The main village in our ward is a community of around 4500 households, a third of which are subject to estate management charges. The village is still growing so the proportion of households paying these charges will increase. These properties are on seven estates built since 2013, so earlier than the five or so years quoted in the report, and with some still being completed.
Since being elected to the council in 2019, one of the most consistent causes for concern brought to us by our residents is Management Charges. During this time we, and many of the residents concerned, have collected large dossiers of information. Many of the concerns raised are covered in the CMA Private Management Of Public Amenities On Housing Estates working paper. We have addressed these in our responses to the set questions but will also highlight some of the other additional issues that have arisen, maybe specific to our estates, but with the probability of occurring elsewhere.
We will take some of these issues individually.

Transparency

It has been reported to us that prospective buyers felt that they were not adequately informed about the charges, cost, what they cover etc. Most were just told it was for landscaping such as mowing, hedge trimming and tree planting. The inclusion of un-adopted roads and sewers, SUDs, play equipment, footpaths were rarely mentioned. This is particularly true of the earlier built estates. One resident told us that they had to explain the situation to their conveyancer who was seemingly unaware of the existence of management fees. Although signing T1 forms, few were really aware of the implications of this in terms of the rights that the management company then had over their property. I for one was unaware of Section 121 of the Law of Property Act 1925 and this will need investigating to see if it applies to properties in our ward. I am not sure that the householders in general will be aware of it. After starting to understand the implication and extent of the management fee structure alarm bells rang with the realisation that they could be faced with enormous additional bills for circumstances beyond their control that would normally be the responsibility of local councils. Open space is ripe for targeting by fly-tippers and travellers stopping illegally (event fees 3.123). It has been made clear that if the management company has to deal with such circumstances, the cost would be passed on to the house owners and could run into thousands of pounds. The threat of these potential expenses has had detrimental effects on the house owners' mental and emotional health, as is frequently referred to in your report.
The requirement for management fees is not seen on estate agent or housebuilders adverts. Enquires made at the sales offices are met with fairly dismissive comments saying that it will only be about £100 a year and nothing to be concerned about.
More than one purchaser has told us that they were offered incentives to use the solicitor recommended by the developer.
We haven't heard of anyone being advised that the fees can rise without capping.

The charges

These vary considerably between estates, even with the same management company. We have evidence that they even vary between properties within the estates. The list of charges varies, with some adding a long list of additional fees for changing mortgage, putting up a shed and asking for permission to apply for planning for extensions etc. Most of these fees are in at least three figures, with the addition of VAT.
Some examples.

1. After initially purchasing using the help to buy scheme a resident had to change the mortgage after the statutory time. The management company wanted to charge him for doing this despite him being with the same lender and merely updating the mortgage as

required. When he purchased the house he was unaware he would need to pay this. He challenged it and they capitulated but we are unsure if the same rule has been applied to others on the same estate.

2. When buying a house on one of the new estates, the purchaser had to pay in the region of £450 to the management company and the seller had to do the same, plus VAT of course. This seems an excessive charge for little work.
3. The management companies insist on a seller using their seller's pack at a cost in the hundreds of pounds. We are not sure how this helps the sale, if it is a legal requirement or if it duplicates the work of the conveyancers involved.
4. A resident asked a question about the maintenance of their estate and got a solicitors bill in return. This apparently is the response to asking questions which makes residents reluctant to engage with the companies. One company's list of charges includes £25 for asking a question, plus VAT.

The report mentions 'imbalance of power' and that certainly seems to be the case with management companies frightening people into not standing up for their rights.
One has to question what these additional fees have to do with the management of open space.
We have seen the breakdown of some of the annual bills and in some cases the administration charges amount to half of the value of the bills.

Quality of service

There are constant complaints about quality of service.

1. Hedges, if trimmed at all, are trimmed at the wrong times, during nesting season. Tasks are half done and mess is left behind.
2. Trees which are supposed to be replaced if they die within a certain time of the estate being completed are rarely replaced.
3. Requests for bins to be emptied in children's play areas result in the bins being removed to avoid the need for emptying. When requesting replacements, residents are told they will be charged extra for this.
4. Repairs to play equipment are not carried out in a timely manner and can leave dangerous situations.

Some particular issues we have encountered.

- One estate was built with a car park to provide parking for users of the nearby playing fields. This was done in place of a financial contribution to the playing fields and was part of the S106 agreement. This is an open car park on the edge of the estate and is used occasionally by other members of the public. For example there is a nearby children's play area and families from further away in the village sometimes park there. This annoys the residents. They see it that they pay for the carpark to service anyone who chooses to use it. Whilst one can understand their point of view, this is a designated public space. This problem has been rumbling on for a number of years while we try to find a solution that suits everyone the best.
- A new issue is evolving now on one of the part built estates. The land on which this estate is built used to have a footpath (PROW) running through it, maintained by the then landowner, and this is to be reinstated at the end of the build. Also on this estate is a newly built primary school. The footpath runs alongside the school and its primary pedestrian entrance. This means that there will be a lot of use by pedestrians and cyclists and it seems that the cost of

maintenance of this footpath will fall on the residents of the estate, despite the school catchment area being the whole village. This is causing a great deal of anger and bad feeling.

- A car accident happened on one of the estates and the police state that the lack of signage about right of way was a contributing factor. The residents approached the developer, Management Company and Highways. All of them denied responsibility saying it was for someone else to deal with. The result? Nothing has happened and we are left wondering when the next accident will be. Being on a much used route to school, this is extremely worrying. This is on a junction between adopted roads and an unadopted cul-de-sac.
- These and other issues are likely to result in a fractured community. Already residents of these estates tell children who do not live on those estates not to use the playgrounds. Some get angry with walkers and dog walkers using their open space. These resemble gated communities, but without the gates. It is important to our village that we have a cohesive and friendly community and the very existence of these management companies and their charges threaten to derail this.
- There is ongoing discussion about one local open space that was designated as an orchard and is now left neglected, full of rubbish and dog mess. No-one is accepting responsibility for maintenance of this area and blame is being passed around between various agencies.

Question 1

a) How effective is the process for the adoption of roads on new housing estates in England?

The process is not effective, in fact almost non-existent, and it is concerning that, within this report, it is suggested that roads are constructed to different standards depending on whether they are designated for adoption or not (2.3). Is this piling up the possibility of the residents having to repair these lower standard roads sooner and more frequently? How long before there are complaints from those living on adopted roads being made to pay for the unadopted roads? More fracturing of communities.
Adoption seems to take too long, with residents living on unadopted roads while the estates are built out and for a period of years after this. Developers are left in charge, leading to a delay, for example, in provision of litter and dog bins.

b) What are the barriers to the adoption of roads on new housing estates in England?

Obviously the most significant barrier is unwillingness of local authorities to even consider adopting the roads. The reason given is lack of funding and yet the householders still pay rates to the local authority. They are not given a discount because they are responsible for some of the infrastructure that should be the responsibility of the council. Once the roads are constructed to a lower standard then the local authority has a ready-made excuse for not adopting them. The planning permission for the construction of new estates should include building roads to the same standard to allow them to be adopted.
Indeed it is worse than a reluctance to adopt. Highways authorities set out their stall to actively encourage design of estates to minimise road adoption, steering developers towards a series of disconnected cul-de-sacs destined to become shared private drives – a sure cause of future discontent and cost for homeowners. Disconnected estates lead to greater dependency on cars, as well as reduced social cohesion. We believe that the driving force for design of estate layouts should be connectivity for active travel and building of communities, not reduction of future costs to highways authorities. In a similar way tree lined streets are discouraged for fear of greater highways maintenance costs. Yet tree lined streets are attractive, provide shade, and environmental benefits.

Question 4

a) Please provide views on how effective the adoption process works in practice for (i) sewers and drains and (ii) SuDS. In responding, please state whether your response relates to England, Scotland or Wales, or a combination of nations.

Our response relates to England
(i) We do not have knowledge, direct experience, or resident reports about sewers on new estates. As far as we are aware these are not adopted. They join into the existing public sewer network. We suspect a problem building up for the future in terms of the maintenance of the sewers within the estates. We already have evidence of an adverse impact on the capacity of the sewers outside the estates receiving additional flow. In flood conditions here sewage pushes up through the manholes and runs down the streets. Severn Trent Water is belatedly planning to address this, but far too late, as East Leake has already increased in size by half again.

(ii) SuDS seem to have been included in all the larger recent new estates in our ward in accordance with policy 18 of Rushcliffe's Local Plan Part 2. They are typically specified by third party consultants and approved as part of the planning application – in that a box is ticked to say that plans have been received. There does not appear to be much (if any) technical evaluation of the plans by any party in the consultation process to ensure that the design is fit for purpose. Nobody appears to check that they are constructed to the approved plans, and we know of examples where this is not the case. Nobody appears to check that they work in flood conditions – we know of ponds that overflow in rainfall, others that are empty even in the heaviest rainfall, and others that always have water in. Nobody appears to inspect them to see that they are regularly and correctly maintained. Theoretical maintenance of these is invariably the responsibility of the management company and the cost included in resident charges. Your paragraph 3.54 identifies two problems with this: that they are (a) underground, so their condition and operation cannot be observed and (b) highly technical, so expensive to maintain. A third point is that if they are not working it does not affect the residents of the estate, but those downstream of the estate. It will not be in the interest of the residents of the estate to get any problems resolved, as they will not be impacted, but will have to pay the cost. Downstream residents outside the estate who are affected will have no leverage whatsoever on the management company.

b) Will forthcoming changes in England remove any barriers to adoption?

We do not have enough knowledge of the plans to form a view. If it is mandatory that they are adopted in future, and if adoptable standards are specified and required to be met in planning permissions, and the build is inspected, it could in the long term help for future developments. However a different approach will be needed for developments already built.
A further consideration for adoption of drainage ponds is that they have a public amenity and environmental/habitat aspect as well as a technical job to do to retain water. Maintenance by two different agencies with a different focus will inevitably cause conflicts.

Question 5

a) What measure, or combination of measures would provide the best solution to our emerging concerns? Please give reasons for your views.

It is our opinion that the best solution is to adopt these estates in their entirety, with or without a commuted sum, as has always been done in the past. There should be legislation to make this mandatory. Adopting part of them or particular services merely gives rise to confusion and discontent. Residents of these estates see nearby neighbours in the same community paying the same rates and roads, sewers, street lighting and play parks are all included but they have to pay extra for these services. On all levels this is an unfair system and as stated earlier, is producing fractured communities.
One comment we hear from residents is that it's not just the fact that they have to pay and others don't, it is the fact that they are paying exploitative and uncaring profit-making management companies, rather than the council which is accountable to the public and overseen by elected representatives.
There is a possible option for councils to adopt the public open space on new estates themselves, but charge residents additional council tax for maintenance. The mechanism could be a special expense perhaps in combination with a council-owned company. While a second best option, this would at least mean that residents are not experiencing a threatening and exploitative system. This solution

could also be an option to reverse the situation for estates already subject to management charges, with the council taking over the responsibility and charging the residents for maintenance in the period until the estate is brought up to an adoptable standard.

b) Does the best approach to tackling our emerging concerns differ according to the amenity (eg roads versus public spaces) or by nation?

The main issue with the adoption of all services is that they are provided by different tiers of council and other agencies, such as Highways or water companies, all of which have their own reasons for resisting taking responsibility. It would make sense for services that are integrated with neighbouring estates and communities to be adopted. This should result in a more comprehensive overview of roads, sewers and drainage. If the maintenance of open space, grass cutting etc. is not adopted then the situation could revert to that which the purchasers were informed about and expected in the first place and become a more reasonable charge. If this work was to be carried out by local companies, they would be more accountable, provide local employment and costs wold be kept within the local economy.
Some of the issues differ between the nations e.g. policy concerning adoption of roads. With Scotland and Wales having their own devolved parliaments more progress may be made by dealing with each separately. In Scotland it would appear that the adoption of roads is more automatic. It would appear from this report that Wales (3.41) and Scotland (3.42) are more ahead in looking at these problems. Lessons can be learned from the approaches in each nation.

c) Are there any options that may be more effective in addressing our emerging concerns than those that we have proposed?

For maintaining open spaces, management companies should be replaced by local authorities, who could make a minimal charge, which they could manage and keep within the standard increases as applied to rates. This could prevent excessive increases, a worry for most homeowners, lead to local employment opportunities and keep the charges within the local economy. This should be appealing to local councils.
Removing the additional charges for things that have no connection to roads, water and sewage and maintenance of open space is essential. These are onerous for householders and seemingly unnecessary. If management companies were removed, then householders will have the same rights as other freeholders and the same access to the appropriate authorities without have to go through a third party and pay for the privilege. For example they would be subject to the same planning rules as anyone else without the interference on a third party. The huge cost of administration, often half of the annual fees, will instantly disappear. The residents of these estates need to be afforded the same access to help and support from local councils as those occupying older properties.

Question 6

a) Would enhanced consumer protection measures by themselves provide sufficient protection for households, or would mandatory adoption also be necessary to achieve a comprehensive solution to the detriment experienced by households living under private estate management arrangements?

The measures suggested in 4.16-4.21 would undoubtedly alleviate some of the issues, particularly for the existing victims of the system. But this leaves the question of who will monitor and enforce these measures. How will householders be able to report breaches of agreements, to whom and at what cost? An unwieldy, time consuming and costly process will not give householders the protection that they need.
Mandatory adoption, a more permanent, legislative approach would be preferable.

b) Are there any other measures that are required to provide adequate protection to households living under private estate management arrangements?

At present the charges made by management companies are not capped and the concerns are that they will increase disproportionately. Consumer protection measures should include capping the fees and regulating the type and cost of additional fees and charges. There are examples of sudden, high percentage increases of items such as insurance which the management companies are reluctant to explain and justify. And they charge for answering a query about them. Being expected to pay to ask a question needs to stop otherwise accountability is non-existent.
The penalty for non-payment of charges, with management companies having a charge on the house, is disproportionately punitive compared to, for instance, a failure to pay council tax. The penalty should be equivalent. There should be the same access to hardship grants, exemptions, reductions, periods of grace, advice etc. as for council tax.

d) Do the protections afforded to households in Scotland by virtue of the Property Factors (Scotland) Act 2011 provide adequate protection, in accordance with the principles outlined above.

Homeowners in Scotland appear to have more protection with Property Factors required to be registered and to comply with a statutory code of conduct. There is also a recognised route for reporting when the Property Factors fail to meet their obligations. (3.187)

e) Should such measures be implemented by the UK, Scottish and Welsh governments, as appropriate, or by the CMA following the conclusion of a market investigation? Please explain why, and whether this differs by nation.

Implementing such a system in all nations would offer more protection for homeowners and give clearly defined routes when there are failings in the management of the open spaces and the imposition of unreasonable charges. At present there is little that homeowners in England can do apart from court proceedings, which will be out of reach of the majority due to the time consuming and financial burden. 3.181 and 3.182 demonstrate the ineffectiveness of this system whereby homeowners will not necessarily receive any sort of rebate on overcharges and are likely to have costs added on to future bills.

Question 7

a) Would the determination of common, adoptable standards support an increase in the adoption of amenities by local authorities?

Yes. It would make it harder to refuse as the standards of build seem to be one of the main reasons for rejecting adoption. However, although this would seem to be the most logical solution, it may meet opposition as it could increase costs elsewhere and therefore be strongly resisted by developers and councils alike. As in the response to question 1, one wonders why a system of differing qualities of construction has been allowed to continue.

b) Are there existing standards that could be used to support the determination of common adoptable standards?

We don't feel that we are expert enough in understanding the existing standards for roads, sewers, SUDs etc. However our reference to the problem with a local footpath, in page 3 of this response, includes some concern about the surface not being robust and long lasting. It will therefore require regular maintenance with cost to the estate residents who have had no input into the construction design of the footpath.

c) Who should be responsible for determining and enforcing common adoptable standards?

Surely this needs to be established at the planning stage so that new estates are built to a sufficient standard for adoption, therefore removing the need to any remedial work at a later date that would inevitably cost more. There should be national standards, possibly with minor variations possible at a local plan level.

d) Should this option only apply to future housing estates or include existing housing estates? If the latter, how and over what timescale could existing infrastructure be brought up to the agreed common standard?

If the estates that are already built out are excluded from any legislation, then we will still end up with a sub-set. There will be thousands of homeowners in impossible and disadvantaged situations, carrying unnecessary financial and emotional burdens. It could see them unable to sell their houses, unable to move home, which could in turn impact their employment prospects, and locked into circumstances they cannot get out of. Some already refer to themselves as being considered second class citizens by local councils and leaving a group of people stuck between traditional house building, where estate charges do not exist, and newer, where adoption of open space and infrastructure become the norm, will only aggravate the situation. This surely is about equality. There is a danger that the estates caught in this system will be avoided by future house purchasers, leading to houses that achieve lower sales values and a general deterioration in the estate. Note that in communities like ours, where a massive expansion in housing has taken place during the period when these arrangements have been promoted, this could blight a whole settlement. This will be true of new towns and large strategic developments.

Question 8

a) How should local authorities fund the cost of remedial work required to bring a public amenity up to adoptable standard?

To answer this requires a degree of expertise beyond ours. It should be remembered that the local authorities still receive full rates from these homeowners. A specific government grant could be made available to local authorities to tackle the issue.

b) Which sanctions, if any, should be available to public authorities in case a housebuilder fails to build a public amenity to the adoptable standard?

We would have thought that this would be covered by enforcement measures from the local planning authority, in the same way as any other breaches of the conditions and original planning applications are covered. Planning authorities need access to experts who can check designs submitted with planning applications and later check that construction accords with plans.

c) Are there particular examples of standard setting arrangements in Britain that should inform our approach? For example, are there lessons from the requirements of the Roads (Scotland) Act 1984 and the Security for Private Road Works (Scotland) Regulations 1985, SI 1985/2080 (as amended) that should be considered across England and Wales?

Once again, this requires a deal of expertise. However reading the information about the regulations in Scotland, this would seem to be a positive way forward.

Question 9

a) Is mandatory adoption likely to be an effective and feasible option to address our emerging concerns in relation to new housing estates? Please state whether this applies in general terms, or to specific amenities, and/or in specific nations.

This is really the only way forward. Ideally this would apply in general, particularly to amenities that are connected to, and impact, adjoining facilities. There could be an argument for excluding the open spaces but this will still result in poor management and complaints unless the service agreements are enforced. It is also liable to conflict between users who do not pay in to the upkeep of these areas. This is particularly difficult when regarding children's play areas where neighbours, not necessarily from the same estate, want to play together.

b) Do you agree with our preliminary view that mandatory adoption is likely only to be practicable for new housing estates, given the significant additional challenges and costs of retrospective adoption? Please explain your views.

This will certainly not solve the problems faced by residents of new estates our ward. Existing estates MUST be tackled. Of course addressing the issues here will be a mammoth task as we are looking at roughly 1400 dwellings on seven estates built by several developers and managed by different companies in our ward alone. How much remedial work would be required is unknown and would

take multiple surveys and consultations to discover. Borough wide this number is huge although one hopes that more recently constructed estates would be built to adoptable standards as the issues involved have become clearer and more recognised.

c) Do you consider there to be any unintended consequences from mandatory adoption? If so, please describe the consequences and state whether this applies in general terms, or to specific amenities, and/or in specific nations.

It is feasible that rates may need to increase throughout the local areas to fund the mandatory retrospective adoption and this may cause issues amongst residents who do not live on these estates. If this did happen then clear justifiable reasoning should be publicly available.
If residents are paying rates then there should be no justification in increasing them if the construction is carried out to adoptable standards from the outset.
It seems incredible that some parts of these estates are built to lower standards. We question if the buyers are aware of this when purchasing a property on the estate and choosing a particular plot on the estate.

d) Are there circumstances where it may not be appropriate for a local authority to adopt a public amenity? Please provide an explanation.

There does not seem any reason to split the adoption by amenity. Refer to the response to part (a) above.

Question 10

a) Are our proposed criteria for determining which public amenities should be adopted the right ones? Are there amenities that we have not mentioned but should be included?

The proposals for deciding what amenities should be adopted (4.47) are sound and reasonable. There are questions around 4.48a on what makes the roads not meet eligibility for adoption and each case would need careful examination. This should not be an excuse for closing off play areas (4.48c). Try to imagine a child seeing other children, maybe school friends, playing where they are not allowed to join them.
Play parks have been a contentious issue in our area. Are they regularly inspected and maintained to the standards required for adopted play parks? Are users from outside the estate covered by insurance? Adopting these would prevent them being claimed by a few residents and forcing others to leave. The social impact of this issue is intolerable when applied to children.
Car parking is a frequently mentioned issue. See page 2 earlier in this response.
Most of the new developments are on the edges of the village and some of these estates have PROWs crossing them as well as open space planted with trees that encourage wildlife. We are a rural village where access to the countryside is the norm and so the use of these paths is universal. There is contention about who should be able to access them and who should be paying for their maintenance. These should be adopted by the local authorities.
Any new footpaths and cycle-paths created but not part of the road network should be made into Public Rights of Way.

Question 11

a) How should local authorities fund the long-term ongoing maintenance of adopted public amenities? Please provide examples of existing or considered funding mechanisms where relevant (for example we noted in paragraph 3.58 the national commuted sums approach considered in the review in Wales of the implementation of Schedule 3 of the Flood and Water Management Act 2010)

Commuted sums can at least go some way towards offsetting the funding issue. Mechanisms may be needed to enforce their payment. They should be mandatory with stricter criteria for avoidance and measures to assist with enforcement if developers do not pay them.