



SCOTTISH LAND COMMISSION
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Land for Housing: Towards a Public Interest Led Approach to Development



Executive Summary

Scotland is not currently delivering enough homes to meet the needs of society, and the quality of the places we are creating through new housing development is not as high as it should be. Part of the reason for this lies in our approach to land, specifically how it is brought forward and made ready for development.

Over the past 18 months the Scottish Land Commission has undertaken a review to investigate the operation of the housing land market – to understand how it works and recommend how it could be reformed to better serve the people and communities of Scotland in a fair and climate-conscious way. This report brings together the findings from that review into a five-step programme for reform.

The Case for Change

At present, strategic land promotion in Scotland – the process of identifying and making sites ready for development – is carried out largely by the private sector, but the private sector is motivated by a need to generate value for shareholders, not society as a whole. This means that decisions about what to build, where to build it, and when tend to be driven not by the public interest, but by what will maximise private profit.

To achieve that, housebuilders tend to focus on building larger high value homes on greenfield sites in growth areas. The result is that not enough homes are built – particularly in rural Scotland and regeneration areas – and those that are delivered aren't suitable for everyone. The profit motive also tends to focus effort and investment on those aspects of housing delivery that create private rather than social value, such as luxury kitchens and integral garages rather than greenspace and good transport links. The focus is on building housing developments rather than creating great places.

The result of this is failing town centres, a persistent legacy of post-industrial dereliction in Scotland's most deprived communities, a population-sapping lack of affordable housing in our most fragile rural communities, and the spread of car-dependent suburbs around our towns and cities.

The pandemic has brought the consequences of this for individual wellbeing into sharp relief. Never has quality of place been more important or its absence so keenly felt. But the macroeconomic consequences are no less severe.

Over the past three or four decades the financialisation of housing has become a defining feature of the UK economy. Housing has become an asset rather than somewhere to live. This has created a gulf between the housing 'haves' and 'have nots', fuelling intergenerational inequality and enforcing divisions between those lucky enough to inherit housing wealth and those less fortunate. It has also helped to create a deeply dysfunctional economic model fuelled by consumer spending, underpinned by wealth extraction rather than wealth creation and characterised by repeated boom and bust.

This is not sustainable. Scotland urgently needs to shift to a more balanced growth path.

To do that we need to break the link between economic prosperity and house price inflation. We need to release some of the wealth currently locked up in housing to fuel innovation and drive sustainable and inclusive economic growth. We need to address the systemic inequalities created by our overreliance on a market-led approach to housing delivery.

Changing how the housing land market operates can help us to do this.

How Do We Get There?

To do this we need to move away from a housing land market driven by private profit to one that is driven by the public interest. This will require the public sector to take a much more proactive role in strategic land promotion. This process is simply too important to be left to market forces alone; like education and health, housing is part of the foundations of our economy – so it requires a socialised approach to delivery.

This is not to propose a public sector takeover; there will always be a role for commercial housing delivery. Rather, what is proposed is a more collaborative approach to identifying, bringing forward and making land ready for development. By taking on more of the risk in land promotion, the public sector can enable developers to worry less about securing land and focus more on building houses and creating better places.

To do this we propose:

1. Establishing a new recyclable fund to support the **creation of a network of 'place pioneers'** – an ambitious programme of affordable housing delivery utilising repurposed publicly owned property assets in town centres and privately owned housing stock in remote rural communities.
2. Empowering local authorities to designate **Regeneration Partnership Zones** to help speed up the redevelopment of land in fragmented or multiple ownership by creating an opportunity for landowners and public authorities to share the long-term uplift in land values.
3. Introducing **new approach(es) to land value capture** to ensure that uplifts in land value arising from public investment in infrastructure and land remediation can be captured effectively and invested in place-making.
4. Creating **a new public land agency**, empowered and resourced to ensure that a steady supply of development-ready sites is brought forward at the right time and in the right places to meet Scotland's housing needs.
5. Introducing **a new transparency obligation** that would require options agreements and conditional contracts over land to be disclosed on a public register and for summary information on this to be published on a regular basis alongside a regular statistical bulletin covering land sales prices.

The Prize for Success

The approach set out in this paper could help Scotland deliver more homes more quickly – helping to address the housing crisis and realise Scotland’s aspiration to deliver 100,000 new affordable homes.¹ But the real prize is much bigger than this and goes well beyond housing. This is because houses are not just another commodity, they are one of the main components of great places and great places provide the foundation for the sustainable, resilient, thriving communities that underpin a wellbeing economy.

Scotland’s ambitious plans for the creation of 20-minute neighbourhoods, the repopulation of rural communities, the transition to net zero, and town centre renewal are all inextricably linked to how we approach housing delivery, but the social value envisaged by these policy commitments will not be delivered by market forces alone. Delivering this level of aspiration will require the kind of “collaborative, place-based” approach set out in Scotland’s Infrastructure Investment Plan.

Socialising our approach to the delivery of housing land is a necessary pre-condition for delivering this kind of public interest led approach. This may sound like a radical shift but it is not without precedent.

Our recommendations are firmly grounded in established, successful practice elsewhere in Europe. They also draw on Scotland’s own long history of bringing together planning, land ownership, design and infrastructure to deliver great places. Somewhere in our enthusiasm for market-led delivery this tradition has been diluted. This report sets out a programme of reforms that could help us rediscover it.



The Jardin du Paradis scheme in Biel, Switzerland with Schüss Island Park, Swatch headquarters and Gurzelen Stadium. © EspaceSuisse, Stöh Grünig.

¹ Scottish Government (2021), [Housing to 2040](#)

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1 Introduction

Housing is central to human wellbeing, its importance so fundamental that it is recognised internationally as a human right. Yet at present in Scotland, despite having one of the most advanced economies in the world, not all citizens can exercise this basic right.

According to Scottish Government statistics more than 31,000² households are officially classed as homeless and around 160,000 are on social housing waiting lists.³ For many, housing is simply unaffordable. Statistics published by the housing charity Shelter show that 140,000 people in Scotland are in poverty because of their housing costs.⁴

The reasons for this are complex and multi-faceted – but part of the problem is that Scotland is simply not delivering enough homes of the right type and in the right places to meet growing need. While there is no consensus on how many new homes Scotland needs to build each year, few dispute that as a nation we are not currently building enough. This problem is not new – the Barker Review found that the UK has persistently failed to supply enough homes to meet demand, leading to increasing wealth inequality and hindering labour market mobility.⁵

This is not for want of trying. During the last Scottish Parliament £3.5 billion grant funding was invested in the largest affordable housebuilding programme in Scotland since the 1970s. Yet despite this we are building fewer homes now than before the 2008 financial crash.

But this issue is not just about housing, not simply a question of the number or price of units delivered. It is about creating great places where people want to live.

The ongoing public health crisis has brought this into sharp relief. Never has urban green space been more important or its absence so keenly felt. Yet as a nation the quality of our built environment “remains stubbornly low.”⁶

Something is clearly missing from our approach: an important part of what’s missing is land.

² Scottish Government (2020), [Homelessness in Scotland](#)

³ Scottish Government (2019), [Housing Statistics Scotland](#)

⁴ Shelter Scotland (2018), [The uncomfortable truth](#) (analysis of Scottish Government poverty and inequality statistics)

⁵ UK Government (2004), [Review of Housing Supply](#)

⁶ UK Collaborative Centre for Housing Evidence (2020), [Design Value: The Housing Design Quality Conundrum](#)

1.1 The Importance of Land

Land is the raw material for place-making, the essential component without which nothing can be delivered – but before construction can start it must be made ready for development. Sites must be identified and constraints investigated, legal agreements drawn up, remnants of previous uses removed, contamination addressed, infrastructure installed, planning permission secured, and local communities engaged.

This process is complex, risky and time-consuming. It also has little to do with building homes.

In the past this process has been successfully performed by the public sector but over the past 30-40 years the state has steadily retreated from this space. In its place, the private sector has taken a lead in 'strategic land promotion,' sometimes through specialist land promoters but more often through the work of speculative housebuilders.

This role is essential – without it, housebuilders would struggle to secure the land they need to build on – but this model of operation is deeply problematic.

It is a model based on value extraction rather than value creation in which profitability is often based more on how skilfully its agents can navigate the planning system rather than the quality of the end-product.

It has helped to create a situation in which the development industry tends to compete more on their ability to access land than the quality of the places they deliver. If we are to solve Scotland's housing crisis then this needs to change.

1.2 Review of Land for Housing and Development

The Scottish Land Commission has undertaken a review to investigate how this could be achieved. Our focus has been explicitly on the role of land in this process.

We have examined the historic experience of the UK and looked at best practice around the world. We have engaged widely with stakeholders from local authorities, other government agencies and the development industry itself.

A summary of the evidence gathered during the course of the review will be available to [download from our website](#). The focus of this report is on the conclusions we have drawn from that research and the solutions we are proposing as a result.

The remainder of this report is structured as follows:

- Section 2 looks at the case for change;
- Section 3 explains why the solution to Scotland's housing crisis lies in the land market;
- Sections 4 to 8 outline how this could be delivered;
- Section 9 considers the implications of this revised approach for rural Scotland and our town centres; and
- Section 10 presents a vision of the future and explains what these changes mean for the Scottish economy.

2 The Case for Change

In public debate around the housing crisis, it can be easy to suggest that major housebuilders are 'the problem'. They stand accused of delivering homes too slowly, of hoarding land in expectation of future price increases, overpaying for sites and not being sufficiently focused on quality of delivery. What is often forgotten is that the sector is simply operating rationally within the bounds of the existing system.

When deciding what to pay for land, developers use what is known as a residual valuation model. This involves subtracting the total costs of developing a site from the revenue that the completed homes are expected to generate to give a 'residual' value that then determines the maximum amount they would be willing to pay to secure the site.

In principle developers could simply build more quickly and sell at a lower price. In practice this logic does not stack up because lower prices and faster delivery translate into a lower price for the landowner. The land market is competitive so any developer taking this approach would almost certainly be outbid and find themselves unable to secure land.

While the idea of simply requiring developers to build faster and sell cheaper is appealing, what appears reasonable in principle is unrealistic in practice.

The reality is that developers are not the bogeymen; their behaviour is a rational response within the context of a failing market.

2.1 Addressing Market Failure

The concept of market failure is rooted in the tradition of welfare economics in which a well-functioning market will deliver an efficient outcome in which nobody can be made better off, without someone else being made worse off. The concept rests on the (somewhat fanciful) idea of an idealised market in which:

- All parties to a transaction can access relevant market information;
- There are a large number of suppliers, each providing identical goods and none with sufficient power to set market prices;
- There are no barriers that would prevent people from entering (or leaving) the market; and
- Any spill-over effects (positive or negative) are reflected in prices and borne directly by the entity responsible.

These criteria often do not apply to the land market.

In some communities the supply of land is dominated by a very small number of landowners. Information about who controls land can be difficult to find. Options agreements – devices used by developers to secure first refusal on land – are commonplace but invisible, and reliable data on the price paid for development land is scarce.

Perhaps most obvious of all, the way land is used often has negative effects on society that are not borne by the landowner. Think of the effects of derelict buildings on the high street or greenfield development on biodiversity.

Unlike other factors of production land also has a spatial dimension. Locational characteristics – like access to infrastructure, proximity to amenities and a good view – all vary from site to site making every site, to an extent, unique. Uniqueness confers scarcity, and the power to set market prices – an exercise of market power that is fundamentally incompatible with market efficiency.

A symptom of excessive market power in any industry is the ability to generate excess profit – not just the kind of high profit rightly associated with risky industries – but the kind of super-normal profit that economists label ‘rent.’ Widespread public concern on this issue in recent years and the UK Government’s response to consult on plans for a new tax on developer profit, suggest that this is of more than theoretical concern.

But perhaps the most important way in which the housing land market is currently failing is in relation to place-making.

2.1.1 Place as a Public Good

Experience over the past 30-40 years shows that private houses, like any commodity, can be traded effectively on the private market but houses should also be homes and homes only become homes when they are part of places.

Unlike other goods and services good place-making cannot be effectively priced by the market. It is what economists call a “public good” – something that is usually most effectively provided by the state.

In contrast most new housing in Scotland is currently delivered by private developers, whose primary objective is to maximise shareholder returns. To do this effectively they tend to focus on high value areas (cities and growth areas) where returns are likely to be highest and sites where development risks are likely to be lowest (greenfield sites).

This approach may serve shareholder interests well but often leaves rural ⁷ and regeneration areas (where costs tend to be higher and returns lower) under-served. The concentration on selling larger, detached houses on greenfield sites mean that new homes for sale are not being provided for either younger people looking to buy (cost), or for older people (size, type of home and location).

The solution to this is a much more proactive role for the public sector in the delivery of place and this report makes a number of recommendations on how this can be achieved.

⁷ Scottish Land Commission (2020), [The Role of Land in Enabling New Housing Supply in Rural Scotland](#)

2.2 Back to the Future

The overarching direction behind our proposals is to move to a situation where the delivery of land for housing and major development in Scotland is primarily a public function. Like schools and hospitals, the provision of land for place is too important to leave to the market.

This may sound like a radical shift but it is not without precedent. Scotland has a long tradition of bringing together planning, land ownership, design and infrastructure to deliver great places. Edinburgh's New Town is perhaps the best-known example of this, but there are planned villages across the country that share this heritage.

Somewhere in the evolution of market-led delivery, this has been lost. This report sets out a programme of reforms that could help us rediscover it.

But we cannot simply return to the past. We need to adopt solutions that fit the world as it is now, not how we imagine it was or how we might like it to be, and today's reality is that the majority of housing is delivered by private developers and this will continue to be the case.

There is nothing inherently problematic about this. The intention of these proposals is not to displace commercial housing delivery. Rather the objective is to encourage and facilitate it, particularly in parts of the country where it would otherwise be unlikely to take place, and to ensure that it happens in a way that better supports good place-making. By playing a more active role in strategic land promotion the public sector can enable the private sector to deliver more homes of all tenures.

2.3 Managing the Transition

Systemic change of this magnitude will not be achieved overnight and success will depend on managing the transition effectively. How and when changes are introduced matters and the order of the recommendations presented in this paper reflects this.

That is why we are proposing that reform should start with a clear focus on the reuse of surplus public land.

We recommend that a new recyclable fund should be established to support the **creation of a network of 'place pioneers'** – an ambitious programme of affordable housing delivery focused on repurposing publicly owned assets, starting with town centres and remote rural communities. An outline of how this could work is provided in chapter 4.

Once the principle of a more proactive public sector has been established, we propose that the next step should be to focus on privately owned sites that have been disused for an extended period – particularly those in challenging market areas where viability is marginal and appetite for a privately led approach is likely to be minimal.

To support this, we anticipate the requirement for a new approach for overcoming the challenges of fragmented land ownership. Specifically, we are proposing that local authorities should be empowered to designate Regeneration Partnership Zones to help speed up the redevelopment of land in fragmented or multiple ownership by creating an opportunity for landowners and public authorities to share the long-term uplift in land values. This approach, which builds on the ideas and objectives underlying plans for Masterplan Consent areas in the Planning Act, is described in further detail in chapter 5.

We also envisage that a new approach to land value capture will be required to ensure that uplifts in land value arising from public investment in infrastructure and land remediation can be captured effectively and invested in place-making – a Scottish Government commitment. There is no single or straightforward way of achieving this but we have identified a number of alternative options in chapter 6.

Implementing these reforms would help to build skills and confidence within the public sector, helping to position it to take on a much more proactive role in initiating and driving forward major development in the future. But scaling up these changes will require investment and resources.

That is why we are proposing the creation of a new land agency, empowered and resourced to ensure that a steady supply of development ready sites is brought forward at the right time and in the right places to meet Scotland’s housing needs. Chapter 7 outlines what this might look like.

The purpose of the agency would be to enable the public sector to gradually assume responsibility for planning and delivering a long-term strategic development land supply to meet Scotland’s future housing needs. Alongside this we envisage that there would still be a role for private land promotion, particularly in more buoyant market areas with fewer impediments to development, but it is vital that this market is properly regulated to ensure that it is operating efficiently.

To help achieve this our final recommendation, which is described in chapter 8, is for a new transparency obligation that would require options agreements and conditional contracts over land to be disclosed on a public register and for summary information on this to be published on a regular basis alongside a regular statistical bulletin covering land sales prices.

2.4 Macroeconomic Implications

The following sections set out some initial thinking on what these reforms would look like, why they are needed and some of the key issues that will need to be considered prior to implementation.

Taken together the reforms would help deliver systemic change in Scotland’s approach to development. The long-term vision is for a system driven by the public interest rather than private gain. Delivering these changes will require increased resources and skills for the public sector – but the return will be far greater than the investment.

Change of this scale will be uncomfortable for some – but any discomfort will be transient, and preferable to the consequences of inaction because how we approach development does not just determine housing numbers or the quality of the places we live, it has come to underpin our entire economic model.

Over the past three or four decades the financialisation of housing has become a defining feature of the UK economy to the extent that for some the UK is now “*a housing market with an economy attached*”.⁸ This is a model fuelled by consumer spending, underpinned by house price growth and characterised by boom and bust. It is far from sustainable.

⁸ Bilsborough (March 2021), [Rentier Island](#) Tribune Magazine

In the long run economic growth can only be sustained by innovation, but at present our capacity for innovation is constrained because so much of our wealth is locked up in land.⁹ When wealth is locked up in land it cannot be invested in more productive assets that drive innovation and when it is possible to turn a profit simply by owning a house or a piece of real estate this diminishes the incentive to innovate.

The proposals set out in this paper can help to change this by bringing about a step-change in the availability of development ready sites, helping to improve the responsiveness of housing supply to demand. Economic research shows that this is key for macroeconomic stability¹⁰ and should help to stabilise house prices in the long-term.¹¹

The societal benefits of this in terms of more affordable housing and better place-making are obvious – but the macroeconomic implications would be no less significant.

By helping to break the link between economic prosperity and house price inflation, these reforms could help release capital to drive future innovation and help to shift the Scottish economy on to a more sustainable long-term growth path based on wealth creation rather than wealth extraction. More importantly the approach set out in this paper provides a process for navigating this change incrementally, helping to avoid any unintended negative consequences.



⁹ [UK national balance sheet estimates](#) show that in 2019 (latest release) land accounted for 57% of the net worth of the UK.

¹⁰ OECD (2011), [Housing and the Economy, Policies for Renovation](#)

¹¹ Scottish Land Commission (2020), [Residential development land prices](#)



3 Place Pioneers

Recommendation 1: The creation of a new recyclable fund to support the creation of a network of ‘place pioneers’ – an ambitious programme of affordable housing delivery utilising repurposed publicly owned property assets in town centres and privately owned housing stock in remote rural communities.

3.1 The Challenge – Managing the Transition

Moving from a purely market-led system of housing land delivery to a public interest-led system will take time, and the transition will require careful management to avoid any unintended consequences. In particular, the risk that house developers and land promoters may decide to refocus activity on other parts of the UK before the new land agency is fully operational, resulting in a temporary shortage of development land.

Focusing initially on disused public land would help to avert this. A recyclable land fund that supports a network of Place Pioneers would also develop capacity within the public sector ahead of the introduction of a Public Land Agency.

Throughout the review there has been support from stakeholders for the public sector taking more of a lead in initiating and shaping development. This is a challenge, however, since for more than 30 years the private sector has been the main promoter of land for housing and development so many of the skills needed to do this no longer exist in the public sector. Building the capacity for the public sector to take on this role will take time.

Place Pioneers could provide a mechanism to support the organic development of this capacity by providing incentives for collaboration and a way of bringing together skills from across the public sector.

Introducing Place Pioneers could also enable the delivery of town centre housing. An independent review of town centres commissioned by the Scottish Government highlighted the challenges that the pandemic poses to the traditional role of town centres and called for town centre housing to be a central part of their regeneration.¹² Place Pioneers could provide a mechanism to deliver town centre housing and regeneration.

¹² Town Centre Action Plan Review Group (2021), [A New Future for Scotland’s Town Centres](#)

3.2 How it Would Work

The recyclable land fund would make land development ready in areas where the private sector tends not to build. It would focus initially on surplus public sector land but would also have a role in bringing forward sites in fragmented ownership in regeneration areas and commercially unviable sites in remote rural areas.

We propose that Place Pioneers should comprise a three-way partnership between public landowners, government and public bodies. Public landowners would be expected to commit surplus land (at existing use value) as a contribution to the project with capital funding to make sites development ready provided by the Government.

Key planning agencies would then contribute expertise and support using their technical knowledge to identify the best sites for development to meet local housing needs and then to address issues such as infrastructure provision and flood management. To enable this to happen it would be important that the initial seed funding for Place Pioneers included an appropriate budget for staff resource alongside necessary capital investment.

The Scottish Land Commission has been working with a group of staff from the [Key Agencies Group](#) which looks at re-use of vacant and derelict land – this group could provide expert advice to Place Pioneers. This approach, where public sector collaboration and resource pooling (including surplus public sector land) enables the development of more challenging sites, would be a starting point for later setting up a Land Agency (chapter 7).

It is envisaged that the capital investment put into projects by the Government would be recoverable from the proceeds of disposal following build out. This would enable the initial funding committed to be recycled into support for the development of other sites.

While the details of how funds would be recycled would have to be developed in detail, there are models to learn from and build on. Homes England and the Irish Land Development Agency both use initial capital to unlock sites and then recycle funds on completion, while the Highland Council has a well-established recyclable Landbank Fund used to purchase and prepare sites for the development of affordable housing.

Providing funding and resources on a regional basis would ensure that there was a level of expertise and co-ordination to unlock sites whilst maintaining local responsiveness and awareness. Possible models to build on include the Hub procurement model developed by the Scottish Futures Trust or the City Region Deal governance models – both involve collaboration by public bodies on a regional basis, creating a critical mass of expertise and resource.

3.3 Where Are Place Pioneers Needed?

The decline of the traditional high street has accelerated during the pandemic. Without public sector action, there is a danger that shops and offices will become a new legacy of vacant and derelict land and buildings.

There is also a need to provide warm affordable housing to deliver the Scottish Government objective of repopulating rural Scotland, sustaining rural communities.

As building and energy efficiency standards are increased to address fuel poverty and mitigate climate change, rural landowners and private landlords may struggle to improve traditional buildings.

Both of these challenges provide an opportunity to increase the provision of quality, affordable housing and diversify choice. We therefore propose that the recyclable land fund should focus on these two opportunities, developing a network of Place Pioneers to deliver affordable housing in some of Scotland's most fragile communities.

There are already successful alternative models in Scotland. In other countries these models account for a much larger share of housing, providing greater variety and choice. We are not proposing pilots or new models but scaling the growth of proven models to increase housing delivery and choice by providing a supply of land to develop on. The advantage of these models is that they are either not-for-profit or, in the case of SMEs, require a lower rate of return than plc housebuilders. They should therefore work better on sites with lower profit margins, provided that the public sector enables delivery by assembling sites for development.

Such models include:

- **Self and custom build** – already a valuable option in rural areas where large developers are less active, such as the Highlands.
- **Co-housing** – a more communal form of living popular in parts of continental Europe that can be particularly well suited to older people and town development.
- **Community-led housing** – already playing an important role in parts of Scotland, this model can help to support community wealth building in both urban and rural Scotland. The innovative work of Midsteeple Quarter in Dumfries shows it is a model that could also deliver town centre housing.
- **Housing associations and cooperatives** – housing associations and co-operatives have a strong track record in regenerating communities, improving housing standards and providing quality affordable housing. New energy efficiency standards pose a significant challenge for private landlords in rural areas. There may be scope to learn lessons from the successful transfer of council stock to housing associations of the 1980s to help address this.
- **Small and Medium Enterprises (SMEs)** – SMEs have a different business model to speculative developers and often operate in areas where private developers do not, developing more 'marginal' sites. Supporting SMEs would enable development in rural and regeneration areas and support community wealth building through locally owned businesses.

These alternative delivery models have the potential to fill gaps in housing provision and increase choice by providing alternatives to the housing delivered by speculative housebuilders and social landlords.

We propose that the recyclable land fund and Place Pioneers should benefit communities across Scotland. Rather than focusing on the sort of large-scale regeneration projects that are often cited as exemplars of public interest-led development, the fund should support investment in housing and place-making at a range of scales and in a range of different locations.

4 Regeneration Partnership Zones

Recommendation 2: Regeneration Partnership Zones (RPZs) – a new statutory mechanism to help speed up the redevelopment of land in fragmented or multiple ownership by enabling landowners and public authorities to share long-term uplifts in land values.

The aim of introducing RPZs would be to provide a mechanism to enable development on sites in fragmented ownership – typically in regeneration areas where the challenge of land assembly and the cost of remediation have prevented development.

4.1 The Challenge of Fragmented Landownership

At present the bulk of new private development takes place on greenfield sites – reducing risk for developers and maximising shareholder returns. Yet Scotland has a significant legacy of vacant and derelict land in post-industrial areas. Regeneration Partnership Zones would be a vehicle to enable the redevelopment and regeneration of these sites.

The goal of public intervention in the housing land market should not just be to build houses, but to create places where people want to be. To achieve this there needs to be an approach to development that coordinates the actions of multiple actors toward a shared ambition. RPZs would provide a framework to coordinate investment to deliver quality places on these challenging sites.

The goal of this would be to avoid lower quality piecemeal development and maximise the final social value of the scheme. This is usually achieved through the consolidation of landholdings but the process can be challenging because it is not always in the interests of individual landowners to cooperate. If a landowner's return depends only on the site sale price this creates a strong incentive to hold out for the best possible price, which can delay development and limit the potential to create better places.

While there are good examples of collaborative place-making in Scotland these tend to be the exception rather than the rule. Part of the reason for this is that Scotland currently has no formal mechanism to facilitate collaboration. Regeneration Partnership Zones could help overcome this. To achieve this a mechanism is required that would enable landowners to participate in the development and take a fair share in the returns.

4.2 How Would it Work?

RPZs would provide a special purpose vehicle to facilitate collaboration in areas where fragmented landownership deters development. The mechanism would primarily support large-scale regeneration projects in urban areas, in parts of the country where existing land values are low.

It is proposed that RPZs should be identified by local authorities and designated with clear geographical boundaries. To prevent any fragmentation of ownership after a RPZ had been declared it may be necessary to invest the local planning authority with pre-emption rights to any land and property in the area, but this is something that would require further exploration prior to implementation.

Once a RPZ had been designated it is proposed that the local authority would select a development partner through open competition and form a joint venture company. Suitable partners might include private developers, housing associations, community development trusts or investors. The development partner would then be expected to work with the local authority to develop a masterplan for the area.

This company would then be granted exclusive development rights for the RPZ. Existing landowners would have the option of either joining the development partnership (in return for either space in the development or a financial return) or selling out to it.

The new mechanism is based on proposals previously made by the Land Reform Review Group for what were then described as “Urban Partnership Zones”.¹³ It draws heavily on the well-established practice of ‘land readjustment’ or ‘land pooling,’ which originated in Germany in the early 20th century and has since been adopted in many other countries.

The mechanism would help to overcome the challenge of fragmented landownership by changing landowner incentives and creating a reason for them to collaborate.

For RPZs to successfully assemble land for development and deliver to a long-term vision, it would be essential that the partnerships have the powers to assemble land. To facilitate this, we propose that in future Regeneration Partnerships should be empowered to carry out Compulsory Purchase Orders (CPOs) within their boundaries. This would enable the development of CPO expertise in bodies tasked with enabling regeneration on sites in fragmented ownership and would give a clear status to RPZs as bodies enabling regeneration and development of unused land. Introducing this mechanism could helpfully build on work undertaken by the Scottish Government in the last parliament to update and reform CPOs.

Discussions with stakeholders found that while some local authorities already use CPOs to deliver public interest outcomes (the Dundee Waterfront and the regeneration of Anderston in Glasgow are notable examples), their use was limited due to complexity. A comprehensive review of CPO legislation by the Scottish Law Commission undertaken in 2016¹⁴ found that the complexity of the legislation may well put off those who might wish to use it and was confusing for private landowners, with a “clear view that it is not fit for purpose.”

¹³ Policy Scotland (2015), [Urban Land Reform Briefing Paper 6 - Explaining UPZs](#)

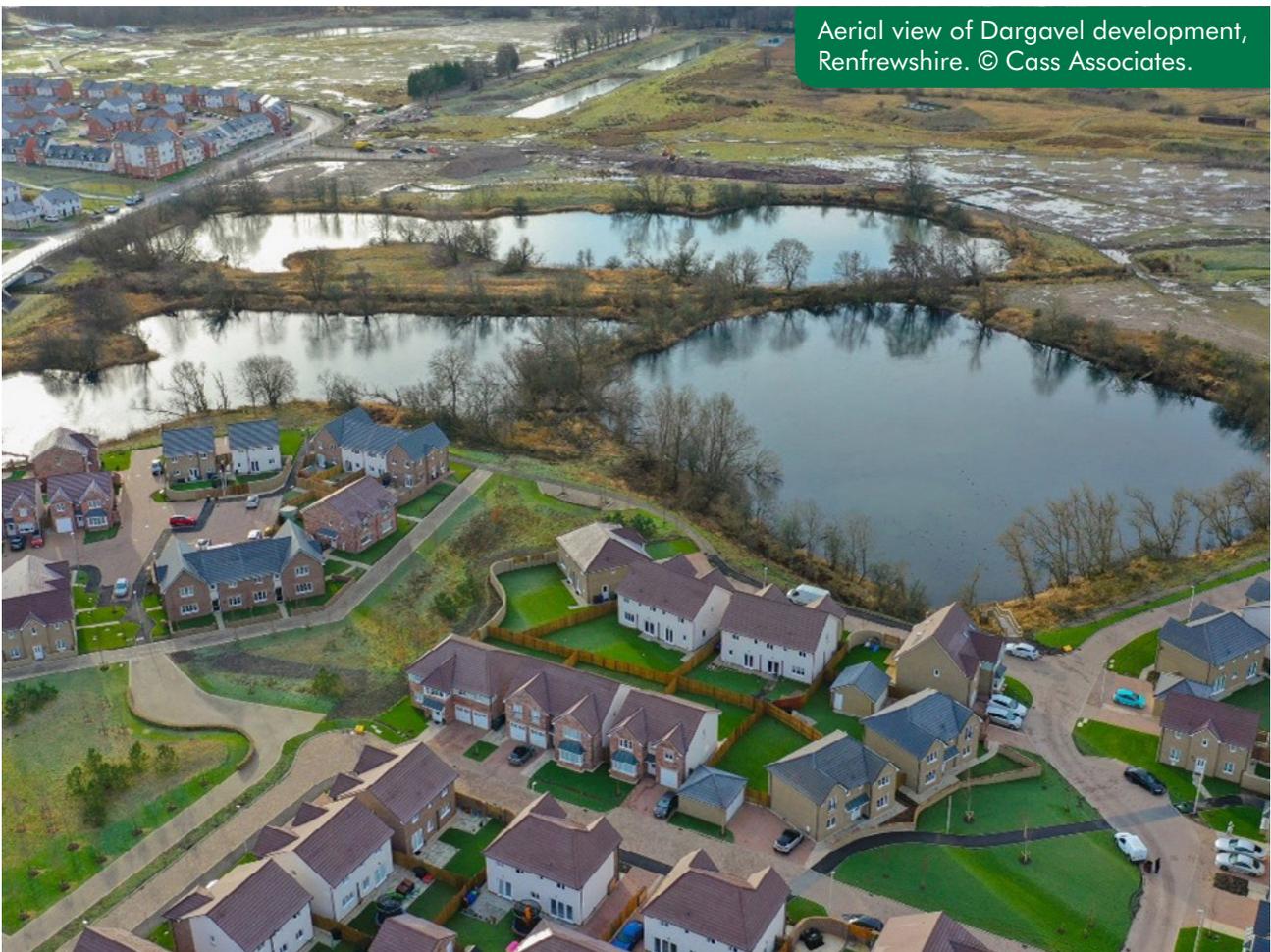
¹⁴ Scottish Law Commission (2016), [Report to the Scottish Government on Consolidated Responses to Discussion Paper on Compulsory Purchase](#)

While some steps toward reform have already been undertaken by the Scottish Government, feedback from stakeholders during the course of this review suggests that further work may be required. Given that CPOs are the primary tool available to public bodies currently wishing to assemble land for development for public interest outcomes, we believe there would be merit in exploring this further with stakeholders to determine what more can be done to update and streamline CPO legislation and practice. Amending the Planning (Scotland) Act 1997 to provide RPZs with CPO powers as set out in this section could be a useful first step.

4.3 What's New?

The concept of the public and private sectors collaborating to drive regeneration is not new and, in this sense, RPZs would build on established regeneration practices. The proposal also builds on pilot work undertaken by the Scottish Government on Simplified Planning Zones (SPZ) and subsequent provisions for Masterplan Consent Areas contained within the 2019 Planning Act, but goes beyond this in three important ways:

- Vesting regeneration partnerships with CPO powers;
- The grant of pre-emption rights to the local authority to prevent further land fragmentation subsequent to an RPZ being designated; and
- Statutory provision for landowners to share in the financial benefits of redevelopment in return for sharing some of the risk.



5 Capturing Uplifts in Land Value

Recommendation 3: Introduce new mechanisms to enable local authorities to ensure that uplifts in land value arising from public investment in infrastructure and remediation are captured and invested in place-making.

All development requires upfront investment in enabling infrastructure – roads, schools, utilities and (in the case of brownfield sites) the remediation of former land uses – before construction can commence. Alongside this the demands of good place-making – the provision of accessible green space, high quality urban design and an appropriate mix of housing tenure – all add additional costs.

The question of who should pay for this and when is a major headache for policy makers. This is particularly the case for off-site infrastructure, typically education and transport, where it is more difficult to determine a direct link to any individual site.

5.1 No Silver Bullets

As positions have polarised in the public debate around housing delivery many people have looked for legislative quick fixes. At the heart of this has been the debate whether compulsory purchase rules should be amended to enable public authorities to acquire land for development at existing use value.¹⁵ The rationale behind this proposal is that it would allow public authorities to use any subsequent uplift in land value to help fund investment in the infrastructure and services necessary to bring land forward for development.

While the underlying logic for this is sound, caution is required because history has shown¹⁶ that poorly designed solutions tend to be short-lived and rarely deliver as expected. The reasons for this have been explored fully in previous work by the Scottish Land Commission¹⁷ but two in particular bear repetition.

The first reason is that previous attempts tended to result in a decrease in the supply of development because landowners simply delayed bringing land to the market in the (well-founded) expectation that the legislation would be repealed by the next government.

¹⁵ 'Existing use value' is the value of land in its current use, excluding the value of any potential uplifts that could arise in the future, perhaps because of a change in use. Value attributable to the expectation of future uplifts in value (for example when land secures planning permission) is described as 'hope value.'

¹⁶ Scottish Land Commission (2018), [An Assessment of Historic Attempts to Capture Land Value Uplift in the UK](#)

¹⁷ Scottish Land Commission (2019), [Options for Land Value Uplift Capture: Advice to Scottish Ministers](#)

The second reason why previous attempts at land value capture have been unsuccessful is that they have tended to result in the creation of two parallel markets for development land. One for those who sold land privately and received full development value and another for those whose land was compulsorily acquired and who received only existing use value. This was widely regarded as unfair resulting in several high-profile cases of hardship and, ultimately, reform of the legislation.

It is essential, therefore, that any new scheme to capture land value uplift is regarded as fair by all parties and has wide spread political support. To achieve this it is essential that any new mechanism(s) maintain financial equivalence between landowners whose land is acquired through compulsory purchase and those who sell their land on the open market.

5.2 Possible Solutions

There is no simple or straightforward solution to this and it may be that Scotland would be best served by a combination of different approaches that could be deployed according to local context. Research commissioned by the Scottish Land Commission¹⁸ has identified four possible approaches that merit further consideration:

- Using planning policies to shape land values by being clear that land values are expected to fund infrastructure and place-making, ensuring that the land market takes account of the expected cost of planning obligations to be captured through infrastructure levies and section 75 agreements;
- Introduce special development zones where planning permission can be granted more quickly and the value of land acquired compulsory purchase based on the existing use land values prevailing at the time of designation;
- Local authorities enter into joint venture agreements with private landowners, pooling land to fund infrastructure and sharing in land value uplifts; and
- The amendment of compulsory purchase legislation to ensure land can be purchased closer to existing use value and the uplift used to fund infrastructure and place-making.

These options are not mutually exclusive and each would require significant development and detailed consultation prior to implementation. Some key considerations relating to each are identified below.

5.2.1 Using Planning Policy to Shape Land Value

There is good evidence that having clear policies about the contributions that developers will be expected to make can shape land values because developers take account of their obligations to pay for infrastructure and affordable housing when deciding what to pay for land. If these are introduced and consistently implemented then this should help to reduce the market value of land – enabling local communities to ‘capture’ more of the uplift in land values indirectly through enhanced contributions to infrastructure and other community needs.

¹⁸ Scottish Land Commission (2018), [Local Authority Land Acquisition in Germany and the Netherlands: Are There Lessons for Scotland?](#)

This conclusion has been borne out by research undertaken to inform this review¹⁹ that highlights that one of the crucial differences between the Scottish planning systems and that of Germany and the Netherlands (both frequently cited as exemplars in land value uplift capture) is the level of discretion within the development planning system.

Elsewhere municipalities can adopt a binding local land use plan, which specifies the physical form of the finished development in some detail. Typically, such plans cover aspects such, site density, street layout, greenspace and affordable housing provision. Providing this level of detail enables developers to undertake a detailed and accurate assessment of the costs involved in delivering the site to the required standard, before concluding negotiations with the landowner.

Scotland does not currently have an equivalent mechanism but provisions within the 2019 Planning Act to simplifying the procedures for adopting and updating plans and introducing an Infrastructure Levy could help to address this.

5.2.2 Special Development Zones

A second option would be to introduce special development zones in adopted plans where planning procedures would be faster and where compensation for land acquired under compulsory purchase legislation could be based on the existing use land values prevailing at the time of designation. Such an approach would be consistent with proposals for Master Planning Consent Areas contained within the 2019 Planning Act as well as broadly consistent with the practice in Germany where land prices in designated regeneration areas are frozen at the time of designation.

There is however a significant risk that this approach could breach the principle of financial equivalence between landowners. To address this risk, this approach would need to be accompanied by an approach to policies outside the zones as discussed above.

5.2.3 Land Pooling

The third possibility identified in the research would be to follow practice in the Netherlands where local authorities are able to enter into joint venture arrangements with landowners in an area of major development. Partners pool land holdings taking shares in accordance with their share of the land, borrow to finance the necessary infrastructure and public goods (open spaces, etc.) and sell the land back to shareholding members in pre-agreed proportions and locations at the market value, after the infrastructure investment. This approach would enable the debt incurred in land assembly to be repaid but leave landowners with incentives to carry out the development in the plan. In return for accepting a lower capital gain on land values they would get the guarantee of the investment in infrastructure 'up front'.

This approach underpins our proposals for Regeneration Partnership Zones set out in section 5.

¹⁹ Scottish Land Commission (2020), [Housing Land Allocation, Assembly and Delivery - Lessons from Europe](#)

5.2.4 Compensation at Existing Use Value

The final option identified through the research would be to amend compulsory purchase legislation such that compensation paid to landowners in the event of land being compulsorily acquired would be at existing use value, taking no account of hope value. While the research indicates that such an approach may be legislatively possible, unless steps were taken to ensure financial equivalence between landowners it would likely prove impractical.

In principle various options exist that could help to achieve this. A 'mark-up' could be added to the CPO compensation, steps could be taken to ensure that the market value land acquired through compulsory purchase took full account of planning policies (see above) or a higher rate of capital gains and stamp duty land taxes could be applied to land transactions. However, while theoretically possible, none of these approaches would be straight forward to develop or administer.

An alternative (and potentially more practical) solution would be to reform the rules of compensation itself, specifically in relation to the definition of "the scheme".

Under current rules any changes in land value caused by a proposed development ("the scheme") must be disregarded when calculating compensation. However, the scheme is narrowly defined and includes only the development underlying the CPO itself and not any related project that may have made that development possible. This means that infrastructure investment by the state can have the perverse effect of actually increasing the cost of public-led regeneration.

Reforms to address this were introduced in England in 2017 to enable the cost of delivering transport projects that facilitate further regeneration activity to be excluded for the purposes of calculating compensation.²⁰

The changes in England and Wales highlight the possibility of applying particular restrictions to the compensation code around uplifts in value that are derived from the delivery of other public works. As in England and Wales, this would require changes to existing legislation.



²⁰ The driver for this change was regeneration development along the line of the new Crossrail in London where the Greater London Authority wished to acquire land for redevelopment, which had increased in value as a result of its proximity to Crossrail. Crossrail itself was promoted by Transport for London, and the default position would have meant that Crossrail was not part of the "Scheme" and increases in value would form part of the land valuation of land acquired for regeneration purposes.



6 A New Land Agency

Recommendation 4: The creation of a new land agency, empowered and resourced to ensure that a steady supply of development ready sites is brought forward at the right time and in the right places to meet Scotland’s housing needs.

6.1 The Challenge – Place as a Public Good

At present, strategic land promotion in Scotland (the process of identifying and making sites ready for development) is carried out largely by the private sector, but the private sector is motivated by a need to generate value for shareholders – not society as a whole. This means that, left to its own devices, it tends to bring forward land in high value areas where returns are likely to be highest and most certain – and avoid lower value areas like town centres and parts of rural Scotland.

As well as leaving many communities underserved, our current market-led approach to strategic land promotion also impedes the delivery of high-quality places by focusing effort and investment on components of development that generate private rather than social value. If it will help maximise shareholder returns, private developers will happily invest in things like additional bedrooms, private driveways, luxury kitchens and integral garages because these things have private value to an individual homeowner that can be reflected in the sales price. However, elements of development that bring social rather than private value – things like recreational green space, biodiversity and high-quality urban realm – benefit everyone and are much more difficult to reflect in sales prices so tend to be under-provided.

Unlike houses, great places cannot be commoditised so they tend to be underprovided by the market – and the quality of the places remains “stubbornly low.”²¹

To overcome these challenges Scotland needs to socialise the provision of housing land. Doing this will help to ensure not only that Scotland delivers its ambition to deliver 100,000 new affordable homes – but that these homes become part of sustainable places and thriving 20-minute neighbourhoods.

²¹ UK Collaborative Centre for Housing Evidence (2021), [Delivering Design Value](#)

6.2 Why a Land Agency?

To achieve better outcomes, we need to move away from a purely commercial model of housing land delivery focused on private value and toward a model that prioritises social value. We need to adopt the kind of collaborative, place-based approach envisaged in the National Infrastructure Investment Plan.²²

A Land Agency could play a significant role in delivering this.

This is because the way that a market operates is not just about the rules that govern the operation of the market, it is also influenced by the skills and resources of the participating organisations and by the institutions that govern relationships between participants. Creating a public land agency would provide a centre of skills and resources, enabling local authorities and public bodies to lead on strategic housing land supply, shaping markets to deliver public interest outcomes.

Research on housing land markets in European countries with a strong track record in delivering more homes and high-quality places found that local authorities lead on strategic land supply and shaping housing markets, performing an enabling role by promoting land for development.²³

In the three north-western European countries studied in the research, municipalities enabled the development of new communities with access to quality green and public space on former brownfield sites. If applied in Scotland this approach could help tackle the legacy of vacant and derelict land and enable the creation of 20-minute neighbourhoods close to public transport and amenities.

The potential benefits of a public interest led approach are huge, including enabling development that supports major government policy objectives such as low carbon neighbourhoods and the promotion of active travel and delivering housing in areas that are often underserved by the commercial housing sector.

Achtercairn development in Gairloch, Wester Ross.
© Rupert Shanks Photography.



²² Scottish Government (2021), [A National Mission with Local Impact: Infrastructure Investment Plan for Scotland 2021-22](#)

²³ Scottish Land Commission (2020), [Housing Land Allocation, Assembly and Delivery: Lessons from Europe](#)

6.3 How Would the Land Agency Work?

While a lot can be learned from the European approach and the benefits it brings these systems are built on a long-standing approach in which municipalities play a leading role in housing land markets. In Scotland, the bulk of housing development has been delivered through the private speculative model for more than 30 years. This means that many local authorities lack the skills and resources to promote land for development.

While some councils in Scotland have played a significant role in land assembly and public interest led development, other local authorities lack the expertise and resource. Creating a public land agency would provide resource and capacity to enable local authorities to play an active role in land promotion and shaping markets.

In Ireland and England, two countries close to home with similar planning systems and housing land markets, public land agencies were created to enable the public sector to act as a strategic land promoter to enable development and shape markets in the public interest. The agency's role would be to support local authorities to deliver their plans and facilitate development on sites that the private sector alone is unlikely to progress. Investing in skills at a national level would create expertise and capacity to achieve the transformational change required and deliver economies of scale.

A public land agency could help to reduce uncertainty and therefore transaction costs, providing greater certainty and reducing risk for developers.

The Land Agency could support local authorities, working with infrastructure providers and other planning agencies to identify the best sites for development in an area or region and coordinating their actions to bring forward sites for development. In doing so the agency would help deliver the *“cross-portfolio, and robust evidence-based, land use appraisal and prioritisation approach”* envisaged by the Infrastructure Commission²⁴ and adopted through the National Infrastructure Investment Plan. By helping to coordinate the delivery of on-site infrastructure it is envisaged that the new agency would also be consistent with proposals for a new National Infrastructure Company as set out in the 2021 SNP manifesto.

We propose that while the agency should be national and have a core central team of staff with expertise in land promotion and unlocking sites for development, it should act at a regional and local level. Its role should be of enabler, supporting local authorities, communities and housebuilders by providing a pipeline of development ready land.

6.3.1 Priorities for the Land Agency

It is proposed that the Land Agency should have three priorities, two short-term and the third longer term. In the short-term it should work to promote better use of surplus public land for development (building on the work of the recyclable land fund) and to bring forward challenging sites in fragmented ownership that the market would not develop without intervention. In the longer term we propose that it should work to ensure that the public sector becomes the main promoter of strategic housing development land to ensure that new housing provides public interest outcomes including affordable homes and better place-making.

²⁴ Infrastructure Commission for Scotland (2020), [Delivery Findings Report](#) (“systems and behaviours” recommendation 4).

Focusing on development of public land would allow the agency and local authorities to enable housing development and to specify public benefits such as infrastructure for active travel, better place-making or the reservation of plots for development through alternative models of housing delivery.

Better use of public land to enable housing development are core objectives of both the Irish Land Development Agency and Homes England. We propose that the agency should have a right of pre-emption for any surplus public sector land in Scotland.

The creation of a land agency would enable housing development to support Scottish Government priorities. Scotland's reliance on the private sector bringing forward land for development has meant that little private development takes place in urban regeneration areas or in rural Scotland.

It is envisaged that the agency should use its skills and resources to support the development of sites in fragmented ownership in urban regeneration areas, promoting inclusive growth and enabling development close to amenities. At present, while there are opportunities to assemble brownfield sites for development, this often involves too much risk for the private sector. While there are examples of the public sector taking this leadership role (for example Clyde Gateway and the Dundee Waterfront) this is not a common form of development. A land agency would provide a focus and a concentration of skills and resources, ensuring that fragmented land in regeneration areas is assembled and brought forward for development.

The agency would also have a key role supporting communities who have identified unmet housing need and demand in rural areas, supporting local authorities and enabling bodies such as Rural Housing Scotland, the Communities Housing Trust and South of Scotland Community Housing. The agency would provide a pipeline of sites for community-led development (and other alternative tenures), supporting the Scottish Government's policy objective to repopulate remote and rural Scotland.

In the longer term we propose that the public sector should become the main promoter of strategic development land. As with education and health, the role of land promotion in shaping place-making and delivering housing is too important to leave to the private sector alone.

The location of development, and the type of place that is created, can have a major impact on promoting inclusive growth, active travel and zero carbon developments. The Scottish Government has adopted the concept of 20-minute neighbourhoods as a mechanism for promoting health and wellbeing. To deliver these places, the public sector must take a leading role in land promotion to shape development outcomes. A land agency would be instrumental in enabling a shift to a housing land market where the public sector leads on strategic land promotion, sharing the risks and rewards of development and reducing risk for private sector partners.

Research for the Scottish Land Commission found that where the public sector plays a leading role in assembling land for development and shaping the market then better outcomes are delivered – including quality green and public space and new housing on brownfield sites close to jobs, amenities, and public transport.²⁵ The Land Agency would provide a central resource to enable this type of development to become mainstream and, in the longer term, could enable a long-term strategic public land supply to be built up to meet future development needs.

²⁵ UK Collaborative Centre for Housing Evidence (2020), [Delivering More Homes and Better Places](#)

Figure 1: Financing a Public Land Agency

The start-up costs associated with the creation of a new agency would likely be significant but we expect that these would be offset in the long run by savings in public expenditure and returns on the investments made.

As a comparator, the cost of capitalising the Irish Land Development Agency was 1.25 billion euros and the new agency was also granted borrowing powers of up to 1.25 billion euros. Funding of a similar order of magnitude may be required to capitalise a Scottish equivalent.

While 1.25 billion euros is clearly a substantial amount, it should not be considered in isolation.

For comparison, the total invested in delivering affordable homes in Scotland between 2016-21 was £3.5 billion. The creation of a land agency would not end the need for investment in new build affordable housing, but it should enable delivery to be undertaken at a lower cost and reduce the extent of the annual subsidy required.

In recent years Scotland has also invested significantly in supporting people into home ownership – in 2020-21 £200 million was provided and in 2021-22 the Help to Buy scheme closed after just over one month with the £60 million funding fully committed.

Investing capital in an agency to bring forward land for development and shape the housing market would reduce the need for such funding. Crucially, because funding would be recyclable (unlocking sites for development, then being re-invested in further sites later), these savings would continue to accumulate every year in perpetuity. Furthermore, it would be reasonable to expect the annual returns realised each year to increase over time as the agency became more established and values from sites acquired early in its life cycle began to crystallise.

While the funding required to capitalise the new agency would be significant it is vital that this is considered a long-term investment to deliver much needed change to the housing land market, enabling more homes to be delivered and creating better places, rather than a cost.

7 Market Transparency

Recommendation 5: A new transparency obligation that would require options agreements and conditional contracts over land to be disclosed on a public register and for summary information on this to be published on a regular basis alongside a regular statistical bulletin covering land sales prices.

7.1 The Challenge – A Lack of Transparency in the Housing Land Market

For a market to operate efficiently information about prices must be readily available to everyone who participates, or wants to participate, in that market. This is one of the essential criteria for a market to function effectively (as set out in 2.1).

The housing land market in Scotland is anything but transparent. Improving transparency would make the market more efficient and improve its operation. At present, developers source the bulk of their sites through contacts and networks rather than buying land on the open market.²⁶ This means that information on where developers plan to build houses and the price that they have agreed to pay for the land is not publicly available.

7.1.1 Options Agreements and How They Work

The main way that housing developers acquire land is through options agreements or conditional contracts.

Options agreements are legal agreements between a landowner and a developer. They provide the developer with the right to buy land for an agreed price within a period of time and are used to manage development risk (e.g. the risk of planning permission not being granted or the unpredictability of the cost of planning conditions). Options agreements and conditional contracts are not conducive to a transparent and efficient housing land market. Information is not publicly available on options agreements meaning that there is no clear information on:

- Which sites have been optioned to be developed in future for housing; or
- The cost of purchasing the land for housing.

²⁶ UK Collaborative Centre for Housing Evidence (2019), [How Does the Land Supply System Affect the Business of UK Speculative Housebuilding?](#)

In 2020, the Scottish Land Commission investigated whether land banking – the practice of hoarding development land to make an excess profit on the sale of new build housing – was limiting the supply of new build housing in Scotland.²⁷ Some commentators argue that land banking pushes up sales prices, contributing to the housing crisis.

While the research found no evidence of large housebuilders banking land with planning permission (instead a pipeline of land is maintained to manage the risks of development and provide a supply of sites to build on), it was not possible to reach a conclusion on ‘raw land’ – land that does not have planning permission, but that could be developed for housing in the future.

The research found that it was not possible to establish whether developers were banking raw land as there is no publicly available data on sites which developers have options on. A case study in the report found a correlation between concentrated land ownership and a shortfall of housing land supply. Although it was not possible to show a causal link through one case study this highlights the potential risks of lack of transparency within the market.

Consultations with planning authorities also uncovered concerns about the lack of transparency over control of land for housing. Several highlighted that developers would hold options on greenfield sites on the edge of towns and cities without the planning authority being aware of where these sites are and when they might come forward for development. One development professional suggested that the widespread use of options agreements led to a danger of planning authorities being presented with future development sites as a *fait accompli*.

7.2 How it Would Work

It is proposed that a register of options agreements to develop land is established. In future, landowners would be required to register all options agreements and conditional contracts on land that they own which has not been developed. It would be advisable for provision to be made for a lead in period prior to the introduction of this requirement to give developers and landowners time to prepare for the change in practice. While a case could be made for introducing a requirement to register all existing options agreements retrospectively, this would require consideration and consultation with stakeholders.

It is important to avoid the unintended consequence of housebuilders reducing activity in Scotland. That is why registering options agreements is the final in a series of building blocks designed to reform the housing land market and should be seen as part of a package of measures to enable more land to come forward for development.

We also suggest that before the transparency obligation becomes a legal obligation there is an opportunity to work with housing developers and landowners to develop voluntary good practice.

It is proposed that the new register should be kept by the Registers of Scotland and that the cost of registering options agreements and conditional contracts should be paid by the parties registering the option.

We also propose that a new statistical publication should be created to provide regular information about land sales prices across the country. The data required to produce this publication is already gathered by Registers of Scotland as part of the property registration process and was previously published as a regular statistical series.

²⁷ Scottish Land Commission (2020), [An Investigation Into Land Banking in Scotland](#)

7.2.1 Community Engagement and Better Outcomes

A significant advantage to increasing transparency on control and ownership of land is that communities would be made aware of development plans earlier. Research for the Scottish Land Commission found that where communities are engaged early on and in depth on development proposals this results in better outcomes.²⁸ Early community engagement:

- Improves the quality of development;
- Builds trust and a sense of community; and
- Speeds up the process and helps to secure planning consent.

Making communities aware of plans to develop land for housing as early as possible should help to reduce conflict and secure support for proposals. The potential benefits of reducing conflict in the system are significant. Planners and developers that we spoke to during the review highlighted that conflict was a significant issue that used a lot of time and resources. Reducing conflict could free up more resources and funds to support better place-making, while increasing certainty should help to speed up the delivery of new homes.



²⁸ Scottish Land Commission (2020), [The Value of Early Engagement in Planning](#)

8 Planning for Town and Country

This chapter explores how the recommendations set out in this report will benefit different parts of Scotland by enabling housing investment to deliver inclusive growth.

The land use planning system is for the whole of Scotland – but our current approach to housing delivery, which relies very largely on speculative delivery by commercial developers, means that the bulk of new housing for sale is delivered on greenfield sites on the edges of cities and in buoyant market areas.

Figure 2 sets out the relationship between market value and development costs that determines where speculative developers can achieve the return that their business model requires and where, therefore, they will build.

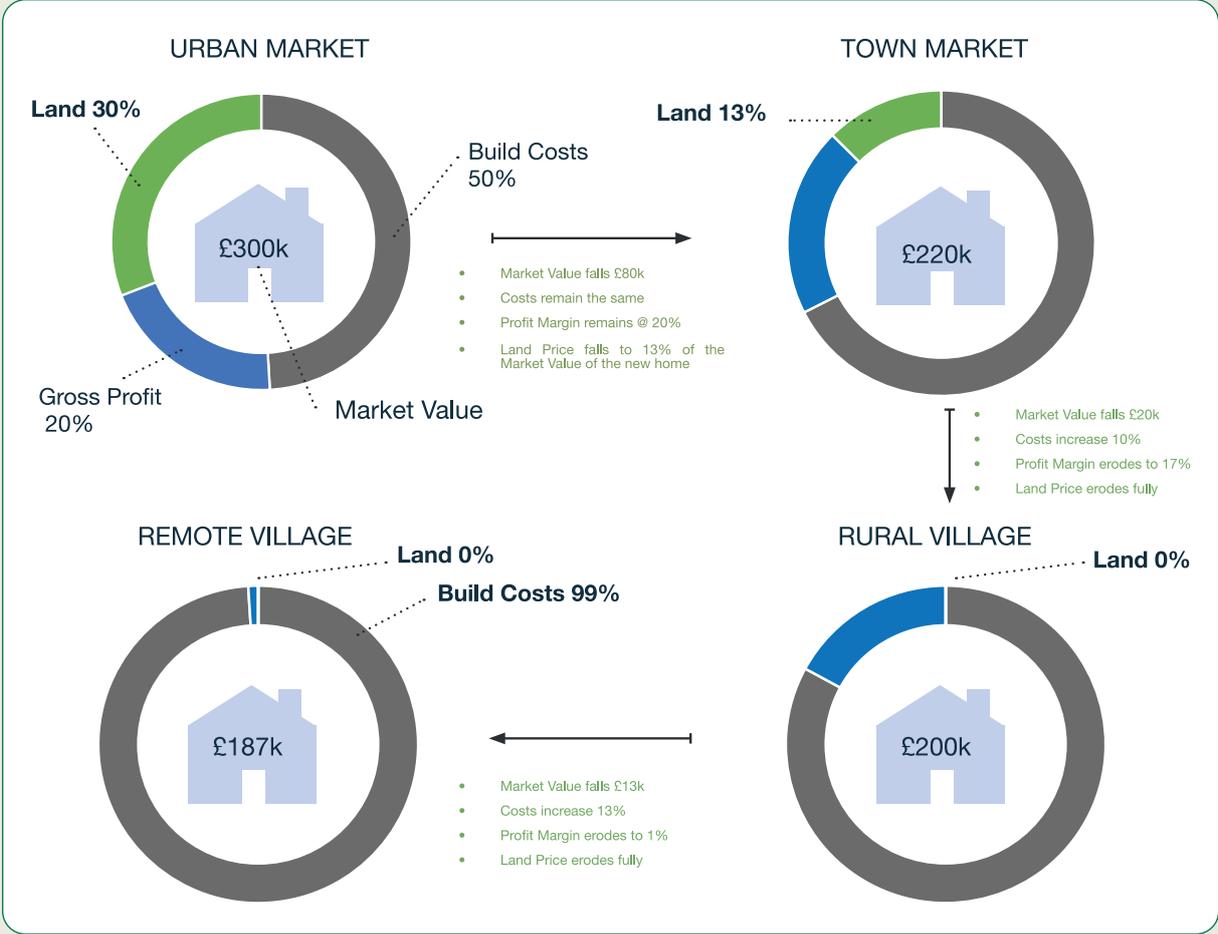
While people working in a particular place may think that their area and the challenges facing it are unique, this review has found that the speculative housebuilding model typically does not operate outside cities and growth areas. These issues are particularly acute in rural Scotland and in urban regeneration areas. This chapter sets out how each of the recommendations will enable the market to deliver housing in areas that it does not currently operate in, by promoting land for development, reducing risk and supporting alternative models of housing delivery.

Achieving this would deliver on significant Scottish Government objectives: the regeneration and re-use of town centres; the delivery of 20-minute neighbourhoods; the creation of low carbon neighbourhoods; and the repopulation of rural and remote places.



Rural house in Applecross, Highlands. © Savills.

Figure 2 – The relationship between market value, build cost and gross profit margin in four sub-market areas across Scotland



Source: Savills (2020), [The Role of Land in Enabling New Housing Supply in Rural Scotland](#)

The recommendations are about empowering the public sector and providing it with the tools to have more control over what gets built and where. Fulfilling this duty will enable housing developers of all types to deliver more homes across the country.

8.1 Rural and Island Areas

The ambition for housing provision in rural and island areas is clearly set out in policy, including Housing 2040, Scotland’s Population Strategy and the National Planning Framework. Scotland’s Climate Change Plan also emphasises the expectation of increasing rural population with new skills and employment opportunities in the transition to a net zero economy.

Rural and island areas face particular challenges in building enough homes to meet need and demand. Build costs and infrastructure costs are often higher, and land values lower, meaning the speculative model of major housebuilders does not operate in much

of Scotland's rural areas and islands. In addition, the demand for second homes and short-term lets has driven increasing house prices, and the pandemic has seen a rise in demand for homes in rural areas as people have more flexible working patterns.

While regulation of the existing housing stock is a matter for the planning system (and measures are currently being considered), there is also clear rationale for a stronger public interest-led approach to the land market to enable new housing in rural Scotland. With rural Scotland accounting for around a third of the Scottish economy²⁹ and housing availability increasingly recognised as an important factor in supporting rural economic development, this is not just a social imperative but one of national economic importance.

Community-led housing delivery, while also relevant to urban Scotland, is already a proven model of delivery in rural and island areas and should be supported to scale-up. To support this as well as other models of delivery, the case for a more proactive public sector approach to land allocation and supply is very relevant to rural and island areas. There are also particular considerations in how our proposed reforms can deliver effectively in rural and island areas.

8.1.1 Place Pioneers

While vacancy and dereliction are often characteristics associated with urban land, this is not a challenge confined to urban Scotland. There are many communities throughout rural Scotland where a combination of population decline and low land values has resulted in a legacy of abandoned, neglected and poorly maintained housing stock that is no longer fit for purpose.

The cost of bringing such property back into use often deters private investment, but the public benefits – helping to arrest population decline in fragile rural communities, supporting rural development and promoting the reuse of construction materials – creates a strong case for public intervention.

By providing a formal mechanism for public/private collaboration, the place pioneers concept described in section 3 could provide a way of realising this opportunity.

8.1.2 The Functions of a Land Agency

The establishment of a land agency role was one of the principal recommendations of the Commission's research on land for rural housing. The proposed agency functions should establish over time a publicly controlled land bank, acquired at close to existing use value, to meet the future housing needs of rural and island communities and bring together the skills, expertise and resource needed to make sites viable. It will be important for the agency role to operate in a decentralised way, working with and through local authorities, communities and existing delivery bodies. Consideration should be given to the ways the agency role can support community asset ownership, for example supporting work to bring existing community land assets to development and working in partnership with communities to bring the required housing land supply into either public or community control.

²⁹ Scottish Government (2018), [Understanding the Scottish rural economy: research paper](#)

As set out in the main recommendations, the functions of the Land Agency are not intended to take over from viable community or private-led development in rural and island areas. Rather it is to bring a more proactive public sector approach to the table that will support viability and provide a longer-term land supply and certainty. Within this model there is significant scope for private and community-led partnerships to deliver master-planning and development.

8.1.3 Supporting Local Models of Delivery

There are already proven models of housing delivery such as community-led housing and self-build, alongside SME building and development firms. The proposed land agency functions should include provision of an effective land supply to help these models scale-up, supporting and building on the experience of existing delivery bodies such as the Communities Housing Trust and South of Scotland Community Housing. By reducing some of the risk and by association speculative value, from the land supply system, the proposed package of reforms can help support opportunities for SMEs and retention of value in local economies.

8.1.4 Supporting Enablers to Deliver Rural Housing

Our research on enabling rural housing found that enablers and facilitators play a major role in supporting the delivery of affordable rural housing. Developing housing is complicated and developing three homes to support a rural community can be more complex than delivering a large scheme in urban Scotland. We therefore propose that long-term support is provided for enabling organisations such as Communities Housing Trust, South of Scotland Community Housing and Rural Housing Scotland who support communities, landlords and SMEs to deliver alternative models of housing.

Given appropriate support and funding, these agencies can play a crucial role in delivering affordable housing in rural Scotland.

8.2 Town Centres

The pandemic has had a major impact on town centres. High streets, already struggling to compete with out-of-town shopping outlets and online retailers, have seen Covid-19 hasten their decline as retail centres.

These challenges were powerfully highlighted by the Town Centre Action Plan Review Group (TCAPRG) in its 2021 report to Government, which noted that a pattern of greenfield developments accessed by car use had contributed to the decline of traditional town centres.³⁰

The authors highlight how providing housing in town centres could play an important part in reversing this decline and highlight the opportunity to use empty commercial buildings, spaces above shops and gap sites to provide homes close to amenities and public transport. As Scotland re-emerges from the pandemic there is a real opportunity to take action to progress this aspiration.

³⁰ Town Centre Action Plan Review Group (2021), [A New Future for Scotland's Town Centres](#)

Housing-led regeneration can help transform failing town centres simultaneously, delivering both the aspirations of the TCAPRG and the Government's commitment to 20-minute neighbourhoods – and all of the associated social, economic and environmental benefits – but we need to act quickly.

8.2.1 The Role of Place Pioneers

Place Pioneers could provide an opportunity to kick-start this process.

Many local authorities and other public bodies have disused property assets that are no longer required for operational purposes within their property portfolio. Many of these assets are centrally located and have the potential for housing-led redevelopment. The Place Pioneers approach set out in section 3 could provide a mechanism for bringing these assets back into use as demonstrators of town centre living.

8.2.2 The Role of the Land Agency

While there is an opportunity to provide housing in town centres that provides choice and meets the needs of groups not currently well provided for, developing town centre housing is challenging. Private developers focus on greenfield sites to reduce risk – in town centres sites are often in mixed ownership, there will be services to divert, and the new housing would often be developed in existing, historic buildings.

To seize the opportunity that the changing role of high streets represents, there is a need for the right skills and resources to assemble land and make sites and buildings ready for development. The new Land Agency could play a key enabling role, supporting local authorities and their partners to regenerate town centres by enabling sites and projects to come forward for development.

A case study of development in Switzerland found that the Swiss have effectively ended development on greenfield sites by requiring that all existing development land has to be built out before more can be released. This has resulted in local authorities requiring developers to focus on brownfield and infill sites, resulting in high density, high quality, mixed use developments connected by public transport. The policy has enabled Switzerland to meet increasing housing needs and keep house prices stable without using more greenfield land.³¹

The Swiss were able to implement this policy as they had a clear national picture of land supply and were able to demonstrate that there was no need for further land to be released to meet housing need and demand. We are not proposing that development in Scotland is limited to brownfield sites – but having a national agency responsible for providing a pipeline of sites for future development would enable Scotland to ensure that more development re-uses vacant land. As part of its remit the agency could work with local authorities to ensure that land supply meets assessed housing need and demand, and that an increasing amount of the pipeline of sites in urban Scotland re-use brownfield land.

If, building on the Town Centre First approach, a policy is to be introduced to prioritise housing development on brownfield sites and in town centres, then there needs to be co-ordination. If local authorities compete to attract development then developers may

³¹ Scottish Land Commission (2020), [Housing Land Allocation, Assembly and Delivery: Lessons from Europe](#)

work in areas where the local authority releases more greenfield land for development. A housing land agency could play a co-ordinating role at a regional level, working with local authorities, infrastructure providers and the key agencies to identify site for development focusing on town centres and brownfield sites.

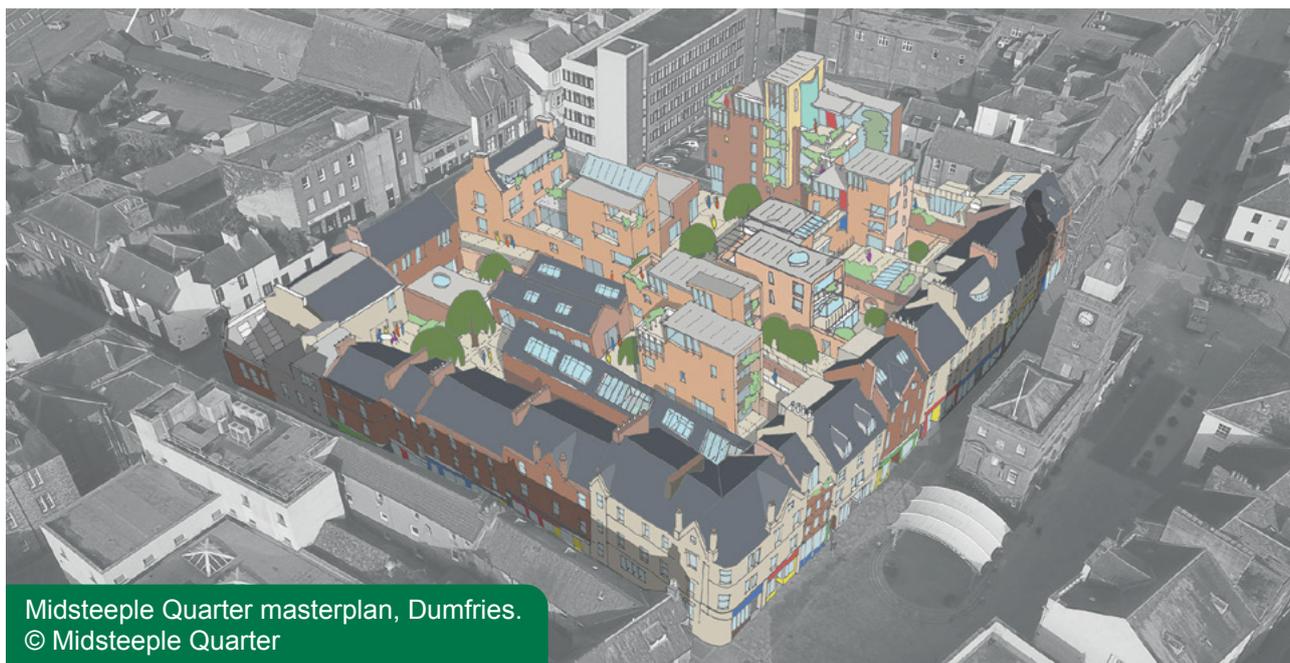
8.2.3 Alternative Models of Delivery

Speculative developers do not generally deliver housing in town centres. This means that alternative models of delivery have an important role to play – the work of the Midsteeple Quarter project in regenerating Dumfries town centre is an example of what can be achieved. Developing in town centres is challenging and risky – resources and support need to be made available to support new models of delivery. Chapter 8 discussed the benefits that increasing the delivery of alternative models could deliver, bringing investment to rural and regeneration areas and providing a greater variety and choice of housing. The Land Agency could enable delivery by alternative models by assembling and allocating sites to be developed through alternative models.

8.2.4 Demonstration Models and Building Capacity

Large housebuilders will not deliver town centre housing. Alternative models, such as community-led housing, co-housing and build to rent can deliver homes and provide new uses for town centres but some of these models require support if they are to grow. There is a strong case for demonstration projects to be funded and supported that showcase the potential for housing to revitalise town centres, provide evaluation and learning that can be applied more widely.

The Scottish Futures Trust and Architecture and Design Scotland have entered a strategic partnership to offer their skills and resources to local authorities to develop well designed, deliverable town centre housing. The first project is in Clackmannanshire and we support this being rolled out more widely over a range of demonstration projects.



Midsteeple Quarter masterplan, Dumfries.
© Midsteeple Quarter



9 Conclusions

Housing is fundamental to our wellbeing but our current approach to delivery is not serving us well. Too many people are unable to access high-quality homes, in places they want to live and at prices they can afford.

Part of the reason for this lies in our approach to land, specifically how land is brought forward and made ready for development. Our current market-led approach has created a situation in which housebuilders compete more over access to land than the quality of the homes they build. Fixing this will require a much more interventionist, public interest-led approach to delivery.

9.1 Towards A Public Interest Model of Delivery

This idea is based on recognition that market forces alone cannot deliver the high-quality places that are so fundamental to human wellbeing because what is economically rational does not necessarily best serve the public interest.

Left to its own devices “the market” will naturally seek to minimise risks and maximise returns. The spatial manifestation of this is a persistent legacy of post-industrial dereliction in Scotland’s most deprived communities, a population-sapping lack of affordable housing in our most fragile rural communities and the spread of soulless suburbs lacking in green space and public amenities around our towns and cities. Covid-19 brought the consequences of this for public wellbeing into sharp relief. Never has urban green space been more important or its absence so keenly felt.

As we begin to emerge from the pandemic and thoughts turn to how we can “build back better” we need to make sure housing delivery and good place-making are at the heart of the recovery effort.

In this paper we have set out a package of reforms that would help deliver this. It draws extensively on international good practice and Scotland’s own experience of collaborative, aspirational place-making. While very different to our current approach, it is far from radical.

Achieving change of this magnitude will not be easy. Leadership and commitment to change will be required at the local and national level and, significant effort will be required to secure the buy-in and support of the development sector.

How we manage the transition period will also be crucial. While the reforms set out in this paper have the potential to deliver a step-change in our approach to housing delivery – they are not without risk.

In developing the recommendations we have been particularly mindful of these risks and this is reflected in the sequence of what is proposed. It is important that the recommendations are viewed as a package – a route map to reform – rather than a series of discrete proposals.

9.2 Collaboration Rather than Conflict

The reforms set out in this paper are more than just a set of legislative reforms. They are designed to bring about a fundamental culture change in our approach to housing delivery. An important component of this is fostering a culture of trust and mutual respect between planners, communities and the development industry. A key driver for the reform is the need to move away from what is currently a very adversarial system to one of public and sector private collaboration.

The importance of achieving this was highlighted in Independent Review of Planning undertaken by the Scottish Government in 2015, which highlighted the importance of collaboration rather than conflict. It was a theme returned to by many of those who contributed to this review who highlighted concerns that the system has become increasingly adversarial, with a great deal of time and resources used in preparing for appeals and court cases.

The Scottish Government recently published revised guidance on planning for housing which in part aimed to address this issue. There are also plans to promote and introduce mediation into the planning system – while welcome, this illustrates the conflict endemic in the system.

The proposals set out in this paper would help to move us beyond this by embedding a more plan led approach, that fosters early and meaningful collaboration between local authorities, developers and communities.

This kind of approach would not only help to free up resources that could be invested in place-making but would also bring direct benefits to those involved in delivery.

As one consultee said, “working collaboratively to deliver better places will be more rewarding for planners, planning consultants and developers than working in the current, adversarial system.”

9.3 Will the Proposed Changes Be Enough?

There is a question as to whether the proposed changes will be enough to tackle inequalities in the housing market and deliver more homes and better places. For two areas of Scotland’s housing land market – rural communities and post-industrial towns – the reforms can drive positive change. Proposals for intervention in these markets can create a market and activity where speculative developers do not build homes.

But this model may not be sufficient to deliver all of Scotland's infrastructure needs. Research commissioned by the Scottish Government³² has shown that even if all development land in Scotland could be acquired at existing use value at most £230 million could be generated each year – and £130m of that is already currently captured through existing planning obligations. This represents around 3.5% of the costs of Scotland's infrastructure needs. The need for continued public investment funded by general taxation – particularly on low value sites that require decontamination – remains essential.

Elsewhere in the recommendations we have outlined proposals to ensure that a greater share of land value uplift is captured and used to fund infrastructure and better place-making. This would bring land values closer to existing use value and should make homes more affordable. The impact of rising land values and house values are significant, however, and much of the increased values ultimately accrue to homeowners, rather than landowners and developers. To reduce housing wealth inequality it would be sensible to consider how general taxation could be used to capture a fair share of this public created uplift in value so that it can be used to support the delivery and maintenance of the essential place-making infrastructure.

9.4 A Vision for the Future

The reforms presented in this paper could deliver significant benefits for Scotland.

First and foremost they could help us deliver more homes more quickly, helping more people to access high quality accommodation at prices they can afford. But the benefits are not just about numbers and price. The changes we have proposed would also help us to deliver a step-change in our approach to place-making.

Somewhere in our enthusiasm for market-led housing delivery we seem to have forgotten that houses should also be homes. Moving to a more public interest led model could help to change that, helping shift the focus from quantity of units to quality of place.

The benefits of this for society would be significant.

In urban areas the recommendations could facilitate a shift to town centre living helping to reinvigorate failing town centres. This would directly support the creation of 20-minute neighbourhoods and the associated benefits of reduced car-based carbon emissions, enhanced wellbeing and increased physical activity. In rural areas the benefits would be no less significant, helping to arrest and reverse population decline and support the sustainable economic development of Scotland's most fragile communities.

The economic benefits would not be limited to regeneration areas and rural communities.

By making it easier for developers to access development-ready sites when they need them, we can reduce the need for long term, privately owned strategic land banks. Over time this can help us to refocus the development industry so that rather than competing over site acquisition, in future housebuilders would compete solely on the quality of the places they deliver.

³² Scottish Government (2016), [Options for the Introduction of an Infrastructure Charging Mechanism in Scotland \(Stage 1 & Stage 2\)](#)

Decoupling the sector from the land market in this way should benefit the sector by reducing its exposure risk. This should bring clear benefits for shareholders and employees (in terms of job security) but the benefits to the wider economy could be even more significant.

In section 3.1 of this paper we introduced the concept of market failure and the idea that land, by virtue of its inherent scarcity, is a source of market power that is fundamentally incompatible with economic efficiency.

A symptom of excessive market power in any industry is the ability to generate excess profit – not just the kind of high profit typically associated with risky industries – but the kind of super-normal profit that economists label ‘rent.’

Lack of regulation within our housing land market over the past couple of decades has enabled housing land to become an important source of economic rent in the UK.

With property wealth now accounting for 35% of aggregate household wealth³³ and the value of land accounting for 57% of UK net worth³⁴, this has far-reaching implications for the economy. It is not without reason that commentators have labelled the UK as “a housing market with an economy attached.”³⁵

A rentier economy is one characterised by rising inequality and economic stagnation – because when it is possible to turn a profit simply by controlling a piece of real estate incentives for innovation are destroyed, and it is innovation that drives economic growth.

By limiting opportunities for land speculation, the proposals set out in this paper would directly address this and help put Scotland onto a different growth trajectory built on wealth creation rather than wealth extraction. This would have far-reaching benefits, well beyond the delivery of housing.

Mix of house types at Castle Gardens, Pencaitland, East Lothian. © Gareth James.



³³ ONS (December 2019), [Total wealth in Great Britain](#)

³⁴ ONS (December 2020), [UK national balance sheet estimates](#)

³⁵ Bilsborough (March 2021), [Rentier Island](#) Tribune Magazine



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