

## **Housing Estate Management – [Redacted]**

[Redacted] is a management company chosen by housebuilders to adopt, manage and maintain public open spaces on new housing developments. By taking ownership of the open space, [Redacted] are committed to its long term, sustainable and high-quality management.

Traditionally, local authorities would 'adopt' common areas on new build developments such as pavements, roads and green spaces. Increasingly, local authorities no longer have the appetite or the budget to take on these responsibilities and there is a requirement for specialist companies like [Redacted] to step in.

[Redacted] adopts the land for a nominal fee from the developer and enters a covenant with the purchasers of individual residential houses at the point of purchase. The covenant obliges [Redacted] to maintain the areas of open space to a certain standard and requires that the homeowner pay a service charge contribution towards this maintenance. A restriction placed on the property title ensures subsequent purchasers are obliged to enter a similar covenant, thus guaranteeing the ongoing income stream necessary for long term management of the development.

With over 25 years' experience across more than 300 housing developments comprising over 40,000 homes across England and Wales, [Redacted] are experts in the care of public open space. They are also committed to providing an excellent service to residents and as an example of this, [Redacted] are members of The Property Ombudsman Scheme (TPOS). Offering customers free, independent redress should they feel it is required. They are the only public open space management company to be members of this scheme.

The average charge to residents made by [Redacted] is approximately £160 per property per annum. Compared to alternatives this represents good value, with regular year-round maintenance provided, ensuring health and safety issues are managed appropriately and responsibly and providing accountability and objective management.

### **Benefits of Professional Estate Management**

Bad estate management is extremely damaging. It is unpleasant to live with and creates a nuisance to residents. At its worst, it can reduce property values leaving property owners having insufficient security to set against their borrowings. Overgrown and badly maintained green spaces provide a magnet for rubbish and rodents leading to nuisance to surrounding properties. Poorly maintained play areas and other amenities attract vandalism and anti-social behaviour and create a risk of injury.

In some cases, it has been suggested that residents could manage these facilities themselves, dispensing with organisations such as [Redacted]. However, such management normally ends up relying on a few individuals and if they no longer have the time or energy to put into management efforts or sell their properties, efforts can languish. Furthermore, this role may well fall far outside their level of expertise. There is also a risk that some facilities will be privileged over others, such as a lack of maintenance being put into children's play facilities if those managing the estate do not have children themselves.

In practice, as with the management of blocks of flats where the residents take control, they often ultimately end up employing an agent such as [Redacted] to carry out their responsibilities and use their control more as a means of keeping a close eye on the work being done.

Self-management may seem to offer more choice and input to residents, but the reality is often very different. With complex systems including intricate administrative and accounting processes, this model often results in higher charges, inactivity and confusion. In this model, residents are often burdened with legal and administrative burdens.

Estate management can be better accomplished in other ways which are less onerous on residents.

### **Council Tax or Estate Charge?**

One of the main objections to the work done by [Redacted] is that this should be done by local authorities as part of the tasks for which they collect council tax. [Redacted] has no strong view on this question, but it recognises the current reality that local authorities are unable for financial reasons to take on further substantive liabilities. If we are to build the new homes that are needed on the timescale that the current housing crisis demands, then alternative means of managing estates will need to be found. [Redacted] provides a reasonable solution to this situation. Where councils do elect to take on responsibility for the management of a new development, they are empowered to demand a council tax surcharge for this. These surcharges are often greater than an organisation such as [Redacted] would charge for similar work.<sup>1</sup> Other councils have sought to form their own companies to carry out the same work thereby removing the ability of residents to complain, as these private companies are outside the scope of the Local Government Ombudsman.<sup>2</sup> Additionally, should local authorities accept a commuted sum from a developer to maintain areas of open space, these costs are inevitably passed on to the consumer in their house price.

### **Current Problems**

[Redacted] is not complacent and accepts that there are problems affecting parts of the estate management sector. As a responsible business, it wishes to see these problems and the poor business practices which underlie them, stamped out. From its experience, [Redacted] sees that the problems in the sector can be grouped into four key areas:

1. Bad practices among some estate managers;
2. Lack of accountability and transparency of some estate managers;
3. Lack of information to purchasers of property.
4. Poor practice by developers in terms of design and build quality of public open space to the management company, thus ultimately passing on to residents the costs of putting this right.

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<sup>1</sup> See, for example, [www.thetimes.co.uk/article/council-stings-residents-of-cranbrook-for-new-town-tax-of-370-a-year-lcgpsllg8](http://www.thetimes.co.uk/article/council-stings-residents-of-cranbrook-for-new-town-tax-of-370-a-year-lcgpsllg8) which reports on East Devon Council setting a surcharge of £370 to £512 per annum per household, as against [Redacted]’s average fee of £160.

<sup>2</sup> See, for example, [https://www.southsomerset.gov.uk/news/2019/9/elleston-is-open-for-business-and-here-s-what-you-need-to-know/?utm\\_source=Facebook&utm\\_medium=social&utm\\_campaign=SocialSignIn](https://www.southsomerset.gov.uk/news/2019/9/elleston-is-open-for-business-and-here-s-what-you-need-to-know/?utm_source=Facebook&utm_medium=social&utm_campaign=SocialSignIn).

## **Bad Practice**

[Redacted] recognises that some estate management is poorly carried out. In some cases, works are not done even where they have been charged for or the standard of work is very poor. In other cases, the charge levied is highly variable and can simply be increased to allow for more profits to accrue to the estate manager. In addition, some managers operate very aggressive practices in relation to collection, using devices such as estate rentcharges to collect estate management fees at the threat of taking over and selling the freeholder's property. [Redacted] believe this to be a wholly inappropriate response to a management fee and giving the sector a negative image that can leave homeowners fearing loss of their property with little recourse to redress.

[Redacted] is different, it only collects contributions in arrears, after the work has been completed. Therefore, residents can see what they are being asked to pay for and judge whether it has been done to an appropriate standard. Further, its profits are fixed as a percentage of the overall spend on the estate, rather than arbitrary figures which could be increased at their discretion.

### **[Redacted] proposes that:**

The ban on rentcharges should be extended to include a ban on the use of estate rentcharges. Reform was proposed by the Law Commission as a part of its review of land covenants, but this was not enacted.<sup>3</sup>

Estate charges should only be payable in arrears as opposed to in advance, so that residents are only being asked to pay for work already undertaken, which they can then easily see the value of.

There should be a compulsory requirement to consult on charges which exceed £250 per qualifying item per household in line with similar rights for leaseholders.

## **Lack of Accountability**

At the moment estate managers are not subject to the controls applied to the managers of blocks of flats. Therefore, there is no ombudsman or other statutory complaints body applying to them and they are under no obligation to publicise their spending, or to provide any form of breakdown to those being asked to pay their charges. Disappointingly, the new homes ombudsman proposals do not envisage estate managers being included. [Redacted] has voluntarily joined the Property Ombudsman Service and is working with them to develop a code of practice suitable for estate managers. Further it provides a breakdown with each invoice as to what costs have been incurred on the maintenance of the development during that period, increasing transparency.

### **[Redacted] proposes that:**

All estate managers be required to join an approved independent ombudsman scheme to allow proper complaints handling with no application fee payable by the customer. This will help stamp out bad practice in the sector by increasing accountability.

The code of practice of any such ombudsman require that a full breakdown of cost is provided with every invoice.

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<sup>3</sup> See *Making Land Work: Easements, Covenants and Profits à Prendre* Law Com No 327 (2013)

### **Lack of Information**

From a review of its complaints data, [Redacted] has found that there are significant problems of potential mis-selling in relation to estate management. Many purchasers state that they are not fully aware that the new-build property they are buying, is subject to an estate charge or they are given inaccurate information as to what that charge will be. Often these charges are not calculated in discussion with a professional such as [Redacted], who are able to provide accurate estimates of estate management costs, but are simply “plucked from the air”. [Redacted] is concerned that estate agents are not properly complying with their obligations to give accurate information on relevant issues under the Consumer Protection From Unfair Trading Regulations.

#### **[Redacted] proposes that:**

NTSELAT issues new guidance to estate agents setting out minimum expectations for informing prospective purchasers of the existence and scope of estate management services.

### **Poor Development**

[Redacted] has had issues with some developments which have not be laid out in accordance with planning permission, or where works have not been undertaken to an appropriate standard. This leads to considerable cost later either due to corrective maintenance of the estate to bring in-line with planning permission or because [Redacted] is required to undertake work to resolve poor workmanship by developers.

#### **[Redacted] proposes that:**

Developers be required to give binding undertakings that they have complied with planning permission and completed to a proper standard and be required to take corrective action or pay for corrective action, where those undertakings are breached.

## Summary

[Redacted] believes there is an important place for professional estate management in helping address the nationwide need for new, well-constructed, well-maintained housing. By driving high quality management of the common parts of housing developments, at a fair and reasonable cost to the homeowners, they play a critical role in ensuring common land and amenities are safely and attractively maintained.

However, [Redacted] recognises that challenges exist, so it proposes some practical steps to improve the situation;

1. The ban on rentcharges should be extended to include a ban on the use of estate rentcharges. Reform was proposed by the Law Commission as a part of its review of land covenants, but this was not enacted.
2. Estate management charges to be paid in arrears and not in advance, meaning residents are only requested to pay for works which have already been undertaken.
3. Compulsory consultation on any works amounting to more than £250 per household per event, in line with current leaseholder rights
4. All estate managers be required to join an approved ombudsman scheme to allow proper complaints handling. This will also help stamp out bad practice in the sector by increasing accountability.
5. Estate management invoices to be provided with a full breakdown of costs incurred.
6. NTSELAT issues new guidance to estate agents setting out minimum expectations for informing prospective purchasers of the existence and scope of estate management services.
7. Developers be required to give binding undertakings that they have completed work to a proper standard and that they be required to put right work or pay the cost of putting it right, where those undertakings are breached.