# ‘The council hit me with a £67,000 tax bill to build my extension’

## Homeowners are being caught out by the community infrastructure levy (CIL), which Jeremy Hunt has called an ‘outrageous property tax’

Melissa York July 26 2024, 12.01am

Local councils are charging those building family homes, an extension or an annexe up to £180,000 each on top of the cost of building and planning

A friend had just died in intensive care two weeks after catching Covid and Dally had received a text telling him to isolate.

He says: “All I could think was, ‘I could be dead in two weeks. My wife is going to lose me and she’s going to lose her home.’ The [mental] torture was unbelievable. It was lockdown so people were working from home and nobody [at the council] would answer my questions.”

Surrey residents and Jeremy Hunt (centre), the MP for Godalming and Ash, protest the “ruinous” community infrastructure levy (CIL)

Dally only discovered what he was being charged for after he instructed a solicitor to find out. The local authority said he was liable to pay the community infrastructure levy (CIL), a tax to ensure that property developers who are adding more homes to an area contribute to vital services such as schools, roads and transport.

Homeowners who build their own home, extension, or any dwelling which is less than 100 sq m are exempt from CIL, but homeowners need to exempt themselves for dwellings over 100 sq m by submitting many forms within tight deadlines before the building work starts

Dally had not applied for an exemption because he received planning consent in 2018, a year before Waverley adopted the tax. But in 2019, he needed to make minor changes to his planning application. Council planning officers advised him to make a retrospective amendment under section 73A of the Town and Country Planning Act 1990, without making him aware that this meant he had to apply for a CIL exemption. Having never carried out building work before, Dally didn't know he could have amended his application under Section 73 (instead of 73A) so that he wouldn't have had to pay CIL.

Dally spent five years campaigning relentlessly before Waverley finally dropped the charge at the start of July. Under new proposals, the council will be able to waive CIL liability if it has made an error but not for mistakes made by homeowners or any professionals who are acting on their behalf.

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Dally still owes more than £12,000 in interest because the council charged him 2.5 per cent above the Bank of England's base rate per day on a late-payment charge for not handing in his building commencement notice on time.

"The late-payment interest was backdated to the day that planning was granted in 2018," Dally explains. "And the legislation allows them to do it while giving [residents] very little course of redress."

Strict spending rules for councils mean that CIL funds can only be spent on local infrastructure. However, the interest generated from the money can be put into councils' general funds. Research by the Home Builders Federation, a trade body, estimates that local authorities in England and Wales are sitting on about £1.8 billion in CIL money, which is earning them millions of pounds in interest.

Will Angas, a commercial solicitor, was also advised by Waverley to make changes to plans for his new-build family house under section 73A. He received a bill for £182,000 and the council revoked it only after he spent hours scrutinising the legislation and provided photographic evidence that no work had started.

Campaigners have accused local officials of hiding behind red tape

Angas says: "The council never explained why they wished to recharacterise my application as being retrospective when, clearly, the work had not commenced. The consequence of their decision was potentially life-changing. Surely it can't have been their intention to generate funds in circumstances where CIL is obviously not due?"

West Berkshire is the only local authority with a full discretionary review process for CIL but other councils are reluctant to adopt it because there are conflicting legal opinions on what powers they have to waive CIL liability.

Waverley is encouraging residents to get in touch if they believe there was a council error in their case and the planning department has worked to improve how it communicates CIL consequences to residents.

Liz Townsend, the councillor for planning and economic

development for Waverley, says: “Ultimately, we are working within a national system that gives councils limited discretion. If we want to make CIL fairer, clearer and more aligned with its original purpose, the law must change.

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“That’s why we’re pressing government for urgent reform of what is a one-size-fits-all approach, from homeowners to major developers. The very fact that councils are having to introduce ways to work around this legislation for householders is concrete evidence that it is simply not working.”

Homeowners have only 28 days from their liability notice to appeal to their local authority if they think they have been wrongly taxed. Their local authority then has 14 days to respond.

If it doesn’t go their way, residents can escalate their appeal to the Valuation Office Agency but this must be no later than 60 days after their liability notice. This leaves only 18 days for a response after they have dealt with the council.

If all else fails, there is a judicial review but this could cost at least £20,000 in legal fees, according to Alun Oliver from the property tax specialist E3 Consulting. He says: “It’s a very complicated system and the legislation is probably poorly drafted but it does generate some valuable funds which local authorities require.”

Oliver’s firm gets about 15 to 20 calls a week about CIL with only a third seeking advice before they start building. He thinks the regulations should be altered to account for financial hardship, genuine homeowner error or for exceptional circumstances such as

arson or flooding that would prompt a new planning application.

He says: “There are an awful lot of people out there, particularly homeowners that do building work once in a blue moon, who just aren’t familiar with the rules. And they’re either not taking advice at all or the advice they’ve been given is not good.”

John Crawford, 75, who had never undertaken building work, decided to construct an annexe in his garden for himself and his wife Jane, who has dementia. This would allow his son and daughter-in-law to move into the main house and help care for Jane.

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He won planning approval in 2018. However, a neighbour complained that some sections were being built on-site rather than being brought in as pre-built modules. Despite the final structure staying the same, the planning officer deemed this to be a breach of planning consent and issued a demolition notice.

After Crawford appealed, the planning consent was approved again but instead reclassified as a “building” rather than a “mobile lodge annexe”. Within two weeks, the council demanded a £47,000 CIL payment, citing a change in classification, even though the CIL hadn’t been adopted when the Crawfords started building and the original appeal form didn’t indicate that it would apply if the appeal was won.

John was recovering from ill health, including lung cancer surgery, during this time but he found little sympathy from the council. “They said that it’s tax law and there wasn’t a lot they could do about it,” he says. “They were not interested in listening to personal

circumstances and they were very dismissive. No one was there to help us."

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John eventually handed over £20,000 and he is paying the rest in instalments, including interest, from his pension savings and money he had put aside for Jane's care.

Jeremy Hunt, the former chancellor of the exchequer, is the Crawfords' MP in the Godalming and Ash constituency, in Surrey. He started receiving what he calls "extraordinary complaints" from his constituents in January that they had been hit by "an outrageous additional property tax on people who are just doing innocent extensions".

• **Why is it so hard to build your own home?**

Hunt met with Matthew Pennycook, the housing minister, last week. Hunt told The Sunday Times, "[CIL] was meant for commercial developments. This is a drag on economic growth because it puts people off doing home extensions.

"What I think [ministers] should do is pass a statutory instrument through parliament saying that the CIL legislation does not apply to people's primary residences. You shouldn't have to exempt yourself by filling out 15 time-dated forms."

Jane Austin, the leader of the Conservative group of councillors for Waverley borough council, says the CIL charges have spooked the

local property market. She says: “We’ve spoken to estate agents who said buyers are avoiding houses that need extension work because they’re worried that they’ll fill out the wrong form and get captured for £90,000.”

CIL was introduced in 2010 but it is up to local authorities if they want to adopt the tax and to set rates. More councils have taken CIL up in recent years as a way to raise revenue from ambitious new housebuilding targets.

This has resulted in a postcode lottery where homeowners on local authority boundaries face big bills while houses that are only streets away do not.

Simon Broad, a farmer who lives in Penshurst, Kent, was “sick to his stomach” when he was charged more than £27,000 for building a house for his family on his land, while a property developer he knows built six houses to sell in nearby Tunbridge Wells, where the borough council doesn’t apply CIL, and is only paying £500 towards local infrastructure.

Simon Broad was left “sick to his stomach” after being charged more than £27,000 for building a family home

Self-builds are generally exempt from CIL but Sevenoaks district council applied the charge after Broad says he told building control he was about to start work when he should have submitted a commencement notice form to the planning department.

The council no longer levies CIL on homeowners who fail to serve this form on time, but says it cannot apply this exemption retrospectively to Broad’s application, so he has had to borrow money from his father-in-law to pay the council.

“I honestly don’t know what we would have done otherwise,” he says. “[CIL] was never designed to trip up homeowners. Sevenoaks needs to stop hiding behind the legislation and do the right thing.”

Sevenoaks district council says: “While we sympathise with Mr Broad’s situation, CIL requirements are set out in law by government and have to be followed by both applicants and councils.”

The Ministry of Housing, Communities and Local Government says: “Councils are ultimately responsible for their own decisions on charging and enforcement, but we expect them to consider each case carefully.

“We are considering how we can make the developer contributions system as clear and effective as possible — including the community infrastructure levy — and this includes addressing issues with how certain exemptions are working in practice.”

**Do you face a large CIL bill? Email melissa.york@thetimes.co.uk**