



**Community Infrastructure Levy**

# **Draft Charging Schedule Examination**

Hearing Statement

4 February 2020

**Contact details**

Planning Policy  
East Devon District Council  
Blackdown House, Border Road, Heathpark Industrial Estate, HONITON,  
EX14 1EJ

Phone: 01395 571684

Email: [planningpolicy@eastdevon.gov.uk](mailto:planningpolicy@eastdevon.gov.uk)

<https://eastdevon.gov.uk/planning/planning-policy/community-infrastructure-levy-and-infrastructure-provision/community-infrastructure-levy-cil/cil-charging-schedule-revision-examination/>

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## 1 Preliminary Matter – Infrastructure Funding Gap

**a. What is the overall amount of Infrastructure Funding required to deliver the quantum of development identified within the various adopted and emerging policies for East Devon?**

- 1.1 The adopted planning policies for East Devon are currently set out in the East Devon Local Plan 2013 to 2031 [submission document CIL1], the East Devon Villages Plan [CIL6], and 17 ‘made’ neighbourhood plans.<sup>1</sup> The emerging Cranbrook Plan [CIL10] contains policies on the expansion of this town – this Plan is currently at Examination, with hearing sessions taking place in January and February 2020.
- 1.2 The East Devon Infrastructure Delivery Plan (IDP) [CIL8] identifies a significant infrastructure cost of some £350m to deliver the Local Plan and emerging Cranbrook Plan. However, the Cranbrook Infrastructure Delivery Plan [CIL10, updated by CIL/PSD1] supersedes the East Devon IDP for the Cranbrook Plan area. The total infrastructure cost excluding Cranbrook projects in the East Devon IDP is £255.3m; whilst the total infrastructure cost arising from development in the Cranbrook Plan is just under £116m (this figure reflects minor updates to the Cranbrook IDP that amended education and transport infrastructure costs, made during the ongoing Examination of the Cranbrook Plan, referenced as post submission document CIL/PSD1).
- 1.3 Therefore, adding these two figures together (£255.3m and £116m) means that the overall amount of infrastructure funding required to deliver the quantum of development in adopted and emerging policies is around £371.3m. Some of this cost has already been secured through planning obligations and other means, but a range of funding sources will be required to meet the remainder, including future s106 and s278 planning obligations, CIL, and provision by statutory undertakers; along with grant or loan funding that is likely to become available over the period of the Local Plan and Cranbrook Plan.

**b. What level of funding has been secured from s106 and the existing CIL regime in East Devon since it has been introduced?**

- 1.4 The council adopted its current Charging Schedule [CIL7] in April 2016, and began charging CIL on 1 September 2016. Since this time, a total of £3.93m has been secured from s106 agreements (as at 31 December 2019).
- 1.5 The council has received £4.2m from CIL since its introduction (again, as at 31 December 2019). Of this, once the neighbourhood portion and administration amount (5%) have been applied, a total of £3.25m is available for the district council to spend on infrastructure. A

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<sup>1</sup> Nb. there are no significant additional infrastructure costs required to deliver development in the Villages Plan or policies in made neighbourhood plans that are not already accounted for in the Local Plan.

further £125,000 (of which £101,000 will be available to the district council to spend on infrastructure) is due to be received from development that has commenced but not completed paying its CIL instalments.

- 1.6 Therefore, the total level of funding secured from s106 and the existing CIL regime since the introduction of CIL is approximately £8.13m.

**c. Can the Council provide a projection of the level of funding will be secured from the CIL (August 2019) and taking this into account what would be the overall Infrastructure Funding Gap in East Devon?**

- 1.7 It is anticipated that the council will receive around £23.6m in CIL receipts from the operation of the Draft Charging Schedule (2019) [CIL1, paragraph 2.11]<sup>2</sup>. Given that the district council has already received £3.25m to spend on infrastructure, the projected level of funding that will be secured from CIL (from both the Charging Schedule adopted in 2016, and the proposed revised Charging Schedule) up to the year 2031 (the end date of the Local Plan and emerging Cranbrook Plan) that will be available to the district council to spend on infrastructure is estimated to be £26.85m.
- 1.8 As highlighted in paragraph 1.3 above, the overall amount of infrastructure funding required to deliver development proposed in the Local Plan and emerging Cranbrook Plan is around £371.3m. The East Devon IDP identifies that, excluding Cranbrook projects, some £66.7m of funding has already been secured towards this figure. In addition, it is envisaged that development proposed in the Cranbrook Plan will make a contribution of £116m in planning obligations.
- 1.9 Adding the estimated CIL income of £26.85m to the funding secured figure in the East Devon IDP (£66.7m) and the envisaged contribution from the Cranbrook Plan (£116m), means there will be anticipated (but not fully secured) funding of £209.55m. Taking account of this funding, this results in an overall infrastructure funding gap in East Devon of £161.5m.<sup>3</sup> This calculation is set out below:

*£371.3m (total amount of infrastructure funding required) minus £209.55m (anticipated but not fully secured) equals £161.75m (overall infrastructure funding gap)*

- 1.10 These figures demonstrate the need to levy CIL, taking into account other funding sources, in order to contribute to the funding of infrastructure required to support development in East Devon.

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<sup>2</sup> This figure assumes that the revised Charging Schedule is implemented from April 2020.

<sup>3</sup> This figure takes into account infrastructure associated with the Cranbrook Plan, and is therefore different to funding gap of £188.6m that is referenced in the Draft Charging Schedule consultation document [CIL1, paragraph 2.9].

## 2 Part One – All development at Cranbrook

**a. Is the local levy rate of £0sqm for All development at Cranbrook justified by appropriate available evidence, having regard to national guidance, local economic context and infrastructure needs, including in relation to the various adopted and emerging planning policies for East Devon?**

- 2.1 Cranbrook is a developing new settlement to the east of Exeter. It has planning permission for around 3,500 dwellings and associated facilities, with approximately 2,000 dwellings completed so far. The emerging Cranbrook Plan, currently at Examination, proposes just over 4,000 dwellings, employment land and a range of community facilities.
- 2.2 When setting a CIL rate, regulations state that a charging authority must strike an appropriate balance between the desirability of funding from CIL the cost of infrastructure to support development, and the potential effects on the economic viability of development.<sup>4</sup> The CIL Draft Charging Schedule consultation document [CIL1, figure 1] states that all development at Cranbrook will be charged £0 per square metre (psm). The geographic area to which the £0 charge applies mirrors the Cranbrook Plan boundary [CIL9, Figure 1].
- 2.3 National guidance states that strategic sites could have zero viability, enabling the charging authority to consider setting a zero levy rate in that area.<sup>5</sup> In addition, it recognises that authorities may wish to align zonal rates for strategic development sites; and consider how zonal rates can ensure that the levy compliments plan policies for strategic sites.<sup>6</sup> The overall approach of a £0 psm rate at Cranbrook is consistent with this national guidance.
- 2.4 The CIL Review and Cranbrook DPD Viability Study [CIL4a and 4b] considers the specific circumstances of Cranbrook in more detail than the rest of the district to inform the Cranbrook DPD, as advocated in national guidance.<sup>7</sup> Section 2 in the study [CIL4a] summarises national guidance which was followed in preparing the evidence, including the standardised inputs to viability assessment in relation to identifying development costs, defining benchmark land values, and developer returns.<sup>8</sup>
- 2.5 Build costs for Cranbrook assume Building Cost Information Service (BCIS) lower quartile cost figures, based upon an understanding from various cost consultants, and given that

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<sup>4</sup> The Community Infrastructure Levy Regulations 2010 (as amended), Regulation 14.

<sup>5</sup> Planning practice guidance, Reference ID: 25-022-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>6</sup> Planning practice guidance, Reference ID: 22-026-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>7</sup> Planning practice guidance, Reference ID: 10-005-20180724: <https://www.gov.uk/guidance/viability#viability-and-plan-making>

<sup>8</sup> Although planning practice guidance has been updated since preparation of the Viability Study, the changes are relatively minor and do not affect the findings of the study.

volume and regional housebuilders can achieve significant economies of scale in the purchase of materials and use of labour [CIL4a, paragraph 4.1.12 and Table 4.8]. This approach has been accepted by CIL Examiner's elsewhere, including recently at Canterbury.<sup>9</sup>

- 2.6 The Viability Study factors in the range of development costs associated with delivering the Cranbrook Plan [CIL4a, Table 6.3 and Table 6.7], and compares it with the values arising from the housing (including self-build), gypsy and traveller pitches, and employment land [CIL4a, paragraph 6.3.2].
- 2.7 The Cranbrook Plan was viability tested at different proportions of affordable housing and at different amounts of developer return for market housing. This showed that the Plan is not viable with 25% affordable housing required in Local Plan policy, but viability improved by reducing the proportion of affordable housing to the extent that 15% affordable housing with a developer return of 17.5% proves to be viable [CIL4a, paragraph 6.4.3]. There is some viability headroom with these figures, but it is not considered appropriate to charge CIL as any extra value could be used to increase the level of affordable housing and/or bring forward the early provision of infrastructure [CIL 4a, paragraph 7.1.4].
- 2.8 The Viability Study notes that the overall level of risk at Cranbrook is lower given that initial development is well under way at the town [CIL4a, paragraph 6.4.3]. Cranbrook is now a successful established town within an area that has seen continued growth, and the expansion of the town has been subject to more detailed planning through the emerging Cranbrook Plan, meaning the uncertainties are reduced compared to other development. This justifies a developer return in the middle of the range considered suitable in national guidance.<sup>10</sup> Again, a recent CIL Examiner elsewhere has accepted this as a reasonable profit level.<sup>11</sup>
- 2.9 Infrastructure needs are detailed in the Cranbrook Infrastructure Delivery Plan [CIL10] – the costs of which are reflected in the Viability Study. Key items of infrastructure include two new primary schools, a health and well-being hub building, sports centre and swimming pool, and sustainable transport provision. Some minor updates to the Cranbrook IDP were made during the Examination of the Cranbrook Plan to reflect changes to the cost of some of the education and transport infrastructure [CIL/PSD1]. This slightly increased the total infrastructure cost, from around £113.2m to just under £116m.
- 2.10 Cranbrook Plan Policy CB6 [CIL9] sets out how infrastructure will be delivered. The Cranbrook IDP [CIL10 and CIL/PSD1, paragraph 1.11] supports zero rating CIL, as s106 planning obligations provide greater certainty over how and when infrastructure will be

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<sup>9</sup> Canterbury City Council CIL Examination Report, 4 November 2019, paragraph 20:

<https://drive.google.com/file/d/1C3Wppt1bKMUrVYjkiqN6SeprpUdiU231/view>

<sup>10</sup> Planning practice guidance, Reference ID: 10-018-20190509:

<https://www.gov.uk/guidance/viability#standardised-inputs-to-viability-assessment>

<sup>11</sup> Canterbury City Council CIL Examination Report, 4 November 2019, paragraph 41:

<https://drive.google.com/file/d/1C3Wppt1bKMUrVYjkiqN6SeprpUdiU231/view>

delivered at the town. This approach to infrastructure delivery is reflected in the Cranbrook Plan itself [CIL9, paragraph 3.47].

- 2.11 In terms of adopted policy, Local Plan Strategy 12 [CIL5] relating to development at Cranbrook, which includes infrastructure needs, will be superseded by the Cranbrook Plan on adoption [CIL9, Appendix 1].
- 2.12 The Examiner will be aware that representations on the Draft Charging Schedule from key stakeholders involved in the delivery of infrastructure support the £0 psm rate at Cranbrook, including Cranbrook Town Council [representation number 002], Devon County Council [017], and several developers [013, 014, 015, 016].
- 2.13 In conclusion, the appropriate available evidence and planning policies justifies the £0 psm rate at Cranbrook.

**b. Overall, does the All development at Cranbrook NIL rate strike an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability (viability buffer)?**

- 2.14 The Cranbrook IDP identifies a significant infrastructure cost of some £113.2m arising from delivery of the emerging Cranbrook Plan [CIL10, page 26]. As noted in paragraph 2.9 above, this cost has increased to just under £116m as a result of minor updates to the Cranbrook IDP [CIL/PSD1] through the Cranbrook Plan Examination – this increase is a relatively small proportion of the overall costs sought and within the headroom previously identified through the viability work.
- 2.15 The Viability Study [CIL4b, Table 6.3 and Annex I] accounts for the infrastructure development cost by applying £70.2m under s106; £20.9m in “utilities” for district heat; £10.5m of “section 278 works” on transport; £3m in “site wide abnormalities” for undergrounding high voltage power lines (Table 6.3 notes this has reduced from £4.9m in Annex I to reflect cost net of rebate allowance); £6.4m in “plot abnormalities” for carbon reduction over building regulations; and £4.1m in “landscaping” for SANGs delivery and enhancement.
- 2.16 As set out in response to question 2a above, the council propose the funding of new infrastructure through s106 and s278 planning obligations to provide greater certainty over how and when infrastructure will be delivered in the future expansion of Cranbrook [CIL10 and CIL/PSD1, paragraph 1.11]. This approach has successfully delivered the range of infrastructure already in place at the town, including a primary school, an ‘all-through’ school, train station, play areas, the Country Park, and Younghayes Community Centre.
- 2.17 The Viability Study shows the Cranbrook Plan is viable with 15% affordable housing and a 17.5% developer return [CIL 4a, paragraph 6.4.3]. This evidence indicates there is some viability headroom, but a rate of CIL is not recommended as any additional value could be used to increase the proportion of affordable housing and/or bring forward the early provision of infrastructure [CIL4a, Table 6.8, paragraph 6.4.4, 7.1.4].

2.18 The amended CIL regulations now enable CIL and s106 to be spent on the same item of infrastructure, so it is conceivable that future CIL receipts (generated elsewhere in the district) could also be used at Cranbrook. In accordance with the regulations, from 2020, the council will publish an annual infrastructure funding statement by December 31 every year which will include a list of infrastructure projects or types of infrastructure which will be, or may be, wholly or partly funded by CIL.<sup>12</sup>

2.19 Also, in relation to funding new infrastructure, whilst the Viability Study ‘loads’ all of the infrastructure cost on to the developer through planning obligations, it recognises that the permitted development at Cranbrook has benefited from significant investment from the public sector [CIL4a, paragraph 6.4.5]. The following table (figure 2.1) sets out where funding has successfully been obtained from the public sector for infrastructure delivery in Cranbrook and the wider ‘West End’ of the district since 2011, when construction was underway. As shown in figure 2.1, total public sector investment is significant, amounting to some £125m, mostly from grants but also through some loans.

**Figure 2.1: Examples of successfully obtaining public sector funding to deliver infrastructure in East Devon**

Funding organisation	Funding programme	Grant or loan?	Delivering what and when	Amount of funding
Department for Communities and Local Government (DCLG) allocation to Heart of the South West LEP	Growth Deal 1	Grant	Exeter Science Park Environmental Futures Campus – to fund site infrastructure, obtained in 2015/16 <sup>13</sup>	£2.5m
Department for Transport	Local Pinch Point Fund, tranche 2	Grant	Contribute towards delivery of Tithebarn Link Road, extending from West End of East Devon into Exeter <sup>14</sup> , funding obtained in 2013	£1.75m
Department for Business, Energy and Industrial Strategy (BEIS)	Regional Growth Fund	Grant	Contribute towards delivery of Tithebarn Link Road, extending from West End of East Devon into Exeter. Delivered in 2018.	£1.8m

<sup>12</sup> The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019, Regulation 121A: <http://www.legislation.gov.uk/ukxi/2019/1103/contents/made>

<sup>13</sup> Further detail at <https://heartofswlep.co.uk/projects/exeter-science-park-environmental-futures-campus/>

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/204265/tranche-2-successful-schemes.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/204265/tranche-2-successful-schemes.pdf)

<b>Funding organisation</b>	<b>Funding programme</b>	<b>Grant or loan?</b>	<b>Delivering what and when</b>	<b>Amount of funding</b>
BEIS	Regional Growth Fund	Grant	Exeter Science Park Common Infrastructure	£1m
BEIS	Regional Growth Fund	Grant	Sky Park site preparation, 2015	£1.9m
BEIS	Regional Growth Fund	Grant	B3184 / Long Lane, 2015	£2m
DCLG allocation to Heart of the South West LEP	Growing Places Fund	Loan	Exeter Science Park Centre, funding obtained in 2013	£4.5m
DCLG	Local Infrastructure Fund	Recoverable loan	Cranbrook Education Campus, opened in 2015 and extension to main spine road	£20m
Department for Transport	Community Infrastructure Fund	Grant	Redhayes Bridge, open 2011.	£3.75m
Department for Transport	Major Scheme Bid	Grant	Junction 29 upgrade, open 2013 <sup>15</sup>	£11m
Regional Development Agency	Single Pot	Grant	Exeter Science Park Land and Servicing	£19m
Homes and Communities Agency (HCA)	Regional Infrastructure Fund	Loan	Clyst Honiton Bypass, open 2013	£3m
DCLG	Growth Point	Grant	Clyst Honiton Bypass, open 2013	£4.5m
HCA	Regional Infrastructure Fund	Loan	Cranbrook (Phase 1) St Martins Primary School and Main Local Route, 2011	£9m
DCLG	Growth Point	Grant	Cranbrook (Phase 1) Younghayes Centre, 2011	£1.5m

<sup>15</sup> <https://www.bbc.co.uk/news/uk-england-devon-20950807>

Funding organisation	Funding programme	Grant or loan?	Delivering what and when	Amount of funding
HCA	Low Carbon Infrastructure Fund	Grant – includes £100k each from DCC, ECC and EDDC	Cranbrook (Phase 1) district heating network, open 2012.	£4.1m
HCA	National Affordable Housing Programme	Grant	Cranbrook (Phase 1) affordable housing, 2011 <sup>16</sup>	£15.6m
HCA	Infrastructure funding	Grant	Cranbrook (Phase 1) infrastructure, 2011	£1m
Highways England	Growth and Housing Fund	Grant	Tithebarn link road and Tithebarn Lane bridge <sup>17</sup> . Delivered in 2018.	£4.5m
Highways Agency	Pinch Point	Grant	Improvements to M5 junction 30 <sup>18</sup> . Delivered in 2015.	£1m
East Devon District Council	Enterprise Zone	EDDC to borrow £2m and then recoup from business rates and £300k from developer contributions	Long Lane widening and new link road on Silverdown Office Park, near Exeter Airport. To be delivered 2020 – 21. <sup>19</sup>	£2m
East Devon District Council	Enterprise Zone	Grant	To match fund LEP Growth Deal funds for Open Innovation Building, funding obtained 2019.	£1.1m

<sup>16</sup> <https://www.exeterandeastdevon.gov.uk/key-of-the-door-at-cranbrook/News-Article/>

<sup>17</sup> <https://highwaysengland.co.uk/designated-funds/case-studies/tithebarn-link-road-and-bridge/>

<sup>18</sup> <https://www.gov.uk/government/news/1-million-of-improvements-start-on-the-m5-junction-30>

<sup>19</sup> EDDC Cabinet report, 06.03.19: <https://democracy.eastdevon.gov.uk/documents/s935/Long%20Lane.pdf> ; DCC Cabinet report, 13.03.19:

<https://democracy.devon.gov.uk/documents/s24336/Long%20Lane%20widening%20and%20new%20link%20road%20on%20Silverdown%20Office%20Park%20near%20Exeter%20Airport.pdf>

<b>Funding organisation</b>	<b>Funding programme</b>	<b>Grant or loan?</b>	<b>Delivering what and when</b>	<b>Amount of funding</b>
East Devon District Council	Enterprise Zone	Grant	To provide enhanced bus service to the Enterprise Zone area	£0.5m,
East Devon District Council	Enterprise Zone	Grant	To match fund National Productivity Investment Fund investment in Park and Change facility, 2018.	£1.355m
Learning and Skills Council/RDA		Grant	Training Academy, opened in 2011.	£7.0m
<b>Total amount of funding</b>				<b>£125.355m</b>

2.20 Given this track record, the council is confident that public sector funding will be secured in developing the future expansion of Cranbrook. Although this will not affect the nil rate of CIL, it will have a positive effect on the delivery of infrastructure at the town.

2.21 Overall, it is clear that a nil rate of CIL at Cranbrook and the provision of infrastructure through s106/s278 planning obligations strikes an appropriate balance between funding new infrastructure and economic viability.

## 3 Part Two – Residential

### General residential development in Sidmouth and Budleigh Salterton

- a. **Is the local levy rate of £200sqm for general residential development in Sidmouth and Budleigh Salterton justified by appropriate available evidence, having regard to national guidance, local economic context and infrastructure needs, including in relation to the various adopted and emerging planning policies for East Devon?**
- 3.1 When setting a CIL rate, regulations state that a charging authority must strike an appropriate balance between the desirability of funding from CIL the cost of infrastructure to support development, and the potential effects on the economic viability of development.<sup>20</sup> National guidance states that differential rates may be appropriate in relation to geographical zones within the charging authority's boundary, where justified by viability evidence.<sup>21</sup>
- 3.2 The local levy rate of £200 per square metre (psm) for general residential development in Sidmouth and Budleigh Salterton has been informed by this national guidance, the Viability Study [CIL4a and 4b] and infrastructure needs at the towns [CIL8].
- 3.3 Section 2 in the Viability Study [CIL4a] summarises national guidance which was followed in preparing the evidence, including the standardised inputs to viability assessment in relation to identifying development costs, defining benchmark land values, and developer returns.<sup>22</sup> The approach to testing and case studies are set out in section 3; whilst section 4 contains the assumptions on dwelling mix/size, values, costs, and land values [CIL4a]. It is noted that new build dwellings at Sidmouth and Budleigh Salterton have the highest market values in East Devon [CIL4a, Table 4.5].
- 3.4 The Viability Study notes there is no prescribed approach to setting a CIL rate, detailing a number of considerations for the council, including simplicity of charging zones, avoiding market shock, incorporating a buffer, and reasonableness [CIL4a, paragraph 7.1.2]. Given this stronger viability of market values compared to elsewhere, and mindful of the various considerations previously highlighted, the Viability Study [CIL4a, paragraph 7.1.2, 7.1.5] justifies a (higher) rate of £200 psm for general residential development in Sidmouth and Budleigh Salterton. The Sidmouth and Budleigh Salterton charging zone reflects the built-up area boundary at the towns identified in the Local Plan [CIL5].<sup>23</sup>

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<sup>20</sup> The Community Infrastructure Levy Regulations 2010 (as amended), Regulation 14.

<sup>21</sup> Planning practice guidance, Reference ID: 25-022-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>22</sup> Although planning practice guidance has been updated since preparation of the Viability Study, the changes are relatively minor and do not affect the findings of the study.

<sup>23</sup> Guidance states that charging schedules and relevant plans should inform and be generally consistent with each other - Planning practice guidance, Reference ID: 25-012-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

- 3.5 In terms of infrastructure needs, the council will prepare its first annual infrastructure funding statement by 31 December 2020, which will include a list of infrastructure projects or types of infrastructure which will be, or may be, wholly or partly funded by CIL.<sup>24</sup> In advance of this, a draft infrastructure list is presented in the CIL Draft Charging Schedule consultation document [CIL1, paragraph 2.23]. This list largely comprises of generic infrastructure types, and does not identify any specific infrastructure projects at Sidmouth or Budleigh Salterton.
- 3.6 The East Devon Local Plan [CIL5] proposes a relatively limited amount of development at Sidmouth and Budleigh Salterton, so the infrastructure needs are correspondingly limited. The only “priority one” project that is critical to delivering the Local Plan is habitats mitigation required from all new residential development [CIL8]. In Sidmouth, infrastructure needs with a funding gap include additional capacity at the primary school, sports and recreation projects, and a new access for Alexandria Trading Estate [CIL8, chapter 12]. No specific infrastructure needs are identified for Budleigh Salterton in either the Local Plan [CIL5] or the East Devon Infrastructure Delivery Plan review (IDP) [CIL8].
- 3.7 Both Sidmouth and Budleigh Salterton are covered by ‘made’ neighbourhood plans. As previously stated, there are no additional infrastructure requirements in these plans that have not been included in the Local Plan or IDP. But it does mean that the ‘neighbourhood portion’ increases to 25% of CIL receipts generated from development in the area.

**b. Should general residential development be defined as falling within Use Class C3 for clarity?**

- 3.8 National guidance allows charging authorities to set differential rates by reference to different intended uses of development, noting that the definition of “use” is not tied to the classes of development in the Town and Country Planning Act (Use Classes) Order 1987, although it does provide a useful reference point.<sup>25</sup>
- 3.9 The council do not consider that general residential development should be defined as falling within Use Class C3, as this would cause confusion with the separate rate which has been defined for sheltered housing, extra care housing and care homes (which may also be C3).
- 3.10 However, if the Examiner considers that greater clarity is required, a slight amendment could be made to the description in the Charging Schedule: “General residential development in Sidmouth and Budleigh Salterton (for example Use Class C3, but excluding sheltered housing, extra care housing and care homes)”.

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<sup>24</sup> The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019, regulation 121A: <http://www.legislation.gov.uk/ukxi/2019/1103/regulation/9/made>

<sup>25</sup> Planning practice guidance, Reference ID: 25-023-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

**c. Overall, does the local levy rate of £200sqm for Sidmouth and Budleigh Salterton strike an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability (viability buffer)?**

- 3.11 As previously stated, the infrastructure requirements at Sidmouth and Budleigh Salterton are relatively limited, given the level of development proposed at these towns. The East Devon IDP outlines the range of funding options available to deliver infrastructure, namely through direct provision by statutory undertakers under their legal obligations and functions; developer/landowner funding to mitigate the impact of development; from grant and loans; as well as from CIL itself [CIL8, paragraph 4.20]. Government guidance recognises that CIL is the most appropriate mechanism for capturing developer contributions from small developments.<sup>26</sup>
- 3.12 The amended (2019) CIL regulations remove the s106 pooling restriction and enable CIL and s106 to be spent on the same item of infrastructure.<sup>27</sup> This provides greater flexibility on the delivery of infrastructure, noting that the combined total of requests from developers should not undermine the deliverability of the plan.<sup>28</sup>
- 3.13 In accordance with the regulations, from 2020, the council will publish an annual infrastructure funding statement by December 31 every year which will include a list of infrastructure projects or types of infrastructure which will be, or may be, wholly or partly funded by CIL.<sup>29</sup> Decisions on spending CIL receipts are considered by the councils' CIL Working Party (a group of key Councillors and officers), who then make recommendations to Strategic Planning Committee to make a decision. The proposed levy rate for Sidmouth and Budleigh Salterton will assist in funding new infrastructure by contributing to the overall amount of funding available. Although the council may spend receipts outside the area where they are generated, the 'neighbourhood portion' will remain within the parishes, comprising 25% of CIL receipts generated from development in the area.
- 3.14 In terms of economic viability, the Viability Study assesses a range of case studies for residential development, which consistently show stronger viability and hence a higher CIL rate in Sidmouth and Budleigh Salterton [CIL4a, chapter 5]. In accordance with guidance, a viability buffer has been considered so that the levy is not charged at the margin of viability.<sup>30</sup> The study shows the rate with a buffer of 50%, and the rate is comfortably higher than £200 psm in nearly every instance against this measure (the only exception being the high density scheme). The study notes that some councils (and Examiners) deem that a rate of no more than 5% of gross development value is generally acceptable and unlikely to put development at risk [CIL4a, paragraph 7.1.2] – the proposed rate is within this

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<sup>26</sup> Planning practice guidance, Reference ID: 23b-023-20190901: <https://www.gov.uk/guidance/planning-obligations>

<sup>27</sup> Planning practice guidance, Reference ID: 23b-006-20190901: <https://www.gov.uk/guidance/planning-obligations>

<sup>28</sup> Planning practice guidance, Reference ID: 25-166-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>29</sup> The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019, Regulation 121A: <http://www.legislation.gov.uk/uksi/2019/1103/contents/made>

<sup>30</sup> Planning practice guidance, Reference ID: 25-020-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

percentage. On balance, the rate of £200 psm is appropriate in Sidmouth and Budleigh Salterton.

- 3.15 National guidance recognises that an instalment policy can assist the viability and delivery of development, and a willingness to allow such a policy can be a material consideration in assessing the viability of proposed levy rates.<sup>31</sup> The council has adopted an instalment policy, assisting development viability and delivery in East Devon [CIL11]. It is also possible to ‘phase’ development – the regulations<sup>32</sup> state that for phased planning permission, each phase of the development is a separate chargeable development, meaning the instalment policy will apply to each phase rather than the entirety of the site. This would further assist viability in terms of cash flow.
- 3.16 Overall, the evidence points to a rate of £200 psm in Sidmouth and Budleigh Salterton as striking an appropriate balance between helping to fund new infrastructure and economic viability (incorporating an appropriate buffer), and this is reflected in the Draft Charging Schedule.

### **General residential development in the rest of East Devon**

**d. Is the local levy rate of £150sqm for general residential development in the rest of East Devon justified by appropriate available evidence, having regard to national guidance, local economic context and infrastructure needs, including in relation to the various adopted and emerging planning policies for East Devon?**

- 3.17 When setting a CIL rate, regulations state that a charging authority must strike an appropriate balance between the desirability of funding from CIL the cost of infrastructure to support development, and the potential effects on the economic viability of development.<sup>33</sup> National guidance states that differential rates may be appropriate in relation to geographical zones within the charging authority’s boundary, where justified by viability evidence.<sup>34</sup>
- 3.18 The local levy rate of £150 psm for general residential development in the rest of East Devon has been informed by this national guidance, the Viability Study [CIL4a and 4b] and infrastructure needs [CIL8].
- 3.19 Section 2 in the Viability Study [CIL4a] summarises national guidance which was followed in preparing the evidence, including the standardised inputs to viability assessment in relation to identifying development costs, defining benchmark land values, and developer returns.<sup>35</sup> The approach to testing and case studies are set out in section 3; whilst section 4 contains

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<sup>31</sup> Planning practice guidance, Reference ID: 25-128-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>32</sup> The Community Infrastructure Levy Regulations 2010 (as amended), Regulation 9(4) and 70(1)(b).

<sup>33</sup> The Community Infrastructure Levy Regulations 2010 (as amended), Regulation 14.

<sup>34</sup> Planning practice guidance, Reference ID: 25-022-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>35</sup> Although planning practice guidance has been updated since preparation of the Viability Study, the changes are relatively minor and do not affect the findings of the study.

the assumptions on dwelling mix/size, values, costs, and land values. Market values for the Exmouth, Ottery, Honiton, Axminster and Seaton and Rural areas are broadly similar [CIL4a, Table 4.5].

- 3.20 The Viability Study notes there is no prescribed approach to setting a CIL rate, detailing a number of considerations for the council, including simplicity of charging zones, avoiding market shock, incorporating a buffer, and reasonableness [CIL4a, paragraph 7.1.2]. Mindful of these points, and through assessing the viability of schemes in the case studies, most of East Devon can support a residential CIL rate of £150 psm [CIL4a, paragraph 7.1.4].
- 3.21 With regards to infrastructure needs, the council will prepare its first annual infrastructure funding statement by the end of December 2020, which will include a list of infrastructure projects or types of infrastructure which will be, or may be, wholly or partly funded by CIL.<sup>36</sup> In advance of this, a draft infrastructure list is presented in the CIL Draft Charging Schedule consultation document [CIL1, paragraph 2.23]. This draft list largely comprises of generic infrastructure types.
- 3.22 Although the Local Plan focusses residential development in the West End of the district, large scale growth is also planned across parts of the rest of East Devon, particularly at Axminster, Exmouth, Honiton and Ottery [CIL5, Strategy 2]. Correspondingly, there are some significant infrastructure needs in these areas, as identified in the Local Plan and East Devon IDP, including the Axminster north-south relief road (located on the strategic site allocation but with wider benefits to the town); habitats mitigation for the Exe Estuary and Pebblebed Heaths; expansion of Exmouth Community College; and new primary school provision at Axminster and Ottery St Mary – all of which are considered priority one in the IDP and which it is possible for CIL funds to help deliver [CIL8, Appendix One].

**e. Should general residential development be defined as falling within Use Class C3?**

- 3.23 National guidance allows charging authorities to set differential rates by reference to different intended uses of development, noting that the definition of “use” is not tied to the classes of development in the Town and Country Planning Act (Use Classes) Order 1987, although it does provide a useful reference point.<sup>37</sup>
- 3.24 The council do not consider that general residential development should be defined as falling within Use Class C3, as this would cause confusion with the separate rate which has been defined for sheltered housing, extra care housing and care homes (which may also be C3).
- 3.25 However, if the Examiner considers that greater clarity is required, a slight amendment could be made to the description in the Charging Schedule: “General residential development in

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<sup>36</sup> The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019, regulation 121A: <http://www.legislation.gov.uk/ukxi/2019/1103/regulation/9/made>

<sup>37</sup> Planning practice guidance, Reference ID: 25-023-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

the rest of East Devon (for example Use Class C3, but excluding sheltered housing, extra care housing and care homes)”.

**f. Overall, does the local levy rate of £150sqm for General residential development in the rest of East Devon strike an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability (viability buffer)?**

- 3.26 The East Devon IDP outlines the range of funding options available to deliver infrastructure, namely through direct provision by statutory undertakers under their legal obligations and functions; developer/landowner funding to mitigate the impact of development; from grant and loans; as well as from CIL itself [CIL8, paragraph 4.20]. This hearing statement (Part One, question b) outlines the successful track record of obtaining grant and loan funds in Cranbrook and the west of the district. Government guidance recognises that CIL is the most appropriate mechanism for capturing developer contributions from small developments.<sup>38</sup>
- 3.27 As previously stated, further detail on the funding of new infrastructure will be contained in the council’s annual infrastructure funding statement, the first of which will be published by 31 December 2020. The proposed levy rate for general residential development in the rest of East Devon will assist in funding new infrastructure, contributing to the overall amount of infrastructure funding required. The spending of receipts is considered by the councils’ CIL Working Party, whose recommendations are approved at Strategic Planning Committee.
- 3.28 The small, medium and large case studies all indicate that £150 psm is a suitable rate in the area covered by the rest of East Devon, incorporating a 50% buffer<sup>39</sup> compared to the maximum level that could be charged [CIL4a, paragraph 5.2.1 to 5.4.3]. Whilst the buffer is lower for the high density scheme, this rate is 4% of GDV and is still therefore considered ‘reasonable’ based upon experience elsewhere [CIL4a, paragraph 7.1.2].
- 3.29 In addition, the council has adopted an instalment policy [CIL11], advocated as assisting the viability and delivery of development, and a material consideration in assessing the viability of proposed levy rates.<sup>40</sup> It is also possible to ‘phase’ development – the regulations<sup>41</sup> state that for phased planning permission, each phase of the development is a separate chargeable development, meaning the instalment policy will apply to each phase rather than the entirety of the site. This would further assist viability in terms of cash flow.
- 3.30 Overall, the evidence points to a rate of £150 psm for general residential development in the rest of East Devon as striking an appropriate balance between helping to fund new

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<sup>38</sup> Planning practice guidance, Reference ID: 23b-023-20190901: <https://www.gov.uk/guidance/planning-obligations>

<sup>39</sup> A buffer is recommended in planning practice guidance, Reference ID: 25-020-20190901:

<https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>40</sup> Planning practice guidance, Reference ID: 25-128-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>41</sup> The Community Infrastructure Levy Regulations 2010 (as amended), Regulation 9(4) and 70(1)(b).

infrastructure and economic viability (incorporating an appropriate buffer), and this is reflected in the Draft Charging Schedule.

## **Sheltered housing, extra care housing and care homes**

### **g. Is the local levy rate of £0sqm for Sheltered housing, extra care housing and care homes justified by appropriate available evidence, having regard to national guidance, local economic context and infrastructure needs, including in relation to the various adopted and emerging planning policies for East Devon?**

- 3.31 When setting a CIL rate, regulations state that a charging authority must strike an appropriate balance between the desirability of funding from CIL the cost of infrastructure to support development, and the potential effects on the economic viability of development.<sup>42</sup> Differential rates can be set for types of development, where justified by viability evidence.<sup>43</sup>
- 3.32 Section 2 in the Viability Study [CIL4a] summarises national guidance which was followed in preparing the evidence, including the standardised inputs to viability assessment in relation to identifying development costs, defining benchmark land values, and developer returns.<sup>44</sup>
- 3.33 The Viability Study includes case studies for sheltered housing, extra care housing and care homes [CIL4a, Table 3.2, 3.3]; and sets out the various assumptions used for these case studies, including values [CIL4a, paragraph 4.1.6 – 8] and costs [CIL4a, Table 4.8 and 4.9]. The study notes that, in general, sales periods are longer for retirement housing than for general needs housing [CIL4a, paragraph 4.1.15].
- 3.34 Sheltered and extra care housing are not viable to charge CIL in areas where 50% affordable housing is required, but a relatively small charge can be justified in the other towns. Care homes are not able to viably support CIL [CIL4a, paragraph 5.5.2-3].
- 3.35 The Viability Study notes there is no prescribed approach to setting a CIL rate, detailing a number of considerations for the council, including simplicity of charging zones, avoiding market shock, incorporating a buffer, and reasonableness [CIL4a, paragraph 7.1.2]. Mindful of this, a rate of £0 is recommended in the study.
- 3.36 The infrastructure needs arising from sheltered housing, extra care housing and care homes are likely to be limited given the relatively small scale of such development. The Local Plan aims to secure 150 care and extra care home spaces at Exmouth; and 50 spaces at Axminster, Honiton, Sidmouth, Seaton, and Ottery St Mary [CIL5, Strategy 36].
- 3.37 The East Devon IDP review includes extra care housing as a type of healthcare infrastructure, identifying projects at these towns as priority three. At Cranbrook an existing

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<sup>42</sup> The Community Infrastructure Levy Regulations 2010 (as amended), Regulation 14.

<sup>43</sup> Planning practice guidance, Reference ID: 25-022-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>44</sup> Although planning practice guidance has been updated since preparation of the Viability Study, the changes are relatively minor and do not affect the findings of the study.

s106 secures serviced land for extra care housing, and is therefore priority two [CIL8, Appendix One].

**h. Overall, does the local levy rate of £0sqm for Sheltered housing, extra care housing and care homes strike an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability (viability buffer)?**

- 3.38 Development can fund new infrastructure directly through s106 planning obligations where it meets the statutory tests,<sup>45</sup> and section 278 highway agreements, as appropriate. Although CIL will not be generated from sheltered housing, extra care housing and care homes, it may be that receipts from the levy are spent on infrastructure to support their development. For example, the draft infrastructure list includes health centres, libraries, community facilities, and open space/recreation – all of which are likely to be used by those living in such accommodation.
- 3.39 The amended (2019) CIL regulations remove the s106 pooling restriction and enable CIL and s106 to be spent on the same item of infrastructure.<sup>46</sup> This provides greater flexibility on the delivery of infrastructure, noting that the combined total of requests from developers should not undermine the deliverability of the plan.<sup>47</sup> Further detail on funding new infrastructure will be contained in the council’s annual infrastructure funding statement, the first of which will be published by 31 December 2020.
- 3.40 The viability of sheltered housing, extra care housing and care homes is challenging. Sheltered and extra care housing can support a relatively small CIL with a 50% buffer in the combined East of Exeter, Exmouth, Honiton, Axminster, Seaton and Ottery value area. Elsewhere, and for care homes across the district, it is not viable to charge CIL [CIL4a, paragraph 5.5.2-3].
- 3.41 In making a judgement on the range of factors to consider when setting a CIL rate, particularly the low viability of sheltered and extra housing, simplicity of charging zones, and limited infrastructure needs of this type of development; a rate of £0 psm strikes an appropriate balance between helping to fund new infrastructure and economic viability.

## **Rural Exception Sites**

**i. Is the local levy rate of £0sqm for Rural Exception Sites justified by appropriate available evidence, having regard to national guidance, local economic context**

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<sup>45</sup> The Community Infrastructure Levy Regulations 2010, Regulation 122(2).

<sup>46</sup> Planning practice guidance, Reference ID: 23b-006-20190901: <https://www.gov.uk/guidance/planning-obligations>

<sup>47</sup> Planning practice guidance, Reference ID: 25-166-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

**and infrastructure needs, including in relation to the various adopted and emerging planning policies for East Devon?**

- 3.42 When setting a CIL rate, regulations state that a charging authority must strike an appropriate balance between the desirability of funding from CIL the cost of infrastructure to support development, and the potential effects on the economic viability of development.<sup>48</sup> Differential rates can be set for types of development, where justified by viability evidence.<sup>49</sup>
- 3.43 Section 2 in the Viability Study [CIL4a] summarises national guidance which was followed in preparing the evidence, including the standardised inputs to viability assessment in relation to identifying development costs, defining benchmark land values, and developer returns.<sup>50</sup>
- 3.44 The Viability Study notes that the inclusion of CIL on Rural Exception Sites could lead to a greater number of market units being required to facilitate development, as the only justification for market housing in these rural areas is to subsidise the provision of affordable housing [CIL4a, paragraph 3.2.6 and 7.1.8]. Therefore, any value that is generated from the market housing is intended to subsidise the delivery of affordable housing and, on this basis, form part of the viability calculations. The study therefore recommends a zero CIL rate for rural exception sites, noting that this approach has recently been brought in elsewhere, including Cornwall [CIL4a, paragraph 7.1.8].
- 3.45 Local Plan Strategy 35 sets out the councils' policy for delivering Rural Exception Sites [CIL6]. Such sites should be up to or around 15 dwellings, with at least 66% affordable housing, meeting a proven local need, and in a reasonably accessible location that is adjacent or well related to a village. This approach is consistent with national policy.<sup>51</sup>
- 3.46 Given this policy, by their very nature, rural exception sites are relatively rare and of a small scale. This means that infrastructure needs from rural exception sites will be limited. The East Devon IDP recognises that the limited growth in villages means that few infrastructure projects have been identified in these areas [CIL8, paragraph 13.2].

**j. Would the local levy rate of £0sqm for Rural Exception Sites only apply to general residential development defined as falling within Use Class C3?**

- 3.47 National guidance allows charging authorities to set differential rates by reference to different intended uses of development, noting that the definition of "use" is not tied to the

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<sup>48</sup> The Community Infrastructure Levy Regulations 2010 (as amended), Regulation 14.

<sup>49</sup> Planning practice guidance, Reference ID: 25-022-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>50</sup> Although planning practice guidance has been updated since preparation of the Viability Study, the changes are relatively minor and do not affect the findings of the study.

<sup>51</sup> National Planning Policy Framework, paragraph 77: <https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes>

classes of development in the Town and Country Planning Act (Use Classes) Order 1987, although it does provide a useful reference point.<sup>52</sup>

- 3.48 The council do not consider that Rural Exception Sites should be defined as falling within Use Class C3, as this would cause confusion with the separate rate which has been defined for sheltered housing, extra care housing and care homes (which may also be C3).
- 3.49 However, if the Examiner considers that greater clarity is required, a slight amendment could be made to the description in the Charging Schedule: “Rural Exception Sites (for example Use Class C3, but excluding sheltered housing, extra care housing and care homes)”.

**k. Overall, does the local levy rate of £0sqm for Rural Exception Sites strike an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability (viability buffer)?**

- 3.50 Developers can fund new infrastructure directly through s106 planning obligations where it meets the statutory tests,<sup>53</sup> and section 278 highway agreements, as appropriate. Although CIL will not be generated from Rural Exception Sites, it may be that receipts from the levy are spent on infrastructure to support their (limited) development. For example, the draft infrastructure list includes education, health centres, libraries, community facilities, and open space/recreation, which are likely to be used by residents of rural exception sites.
- 3.51 There will be limited infrastructure to fund arising from development at Rural Exception Sites. Nevertheless, the amended (2019) CIL regulations means there is greater flexibility on the delivery of infrastructure, noting that the combined total of requests from developers should not undermine the deliverability of the plan.<sup>54</sup> Further detail on funding new infrastructure will be contained in the council’s annual infrastructure funding statement, the first of which will be published by 31 December 2020.
- 3.52 As Rural Exception Sites generally rely on cross subsidy from the sale of market dwellings to enable the scheme to go ahead, setting CIL on the market dwellings on such sites is likely to require more market housing for the cross subsidy [CIL4a, paragraph 7.1.2]. Given this, alongside the limited infrastructure requirements from Rural Exception Sites a rate of £0 psm at Rural Exception Sites strikes an appropriate balance between helping to fund new infrastructure and economic viability.

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<sup>52</sup> Planning practice guidance, Reference ID: 25-023-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>53</sup> The Community Infrastructure Levy Regulations 2010, Regulation 122(2).

<sup>54</sup> Planning practice guidance, Reference ID: 23b-006-20190901: <https://www.gov.uk/guidance/planning-obligations>  
Planning practice guidance, Reference ID: 25-166-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

## Residential development on Strategic sites

### **I. Is the local levy rate of £100sqm for Strategic sites justified by appropriate available evidence, having regard to national guidance, local economic context and infrastructure needs, including in relation to the various adopted and emerging planning policies for East Devon?**

- 3.53 When setting a CIL rate, regulations state that a charging authority must strike an appropriate balance between the desirability of funding from CIL the cost of infrastructure to support development, and the potential effects on the economic viability of development.<sup>55</sup> National guidance states that authorities may wish to align zonal rates for strategic development sites, with low or zero rates appropriate where significant contributions towards housing or infrastructure are required.<sup>56</sup>
- 3.54 The local levy rate of £100 psm at Strategic sites has been informed by this national guidance, the Viability Study [CIL4a and 4b] and infrastructure needs [CIL5 and CIL8].
- 3.55 Section 2 in the Viability Study [CIL4a] summarises national guidance which was followed in preparing the evidence, including the standardised inputs to viability assessment in relation to identifying development costs, defining benchmark land values, and developer returns.<sup>57</sup> The approach to testing and case studies are set out in section 3, which includes three 'large site' case studies representative of the strategic sites proposed in the Local Plan. Section 4 contains the assumptions on dwelling mix/size, values, costs, and land values.
- 3.56 Build costs at the Strategic sites use Building Cost Information Service (BCIS) lower quartile cost figures, based upon an understanding from various cost consultants, and given that volume and regional housebuilders can achieve significant economies of scale in the purchase of materials and use of labour [CIL4a, paragraph 4.1.12 and Table 4.8]. This approach has been accepted by CIL Examiner's elsewhere, including recently at Canterbury.<sup>58</sup>
- 3.57 Land values at (greenfield) Strategic sites reflect the lower agricultural values as well as the reduced proportion of developable land and the policy requirements associated with these larger developments. Given the evidence, the study applies £300,000 per hectare as the benchmark land value for Strategic sites [CIL4a, paragraph 4.2.8].
- 3.58 The assessment of the large sites initially indicated that a CIL of £150 psm was suitable in the rest of East Devon, with £200 psm in the higher value areas of Sidmouth and Budleigh Salterton. However, sensitivity testing applied a £20,000 per dwelling cost to reflect that

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<sup>55</sup> The Community Infrastructure Levy Regulations 2010 (as amended), Regulation 14.

<sup>56</sup> Planning practice guidance, Reference ID 25-026-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>57</sup> Although planning practice guidance has been updated since preparation of the Viability Study, the changes are relatively minor and do not affect the findings of the study.

<sup>58</sup> Canterbury City Council CIL Examination Report, 4 November 2019, paragraph 20: <https://drive.google.com/file/d/1C3Wppt1bKMUrVYjkiqN6SeprpUdiU231/view>

larger sites may need to directly provide infrastructure given the (proposed) abolition of the s106 pooling restriction and regulation 123 lists. In light of this additional s106 cost, a rate of £100 psm is recommended at Strategic sites [CIL4a, paragraph 5.4.4-7].

- 3.59 With regards to infrastructure needs, the council will prepare its first annual infrastructure funding statement by the end of December 2020, which will include a list of infrastructure projects or types of infrastructure which will be, or may be, wholly or partly funded by CIL.<sup>59</sup> In advance of this, a draft infrastructure list is presented in the CIL Draft Charging Schedule consultation document [CIL1, paragraph 2.23]. This draft list largely comprises of generic infrastructure types.
- 3.60 The Local Plan [CIL5] contains a series of residential-led strategic allocations (outside Cranbrook) that are representative of the large sites in the Viability Study, contained in the policies below:
- Strategy 13 – Development North of Blackhorse/Redhayes
  - Strategy 14 – Development of an urban extension at Pinhoe
  - Strategy 20 – Development at Axminster (Land at north and east)
  - Strategy 22 – Development at Exmouth (Goodmores Farm)
  - Strategy 23 – Development at Honiton (Ottery Moor Lane)
  - Strategy 26B – Re-development of Redundant Offices Complex at Winslade Park and Land Adjoining Clyst St Mary
- 3.61 The infrastructure needs are contained within these policies, and also reflected in the East Devon IDP review. Some examples of where CIL receipts could help deliver infrastructure on the Strategic sites include the Axminster north-south relief road, and primary school at north of Blackhorse/Redhayes [CIL5, Strategy 13, 20; CIL8, Appendix One]. It is important to note that all of these sites now have planning permission, apart from Axminster and Winslade Park where applications have been submitted but yet to be determined.
- 3.62 The geographic area for the £100 charging zone for strategic sites mirrors the Local Plan allocations listed in the bullet points above, apart from at Axminster where the zone has been extended, based upon more detailed masterplanning of this site.<sup>60</sup>
- m. Does the levy rate apply to all residential development on Strategic sites or should it be defined as general residential development falling within Use Class C3?**
- 3.63 National guidance allows charging authorities to set differential rates by reference to different intended uses of development, noting that the definition of “use” is not tied to the

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<sup>59</sup> The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019, regulation 121A: <http://www.legislation.gov.uk/ukxi/2019/1103/regulation/9/made>

<sup>60</sup> Axminster Masterplan: <https://eastdevon.gov.uk/planning/planning-policy/other-plans/axminster-masterplan/>

classes of development in the Town and Country Planning Act (Use Classes) Order 1987, although it does provide a useful reference point.<sup>61</sup>

- 3.64 The council do not consider that general residential development should be defined as falling within Use Class C3, as this would cause confusion with the separate rate which has been defined for sheltered housing, extra care housing and care homes (which may also be C3).
- 3.65 However, if the Examiner considers that greater clarity is required, a slight amendment could be made to the description in the Charging Schedule: “Strategic sites (for example Use Class C3, but excluding sheltered housing, extra care housing and care homes)”.

**n. Overall, does the local levy rate of £100sqm for Strategic sites strike an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability (viability buffer)?**

- 3.66 The East Devon IDP outlines the range of funding options available to deliver infrastructure, namely through direct provision by statutory undertakers under their legal obligations and functions; developer/landowner funding to mitigate the impact of development; from grant and loans; as well as from CIL itself [CIL8, paragraph 4.20].
- 3.67 This hearing statement (response to Part One, question b) states that the council have a successful track record of obtaining grant and loan funds in Cranbrook and the west of the district. Some examples of successfully obtaining grant/loans related to the delivery of Strategic sites are various grants for the Tithebarn Link Road and bridge (Blackhorse/Redhayes); and £10m from the Housing Infrastructure Fund (HIF) for the Axminster north-south relief road.<sup>62</sup>
- 3.68 In terms of developer funding, development can fund new infrastructure directly through s106 planning obligations where it meets the statutory tests,<sup>63</sup> and section 278 highway agreements, as appropriate. Given the scale of Strategic sites, it is envisaged that such agreements will be applied – as noted, most of the sites already have planning permission.
- 3.69 The amended (2019) CIL regulations remove the s106 pooling restriction and enable CIL and s106 to be spent on the same item of infrastructure.<sup>64</sup> This provides greater flexibility on

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<sup>61</sup> Planning practice guidance, Reference ID: 25-023-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>62</sup> Nb. the HIF money is recoverable grant funding that is to be repaid by the development to the council, and then to be used by the council to deliver other infrastructure projects in East Devon. This money has not yet been received by the council.

<sup>63</sup> The Community Infrastructure Levy Regulations 2010, Regulation 122(2).

<sup>64</sup> Planning practice guidance, Reference ID: 23b-006-20190901: <https://www.gov.uk/guidance/planning-obligations>

the delivery of infrastructure, noting that the combined total of requests from developers should not undermine the deliverability of the plan.<sup>65</sup>

- 3.70 Further detail on the funding of new infrastructure will be contained in the council's annual infrastructure funding statement, the first of which will be published by 31 December 2020. In general, the proposed levy rate for Strategic sites will assist in funding new infrastructure, contributing to the overall amount of infrastructure funding required. The spending of receipts by the council is considered by its CIL Working Party, whose recommendations are approved at Strategic Planning Committee.
- 3.71 All of the Strategic sites allocated in the Local Plan already have planning permission, apart from Axminster and Winslade Park, Clyst St Mary. However, planning applications have been submitted for these two remaining sites, with the applicants proceeding on the basis of needing to take into account the currently adopted CIL charge. These applications are currently pending a decision and are subject to ongoing discussions. Therefore retaining a CIL rate, at a very similar level to the adopted Charging Schedule as indexed (see Appendix One), is consistent with both applications passage through the planning process thus far. Retaining the CIL rate will therefore provide greater certainty and assist in the delivery of these sites.
- 3.72 Additional s106 costs have been applied at the large sites case studies, to recognise that a higher s106 may be required from these sites. The study indicates a maximum levy rate for Strategic sites ranging from £166 to £316 psm depending upon the value area, excluding Sidmouth and Budleigh Salterton where the potential is higher but such sites are not planned to come forward [CIL4a, Table 5.4]. The application of a viability buffer, 40% in one case study but in excess of 50% for all others, has informed the recommended rate of £100 psm.
- 3.73 In addition, the council has adopted an instalment policy [CIL11], advocated as assisting the viability and delivery of development, and a material consideration in assessing the viability of proposed levy rates.<sup>66</sup> It is also possible to 'phase' development, particularly relevant to Strategic sites – the regulations<sup>67</sup> state that for phased planning permission, each phase of the development is a separate chargeable development; meaning the instalment policy will apply to each phase rather than the entirety of the site. This would further assist viability in terms of cash flow.
- 3.74 Overall, the evidence points to a rate of £100 psm for residential development on Strategic sites as striking an appropriate balance between helping to fund new infrastructure and economic viability (incorporating an appropriate buffer), and this is reflected in the Draft Charging Schedule.

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<sup>65</sup> Planning practice guidance, Reference ID: 25-166-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>66</sup> Planning practice guidance, Reference ID: 25-128-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>67</sup> The Community Infrastructure Levy Regulations 2010 (as amended), Regulation 9(4) and 70(1)(b).

## 4 Part Three – Retail (out of town centre)

**a. Is the local levy rate of £84sqm for Retail (out of town centre) justified by appropriate available evidence, having regard to national guidance, local economic context and infrastructure needs, including in relation to the various adopted and emerging planning policies for East Devon?**

- 4.1 When setting a CIL rate, regulations state that a charging authority must strike an appropriate balance between the desirability of funding from CIL the cost of infrastructure to support development, and the potential effects on the economic viability of development.<sup>68</sup> Where there is robust evidence, differential rates can be set by reference to different intended uses of development – the definition of “use” is not tied to the Use Classes Order, although it does provide a useful reference point.<sup>69</sup>
- 4.2 The local levy rate of £84 psm for Retail (out of town centre) has been informed by this national guidance, the Viability Study [CIL4a and 4b] and infrastructure needs [CIL5 and CIL8].
- 4.3 Section 3 in the Viability Study details the non-residential case studies that were subject to testing. For retail, these comprise convenience and comparison retail, in and out of town centre locations [CIL4a, paragraph 3.2.10, Table 3.4]. The study notes structural changes in the retail sector in recent years, with an end to the expansion of the largest format convenience retailing and greater emphasis on smaller supermarket formats [CIL4a, paragraph 3.2.12].
- 4.4 The approach to establishing Gross Development Value (GDV), costs, and land values for retail development is set out in section 8 of the Viability Study. Several retail scenarios were tested, reflecting differing occupier demand and the type of retail being promoted, namely: supermarkets and local convenience, town centre comparison, and retail warehouse. This showed that CIL is viable for these uses, apart from town centre comparison retail [CIL4a, Table 8.6 and 8.7].
- 4.5 The recommended rate of £84 psm is less than half of the adopted Charging Schedule, as indexed (see Appendix One), in recognition of a weaker retail sector than previously. Continuing to only charge for retail in out of town centre locations is consistent with the adopted Charging Schedule. The study notes that A2, A3, A4 and A5 uses should be treated the same in viability terms, which is reflected in the Draft Charging Schedule [CIL1, footnote 4].
- 4.6 The Local Plan sets out the policy approach to considering retail development, including the provision of neighbourhood centres (assumed to include some retail) on several strategic

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<sup>68</sup> The Community Infrastructure Levy Regulations 2010 (as amended), Regulation 14.

<sup>69</sup> Planning practice guidance, Reference ID: 25-023-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

sites, resisting the loss of retail sites and buildings, and identifying town centre shopping areas<sup>70</sup> and primary shopping frontages [CIL5]. However, it does not include policy requirements which would cause a significant burden to the viability of non-residential uses [CIL4a, paragraph 8.1.1]. Similarly, there are no infrastructure needs arising from retail development specifically that are identified in the East Devon IDP review [CIL8, Appendix One].

4.7 The charging zone for the £84 psm reflects the Town Centre Shopping Areas shown in the Local Plan [CIL5] and Villages Plan [CIL6], consistent with guidance.<sup>71</sup>

**b. Overall, does the local levy rate of £84sqm for Retail (out of town centre) strike an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability (viability buffer)?**

4.8 The East Devon IDP outlines the range of funding options available to deliver infrastructure, through direct provision by statutory undertakers under their legal obligations and functions; developer/landowner funding to mitigate the impact of development; from grant and loans; as well as from CIL itself [CIL8, paragraph 4.20].

4.9 As previously stated, no specific infrastructure requirements have been identified for retail (out of centre) development. Nevertheless, there may well be site specific infrastructure that is required from development proposals through s106 or s278 planning obligations.

4.10 Receipts from retail (out of town centre) can be used to fund infrastructure to aid the development of the district more generally. A draft infrastructure list has been presented by the council [CIL1, paragraph 2.23], but further detail on the funding of new infrastructure will be contained in the council's annual infrastructure funding statement, the first of which will be published by 31 December 2020.

4.11 The potential effects on economic viability, including a buffer, are considered in the Viability Study. Whilst there is no viability to charge CIL from the town centre case study, the theoretical maximum for supermarkets and local convenience, and retail warehouse range from £167 to £168 psm [CIL4a, Table 8.9]. However, a buffer of 50% is suggested as there is a wide variance in costs and values for non-residential development, and given the weaker retail sector [CIL4a, paragraph 8.6.1].

4.12 The councils' adopted instalment policy [CIL11] will assist in the viability and delivery of development, and is a material consideration in assessing the viability of proposed levy rates.<sup>72</sup>

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<sup>70</sup> In addition, the East Devon Villages Plan [CIL6] identifies vitality and shopping areas at Beer and Colyton.

<sup>71</sup> Charging schedules and relevant plans should inform and be generally consistent with each other - Planning practice guidance, Reference ID: 25-012-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

<sup>72</sup> Planning practice guidance, Reference ID: 25-128-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

- 4.13 Overall, the levy rate of £84 psm for retail (out of centre) strikes an appropriate balance between helping to fund new infrastructure and economic viability (incorporating an appropriate buffer).

## 5 Part Four – All other non-residential uses

**a. Is the local levy rate of £0sqm for All other non-residential uses justified by appropriate available evidence, having regard to national guidance, local economic context and infrastructure needs, including in relation to the various adopted and emerging planning policies for East Devon?**

- 5.1 When setting a CIL rate, regulations state that a charging authority must strike an appropriate balance between the desirability of funding from CIL the cost of infrastructure to support development, and the potential effects on the economic viability of development.<sup>73</sup> Where there is robust evidence, differential rates can be set by reference to different intended uses of development – the definition of “use” is not tied to the Use Classes Order, although it does provide a useful reference point.<sup>74</sup>
- 5.2 The local levy rate of £0 for all other non-residential uses has been informed by this national guidance, the Viability Study [CIL4a and 4b] and infrastructure needs [CIL5 and CIL8].
- 5.3 Section 3 in the Viability Study details the non-residential case studies that were subject to testing. Excluding retail (previously discussed in Part Three), the study notes the significant employment activity and proposed growth in the west of the district – office, industrial, and warehouse uses have been tested here, as well as in the towns. In addition, a budget hotel has been tested given their significant growth in recent years [CIL4a, paragraph 3.2.14-15].
- 5.4 The non-residential viability testing assumptions and results are detailed in section 8 of the Viability Study, setting out the approach to establishing Gross Development Value (GDV), costs, and land values [CIL4a, section 8.2-4]. The results of the testing are that there is no possibility to charge CIL for all other non-residential uses. Development in the B class uses i.e. offices, industrial and warehouses all indicate a negative residual value [CIL4a, paragraph 8.5.3, Table 8.4 and 8.5]. A budget hotel has marginal viability, and is unable to support CIL [CIL4a, paragraph 8.5.9, Table 8.8].
- 5.5 The Viability Study discusses a range of other non-residential uses, such as selling motor vehicles, nightclubs, and community facilities, concluding that none are viable to charge CIL [CIL4a, paragraph 8.5.10]. Farm shops and garden centres are treated as out of centre retail (assuming they are located ‘out of centre’). Holiday accommodation that is located on a holiday park is assumed to be within the all other non-residential uses category; whilst a standard dwelling that is intended to be used for holiday accommodation will be liable for the appropriate residential rate [CIL4a, paragraph 8.5.11-12].
- 5.6 The Local Plan sets out the policy approach to considering all other non-residential uses, including several employment allocations, and resisting the loss of sites and buildings

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<sup>73</sup> The Community Infrastructure Levy Regulations 2010 (as amended), Regulation 14.

<sup>74</sup> Planning practice guidance, Reference ID: 25-023-20190901: <https://www.gov.uk/guidance/community-infrastructure-levy#charging-schedules-and-rates>

(Strategy 32) [CIL5]. However, it does not include policy requirements which would cause a significant burden to the viability of non-residential uses [CIL4a, paragraph 8.1.1].

5.7 Similarly, there are limited infrastructure needs arising from non-residential development in the East Devon IDP review, with only two projects in priority one or two: expansion of district heating into new development at Skypark, and widening of Exeter Airport Business Park Link Road (Long Lane) [CIL8, Appendix One]. As noted in figure 2.1 of this hearing statement, this latter project now has funding to ensure its delivery.

**b. Overall, does the local levy rate of £0sqm for All other non-residential uses strike an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability (viability buffer)?**

5.8 The East Devon IDP outlines the range of funding options available to deliver infrastructure, namely through direct provision by statutory undertakers under their legal obligations and functions; developer/landowner funding to mitigate the impact of development; from grant and loans; as well as from CIL itself [CIL8, paragraph 4.20].

5.9 There are limited requirements in the East Devon IDP arising specifically from non-residential uses; therefore, the need to fund new infrastructure for all other non-residential uses is similarly limited. However, there may well be site specific infrastructure that is required from development proposals through s106 or s278 planning obligations.

5.10 Although no CIL will be generated from all other non-residential uses, it is possible that levy receipts from other development could be used to fund new infrastructure arising from non-residential uses. A draft infrastructure list has been presented by the council [CIL1 paragraph 2.23], but further detail on the funding of new infrastructure will be contained in the council's annual infrastructure funding statement, the first of which will be published by 31 December 2020.

5.11 The Viability Study considers the potential effects of all other non-residential uses on economic viability, including a buffer. For offices and industrial/warehouses, the viability study shows a negative residual value, meaning there is no viability headroom to charge CIL [CIL4a, paragraph 8.5.3, Table 8.4 and 8.5]. The budget hotel case study is marginally viable, and could theoretically charge a maximum of £1 psm in CIL [CIL4a, paragraph 8.5.9, Table 8.8]. The study applies a 50% buffer in recognition of the wide variance in costs and values for non-residential development, and uncertainty on s106 requirements [CIL4a, paragraph 8.6.1]. The application of this buffer means that CIL is not viable for all other non-residential uses.

5.12 Overall, the levy rate of £0 psm for all other non-residential uses strikes an appropriate balance between helping to fund new infrastructure and economic viability (incorporating an appropriate buffer).

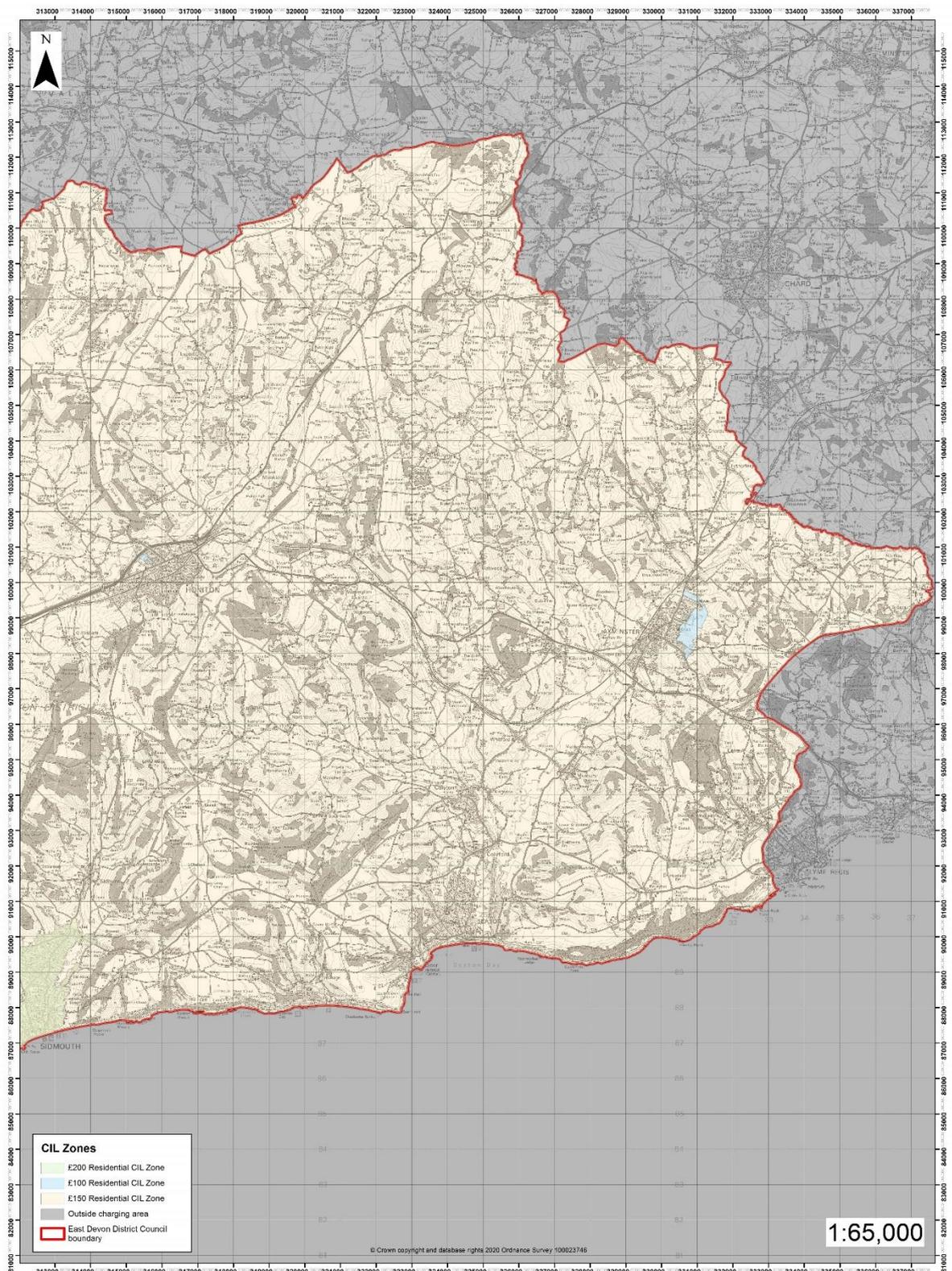
## 6 Part Five – Other Matters

- a. **Where differential rates are set by zone, does the charging schedule adequately identify the location and boundaries of zones in accordance with (Regulation 12(2)(c) that requires this to be on an Ordnance Survey map which shows National Grid lines and reference numbers)?**

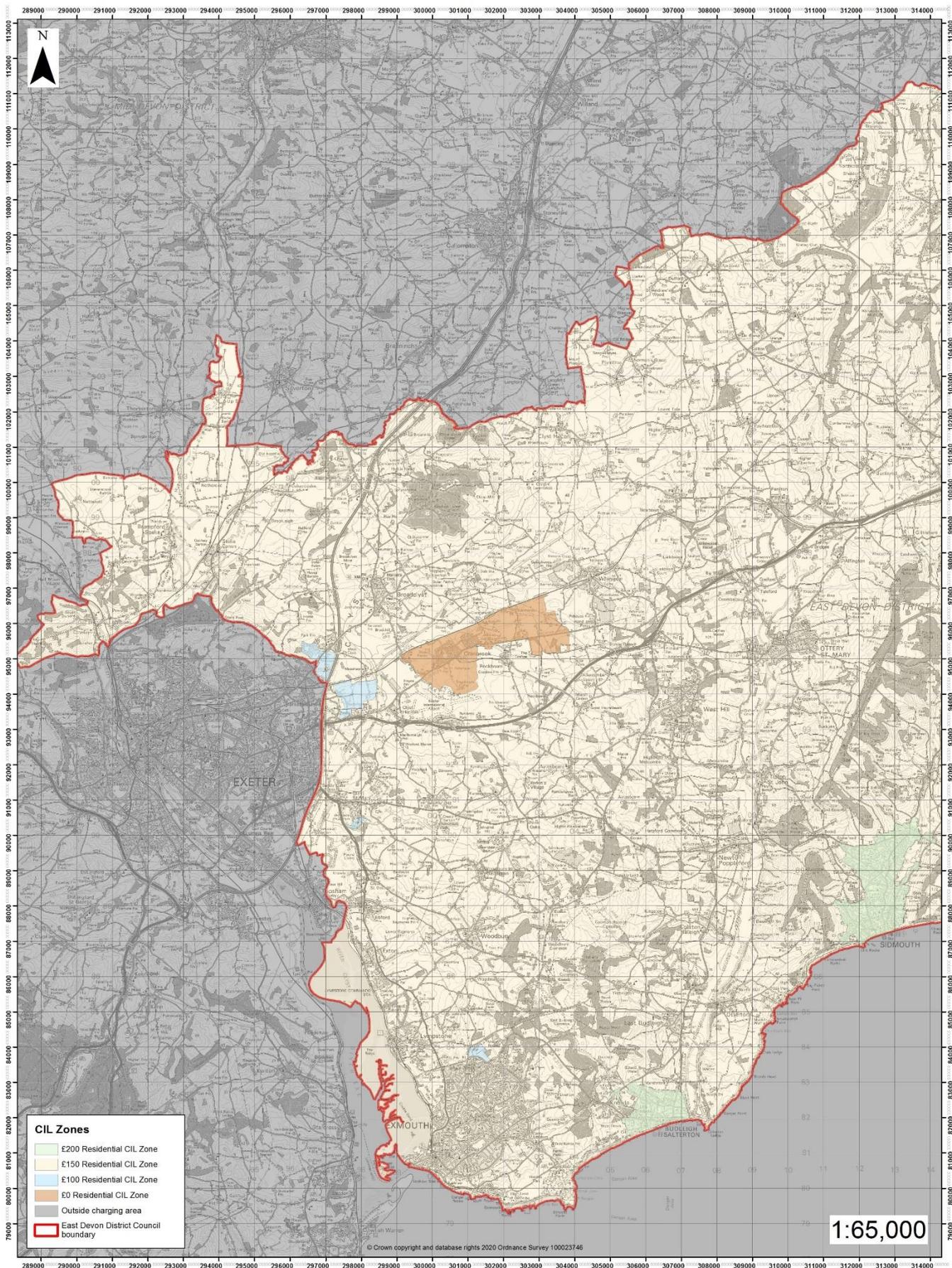
- 6.1 The submitted Draft Charging Schedule consultation document includes maps of the charging zones for residential and retail development across East Devon [CIL1, chapter 3]. These are presented on an Ordnance Survey map, but the council accept that the presence of National Grid lines and reference numbers on the charging zone maps is inconsistent. National Grid lines are present in most cases, but do not appear on the settlement specific retail charging zone maps. Reference numbers are indicated on the 'base' map in some instances but, again, this is not consistent across the maps.
- 6.2 Therefore, the council has prepared a 'new' set of charging zone maps, set out on the following pages 33 to 56. These each contain National Grid lines and reference numbers, as well as the other requirements of Regulation 12(c) in identifying the location and boundaries of the zones, based on an Ordnance Survey map, and including an explanation of any symbol or notation.
- 6.3 When preparing these 'new' maps, the council noticed a slight discrepancy on the "Edge of Exeter – Residential CIL charging zones" map. The north of Blackhorse and Mosshayne site were shown as having three narrow tracts of land extending out from the site (to the east, south east, and west), one of which is the now completed Tithebarn link road. The £100 residential CIL zone should reflect the Local Plan allocation for north of Blackhorse and Mosshayne, and therefore the "Edge of Exeter" and "West of District" residential CIL charging zones maps have been updated as appropriate.
- 6.4 In all other respects, the location and boundaries of the charging zones are the same as submitted to the Examiner [CIL1, chapter 3], but with the addition of National Grid lines and reference numbers.
- 6.5 The charging zones on the adopted Charging Schedule are shown on an interactive map on the council's website<sup>75</sup> – it is envisaged that the council will do the same for the revised Charging Schedule after it is adopted.

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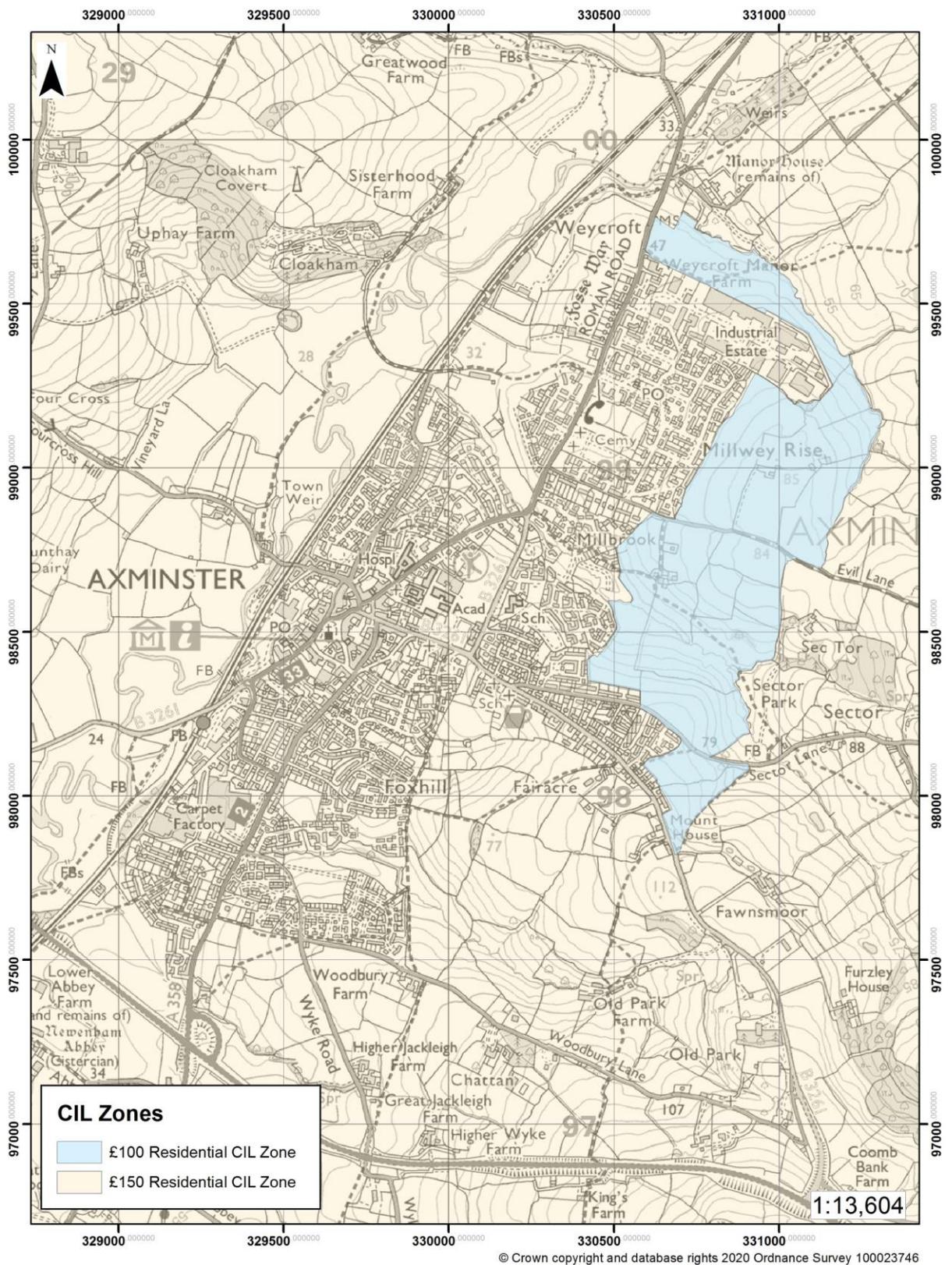
<sup>75</sup> Adopted Residential CIL charging zones interactive map: <https://eastdevon.gov.uk/planning/planning-policy/community-infrastructure-levy-and-infrastructure-provision/community-infrastructure-levy-cil/residential-cil-charging-zones-interactive-map/#article-content> ; Adopted Retail CIL charging zones interactive map: <https://eastdevon.gov.uk/planning/planning-policy/community-infrastructure-levy-and-infrastructure-provision/community-infrastructure-levy-cil/retail-cil-charging-zones-interactive-map/#article-content>



**East of District - Residential CIL charging zones**

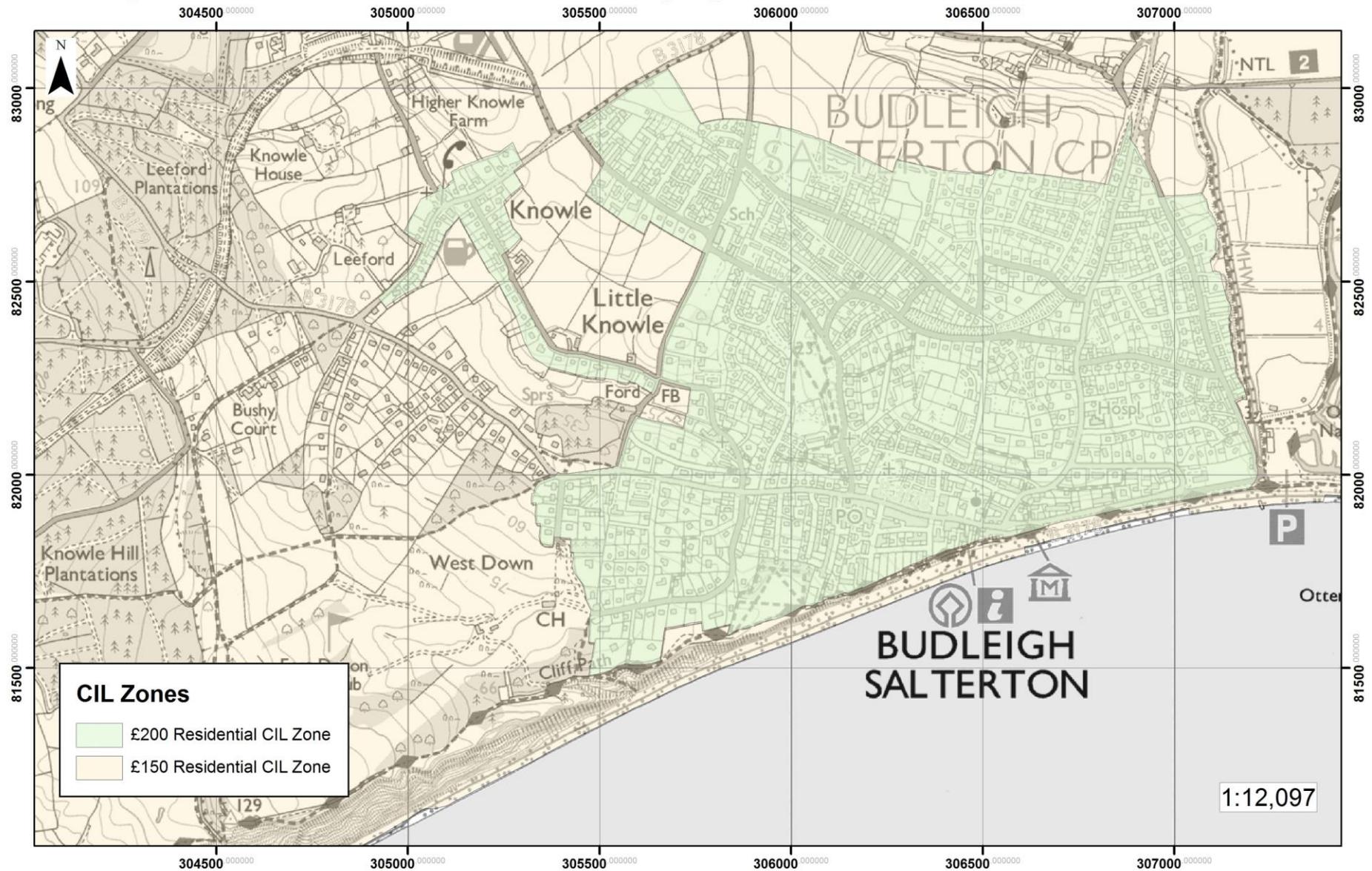


## West of District - Residential CIL charging zones

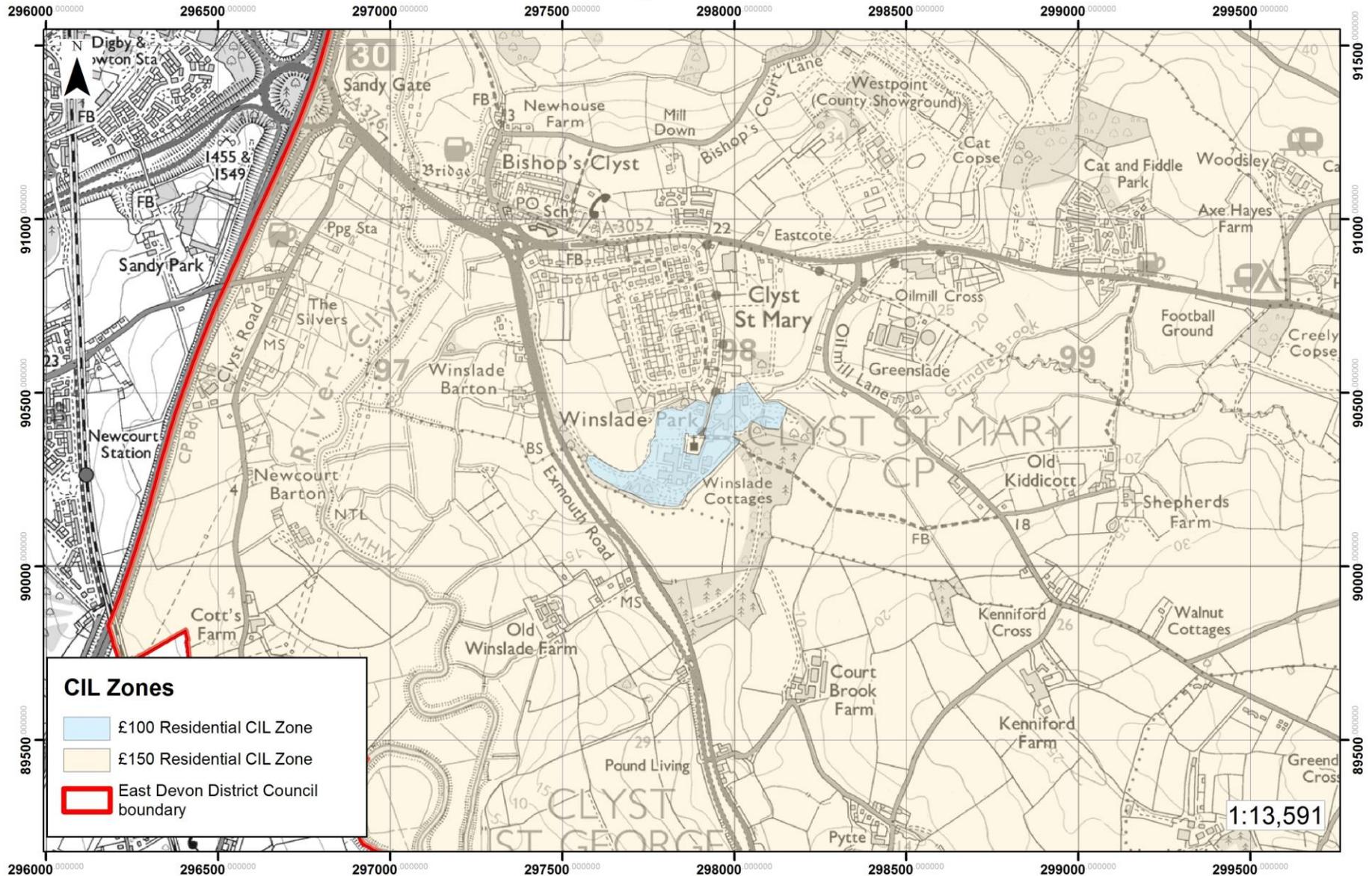


**Axminster - Residential CIL charging zones**

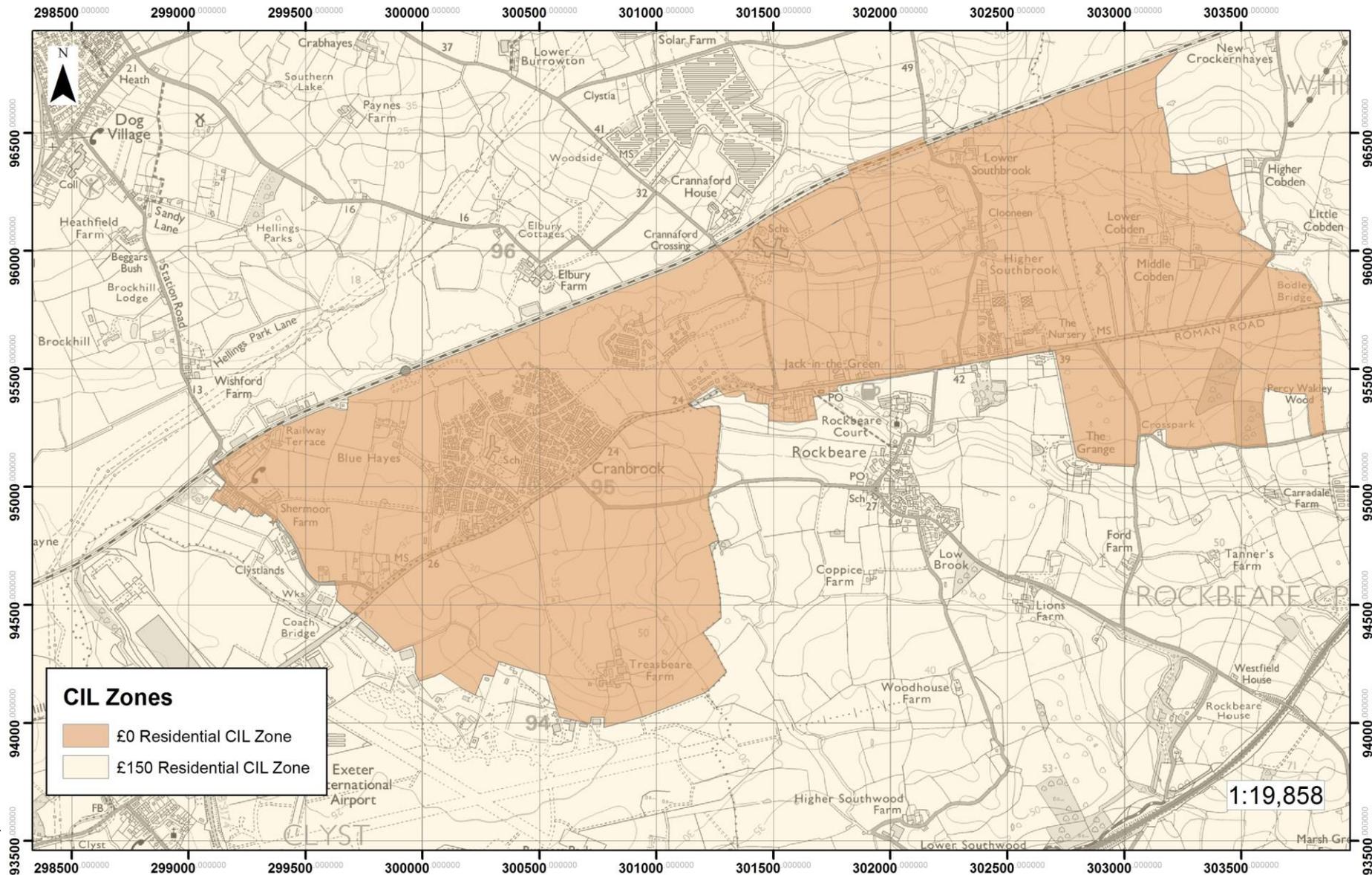
### Budleigh Salterton - Residential CIL charging zones



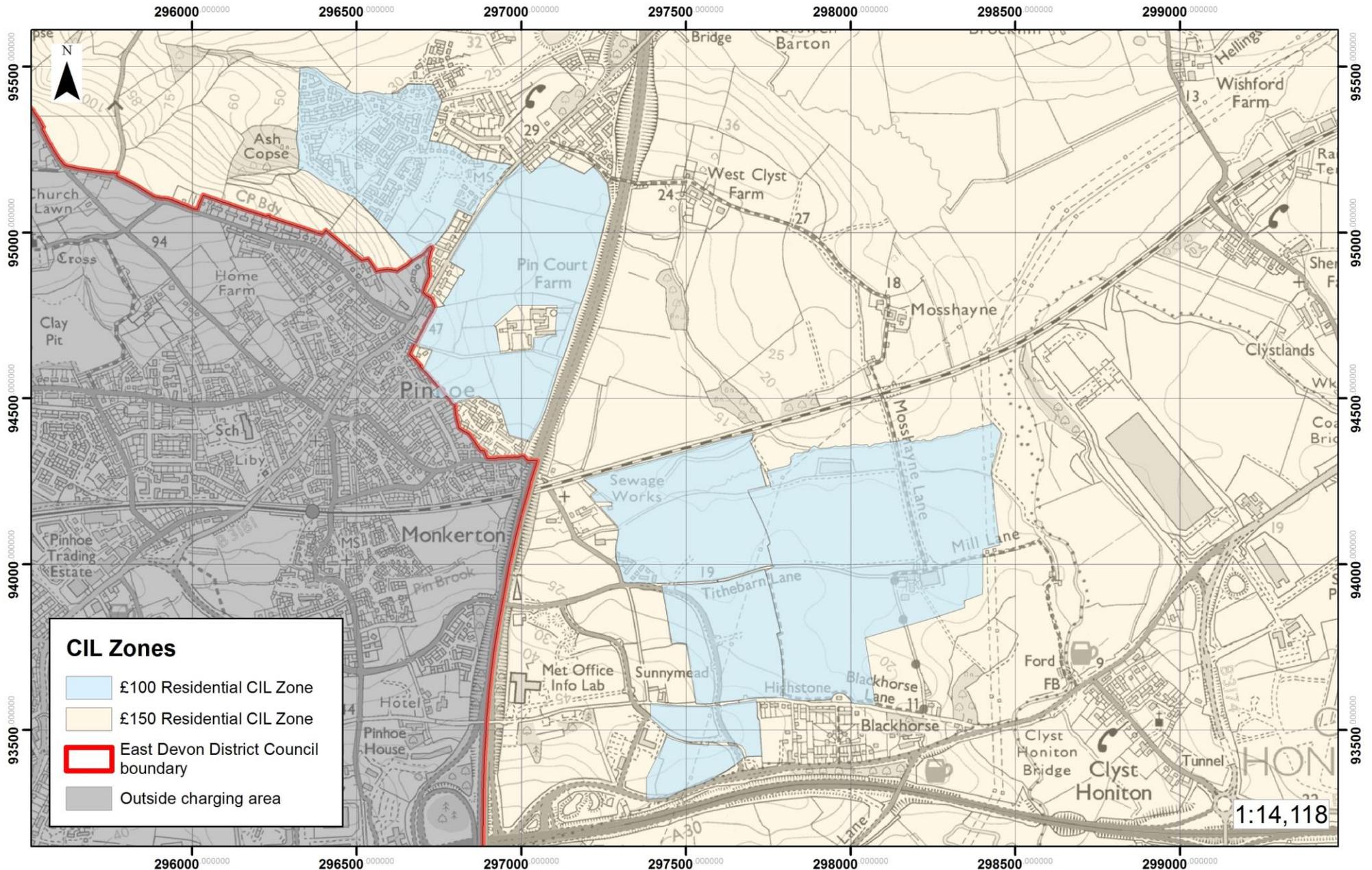
## Clyst St Mary - Residential CIL charging zones



## Cranbrook - Residential CIL charging zones



## Edge of Exeter - Residential CIL charging zones

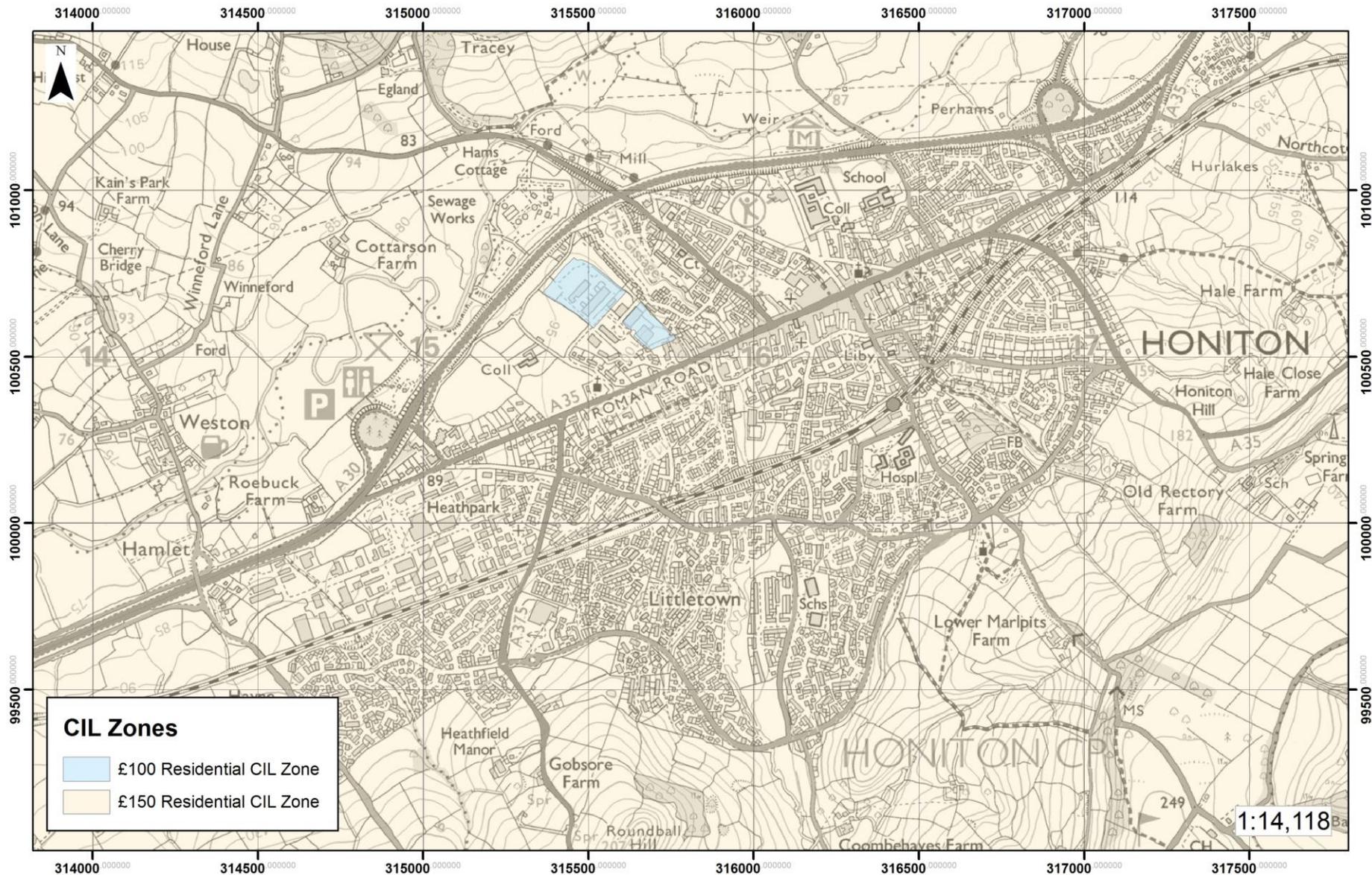


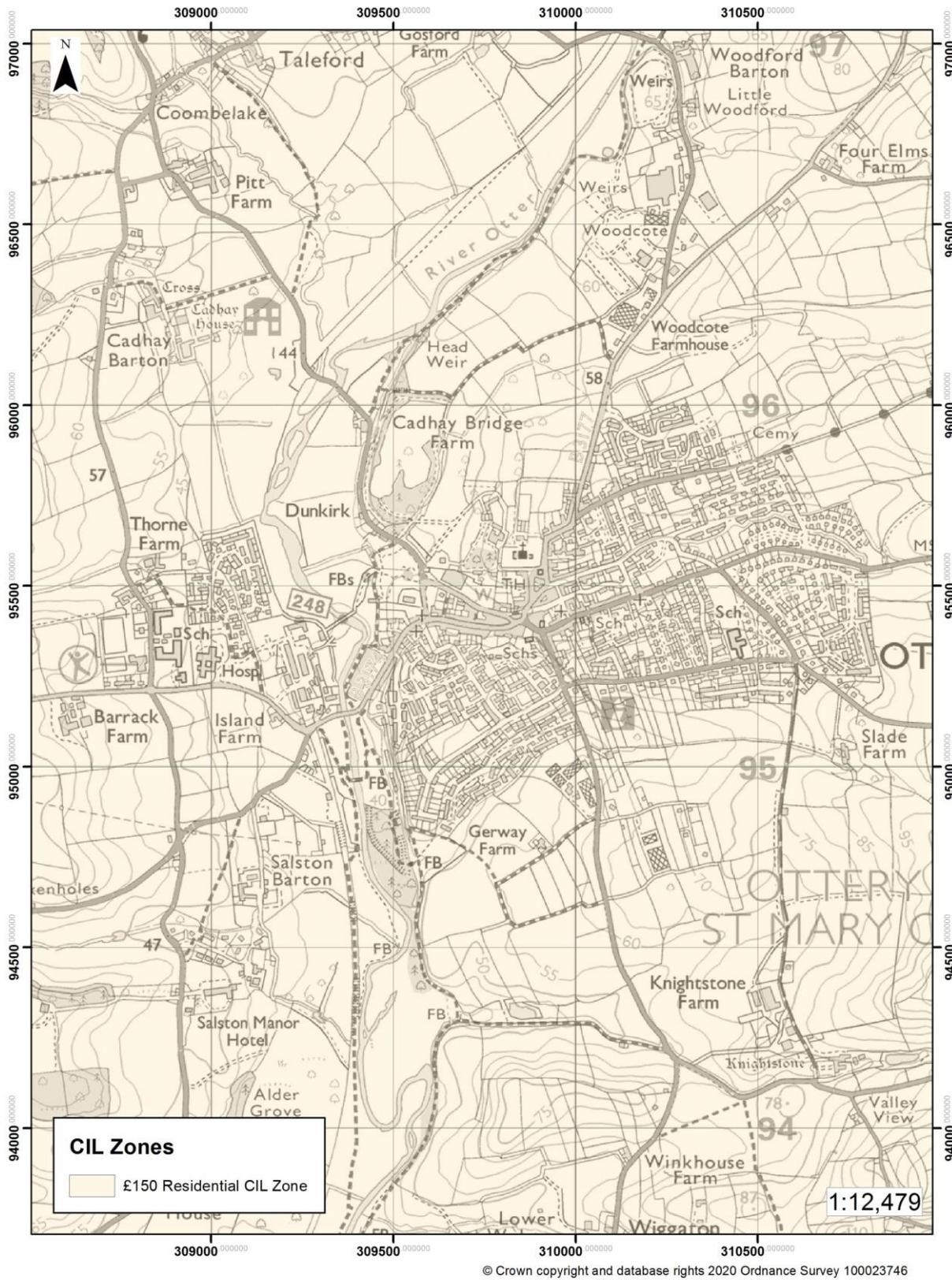


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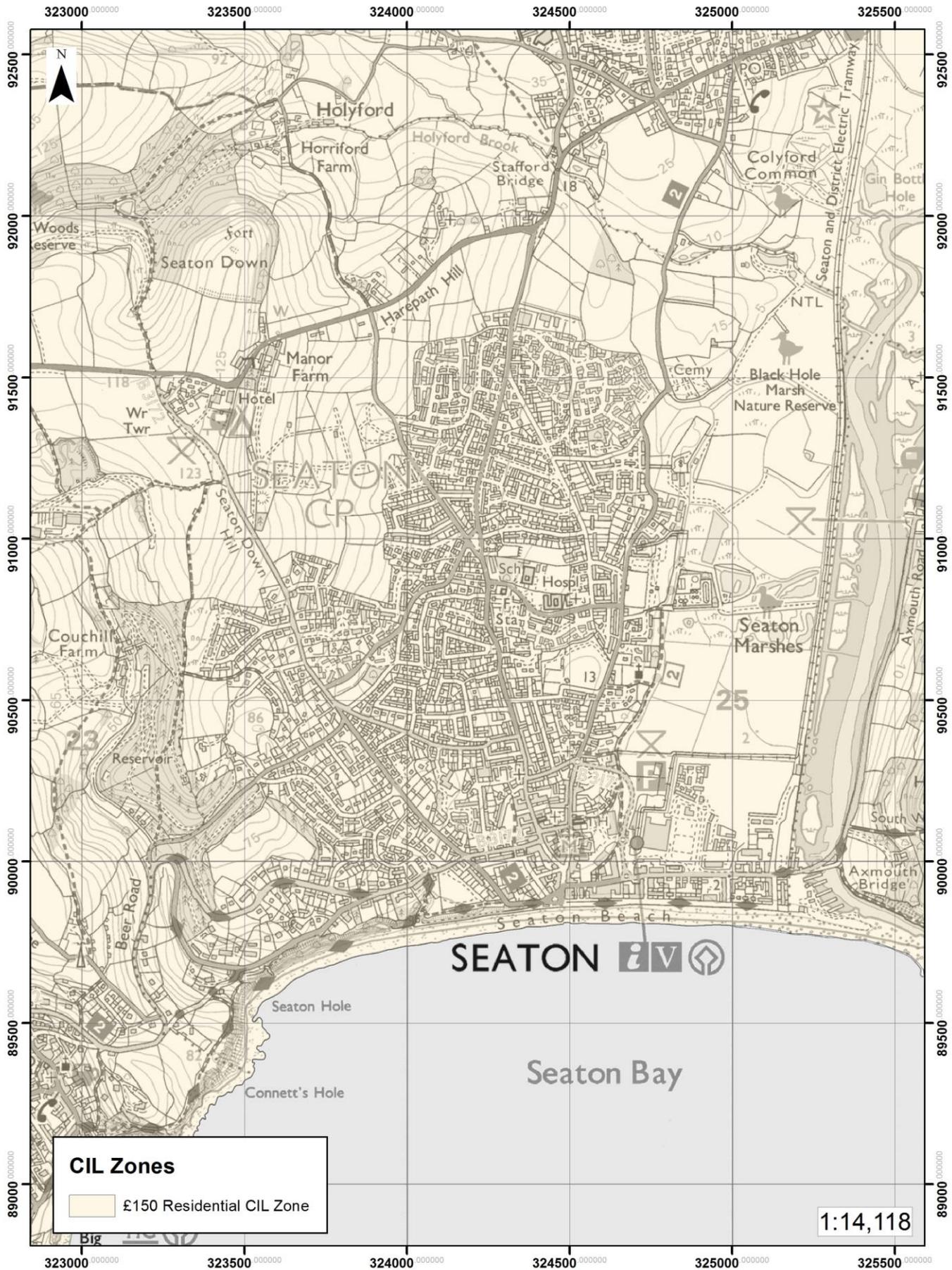
### Exmouth - Residential CIL charging zones

## Honiton - Residential CIL charging zones

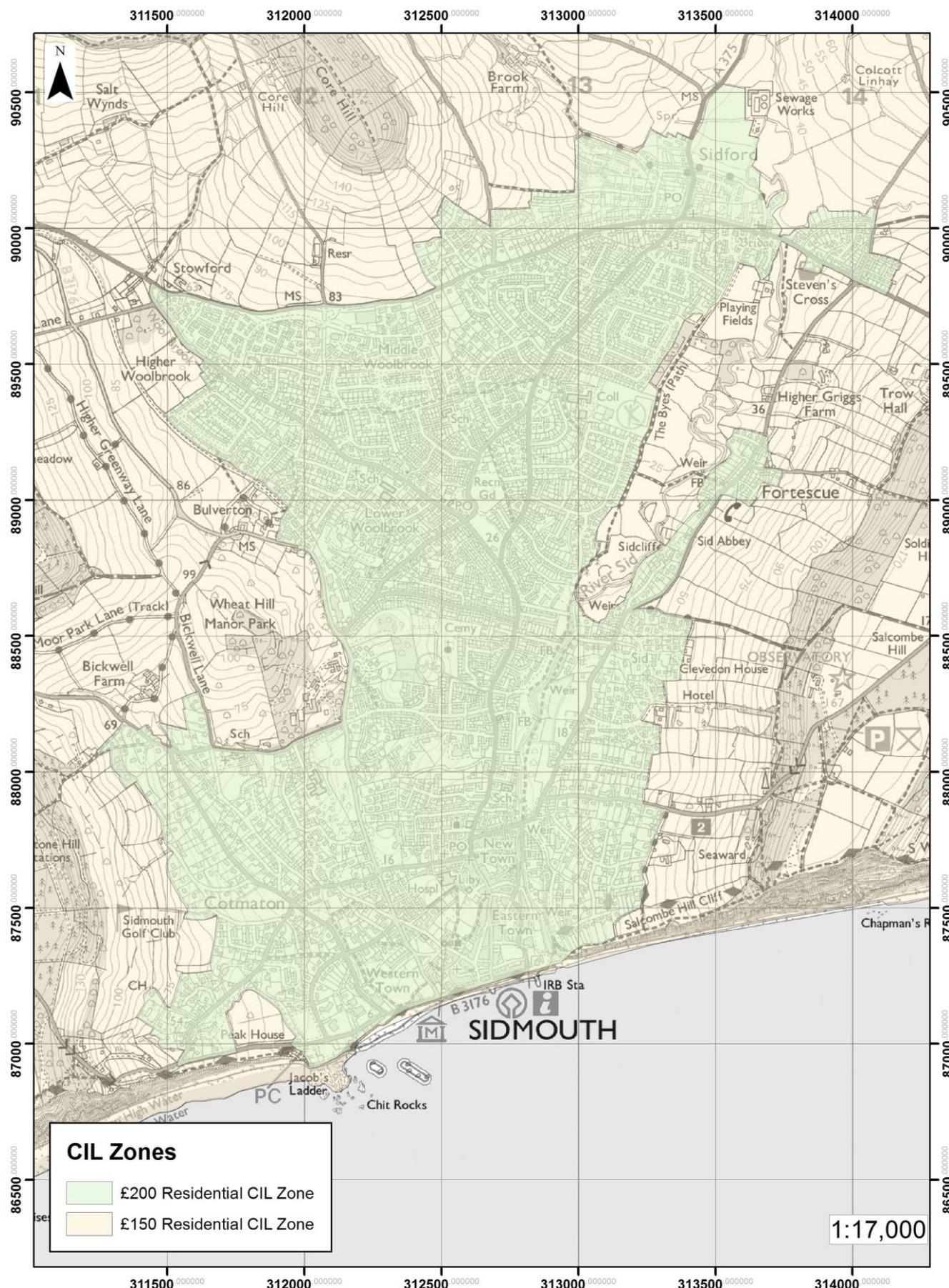




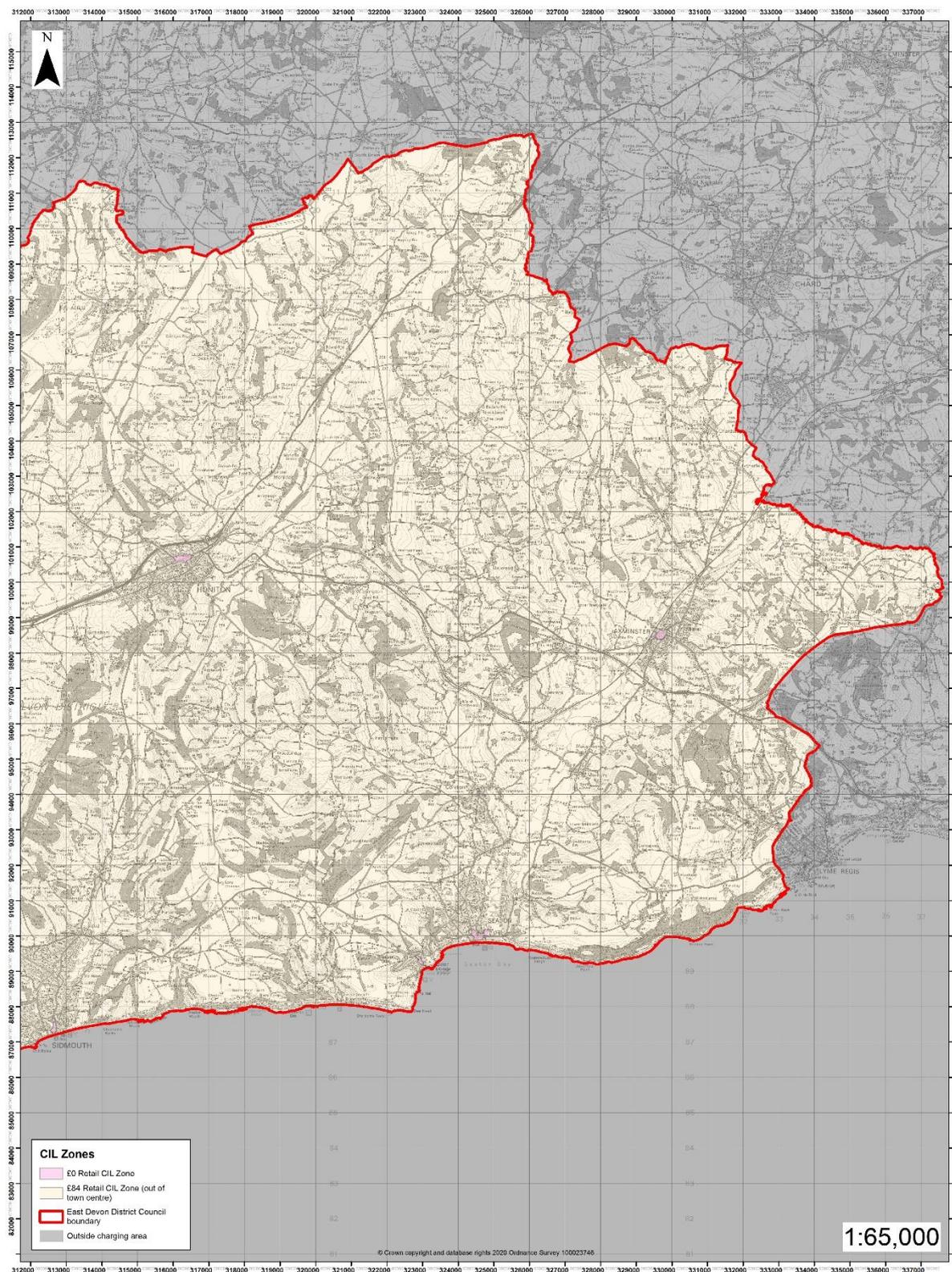
**Ottery St Mary - Residential CIL charging zones**



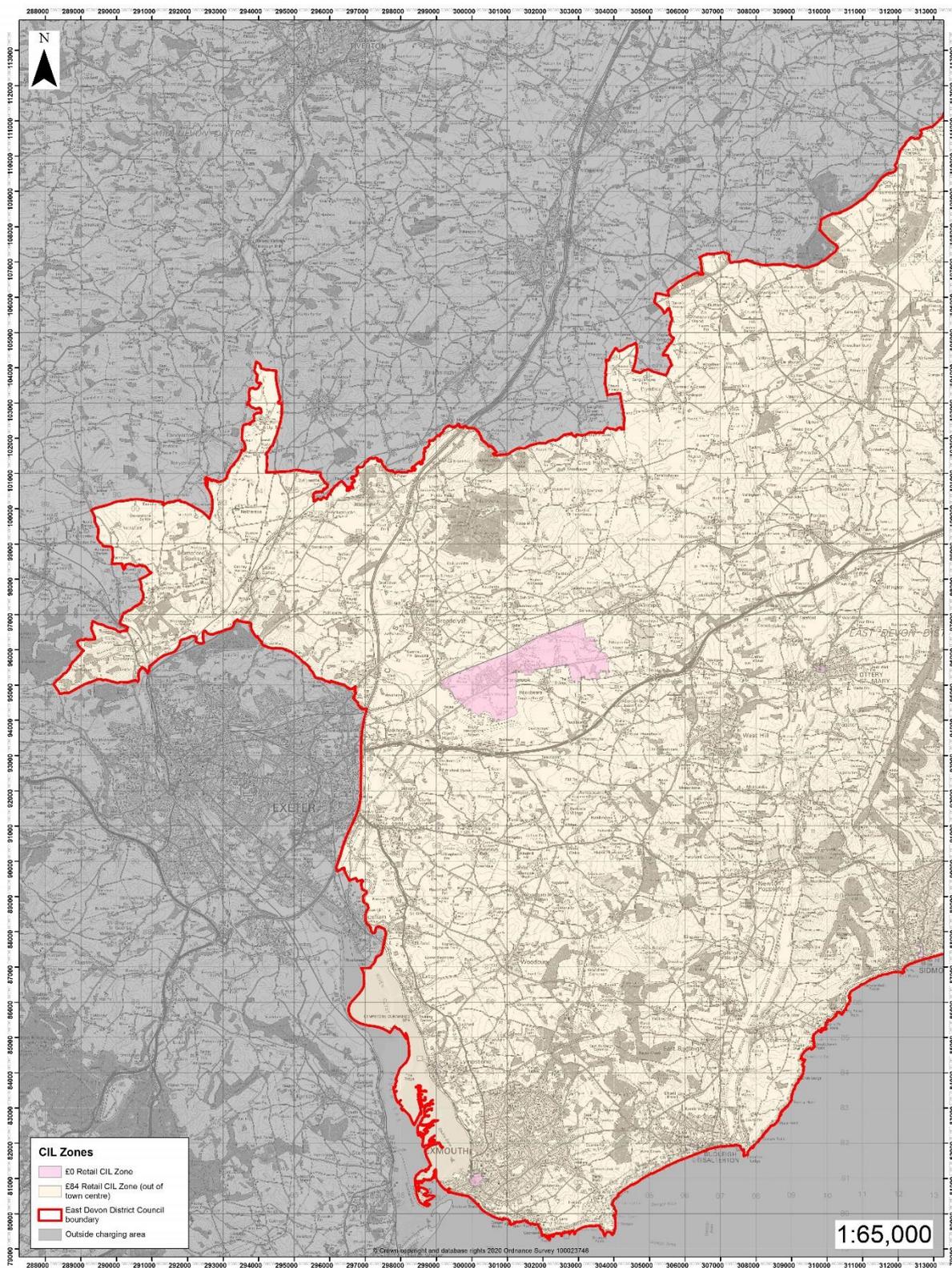
Seaton - Residential CIL charging zones



## Sidmouth - Residential CIL charging zones

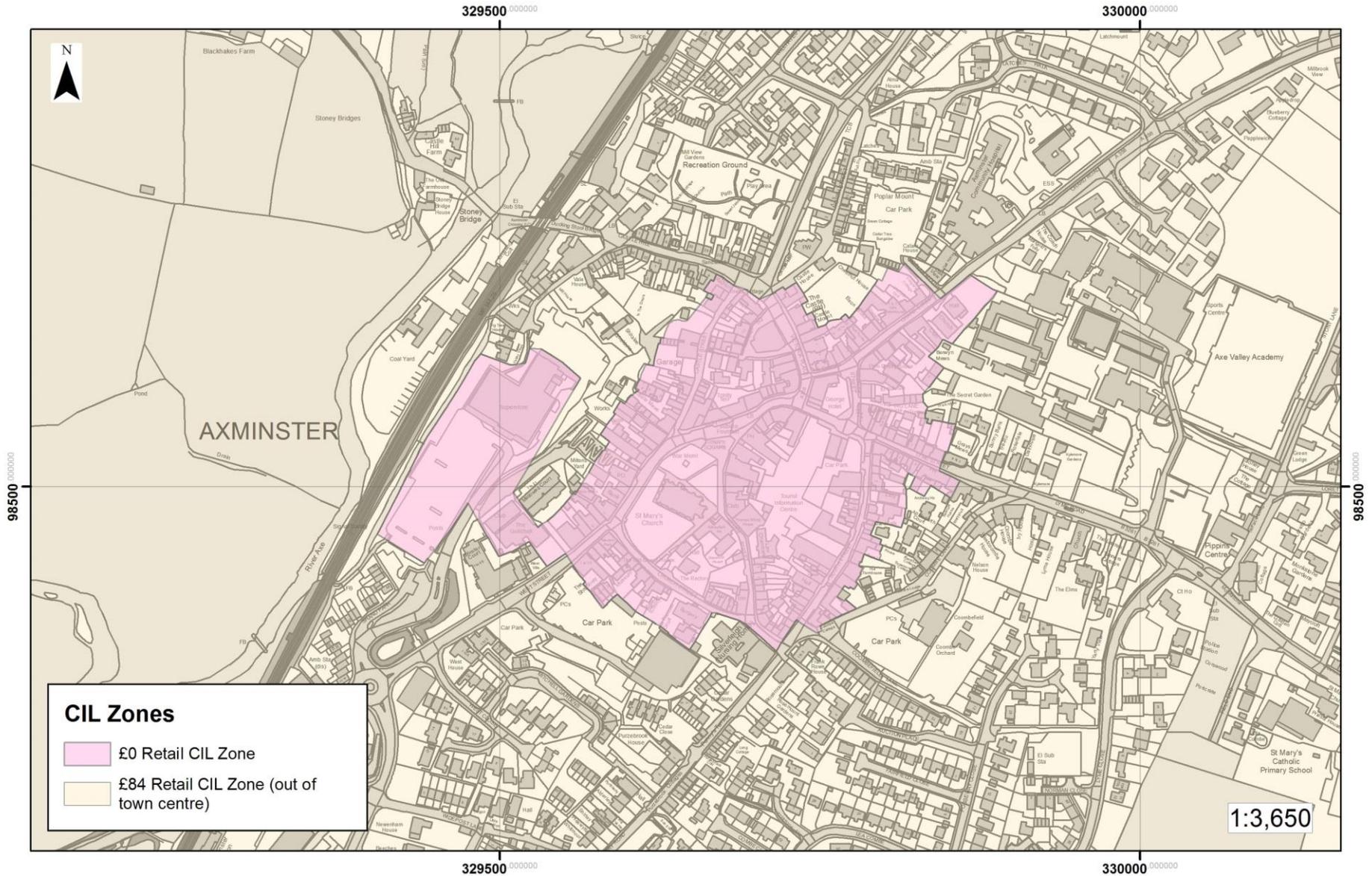


**East of District - Retail CIL charging zones**

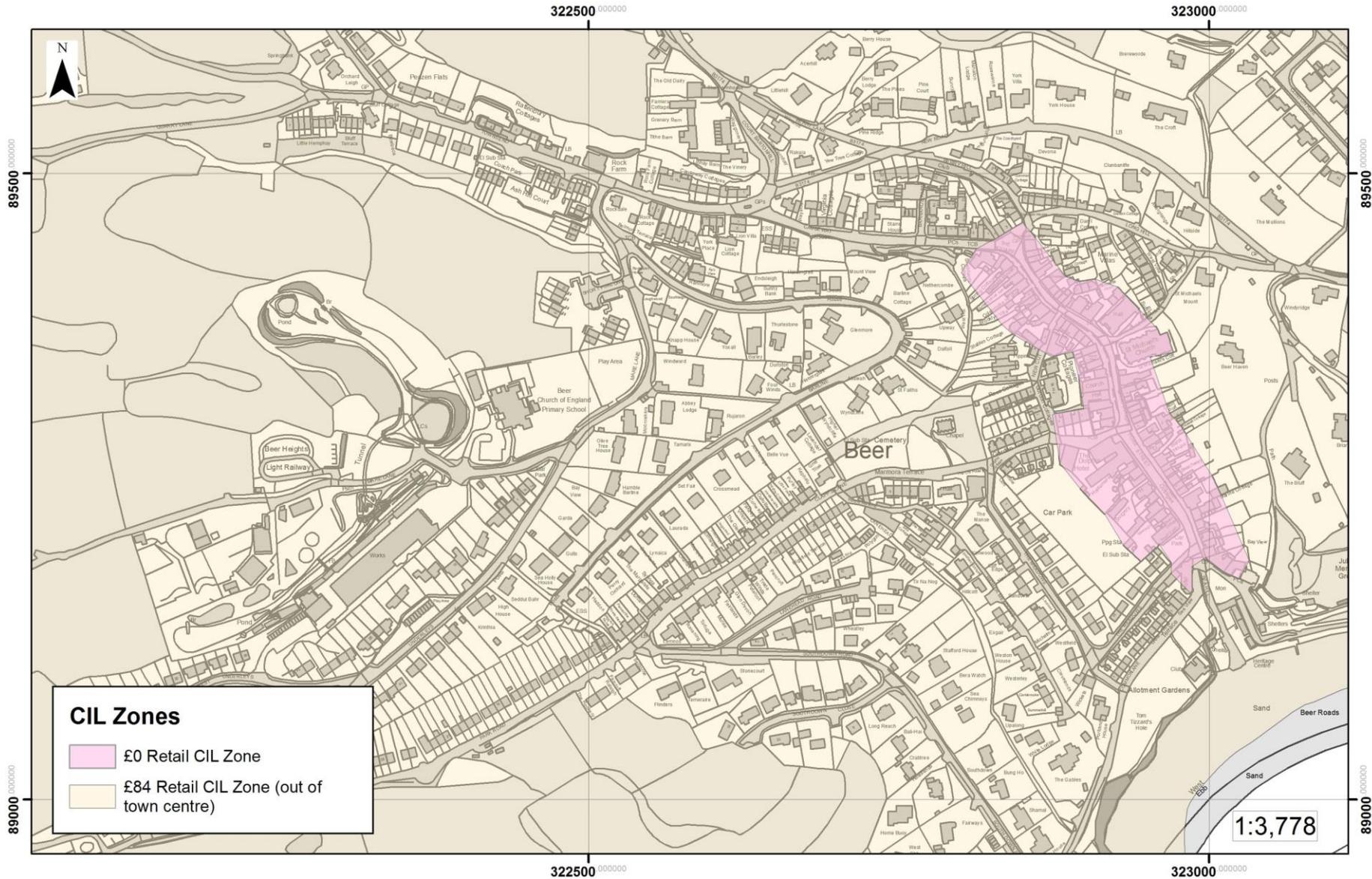


## West of District - Retail CIL charging zones

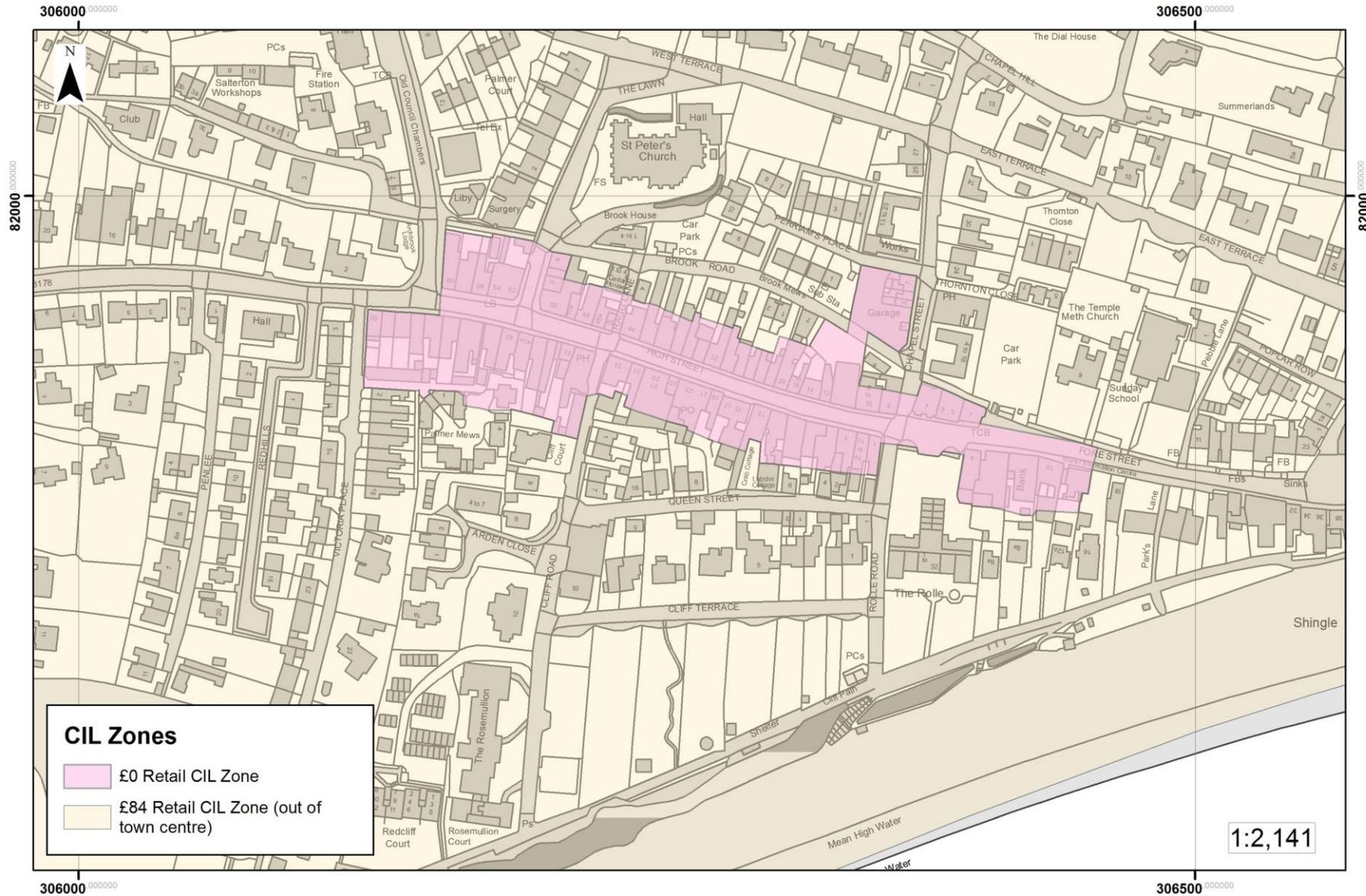
### Axminster - Retail CIL charging zones



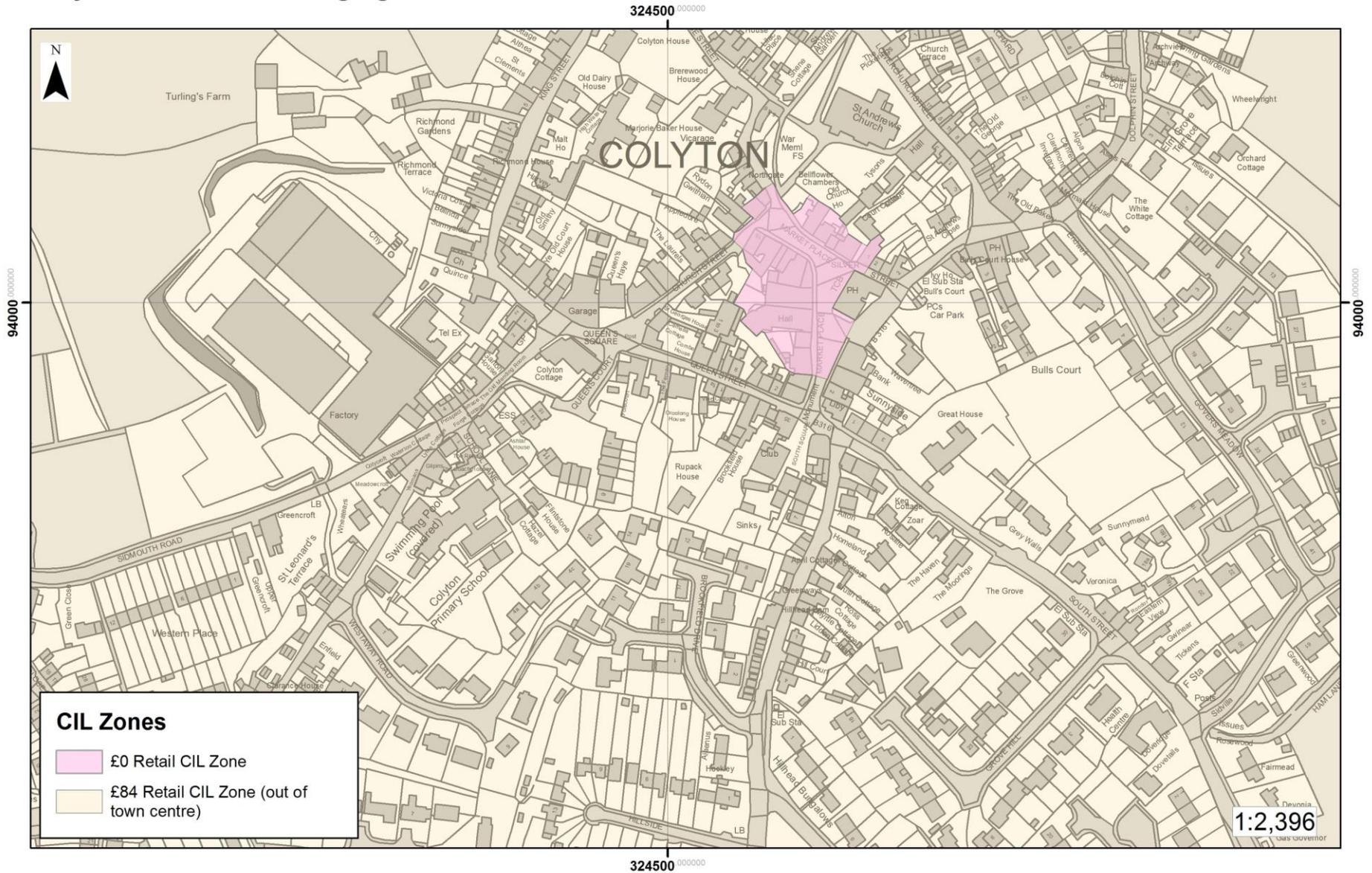
### Beer - Retail CIL charging zones



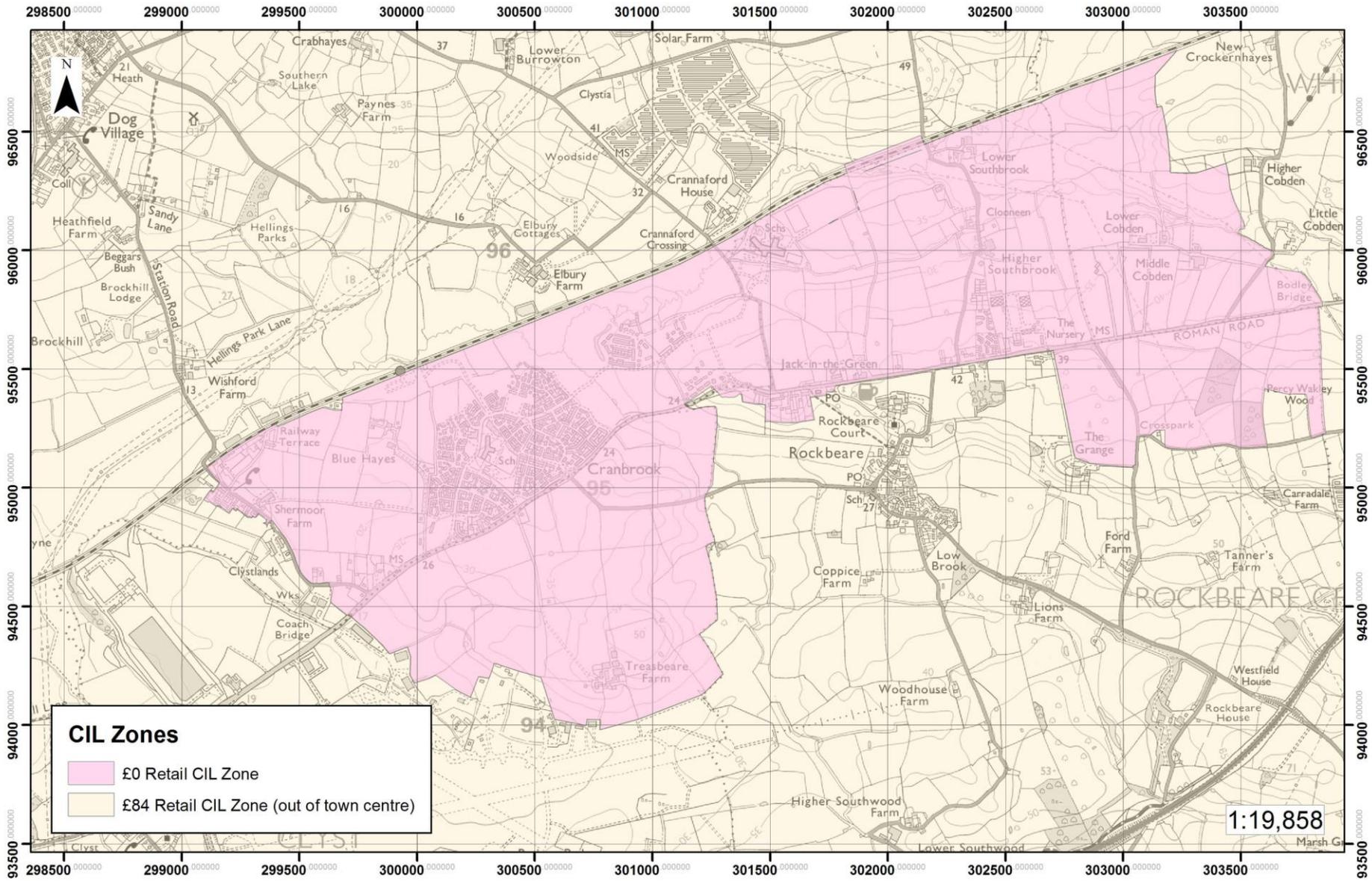
### Budleigh Salterton - Retail CIL charging zones



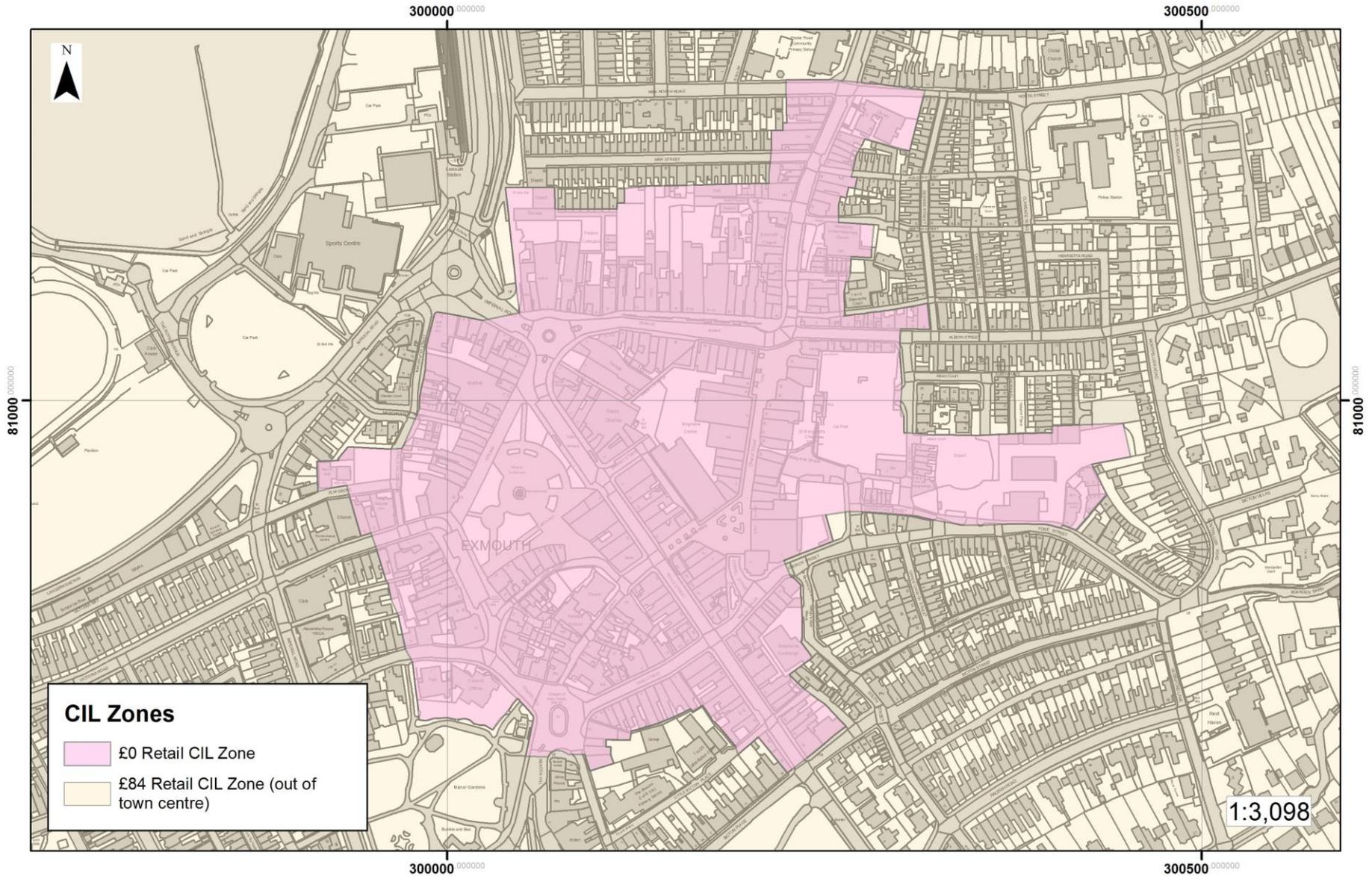
### Colyton - Retail CIL charging zones



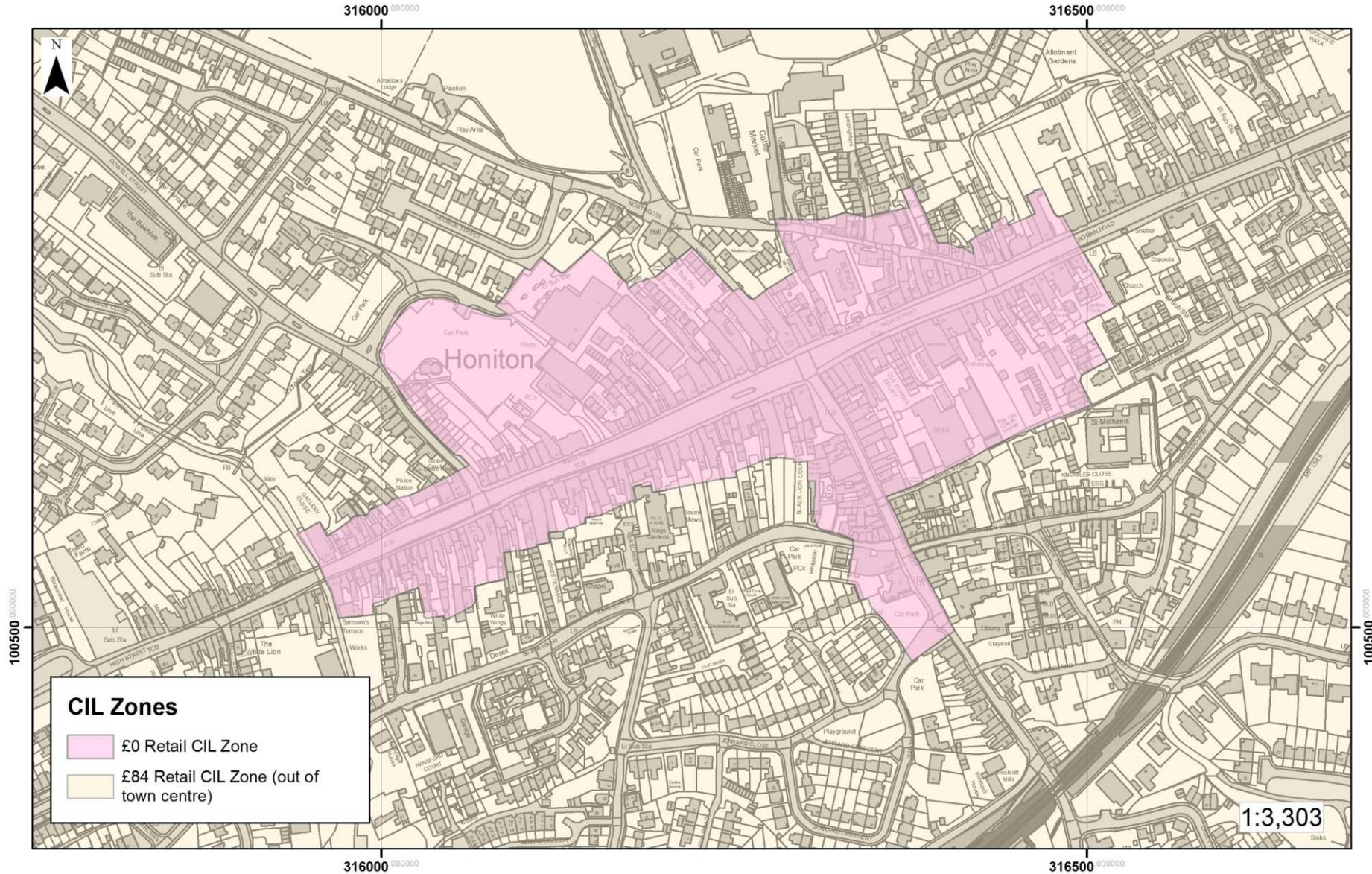
### Cranbrook - Retail CIL charging zones



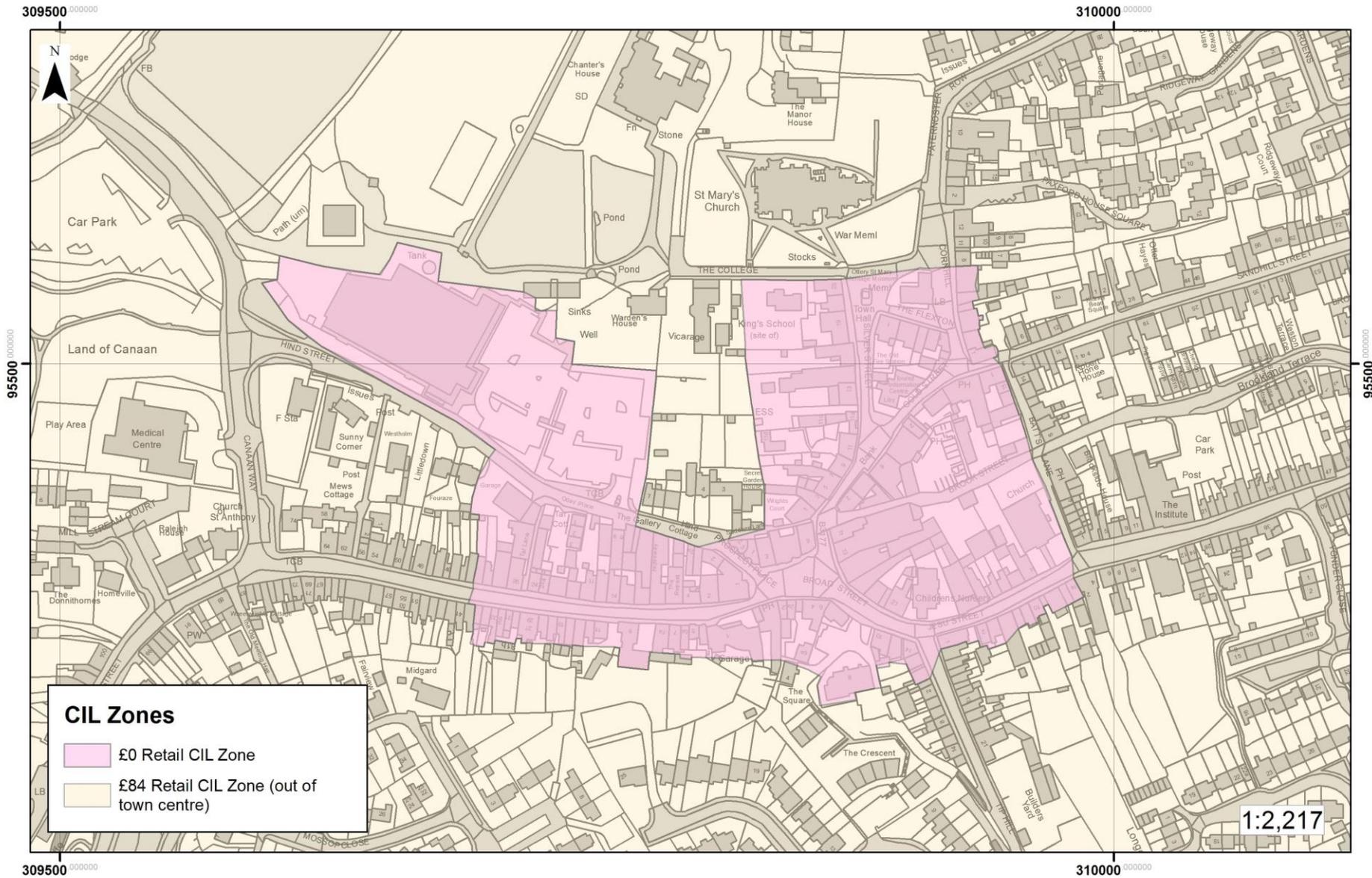
### Exmouth - Retail CIL charging zones



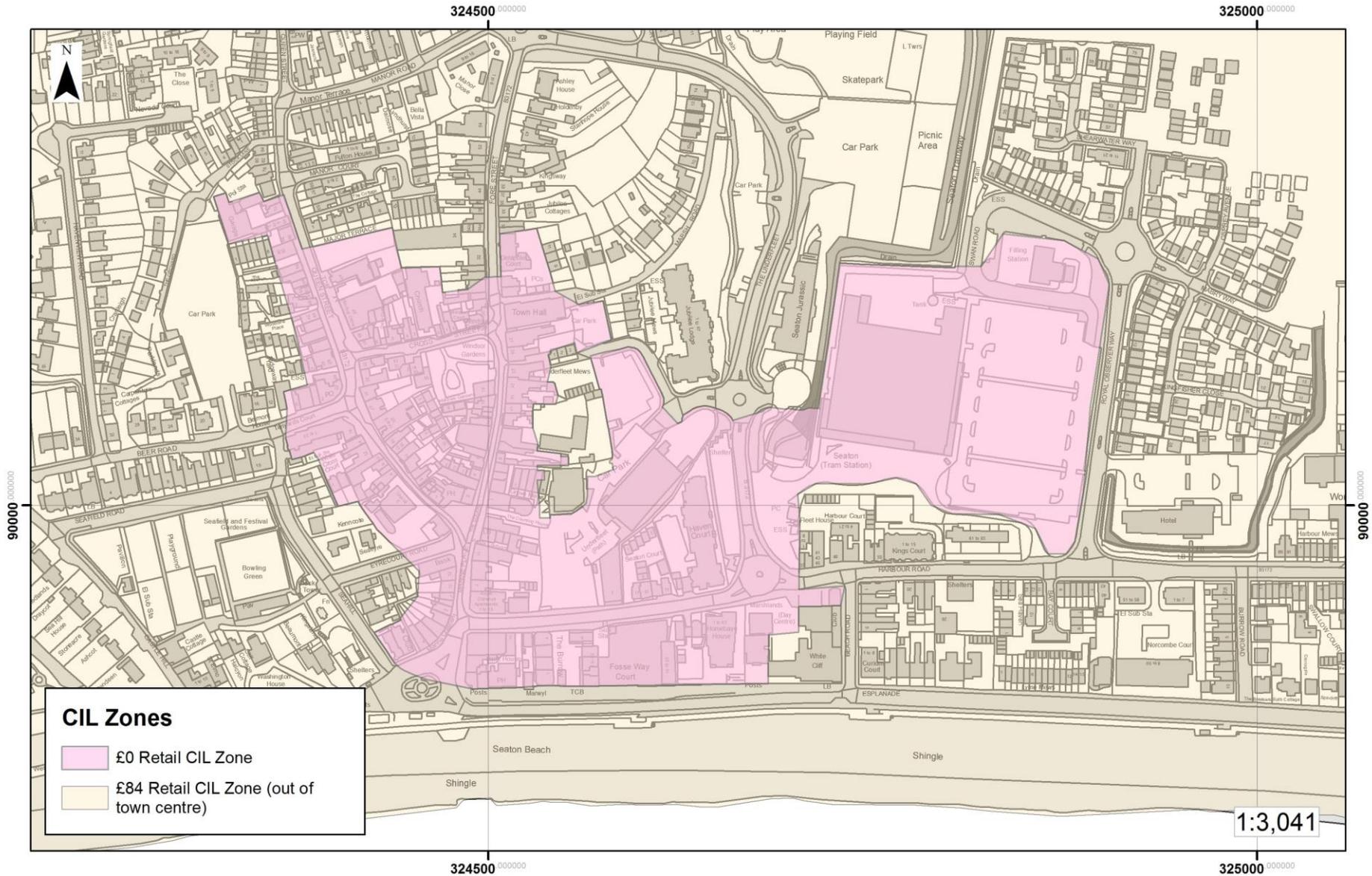
## Honiton - Retail CIL charging zones

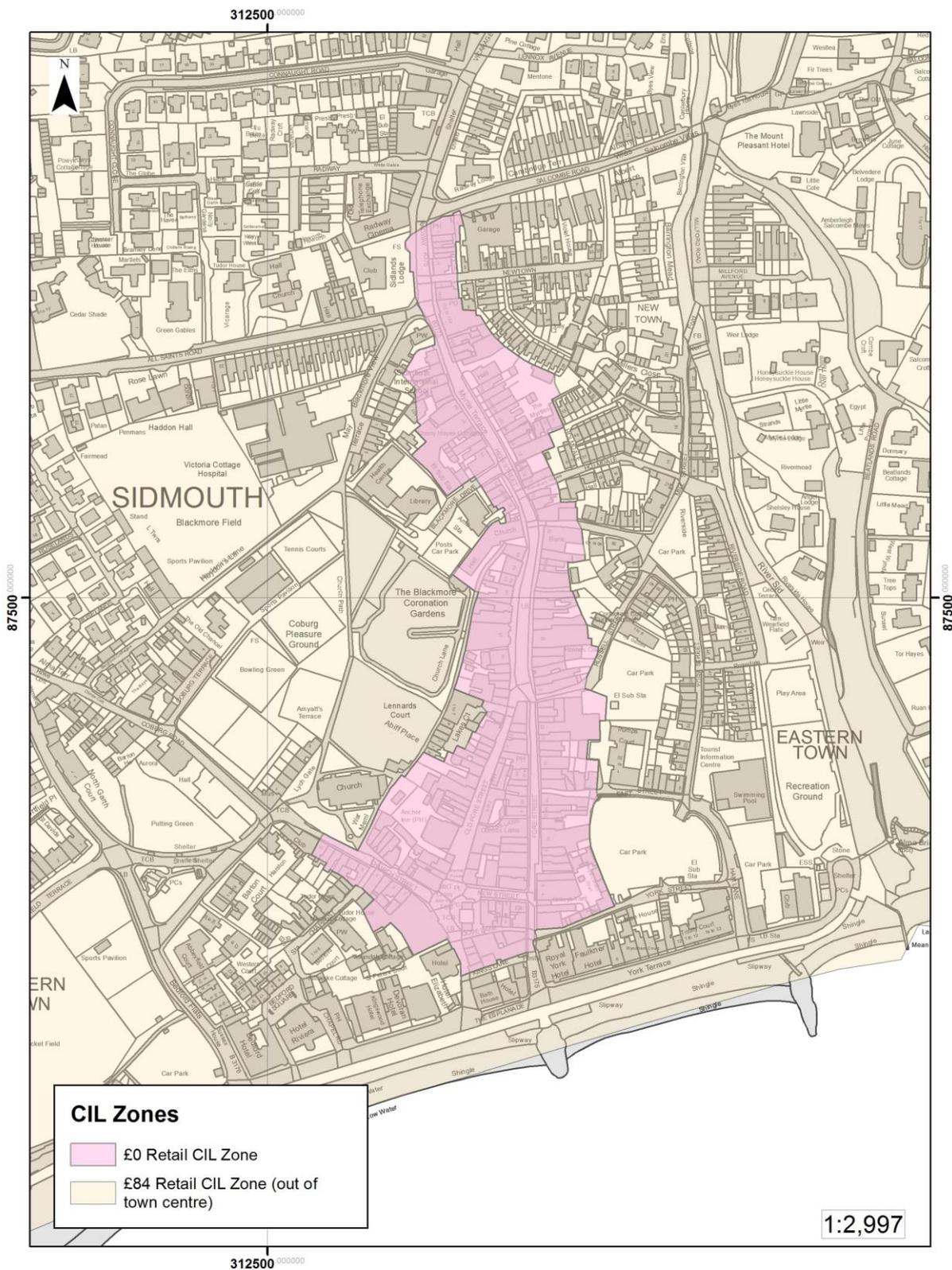


### Ottery St Mary - Retail CIL charging zones



### Seaton - Retail CIL charging zones





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## Sidmouth - Retail CIL charging zones

## Appendix One – Comparison of adopted Charging Schedule (2016) rate and indexed rate for 2020

<b>Development type</b>	<b>Adopted Charging Schedule (2016) rate (psm)</b>	<b>Indexed rate for 2020 (psm)</b>
Residential development in Axminster, Cranbrook (existing town), Exmouth, Honiton, Ottery St Mary, Seaton and edge of Exeter allocations (defined built-up area boundaries and strategic allocations)	£80	£98.96
Residential development in Cranbrook expansion areas	£68	£84.12
Residential development in Sidmouth, Coast and Rural	£125	£154.63
Retail (town centre and Cranbrook)	£0	£0
Retail (outside town centre)	£150	£185.55
All other non-residential uses	£0	£0

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