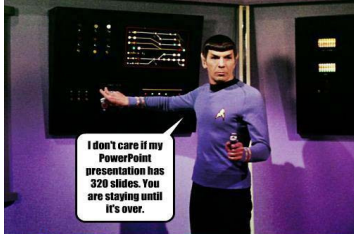


Plymouth CIL



Peter Hearn (tax collecting accountant, formerly a planner / urban designer)

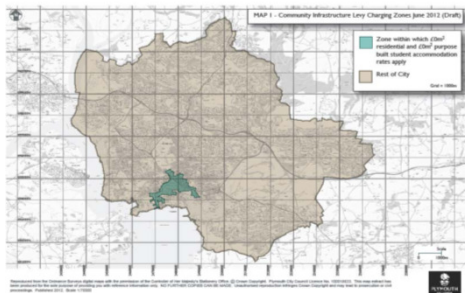
Plymouth CIL Charging Schedule




Plymouth City Council's Community Infrastructure Levy Rates
The rates at which Plymouth's Community Infrastructure Levy rates will be charged are as follows:

CIL RATES IN PLYMOUTH – in £s per square metre			
Development Type	Rate	Development Type	Rate Notes
Residential	£30	Cinemas and Commercial Leisure	£0 *For the purposes of this Charging Schedule
Residential – located within the zone identified on Map 1	£0	Offices, Industrial Units, Storage and Distribution	£0 Superstores / supermarkets are shopping destinations in their own right, where weekly food shopping needs can be met and which can also include non-food floor space as part of the overall mix of the unit.
Residential institutions	£0	Superstores / supermarkets* of 1000m ² gross internal floor area or more, including all extensions to such stores.	£100
Purpose Built Student Accommodation	£00	All other retail uses, and financial and professional services, restaurants and cafes, drinking institutions, takeaways.	£0
Purpose Built Student Accommodation – located within the zone identified on Map 1	£0	All Other Uses	£0
Hotels	£0		

Plymouth CIL Charging Schedule



In-House Appraisals and Evidence



APPRAISAL SUMMARY

PLYMOUTH CITY COUNCIL

City Centre Regeneration
15 Unit 101, 102

Summary Appraisal for Budget Period 1, 2

REVENUE	Units	Net	Rate	Unit Price	Block Value
101 (101)	10	100,000	10,000	100,000	1,000,000
102 (102)	10	100,000	10,000	100,000	1,000,000
TOTAL REVENUE	20	200,000	10,000	100,000	2,000,000

NET REALIZATION 3,865,819

OUTLAY

ACQUISITION COSTS	Net	Rate	Cost
Acquirement Fee	10,000	1,000	100,000
Legal Fees	5,000	500	50,000
TOTAL ACQUISITION COSTS	15,000	1,500	150,000

CONSTRUCTION COSTS

Net	Rate	Cost
101 (101)	100,000	10,000
102 (102)	100,000	10,000
TOTAL CONSTRUCTION COSTS	200,000	20,000

PROFESSIONAL FEES

Net	Rate	Cost
101 (101)	100,000	10,000
102 (102)	100,000	10,000
TOTAL PROFESSIONAL FEES	200,000	20,000

DISPOSAL FEES

Net	Rate	Cost
101 (101)	100,000	10,000
102 (102)	100,000	10,000
TOTAL DISPOSAL FEES	200,000	20,000

TOTAL COSTS 3,865,819

PROFIT 189,181

PLYMOUTH CIL VIABILITY EVIDENCE REPORT


Table of Contents

1. Introduction
2. Methodology
3. Assumptions
4. Viability Analysis
5. Sensitivity Analysis
6. Conclusion

Table of Contents (Detailed)

Section	Page
1. Introduction	1
2. Methodology	2
3. Assumptions	3
4. Viability Analysis	4
5. Sensitivity Analysis	5
6. Conclusion	6

Lowest CIL Rates in England




- £0m² rate in City Centre (except supermarkets/superstores)
- £30m² residential rate elsewhere
- £60m² student accommodation rate elsewhere
- £100m² supermarkets/superstores rate citywide

Supermarkets / superstores defined as being 1000m² or more gross internal floor area (+ extensions) – "shopping destinations in their own right, where weekly food shopping needs can be met and which can also include non-food floor space as part of the overall mix of the unit"

- You would think there would be nothing to complain about.....think again.....

Examination - Timeframes



- Submission – 5th October 2012
- Hearing Participants – Sainsbury's, and Tetlow King (representing a consortium of Registered Social Housing Providers)
- Another party submitted Further Written Reps but did not appear.
- Examination 21/22 November 2012
- Examiner – Wendy Burden – 'rookie' CIL Examiner, but a very senior PINS Inspector (and not Keith Holland!)
- Examiner's Report received for 'fact checking' 6 December and published very shortly after

Lead up to Examination



- Sainsbury's argued Reg 13 did not allow PCC to differentiate within retail use class (and any / every other argument they could think of)
- Tetlow King argued PCC CIL rates grounded in assumption of 15% Affordable Housing delivery and therefore development plan AH 30% target was being undermined. Effectively argued for £0m² CIL rate across the city or for more £0m² CIL zones covering regeneration areas
- PCC sought advice on retail differentiation within CIL from Steve Woolley at PBA (formerly CLG) and submitted this after submission of Charging Schedule / before Examination (available on PCC website). Supported PCC's case that supermarkets / superstores can be a different intended use of development to other types of retail in Plymouth, provided appropriately defined
- PCC argued 15% AH assumption was realistic, 30% delivery target has always been subject to viability, and that £30m² CIL charge was not the factor that would determine AH delivery

Lead up to Examination



- Sainsbury's and Tetlow King Hearing Statements submitted 2 weeks before Exam.
- PCC submitted Hearing Statements 1 week before Exam.
- The day before they submitted their Hearing Statement, Sainsbury's put in a Freedom of Information request.....

Freedom of Information



- Sainsbury's demanded to see:
 - QC advice they were aware we'd taken. Perhaps they had already seen it? We refused to provide it
 - All of the appraisals we had undertaken, not just the summaries. We were happy to provide these (gave rise to some issues)
 - Notes of discussions and conferrals to which we had referred in responding to representations. There were no notes
 - Other documentation to which we had referred. We were happy to provide this
- Reasonable requests? – you decide
- Sainsbury's made mistakes – they gave us grounds to submit evidence to the Examiner which we had not previously made available – for example.....

PCC Car Parking Standards



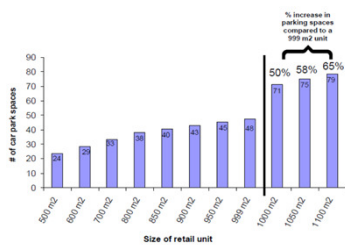
- PCC argued its car parking standards had created the modern supermarket/superstore in Plymouth and that car parking and supermarkets/superstores' viability are indivisible
- PCC tied its position to its car parking standards, which provide for supermarkets/superstores over 1000m² to provide 50% more car parking than food stores below this threshold

PCC Car Parking Standards



Why would a food retailer develop a store at 999m² when they know they can get 50% more car parking if they develop a store at 1000m²?

The impact of car parking standards on the form of food retail



Retail Differentiation – KEY TEST?



Can you get all the ingredients you need to make Nigella's lasagne and cupcakes in your corner Coop? If you can't, it's not a supermarket.....



Examination



- Day 1 – Sainsbury’s – hearing lasted whole day
- Day 2 – Tetlow King – hearing lasted half the day
- Free-flowing conversations with pointed interventions by the Examiner
- Some ‘awkward’ moments
- Some unexpected googlies…… ‘how have you gone about balancing the desirability of funding infrastructure with the potential effects of CIL on development viability?’ (no guidance as to how to achieve this balance – even in the Dec 2012 CIL Guidance)

Lessons Learned



- Expect Sainsbury’s (if no-one else) to resort to these sorts of tactics – FOI, individual appraisals underpinning summaries
- If you’re going to use a threshold to denote a different use, do your homework to justify the threshold. If your threshold is say 2000m², or 5000m², why is a development below that threshold a ‘different intended use’ to one above it?

Lessons Learned



Consider carefully whether having a m² threshold to differentiate between large and small scale ‘convenience’ uses makes any practical difference in terms of CIL receipts or CIL liabilities – smaller scale convenience retail will almost invariably occupy converted or demolished floorspace so will be liable to little or no CIL – consider whether, instead of using a m² threshold to differentiate, it would be easier and more defensible to distinguish between ‘convenience’ retail (whatever the scale) and ‘comparison’ retail.

Lessons Learned



- Be careful who you speak to about legal advice
- Otherwise be careful in what you say and commit to words
- Expect Sainsbury's (if no one else) to throw everything at you (including cupcakes), even if what they throw is riddled with inconsistencies
- Be prepared for Judicial Review. Maybe it won't come to that.....

Lessons Learned

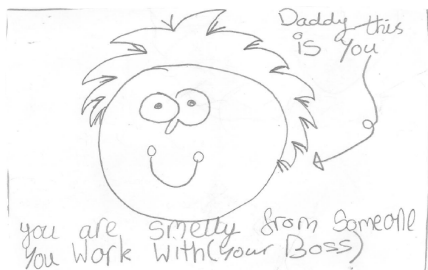


- Regulation 13 is ill-defined (December 2012 CIL Guidance helps – a little – see para. 35). Be cautious
- PCC the only authority to have undertaken three rounds of consultation to date – Preliminary Draft, Draft, Revised Draft – mainly because of Regulation 13
- Don't rush it – we did and it cost us 6 months
- DIY appraisals - save (some) ££££, but are labour intensive and heap responsibility and stress onto the LPA – easier to give consultants full responsibility for undertaking and defending them?

Lessons Learned



Managers.....



Lessons Learned



- Take advice from someone who knows what they're talking about



Lessons Learned – Affordable Housing

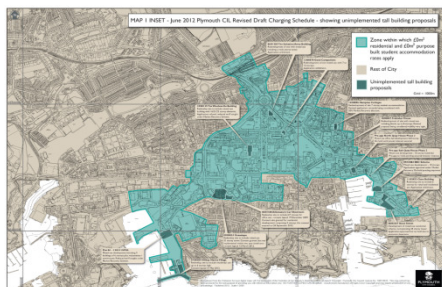


- Examiner concurred with PCC that the viability of housing development is unlikely to be materially affected by the CIL charge, and that:
- CIL will not make a material difference to the already existing level of risk to the achievement of the target of 30% affordable housing delivery, whereas a reduction in the proposed rate would be likely to undermine the Council's ability to provide finance for critical strategic infrastructure in the City
- There will always be ebbs and flows in the delivery of the policies and targets in the Core Strategy
- PCC AH policy remains a part of the statutory development plan, and would carry a significantly higher status in any negotiations with developers than the assumptions used in setting the CIL. PCC would therefore continue to seek 30% as a starting point in negotiations, and developers seeking to make a lower provision would be required to justify a reduction through an assessment of viability on an "open book" basis, as they are already required to do

Lessons Learned



Justifying different rates by zone....



What went well?



- Upfront thinking about the relationship between CIL and NHB – PCC always aimed to avoid disincentivising development by setting CIL too high – we recognised very early on that we stand to gain much more from NHB than we do from CIL (NHB ringfenced)
- Having an internal viability expert on the case, working to the process person
- Producing the viability evidence and justification for differential rates for different types of retail use in-house, but.....
- Priming the Examiner – we put ‘hooks’ in the submitted documentation – she took the bait
- The Examination – Examiner gave nothing away about what she was thinking, but she was human!
- Preparation of evidence to go into our Hearing Statements – timing of what you put out there and when is important, and Sainsbury’s helped us out by demanding to see stuff it may have been difficult to otherwise put on the table
- Management of managers
- Luck – car parking standards
- Miraculously finding an in-house IT genius
- Political process

What didn’t go so well?



- Regulation 13 – ‘different intended uses of development’
- Doing all the appraisal work in-house
- Consultants
- Regulation 123 List and agreement / procedures for CIL spend
- In-house and external IT

What would we do differently?



- Take more time up front to be clear in our justification for applying differential rates (Regulation 13)
- Take advice from someone who understands Regulation 13
- Listen /ess to advice to keep our Charging Schedule simple, simple in terms of geographic differentiation in rates – in hindsight we think we kept it too simple!
- Palm it all off on someone else (contract it out?)
- Move Plymouth to London – CIL is really a tax for the South East and a few other places like Bristol, Cheshire and East Devon? (Just like NHB.....and now Boris wants Stamp Duty too?!)

Nearly the end.....



Impact of December 2012 CLG CIL Guidance?



Would have caused us some difficulties at Examination, particularly:

- Setting out our Reg 123 List, even in draft form (para. 15, December 2012 CLG CIL Guidance)
- Setting out our proposed future use of any pooled S106 contributions (para. 89, December 2012 CLG CIL Guidance)

'Boles Bung' - 10 January 2013 Announcement



15% of CIL receipts to be spent in neighbourhoods, 25% if a neighbourhood plan is in place

- How, if at all, are neighbourhoods to be defined in urban areas where there are no parish, town or community councils, or other democratically accountable bodies below the level of the local authority itself?
- If neighbourhoods can be defined by the local authority, or if they can define themselves to a large degree, what are the implications of a potential multitude of neighbourhoods staking a claim to a sizeable proportion of CIL receipts? Limited CIL receipts will presumably be spread thinly, and the likelihood is that they will spent on small-scale and therefore potentially 'low priority' infrastructure which is not vital in the wider local authority context (vital to the accommodation of growth for example)
- How is the local authority to spend CIL in accordance with the wishes of the community? What is meant by 'community' in this sense? Are we talking the wishes of the community as a whole within an urban area like Plymouth or the wishes of a variety of as yet undefined neighbourhoods with no democratic mandate, governance or decision making structures / procedures in place?
- Assuming neighbourhoods can be defined, will one neighbourhood have a right to claim and spend CIL monies raised in another neighbourhood, or will neighbourhoods only be able to claim and spend CIL receipts raised in their own area?
- What happens in areas where significant development takes place but where arguably no neighbourhoods or communities exist at present? How would CIL receipts from developments be devolved to non-existent or embryonic neighbourhoods or to adjoining neighbourhoods, if at all? (Derriford)
- What are the implications of the loss of as much as 25% of overall CIL receipts from the receipts available to the council to deliver priority infrastructure across the city? The Council's ability to take a strategic perspective on infrastructure priorities is arguably diminished in favour of a quarter of receipts potentially being 'frittered away'
- *"In areas that have not been subject to neighbourhood planning there will be a cap of £100 per council tax dwelling on the neighbourhood funds"* - does this infer there is no cap in areas which have been subject to neighbourhood planning? And where there is a cap, over what period is the cap effective? Depending on the scale of development in any neighbourhood, and the rate of development in any particular year, any cap period could be significant

Thank you.....