

A large flock of birds, possibly terns, is captured in flight against a vibrant sunset sky. The birds are silhouetted against the bright, golden light of the setting sun, which is positioned in the upper right quadrant. The sky transitions from a deep orange near the horizon to a lighter, more yellowish-gold towards the top. The ocean is visible at the bottom, with gentle waves reflecting the low sun. The overall mood is serene and dynamic.

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Real Estate UK Horizon Scanner

Summer 2024

Consultations

The following consultations are currently in progress, or have recently closed

Consultation	Detail	Closing Date	HL articles
Consultation on contractual controls on land	This consultation considers the government's plans to provide a more transparent picture of controls on land through the creation of a freely accessible dataset. Part 11 of the Levelling Up and Regeneration Act (LURA) gives the government the power to collect and publish information about "contractual control agreements" – meaning option agreements, pre-emption agreements, conditional contracts, and promotion agreements (but excluding overage and clawback agreements) – which are " <i>used to control land short of outright ownership</i> ". The proposed regulations would require the grantee of a "contractual control agreement" which subsists for more than 12 months entered into from 6 April 2021 onwards to provide information digitally about the agreement.	Consultation closed on 20 March 2024 and its findings are awaited.	
Consultation on transparency of land ownership involving trusts	The consultation seeks views on the government's aim of increasing transparency of land ownership involving trusts, including widening access to trust information held on the Register of Overseas Entities. To help inform decisions on balancing the making of information available and legitimate concerns in sharing that information publicly, the consultation seeks views on what data would be most useful and why.	Consultation closed on 21 February 2024 and its findings are awaited	
Law Commission consultation on Landlord and Tenant Act 1954	The government has commissioned a Law Commission review of the Landlord and Tenant Act 1954, and security of tenure provisions for business leases.	Consultation Paper was due to be published in Autumn 2024 but this has been postponed due to the upcoming general election.	UK Landlord and Tenant Act 1954: what might reform look like? - Hogan Lovells Engage
ESG: Consultation on the Community Infrastructure Levy	The consultation considered how to reform the Community Infrastructure Levy, the existing system of developer contributions.	Following closure of the consultation, the legislative provision for the Infrastructure Levy is now contained in LURA but is not yet in force.	

Consultation	Detail	Closing Date	HL articles
ESG: Consultation on Environmental Outcomes Reports	The consultation contemplated how the European-based system of environmental impact assessments is to be replaced.	Following closure of the consultation, the legislative provision for Environmental Outcomes Reports is now contained in LURA. Certain elements allowing the Secretary of State to make regulations came into force on 26 December 2023, but the majority of the provisions are not yet in force.	<u>UK Environmental outcomes reports: evolution or revolution? - Hogan Lovells Engage</u> <u>UK: Earth Day: Investing in our Planet – real estate and planning</u>
Consultation on the introduction of a use class for short term lets	The consultation sets out proposed changes to the Town and Country Planning (Use Classes) Order 1987 (as amended) including the introduction of a new use class for short term lets and associated permitted development rights.	This consultation has now closed. The government announced that there will be legal provisions introduced in the summer however this was before the government announced the general election.	
Consultation published on changes to PD Rights	<p>This consultation introduces proposed changes to the Town and Country Planning (General Permitted Development) (England) Order 2015 (S) 2015/596) (GPDO 2015). It looks to make changes to enable:</p> <ul style="list-style-type: none"> • householders to improve and enlarge their home. • the upward extension of a range of existing buildings. • demolition of certain buildings and rebuild as homes by simplifying the process. • the installation of air source heat pumps by simplifying their installation 		
EU Commission call for evidence on Commercial Real Estate Statistics	The call for evidence proposes a new Regulation which the Commission states would fill a significant gap in the availability of statistical information on commercial real estate, as there are currently few official sources of such statistics. The Regulation aims to provide a framework for developing, producing and publishing statistics on commercial real estate. The statistics to be covered would include as a minimum indices on prices, rents and on construction starts and completions. They could be used in particular to monitor financial stability, for fiscal, monetary and macro-prudential policymaking, and for research on real estate markets.	Consultation closed on 25 December 2023. Adoption planned for 2024.	

Consultation	Detail	Closing Date	HL articles
Consultation on strengthening planning policy for brownfield development	<p>On 13 February 2024, the Department of Levelling up, Housing and Communities published a consultation on strengthening planning policy related to brownfield land in the National Planning Policy Framework.</p> <p>The consultation is also seeking feedback reviewing the application referral threshold to the Mayor of London.</p>	The consultation closed on 26 March 2024.	
Proposed changes to update the planning system	<p>On 6 March 2024, the Department for Levelling Up, Housing and Communities published a consultation document “An accelerated planning system: consultation”. This included changes to address the <i>Hillside</i> legal judgment on overlapping planning permissions.</p>	The consultation closed on 1 May 2024.	UK: Planning spring round-up - Hogan Lovells Engage

New and pending legislation and crucial cases

This covers future legislation where: a Bill has been drafted and is passing through parliament; a forthcoming change in law; and recent changes that have come into effect as well as key cases.

Legislation	Detail	Date	HL articles
ESG: MEES- forthcoming changes	<p>MEES – what to be aware of in 2023 and beyond:</p> <ul style="list-style-type: none"> 01.04.2023 – prohibition on continuing to let commercial property with a substandard EPC rating of F or G is now in force Changes on the horizon – 01.04.2030 – minimum EPC rating of B 	1 April 2023 and 1 April 2030	<p>So what will ESG bring in 2024 for the UK? - Hogan Lovells Engage</p> <p>What does ESG mean for UK Real Estate? – Hogan Lovells Engage</p>

Legislation	Detail	Date	HL articles
	<ul style="list-style-type: none"> – New “Compliance windows” requiring presentation of valid EPCs for commercial property within the scope of MEES – Note that in relation to MEES for non-commercial properties the government has scrapped its plans to tighten rules. <p>The Better Buildings Partnership's Green Lease Toolkit was first issued in 2013 and established a market baseline for green lease drafting. A revised and updated toolkit was launched by the BBP on 29 January 2024 and will, we expect, set a new benchmark for green lease provisions.</p>	29 January 2024	<p><u>ESG, everywhere, all at once – Hogan Lovells Engage</u></p> <p><u>UK MEES: Reviewing a greener future – Hogan Lovells Engage</u></p> <p><u>UK: Why MEES are not enforced – and how they can be – Hogan Lovells Engage</u></p> <p><u>ESG: Sustainability concerns see green leases evolve in the UK – Hogan Lovells Engage</u></p> <p><u>https://www.engage.hoganlovells.com/knowledgeservices/news/uk-real-estate-esg-update</u></p>
Renters Reform Bill	<p>The Renters (Reform) Bill was being debated in the House of Commons. It was not passed before Parliament was dissolved before the upcoming general election so is now a matter for the new government to consider. If it does come back, Hogan Lovells is uniquely placed (because of our Real Estate team expertise combined with the Public Law & Policy team) to help clients to engage with the future government on all of the nitty gritty detail: you do not have to suffer in</p>	N/A	<p><u>UK private rented sector: white paper published – Hogan Lovells Engage</u></p>

Legislation	Detail	Date	HL articles
	<p>silence if there are things in a future Bill that will make your lives really difficult! Please contact us to discuss any queries or questions about how changes will work in practice.</p>		<p>UK Renters Reform Bill – big changes afoot in the private rented sector - Hogan Lovells Engage</p> <p>UK-renters-reform-bill-update</p> <p>UK Renters Reform Bill: delayed subject to court reforms - Hogan Lovells Engage</p>
Leasehold and Freehold Reform Act	<p>The Leasehold and Freehold Reform Bill was passed on 24 May 2024, and makes changes including banning the sale of new leasehold houses (but not flats), increasing the standard lease extension terms, and removing the two year requirement to extend a lease/purchase the freehold.</p> <p>The Act did not introduce a cap or ban on ground rents, as the government had previously suggested, though the incoming government may seek to introduce further reform.</p> <p>.</p>	<p>Passed on 24 May 2024.</p> <p>Secondary legislation awaited to bring it into force, and to set out further detail.</p>	<p>The Leasehold and Freehold Reform Bill – the “effective destruction of the leasehold system”? - Hogan Lovells Engage</p> <p>UK landlord and tenant: what does the upcoming election mean for leasehold reform? - Hogan Lovells Engage</p>
Levelling-Up and Regeneration Act	<p>Please see attached links for concise detail on key aspects of the Levelling-Up and Regeneration Act. This Act introduces wide-ranging reforms in a number of areas, including planning, environmental protection, local democracy and regeneration.</p>	<p>Received Royal Assent on 26 October 2023, but many provisions are not yet in force and are subject to further regulations.</p> <p>The content of those regulations is subject to a government consultation, see Engage link for details of the</p>	<p>Levelling-up and Regeneration Act 2023: UK government planning and environment reforms become law - Hogan Lovells Engage</p> <p>UK Levelling-up and Regeneration Bill – compulsory purchase power and the best of the rest – Hogan Lovells Engage</p> <p>UK Levelling-up and Regeneration Bill – environmental outcome</p>

Legislation	Detail	Date	HL articles
		<p>current government proposals.</p> <p>The latest regulations were made on 18 March 2024 to bring a number of provisions in LURA 2023 into force on specified dates.</p>	<p><u>reports and heritage reforms – Hogan Lovells Engage</u></p> <p><u>UK Levelling-up and Regeneration Bill – when things don't quite go to plan – Hogan Lovells Engage</u></p> <p><u>UK Levelling-up and Regeneration Bill: IL, CIL and our old friend Section 106 – Hogan Lovells Engage</u></p> <p><u>Levelling-up and regenerating the English planning system – planning policy and "material" considerations – Hogan Lovells Engage</u></p> <p><u>UK Environmental outcomes reports: evolution or revolution? - Hogan Lovells Engage</u></p> <p><u>Going, going, gone! UK High Street Rental Auctions introduced - Hogan Lovells Engage</u></p> <p><u>UK: Compulsory purchase: a compensation masterclass - Hogan Lovells Engage</u></p>
ESG: Environmental Act 2021	<ul style="list-style-type: none"> Introduces a new mandatory 10% Biodiversity Net Gain requirement for new developments. New pre-commencement planning condition. The regime came into effect in February 2024 Conservation covenants came into force on 30 September 2022. 	<p>All Biodiversity Net Gain requirements are now in force.</p>	<p><u>UK Real Estate Horizons: how does the new Biodiversity Net Gain regime affect you? - Hogan Lovells Engage</u></p> <p><u>What does ESG mean for UK Real Estate? - Hogan Lovells Engage</u></p>

Legislation	Detail	Date	HL articles
			<p>Biodiversity net gain: future of sales and investment trends – Hogan Lovells Engage</p> <p>UK: What does nutrient neutrality mean for developers? – Hogan Lovells Engage</p> <p>UK: Earth Day: Investing in our Planet – real estate and planning</p> <p>UK-esg-conservation-covenants-what-are-they-and-how-will-they-be-used</p> <p>Nutrient neutrality in a nutshell - Hogan Lovells Engage</p>
Amendments to the National Planning Policy Framework (“NPPF”)	<p>A consultation was held at the start of 2023 which considered changes to the NPPF including removing the mandatory requirements for the 300,000-new-homes-a-year target.</p> <p>Also considered proposals relating to development on Green Belts, housing need, Local Plans and beauty.</p>	<p>The NPPF was updated on 5 September 2023. However, it only included an update on onshore wind development in England.</p> <p>On 29 November 2023, the Government issued a response to the further proposed reforms to the NPPF. This notes that they are continuing to consider the</p>	<p>UK: Planning spring round-up – Hogan Lovells Engage</p>

Legislation	Detail	Date	HL articles
		<p>consultation responses.</p> <p>On 19 December 2023, the government published it's revisions to the NPPF.</p> <p>In February 2024, the government consulted on proposals to strengthen planning policy for brownfield development which proposed further changes to the NPPF.</p>	
High street rental auctions	Part 10 of the Levelling Up and Regeneration Act 2023 came into force on 31 March 2024, though further detail to flesh out the scheme will follow in further regulations. The government recently released a response to the consultation on the scheme, outlining its proposed approach to regulations, though these will now be a matter for the new government.	31 March 2024	<p>UK government's rental auction plans will bulldoze normal letting processes – Hogan Lovells Engage</p> <p>Going, going, gone! UK High Street Rental Auctions introduced – Hogan Lovells Engage</p> <p>[</p> <p>UK High Street Rental Auctions: what can we expect from the new regulations? - Hogan Lovells Engage</p>

Legislation	Detail	Date	HL articles
New Protect Duty	<p>Owners and operators of commercial properties could be required by law to consider the adequacy of security measures, systems and processes adopted at their sites and take steps to mitigate any perceived risks. The proposals have been championed by victims' groups, including the Martyn's Law campaign which was established by Figen Murray, who tragically lost her son, Martyn, in the Manchester Arena attack in 2017. By the proposed introduction of this new Duty, the government intends to set out a legal framework for "publicly accessible locations" to ensure preparedness for, and protection from, terrorist attacks.</p>	<p>TBD. The government has published its Consultation Response Document on 2 May 2023 and a draft Terrorism (Protection of Premises) Bill. This Bill has not yet come into force so it will be for a new government to consider.</p>	<p>Protect-duty-what-does-this-new-duty-mean-for-owners-and-operators</p>
Long-Term Asset Fund (LTAF)	<ul style="list-style-type: none"> ▪ The LTAF is a relatively recent and distinct category of authorised open-ended fund, specifically designed with the intention of investing efficiently in long-term and especially illiquid assets. Funds that have themselves been authorised by the FCA (as distinct from only their managers being authorised) can be offered to a wider range of investors, but in return they are generally subject to additional rules, for instance on pricing and redemption, that make it more difficult for these funds to invest in illiquid assets such as real estate. The LTAF is designed to attract particular types of retail investors and pension schemes who can bear the risks associated with an investment in illiquid assets, but it is still an authorised fund and subject to its own set of rules to provide a degree of protection to them. As such, the introduction of the LTAF is one part of a wider plan to encourage greater investment by defined contribution pension schemes and retail investors in illiquid assets such as real estate. ▪ An LTAF could be established as an investment company with variable capital, an authorised unit trust or an authorised contractual scheme but in each case its manager needs to apply to the FCA. An LTAF needs to be constituted and operated in accordance with the requirements of Chapter 15 of the COLL Sourcebook in the FCA's Handbook of Rules and Guidance. These rules (inter alia) set out prescribed content for the fund documents and impose requirements for e.g. the preparation of accounts and reports and meetings of investors. They apply limits to investment and borrowing powers, but afford more flexibility than other existing forms of authorised fund. The FCA expects the investment strategy of an LTAF to be to invest at least 50% of fund property in assets that are illiquid and need to be held over the longer term. 		

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	<ul style="list-style-type: none"> There have been some developments in the rules that apply to LTAFs since they were introduced: firstly, the classes of investors and pension schemes who can invest in an LTAF have been widened. More recently, the FCA had proposed that the LTAF should be excluded from the scope of the Financial Services Compensation Scheme (FSCS), which would have meant it would be treated differently from other authorised funds in the UK. After industry feedback which raised concerns over whether that would deter retail investors from investing in LTAFs, the FCA decided in October 2023 that the LTAF would not be excluded from the scope of the FSCS (at this time). 		

Case	Detail	Dates	HL articles
M&S, Oxford Street	<p>The redevelopment by M&S of its flagship store in London was refused by the Secretary of State (against the recommendation of his appointed Inspector). M&S wanted to demolish the existing building and build a new ten floor retail and office space. The decision relates to heritage harm and the importance of assessing embodied carbon when considering proposals for full demolition rather than retrofitting existing buildings.</p> <p>The High Court agreed with Marks & Spencer that the Secretary of State for Levelling Up, Housing and Communities ("SoS") had "misinterpreted and wrongly applied planning policy" by blocking the scheme. The decision is now remitted to the SoS for redetermination. This could take many months longer and it is uncertain who the SoS will be by the time of redetermination.</p>	The High Court decision was issued on 1 March 2024.	<p><u>To demolish or not to demolish, that is the question - Hogan Lovells Engage</u></p> <p><u>Dividing opinion: UK Secretary of State refuses M&S Oxford Street scheme against Inspector's advice - Hogan Lovells Engage</u></p>
Manchester Ship Canal v United Utilities	Whether Manchester Ship Canal can bring a private nuisance claim for trespass/nuisance against United Utilities for unauthorised discharges of sewage into the canal.	Hearing took place in the Supreme Court in March 2023. Awaiting judgment.	
R (Dennis) v London Borough of Southwark	Decided that stating that a planning permission is severable in the description of development is not adequate to make a planning permission severable. This has implications for when overlapping planning permissions can be implemented.	Waiting to hear whether permission to appeal to the Court of Appeal will be granted.	<u>UK Planning – New year, same planning challenges - Hogan Lovells Engage</u>

Case	Detail	Dates	HL articles
			UK: Navigating drop-in permissions post-Hillside - Hogan Lovells Engage UK: Planning spring round-up - Hogan Lovells Engage
Annington Homes case	This case concerns whether the government has the right to take back control of housing used to accommodate military personnel and their families. Supreme Court decision expected this summer.	Decision expected this summer	