



**Law
Commission**

Reforming the law

Conservation Covenants

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The Law Commission for England and Wales

- The Law Commissions Act 1965, section 3:
- It shall be the duty of each of the Commissions to take and keep under review all the law with which they are respectively concerned with a view to its systematic development and reform, including in particular the codification of such law, the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernisation of the law, and for that purpose

The conservation covenants project

- Origins in the National Trust response to the “Easements Project”
- Consultation 2013, Report and draft Bill 2014
- What is a conservation covenant?
- Cf Forestry Commission covenants, National Trust covenants

What is a conservation covenant?

- Broader than the existing statutory covenants in terms of:
 - Range of bodies that can take responsibility for the covenant
 - Can (and usually will) include positive obligations
 - Range of purposes
- Potential uses :
 - Protecting family property
 - Protecting heritage property on sale
 - Payment for Eco-systems Services
 - AND...

The use of conservation covenants to support biodiversity offsetting



The use of conservation covenants to support biodiversity offsetting

- Offset sites
 - Owned by developer?
 - Owned by local planning authority?
 - Owned by a third party?
- Conservation covenant to ensure the permanence of the offset
 - Responsibility taken by the local authority
 - Responsibility taken by a conservation organisation



The Law Commission scheme for conservation covenants

- Provisionally:
 - Voluntary agreement
 - Made by a freeholder or a leaseholder
 - With a “responsible body”
 - So as to bind future owners of the land
- Purposes
- Responsible bodies
- Formal ingredients
- Remedies
- Modification and discharge