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'I've been hit with a £93k bill because I forgot to fill in a form'

Seemingly small planning oversights can have ruinous consequences

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Rigid planning laws mean that Ian and Corinne Colvin's local MP, Jeremy Hunt, can't do anything to help. Credit: Christopher Pledger for The Telegraph

Martin Gainie is a chartered town planner and chief executive of [Just Planning](#).

In the 1986 film *The Money Pit*, Tom Hanks and Shelley Long buy a house in such a state of disrepair that the stairs give way, the electric catches fire and when they fill the bath it collapses through to the floor below.

A British remake could tell the story of Ian Colvin and his wife, Corinne. When they doubled the size of their bungalow in Haslemere, in Surrey, adding a basement, a side extension and a loft conversion, almost everything that could go wrong, did.

Not only were there problems with the plans produced by his agent – who, it turned out, had no formal architectural qualifications or professional indemnity insurance – the build went way over budget, and the basement flooded and had to be tanked after it was finished.

These building disasters turned out to be the least of his worries. When the project was finished, the council served Colvin with a [demand to pay a developers' tax of £78,000](#) which, with interest and penalties, now leaves him with an outstanding bill of £93,000 – and it couldn't have come at a worse time.

"I was rebuilding my life from scratch after a painful divorce back in 2014," Colvin, 55, says. "The renovations soaked up every penny we had, and we ended up taking on extra debt to finish the project.

"The interest is racking up and there is just no way I can afford to pay it."

The reason for Colvin's fine? A "very simple" form.

Building works which create more than 100 square metres of new floor space, or a new dwelling, trigger a requirement to pay a local charge called the [Community Infrastructure Levy](#) (CIL). It is a developers' charge and homeowners are exempt but, crucially, only if they formally claim their exemption before starting work.

"It is a very simple form and the council reminded my agent that he needed to complete it," says Colvin, "but he had his own problems at the time and just didn't do it. The moment I started works on the house, I became liable".

Do I need planning permission for an extension?

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The liability is registered as a legal charge on Colvin's property, and such is the [rigidity of the planning system](#) it seems there's nothing to be done to appeal it. The local authority ombudsman has declined to take up the case, and his local MP, former chancellor Jeremy Hunt, has said that there is nothing he can do.

"I've pleaded and I've begged, but the council says they have no discretion. My solicitor has said a legal challenge would cost about £30,000, and I probably wouldn't win."

It is surely a [flaw in the planning system that homeowners should be charged](#) gargantuan amounts of money for a charge to fund local infrastructure that is not intended to apply to them, simply because of a minor administrative error. Does it truly matter that the correct form was not submitted before works started?

Waverley Borough Council, which levied the charge, says: "The Community Infrastructure Levy is a vital mechanism for funding local infrastructure", but that it is "reviewing historic CIL demand notices to understand how homeowners have been impacted".

Councillor Liz Townsend, portfolio holder for planning and economic development, said: "We will explore how we best support these residents while maintaining compliance with national regulations, and we will continue to consider options for improving how we communicate CIL liability and demand notices."

On a government level, a spokesman for the Ministry of Housing, Communities & Local Government agreed that homeowners building extensions "are explicitly intended to be able to obtain exemption from a CIL charge", but confirmed that the exemption must be claimed before starting work.

"Councils are ultimately responsible for their own enforcement decisions," the spokesman said, adding that "the Government is committed to improving the existing system of developer contributions, including the process for obtaining exemptions".

What enforcement powers do local planning authorities have?

Type of notice	Required action	Right of appeal
Planning contravention notice	Can be used to find out information about a reported or suspected planning breach	No
Enforcement notice	Require the person on whom it is served to take certain steps to address a planning breach, for example, to stop certain activities or to remove buildings or works from land	Yes
Breach of condition notice	Requires to person on whom it is served to comply with planning conditions set out in the notice	No
Temporary stop notice	Requires an activity that may be a planning breach to stop immediately for a period of 56 days. A temporary stop notice can be issued	No

Source: GOV.UK

For Colvin and his family, the impact of the CIL liability has been devastating. "It is a massive dark cloud over both of us. It has been three years now with no real answer or progress.

"The only solution is to sell the house, hope the proceeds cover the CIL charge and pay off the mortgage, and accept that we will be left with nothing."

The right house, in the wrong place

There are plenty of other ways the planning system can catch out unsuspecting homeowners. Andrius Lengvinas admits that he was a little naive about the ins and outs of the planning system when he started building his own home, a one-bedroom bungalow in place of a garage at the end of a cul-de-sac in Kingsbury, north-west London.

As works were finishing a planning enforcement officer from the London Borough of Brent arrived on site with a measuring tape, explaining that the neighbour over the back had made several complaints that the new house seemed to loom over her garden.

It turned out that Lengvinas, 40, had built the house exactly as shown on the approved plans, but 75cm closer to the rear fence than it should have been. It was the right house, just in the wrong place.

The council agreed with the neighbour that the new bungalow dominated the views from her house and garden, and served an enforcement notice demanding it be demolished.

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"At first, I thought it was a joke," Lengvinas says. "They couldn't seriously be telling me to tear it down – we had just put the roof on!

"I thought perhaps they wanted to scare me and would come back with a fine or ask me just to take down a bit of the back of the building."

Ultimately, the house stayed where it was – but only after I appealed against the enforcement notice on Lengvinas's behalf in my capacity as a chartered town planner, and the Government's appeal inspector came to the common-sense view that "to pull it down and start again, for the sake of 75cm, does not seem to me a sensible outcome".

For Lengvinas, it was a close shave that he's taken lessons from: "I always check and double check – I think people are far too blasé about the risks. Even when you get planning permission, you need to be very careful you build it exactly how you are supposed to."

Surprisingly, the experience hasn't put him off – he has since sold the house and is currently planning his next project in Essex. But he remains critical of the planning system: "I think things are even harder these days – it seems even more rigid than when I built the house in Brent a few years ago. It is very hard to keep up with all the rules."

Regional applications and decisions

	Applications received	Applications granted	Percentage granted
England	79,000	64,900	86%
East Midlands	5,800	5,000	89%
East of England	9,900	8,400	86%
London	14,800	11,000	81%
National Parks	1,400	1,200	90%
North East	2,300	2,000	91%
North West	7,600	6,100	88%
South East	15,000	12,200	86%
South West	9,800	8,600	89%
West Midlands	6,400	5,200	86%

'I was told the bricks were the wrong colour. I thought, who cares?'

Even the simplest mistakes can have serious consequences. Stephen Walker (not his real name) wanted to replace the cold, leaky conservatory at the back of his house with something more solid.

He built his new kitchen extension in the right place and to the right size, but it seems he used the wrong bricks. Or so says his local council, which is adamant that they are the wrong shade of red.

"I have a neighbour on one side who complains about everything I do," says Walker. "He waited until the extension was finished before calling the council. Someone came out and had a look and I thought everything was fine, but then I got an email saying the colour of the bricks isn't close enough to the bricks on the main house. I thought, who cares?"

Walker built the extension using his permitted development rights, which allow homeowners to carry out small projects without needing planning permission. The legislation limits the size and design of extensions, and includes a requirement that "the materials used in any exterior work ... must be of a similar appearance to those used in ... the exterior of the existing dwelling house".

I visited Stephen to advise on his enforcement investigation and must admit that his bricks are an unusually bright shade of red. They don't really match the subdued hues of the bricks on the rest of the house.

"I just let the builder choose the bricks," he says. "He went off to the builders' yard one day and came back with crates of them. Who was I to judge they weren't the right colour?"

Negotiations are ongoing with planning enforcement officers – the gears grind slowly in local authority planning departments – and they may yet be persuaded that further action is not necessary.

Walker is also looking into treatments that could be applied to the bricks to soften the colour, and has asked the council whether they will allow him to render and paint the structure. The problem is, render and paint are also not materials found on the exterior of the original part of the house.

If agreement isn't reached, he may have to replace the outer leaf of brickwork. "The whole thing makes no sense to me whatsoever," he says. "I would have thought the council had better things to do."

[Have you had an extension mishap? Let us know what went wrong at \[money@telegraph.co.uk\]\(mailto:money@telegraph.co.uk\)](#)

Learn more about planning restrictions

Thinking of building your own home? Here's [how much it really costs to build a house from scratch](#).

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