



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

Option Agreements and the Housing Market – Why Transparency Matters

Housebuilders across Scotland take out option agreements to buy and develop land in future. Our review of [Land for Housing](#) found a lack of transparency on what land is optioned for development and who holds the option. Since then, a new national spatial strategy, the National Planning Framework 4 (NPF4), sets out a clear focus on placemaking, biodiversity net gain and the delivery of net zero, all of which requires good, open information about development land. We [commissioned research](#) to better understand the case for improved transparency of option agreements and inform the delivery of NPF4.

Option agreements are used by housebuilders to secure land for future development before they buy the site or secure planning permission. Housebuilders need a pipeline of this “raw” land to deliver a supply of new homes and option agreements support this.

Where new development takes place matters. It is important that local authorities influence and shape development in the public interest, and that communities have a say on the location and nature of new places. NPF4 requires the re-use of land and buildings, a move

to compact urban growth and a focus on place-based development rather than simply numbers of houses. If this is to be delivered there needs to be informed debate on where new homes should be built and on the type of new places that are created.

If land policy is to support the delivery of NPF4, there is a need to understand what information is available on where development is planned and to understand how the public interest can be balanced with developers’ concerns about commercial confidentiality.

How land for housing development works

- Private housebuilders identify land where they can develop and sell homes for a profit
- Developers take on risk in identifying sites, gaining planning permission, and developing and selling new homes
- Developers often build on fields on the edge of towns and cities as this is easier, less risky and less costly than re-using land previously built on and/or existing buildings
- New homes for sale are, in the main, larger homes and higher value as this delivers more profit for the developers and their shareholders.

What do we know and what are the issues?

There is a lack of accessible information on where future development may take place. Scottish Land Commission research into [potential land banking](#) by large housebuilders, who deliver the bulk of Scotland's new homes, found that developers do not land bank sites with planning permission beyond a reasonable supply necessary for development. However, the research was unable to conclude whether banking of raw land (held prior to planning permission) is significant due to a lack of publicly available information on the options held on land.

A review of [UK housebuilding](#) by former government minister Oliver Letwin suggested allocating parts of large housing sites to providers other than large housebuilders – this was to open opportunities to new entrants, provide housing affordable to a wider variety of people, and speed up the rate of building on large housing sites (as developers 'build out' at a rate at which they can maintain house price levels; on large sites this can take over a decade).

In a report for the Commission on the role of land in enabling housing in [rural Scotland](#), Savills found that a lack of information on the value of rural land for housing could mean that landowners have unrealistic expectations about the price of land and so are reluctant to sell. Savills proposed a register of land sales to provide clarity on values in order to encourage the release of more land for housing.

Work on the [value of early engagement](#) with communities on plans for new development found that when developers consulted early and listened to feedback on plans, it resulted in better places and could also increase community support for development. The research concluded that, if this approach was adopted across major developments, it could act as the basis for Local Development Plans. This would require transparency on where land was optioned for future development.

This suggests that there are benefits to increased transparency on option agreements to develop land, which led us to propose a Transparency Obligation in our review of [Land for Housing](#).

Changes to the delivery of new places in Scotland

There have been major changes to the planning system, which sets the rules for development land use in Scotland. A new Planning Act passed in 2019 provided a definition of the purpose of planning as “managing the development and use of land in the long-term public interest.” More recently, a framework for new development until 2045 set major changes in land use rules including:

- An overall aim of tackling climate change by delivering net zero
- A shift from greenfield development to land and building re-use
- People empowered to help shape their places.

Delivering on these goals requires local authorities and communities to play an active role in shaping development. Increased transparency on option agreements would support this.

Providing a public record of option agreements

Previous research for the Scottish Land Commission – [An Investigation into Land Banking in Scotland](#) – proposed that the Scottish Government produce a database and searchable map containing a record of all options agreements across Scotland. A logical host for the data would be the Registers of Scotland, which records ownership of land and property in Scotland. A parallel example of the approach that could be taken can be seen in the searchable map of vacant and derelict land in Scotland currently being developed by the Scottish Government.

New research and what it tells us

Transparency

We recently commissioned research by the Diffley Partnership to explore the case for greater transparency on option agreements. The research involved an evidence review and surveys and interviews with stakeholders, including housebuilders and local authority planners.

Available information on option agreements

Although there are ways that people in the housebuilding industry can explore whether land is optioned for development, this information is incomplete and difficult to access. The research concluded that there is not accessible, clear and publicly available information on which sites have been optioned to be developed. Neither is the cost of land bought to develop housing publicly available (with developers expressing concerns on the impact this would have on commercial confidentiality.)

The case for increased transparency of option agreements

The authors found a number of arguments for making public any option agreements to develop land. These were mainly made by local authorities and community organisations and were summarised by the Diffley Partnership as:

- Transparency as a democratic principle is viewed as desirable
- Community engagement is viewed as essential to good development
- Transparency has practical advantages for creating Local Development Plans
- Transparency would enhance competition and efficiency in the land market.

Concerns about transparency

Interviewees raised a number of concerns and reservations about the recommendation to increase transparency (mainly by people involved in the private development industry). The principal arguments against increased transparency were:

- A transparency obligation infringes upon commercial confidentiality
- Scepticism exists around early community engagement
- Questions were raised about the practicality of the proposal
- The land market already functions effectively.

Research commentary

If the housing land market does function effectively it is within limited parameters – our previous research found that private development is concentrated on greenfield sites in high value areas, with large housebuilders inactive in much of rural Scotland and many post-industrial places. NPF4 seeks to shift new development from greenfield sites to these areas, where there is currently market failure. Our Review of Land for Housing concluded that significant reforms are required for the housing land market to operate in the public interest.

The scepticism that some express about the benefits of early community engagement is [challenged by findings](#) that early engagement in planning benefitted developers, enabling better placemaking and (potential) support for development, as well as the benefits to community and the public interest.

There are understandable concerns about the impact that increased transparency would have on commercial confidentiality if land values were published ahead of purchase and on a potentially increased administration burden. Any measures taken forward would need to take account of legitimate commercial confidentiality requirements.

Conclusions

There are strong arguments for increased transparency on option agreements, including facilitating better democracy in land use decision-making.

Increasing transparency would support practical delivery of the NPF4 ambitions. It would better allow local authorities and communities to play an effective role in planning and shaping development in their areas. It would support and improve early community engagement on development plans, which benefits communities and housebuilders. Greater transparency would also support the shift from out-of-town developments to land re-use, which the national planning framework mandates.

More widely, greater transparency would support the efficient operation of the housing land market, through improving the information available to anyone participating in the market.

If a publicly available, searchable digital map is to be created, some issues require further examination and discussion. Concerns about negative impacts on commercial confidentiality would have to be addressed and consideration given to any increased administrative burden.

The context has evolved further since the Scottish Land Commission recommended a transparency obligation in our review of Land for Housing. With NPF4's requirements to shift development from greenfield sites on the edge of settlements to land re-use and its commitment to people being empowered to shape their local places, there is a need for greater transparency on where development will take place. Increasing transparency on option agreements should play a role in delivering NPF4 and its objectives.

Contact us