



DUCHY of CORNWALL

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Telephone: 071-834 7346 Facsimile: 071-931 9541

J. E. Roberts, Esq.,
Housing - Private Rented Sector Division,
The Department of the Environment,
Room N11/03,
2 Marsham Street,
London SW1P 3EB

28th September 1992

Dear Mr. Roberts,

Further to our meeting on 23rd September 1992, as requested, I set out below the information you requested on Newton St. Loe, the Duchy village in the green belt near Bath which is excluded from the voluntary agreement entered into by the Duchy at the time of the enactment of the Leasehold Reform Act 1967, in respect of the spirit of that Act:

- (i) The Newton Park Estate, which covers some 4,800 acres, was acquired by the Duchy in 1941. The estate is one of the main holdings of the Duchy and particularly well liked and valued by His Royal Highness because of its well-balanced mixture of farms and woodland, Newton Park (the listed mansion house) and, most importantly, the village of Newton St. Loe itself, which has been preserved by the Duchy since its acquisition.
- (ii) Newton St. Loe comprises the following:
 - 46 residential properties, some of which are listed.
 - 2 farm houses and sets of farm buildings and 6 farm cottages
 - 7 places of work, including the main Duchy agricultural office
 - 2 halls
 - 1 shop
 - 1 church

As you can see from the attached plan, the Duchy owns the freehold of all the properties with the exception of one house, the Mullions, on the edge of the village, and the church.

(iii)

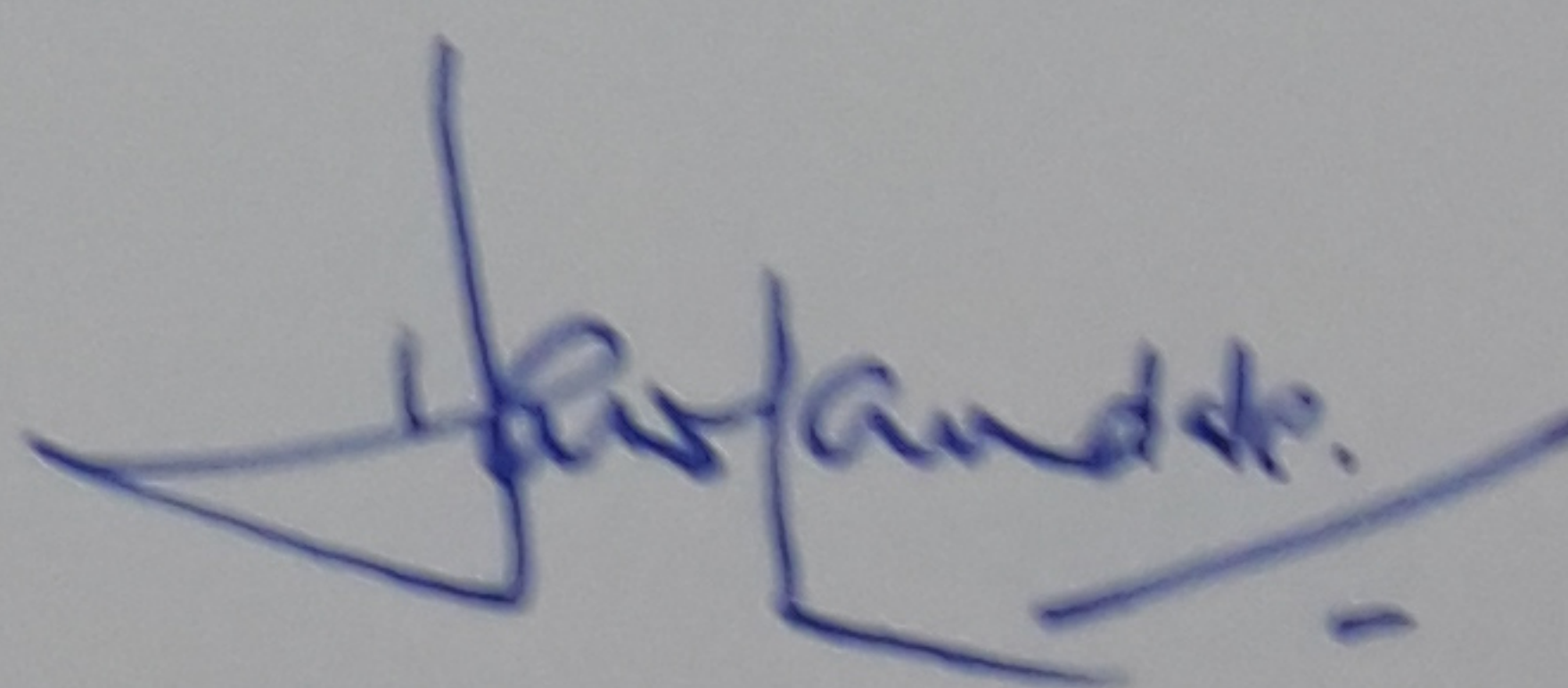
The Duchy has expended considerable sums on the Estate since its acquisition and now has an asset which is not only of considerable intrinsic value but which also represents a most attractive area enjoyed by people living on the estate and by visitors to the area. The Duchy regards its interests in Newton St. Loe as inalienable, as it does its interests on the off-islands of the Isles of Scilly, the Garrison on St. Mary's, Isles of Scilly and the high moor of Dartmoor.

(iv)

Four of the larger residential properties in the village, we believe, would be enfranchisable under the Leasehold Reform Act 1967 but are currently not so because of the exclusion of Newton St. Loe from the voluntary agreement, following the resolution of The Prince's Council in November 1979, a copy of which I attach hereto, together with relevant related papers.

I hope the above is of assistance and that it will enable Ministers to agree to maintain the current arrangements for the Crown under the Leasehold Reform Act 1967, an arrangement which has worked well to date and, seemingly, to all parties' satisfaction.

Yours sincerely,



D. W. N. Landale
Secretary

c.c.: H.R.H. The Prince of Wales
The Duchy Solicitor

Attached.
DWNL/KJSK/AJW

Minister - content with the
recommendation summarised
in para 19?

PS/Mr Baldry ✓

This seems to be a reasonable way forward.
We must visit Newton St Loe, if we can be covered
it will make a precedent for a number of other instances
TB 25/2

LEASEHOLD ENFRANCHISEMENT - APPLICATION TO THE CROWN

The Issue

1. This submission reports on discussions with the Crown Estates Commissioners and the Duchies of Cornwall and Lancaster about the application of the new legislation to the Crown. It seeks decisions on the extent to which their properties should be exempt. Apart from one significant issue (the village of Newton St Loe) I believe we can accept what they are prepared to offer.

Background

2. The 1967 Leasehold Reform Act does not bind the Crown. The Crown did, however, give a voluntary undertaking (copy at A) to enfranchise its tenants except in certain areas. Although Ministers considered the possibility of binding the Crown in the new legislation, the Secretary of State thought we should not seek to do this if a satisfactory new undertaking could be achieved. (If the Crown were bound, this would be the first occasion since 1760 that it had been forced to divest its property to a third party.)

The Crown Estate Commissioners

3. The 1967 undertaking would exempt many of the Crown Estate properties in central London on grounds of historic and architectural interest which could equally well be argued by the Grosvenor Estate for example. We have therefore sought a much more limited category of exemptions, clearly linked to the specific factors associated with the Crown rather than aesthetic considerations generally.

4. They have reluctantly agreed to extend voluntary enfranchisement to all the properties which would otherwise be covered by the new legislation, except for the minority where:

- (i) the land is held inalienably;
- (ii) there are particular security considerations;
- (iii) properties in or intimately connected with the historic Royal Palaces and Royal Parks. (This exemption will include the Nash Terraces facing Regents Park.)

✓ Sir George Young agreed to this approach earlier.

5. The Crown Estate have now accepted that it would be a nonsense to allow high valued houses falling under the new undertaking to be enfranchised in central London while low valued houses exempt under the wider 1967 exemption would remain

POLICY IN CONFIDENCE

unenfranchisable. They are therefore prepared to accept that the new undertaking should replace rather than supplement the earlier undertaking. (This is subject to one caveat on price - see paragraph 13). This step is welcome. ✓

The Duchy of Cornwall

6. The Duchy has always resisted enfranchisement in three areas:

(i) the off-islands off the Isles of Scilly (St Agnes Byrher, St Martins and Tresco), and the garrison on St Mary's;

(ii) Central Dartmoor;

(iii) the village of Newton St Loe.

7. The Duchy wish to retain exemption under the new provisions for these three categories. They are prepared to enfranchise properties in Kennington, subject to Treasury consent as to price if that is required under their statute.

8. The exemption for the Isles of Scilly is of little significance. There is probably only one property which will become newly enfranchisable under the new legislation - Tresco Abbey. Central Dartmoor does contain a few houses. But both the Scillies and Dartmoor have been in the Duchy's possession since the 14th Century, and were for many years inalienable (although that is not the legal position now). There is therefore a long and particular connection with the Crown, and it would be difficult, for example, for Grosvenor to argue that their estates ought to be excluded on similar grounds. Little damage would therefore be done by conceding on these two areas. ??

9. Newton St Loe is much more difficult. It is an estate of about fifty properties near Bath. Details and a map are at Annex B. The property came into Crown possession only in 1941, and there must be many similar examples across the country where the great landowners have retained the freeholds of similar villages. The Duchy's argument that they have invested in and nurtured the estate applies equally well elsewhere.

10. The difficulty is that the Prince of Wales takes a close personal interest in the development of this village. The property has enjoyed the benefit of exemption under the 1967 undertaking, and the Prince sees no reason why he should now relinquish control. It has been made clear to me that if the Government wish to press ahead on this issue, the Prince will wish to discuss it at the highest levels. (Sir George has already had a meeting with him on leasehold reform generally.)

Duchy of Lancaster

11. The sticking point for this Duchy is Tickhill Castle, Doncaster, part of the ancient inheritance of the Duchy and one of its original assets. I think this might be included along

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with the Scillies and Dartmoor as part of the limited exemption, without doing damage to our general policy.

Government Departments

12. Few Government Departments hold any residential property let long on leases, and so far none have objected to granting enfranchisement voluntarily.

Price and Conditions of Enfranchisement

13. Where the Crown does Enfranchise, it will follow the same valuation practices as other landlords. They seek one exemption. In 1980 the Crown Estates granted certain of their rack-renting tenants long leases at a discount to market value, somewhat analogously to the right to buy discount available to local authority tenants. They argue that to apply the valuation basis in the 1967 Act for low-value houses (which is a admittedly biased in favour of the tenant) would provide a double discount and would be unfair. They would therefore propose that the valuation basis applied to medium value houses and to flats (based on open market value) should apply. I think this concession is justified. (There is already a similar statutory concession for RTB sales by local authorities.) ✓

14. We are proposing that the Crown should be entitled to apply for estate management schemes in the same way as any other landlord. ✓

Lease Extensions in Lieu of Enfranchisement

15. The Crown are prepared to agree to grant lease extensions in those circumstances where they refuse enfranchisement. An analogy with our proposals for flats, where lease extension is available only where a block does not qualify for enfranchisement, would require that the lease should be for 90 years beyond the original term, and would be the same in all respects except that the ground rent would be a peppercorn. This contrasts with the provision under the 1967 Act, where the tenant has a choice of enfranchisement or a 50 year lease extension at modern ground rent. ✓

16. The Crown Estate has argued strongly that if they grant new leases, they should be on modern terms and conditions. Not only would this enable them to reflect modern practice in some leases which are now seriously out of date, but it would help them to deal sensibly with estate management. Their practice is to grant leases reflecting the expected life of the building, before major refurbishment is required. This refurbishment is then a condition of the granting of the new lease. If they had to grant a new lease for an extra 90 years on the same terms and conditions they would have no opportunity either now (as the new lease is being granted) or later (when the original lease would have fallen in) to insist on refurbishment. If they could grant an up-dated lease, they could insist on the necessary refurbishment now, or appropriate clauses to ensure future works

POLICY IN CONFIDENCE

to keep the property in good condition. This would all be reflected in the premium to be paid for the lease, and so although different is not necessarily less fair than what we have proposed for flats.

17. I have some sympathy for their argument - their approach reflects sensible estate management - but if we accepted there is risk of undermining our position on the Bill. (We have insisted that the terms remain the same and the rent becomes peppercorn, largely to simplify valuation procedures and to avoid disputes between landlords and tenants as to what a modern lease would be.) There is bound to be significant debate on these issues, and this might be an area on which we would wish to think again on the detail. I would therefore hope that we might avoid a dispute with the Crown Estate on this issue now by simply saying that the Crown will be prepared to "negotiate new leases" where enfranchisement is denied. ✓

Tactics

18. We need to resolve these issues in time to publish the new undertaking before second reading. In practice, this means that details will need to be substantially settled within the next fortnight.

19. I recommend that we tell the Crown Estate and the Duchy that Ministers are reluctantly prepared to grant the limited exemptions which have been discussed, other than on the question of Newton St Loe. The new undertaking is considerably more limited than that given in 1967, and the fact that the Crown is prepared voluntarily to enfranchise almost all its tenants will remove one argument from the debate.

20. The Prince of Wales is likely to come back on Newton St Loe. Ministers will then need to decide whether it is worth fighting him on this issue.

21. I should be grateful to know if Mr Baldry is content with this approach.

Anne E. Hemmings

J E ROBERTS

HPRS

N11/03

☎ 276-3379

FAX 276 0531

30 September 1992

cc PS/Secretary of State

PS/Sir George Young

PS/Lord Strathclyde

PS/Mr Wilson

Miss Turton

Mr Kinghan

Mrs Phillips

Mr Sharpe

Mr Rock

Mr Gray

PS/Mr Baldry

LEASEHOLD ENFRANCHISEMENT - NEWTON ST LOE

46 614
Crown
9-10-92

1. Mr Baldry is to visit Newton St Loe on Monday afternoon, with the aim of agreeing whether Newton St Loe should be included or excluded from the Crown's voluntary undertaking to enfranchise its tenants.

2. Mr Baldry is likely to meet Mr Landale, Secretary to the Duchy of Cornwall, who I understand "represents" the Prince of Wales and is therefore able to do business. He is likely to be supported by Kevin Knott (Assistant Secretary) - I think it is Mr Knott who is effectively in charge of this subject.

Background

3. We have now reached agreement with the Crown Estate and with the Duchies on all significant aspects of the voluntary undertaking they will give. A copy of the current draft is at A.

This represents a significant advance over the 1967 undertaking, in that the Crown is now prepared to enfranchise a much wider range of properties with only a reduced number of specific exemptions. Newton St Loe remains the one issue in dispute.

4. The letter at B describes the Duchy's holding at Newton St Loe. In summary, there is an estate together with a village of about 50 properties. It has been in the Duchy's possession since 1941. It was excluded for enfranchisement under the terms of the 1967 Crown undertaking.

Objectives

5. Our objectives, with the most important first, are:

(i) to ensure that the consent of the Queen and of the Prince of Wales to the Bill is obtained before 21 October - their consent is necessary before the Bill may be introduced;

(ii) to secure agreement to an undertaking from the Crown which we can publish before Second Reading - it is to our advantage to make clear that the Crown is prepared to enfranchise the majority of its tenants, in order to avoid this becoming an issue in the House.

(iii) to secure that the treatment of Newton St Loe itself does not become an issue in debate; and

(iv) the tenants of Newton St Loe are not put at a disadvantage compared with tenants of other landlords.

6. The Bill does not bind the Crown. Hence it might be possible to secure the Prince's consent to the Bill while negotiations on the coverage of the extra-statutory undertaking continue. But it would clearly be better to have the Newton St Loe issue resolved before we approach the Queen and the Prince. Ultimately

I assume that the will of Ministers can prevail over that of the Monarchy, but a Constitutional crisis would add a further dimension of controversy to the Bill which would be better avoided.

7. It would be possible for the position on Newton St Loe to be reserved in the published undertaking for settlement later, but that would focus attention on the issue - precisely what we wish to avoid. Our aim is to have the Crown out of play, to avoid giving an argument to the landlords seeking to oppose enfranchisement on the one hand or those in Parliament who might seek to attack the special privileges of the Crown on the other.

Arguments

8. The Duchy will argue that Newton St Loe was exempt from the 1967 undertaking, is of particular importance to the Duchy's holdings, and is a project close to the Prince's heart. They will argue that estate can only be sensibly managed as a coherent whole, and that enfranchisement will therefore break up and destroy the particular character.

9. I understand that while Newton St Loe is an attractive village, it falls short of being of such exceptional quality that a case could be made on national heritage grounds.

10. Our arguments are:

(i) the Government is quite prepared to consider binding the Crown, and was only prepared to proceed by way of an undertaking instead on the basis that exceptions would be limited to situation where the Crown's particular circumstances clearly justified them. (Although the Secretary of State indicated earlier that it was not a practical proposition to bind the Crown, the Crown do not know this.) It would therefore be possible to hint that we might be prepared to adopt this route, in which case the Crown would lose the benefit of concessions already gained (eg Regents Park, Royal Palaces, Isles of Scilly) if they hold out for Newton St Loe as well. They might, however, call the Minister's bluff - and Counsel certainly will not have time to explore the implications of binding the Crown (which will involve amending several earlier statutes) in the remaining time before introduction. Nor would we ever really want to enfranchise eg tenants in Windsor Castle or Hampton Court;

(ii) Newton St Loe is no different from many other villages across the country - including some others in Crown ownership. No special case can be made beyond the fact that the Prince has taken a special interest. Our proposals for Estate Management Schemes are adequate to deal with the need for the Duchy to retain some control over the appearance and development of the village.

11. The Duchy may look for a way of achieving their objective of retaining the village while removing it has a cause of contention. They have suggested, for example, that the Prince might declare the village to be inalienable. Enfranchisement does not apply against land which statutorily inalienable, but the Duchy envisage merely an extra-statutory declaration. I do not think that this would do - it would only be effective if the land were transferred to the National Trust and actually became inalienable under law. This might provide a way out if the Minister is unable to persuade the Duchy to give way and believes that our position is not strong enough to force them to concede.

Conclusion

12. The Minister will wish to ensure that we have a route at least to secure the Prince's consent to the Bill's introduction and to the publication of an undertaking on the Crown generally. If the Minister can persuade the Duchy to yield, there is no further problem. If not, the Minister faces a choice between conceding (probably after further consideration), in which case the exemptions to the undertaking will need to be enlarged to encompass Newton St Loe, or seeking to defer a decision while looking for a mechanism to break the deadlock. Unfortunately, I am not aware that our Constitution has provided any such mechanism!

J. E. Roberts

J E ROBERTS

HPRS

N11/03

☎ 276-3379

FAX 276 0531

9 October 1992

cc PS/Sir George Young
PS/Lord Strathclyde
Miss Turton
Mr Kinghan
Miss Phillips
Mr Sharpe
~~Mr Alexander~~

My judgement is that we have probably
got as far as we can with this
+ subject to making for me
concern in para 4 of the memo is removed
with the matter now

Minister - how do you
wish to proceed?

(See Sir G's comments attached)

PS/Mr Baldry

CS 24/10

HOUSING AND URBAN DEVELOPMENT BILL: NEWTON ST LOE

1. Following my brief discussion with the Minister this morning, I have now received the attached letter from Mr Knott concerning Newton St Loe.
2. You will see that they have concluded that the possibility of establishing a trust to hold Newton St Loe inalienably does not work for "legal, practical and financial reasons". I have no reason to doubt that this is so.
3. The Duchy are therefore proposing merely that the Prince's Counsel resolve that the freehold interests be inalienable, and it then be excluded from the scope of the undertaking on voluntary enfranchisement on the grounds of a "particular" association with the Crown. This is rather stretching what we had in mind by particular - I was thinking more in terms of Windsor Castle or Hampton Court rather than four houses in an unknown village in the Cotswolds.
4. We now face a choice between conceding, or refusing their request. On the basis that it is important to avoid a major row with the Prince of Wales, that only four houses are concerned, and that the Duchy will be prepared instead to grant voluntary lease extensions by analogy with the statute, there is a case for letting matters rest. We might also ask the Duchy to give an undertaking that if the occupiers of these houses ever wish to sell their lease and that proves difficult because they hold only a lease rather than a freehold, the Duchy will be prepared to buy-in their leases at a fair price. I think the Duchy will accept this concession if pressed.
5. The alternative is to stand our ground. The Duchy would then either have to give way, or could refuse to agree to the voluntary undertaking (which we would wish to ensure is published

before Second Reading).

6. My view is that as we have now forced the Crown to reduce considerably the range of exemptions which were in the 1967 undertaking, we should now bank what we have and take credit for the new undertaking - and take it quickly. It would be for the Prince (rather than the Government) to justify the exclusion of Newton St Loe if the matter ever became a matter of public debate. But it is open to the Minister to fight if he wishes, recognising that this is likely to have costs to both sides.

J. E. Roberts

J E ROBERTS

HPRS

N11/03

☎ 276-3379

FAX 276 0531

22 October 1992

Dept: Mr Roberts
cc Mr Unwin
The Stamp
Mr Carter
88



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DUCHY of CORNWALL

DEPARTMENT OF THE ENVIRONMENT
RECEIVED IN
22 OCT 1992
PRIVATE OFFICE

10 BUCKINGHAM GATE LONDON SW1E 6LA
Telephone: 071-834 7346 Facsimile: 071-931 9541

HRS/6/14/0012

22nd October 1992

Ms. Penny Allars,
Private Secretary,
Department of the Environment,
2 Marsham Street,
London SW1P 3EB

Dear Ms. Allars,

Housing and Urban Development Bill

Thank you for your letter of 19th October 1992.

Having discussed this matter with His Royal Highness,
I am writing to confirm that His Royal Highness has signified his
consent in right of the Duchy of Cornwall to the Bill.

I have instructed the Duchy Solicitor to deal with the
finalisation of the Crown Undertaking, a draft of which you sent
me and which, in principle, is satisfactory.

Yours sincerely,

D. W. N. Landale
Secretary

DWNL/AJW

✓

I understand that I will shortly be receiving, in my capacity as Duke of Cornwall, a request to signify my consent to the Housing and Urban Development Bill. In advance of receiving this request, I felt that I should write to express my specific concern in respect of one aspect of what I understand will be in the Bill. Before doing so, however, I am pleased that in respect of the Duchy of Cornwall, discussions between the Secretary of the Duchy and the Department of the Environment are progressing satisfactorily. I understand that all matters, including the content of the voluntary undertaking in respect of the Bill, and the exclusions thereto, should be concluded within the deadline to which the Department is working.

My particular concern relates to the long-term effect of enfranchisement on those historic parts of London and elsewhere which, under the leasehold system, have been responsibly managed by lessors - and which now represent some of the most admired

parts of our national heritage. I appreciate that, under the Bill, lessors will be able to establish management schemes with powers to preserve the environmental and architectural integrity of these estates and properties. Obviously, these schemes go some way to dealing with my concern. However, it does seem to me that there may be instances where, for whatever reason, a responsible lessor decides not to establish such a scheme and allows enfranchisement to take place regardless. I have seen photographs of instances where this has happened under the Leasehold Reform Act 1967 and, I must say, the result is very depressing. (I am enclosing a set of such photographs which show what the effect can be). Derelict buildings and inappropriate alterations and additions to the elevations of individual buildings have, notwithstanding the planning legislation framework, destroyed once coherent streetscapes.

Obviously, I hope, and expect, that most responsible lessors will establish management schemes to preserve the special character of their estates and properties. The leasehold system seems

to me to provide an excellent model for the Department to follow in as much as it is clear that this system has achieved, when implemented well, the quality of built environment which, as I say, is globally and in the literal sense, admired. I am far from being a lawyer, but I do urge you most sincerely to ensure that a legal framework is created whereby responsible lessors will be able to establish and operate schemes which achieve the same level of practicable control, in respect of preserving the integrity of the estates and properties, as applies under the leasehold system. After all, some of the best known and most admired streetscapes in London, and elsewhere, are the consequence of this system. If this is not possible, inevitably, I fear, over time, some of the jewels of our built environment will be lost - and will never be recoverable.

On a more general note, from my experience with the Duchy of Cornwall, I am very aware that the variety of property arrangements which are entered into is almost infinite. The flexibility of the

existing legal system to cater for different types of property is substantial and laudable. I do hope that the Bill will deal with all the situations which currently exist in an equitable manner and will not, through over-simplification, disadvantage any lessor or lessee unintentionally.

You will appreciate from the above that I am very concerned about the effects of this Bill on our built environment in the long-term and that the Government may be paying too heavy a price in attempting to extend the ability to enfranchise to all lessees.

I hope that you do not mind my writing in this manner and that, in due course, my concerns will prove to be unfounded.