

NORTH DORSET COMMUNITY INFRASTRUCTURE LEVY EXAMINATION

Examiner's questions, requests and points arising

**North Dorset District Council's
response to questions received on 25 October 2016**

4 November 2016

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Contents

1.	Introduction	3
2.	Council's response	6
	Question 1 (i).....	6
	Question 2 (ii).....	6
	Question 2 (iii).....	7
	Question 2 (iv).....	9
	Question 2 (v).....	10
	Question 2 (vi).....	12
Appendix A:	Town Centre Primary Shopping Areas	14

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1. Introduction

1.1 This statement is in response to questions received by North Dorset District Council from the Examiner on 25 October 2016. The Examiner's questions are as follows:

- 1) *I would like to make sure that I fully understand the content of the Viability Studies. For the most part I find them clear as to the assumptions used and the way that the analysis has been carried out. However, I would appreciate some additional clarification on the following points.*

Residential

- i) *Flats*

In Section 2 of the Update Report, Table 2.1 shows average sales values – it is the new flats average price that interests me, since CIL only affects new build. I understand that Blandford Forum and Sturminster Newton produce too small a sample size to be representative, but I do not understand how an average figure, at the bottom of the table, can be calculated which is more than 10% lower than the figures which can be quoted for Gillingham and Shaftsbury.

This then leads me to uncertainty as to how the price per square metre for sales values for flats is calculated. In Appendix A of the February Final Report, on page 58, dwelling floor areas assumptions are set out as (for flats) 59 sq m NIA and 62 sq m GIA. I assume that it is NIA that would be used to determine sales values, but if I am wrong, please explain. But whether it is NIA or GIA, I cannot see how the two figures for sales values per square metre for flats, of £2,300 and £2,400 (urban and rural respectively) are arrived at in Table 2.2 (although I note that additional sources are identified under Table 2.2). Please explain.

Following from these points, there appears to be no table in Section 3 of the Update Report that shows headroom for a typology that is purely a flatted development. Please explain.

- 2) *Moving to the consideration of representations, I wish to have comment on the points that follow.*

- ii) *Persimmon Homes South Coast makes points about the relationship between Starter Homes and the shared ownership element of affordable*

housing, and in particular the impact of the new Affordable Rent regime. Please respond to these points.

- iii) *Again Persimmon refers to the 123 List and claims that where generic types of infrastructure are included, section 106 contributions cannot be sought on any projects in that category, and that the wording should reflect the Government's Guidance on CIL. I am not sure whether this part of the representation would be met by the substitution of "and" for "or" mentioned in the final paragraph of the representation, but I wish to have the Council's comment on the representation as a whole. In addition, Savills, on behalf of Consortium of landowners and developers, makes a similar point in the third bullet point.*

Leading on from this I note that on pages 5 and 6 of the Update Report the matter of Infrastructure costs specific to the Gillingham southern extension are addressed. Under paragraph 2.4.4b an explanation is given for assuming, for the purposes of the viability study, that the whole cost of infrastructure required for the southern extension will come from section 106/278 agreements.

Please confirm, as I assume, that the Council has made an assessment that these costs for infrastructure, amounting to an estimated £18m, are likely to be achievable bearing in mind the 'pooling' restrictions on s106 obligations. I ask this bearing in mind the content of the Policy 21 section of the adopted Local Plan Part 1 that shows 3 separate large areas for housing growth around Gillingham to the south and east, together with employment development, with the involvement of a number of separate landowners and developers and a development period up to 2031. In addition, this section of the Local Plan makes clear (paragraph 9.23) that the Council will look to secure financial contributions through CIL.

- iv) *Savills, on behalf of Consortium of landowners and developers, makes a point about the delineation of the £30/£45 rates and that sites around the towns would pay the £45 rate, which is not supported by the viability report (bullet points 1 and 2). Comment please.*
- v) *Please also comment on the inadequate 'buffer' point and bullet points 4 and 5 of Savills representations.*

Retail

- vi) *Section 3 of the representation on behalf of Clemdell Ltd deals with the Town Centre Retail Changing Zone for Blandford Forum, questioning the appropriateness of Figure 6 in Appendix B of the Draft Charging Schedule.*

It suggests that the Zone has been wrongly delineated in terms of its extent and questions the use of this Plan in the Viability Report. I have some sympathy for the points made by the Jonathan Kamm Consultancy, and ask for the Council's response to the points made.'

- 1.2 The Council's responses are set out in the following section of this document.

2. Council's response

Question 1 (i)

- 2.1 It is accepted that the sample size for new flats, throughout the District, was fairly small. In Blandford Forum and Sturminster Newton the sample size was particularly small. For instance, in Sturminster Newton, the average price was £142,000 based on only 3 properties and in Blandford Forum it was £113,541 based on only 11 properties.
- 2.2 This showed a great degree of variance between locations, which admittedly is questionable, particularly when considered against the average prices for existing flats which shows a similarity in values. It was considered that the sample size was therefore not sufficient to be considered statistically robust. While the figures were omitted from the table in the updated Viability Report (SUB.10), they were used in arriving at the average of £160,691.
- 2.3 Given the fairly low level of new transactional data from Land registry, Peter Brett Associates (PBA) used figures mainly derived from other sources to identify an appropriate average. This included the research in Appendix A of SUB.10 and consultation with local agents. For clarification, in terms of the modelling, the values in Figure 2.2 of the SUB.10 report are applied to the NIA.

Question 2 (ii)

- 2.4 The Council acknowledges Persimmon's suggestion that the new affordable rent regime may impact on affordable incomes. At the time of the original viability report (SUB.09) PBA consulted with registered providers at the developer workshop who suggested transfer values of 33% for social rent and 55% for affordable rent. For the update report (SUB.10), PBA re-consulted with registered providers at the time to determine what the impact of this was likely to be. It was considered that the transfer rates used would remain as appropriate.
- 2.5 From recent discussions with other Registered Providers, the figures used in North Dorset relative to other locations indicate that these transfer values are already low (particularly with regard to social rent).
- 2.6 It is also important to acknowledge that while Persimmon have suggested that the changes 'will have significant bearing on the viability of the CIL rates proposed', they do not provide evidence to the contrary to say what the transfer values should be, either in their response at the Preliminary Draft Charging Schedule (PDCS) stage or the Draft Charging Schedule (DCS) stage. Should the position have worsened, then that is why a buffer was set on the viability that is not used for contributing towards the recommended CIL rates.

- 2.7 With regards to the relationship between Starter Homes and the shared ownership element of affordable housing it is important to clarify that the CIL rates in Section 3 of SUB.10 that are being examined are based on the adopted Local Plan's affordable housing policy and the assumptions outlined in the PBA reports SUB.09 and the SUB.10. They are not based on any potential Starter Homes provision.
- 2.8 The sensitivity testing of Starter Homes in Section 4 of SUB.10 was produced for hypothetical purposes to determine whether or not the CIL rates recommended in Section 3 of SUB.10 could be considered as appropriate in the case of these changes in national affordable housing policy, should they come forward in the required detail through secondary legislation.
- 2.9 For context, it is worth reiterating that, at the time of writing the update report (SUB.10), the government had not released details about how Starter Homes policy would be implemented. In the absence of this information, PBA assumed that the shared ownership aspect would be replaced with 30% Starter Homes, rather than testing 70% Affordable homes and 30% Shared Ownership. Further information about Starter Homes, including a consultation¹ relating to the provision of 20% Starter Homes on large sites, has been published since the PBA reports were published and, therefore, the Council accepts that the initial assumption does not now accord with the potential national policy approach to Starter homes as detailed in the consultation document. However, the Council would make the point that there seems to be increasing uncertainty regarding the future policy approach to Starter Homes, as part of the affordable housing mix, following the formation of the new government earlier this year.

Question 2 (iii)

- 2.10 The Council acknowledges that the Draft Regulation 123 List might benefit from some refining prior to the Final 123 List being published. The Council notes the 'double dipping' point raised by the Consortium of landowners and developers (represented by Savills) and Persimmon Homes South Coast's concerns regarding the use of the wording 'or where the requirement can be attributed to five or fewer developments' and has no objection to the word 'or' being replaced by the word 'and'. Alternatively, the wording 'or where the requirement can be attributed to five or fewer developments' could be deleted from the exclusions column of the Draft Regulation 123 List.
- 2.11 Further to the above, the Council notes the wider points raised by Persimmon Homes, including the view that Section 106 contributions cannot be sought on any projects where generic types of infrastructure are included on the Draft Regulation 123 List. The Council disputes this view. Government legislation and guidance on

¹ Starter Homes Regulations Technical Consultation (Department for Communities and Local Government, March 2016)

CIL allows specific infrastructure requirements, such as transport infrastructure and education facilities, related to a development (e.g. development at the Gillingham Strategic Site Allocation (SSA)) to be funded through planning obligations irrespective of whether generic requirements relating to the provision of such types of infrastructure are included on a charging authority's Regulation 123 List.

- 2.12 With regards to the strategic site at Gillingham the Council can confirm that an assessment has been made as to the likely obligations generated by the development. Costs for infrastructure have been estimated in discussion with the 'consortium' of residential land promoters. Through those discussions, no significant concerns have been raised and no 'abnormal' development costs identified. The land promoters are aware of the likely planning obligations but have not, to date, raised fundamental concerns about overall scheme viability at the strategic site. Therefore, the Council believe that the likely obligations should be achievable. However, the estimated sum of £18m should be treated as provisional, pending detailed negotiations on planning obligations.
- 2.13 It has been envisaged that the strategic site at Gillingham will be zero-rated for the purposes of the CIL and that therefore all supporting infrastructure and facilities will be provided via Section 106 and Section 278 agreements, as appropriate to strategic large-scale development sites. The land promoters have confirmed to the Council their ability to deliver the key elements, such as highways infrastructure. However, being alive to the challenges of frontloading key elements of infrastructure to unlock the site, both North Dorset District Council (NDDC) and Dorset County Council (DCC) have submitted bids for Growth Deal funding to the Local Enterprise Partnership.
- 2.14 Paragraph 9.23 of Local Plan Part 1, at Policy 21, sets out that *in so far as it is relevant* the Council will look to secure financial contributions through its charging schedule produced for the purposes of the CIL. The drafting of Local Plan Part 1 preceded the drafting of the CIL Draft Charging Schedule. Discussions during and subsequent to the drafting of Local Plan Part 1, as summarised above, have resulted in agreement that Section 106 is the most appropriate mechanism through which to seek contributions for obligations in relation to the strategic site at Gillingham.
- 2.15 Contributions may be pooled from up to five separate planning obligations for a specific item of infrastructure (e.g. a local school) that is not included on the CIL Regulation 123 list. One Section 106 agreement has already been signed by one of the 'consortium' of residential land promoters in respect of residential development within the Lodden Lakes landholding. The pooling issue has been discussed between the Councils (NDDC and DCC) and the 'consortium' of residential land promoters and the Councils are promoting measures to ensure the pooling limit will not impede infrastructure provision in the anticipated multi-application scenario.

- 2.16 In order to support the delivery strategy as set out by the 'consortium' in their Master Plan Framework (MPF), four commitments have either already been agreed, or are being pursued, between the parties. Firstly, a schedule of costed strategic infrastructure items shall be collated for the purposes of viability testing. Secondly, NDDC will ensure that none of the items included thereon are duplicated on the CIL Regulation 123 list. Thirdly, through having a Developers' (or Promoters') Agreement the consortium has also taken measures to minimize the need for pooled contributions. Fourthly, the 'consortium' of residential land promoters has confirmed through the preparation of a Developers' (or Promoters') Agreement that they will collaborate and co-operate closely with each other in relation to the submission of applications for their respective parts of the development. This should result in limiting the number of outline planning applications being submitted for the remainder of the land the 'consortium' controls. These measures will help ensure that NDDC retains the ability to secure Section 106 contributions from other development proposals within the southern extension allocation area (e.g. at the employment sites).
- 2.17 The Councils are also currently in discussions with the employment land owners about the master planning of their sites and the submission of single outline planning applications.
- 2.18 Should the Examiner feel that it is appropriate, the Councils could seek written confirmation from the land promoters of the southern extension to Gillingham of their willingness to work with the Councils on this issue.

Question 2 (iv)

- 2.19 Viability testing was undertaken by PBA as a high level exercise based on a broad range of developments that were considered likely to be brought forward. It would have been unrealistic to conduct testing on every possible permutation of development type and location that could come forward. The Council is satisfied that the typology of tested sites for setting proposed CIL charging rates reflects the types of development on which the Local Plan is dependent and that, in accordance with guidance, it does not put the bulk of development at risk of being undeliverable.
- 2.20 Nevertheless, it is worth indicating that, based on the headroom and buffer analysis that follows in response to Question 2 (v), it is considered that there would be sufficient headroom in this eventuality that developments could accommodate this higher CIL rate.

Question 2 (v)

- 2.21 In relation to the 'buffer' used for different types of development, CIL rates have been set which are based on what the majority of developments could accommodate. Therefore, the buffer ranges from one typology to the next.
- 2.22 However, for assurance, Table 1.1 below shows the weighted average headroom for each location based on the typologies in the update report. For each value, comparing the weighted average to the proposed CIL rate indicates a buffer of at least 40%. The Council consider this is a sufficient buffer and that the rates set are not at the margins of viability.

Table 1.1: Weighted averages and buffer for each value area

	Weighted headroom	Proposed CIL charge	Buffer
Shaftesbury	£50	£30	40%
Gillingham	£65	£30	54%
Blandford Forum	£83	£30	64%
Sturminster Newton	£75	£30	60%
Rural	£116	£45	61%

- 2.23 Savills' representation Bullet 4 states that:

'Construction Costs – the BCIS costs used in the report do not take into account the external costs associated with the development of new homes. For example, only internal services located within the building are included in the estimates of cost and so the significant costs of providing the service network for an entire development are ignored. Other costs that aren't taken into account include landscaping, roads/access, car parking, and professional fees (not to mention abnormal fees which occur in the majority of developments). All of these additional costs associated with development cannot be ignored and so the estimate of build costs used can be viewed as being unrealistically low. Table C1 (p30) within the report shows a sensitivity analysis based upon increased build costs. Once the costs are increased 9%, all bar a few of the scenarios/locations are shown to be unviable. We are typically seeing build cost rates of £120-£150 per sq ft (depending on the quality/location and type of build) as opposed to the £90-£104 per sq ft rates shown within the report. While the largest house builders will be able to operate at the

lower end of the scale, the small/medium house builders cannot. Therefore applying the proposed CIL rate under the expectation of lower than realistic build costs may lead to many small/medium developments becoming unviable.'

- 2.24 The Council agrees that all the costs set out in the above point should feature in viability testing and these costs have been assessed in the viability analysis. The assumptions regarding these types of costs, and how they have been applied in the appraisals, are discussed in detail in Chapter 5 of the original viability report (SUB.09). Since PBA's approach to these costs had not altered between the SUB.09 report and the updated SUB.10 report, these costs were not discussed again in the update study SUB.10. However, it can be confirmed that these are still accounted for in the results in the updated report.
- 2.25 Build costs have been derived and appropriately rebased to North Dorset prices using the RICS Build Cost Information Service (BCIS), which is an industry standard and independent source of build cost data.
- 2.26 It is appreciated by the Council that smaller housebuilders are likely to encounter higher build costs than volume builders. This has been reflected in the appraisals for North Dorset, which uses a tiered approach with small housing schemes (up to 3), based on BCIS data for
- i) 'one-off builders';
 - ii) estate housing (15+) having lower 'estate housing' build costs; and
 - iii) medium housing schemes (between 4 and 14) assumed at the mid-point between i) and ii).
- 2.27 The representation from Savills at Bullet 5 states:
- 'In respect of tiered system of payments to reflect the scale of development, at present the draft charging schedule shows differential rates based on location and the type of development, but does not account for the scale. It would seem unrealistic to expect a 1 unit scheme to pay the same rate as a 250 unit scheme.'*
- 2.28 It is assumed that the 'tiered scale of payments' refers to the Council's proposed Instalments Policy (Deferred Payments). The rationale for this is clearly set out at Annex 1 to the Draft Instalments Policy (SUB.05). The Policy responds to the government's encouragement that Charging Authorities take account of the needs of small building firms and develop CIL payment by instalments policies.
- 2.29 So far as the comment that it would be '*unrealistic to expect a 1 unit scheme to pay the same rate as a 250 unit scheme*' is concerned, variations in charges across an authority's area can only be justified on the basis of viability evidence. Guidance states that charging authorities should use an area-based approach founded on that evidence. Given the generally low proposed CIL rates for North Dorset, the Council is of the view that the needs of smaller builders have been adequately

taken into account in the typologies utilised in the viability testing undertaken². In addition, charging authorities are advised that they should avoid undue complexity in drawing up charging schedules.

Question 2 (vi)

- 2.30 Jonathan Kamm Consultancy makes a wide range of points on behalf of Clemdell Ltd in respect of the Town Centre Retail Charging Zone for Blandford Forum. The thrust of the points raised is that the Town Centre Boundary identified at Blandford Forum for CIL purposes is inappropriate and should be replaced by the proposed Primary Shopping Area (PSA) boundary from the Nathaniel Lichfield and Partners Joint Retail Assessment (2008)³ set out at Appendix 1 of Clemdell Ltd's representation.
- 2.31 Figure 6 in the Draft Charging Schedule is based on the draft town centre boundary for Blandford Forum which is identified in the Council's 2005 Annual Monitoring Report and which itself is derived from an Urban Potential Study of the District published in 2004⁴. The town centre areas in the Urban Potential Study utilised the 'Typical Urban Areas' approach as defined in a report by Baker Associates⁵. On this basis, the Council does not consider that the town centre boundary for CIL purposes at Blandford Forum is arbitrary as suggested in Clemdell Ltd's representation.
- 2.32 Further to the above, it should be noted that paragraph 6.48 of the recently adopted North Dorset Local Plan Part 1 states, amongst other things, that '....the Council will use available evidence to make judgements for development management purposes about whether a particular sites falls within a town centre, including:
- the draft town centre boundaries identified in the Council's 2005 Annual Monitoring Report;
- 2.33 On this basis, the Council considers that there is a clear rationale for the town centre boundary identified in Figure 6 of the Draft Charging Schedule. However, if the Examiner was of the view that the proposed PSA boundary identified at Blandford Forum as part of the Joint Retail Assessment (2008) carried out by Nathaniel Lichfield and Partners is a more appropriate basis for defining the retail charging zone at Blandford Forum then the Council would have no objection to this. However, the Council does consider that if the proposed PSA boundary was to be

² Table 5.2, North Dorset Whole Plan Viability and CIL Study - Final Report (SUB.09)

³ Joint Retail Assessment - Christchurch Borough Council, East Dorset District Council, North Dorset District Council, Purbeck District Council - Volume 2 North Dorset, Nathaniel Lichfield and Partners Ltd, March 2008.

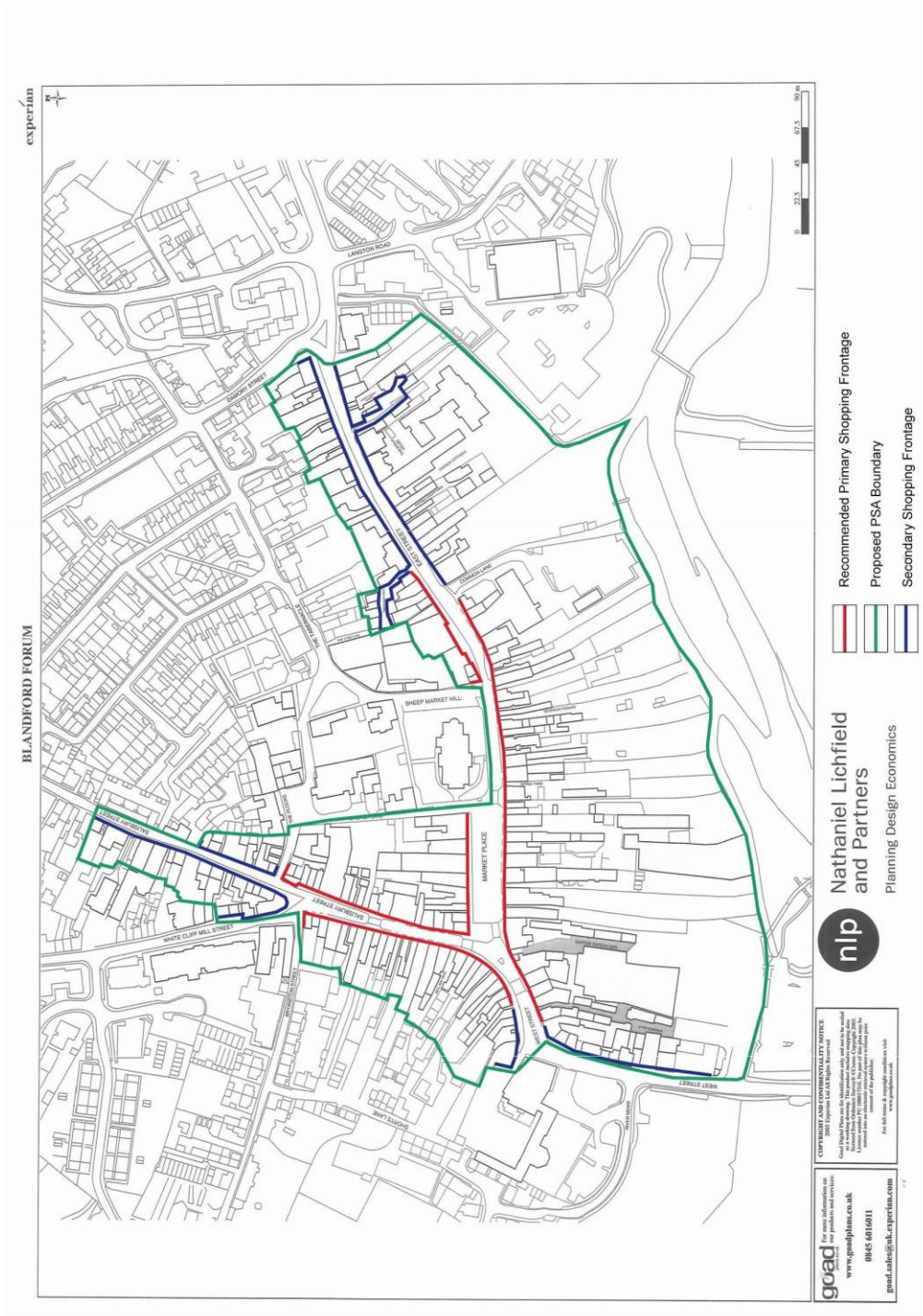
⁴ Urban Potential Study, North Dorset District Council, February 2004

⁵ South West Urban Potential Study: Preliminary Information, 1998

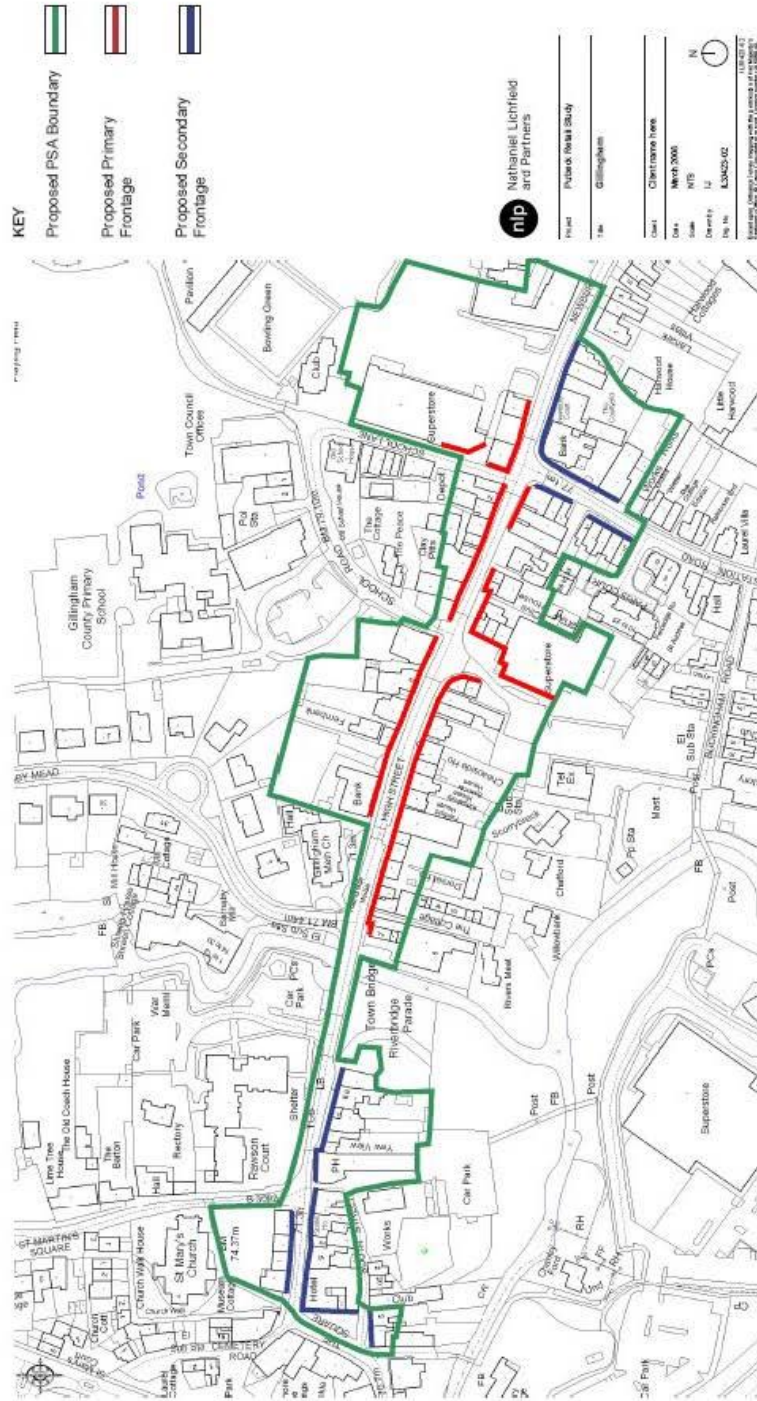
applied as the boundary for the retail charging zone at Blandford Forum then for reasons of consistency the proposed PSA boundaries, identified as part of the Joint Retail Assessment, should also be applied at Gillingham, Shaftesbury and Sturminster Newton (Appendix A) for retail charging purposes. Furthermore, if the PSAs are to be used as the basis for the retail charging zones then any reference to Town Centre Boundaries in the Draft Charging Schedule should be replaced with Primary Shopping Areas.

Appendix A: Town Centre Primary Shopping Areas

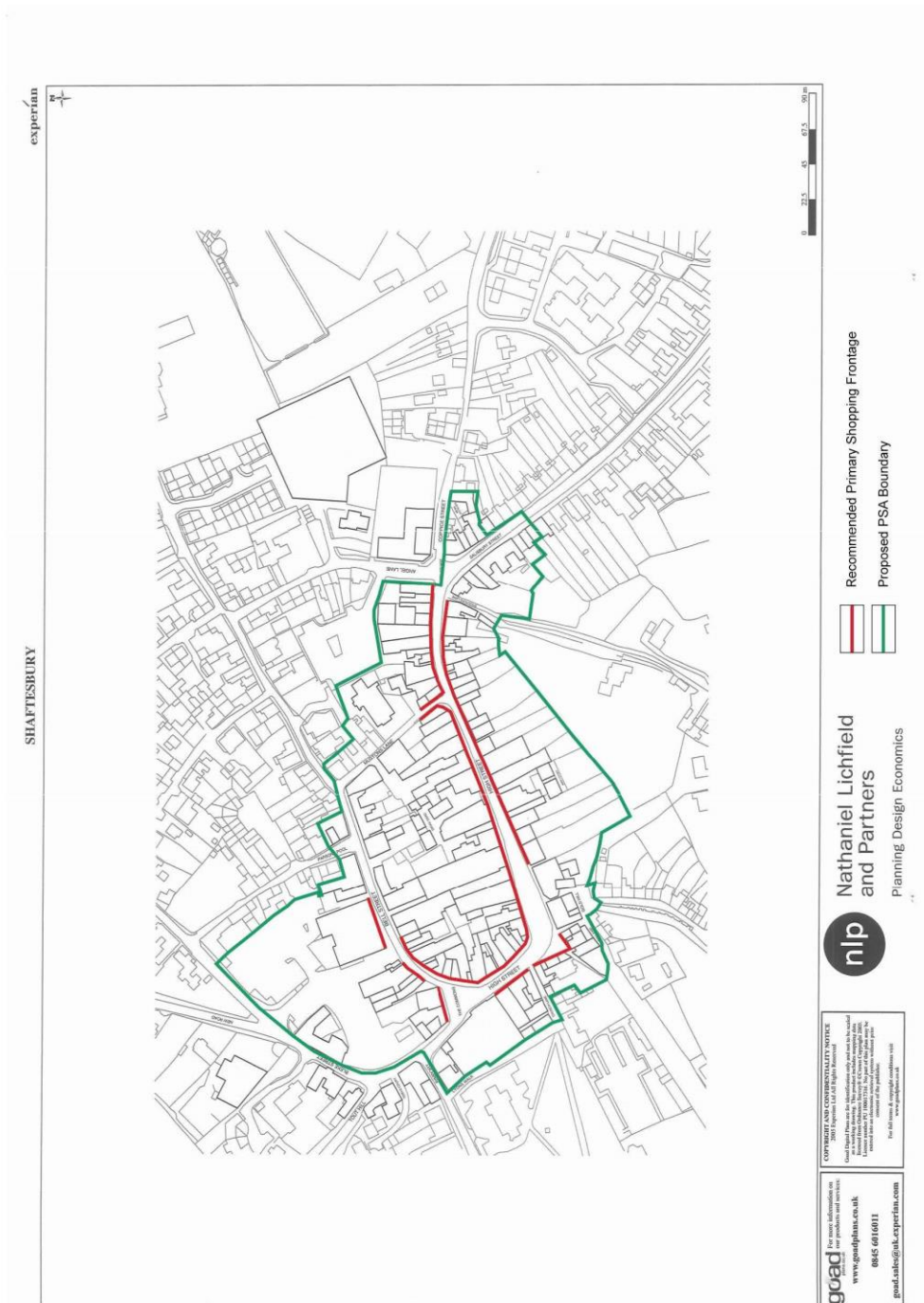
- A.1 The maps included in this Appendix show the boundaries of town centre Primary Shopping Areas set out in the Nathaniel Lichfield and Partners Joint Retail Assessment (2008).



Blandford Forum



Gillingham



Shaftesbury



KEY
 Proposed PSA boundary



nlp Nathaniel Lichfield
 and Partners

Title: **Sturminster Newton -
 Recommended PSA
 Boundary**

Date: March 2008
 Scale: NTS
 Drawn by: LJ



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Sturminster Newton