

Community Land Scotland

A new Scottish Land Fund – Policy Briefing

Community Land Scotland is the representative organisation of Scotland's community land owners. Together, the members of Community Land Scotland own some 500,000 acres and use that land ownership as the basis for social and economic development, the regeneration of their respective communities, and in growing more sustainable and resilient communities.

In the context of Scottish Government proposals for a new Scottish Land Fund, Community Land Scotland's members have considerable experience of the administration of such funds and want to make that experience available to the Scottish Government in developing a successful new land fund.

Policy Summary

Community Land Scotland warmly welcomes the Scottish Government's commitment to a new Scottish Land Fund and believes this to be a significant statement of commitment to seeing progress in securing more community ownership of land.

Such a fund, appropriately sized and administered, can deliver considerable public benefits in line with Scottish Government objectives for sustainable rural development.

A new Scottish Land Fund capable of meeting the ambitions for further community land purchases across Scotland would require a fund of some £10 million over the remaining 4 years of the current parliament (an average of £2.5 million per year).

The new Land Fund should be additional to current rural development spending programmes and administered separately.

The ambition is for the new Land Fund to commence at the start of the 2012/13 financial year, if not sooner.

The new Land Fund should be available principally for grant aid toward the purchase of land as a basis for securing a more diverse land ownership structure and the long term development of resilient and sustainable communities.

Technical support to assist the process of purchase and revenue development support over a short period of years and on a tapering out basis, should be eligible for support. In quite limited circumstances an element of loan support might be appropriate.

The new land fund will be best administered if a significant degree of discretion and flexibility to those administering the fund is given. This approach would be consistent with the successful approach taken to the original Scottish Land Fund.

In all circumstances, administering applications to a decision must be capable of being guaranteed within the statutory time limits of the Land Reform (Scotland) Act.

There is a strong case for the new Scottish Land Fund to be administered by Highlands and Islands Enterprise in conjunction with Scottish Enterprise, as agents of the Scottish Government.

1. Background

1.1 Since the demise of the Scottish Land Fund in July 2006 there has been a growing desire for such a fund to be re-created. This is in part due to a growing recognition that, notwithstanding the merits of and rights given by the Land Reform Act, it is the availability of cash for purchase that principally delivers community land purchases. Further, there is a strong desire to see more communities benefit from the explosion of innovation and enterprise that follows a community buyout, leading to greater opportunity for sustainable and resilient rural communities throughout Scotland.

1.2 There is a further recognition that Growing Community Assets (Big Lottery fund) in Scotland, which is potentially available for land purchases and has substantial resources at its disposal, has not achieved the same rate of land purchases as the Scottish Land Fund did. This is discussed further in a later part of this paper.

1.3 The immediate prospects for a specific and new land fund are better than for some time, with the Scottish government having made a very significant and welcome manifesto commitment to publish proposals on a land fund by the end of this year.

2. Community Land Scotland

2.1 Community Land Scotland members possess great experience and insight into the dynamics of buying significant areas of land and associated assets. It will be important to bring that experience to bear in seeking to ensure that any new land fund is fit for purpose.

2.2 The Scottish government has yet to develop its proposals for publication. This paper by Community Land Scotland is designed a contribution to informing how such a fund should operate, and in informing the spending review and budget process in relation to an appropriate sum of money for the new fund.

2.3 This paper discusses – the need for a land fund; the size of the fund and how that figure is justified; when it should commence; what purposes the fund should be designed for; what the operating attributes of the fund should be; and who should administer the fund.

3. History of the Scottish Land Fund

3.1 The origins of the land fund lie in an initiative the then UK government. In essence HIE were required to establish a land unit using their own resources, to which an initial sum of around £250,000 was added for land purchases. That initial sum grew to £1 million annually being available within the Scottish Office/Executive budget in the years up to 2001.

3.2 In 2001 a sum of £10 million was identified as the Scottish Land Fund, from the New Opportunities Fund of the lottery, and which was to be available between 2001 and 2006, just short of a five year programme. Such was the success of the Fund and the demands on it that a further £5 million was added in 2003. The Scottish Land Fund was administered by

HIE (in conjunction with SE) after it won the contract from the lottery to administer the fund.

3.3 In July 2006 that Land Fund came to an end as a separate fund. Thereafter, and until applications closed toward the end of 2009, funding for land purchases came from a wider big lottery fund, Growing Community Assets, still administered by HIE, but under new criteria determined by the lottery.

3.4 The lottery re-opened applications to land purchases under its new Growing Community Assets fund in 2010. This remains the position as of today.

3.5 An evaluation of the 2001 – 2006 period was undertaken by the Big Lottery, which showed the fund was well utilised, achieved support for some very large purchases – some 5 purchases accounting for some 50% of the money spent in the period - peaking at £6.4 million in one year.

3.6 It is a matter of fact that since the first Land Fund, the value of the spend on land purchases has fallen. The possible reasons for this are picked up in a later part of this report in discussing the attributes for the new land fund, and which seeks to draw lessons from the history of the various funds to date.

4. A new Scottish Land Fund

4.1 The justification for a new Scottish Land Fund

4.1.1 As stated above, the Scottish government have a manifesto commitment to publish proposals on a new land fund. This is a clear commitment and something that Community Land Scotland want to help the Scottish government deliver.

4.1.2 It is clear that the Land Reform (Scotland) Act 2003 gave the clear stamp of political approval of the new Scottish Parliament to the movement toward greater diversity in land ownership in Scotland. This Act flowed from earlier work commissioned by the UK government in the period immediately before devolution. The Act confers rights on communities so as to make their ownership of land easier to achieve. However, and notwithstanding those rights, the practical working of the Act are not performing as intended by parliament and most land purchases have been achieved outwith the specific terms of the Act, in effect by a voluntary agreement between the current owner and the local community. However, evidence suggests (see Note 1) that, but for the existence of the Act in the background, a number of purchases may not have proceeded.

4.1.3 It has become increasingly clear that the single most important thing in the success of land purchases has been the ready availability of grant for the purpose of purchase, such as provided by the original Scottish Land Fund.

4.1.4 There is strong evidence of a whole range of public policy objectives being met and public goods being delivered as a result of community land ownership. Indeed, for many, the liberating power of community ownership in term of the release of enterprise and

initiative and in the generation of new and sustainable development ideas and projects, is greater than anything seen within community economic development than at any past time.

4.1.5 Evidence from the work of the Mountain Studies Institute of UHI commissioned by the Scottish Parliament alludes to this success, as does evaluation of the first Scottish Land Fund, and as does a recent work by Dr Sarah Skerrat of the Scottish Agricultural College. HIE also has positive evaluative work on a number of community owners five years after the time of their purchase. The Rural Affairs and Environment Minister, Richard Lochhead has said publicly, *“We think it is important to re-establish the Land Fund and we’ve given a commitment to that. In terms of community empowerment, we want to encourage land buy-outs ... It’s very important for rural communities to take the control of their land where that is possible...”*

4.1.6 Successive Scottish government’s, and their UK predecessors, have had a range of policies which seek to strengthen rural economic and social development, to seek to retain population, to create employment, to value community engagement and empowerment, to improve community resilience. In addition, successive governments have advanced policies to improve sustainability, to protect and enhance the environment, to improve habitat and protect species, to reduce carbon emissions and live more sustainably. It can be fairly said that in all these policy areas, community land ownership has and is making a significant contribution.

4.1.7 Evidence from Dr Skerrat’s research confirms how the development of community owned land evolves, giving rise to significant new activity and economic development. The initial move toward purchase is characterised by the most intense periods of community activity, extremely demanding upon the individuals involved, requiring the development of new skills and competencies, including handling significant fund raising effort. Once purchased, however, the real work begins, also requiring resilience and a range of new skills to be developed and honed. However, with few exceptions, within a period of two to three years a whole range of initiatives will have started to develop. Importantly, these are almost always initiatives that certainly had not emerged and, in all probability, would not have emerged under the previous ownership, as that ownership had different priorities and motivations. It is the ownership in itself that drives and permits the release of enterprise and initiative, as it passes opportunity, responsibility and control to the community. Dr Skerrat in her recent research findings highlighted this when she stated, *“Communities buy the land they live on because they see land as the foundation on which all other developments sit. Ownership leads directly to the development of: private enterprise, investment due to security of tenure, affordable housing for rent and purchase, renewable energy schemes, infrastructure development, as well as ongoing estate management. The combination supports increased population”*. She further states, *“owning land, and successfully managing it, leads to greater leverage and collateral”*, and that owning land gives, *“control over the future”*, and is the catalyst for *“collective action, stewardship, and creative, forward-looking development. The breadth of that development, and the possibility for unexpected opportunities to emerge over time, are perceived as essential elements of the scope that land ownership can, and does, bring to communities”*.

4.1.8 The enterprise and initiative that is being released on the back of community ownership touches many sectors and is giving rise to many millions of pounds of investment. Such investment ranges through - the extensive management of woodlands for local environmental, amenity, and economic improvement; the development of wind, hydro and photovoltaic energy for local use, or export, which in turn is generating income for further community investment or reducing operating costs, thus releasing more disposable income locally, as well as contributing to climate change targets being met; the release of land for social housing and in some cases the development of that social housing; the creation of new crofts; the development of community buildings and assets for use; the installation of local broadband facilities; the development of piers and jetties, etc, etc. In all this development, economic potential is being increased, jobs are being created, helping create resilient, sustainable, empowered and, in some cases, growing communities. These outcomes are the central focus of much government rural and wider economic and community development policy. Much of the development is being generated by the community itself, but is also helping support local private business on the basis of the improvements in community life and confidence being brought about, and enlightened land supply. Community owners in so many respects become the agents and drivers of economic and social development, which in other contexts still require to be stimulated by government or local government interventions.

4.1.9 By widening community ownership, the benefits being realised currently in many communities can be accessed by many more communities across Scotland. The use of public funds for further community purchase will deliver benefits that would otherwise be pursued, possibly with less success, under other government spending programmes. As communities which have purchased their land continue to develop their asset base, they are empowered to move forward throughout time to come, by virtue of being in control of their land assets. They also have the capacity, on the basis of their land and other assets, to be able to generate economic and environmental activity on an increasingly commercial basis, with potentially less government support being necessary. There is now some 500,000 acres of land in community ownership, with 20,000 people living on that land, in some of Scotland's most fragile communities.

4.1.10 A new land fund, therefore, has the ability to deliver many government objectives in the most powerful and potentially long lasting and sustainable way, through securing the land and associated assets and making them available to the community for use over all future time. The value of well stewarded land assets will not only be maintained over time, it will probably grow, and the yield from those assets to the community in terms of opportunity and long term development potential is likely to be many times the initial value of the purchase, and represents very good value for the public purse.

4.1.11 All the aforementioned said, it is an important priority for Community Land Scotland to seek to influence future research work in order to try and have captured as fully as possible the full range of public benefits arising from the public spending that has occurred and is sought from publicly supported land purchases.

4.1.12 Further justification for a new dedicated land fund comes in the critique of the current lottery funds later in this paper.

4.1.13 The policy rationale for a land fund currently exists within Scottish government rural policy. It is seen principally as an instrument of rural development. While the lessons of community land ownership have potential application in more urban contexts (if not on the geographic scale of the rural context), Community Land Scotland confines its arguments to community land ownership in the rural development context. This, of course, has much wider application than just the Highlands and Islands and many rural communities throughout the rest of Scotland will stand to benefit from community ownership, and from any new land fund.

4.2 What size of land fund?

4.2.1 It is important to be clear about the size of the land fund Community Land Scotland seeks, and to have some clear justification for the figure. Discussing these issues takes place at this particular time in the context of an extremely tight public expenditure climate.

4.2.2 It is important to be ambitious for the sector and the benefits that can flow to communities, and in meeting government policy objectives. There is likely to be little demand for funds to purchase land unless there is an expectation that funds will be available to support purchase. A belief, based on practical experience, that current lottery funding is more difficult to access by potential community land owners is probably having the effect of suppressing current demand.

4.2.3 There is clear information on the patterns of spending under the first Scottish Land Fund, and since its end in 2006.

4.2.4 It is clear from examination of the figures that in the period 2001 – 2006, there was an average annual spend of just over £2.7 million. This was in a period when it was felt momentum on land purchases was developing strongly.

4.2.5 During this same period 5 purchases accounted for 50% of the total spending, and in one year, the peak of spending was £6.4 million. However, spending ranged upward from the not unsurprising first year low of £334,000. In only two years would a fund of only a million in those years have been incapable of meeting the then demand – the year of the £6.4 million high, and another year when £2.3 million was spent.

4.2.6 These figures demonstrate that any fund may have to be capable of meeting quite high peaks in spending, so any land fund in its structure will need to be capable of coping with probable and significant year on year fluctuations in spending.

4.2.7 In the following period 2006 – 2010 when lottery funds were being administered by HIE under the new criteria within the Growing Community Assets programme, spending fell to an average of just over £1.9 million. During that period there was a high of £3.045 million in one year. In addition some limited funding was spent to support technical measures and the employment of development staff after purchase. The grant support available through these funds is, of course, not the whole story as communities themselves have had to

secure significant additional funds to be able to secure purchase. Without the major grant funding, however, little real progress would have been achieved.

4.2.8 On the basis of the evidence of past spending, a fund of £2.3 m per year on average would be in line with the average spend being achieved during the years of the first land fund and the years under the Growing Community Assets programme administered by HIE. However, an annual fixed limit budget of that sum would not have been capable of meeting demand peaks in several years.

4.2.9 There are 134 entries in the Community Register of Interest in land purchases, covering a wide variety of differing land types and sizes. It is not known what the value of those purchases would be in aggregate, and the size of individual purchases could vary widely. It would be extremely difficult to estimate with any degree of accuracy the value of the land in which an interest has been registered.

4.2.10 However, in any event, what has become clear from research (see Note 1) is that it is not through prior registration that most community land purchases have arisen. It is in the nature of this sector that a piece of land can appear on the market suddenly and with no prior indication that this was in any way likely to happen. It is in the days following such an event that any community has to act and act very quickly to put together a package of proposals that might secure the land. This particular attribute of the community land purchase experience makes it very difficult to estimate actual demand. This again points to a fund that has flexibility, albeit within an overall spending limit Ministers set.

4.2.11 Against this background, Community Land Scotland believe a fund of £10 million over the remaining four years of the current parliament (equal to an average annual sum of £2.5 million) should be available for land purchases. The expectation is that such funding would be additional to current programmes.

4.3 When should the fund be available?

4.3.1 Community Land Scotland believe it will be important for funding to be available quickly if the benefits of community ownership are to play a full part in Scotland's development, and hope it can be included in the final budget to be available from the beginning of the 2012/13 financial year. This would enable the government's manifesto commitment on publishing proposals by the year end to be more about the proposals on how to spend the fund, who should administer etc, rather than what sum of money would be appropriate.

4.3.2 Community Land Scotland would, of course, like to see the possibility of an even earlier start to the land fund. In the context of changing EYF rules limiting the possibility of any carry-over of funds between years, establishing the land fund sooner, and meeting the terms of the manifesto commitment in so doing, might also be of assistance in managing any emerging challenges the Finance Minister may have.

4.4 What should the new land fund be used for?

4.4.1 Underlying the discussion above is the assumption that the land fund should be for the purpose of land purchase, and that would seem to be the correct focus. Technical assistance, that is, feasibility studies, business plans, valuations, etc represent an important dimension of the process leading to purchase and should be eligible for support under a new land fund which, none the less, has purchase as its principal focus.

4.4.2 It is important to be clear about what the fund is actually for. For example, should the fund also be available for use in the crucial period after purchase, to support work, for example, through the employment of a development manager? On balance, such support should probably be eligible for a period of years and probably on a declining scale. Experience suggests this period might extend to 5 years.

4.4.3 The first Land Fund had criteria which greatly facilitated land purchases and, of course, such purchases were the sole focus of the funds. This was further helped by an explicit recognition that the funding was to assist achieving greater diversity in land ownership. A small amount of funding, around £1.5 million, was, however, used to support development after purchase, mainly for the revenue costs of a development manager.

4.4.4 There would be merit in it being clear that the primary purpose of any new land fund is to enable land purchases in order to secure the basis upon which to, subsequently, secure local advancement of a range of economic and social development objectives. This, of course, implies that support for any post acquisition capital costs of development would need to be picked up by other agencies and/or the lottery, for example.

4.4.5 Further, however, it will be important to be clear whether purchase should only be supported by grant, or by a mix of grant or loan. It seems clear from the evidence of members and HIE that the purchase of land from the land fund should be by way of grant and not loan.

4.4.6 It is believed that many projects would not have got underway, and would not have been viable, if the purchase was funded by loan.

4.4.7 In any event, the land fund itself would be unlikely to put up all the cash for purchase, there may be further grant givers, but it may also be that a small part of the overall total which is raised by the community may comprise a loan element. It would be wrong to have anything other than a very small element of the total package covered by loan.

4.4.8 The exception to this general rule may be in the purchase of forestry from which there is a realisable, known and planned sale of the timber assets which could readily support loan facilities. In this context, perhaps a loan element in any forestry purchase may be appropriate. Further, there may be very limited circumstances where a renewables development with a known and defined income stream at the time of purchase might warrant similar loan support.

4.5 What should be the key operating attributes of the new land fund?

4.5.1 The way the fund should operate will be crucial. This is being stressed because of the experience of members that, as criteria for the funds have changed, so the ability to secure funds for land purchase and related activity appears to have diminished. The signal that sends to others is that it may not be worth the extremely heavy burden of the application process, if the likelihood of a successful outcome is not rated as high. This may be having the unfortunate effect of suppressing formal demand.

4.5.2 The reduction in the rate of annual spending is believed to be much more to do with the current criteria and application scoring for use of Growing Community Assets funds, than it is to do with any reduction in demand per se. The lottery have made clear to Community Land Scotland they are very keen for this aspect of rural development to be supported. The practical experience of applicants and the lottery themselves is that a number of applications have not been successful.

4.5.3 It is important to understand what might account for this. In part, this will be due to the fact that the Growing Community Asset funds are for much wider purposes than just land purchases, and land purchases will be in competition with other applications which might find it easier to meet the demanding criteria and application process. This in turn might be due to there not being full alignment between community land purchase applicant's objectives, and those of the lottery.

4.5.4 The experience of Community Land Scotland's members, supported by the recent findings of Dr Skerrat's research, is that it is the purchase of the land that is, in itself, the key focus of the community activity, and the pre-requisite for all that will, or might, follow. While, of course, it will be important during this crucial purchase phase to have scoped an outline of the immediate ambitions and beneficial purposes to which the land will be put, the clear focus is on the purchase that will facilitate future actions. Without securing that objective, little else is meaningful or achievable. Notwithstanding that any community will, rightly, have to meet clear and demanding criteria to secure any financial support, the particular approach adopted currently, focuses heavily on the delivery of detailed post acquisition outcomes, rather than purchase itself being the primary focus. However, at this stage communities seeking to secure the ownership of their land are motivated and focused on purchase as the basis of securing opportunity in perpetuity, thereby enabling development of some opportunities that may only present themselves well into the future. For example, it was not seen at the time of the early land purchases that renewables would be the hugely significant enabler of other economic activity they now potentially are for some community owners. In seeking to purchase their land, the community seeks not only to secure (bank) opportunity for all time, but also to protect its future against the vagaries of changing land ownership which, in the past, where unenlightened ownership resulted, has disadvantaged communities so significantly. These features of the community land ownership purpose probably need to be explicitly recognised as legitimate in their own terms, and given sufficient weight in the process of assessing the purchase of land for grant decisions. A new land fund, resembling more closely the original land fund, (which also saw greater diversity in land ownership as a key purpose in its own right) would be capable of securing this approach. The evidence is that recognising the land purchase as the enabler and driver of subsequent action, action that has become impressive to almost all observers, pays dividends.

4.5.5 Further, however, and in keeping with their objectives, the lottery is dealing with a much wider group of applicants than potential land purchasers, and will want to prioritise communities in the greatest need by reference, in part at least, to criteria of social disadvantage across Scotland as a whole. In competition for funds, therefore, land purchases may not score as highly in that competition as other types of project. Land purchases to date have tended to be in HIE's fragile areas, which do not necessarily equate to other more standard Scottish definitions of social disadvantage. Land purchases have focussed on opportunity for communities at the edge and suffering long term decline, rather than specific measures of social disadvantage.

4.5.6 Having the focus of the new land fund on purchase alone would help condition the application process to a significant degree. However, it is also crucial to stress that the land fund will need to be capable of turning round applications very quickly. This implies a streamlined, flexible, administrative approach.

4.5.7 The future land fund must be capable of making decisions which match the statutory timetable requirements of the Land Reform Act.

4.5.8 Experience would also point to devolving a high degree of discretion and flexibility to those administering the fund, in order to secure the land purchase objective. In this context it would seem unwise to have hard and fast thresholds on, for example, the intervention rates for purchase. The circumstances of the land in question and the community vary so significantly, that flexibility in administration must be the key. This obviously has to be consistent with rules of accountability, but decision makers should be as free as possible to use their judgement and discretion in what will best meet the outcome of securing purchase. The Scottish Land Fund successfully met these criteria, without any criticism this led to a deficiency in appropriate rigour or accountability.

4.5.9 The new land fund and the lottery will, of course, have to dovetail their activities. If the land fund were concentrating on purchase, it would seem a sound fit to have the lottery playing to their current strengths in helping finance the investments in securing actions with detailed outcomes. This would be the post purchase activity. Community Land Scotland stands ready to work closely with the lottery in moving all these matters along.

4.6 Who should administer the land fund?

4.6.1 There is little doubt within Community Land Scotland that the agency with the keenest insights and greatest experience in this and related fields of activity is HIE. In addition HIE have a strong track record and reputation within the community land sector for their administration of the first land fund, where they used their experience and discretion to full and positive effect.

4.6.7 Community Land Scotland's preference for how the new land fund should be administered would be that HIE (with SE) would be best placed to do this, following the precedent of the first Scottish Land Fund.

4.6.8 Community Land Scotland also recognise that some local authorities may wish to administer any such fund. It is unlikely that any new Scottish Land Fund would be of such a scale that breaking it up for administration at a more local level would be likely to result in no area having a sum large enough to actually and realistically support any significant land purchases. That is not to say, however, that Scottish local authorities could not have a say in the policy for the fund, or indeed, in decision making about specific applications if a decision making structure such as existed in the original land fund existed.

5. Conclusion

5.1 Taking all of the foregoing together, Community Land Scotland would summarise their position on these matters as follows:

Community Land Scotland warmly welcomes the Scottish Government's commitment to a new Scottish Land Fund and believes this to be a significant statement of commitment to seeing progress in securing more community ownership of land.

Such a fund, appropriately sized and administered, can deliver considerable public benefits in line with Scottish Government objectives for sustainable rural development.

A new Scottish Land Fund capable of meeting the ambitions for further community land purchases across Scotland would require a fund of some £10 million over the remaining 4 years of the current parliament (an average of £2.5 million per year).

The new Land Fund should be additional to current rural development spending programmes and administered separately.

The ambition is for the new Land Fund to commence at the start of the 2012/13 financial year, if not sooner.

The new Land Fund should be available principally for grant aid toward the purchase of land as a basis for securing a more diverse land ownership structure and which will deliver a basis for long term sustainable development of resilient communities.

Technical support to assist the process of purchase and revenue development support over a short period of years and on a tapering out basis, should be eligible for support. In quite limited circumstances an element of loan support might be appropriate.

The new land fund will be best administered if a significant degree of discretion and flexibility to those administering the fund is given. This approach would be consistent with the successful approach taken to the original Scottish Land Fund.

In all circumstances, administering applications to a decision must be capable of being guaranteed within the statutory time limits of the Land Reform (Scotland) Act.

There is a strong case for the new Scottish Land Fund to be administered by Highlands and Islands Enterprise in conjunction with Scottish Enterprise, as agents of the Scottish Government.

Community Land Scotland
1st September 2011

Note 1: A study undertaken into the Land Reform (Scotland) Act for the Scottish Parliament Rural Affairs and Environment Committee by the Mountain Studies Institute of UHI.