

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT COMMUNITY INFRASTRUCTURE LEVY
(CORONAVIRUS) (AMENDMENT) (ENGLAND)
REGULATIONS 2020

Tuesday 14 July 2020

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The Committee consisted of the following Members:

Chair: YVONNE FOVARGUE

- | | |
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| † Aiken, Nickie (<i>Cities of London and Westminster</i>)
(Con) | † Mayhew, Jerome (<i>Broadland</i>) (Con) |
| † Amesbury, Mike (<i>Weaver Vale</i>) (Lab) | † Mohindra, Mr Gagan (<i>South West Hertfordshire</i>)
(Con) |
| † Butler, Rob (<i>Aylesbury</i>) (Con) | † Pincher, Christopher (<i>Minister for Housing</i>) |
| † Byrne, Ian (<i>Liverpool, West Derby</i>) (Lab) | † Ribeiro-Addy, Bell (<i>Streatham</i>) (Lab) |
| Clark, Feryal (<i>Enfield North</i>) (Lab) | † Robinson, Mary (<i>Cheadle</i>) (Con) |
| † Daly, James (<i>Bury North</i>) (Con) | † Twist, Liz (<i>Blaydon</i>) (Lab) |
| † Dines, Miss Sarah (<i>Derbyshire Dales</i>) (Con) | † Wild, James (<i>North West Norfolk</i>) (Con) |
| Dowd, Peter (<i>Bootle</i>) (Lab) | |
| † Hughes, Eddie (<i>Walsall North</i>) (Con) | Ian Bradshaw, <i>Committee Clerk</i> |
| Johnson, Dame Diana (<i>Kingston upon Hull North</i>)
(Lab) | † attended the Committee |

Fifth Delegated Legislation Committee

Tuesday 14 July 2020

[YVONNE FOVARGUE *in the Chair*]

Draft Community Infrastructure Levy (Coronavirus) (Amendment) (England) Regulations 2020

9.25 am

The Minister for Housing (Christopher Pincher): I beg to move,

That the Committee has considered the draft Community Infrastructure Levy (Coronavirus) (Amendment) (England) Regulations 2020.

It is a pleasure to serve under your chairmanship, Ms Fovargue. The regulations were laid before the House on 30 June and, if approved and made, will give local authorities the discretion to help small and medium-sized developers experiencing financial difficulties because of the effects of the coronavirus epidemic. They will enable local authorities to defer community infrastructure levy payments without having to impose additional costs on developers. Although we have already put in place a range of measures to help businesses affected by the effects of coronavirus, we recognise that small and medium-sized enterprise developers require additional assistance.

SME builders have been declining in the long term and were hit hard by the last recession. There were 16% more builder and developer insolvencies in 2019 than in 2018. The vast majority of those were SMEs. SME developers are now under further pressure because of the epidemic, so giving local authorities the discretion to grant a deferral of CIL payment liabilities for SMEs is another important step in supporting the sector.

Both developers and local authorities have requested that we introduce a deferral mechanism. However, we recognise that local authorities will be best placed to understand the needs and pressures in their area, so these regulations do not mandate that local authorities defer CIL payments, but instead give them the discretion to do so where they think that appropriate. The regulations make the same provision for the Mayor of London should the Mayor consider it appropriate to defer mayoral CIL payments.

CIL regulations first came into force in April 2010. They enable local planning authorities and the Mayor of London to raise a levy on new development in their local area to fund a wide range of infrastructure to support development. The CIL becomes payable within 60 days of building works commencing unless the charging authority has published an instalment policy. However, the payment schedule set out in an instalment policy can apply only to development that commences after the policy is published. Therefore, although an authority can help developers that have not started building work with their CIL payments by publishing an instalment policy, it does not have the power to defer payments for development that has already commenced.

Where the developer fails to pay on time, the current regulations require the local authority to administer late payment interest on the CIL amount owed, and allow for the imposition of late payment surcharges. The local authority has further powers to enforce, as set out in part 9 of the Community Infrastructure Levy Regulations 2010. The regulations being debated today introduce amendments to that statutory instrument to address the financial effects that coronavirus has brought upon SME developers, including development sites that have stalled because of financial instability. These provisions have been developed following close engagement with the industry and local authorities.

As to the detail of the amendments, we are, first, making changes to allow local authorities the discretion to defer temporarily CIL payments for SMEs in certain circumstances—namely, where the SME is experiencing financial difficulty for reasons connected to the effects of coronavirus and is required to pay a CIL amount during the specified time. SMEs may apply in writing to the local authority no more than 14 days before or as soon as practicable after the date the CIL payment is due, requesting a deferment of the payment. The collecting authority can request whatever information from the developer it reasonably needs to consider the deferral request. It must consider a deferral request as soon as is practicable after it is received and grant or refuse the request in writing. Payments can be deferred for up to six months. Where the deferment payment falls due on or before 31 July 2021, the developer could submit a further deferral request.

Under the current regulations, where a developer has not paid their CIL liability by the date set on the demand notice, late payment interest automatically accrues. That late payment interest accrues at 2.5% above the base rate. Charging authorities may also apply late payment surcharges. We recognise that it would be unfair to continue to apply those charges where a developer has applied to defer a CIL payment. We have therefore paused the application of late payment interest and surcharges while a deferral request is being considered.

The regulations also allow, where a deferral request has been agreed, for the developer to request that any late payment interest that has accrued in the period between lockdown and the deferral request being agreed be credited and taken off the total of the CIL amount owed. That is termed an interest request and ensures that SMEs will not be penalised because of the effects of coronavirus. The regulations make the same provisions for the CIL collected by London boroughs on behalf of the Mayor of London.

Contributions from developers play an important role in delivering the infrastructure that new homes and local economies require. The measures set out in the regulations enable the collecting authority to exercise their discretion to defer payment of CIL on a case-by-case basis. That will give local authorities the discretion to help SME developers who are struggling with cash flow, and ensure that CIL payments are made, albeit over a longer period, rather than being lost because a small builder goes out of business.

I commend the regulations to the Committee.

9.32 am

Mike Amesbury (Weaver Vale) (Lab): I apologise for being slightly late—I had 9.30 in my diary; clearly, that was wrong.

The Community Infrastructure Levy Regulations 2010, which have been part of the taxation landscape for more than a decade, allow planning authorities and the Mayor of London to raise a levy on new developments in their areas, as the Minister said. The CIL can be used to fund a wide range of infrastructure to support the development of the area where it is collected. The amount of money it raises nationally is significant. A study that the Department commissioned in 2016-17 put developer contributions through the CIL at nearly £1 billion. The CIL is a good and necessary vehicle to help provide the infrastructure that all Members want to see in our communities and, importantly, the facilities and amenities that our constituents desire. Money from the CIL has contributed to, for example, the building of Crossrail, flood defences, transport, GP surgeries, schools, local highways and green spaces.

In recent weeks, the CIL has been in the media for the wrong reasons. The Government's moral authority has been damaged by the Westferry saga, in which the Secretary of State and the developer attempted to forgo CIL obligations to Tower Hamlets. Trust, Minister, must be rebuilt.

Covid-19 has had tragic consequences for many families. Loved ones have been lost across our communities and our constituencies. Our normal way of life has been curtailed and the economy has contracted on an alarming scale. Council budgets are under huge strain. Despite the Government's promise to do whatever it takes to support councils, the cross-party Local Government Association highlights a funding gap of nearly £10 billion. Local authorities need every element of funding to support residents and provide the stimulus needed for economic recovery.

Labour Members recognise that some small and medium-sized developers are also under strain, and practical measures are required to help. If approved, as the Minister has said, this statutory instrument will give CIL collecting authorities or the Mayor time-limited discretion to defer certain payments by smaller developers who experience financial difficulties for reasons connected to the coronavirus crisis without incurring charges for late payments. Importantly and reassuringly, this will be done at the discretion of the charging authority, although they are obliged to consider the request. It is clear that some small and medium-sized businesses need urgent support, and that undoubtedly includes the construction sector.

Developers that do not make it through this tough period will not be able to pay obligations, will not be able to protect and create jobs, and will not be able to contribute to our economic recovery. Given that fact and the time-limited period that the changes cover, we will not oppose this statutory instrument. That does not mean that I do not have questions about it. The assessment criteria that charging authorities will be required to apply to small and medium-sized developers do not seem clear in the statutory instrument. What impact assessment has been done on councils' ability to fund

infrastructure projects and thus the potential impact on local authorities? Will the Minister review the take-up of these discretionary measures within, say, three months of the application?

In conclusion, we recognise that the SI gives short-term flexibility and discretion to both charging authorities and small and medium-sized developers. Covid-19 has shone a spotlight on our broken housing market. Although the mantra of "build, build, build" might capture some headlines, it must be qualified with an emphasis on building the right mix of tenure that will be sustainable for generations to come.

9.38 am

Christopher Pincher: I am grateful to the hon. Gentleman for his generous approach to the Committee's deliberations of this statutory instrument. I am happy to answer his questions. He first asked what criteria are applied by a local authority to determine whether an applicant is an SME. The criteria are very clear. The applicant must have a turnover of not more than £45 million a year, which is the normal criterion applied to whether a firm is or is not an SME. That will be the key criterion applied by local authorities in their determination of an application.

The hon. Gentleman also asked whether there will be a gap issue in funding for local authorities. We have talked to local authorities. We have talked to Croydon, Ealing, East Suffolk, Havering, Hillingdon, Richmond, Southwark, and Tower Hamlets—he mentioned that particular authority in passing. Labour and Conservative, and, in the case of Richmond, Liberal Democrat, local authorities all agree that our approach is right and sensible. They all agree that it is better to defer payments than risk SMEs going out of business and having no payments at all—and indeed no construction at all.

The hon. Gentleman also asked whether we would be prepared to review the regulations after three or so months. I think adding further burdens on local authorities in that way is possibly not the most sensible approach, but we are always mindful of our liaison with the LGA. We always look closely at the effects of our policies and will keep it in mind.

In conclusion, I am grateful to the Committee for its consideration and to the hon. Member for Weaver Vale and the Opposition for their support. I gently remind the hon. Gentleman that we have given £3.2 billion to local authorities—a further £450 million last week. We have deferred business rates. We have given them £63 million for the non-shielded food vulnerable. I think that is a relatively good record of support for local authorities. In the spirit of generosity, I hope he will reach out to the shadow Secretary of State for Housing, Communities and Local Government, the hon. Member for Croydon North (Steve Reed) and remind him that it is not sensible to attack homeowners for receiving a "bung" in the reduction of stamp duty. That is designed to help homebuyers and the housing sector. I hope the Committee will support the regulations.

Question put and agreed to.

9.42 am

Committee rose.

