‘Tackling Unfair Practices in the Leasehold Market’

A Response to the DCLG Consultation Paper

by a Working Party of the Cambridge Centre for Property Law

21/9/2017

Consultation Questions

To help us analyse the consultation responses, we would ask you to answer the following questions:

Q1: Are you responding as (please tick one):

☐ *A private individual?*
☐ *On behalf of an organisation?*

This response is prepared by a working party of the Cambridge Centre for Property Law comprising Dr Simon Cooper (chair), Associate Professor Russell Hewitson, and Professor Martin Dixon.

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Q2: If you are responding as a private individual, is your main interest as:

☐ *An owner or tenant of a leasehold flat?*
☐ *An owner or tenant of a leasehold house?*
☐ *An owner of a freehold house?*
☐ *A private landlord?*
☐ *An individual with a portfolio of ground rents?*
☐ *Other? (Please specify)*

Q3: If you are responding on behalf of an organisation, is the interest of your organisation as (tick all that apply):

☐ A residents' management company or right to manage company?
☐ A developer?
☐ An organisation representing leaseholders?
☐ An organisation representing freeholders?
☐ A lender?
☐ A solicitor / conveyancer?
☐ An estate agent?
☐ An organisation representing lenders?
☐ A supplier of management and/or other services to leaseholders?
☐ Other private landlord?
☐ A social landlord (either Registered Provider or local authority)?
☐ A developer of other housing tenures besides leasehold houses?

☐ A company that buys and sells ground rents?
☐ An investment company or pension fund that has a portfolio of ground rents?
☐ A local authority?
☐ Other (please specify)?

We seek to represent the concerns of the academic legal community of England and Wales in producing high quality law, acting neutrally and without affiliation to any particular political ideology or industry sector.

Q4: Please enter the first part of the postcode in England in which your activities (or your members' activities) are principally located (or specify areas in the box provided):

Nationwide.

Limiting the sale of new leasehold houses

Q5: What steps should the Government take to limit the sale of new build leasehold houses?

In our responses to this and the other questions, we have taken the opportunity to go beyond the handful of options specified in the consultation paper as we believe that reform could be assisted by looking more widely for answers inspired by good legal solutions found in analogous property regimes.

(a) Starting Point.

Our starting point is that we want to achieve the following in our response:

- to respect the rights of property owners
- to halt any abusive and oppressive practices against consumers
- to propose remedial steps which are effective, simple to operate and cheap to implement.

We agree that very long leases are an unsatisfactory form of residential tenure for houses. We agree that there is rarely any satisfactory justification for developers to grant very long leases of houses instead of freeholds.

(b) Justifying Very Long Leases - Estate Management

The obvious justification for permitting very long leases by developers of residential houses is for estate management reasons (typically shared services and facilities on an estate, or safeguarding a high level of control over heritage land). As an interim measure, we recommend that those types

of estate management reasons would currently justify excluding the leases from any new prohibition on leasehold house sales or enfranchisement reform.

Under the current law, shared services and facilities cannot be dealt with adequately on an estate of freehold houses. This is a major gap in the law. It means that for many estates of leasehold houses, the householders currently have to be excluded from any new prohibition on leasehold house sales or enfranchisement reform. As a result, we recommend that reform should be brought in to enable adequate provision for shared services and facilities on an estate of freehold houses. In particular, we recommend two measures.

First, the enactment of the Draft Law of Property Bill sponsored by the Ministry of Justice which brings forward proposals to respond to the recommendations of the Law Commission's report, "Making land work: easements, covenants and profits à prendre (2011)".

Secondly, we recommend that consideration be given to supporting the uptake of the Commonhold and Leasehold Reform Act 2002 by developers and banks. This might require some simplification of its provisions to counteract the reluctance of the market to embrace the current commonhold scheme.

Those two steps would provide a solution which would handle shared services and facilities on an estate of freehold houses. With that foundation in place, one of the estate management reasons for giving special treatment to certain leases would fall away. It would mean that any new prohibition on leasehold house sales or enfranchisement reform would not need to have a special carve-out for houses having shared services and facilities on an estate. This would allow much wider coverage for any new prohibition on leasehold house sales or enfranchisement reform.

(c) Justifying Very Long Leases - Land Owner Control?

One possible justification is simply that the developer, as land owner, should be able to dictate the terms on which it is disposed - whether sale of freehold or grant of very long lease. We do not agree that the developer’s autonomy over the manner of disposing of the land necessarily trumps all other considerations. We take the view that the consumer interest in avoiding long leasehold tenure for residential houses outweighs it. This is particularly noticeable in cases where there is no ‘leasehold discount’ for the consumer - in other words where the lease is so long that that its market value is not significantly different from the freehold market value.

(d) Justifying Very Long Leases - Leasehold Discount?

According to para 13:2 of the Consultation Paper, there may be an argument that very long leases are justified on the basis that there is a ‘leasehold discount’ - namely that consumers benefit from a lower price at the point of purchase (although this will, of course, be offset by later ground rent

payments). That potentially provides a price discount argument, or at least a cashflow argument to support the continued use of very long leases by developers for residential houses. However, we do not agree that this argument is satisfactory or sufficient to resist the proposed prohibition on very long leases. If the only reason for the developer's use of very long leasehold is to reserve a ground rent with powers of forfeiture whose purpose is to transfer over time the economic value of the 'leasehold discount' back to the developer, then it is effectively a form of deferred financing for the consumer. In such circumstances, we do not think that it justifies retaining the developer's power to sell houses on very long leases. Instead, we think that the arrangement between developer and consumer should be treated in the same way as other forms of purchase on secured credit. We suggest later that reform could be implemented by treating the arrangement between the developer and the consumer as if it were, for example, a credit agreement regulated by mortgage law. We develop this point further under Q14. The upshot of our suggestion is that the existence of a possible 'leasehold discount' with consumer cashflow benefit does not justify retaining the power of the developer to sell houses on very long leases.

(e) Justifying Very Long Leases - freeholder retained obligations?

Finally, we consider whether very long leases with ground rents might be justified by the fact that the developer has imposed on itself certain obligations during the running of the lease.

In a lease of 999 years, the developer is unlikely to enter any lease covenants other than a covenant for quiet enjoyment and covenants relating to minor administrative matters. However, these are not particularly significant. A quiet enjoyment covenant would be included in a freehold sale, and the administrative covenants exist only to provide the machinery to support peripheral matters concerning the lease. We do not see the existence of these covenants as adequate justifications to retain the power for a developer to sell a house on a very long lease.

In long leases of lesser duration, such as 21 or 60 years, the developer will be more likely to enter lease covenants to carry out certain significant obligations. Where such leases contain these covenants, we think there is a justification for preserving the developer's power to retain control by the grant of a lease and to charge the consumer for these obligations by way of a ground rent.

We therefore think that there is a potential difference to be drawn between leases of different durations. At one end of the duration spectrum, we support a prohibition on developers selling houses on 999 year leases; at the other end of the spectrum, we see good reason to preserve a developer's ability to sell houses on 21 year leases. We do not give a concluded view on where the cut-off point should be, and we leave that to others, partly because it depends on market practice as to what lease covenants are entered in what duration of leases. But the issue is important because it dictates the terms of our proposals. We think there is a point, over 21 years but less than 999 years, which must be selected as the length of leases beyond which developers

must be prohibited from selling houses on lease. In the rest of this paper, we will call them Very Long Leases. We accept that length alone might not provide a perfect solution, so we would be prepared to accept a test which depends not only on length but also other factors (such as the premium, or the ground rent, or some ratio based on them).

(f) Approaches to Limiting Sales on Very Long Leases.

We see the options for limiting developer sales of houses on very long leases as follows:

- *A new criminal offence on developers*. We think this would be inappropriate for a matter which is essentially consumer protection. It would not catch those developers who sold without the requisite mental element. It would be expensive to enforce via criminal proceedings and probably of limited effectiveness given that most developers are corporate bodies. It would not provide redress for consumers when a developer broke the rule.

- *A new regulatory system for housebuilders*. We do not support this as it would involve the expense of setting up a new regulatory system and regulator (the lease police) in an industry sector that is not already regulated.

- *Using the existing banking regulatory system to prohibit bank lending against new built houses on very long leases*. This would stop future lending and have the indirect effect of deterring consumers from buying very long leases. We do not think this is satisfactory because it would not be comprehensive in effect. In addition, some wealthy consumers might buy very long leases in cash and they or their heirs subsequently find that they cannot use the lease as security.

- *A red light at a convenient stage in the development cycle where a public body or regulated person already has an administrative role*. It would be easy and relatively cheap to enforce a prohibition on developers selling houses on very long leases if a public body or regulated person were to implement the prohibition at a stage in development when involvement by such a body already occurs. For example, a condition against very long leases could be attached to planning permission or building control sign-off; or public company directors could be required to certify in annual reports that none of their new-build houses were sold off on very long leases. We think that these might be useful approaches. However, they are not comprehensive and there might be certain developments which are outside their coverage; and if the limitation is not observed then the consumer has no redress. Because of those features, this option is inadequate unless it were also accompanied by one of the options listed below.

- *A private right for the consumer who has bought a very long lease to demand the transfer of the freehold*. This already exists under the enfranchisement legislation (subject to minimum domestic residency qualifications). However, the current position under the enfranchisement legislation is not satisfactory to deal with the issue that has arisen recently. In

particular, the method for calculating the price payable to the freeholder for enfranchisement relates to the loss to the freeholder; it does not reflect any discount that should be applied in order to neutralise the effects of any abusive or oppressive element in the ground rent. We would therefore support a law reform proposal which involves the extension of the right of enfranchisement, immediately on acquisition by the consumer without any prior qualifying period of residency, provided that the price payable for enfranchisement were to disregard any element of ground rent obtained through abusive or oppressive practices. We develop this point further under Q14.

- *A system of upgrading very long leases by automatic, unilateral transmission of freehold*. We invite the Department to consider a law reform proposal under which the consumer, having purportedly bought a new-build house on a very long lease, is invested with the freehold by a form of automatic unilateral enfranchisement. Such a regime could be managed and formalised through the land registry processes. We envisage under this could happen as follows:

The consumer would purchase a very long lease from the developer. The consumer would submit it to the land registry due to the compulsory registration requirement. The consumer would, then or later, submit a request that the register show the consumer as owner of the freehold. This would be an automatic entitlement by operation of law, for which the consumer would not require the freeholder's consent. The consumer would have to supply evidence of his eligibility to this entitlement under the new legislation which would allow this new form of enfranchisement. The registry would then review the evidence, contact the developer to indicate that the registration would proceed in the absence of any objection. If no objection materialised, or if an objection was raised but rejected by the tribunal, then the registry would enter the consumer as proprietor of the freehold. The purported lease would be made void by law, and the freehold would be taken out of the developer (or the developer's successor) by operation of law.

The automatic unilateral system sketched out above resembles the regime which was brought in to the Republic of Ireland by the Landlord & Tenant (Ground Rents) (No.2) Act 1978. We recommend that the Department consider the practical effectiveness of the Irish model.

One particular practical difficulty worth noting is the complexity in the definition of what is eligible for enfranchisement. Assuming that any new automatic enfranchisement legislation were to follow the Leasehold Reform Act 1967 as amended, then the land registry upgrade process could be invoked only for a self-contained structurally-independent property for residential use that could reasonably be called a house, etc. It would be necessary for the consumer to provide evidence that each of those criteria had been fulfilled. This could be difficult in practice. Given the complexity of the LRA 1967, it might be easy to overlook some of the requirements or misinterpret them. The land registry might be reluctant to engage in this sort of process where the complexity might lead to a high risk of error that could increase the liability on its

indemnity fund. Nevertheless, we propose that this solution is in principle a good one that should be considered further.

We note that the Consultation Paper does not discuss whether there has been any comprehensive research on the law in this area, any scoping of other models for solutions in other property regimes, any assessment of the need to implement the Draft Law of Property Bill and Commonhold Act, or evaluation of potential reform impacts. We would be happy to discuss providing research assistance of this nature (contact simoncooper@brookes.ac.uk).

Q6: What reasons are there that houses should be sold as leasehold other than under the exceptions set out in paragraph 3.2?

• within a cathedral precinct;
• on National Trust or Crown land;
• on land owned by local authorities and university bodies with the right for future development;
• in shared ownership with a 'restricted staircasing' lease;
• of special architectural or historic interest or adjoining properties where it is important in safeguarding them and their surroundings.

The primary reason which currently provides a genuine justification for developers selling certain houses on leasehold is the provision of shared services and facilities on an estate.

Under the current law, shared services and facilities on an estate cannot be dealt with adequately on an estate of freehold houses. That is a reason why some houses are currently sold on leasehold, and why such leases should be excepted from any new prohibition on leasehold house sales.

However, as explained above in our response to Q5, subheading (b), we recommend that this gap be plugged by introducing reforms to enable shared services and facilities on an estate of freehold houses to be dealt with adequately. Once that is done, the provision of shared services and facilities will cease to be a reason that justifies the exclusion of certain leases from any new prohibition on leasehold house sales.

Q7: Are any of the exceptions listed in 3.2 not justified? Please explain.

We leave this question to property industry professionals.

Q8: Would limiting the sale of new build leasehold houses affect the supply of new build homes? Please explain.

We leave this question to property industry professionals.

Q9: Should the Government move towards removing support for the sale of new build leasehold houses through Help to Buy Equity Loan, unless leasehold can be justified and where ground rents are reasonable (which could be a nominal or peppercorn ground rent), and if not, why not?

We leave this question to property industry professionals.

Q10: In what circumstances do you consider that leasehold houses supported by Help to Buy Equity Loan could be justified?

We leave this question to property industry professionals.

Q11: Is there anything further the Government could do through Help to Buy Equity Loan to discourage the sale of leasehold houses? Please explain.

We leave this question to property industry professionals.

Q12: What measures, if any, should be considered to minimise the impact on the pipeline of existing developments?

Limiting the reservation and increase of ground rents on all new residential leases over 21 years

Q13: What information can you provide on the prevalence of onerous ground rents? We are keen to receive information on the number and type of onerous ground rents (i.e. doubling, or other methods) and whether new leases are still being sold with such terms.

We leave this question to property industry professionals.

14: What would a reasonable ground rent look like, in terms of i) the initial annual ground rent, ii) the maximum rate of increase in annual ground rent, and iii) how often the rate of increase could be applied to an annual ground rent?

Please explain your reasons:

i) initial annual ground rent

ii) maximum rate of increase in annual ground rent

iii) how often the rate of increase could be applied to an annual ground rent

(a) Starting Point.

Our starting point for this project is that any proposed legislative intervention in the contractual agreement between developer and consumer should be for the purpose of correcting market breakdown only, and not for the purpose of redistributing wealth from freeholders to leaseholders as a goal in itself.

There are solid grounds for saying that developers' use of rapidly escalating ground rent clauses in very long leases on the sale of new-build houses is an example of market breakdown. At first glance there appears to be a freely negotiated contract between parties with legal advice, yet on further consideration the dynamics of the agreement are more complex. The consumer will have a limited supply of housing in the locality that meets his or her needs and the consumer will be looking primarily at the property's headline points in making a decision (basic price, size, location). It is well recorded that consumers take lesser account of the non-headline points when making purchase decisions. In particular, subsidiary financial matters (such as apparently trivial ground rents) and technical points (such as exponential escalation mechanisms and calculations) are very unlikely to figure in purchase decisions. It is also well recorded that consumers are not well equipped to appraise the likelihood and adverse impacts of events which occur long into the future. Developers are doubtlessly aware of these traits and play on them to gain an advantage. In these circumstances, it is fair to label rapidly escalating ground rents as abusive. Because of the size of the financial impact that rapidly escalating ground rent can have on a consumer, the effect can also be oppressive to an individual householder. For these reasons, there is sufficient breakdown in the free-market model that intervention is justified.

(b) Striking Down Abusive and Oppressive Ground Rents

We support law reform that would strike down abusive and oppressive ground rents in the sense described above.

It appears that there is already a legal mechanism that would be appropriate for dealing with the issue of abusive and oppressive ground rents, on the basis that they could be challenged as unfair terms under the rules of Part 2 of the Consumer Rights Act 2015.

Nevertheless, we recognise that it might be appropriate to have a tailored law reform to deal with this specific issue.

(c) Approaches to Striking Down Abusive and Oppressive Ground Rents.

We see the options for striking down abusive and oppressive ground rents as follows:

- *Automatic unilateral upgrading of consumer leasehold to freehold*. This was explained earlier in Q5. If this form of automatic upgrading were to result in a freehold unaffected by any liability on the part of the consumer to pay any future sums, then the ground rent issue would simply disappear. We are reluctant to recommend simple eradication of all liability to pay ground rent in this manner without further detail, because of the way it could take away the developer's entitlement to agreed ground rents - even those which are neither abusive nor oppressive - without any compensation. We would prefer a system in which only the abusive / oppressive element of the ground rent was removed, and any remaining element of the ground rent was either preserved or else made the subject of a compensation payment by the consumer who benefitted from the automatic unilateral 'upgrade' to freehold.

- *Automatic alteration of very long leases into rent-free, freeholder-liberating statutory leases*. One of the problems with enfranchisement of very long leases is that the ground rent might be a quid pro quo for the freeholder's on-going obligations under the lease covenants. For the longest leases, this is unlikely to be an issue as the freeholder will undertake virtually nothing in the covenants. But for leases at the lower end of durations, the freeholder might plausibly make the argument that the ground rent is payable because of and in exchange for the covenants that he has entered and which may in effect provide a fund for the discharge of the freeholder's obligations. The freeholder might justifiably complain if the ground rent is then taken away without compensation. One option for dealing with this type of argument could be to take away the ground rent (or convert it to a peppercorn), but at the same time to discharge all of the freeholder's obligations under the lease covenants (except perhaps the covenant for quiet enjoyment). That could then be the springboard for the consumer seeking enfranchisement, in which case the process for enfranchisement would be simple given the absence of any ground rent and any complicating landlord covenants. We invite the Department to consider this option further.

- *Imposing a maximum limit on initial ground rent*. This would be an easy option to enact by setting a cap on the initial ground rent for a particular property. However, we have reservations over this approach. If there were a fixed monetary figure, then it would be a rather blunt instrument and the same figure would have to apply to very low value houses and ultra high value houses. On the other hand, if the figure were to vary according to some calculation based on the market value, then that might not be satisfactory in all circumstances: it might work acceptably for market-price sales, where the price paid could be taken as market value, but in all other cases (payment in kind, house exchanges, transfers at undervalue, etc) then a valuation would be required. We would prefer a solution that does not require any valuation in order to set the level of ground rent as this would add a cost burden and a further source of contention.

- *Disregard of any abusive mechanics and oppressive effects in setting ground rents and providing for their escalation*. The consultation paper proposes that escalation clauses which provide for automatic increases at

certain intervals should be struck down if they exceed certain levels. We agree that this should occur, but that approach is not sufficient without more. The types of abusive and oppressive practices are capable of ranging far more widely than basic staged increases. Our concern is that any reform which merely takes the step proposed in the consultation paper could be easily out-manoeuvred by a developer who drafts future clauses in an equally unacceptable manner but by a different process (e.g. an upward-only index-link to the Bitcoin). We therefore prefer a broader test such as that for unfair terms under Part 2 of the Consumer Rights Act 2015. Automatic increases at certain intervals could then be added to a schedule of sample clauses that would always fail the test.

(d) Recharacterisation of Ground Rent

Assuming that any abusive or oppressive element of ground rent is disregarded by law (as we proposed above), then there may still remain a component of the ground rent which cannot be stigmatised as either abusive or oppressive. What should be done with that component? To pass a law reform that eliminates it entirely could potentially run counter to the protection of property rights under the Human Rights Act 1998, Article 1, Protocol 1. The elimination of such entitlements might be HRA compliant if it were justified by a social need. One argument in favour of social need could be that any attempt to preserve the entitlement to ground rent would be impracticably difficult because it could not easily be severed from the abusive / oppressive component. That still leaves the question of compensation.

We invite the Department to consider a mechanism by which the freeholder's entitlement to the value of the non-abusive non-oppressive component of ground rent could be respected by preserving it in a different form. We invite the Department to consider a mechanism by which the legal categorisation could be better brought in line with the justifiable economic substance of the transaction between developer and consumer. One possible solution is described in the next paragraphs.

Very long leases at ground rents may be justified on the basis that there is a 'leasehold discount' - namely that consumers benefit from a lower price at the point of purchase (which will, of course, be offset by later ground rent payments). That potentially provides an advantage to the consumer in terms of cashflow. If the only reason for the developer's use of very long leasehold is to reserve a ground rent with powers of forfeiture whose purpose is to transfer the economic value of the 'leasehold discount' back to the developer, then it is effectively a form of deferred financing for the consumer. In such circumstances, we think that the arrangement between developer and consumer should be treated in the same way as other forms of purchase on secured credit. We suggest that reform could be implemented by treating the arrangement between developer and consumer as a debt that falls under mortgage law.

For any reform based which recharacterises the arrangement as a debt, it would be necessary to put a capital value on the amount of that debt. This

could be done according to a new statutory formula. The calculation of the capital value of the debt should be done at the time of enfranchisement in favour of the consumer.

We see two alternative mechanisms for arriving at a capital value for the debt.

Mechanism (i). This is broadly aimed at putting a figure on the loss to the freeholder. Here the statutory formula would have to disregard any abusive or oppressive component in the future ground rent. Once that component is removed, then the formula would recognise the principle that total ground rent revenues are not simply to be aggregated, but rather the future revenue is to be suitably discounted in calculating the net present capital value.

Mechanism (ii). This alternative mechanism is broadly aimed at putting a figure on the value which the consumer has gained from the leasehold discount. Here the statutory formula would be designed to make a rough estimate of the leasehold discount. It would obviously therefore be heavily dependent on the duration of the lease. This approach would recognise that the freeholder had a legitimate interest in securing repayment of the price discount to the consumer, but not in extracting annual ground rents over a very long period that have no relationship to the price discount.

Varieties of these mechanisms may already be found in various statutory regimes where it has been necessary to introduce a compulsory buy-out of property rights; for example, under section 10 of the Rentcharges Act 1977, section 52 of the Ecclesiastical Dilapidations Measure 1923, the Consumer Credit (Early Settlement) Regulations 2004, and section 9 of the Leasehold Reform Act 1967.

Whichever mechanism is selected, once an immediate capital value had been calculated according to the new statutory formula, the proposed new system could then provide a process for that sum to be a debt enforceable against the consumer; or a mortgage secured against the enfranchised land; or both. The system could provide for the consumer's debt payments to be spread over instalments according to a particular formula. If spread over instalments, the capital sum would carry interest according to a particular formula, but unlike ground rents it would not necessarily last the entire duration of the lease and would not involve automatic staged uplifts.

That solution would eliminate the risk of extremely long-lived ground rent payments, and the dangers of exorbitant escalation of ground rents; it would allow enfranchisement without causing the consumer the trouble of having to pay a lump sum and possibly without having to obtain valuation evidence to assess that sum; while at the same time it would compensate the freeholder in a manner compliant with the HRA; and it would bring the consumer's payment obligations into line with the regulation of other methods of deferred payment. We invite the Department to consider this approach.

We note that the Consultation Paper does not discuss whether there has been any comprehensive research on the law in this area, any scoping of

other models for solutions in other property regimes (including reforms in Ireland), or assessment of potential impacts. We would be happy to discuss providing research assistance of this nature (contact simoncooper@brookes.ac.uk).

Q15: Should exemptions apply to Right to Buy, shared ownership or other leases? If so, please explain.

☐ *Yes*
☐ *No*

We leave this question to property industry professionals.

Q16: Would restrictions on ground rent levels affect the supply of new build homes? Please explain.

☐ *Yes*
☐ *No*

We leave this question to property industry professionals.

Q17: How could the Government support existing leaseholders with onerous ground rents?

By (1) disregarding abusive and oppressive ground rents and (2) allowing the consumer a new right to enfranchise as discussed above, even though the lease had been granted prior to the enactment of the new right to franchise. The issue of retrospective effect could be satisfactorily addressed through suitable compensation provisions, such as those discussed above in our response to Q14, subheading (d).

Q18: In addition to legislation what voluntary routes might exist for tackling ground rents in new leases?

We leave this question to property industry professionals.

Exempting leaseholders potentially subject to 'Ground 8' possession orders due to their level of ground rent

Q19: Should the Government amend the Housing Act 1988 (as amended by the Housing Act 1996) to ensure a leaseholder paying annual ground rent over £1,000 in London or over £250 in the rest of England is not classed as an assured tenant, and therefore cannot be issued with a Ground 8 mandatory possession order for ground rent arrears? If not, why not?

Yes, for the reasons set out in the Consultation Paper. It is wholly wrong for arrears of ground rent to be a mandatory ground for possession. This was probably not the intention behind the Housing Act and it is certainly not backed up by any justifiable policy objective.

Q20: Should the Government promote solutions to provide freeholders equivalent rights to leaseholders to challenge the reasonableness of service charges for the maintenance of communal areas and facilities on a private estate? If not, what management arrangements on private estates should not apply?

Yes, for the reasons set out in the Consultation Paper.

Future issues

Q21: The Housing White Paper highlights that the Government will consult on a range of measures to tackle abuse of leasehold. What further areas of leasehold reform should be prioritised and why?

We leave this for another occasion.