

We welcome the governments acknowledgement that freeholders on private estates do not have equivalent rights to leaseholders.

We cannot agree that access to the First Tier Tribunal is going to solve the problems freehold home owners face – monopoly providers, poor value for money and the lack of accountability to them. Nor will it address the issue of legal costs being charged back to home owners through the service charge. Even if home owners make a successful legal challenge, there is no financial risk to the management companies, who do abuse this fact through unreasonable charges, poor standards of work, and isolating individuals who wish to challenge how they operate. “If you rock the boat the charges will go up”.

Why should a small group of home owners fund public open space? This is fundamentally unfair and has never been subject to democratic scrutiny.

The First Tier Tribunal is known from leaseholders' experience to be cumbersome and costly. Estate management charges are generally lower than building management charges, making it even less practical to challenge them through his route.

A low cost and fair alternative needs to be found. It could come under the remit of the New Housing Ombudsman proposed by the APPG on Quality in the Built Environment.

The government has not taken into account the effects of the private estate model on home owners. The future impact on saleability and price, and the psychological impact of finding yourself in a situation you believe is exploitative.

Ideally the government needs to decide if private estates should be allowed at all considering the practical difficulties in law enforcement of public activities on private land and the fact that local authorities do not have the resources to enforce quality standards laid down in 106 agreements. Should these green assets should be funded by communities in a different way, as with other public green spaces which are so vital for mental and physical health? Currently the asset of these spaces is enjoyed by the whole community, but the liability for maintenance falls on a small group of home owners. The asset is also subject to exploitation by developers in terms of future planning applications for more homes than originally agreed with the planning authority. We have reports of this happening right now.

To make a decision you need reliable data – not simply to take the views of the industry, which are inevitably one sided. It is clear from this consultation and other documents received from government departments that you (the government) do not know how the private estate model is being implemented , the scale of it, or its impact on home owners. For instance, you seem to think Residents Management Companies (RMCs) are the norm – a poll of home owners suggests that only ¼ have an RMC, and non of these own the land. Developers will not hand over the land while there is any chance of creating future income from it. In the meantime, home owners are expected to pay for its maintenance.

The private estate model is not just being applied to a small number of mixed tenure developments, there are many which are freehold only and it has become unusual for new developments to be put up for adoption by the local authority. We have started to collect data from our members on a voluntary basis and have 162 estates reported so far from all over the UK representing around 30,000 households. This is the tip of the iceberg if you consider that 1.3M new homes have been built in the last ten years (government statistics). The Land

Registry have about 90.000 titles which refer directly to a rent charge, some of which may be commercial properties and about 1000 may be the now abolished type relating to individual homes rather than estates. These figures only give an indication of the scale of the issue, as there are no official statistics.

The management of private estates is cumbersome with over half the costs deriving from administration and “debt recovery” which is often a service charge dispute rather than a true debt.

Management companies are often embedded in the deeds, creating a monopoly situation.

The transfer deeds are written by the developers do not represent a fair or balanced contract.

Conveyancers are not explaining the implications of rent charges or the nature of the covenants to home buyers.

We would argue for the abolition of private estates with compulsory adoption by local authorities of public open spaces without a commuted sum being payable, Currently local authorities appear to regard developers as a cash cow screwing huge sums from them under 106 agreements. Since the big developers are driven by shareholder value, their profits are maintained by poor build quality, schemes like private estates, and the use of leasehold which our feudal property law system allows. The maintenance of all public open spaces could be funded by a precept in a much fairer way.

Alternatively, the estate land could be held as common hold and run by residents or a community trust.

In summary, we would suggest the government looks at other ways of estate maintenance which would benefit local communities and share more fairly the burden of maintenance. Simply propping up the private estate model by giving freeholders access to the first Tier Tribunal is not enough to create fairness.

We believe that if the situation is allowed to continue, the value and saleability of new build homes will be eroded which not only disadvantages the affected home owners, but will further blight the “broken” housing market. Once the public become more aware of this unfair practice, along with other known issues like leasehold houses and poor build quality, it will become more difficult to sell new build homes, so it is ultimately in the developers interest to rectify this problem.