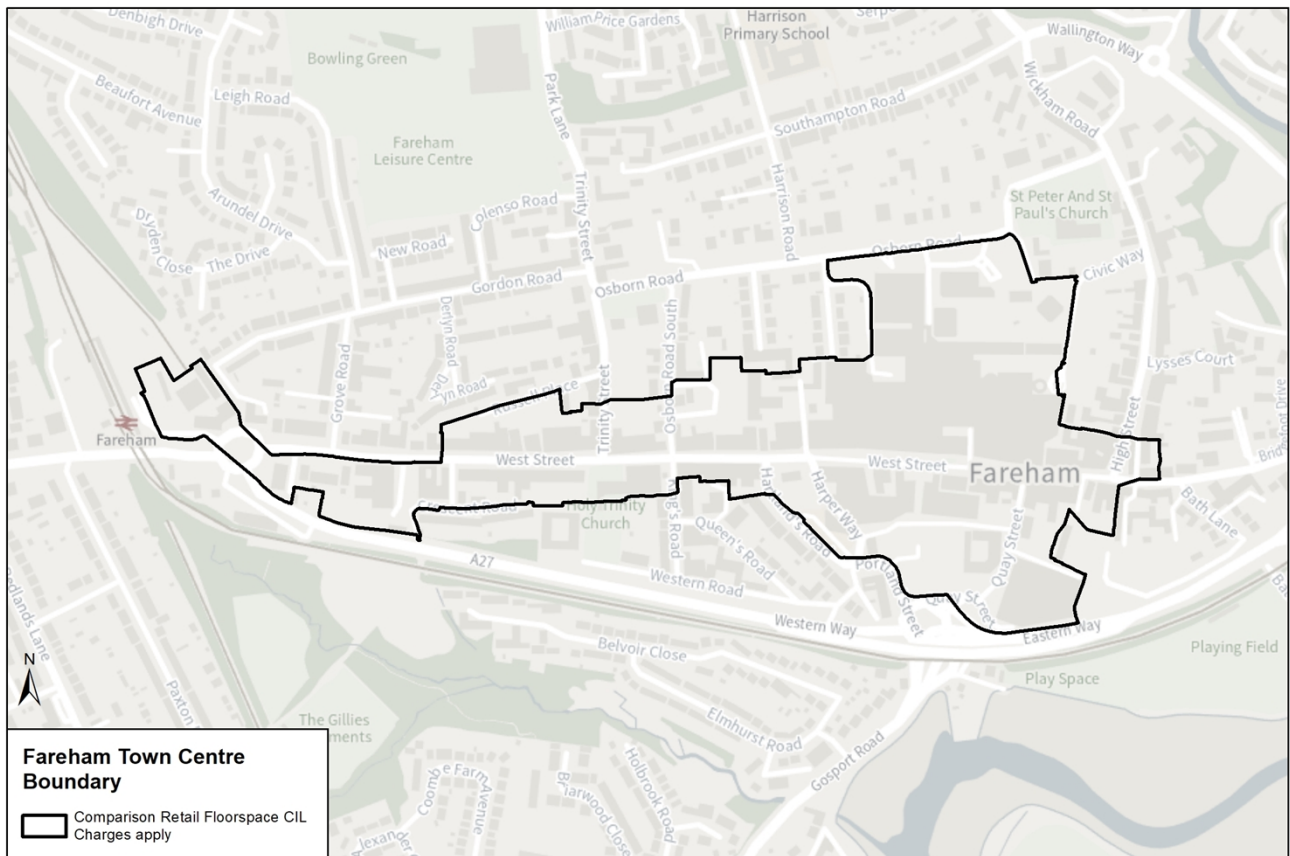


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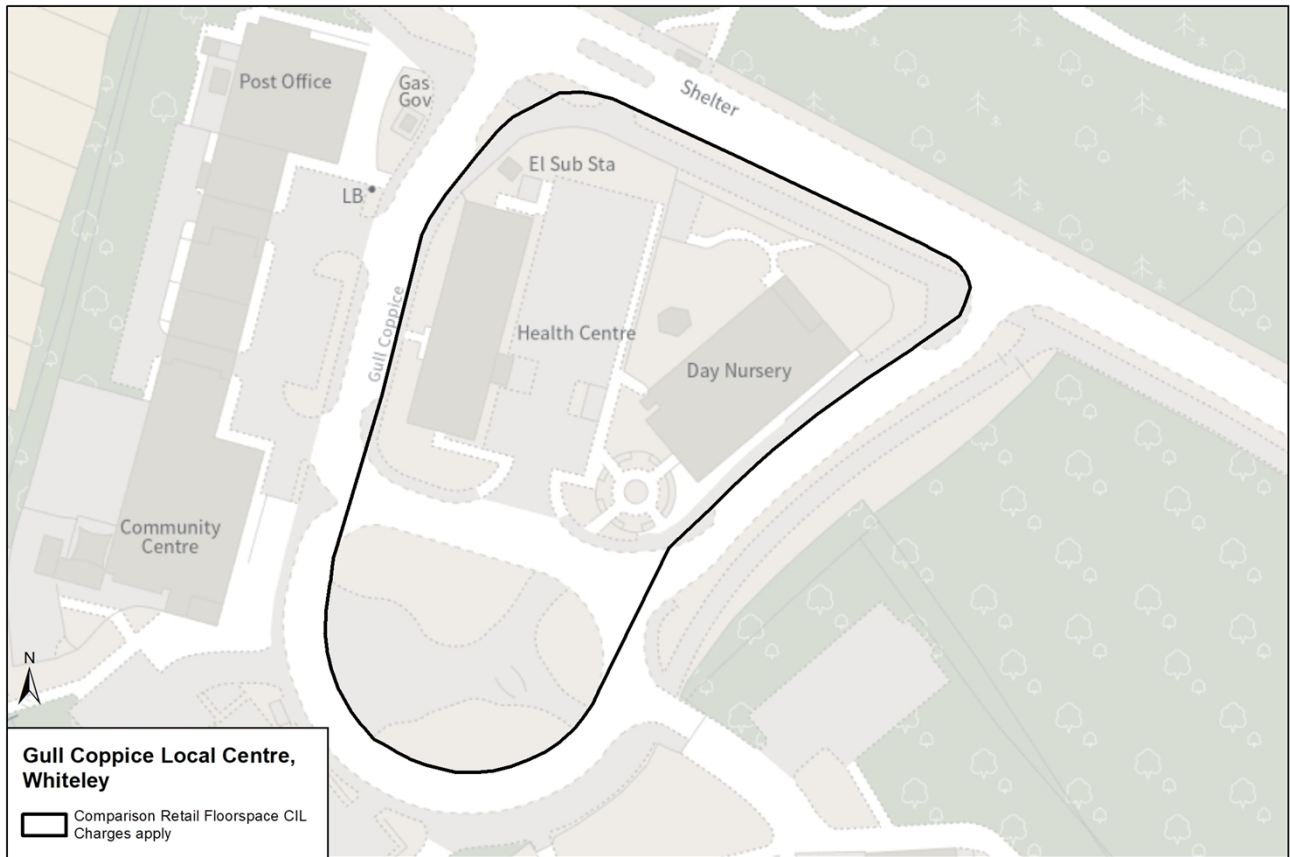


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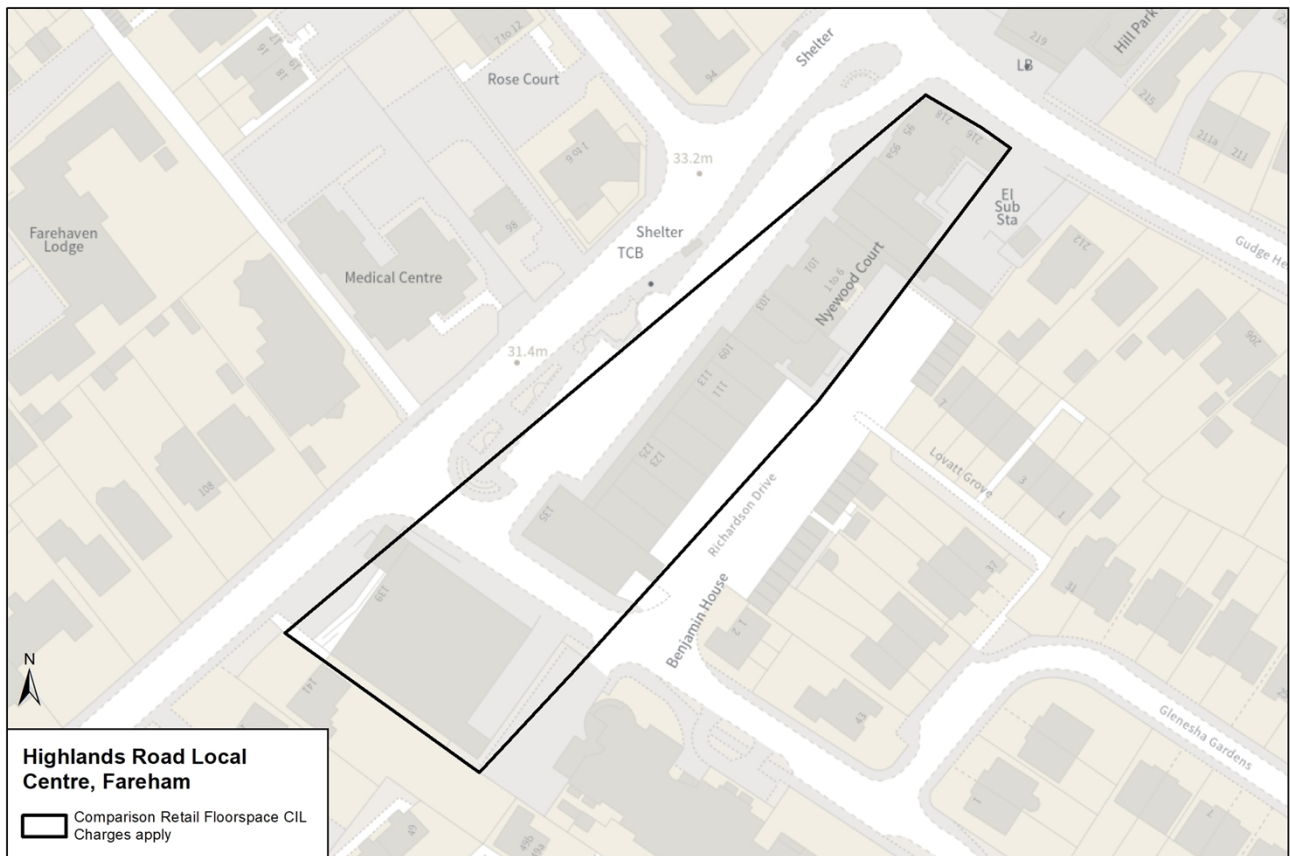


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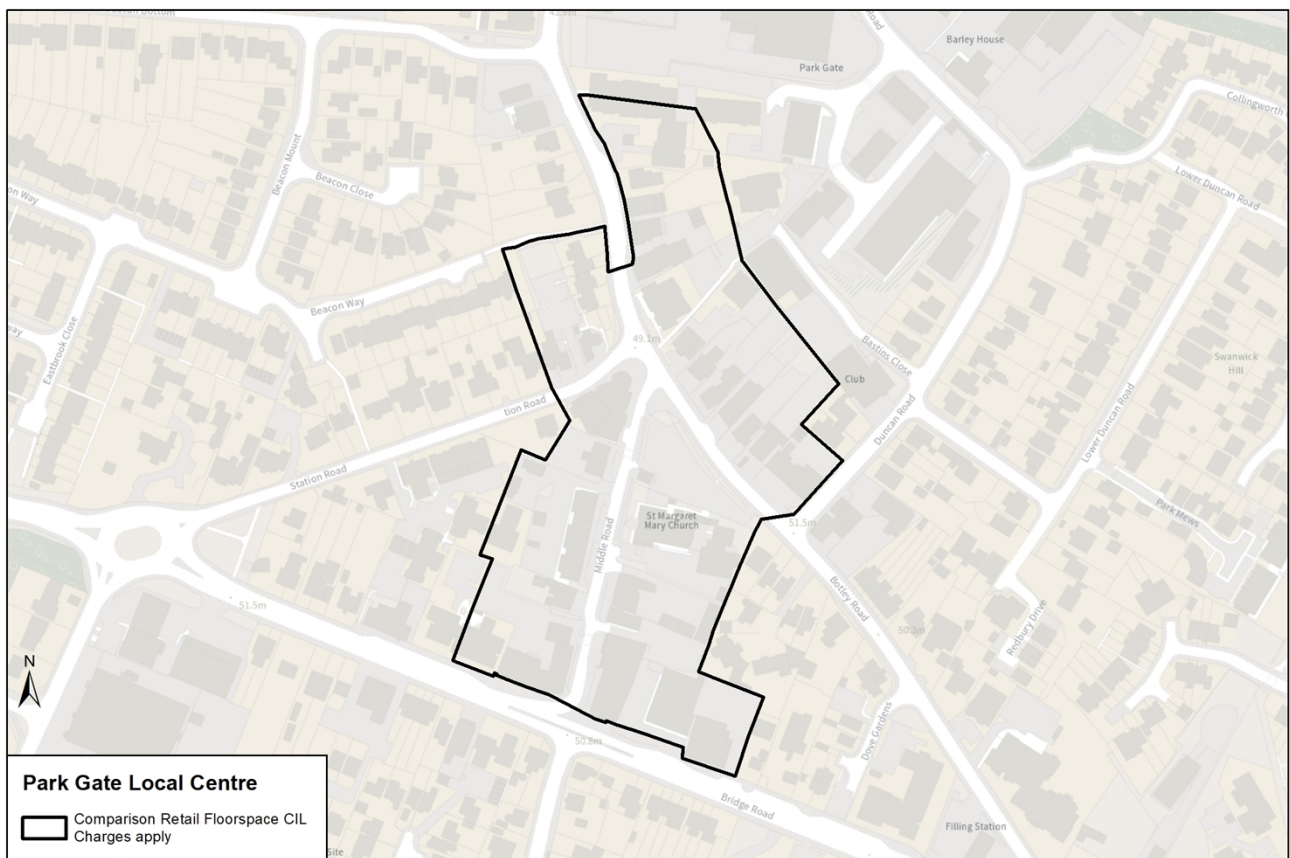
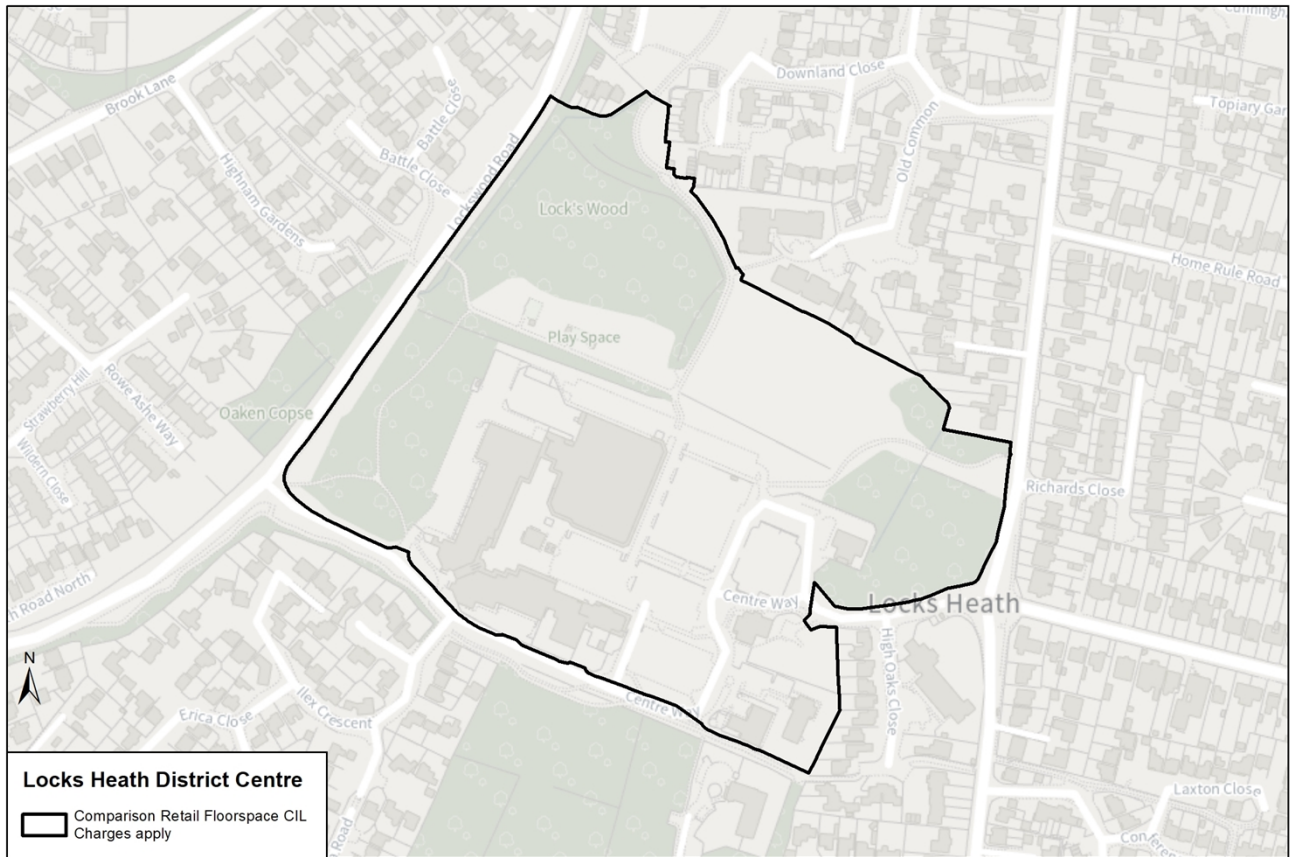


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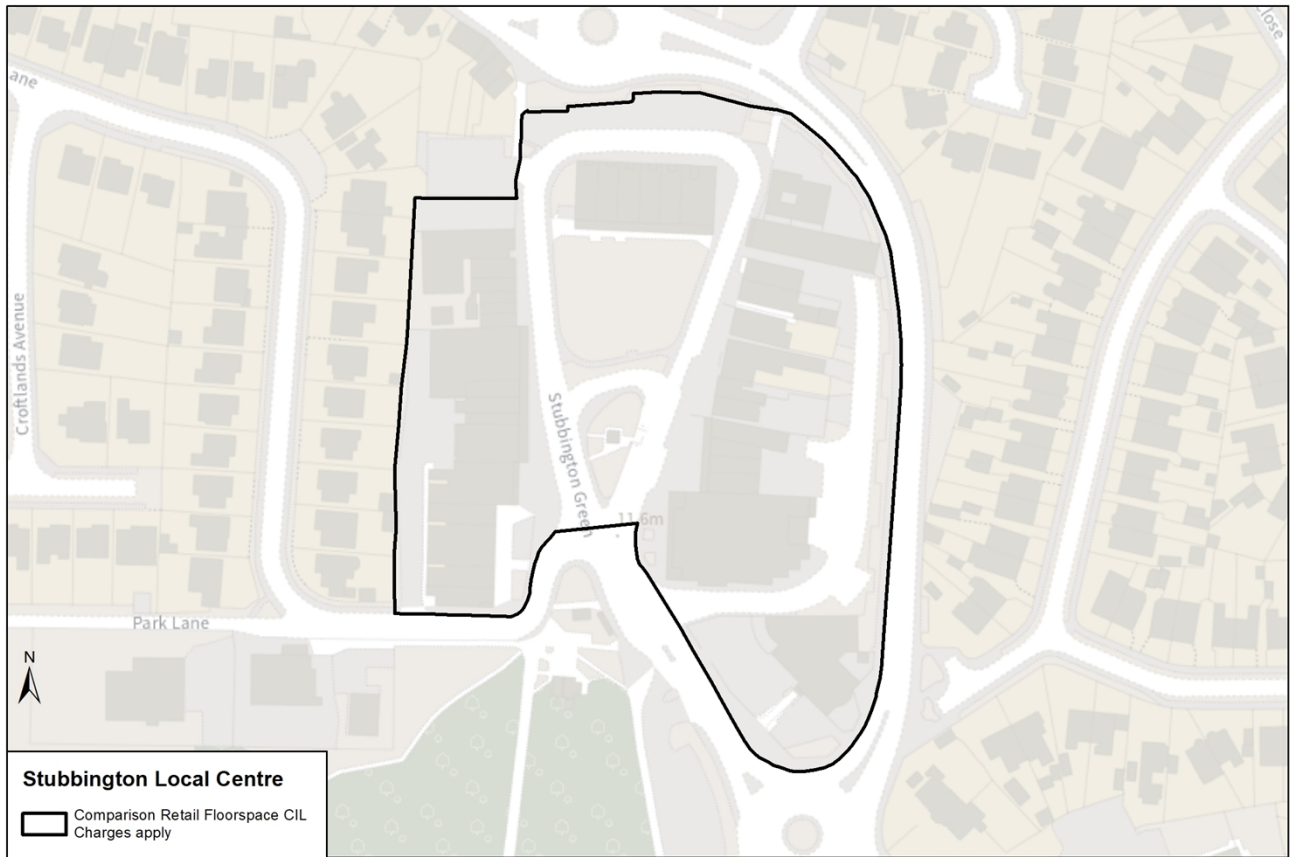
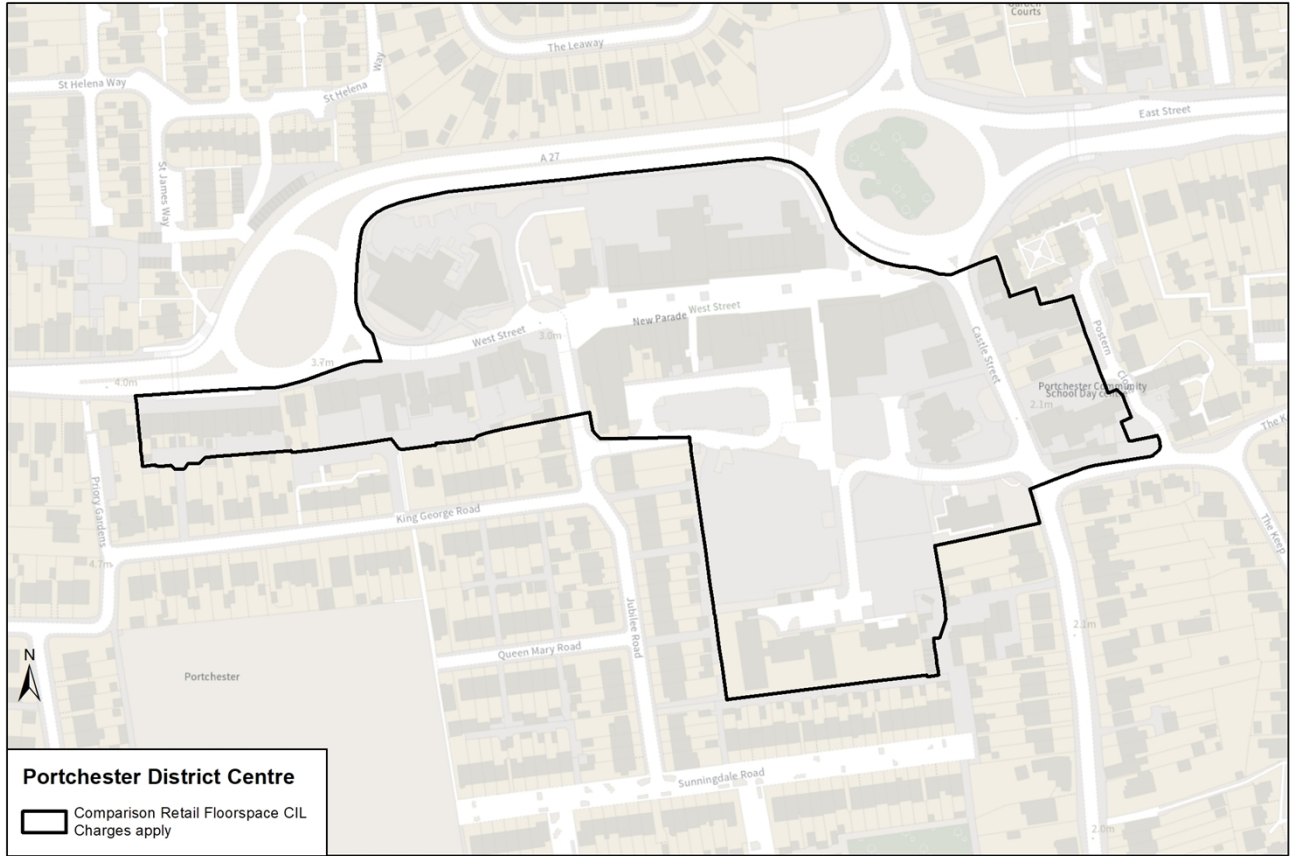


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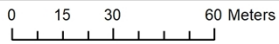
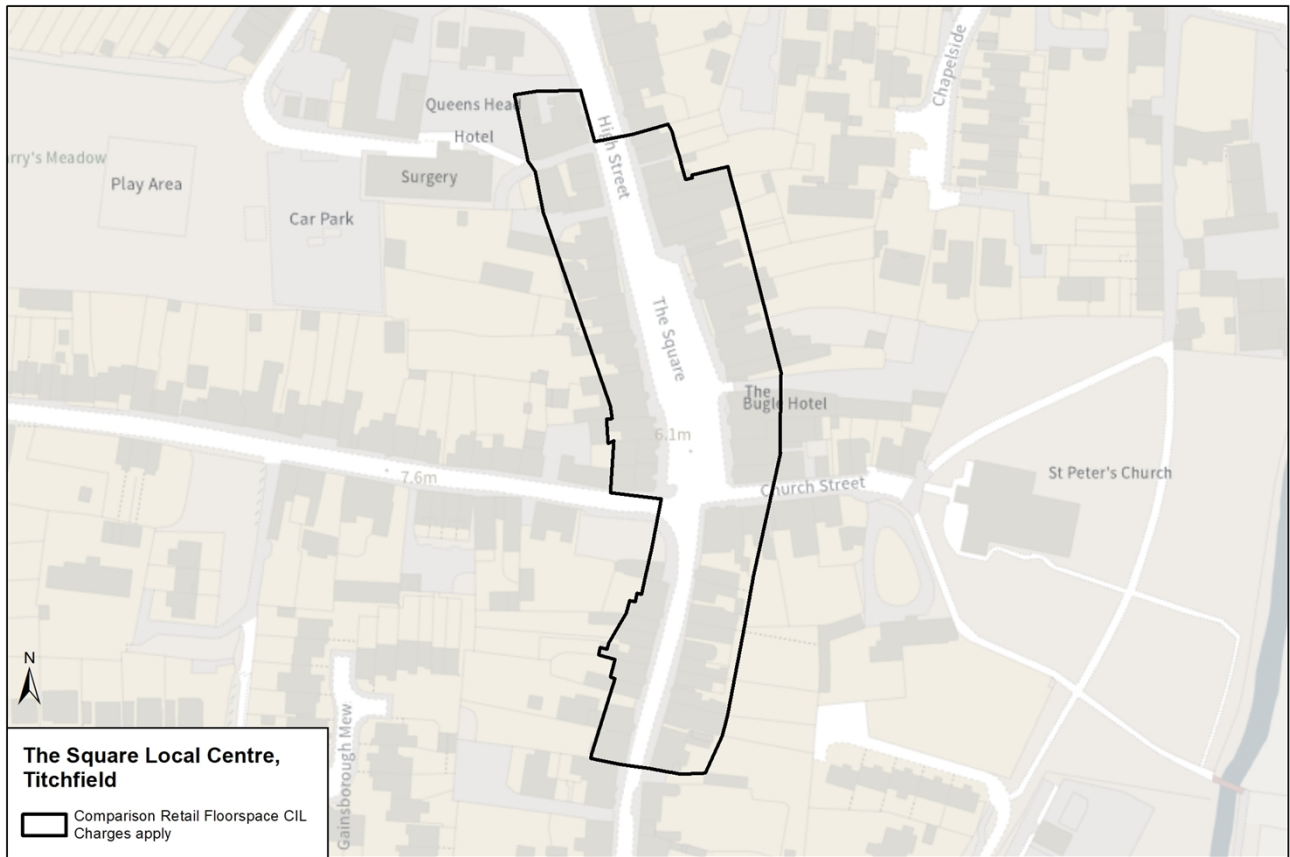
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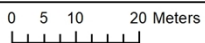
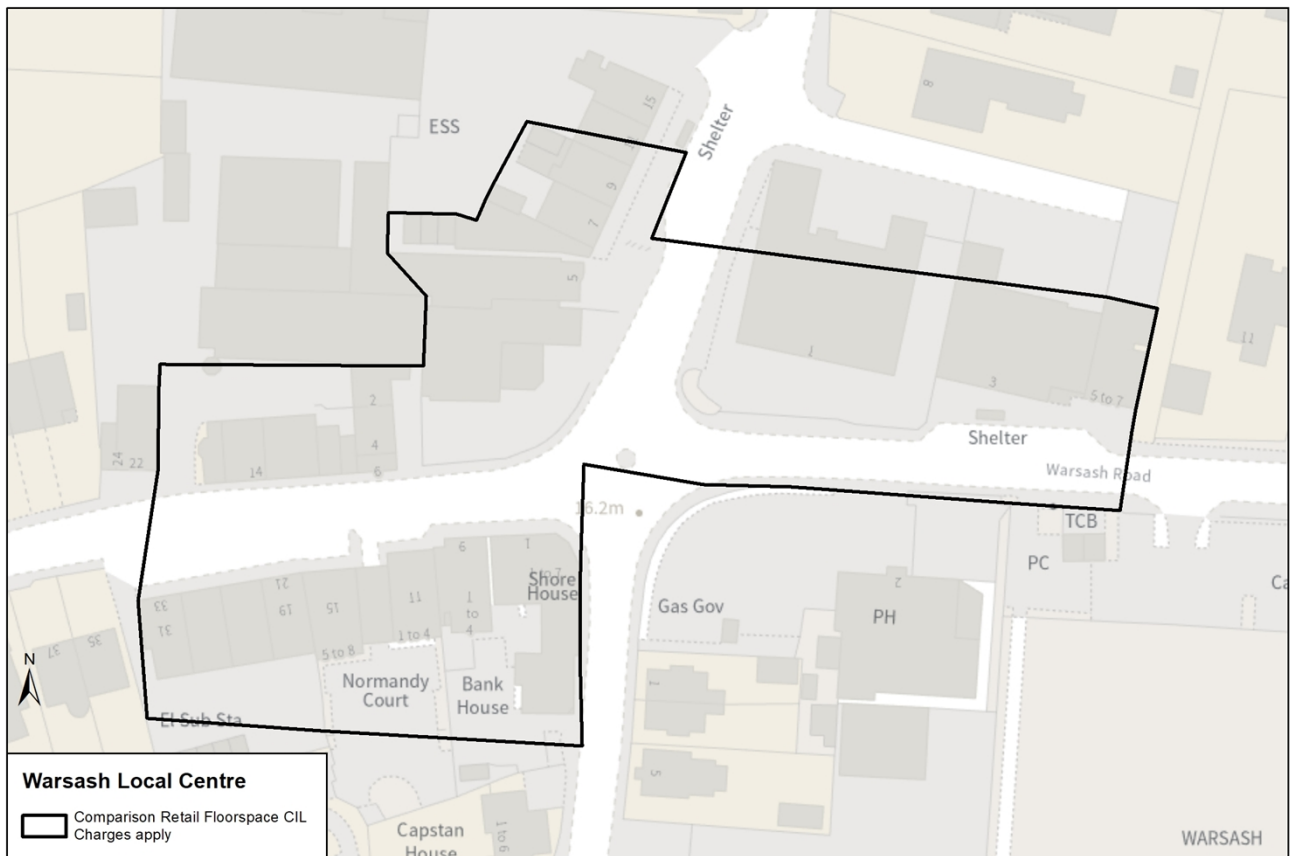
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Appendix B: CIL Review Report, Three Dragons

See attached PDF