PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT TOWN AND COUNTRY PLANNING (FEES AND CONSEQUENTIAL AMENDMENTS) REGULATIONS 2025

DRAFT COMMUNITY INFRASTRUCTURE LEVY (AMENDMENT ETC.) (ENGLAND) REGULATIONS 2025

Tuesday 25 March 2025

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not later than

Saturday 29 March 2025

The Committee consisted of the following Members:

Chair: Emma Lewell

† Amos, Gideon *(Taunton and Wellington)* (LD)
† Cocking, Lewis *(Broxbourne)* (Con)
† Cox, Pam *(Colchester)* (Lab)
† Dean, Josh *(Hertford and Stortford)* (Lab)
† Egan, Damien *(Bristol North East)* (Lab)
† Glover, Olly *(Didcot and Wantage)* (LD)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Holmes, Paul *(Hamble Valley)* (Con)
Jenkin, Sir Bernard *(Harwich and North Essex)* (Con)
† Kitchen, Gen *(Wellingborough and Rushden)* (Lab)
† Midgley, Anneliese *(Knowsley)* (Lab)
† Pennycook, Matthew *(Minister for Housing and Planning)*
† Reid, Joani *(East Kilbride and Strathaven)* (Lab)
† Sandher, Dr Jeevun *(Loughborough)* (Lab)
† Simmonds, David *(Ruislip, Northwood and Pinner)* (Con)
† Uppal, Harpreet *(Huddersfield)* (Lab)
† Welsh, Michelle *(Sherwood Forest)* (Lab)

Ian Bradshaw, *Committee Clerk*

† attended the Committee

Fourth Delegated Legislation Committee

Tuesday 25 March 2025

[Emma Lewell *in the Chair*]

Draft Town and Country Planning (Fees and Consequential Amendments) Regulations 2025

3.15 pm

The Minister for Housing and Planning (Matthew Pennycook): I beg to move,

That the Committee has considered the draft Town and Country Planning (Fees and Consequential Amendments) Regulations 2025.

The Chair: With this it will be convenient to consider the draft Community Infrastructure Levy (Amendment etc.) (England) Regulations 2025.

Matthew Pennycook: It is a pleasure to serve under your chairmanship, Ms Lewell. The draft Town and Country Planning (Fees and Consequential Amendments) Regulations were laid before the House on 13 February. The draft Community Infrastructure Levy (Amendment etc.) (England) Regulations 2025 were laid before the House on 25 February. Let me set out in turn the reasons why we are bringing each set of regulations forward, and what they will provide for, starting with the draft Town and Country Planning (Fees and Consequential Amendments) Regulations.

Planning is principally a local activity, but a well-established principle is that, in limited circumstances and where issues of more than local importance are involved, it is appropriate for the Secretary of State to make planning decisions. Recent experience, including the response to covid-19, has exposed that the existing route for securing planning permission on Crown land, namely the urgent Crown development route under section 293A of the Town and Country Planning Act 1990, which was introduced in 2006, is not fit for purpose. Indeed, it is telling that it has never once been used. Furthermore, Departments have struggled to secure local planning permission for nationally important public service infrastructure such as prisons.

The Levelling-up and Regeneration Act 2023, passed by the previous Government in the last Parliament, made provision to address those challenges by providing two new routes for planning permission for Crown development in England. The first route, referred to as Crown development, is for planning applications for Crown developments that are considered of national importance. Such applications are to be submitted to the Planning Inspectorate directly, instead of to local planning authorities. An inspector will consider and determine the application, unless the Secretary of State for Housing, Communities and Local Government recovers the application to determine herself.

The second route is an updated urgent Crown development route, which will enable applications for nationally important developments that are needed urgently to be determined rapidly under a simplified procedure. Applications under the urgent route will be submitted to the Secretary of State for Housing, Communities and Local Government. Those new routes can be used for developments only where clearly justified. Provisions in the Levelling-up and Regeneration Act require that applications can be accepted by the Secretary of State only if she deems that the proposed development is of national importance and, in the case of the urgent Crown development route, urgent.

Lewis Cocking (Broxbourne) (Con): I draw the Committee's attention to my entry in the Register of Members' Financial Interests that I am a local councillor. Given what the Minister has outlined, will he give us a flavour of how local people can make representations, even if it is straight to the Secretary of State or the Planning Inspectorate? I am concerned that removing applications from local councils and putting them through the new routes he has described will make it harder for local residents to feel that their voice has been heard, even on important national infrastructure projects.

Matthew Pennycook: Let me deal with community engagement under both routes. With the Crown development route, community engagement will be a key part of the process. Communities will be fully engaged throughout. Much like an application submitted to a local planning authority, there will be mandatory consultation and publicity about the consultation for a minimum period of 21 days. That period will be 30 days if the development is one that requires an environmental impact assessment and is therefore an EIA development. That will enable members of the community to view and comment on the application.

We expect that the majority of Crown development applications will be subject to a public hearing. Those who made comments will be notified when that is to take place. Interested parties may attend the hearing if the inspector allows it. Only comments made during the consultation, the publicity period and the hearing that raise material planning matters will be taken into account as part of the decision-making process.

The local planning authority will be consulted and will have a role to play in publicising the application. It will need to place the application and associated documents on its planning register. Where PINS—the Planning Inspectorate—does not have a local presence, the local planning authority will be required to affix site notices during the mandatory period and to notify those owners or occupiers who adjoin the site. For urgent Crown development, the other route that the Levelling-up and Regeneration Act provides for, the local planning authority will again be consulted as part of the application. That is mandated by section 293C(2)(a) of the Town and Country Planning Act 1990. In the draft regulations, we have made provision about the consultation procedure.

While we appreciate the importance of community engagement, given the urgency with which decisions must be made, under the approach to consultation with the community in this process they will be assessed on a case-by-case basis. In circumstances in which decisions need to be made very quickly, it may not be possible to conduct a meaningful public consultation and reach an

urgent decision. I hope that satisfies the hon. Member for Broxbourne on the different types of community engagement under both routes.

The new routes, as I said, can be used only for developments for which it is clearly justified, and provisions in the Levelling-up and Regeneration Act require that applications can be accepted by the Secretary of State only if she deems that they are of national importance and, in the case of the urgent Crown development route, urgent. I made a written ministerial statement on 13 February that set out the principles under which national importance and urgency will be determined. When submitting an application, applicants are required to set out the reasons why they consider that the development is of national importance and, in the case of urgent Crown development, needed as a matter of urgency.

The draft Town and Country Planning (Fees and Consequential Amendments) Regulations make amendments to primary legislation to reflect the two new Crown development routes. For instance, they amend references to planning permission set out in a range of pieces of legislation. They also remove references to the previous urgent Crown development route in section 293A of the Town and Country Planning Act, which now applies only in Wales. The instrument also sets the fee for an application for planning permission under both routes, set at the same fee, which would have been paid to the local authority.

Following the statutory instrument coming into force, a further suite of statutory instruments will be made through the negative parliamentary procedure. They will set the procedures for the two routes and make further consequential changes to secondary legislation to reflect their implementation. We have published the instruments in draft ahead of the debate, in order to provide proper transparency about how the routes will operate. I reiterate that the Government are committed to ensuring proper transparency to Parliament at every stage when the routes are used. When the matter was considered in the Levelling-up and Regeneration Bill Committee, I stressed that point to the then Minister.

The following are the ways in which we want to ensure that proper transparency takes place. First, where an application under any of the routes is accepted, the relevant Members of Parliament will be sent a letter. That letter will include details of where the application can be viewed and the next steps. The letter will also be deposited in the Libraries of both Houses. Secondly, when a decision is made on whether to grant planning permission, the relevant Members of Parliament will be sent another letter. That letter will also be deposited in the Libraries of both Houses. Finally, on an annual basis, the Secretary of State will publish a report of all decisions taken under the routes. Taken together, those steps will ensure that Members in the other House are properly appraised of any applications that relate to their constituencies. It also means that both Houses of Parliament will be provided the opportunity to consider and scrutinise the general operation of the routes.

The second set of regulations we are debating make changes to the Community Infrastructure Levy Regulations 2010. The changes will ensure that when development comes forward after it is granted planning permission through the Crown development route, such development can be liable to pay the community infrastructure levy if the local authority charges CIL in that area. In addition, under section 62A of the Town and Country Planning Act, applicants can apply to the Planning Inspectorate, acting on behalf of the Secretary of State, for a planning permission decision when an authority has been designated for poor performance. We are amending the CIL regulations to ensure that the levy can be charged on development that comes forward under this route if the local authority charges CIL in its area. That ensures that fair financial contributions to local infrastructure are made by such development.

Finally, some incidental and consequential amendments are made to the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013 to enable relevant information to be provided in relation to CIL where an application is made under section 62A.

To summarise, the regulations are important in ensuring a more timely and proportionate process for dealing with planning applications for Crown development in England. The Government are taking steps to ensure that the routes are used appropriately, and that there is full scrutiny of the use of the powers. The changes we are making to the CIL regime are also important to ensure that CIL can be charged on development in a consistent and fair way, even when the local planning authority is not the decision maker.

3.24 pm

Paul Holmes (Hamble Valley) (Con): It is a pleasure to serve under your chairmanship, Ms Lewell. I am delighted to see the Minister in front of me once again. We had a very late night last night, although it was not as exciting as it sounds: we were debating the Planning and Infrastructure Bill. I look forward to serving on the Bill Committee with him over the next few months. I am grateful for the opportunity to ask him several important questions in relation to the draft regulations. I do not intend to ask questions on the draft Community Infrastructure Levy (Amendment etc.) (England) Regulations 2025; on those, we broadly support the aims of the Minister.

I must express some concern over the absence of a public consultation on the legislation. While I believe the Minister, knowing him personally, when he says that there has been engagement between his Department and the Welsh Government, as set out in the explanatory memorandum, can he update us on what specific regulations the Welsh Government directly contributed to? Furthermore, we are told that the legislation will foster development, but can the Minister clarify what general development he believes this Labour Government will promote on Crown land, and how the Government plan to take full advantage of the changes? When can the House expect to be updated on any specific development proposals arising from the changes?

We must not forget the critical role of environmental protections, especially when it comes to Crown land. The balance between development and the protection of our species and habitats is of the utmost importance, so I ask the Minister—you will see that I am just asking questions in my contribution, Ms Lewell, so as not to detain the Committee—what steps have been taken to ensure that environmental concerns are appropriately addressed within this framework? How does his Department

[Paul Holmes]

plan to reconcile the need for essential infrastructure development with the need to adhere to environmental regulations?

I note that the Minister previously described the Levelling-up and Regeneration Act, introduced by the former Government, as a planning Bill in all but name,

"albeit in a shiny but ultimately flimsy levelling up wrapper." —[*Official Report, Levelling-up and Regeneration Bill Public Bill Committee,* 12 July 2022; c. 405.]

While I understand that perspective, I express my relief that the Minister has had a change of heart and now recognises that the 2023 Act was a more substantive piece of legislation, which shows how robust and far-reaching it really was. Imitation is the best form of flattery in this case.

As we move forward, the Opposition remain committed to carefully scrutinising the proposals that come from the Government, particularly as they relate to planning, development and land use. We will not divide the Committee this afternoon, but as the Minister heard me mention last night in policy terms closely related to the regulations that we are discussing in this Committee, it does seem to be a wider goal of the Government to introduce such regulations within the Planning and Infrastructure Bill. I look forward to scrutinising those measures over the next few months.

3.27 pm

Gideon Amos (Taunton and Wellington) (LD): It is a pleasure to serve with you in the Chair, Ms Lewell. I rise to raise concerns about the new Crown route, and the danger of its being overused by the Government, cutting out opportunities for community involvement. Will people have a right to be heard in the decision-making process for those applications, as they have been when they come to a planning committee or to a public inquiry or other appeal?

If the CIL changes in the draft Community Infrastructure Levy (Amendment etc.) (England) Regulations 2025 go ahead, they should attract community infrastructure levy payments. We will welcome that aspect because we need to secure infrastructure, and one of our chief concerns with proposals for development is that funding for infrastructure is frequently not in place—including, for example, the lack of GP surgeries in my constituency. The Liberal Democrats support the CIL aspects of the changes, but I believe my hon. Friend the Member for Didcot and Wantage will raise some concerns about the Crown route.

3.29 pm

Olly Glover (Didcot and Wantage) (LD): It is a pleasure to serve under your chairship, Ms Lewell. Our concern about the draft Town and Country Planning (Fees and Consequential Amendments) Regulations 2025 is that the criteria that would be used for deploying the proposed powers is somewhat vague and too broad. It would be useful to hear more clarity from the Minister on what criteria will be employed.

There is also potentially a risk that the Government are consuming too much political capital with these regulations when combined with the Planning and Infrastructure Bill that we debated yesterday evening. Building new infrastructure—while respecting nature and economic growth—is of course vital for local communities and business, but it must come from community-led decision making. To keep the consent of our constituents, it is important that it is done with them, rather than to them.

3.30 pm

Matthew Pennycook: I thank the shadow Minister, the hon. Member for Hamble Valley, for his constructive tone. I also thank the hon. Members for Taunton and Wellington and for Didcot and Wantage for their questions.

The shadow Minister asked which cases the Crown development route and the urgent Crown development route would be used for. I will discuss each route in turn because they will have different applications. It will ultimately be for the Secretary of State to assess on a case-by-case basis what is deemed nationally important. Obviously, it would not be appropriate for me to comment on specific schemes.

The Crown development route will most likely be used for HMG programme nationally important public service development. That would include but not be limited to new prisons or border infrastructure, to give just two examples. It may also be used for defence-related development, as PINS is able to put in place special procedures to handle information dealing with matters of national security. Special provisions exist whereby the Secretary of State may issue a direction limiting the disclosure of information relating to matters of national security of a premises through section 321 of the Town and Country Planning Act 1990. The Crown development route may also be used for particularly sensitive or significant development being brought forward by or on behalf of the Crown. Let me be clear: we expect only a few applications to be submitted through this route each year.

For urgent Crown development, it will again be for the Secretary of State to assess on a case-by-case basis what is nationally important and needed urgently on the basis of what has been submitted as part of the application. Again, it would be inappropriate for me to comment on specific schemes but we expect the urgent Crown development route to be used very rarely, where other planning application routes cannot be used to secure a decision quickly enough. It will be used only in cases where development needs to be put in place quickly, in a matter of days or weeks, and where the development is in the national interest. That may include, for example, medical centres, or storage and distribution for key goods and services in the event of a pandemic.

The shadow Minister asked what environmental protections are in place. We are maintaining important environmental safeguards in both routes, which are subject to existing environmental impact assessment and habitats regulations assessment requirements. For example, where development is considered EIA development, accompanied by an environmental statement, there will be a requirement to publicise the application and consult specific bodies for no less than 30 days. Environmental impacts will remain a key consideration in whether planning permission should be granted. In the Crown development route, we are ensuring that development being brought forward is also subject to mandatory biodiversity net gain—namely, the permission must secure a 10% increase in biodiversity value.

The shadow Minister, if I understood him correctly, raised transparency, as did other Members. As I set out comprehensively in the written ministerial statement issued on 13 February, both routes have important safeguards and transparency measures. That feature was not apparent at the time of the Levelling-up and Regeneration Bill Committee, and I pressed the then Minister on that point. I have worked very hard—it was very important to me—to ensure that important safeguards and transparency measures are in place so that people will know the rationale for where these powers and routes are used, and what safeguards will apply.

Lastly, the hon. Member for Didcot and Wantage asked, I think, how we would define national importance and urgency, because there is a subjective element to that. The Government are obviously committed to a planning system in which decisions are made locally. Last night, we had a long discussion about local plans and planning committees on Second Reading of the Planning and Infrastructure Bill, but it is a well-established principle that in limited circumstances it is necessary for the Secretary of State to make planning decisions where planning issues are of more than local importance.

What is considered to be of national importance will be determined on a case-by-case basis. The Secretary of State will use the principles set out in the written ministerial statement that I mentioned when determining whether a proposal meets this bar. The Secretary of State will, in general, consider a development to be of national importance only if the development would involve the interests of national security or foreign Governments; contribute towards the provision of national public services or infrastructure, such as prisons and border infrastructure, as I mentioned earlier; support a response to international, national or regional civil emergencies; or otherwise have significant economic, social or environmental effects on strong public interests at a regional or national level. It will obviously be for the applicant to set out evidence as part of the statement accompanying the application that demonstrates that at least one of those principles has been met.

What is considered a matter of urgency will be determined on a case-by-case basis. Again, the Secretary of State will use the principles set out in the written ministerial statement. In these circumstances, the applicant will be required to provide a statement to accompany the application, setting out why they consider the development to be both nationally important and needed as a matter of urgency. The Secretary of State will accept applications through the urgent Crown development route only where the applicant can demonstrate that the proposed development meets both those conditions.

Furthermore, the Secretary of State will consider something to be needed urgently only where the applicant can demonstrate the need for an expedited planning process. To that end, the applicant will need to demonstrate that the proposed development needs to be made operational to an accelerated timeframe and is unlikely to be feasible using other application routes, including the Crown development route, and will need to evidence the likely consequences of not securing a decision within the accelerated timeframe. I hope that answers all the points raised by hon. Members.

The two new routes for planning permission that we seek to implement are necessary and timely, and these regulations represent a crucial step towards their delivery. The changes that we are making to the CIL regulations are equally important in order to maintain the integrity of the CIL charging regime. As I said, they will ensure that a clear and consistent approach is taken to the levy regardless of who the planning decision maker is. I hope that the Committee will welcome the regulations.

Question put and agreed to.

DRAFT COMMUNITY INFRASTRUCTURE LEVY (AMENDMENT ETC.) (ENGLAND) REGULATIONS 2025

Resolved,

That the Committee has considered the draft Community Infrastructure Levy (Amendment etc.) (England) Regulations 2025.
—(Matthew Pennycook.)

3.36 pm

Committee rose.