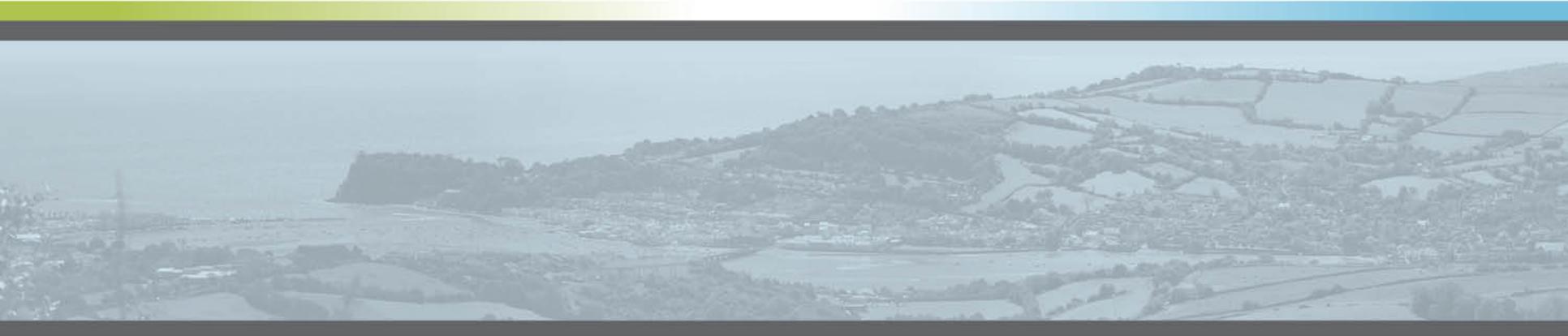


CIL – A Practitioner’s View

Ros Eastman (Business Manager: Strategic Place)
21 May 2019



Outline

What do Court and VOA decisions tell us?

What's different in the draft Regs and where next?

Exercise

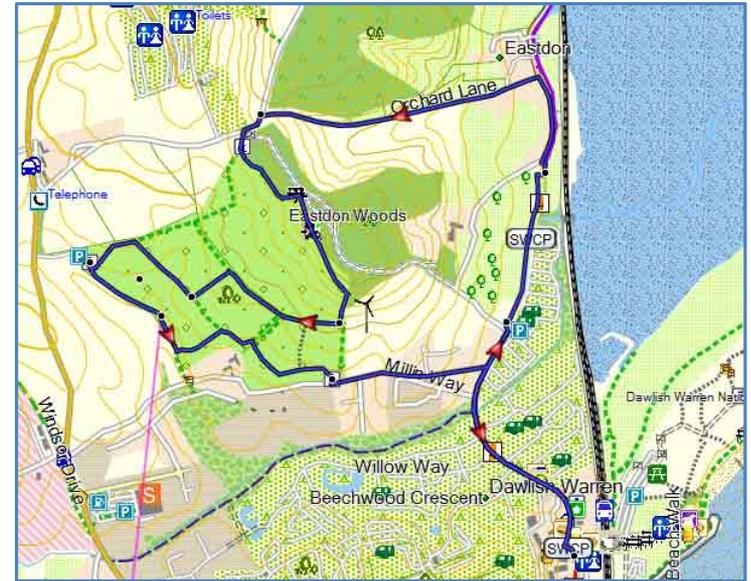
Discussion / Questions

TDC Experience

Adopted October 2014

307 Liability notices
£6,997,319.54 Demanded
£5,048,090.58 Collected
c. 30 CIL Reviews
<5 Appeals

Big stuff it's done:
Award winning Dawlish SANGS
Cycle paths
Education in Kingskerswell and
Kingsteignton



Case Law

1. Hourhope

Case Law

1. Hourhope
2. Orbital Shopping Park

Case Law

1. Hourhope
2. Orbital Shopping Park
3. Hillingdon

Case Law

1. Hourhope
2. Orbital Shopping Park
3. Hillingdon
4. Giordano

Case Law

1. Hourhope
2. Orbital Shopping Park
3. Hillingdon
4. Giordano
5. Shropshire

Case Law

1. Hourhope
2. Orbital Shopping Park
3. Hillingdon
4. Giordano
5. Shropshire

Shamelessly stolen from Nicola Gooch at Irwin Mitchell

<https://imbusiness.passle.net/post/102fdgq/the-famous-five-a-quickish-recap-of-case-law-on-the-operation-of-the-community>

Case Law - Hourhope

What is the “Lawful Use”?

Case Law - Hourhope

What is the “Lawful Use”?

Different from having been *in* lawful use

Case Law - Hourhope

What is the “Lawful Use”?

Different from having been *in* lawful use

6 months in last 3 years

Case Law - Hourhope

What is the “Lawful Use”?

Different from having been *in* lawful use

6 months in last 3 years



Case Law – Orbital Shopping Park

Can separate items of work be aggregated for CIL purposes?



Case Law – Orbital Shopping Park

Can separate items of work be aggregated for CIL purposes?

Compare to other regimes...



Case Law – Orbital Shopping Park

Can separate items of work be aggregated for CIL purposes?

Compare to other regimes...

2006: Mezzanines need PP



Case Law – Hillingdon

All about the paperwork

Case Law – Hillingdon

All about the paperwork

CIL is not about judgement or planning balance!

Case Law – Hillingdon

All about the paperwork

CIL is not about judgement or planning
balance!



Case Law – Giordano

When does a use commence?

Case Law – Giordano

When does a use commence?



Case Law – Giordano

When does a use commence?

6 x 2 = 3 x 2?



Case Law – Shropshire

When is a notice of commencement not a commencement notice?

Case Law – Shropshire

When is a notice of commencement not a commencement notice?

Paperwork – again!

Case Law – Shropshire

When is a notice of commencement not a commencement notice?

Paperwork – again!



Appealing

Compulsory Review by LPA first

Appeal to Valuation Office

<100 published decisions

Poor functionality but still useful resource

Tight timing restrictions

Role of PINS?

<https://www.gov.uk/government/collections/community-infrastructure-levy-appeal-decisions>



Valuation Office
Agency

TDC Appeals Experience

Few and far between

On occasion we would welcome a third party review for clarity!

What Next – The draft Regs

Town Legal And Simonicity

<https://simonicity.com/category/cil/>

<https://www.gov.uk/guidance/community-infrastructure-levy#history>

<https://www.gov.uk/government/consultations/developer-contributions-reform-technical-consultation>

(Thanks to Nicola Gooch again!

<https://imbusiness.passle.net/post/102f7mq/are-mhclgs-cil-reforms-naughty-or-nice-draft-cil-regulations-out-for-consultat>)

What Next – The Draft Regs: Changes for DM #1

Updating indexation where a planning permission is amended

A more proportionate approach to administering exemptions

Indexing Community Infrastructure Levy against HPI / CPI not BCIS

Starter Home Exemption – but not other all DMH

What Next – The Draft Regs: Changes for DM #2

Removing Regulation 123

Introducing Infrastructure Funding Statements for CIL and S106

Looking back AND

Looking forward

Explicitly endorsing inclusion of a section 106 planning obligation for monitoring planning obligations

Exercise:

Measuring and offsetting

Exercise:

Measuring and offsetting

What's the chargeable rate today?

Exercise:

Measuring and offsetting

What's the chargeable rate today?

Claiming an Exemption or Relief

Any Questions?

