Module Title: Land Law
Level: Six
Time Allowed: One hour and forty minutes

Instructions to students:
- Enter your student number not your name on all answer books.
- Answer two questions: one from Section A and one from Section B.
- Both questions are equally weighted.
- Begin each question in a separate answer book; label each answer book clearly with the number of the question you are answering.
- Students are permitted to bring an unannotated copy of the FD Rose, Blackstone’s Statutes on Property Law into the examination. Highlighted text and index tabs/strips within the book are permitted.

No. of Pages: 4
No. of Questions: 4
Section A

Answer one question from this section

1. “The lending institutions are commercial operations, concerned ....... with their own survival. They are not philanthropic institutions with a mission to provide homes for all. Their primary concern is to make a profit, and in the event of a borrower defaulting, to minimise their loss by recouping as much of the outstanding debt as they can, as swiftly as possible.”

   Greer S, 2009

   Critically evaluate the court’s attempts to protect borrowers when they default on the mortgage.

2. To what extent can it be said that overriding interests in registered land undermine the principles of the Land Registration Act 2002?
Section B

Answer one question from this section

3. John, Kevin and Tim are brothers. In 2015 they bought a house in which they and their elderly mother Ruth would live. All four of them contributed equally to the purchase price of “The Grange” but it was decided that the legal title would be registered in the name of the three brothers. Ruth was quite happy with this and all four of them agreed that the house would be a home for Ruth for the rest of her life.

For a while all went well. Then, earlier this year John and Kevin fell out and decided that they could no longer continue living in the same house. John moved in with his lady friend Nora and made a will leaving everything he owns to her. He wrote a letter to his brothers and mother asking them to buy him out of the house as he needed the money now. He sent the letter recorded delivery and when it arrived Kevin and Tim were out. Ruth read the letter and threw it on the fire without telling Kevin and Tim about it.

A couple of weeks later, John died suddenly. Nora told the family that she needs the money from the house as soon as possible.

a. Advise on the initial and current legal ownership of “The Grange”

b. Advise on the initial and current beneficial ownership of “The Grange”

c. If Nora does have a share of the property, what action could she take to realise it?

d.

i. If the issue with Nora is resolved without the need to sell “The Grange” but Keith and Tim decide to sell the house without their mother Ruth’s consent, to what extent would her interest in the property be protected?

ii. How could she have better protected herself?
4. In 2013 Linda became the registered proprietor with Absolute freehold title of Apple Tree Cottage, a house with garden which has adjacent to it an Orchard with a Barn. Linda sold the apples from the Orchard and she and customers used her rough gravel drive to gain access from the road to the Cottage, the Orchard and the Barn.

In late 2017 Linda sold the Orchard and Barn to David. There is a two metre high wall around the Orchard and Barn with a gateway, which leads to the drive between Apple Tree Cottage House and the road. At one point the surrounding wall runs alongside the road. There is no mention in the transfer between Linda and David of access to the Orchard and Barn but David has used the drive to Apple Tree Cottage House for both pedestrian and vehicular access since purchasing the Orchard and Barn.

David has recently obtained planning permission to convert the Orchard into a car park and the Barn into a restaurant. He says that he told Linda before he bought The Orchard and The Barn that this was the reason for purchasing the land and that was why he had paid the full asking price. He intends to tarmac the rough gravel drive to make access easier for his customers.

Advise Linda whether:

a. The claim to an easement satisfies the requirement of Re Ellenborough Park

b. The claim to an easement meets the test for express or implied acquisition of an easement

c. She can make him knock down the wall to create an access way directly from the main road

d. She can prevent the resurfacing of the drive by David