

Community Infrastructure Levy Preliminary Draft Charging Schedule Brighton & Hove City Council

September 2017



Views over the City of Brighton & Hove

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Consultation Details

The consultation on the Community Infrastructure Levy: Preliminary Draft Charging Schedule is the first stage in the preparation of a Community Infrastructure Levy for Brighton and Hove City Council. All responses will be considered prior to a Draft Charging Schedule being prepared for further consultation.

Comments on the Preliminary Draft Charging Schedule should be sent to the Council via:

Consultation Portal (*link provided to portal document when available*)

Email: planning.projects@brighton-hove.gov.uk

Postal address: Policy, Projects and Heritage Team; Hove Town Hall, Norton Road BN3 3BQ

The Consultation period on the Preliminary Draft Charging Schedule runs between **TBC** (8 week period). Please note all comments will be made public.

For further information please visit the council webpage (*Link to be provided to page when available*)

Responding to the Consultation

In responding to the consultation, the Council would in particular welcome comments and views on the following key issues and questions:

- 1) Given the viability assessment and the need to fund infrastructure for the city, are the proposed CIL rates set at a reasonable level, to enable developments to achieve viability?
- 2) Given the viability assessment's analysis of value areas are the proposed CIL zones set realistically, to enable residential developments to achieve viability within each zone?
- 3) Please give comments and views regarding the development contribution areas which are likely to form part of proposals for an associated scaling back of section 106 agreements upon introduction of CIL.

Comments are also invited on any points raised by this consultation document, whether related to the above questions or not.



Relevant Legislation Context

This Preliminary Draft Charging Schedule (PDCS) is issued as the first formal stage in the preparation of a CIL Charging Schedule in accordance with Part 11 of the Planning Act 2008 (as amended by Part 6 of the Localism Act 2011) and the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy Amendment Regulations of 2011, 2012, 2013, 2014 and 2015). All Regulations referred to within this PDCS refer to those contained within these Community Infrastructure Levy Regulations 2010 (as amended) unless otherwise stated. Relevant matters within National Planning Policy Guidance and the National Planning Policy Framework 2012 have been reviewed in the drafting and content of this PDCS.

The Planning Act 2008, the Localism Act 2011 and the Community Infrastructure Levy Regulations can be accessed via the following website:

[Legislation.gov.uk](http://legislation.gov.uk)

National Planning Policy Guidance can be accessed via the following website:

[PPG Website](http://ppg.gov.uk)

National Planning Policy Framework 2012 can be accessed via the following website:

[NPPF Website](http://nppf.gov.uk)

The Charging Authority and Charging Area

The Charging Authority and Collecting Authority is Brighton & Hove City Council.

The charging area covers the administrative area of Brighton and Hove City Council excluding the South Downs National Park area. The National Park Authority is the charging authority for its own CIL Charging Schedule implemented on 1st April 2017.



Easterly views towards Marine Parade, Brighton

The Community Infrastructure Levy (CIL)

CIL Overview

CIL allows local authorities to raise funds from development for the provision of infrastructure in and around their areas. A CIL charge is non-negotiable; however there are exemptions for some types of development such as Affordable Housing.

Once adopted, the CIL Charging Schedule will set out a standard rate (£ per sq. m) based on new Gross Internal Area (GIA) that will be payable by landowners or developers for specific development types within geographical locations as set out in the Charging Schedule. The money collected through CIL will be authorised by the Council to help pay for a range of infrastructure that will support growth and development within the city.

Advantages of CIL

The Government's CIL regulations and guidance outlines a range of key advantages over the current system of Section 106 Agreements including that:

- It will be less time consuming, reduce the levels of negotiation with applicants and help speed up the planning system;
- It is a non-negotiable charge which is transparent and predictable, meaning that applicants will know their CIL liability prior to submitting a planning application;
- CIL provides a fairer system in that it relates contributions to the size of liable developments in respect of net new floor space provided by a development, and new residential dwellings;
- CIL collects contributions from a wider range of developments than under section 106, providing additional funding to allow local authorities to carry out a range of infrastructure projects that not only support growth but benefit the local community;
- Pooling restrictions from April 2015 allow a maximum of five S106 contributions towards an infrastructure project or a type of infrastructure; so limiting funds from S106 contributions to bring forward strategic infrastructure necessary to support new development. CIL allows a predictable, longer-term funding stream giving strategic infrastructure delivery more certainty.

Parish and Neighbourhood Fund

Under CIL Regulations, Parish Council areas where development takes place which is liable to CIL charging will receive their own portion of CIL to spend on the infrastructure they have identified. In areas where there is no adopted neighbourhood development plan this will be 15%, capped at £100 per existing council taxed dwelling. Where a neighbourhood plan is in place the portion is an uncapped 25%. Neighbourhood forums work within the same parameters as Parish Councils, and will have an influence over how funds are spent in their area.



The Evidence Base

When establishing a CIL Charging Schedule and CIL rates, a local authority must show that there's need for infrastructure funding to support its Local Development Plan. The local authority also has to demonstrate available sources of infrastructure funding are insufficient to meet all infrastructure needs over the life span of the local plan, and therefore a funding gap exists.

Therefore, a CIL charging schedule must be informed by available evidence, which includes:

- A bespoke viability assessment to test the likely impact of CIL rates on the viability of developments envisaged by the Local Development Plan;
- An infrastructure delivery plan to demonstrate broad needs and a funding gap; and
- The Local Development Plan

The above documents can be accessed via this council webpage (*Link to be provided to page when available*), and are briefly set out below.

CIL Viability Study towards a Charging Schedule

Under Regulation 14 (as amended) the Council is required to 'strike an appropriate balance between' the desirability of funding infrastructure from the levy and 'the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area'.

A bespoke CIL Viability Study has been carried out for the purposes of exploring a CIL Charging Schedule for Brighton & Hove City Council by Dixon Searle Partnership between the dates Jan – August 2017, and this is considered to be an appropriate evidence base to underpin the rates and geographical areas being consulted upon within this PDCS.

Infrastructure Provision under CIL

A list of infrastructure that may be funded by CIL will be drawn from items within the Infrastructure Development Plan (IDP) update agreed by Tourism, Development & Culture Committee on 22 June 2017 as Annex 2 to the City Plan Part One; to conform to CIL Regulation 123 (as amended). This agreed IDP update identifies in its summary that it is 'also an evolving part of the evidence base for an emerging Community Infrastructure Levy (CIL) Charging Schedule and Regulation 123 list'. The June 2017 IDP update is based upon the IDP tested as part of the process to adopt City Plan Part One. This update is considered to be suitable for use as appropriate available evidence at this preliminary draft stage as recommended by CIL planning practice guidance.

The Regulation 123 list will identify specific infrastructure of strategic importance for this funding and will be prepared to support the CIL Draft Charging Schedule at consultation and through an examination in public. The list will evidence a funding gap in the provision of infrastructure and justify the collection of CIL.

Local Development Plan

The Local Development Plan for Brighton and Hove consists of the Brighton & Hove City Plan Part One 2016, retained policies of the Brighton & Hove Local Plan 2005, the East Sussex,



South Downs and Brighton and Hove Waste & Minerals Plan (adopted 2013) and the East Sussex, South Downs and Brighton and Hove Waste & Minerals Sites Plan (adopted 2017).

Proposed Charging Schedule

The proposed CIL charging rates below are within the scope of the Viability Assessment's guide parameters and findings; and it is considered that these rates will not impede the delivery of the overall Brighton and Hove Local Development Plan.

Use	Location	Levy (£/sq. m)
Residential - applies to C3 and C2 use classes Zone areas are shown on Map in Appendix 1	Zone 1	175
	Zone 2	150
	Zone 3	75
Purpose Built Student Housing - City Wide	City Wide	250
Retail – Larger format – Retail warehousing / Supermarkets	City Wide	100
Other shopping units development	City Wide	50
All other development uses	City Wide	0

Notes: Retail – Larger format:

Retail warehouses are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering for mainly car-borne customers.

Superstores/supermarkets are shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit.

Section 106 Planning Obligations

Once the CIL charging schedule is adopted, developers or land owners will still be expected to provide site-specific infrastructure which is:

- necessary to make the development acceptable in planning terms
- directly related to the development
- fairly and reasonably related in scale and kind to the development

through a section 106 (s106) obligation under CIL Regulation 122 (as amended). No items on the Regulation 123 infrastructure list (see above) will be eligible for s106 contributions to avoid 'double dipping'. In order to provide clarity about the extent of the financial burden that developments will be expected to bear so that viability can be robustly assessed, the list below contains areas for development contributions which are likely to form part of a proposed policy for the associated scaling back of s106 agreements at this stage:

Current areas of s106 contributions proposed to be turned off on introduction of CIL:

- Off-site Recreation space contributions;
- Off-site Education provision contributions;
- Off-site Sustainable Transport contributions.

Current areas of s106 contributions proposed to remain secured via s106 on introduction of CIL for on-site provision include:

- Affordable Housing - on site provision or commuted sum in lieu;
- On-site recreation/sports facilities and/or space provision;
- On-site schools/education land and/or building provision;
- On-site transport access and highways works provision under s278 and/ or s38 of the Highways Act 1980;
- On-site Local Employment training/job opportunities provision with supporting financial contribution;
- On-site public realm provision including artistic element;
- Development related flood defenses and coastal engineering;
- Development related water supply & utilities provision, & wastewater drainage;
- Zero rated (£0 per sq. m) developments where site specific mitigation measures may be required.

The methodologies used to calculate the remaining s106 contribution areas are proposed to continue as set out in the updated Developer Contribution Technical Guidance (March 2017).

For further information on the March 2017 Developer Contribution Technical Guidance, please go to our [Developer Contributions webpage](#) .



Next Steps

Indicative Timetable for development & adoption of a CIL Charging Schedule

Date	Key Stage
Oct 2017	Publish Preliminary Draft Charging Schedule for eight week consultation following Committee resolution
Spring 2018	Following committee resolution, publish for consultation: <ul style="list-style-type: none">• Draft Charging Schedule (revised following PDCS consultation);• Proposed draft annex update to Developer Contributions Technical Guidance intended to operate alongside a CIL Charging Schedule; and• Draft CIL Regulation 123 List to identify infrastructure eligible for CIL spending
Autumn 2018	Examination of Draft Charging Schedule and supporting documents
Spring 2019	Adopt CIL charging Schedule following a resolution of Full Council

Instalment Policy and when CIL is Payable

Liability to pay CIL is triggered by commencement of the development. By default it must be paid within 60 days, but for schemes with phased outline permission payment will be triggered separately for each phase.

In addition and in accordance with Regulation 69B of the CIL Regulations (as amended), a charging authority can set its own policy allowing all large liabilities to be paid by instalments. To implement this, a Council would be required to publish an instalment policy on its website. Such a policy would not be part of the charging schedule and could be changed independently of it. An instalment policy would apply to all developments and should contain the following:

- The date on which the policy takes effect
- The number of instalment payments;
- The amount or proportion of CIL payable in any instalment;
- The time from commencement by which the first and subsequent instalments must be paid;
- Any minimum amount of CIL below which CIL may not be paid by instalment.

The Council intends to consider the appropriateness of introducing an instalment policy prior to the adoption of its charging schedule.

Discretionary Charitable Relief Policy

In accordance with Regulations 44 to 48 of the CIL Regulations (2010) (as amended), a charging authority can offer discretionary charitable relief for development proposals owned by charities, if they meet the qualifying criteria as set out in the CIL Regulations.

The Council intends to consider the appropriateness of introducing a discretionary charitable relief policy prior to the adoption of its charging schedule.

Payment in Kind Policy

In accordance with Regulations 73 (A & B) and 74, CIL Regulations give a charging authority the discretion to accept payments in kind to allow land payments or infrastructure delivery (on or off site) 'in kind' for the whole or part of CIL, in respect of chargeable development.

The Council intends to consider the appropriateness of introducing a discretionary payment in kind policy prior to the adoption of its charging schedule.

CIL Income Estimates and Use

This is an estimated, indicative income for residential development, based on the projected growth and approximate timing of delivery outlined by the Local Development Plan, along with the residential CIL rates and zones proposed by the PDCS.

It is currently estimated for the purposes of this PDCS that in the region of £2 million per annum could be generated from CIL income over the plan period to 2030. This is based on housing delivery as identified within policy CP1 of City Plan Part One is achieved over the plan period.

The amount available to the Council to fund infrastructure will however, be reduced due to the need to net off an administration cost of up to 5%, and allocate neighbourhood funds to Rottingdean Parish Council under the criteria specified above.

Revenues from CIL are therefore not expected to bridge the long term funding gap which will be demonstrated through the IDP by the time of examination.

CIL and Existing Planning Permissions

Developments which receive planning consent and have concluded section 106 agreements prior to the commencement date of a CIL Charging Schedule, will not be liable to CIL.

Where a planning permission granted before a levy charge came into force is then subject to amendment under s73 (minor material amendment) of the Planning Act 1990 (as amended)

after the commencement date of a CIL charging schedule, then only any additional liability it introduces will be subject to CIL.

Monitoring and Review

So as to ensure an appropriate CIL rate that allows for changing market and other influences on development viability and deliverability, the Council will put in place an appropriate monitoring and review framework that consists of:

- Reporting of the level of housing market activity and development in the Council's Authority Monitoring Report (AMR).
- Tracking of funding coming forward to meet infrastructure from CIL and other sources.
- The amount of CIL collected since the adoption and commencement dates of a CIL charging schedule; how it has been allocated; and the infrastructure projects part, or wholly supported through CIL.
- A continuation of existing s106 monitoring systems.

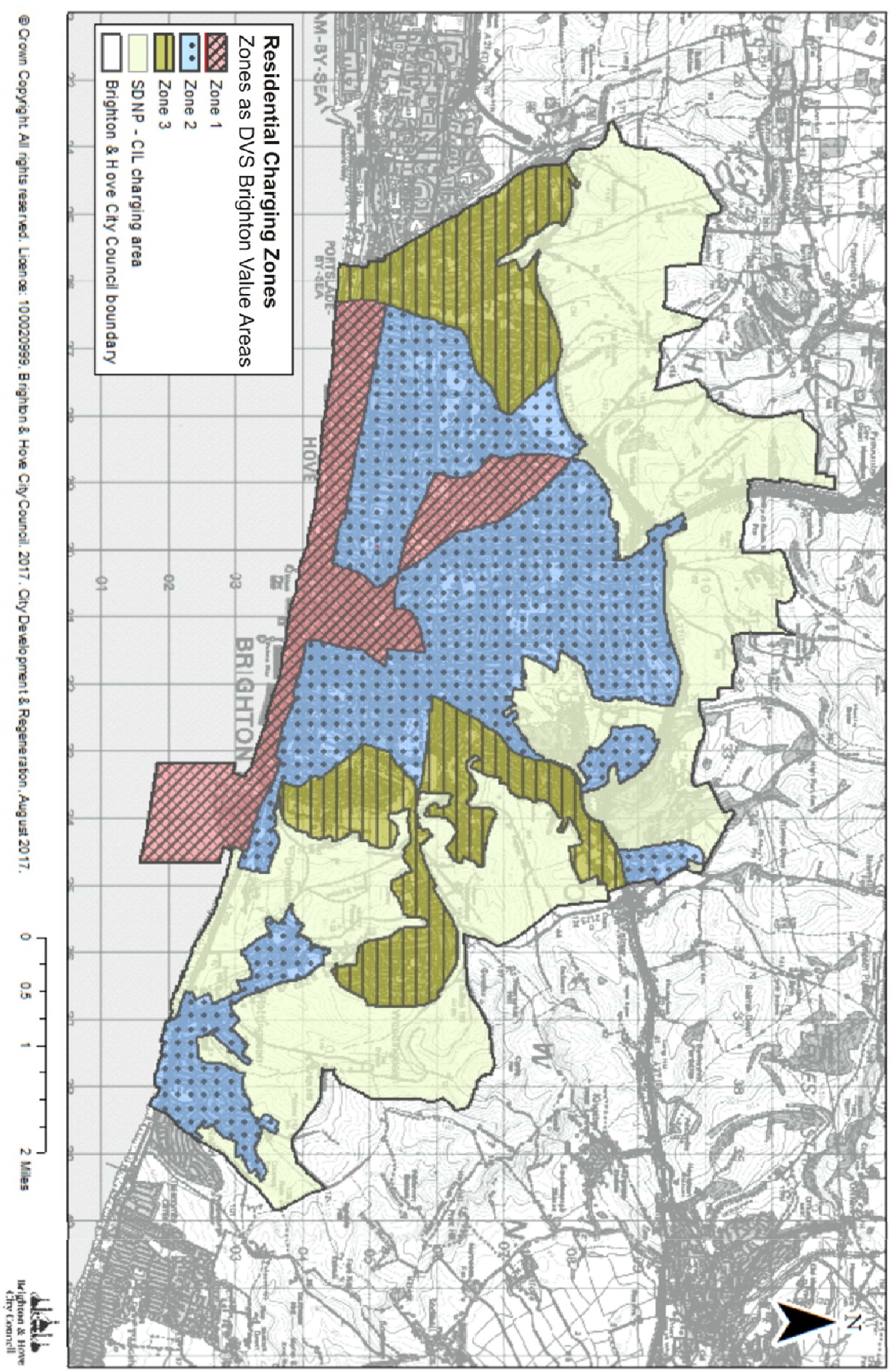
CIL Regulations allow adopted CIL rates to be updated annually for inflation, based on the Building Cost Information Service (BCIS) all tender prices index.

It is also anticipated that the CIL charging schedule and its rates will be reviewed within a 3 to 5 year time period, from its adoption date, or at an earlier date if changing market conditions support this.

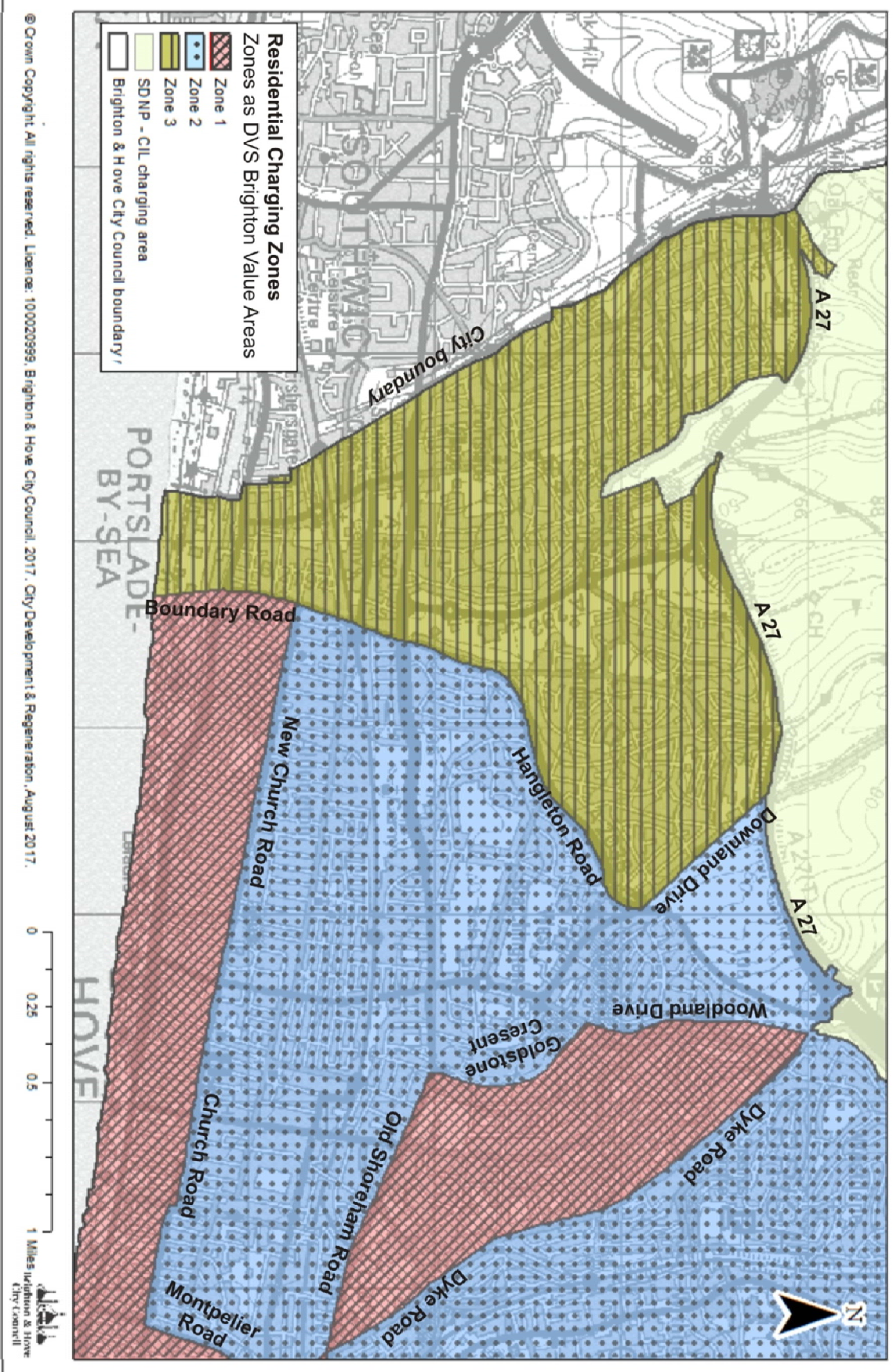


Hove Railway Station, looking west

Appendix 1 Community Infrastructure Levy - Preliminary Draft Charging Schedule map



Appendix 1 Community Infrastructure Levy - Preliminary Draft Charging Schedule map Detail No. 1: City West



Appendix 1 Community Infrastructure Levy - Preliminary Draft Charging Schedule map Detail No. 2: City East

