



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

Benefits of and barriers to affordable tenanted croft housing

Housing built integral to the croft as a landlord's improvement to it, on land under crofting tenure.

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LAND LINES

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About the authors

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CAMUS
CONSULTING
CROFTING LAW SPECIALIST | EST. 2017

Jamie McIntyre has nearly 30 years' experience of community development in the Highlands, in both paid and voluntary capacities. His experience includes 10 years working in the Sunart Oakwoods Initiative, after which he was employed as woodland crofts officer for Forestry Commission Scotland (FCS) and Highlands and Islands Enterprise (HIE), supporting the development of community-based woodland crofts, before returning to self-employment. He is now the main contractor for the Woodland Crofts Partnership which continues this work. His voluntary roles include membership of the Scottish Crofting Federation council, being Chair of Strontian Community School Building and a director of Sunart Community Renewables in his own community.

Morven Taylor is Communities Manager at the Communities Housing Trust and has 17 years' experience in the community-led affordable housing sector in the Highlands. She has been involved in the creation of Rural Housing Burdens, new housing models, self-build models and several pilot projects to offer greater choice and opportunities to people and communities. Previously Morven worked with Forest Enterprise in Edinburgh in a UK wide role and she also gained experience in the private sector.

Eilidh Ross was a solicitor in private practice for ten years before starting Camus Consulting in 2017, a specialist crofting law consultancy based in Dingwall and serving across the Crofting Counties. Over the last 20 years Eilidh has produced numerous articles and presentations, has given evidence to the Scottish Parliament Rural Economy and Connectivity Committee (2016), has authored a chapter on crofting law for "Land Reform in Scotland" edited by Malcolm Combe, Jayne Glass and Annie Tindley published by Edinburgh University Press in 2020, and now also blogs (www.camus.scot) on the history and development of crofting law, crofting legal issues and the need for radical reform of crofting law.

The Scottish Land Commission's Land Lines series includes independent discussion papers on key issues of land reform and land governance, which are intended to stimulate public debate and help inform the Commission's work. As part of our Business Plan 2024/2025, the Commission is looking at more diverse land governance models, including small-scale landholdings and mixed governance. This paper considers the opportunities for, and barriers to, croft housing as a landlord's improvement.

The opinions expressed, and any errors, in the papers are the authors alone and do not necessarily reflect those of the Commission.

Summary

Access to affordable land and housing is a critical issue in rural areas and shortages are driven in part by concentrated landownership, a lack of general restrictions in the Scottish land market and high demand for rural housing. Crofting, as a unique and regulated tenure system, has to some degree provided a bulwark in the Highlands and Islands against these pressures. Traditionally, croft housing was often provided as a landlord's improvement, meaning that the house would be an integral part of the croft. This model is not used so much anymore, primarily because of issues in raising finance. Instead, croft land is often decrofted to allow tenants to access private finance alongside grants, which separates the house from the croft. This risks both being occupied in the future by different parties.

This paper outlines the details of the model of provision of a croft house by the landlord, notably a community landowner, as a landlord's improvement, as well as the benefits of this model. Potential benefits include provision of affordable access to housing for crofters to maximise the benefits of the crofting model for small-scale land management and use, whilst retaining croft housing as a community asset and preventing speculation. This paper also identifies key barriers to realising the model, in particular, barriers to accessing finance. It provides recommendations for overcoming these barriers, including a funded pilot to test the proposed model of tenanted housing as an integral part of the croft.

When making recommendations the authors draw directly on their experience with trying to put in place the proposed model in the context of a project in Ardoch, Glengarry, to create six woodland crofts with croft houses/plots and four affordable homes on land which is owned by the Communities Housing Trust and Glengarry Community Woodlands separately.

Key words: crofting; woodland crofts; rural housing; croft housing; community land; community woodlands; landlord's improvement; grant funding; private finance.

Introduction

Ever since the first community buyouts of the modern era began in the 1990s - in Eigg, Abriachan and Knoydart - community landowners in Scotland have increasingly been delivering public services on behalf of their communities, and arguably, on behalf of the state. This has been encouraged by a range of government policies. Many of these policies are complementary, but financial support for them is not always predictable, consistent, or reliable across the funding 'landscape'.

This paper outlines:

- Relevant policies and key issues in relation to access to land and affordable housing.
- The role of crofting in addressing these issues and the challenges within the crofting system.
- The proposed model for making housing an integral part of the croft tenancy in response to key issues and challenges.
- The benefits of the proposed model and the barriers to its realisation.
- Recommendations to support, test and implement the proposed model.



Many of these policies are complementary, but financial support for them is not always predictable, consistent, or reliable across the funding 'landscape'.

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Scottish Government policy

Scottish Government (SG) policies of particular importance to the wider provision of services by communities are community empowerment, land reform, Just Transition, and repopulation.

Community empowerment¹ is a broad agenda covering a range of initiatives, but specific legislation was passed in 2015 (the Community Empowerment (Scotland) Act 2015) giving new rights to community bodies and new duties to public sector authorities, including rights to asset transfer. This built on earlier **land reform²** legislation in 2003 which gave communities and crofting communities certain rights to buy land and buildings; these were subsequently extended in 2016, and further legislation is programmed for this parliamentary session (2021-2026).

Just Transition³ relates to the change society must make to a zero carbon economy to address the climate emergency, and ensuring that this change is fair to all. Often thought only to apply to the oil and gas sector, in fact it encompasses the whole of the economy and thus the whole of society. Land use is a key element of a Just Transition, hence there is overlap between this and land reform.

Finally, rural areas of Scotland including the Highlands & Islands have suffered a loss of population over centuries. Some of this historically was forced – the Clearances being the infamous example – but the ongoing drift away from rural areas continues to this day (and indeed appears to be accelerating⁴). This poses a real threat to the viability of communities as below a ‘critical mass’ services cannot be sustained and the process of depopulation becomes self-perpetuating. In recognition of this a **repopulation** agenda has emerged, given backing by SG through recent planning legislation and policy⁵.

Key issues

Access to land

One of the most critical issues in rural areas is that of affordable access to land and housing; without this, people cannot stay in their home communities irrespective of their employment prospects. Equally, local businesses cannot retain and attract staff if their workers cannot find homes to live in. For this reason, the issue is a priority for almost all community landowners.

The situation has arisen through a combination of factors. Regarding access to land, Scotland is acknowledged to have one of the most concentrated patterns of land ownership in the world: half the privately owned land is held by just a few hundred owners⁶.

This has in part led to the Scottish Government's land reform agenda, informed by various review groups and studies, and responded to as by successive pieces of legislation. Despite this, concentrated landownership persists and apparent progress is in danger of being reversed as investors have come in to buy land⁷ for rewilding or carbon offsetting, in addition to the traditional use of land and forestry as a shelter for wealth (encouraged by favourable tax treatment). The market continues to evolve, however, with recent reports⁸ suggesting a slight cooling in the forestry market while farmland sales remain strong.

There are few controls on the acquisition of land in Scotland by private buyers. Land is important, because over and above sites for housing itself, land offers the opportunity to develop business activities based on its management and thereby support livelihoods.

The lack of general restrictions in the Scottish land market contrasts with those relating to acquisition by community landowners. To exercise their rights under land reform legislation, community bodies require to have democratic governance structures⁹ and they must be able to demonstrate that clear public benefits will arise from the acquisition.

Access to affordable housing

Regarding housing, the situation is even more severe because whilst not everyone needs or wants access to land to manage, everyone without exception needs access to housing. The desirability of the Highlands & Islands as a holiday and retirement destination has led to house prices rising far in excess of what can be sustained by local economic activity¹⁰ in many parts of the region – outside capital is often capable of outbidding local wages with the result that more and more of the housing stock becomes unavailable to existing residents. Post pandemic, this pressure on local housing affordability has been increased by demand for housing from incoming workers¹¹ who are able to work remotely and value the lifestyle offered by rural locations.

Like land more generally, there have historically been very few controls on the acquisition of housing and in fact in many respects it has been subsidised. For many years, someone purchasing a second home for holiday use would pay no Council Tax surcharge for leaving it under-occupied. If owners let the house out for short-term lets they were likely to register for Non Domestic Rates and subsequently qualified for 100% relief, and thereby paid nothing. The explosion in house prices in many rural areas has been ongoing for 30 years, yet it is only now that the first signs of any tightening of controls are emerging.

Following concerns that the prevalence of both second homes and short term lets was making it difficult for people to access the housing market, the Scottish Government has introduced measures to help address this issue. These include introducing a licensing scheme for Short Term Lets¹², implemented by Local Authorities, and also giving them the power to charge 200% Council Tax on holiday homes¹³.

Crofting – which will be discussed more fully below – has to some degree provided a bulwark in the Highlands and Islands against these pressures in respect of both land and housing. However crofting too has come under increasing pressure from the market and both owned crofts and croft tenancies now change hands for sums beyond the reach of most local purchasers – and sums that cannot be justified by the returns available from land management.

The right of tenant crofters to buy croft land from a landlord for a nominal sum but then sell it for an unrestricted amount (with minimal provision for clawback) has led to speculation in croft land, exacerbating this situation¹⁴. Reforms introduced in 2010 (the Crofting Reform (Scotland) Act 2010) did have an effect of dampening the market in plots but the market is still very active. It is often said that crofting is now a regulated system of tenure in which everything is regulated except the market. Arguably this is an unworkable situation.

The role of crofting

Despite the challenges referred to above, crofting is widely acknowledged to have been crucial in retaining population in the Highlands and Islands¹⁵. In some respects that should be no surprise, as it was the purpose of the original 1886 legislation to give crofters security of tenure and prevent them being removed from the land - albeit only after many had already suffered that fate, leading to the 'empty glens' we see today.

The opportunity for croft housing

Subject to the usual planning and building regulations of the modern development planning system, a crofter may build a house on their croft, even in the absence of permission of the landlord (although this does not apply to subsequent houses built on a croft). Occupying land on which one can build a house (subject to planning approval) without having to find £50,000+ to acquire a house plot is a huge benefit and this distinct feature of the crofting model is likely to have significantly contributed to crofting's ability to support population retention.

Although housing is central to the benefits delivered by crofting, it can be delivered in a number of different ways. The 'traditional' model was either for the landlord to provide the house as landlord's fixed equipment, or for the tenant to build their own house (as above), as a tenant's improvement. In this sense an 'improvement' means that the house is an integral part of the croft like other infrastructure and cannot be separated from it. In recent times neither route has been employed very often, largely due to the difficulty of raising finance as discussed further below.

Challenges in crofting

Crofting faces a number of challenges, some of which have already been mentioned. These include the development of an unregulated market in crofts and tenancies leading to them being sold on the open market. They also include the potential for speculation on croft land. This refers to the situation whereby title to crofts can be acquired and land for housing plots can be readily taken out of crofting tenure (decrofted), whereupon, with planning approval, they can be marketed for the high sums now typical of the mainstream housing market.

The market in crofts and croft tenancies is only one of a number of challenges the system faces; arguably its relationship with the wider land reform movement, the conflicting objectives of the crofting system and the need for crofting law reform are equally important.

Financing croft housing

Crofters and crofting landlords wanting to construct croft housing for the best of reasons (rather than speculation) face a number of difficulties, in particular the challenge of raising finance, as funders and lenders in general shy away from anything involving croft land. Currently commercial lenders will not lend on a crofting tenancy, and though this ought not to be an issue for owner-occupiers or landlords who hold full title to the land, in practice it still is. To some degree this issue has been alleviated by grant support (under the Croft House Grant Scheme) but this comes with its own issues (see below) and in any event is only available to the crofter and not the landlord.

Mortgages on croft land

The idea of mortgages over croft land as a solution to this problem seems to have first been floated (in recent times at any rate) by Professor Mark Shucksmith in his Committee of Inquiry on Crofting in 2008. This consideration focused on the availability of mortgages for crofters to build homes for themselves on their crofts, currently only possible by decrofting an area first.

The final report of the Committee made several recommendations regarding the development of the legal and practical framework of crofting, including a recommendation that the Registration of Leases Act (Scotland) 1857 should be amended so that a crofting lease could be registered, thus making it possible to grant a standard security against it to secure lending. In the wake of that report, the Scottish Government produced a consultation paper which accepted, in general terms, that crofters should be able to obtain loan finance without having to decroft an area of land to do so.

The Government has previously indicated that private sector lenders would not generally lend on croft tenancies. This does not describe the situation correctly, as it is the case that any land which is affected by crofting legislation - whether it is a tenanted or owner-occupied croft - is not of interest to a commercial lender.

To illustrate this point further, it is already possible to grant a standard security against owned croft land. Indeed, it is common practice for crofters purchasing from landlords to grant a standard security over the croft land to secure the landlord's right to a further payment if any part of the croft land is sold outwith the crofter's family within ten years.

It remains the case however that no commercial lender will lend against owned croft land, not because the mechanism does not exist, but because no lender has correctly risk assessed croft land and therefore cannot justify lending on it. It can be seen therefore that the problem is not with the mechanism, but with the approach of commercial lenders to anything relating to crofts, whether owned croft land or a croft tenancy.

The Government has previously consulted on and put forward proposals regarding ways to encourage private sector lending over croft tenancies, but it is a complex matter involving such issues as the need to gain the lender's permission before making various changes to the croft, and consideration as to the use to which the croft is being put.

Reaction to the Government's proposals was generally negative. Concerns were voiced by those responding to the consultation that the mortgage proposals hadn't been thought through properly. It also seemed to be an issue that little - if any - consultation had taken place with either the Committee of Scottish Clearing Bankers, or the Council of Mortgage Lenders.

A common concern seemed to be that lenders simply would not agree to lend, and a clear preference - perhaps not surprisingly - was expressed for the reintroduction of the loan element of the Croft House Grant Scheme.

It remains the case, in 2024 more than ever, that to purchase a croft one must be a cash buyer. There is simply no other way at the present time in the present market.

The Croft House Grant (CHG)

As a way around this challenge of finance, and supported by the introduction of a tenant's right to buy their crofts, a new model emerged which is now the most common way in which crofters build houses for themselves, supported by grant funding. Originally a grant and loan scheme at a level which rendered additional private mortgage finance unnecessary, and currently purely a grant but only at a level which assists rather than truly enables a house build, this funding paradoxically usually requires the decrofting of the house plot i.e. its removal from crofting tenure, in order that it can be used as security for commercial lenders.

This is because the Croft House Grant (CHG) alone is now insufficient to cover construction costs, and the highly regarded loan element of the previous Crofters Building Grants and Loans Scheme (CBGLS) having been scrapped in 2004. The CBGLS used to offer loans for both building new houses and improving existing houses, at a fixed rate of 7 percent, over periods of up to 40 years for new houses and 20 years for house improvements.

Another loan has emerged which can support crofters, the Self Build Loan Fund, to which any eligible self-builder who has had difficulty in accessing lending can apply. However, this also requires the house plot to be decrofted in order to provide security for the loan.

It is quite remarkable that a scheme intended to deliver housing for crofters should have the result of removing the house from crofting tenure. While there are conditions attached to the grant¹⁶, these only apply for 10 years (or until the outstanding grant is repaid) after which a crofter can sell the house on the open market unrestricted. Further, crofters who buy and decroft a house site¹⁷ (as they are entitled to apply to do) and build a house without using the CHG face no restrictions. Even if intentions are genuine, the result of a 'croft house' not being on croft land nor legally tied to it means it immediately assumes the value of mainstream housing in the area, which, as described above, may not be accessible to other local buyers.

Woodland crofts

Many of these issues are coming into focus through the development of woodland crofts by community landowners. The Woodland Crofts Partnership¹⁸ defines a woodland croft as 'a registered croft with sufficient tree cover to be considered woodland under UK forestry policy'. It is useful to be able to distinguish woodland crofts from other more traditional ones, and indeed from conventional models of forestry, but it is important to note that this definition is descriptive rather than legal – in law a woodland croft is simply a croft like any other. This is important, because it means that the lessons from woodland crofting, and solutions developed for it, are applicable to crofting in general.

As a 'new' model enabled by a combination of the provisions of the 2007 Crofting Reform Act (allowing the creation of new crofts) and the ability for communities to acquire forest land from the state via asset transfer schemes, the majority of new croft creation by community landowners has been focused on woodland crofts. As community landowners create woodland crofts, their thoughts inevitably turn to how they will – or more often, their tenants will – provide housing for the crofts. This leads to a search for practical models which can also be protected from speculation, along with the rest of the croft.

Protection of croft land from speculation has improved in recent years, as the Crofting Reform (Scotland) Act 2007 gave landlords the ability to withhold the right to buy the croft and restrict the right to assign the tenancy, amongst other things, for new tenancies. Whilst important new powers, they cannot be applied until a new croft is created or an existing tenancy surrendered, so they have little impact in the wider pool of crofts. Nevertheless, it is very significant that community landowners invariably use these powers when they can, because it highlights that the wider crofting system is failing to adequately protect crofts and croft tenancies in the community interest.

The proposed model: housing as an integral part of the croft tenancy

Many community landlords, and potentially other landowners, would like to provide housing for their tenants on the crofts rather than requiring them to build houses themselves.

When crofters are required to build their own houses, there is not only an issue of affordability for the tenants, but ultimately a potential risk of speculation if the tenant is able to use the Croft House Grant (CHG) but also has to decroft, resulting in the house becoming separated from the croft and, potentially, the two being occupied in future by different parties. Community landlords will seek to prevent this, but such prevention will require additional legal mechanisms such as the Rural Housing Burden discussed below which may not always be easy to enforce.

Croft housing as a landlord's improvement

The proposed model of croft housing can be summarised as follows:

- The provision of a croft house by the landlord for the croft tenant as a landlord's improvement;
- The house is let as part of the croft lease rather than through a residential tenancy such as the Private Residential Tenancy (PRT);
- The croft rent reflects the provision of accommodation and not just the land;
- The principle of landlord's fixed equipment is well established in crofting legislation.

An important part of the model is that a landlord could restrict the rights of an incoming tenant to exclude, for example, the right to apply to assign the tenancy, and the right to purchase the croft (see above).

Restriction of these rights would ensure that while the crofter enjoys security of tenure, the right to a fair rent and the right to compensation for permanent improvements made by the crofter, the land (including the house) would always return to the landlord. It should be noted that restriction of certain rights (though not those mentioned above) requires the consent of the Scottish Land Court.



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This model provides numerous benefits, chief amongst which are affordability for the crofter, and a secure and powerful tie between croft house and croft, preventing speculation. This latter issue is particularly important to community landlords, but likely to be important to other landowners too: NGO, private and public.

Funding as a barrier

Despite the many benefits, building croft housing as a landlord is currently extremely challenging. Whilst public funding is available for community-owned affordable housing via the Rural and Islands Housing Fund (RIHF), and funding is available via the CHG for individual crofters to build houses for themselves, no funding is available to build community-owned croft housing. This is an obvious and inconsistent gap in the funding landscape, especially considering the fact that such public investment would be protected as a community asset and never lost to speculation.

This paper aims to explore this issue further.

Examples of the proposed model

National Trust for Scotland

As highlighted above, the model of providing housing by the landlord as a landlord's improvement is not new but a traditional one, though it has rather fallen by the wayside on account of some of the challenges associated with it, mainly that of funding.

Nevertheless, it has been used in relatively recent times. Following their acquisition of Fair Isle in the 1950s, the National Trust for Scotland (NTS) utilised their in-house professional teams to raise funds and secure grants. Over many years, NTS steadily oversaw the renovation and extension of many of the island's croft houses while also facilitating the construction of a few new houses in the same manner. These are now let in a mix of croft and residential tenure. This was made possible because, for many of these years, there was also an island-based building firm¹⁹.

While for a period NTS was thus able to build houses as an integral part of the croft, in more recent years, the Trust and the Fair Isle community have found themselves struggling to find a path through the issues that are detailed in this paper. Unfortunately, this has resulted in no new houses being built or significantly renovated on the island for many years, despite considerable efforts.

Urras Euraboil

Interest has been growing amongst community landowners to see the occupancy of croft houses (however delivered) legally tied to occupancy and management of the croft, and work has previously been carried out to look at this issue. Most notably, the report²⁰ commissioned in 2010 by Urras Euraboil (the Embo Trust) from the then Highlands Small Communities Housing Trust (now CHT) and Andrew Murchison of Murchison Law looked at a range of options for doing this. Amongst these was included providing housing on croft land as a landlord's improvement.

Ultimately, the plans of Urras Euraboil did not come to fruition as they were unable to raise funds to purchase the forest in which they proposed to develop woodland crofts, and as a result the report has not been given the attention it deserves. 'Option 2' in the report on a "Traditional croft house built for the crofter by Urras Euraboil", mirrors the model as proposed in this paper. Under this option Urras Euraboil would have provided houses on croft land to be let as an integral part of the croft tenancy, with total rent having to reflect the provision of accommodation as part of tenancy.

Significantly, the authors of the report highlighted funding as a potential issue, noting in relation to public grant funding: "We are unaware of other sources of funding which might be available to the landlord in these circumstances". In relation to commercial lending they concluded: "It is possible that a mainstream lender would be able to obtain a security from the landlord but the value of the lending so secured would be unlikely to be a significant proportion of the open market value" and "It should be noted that in the current economic climate any "unconventional security" for lending is unlikely to be attractive to a mainstream lender". Nothing has changed in the intervening years to materially change this position.

Glengarry Community Woodlands/Communities Housing Trust

At the time of writing, Glengarry Community Woodlands (GCW) and the Communities Housing Trust (CHT) are developing a joint woodland crofts project on land they have acquired in Ardochy Forest, Glengarry, from Forestry & Land Scotland (FLS). The land extends to 66 hectares with GCW's portion purchased via FLS's Community Asset Transfer scheme, and funded by the Scottish Land Fund. In total, six woodland crofts with croft houses/plots and four affordable homes will be created, on land which is owned by CHT and GCW separately.

CHT and GCW have engaged a design team to collaborate with them and develop a range of affordable homes and woodland croft houses on this land. The delivery partners and design team wish to create an exemplar development focusing on creating a community within the woodland, where people will live, work, and look after the surrounding forest. The project includes a number of innovative features, not least the NGO-community partnership itself, as well as alternative ways of controlling future sales of owner-occupied crofts using the Rural Housing Burden more commonly used in affordable housing.

However, a key element is the provision of croft housing on tenanted crofts using the proposed model, on account of the benefits already described. As a result, they have been actively exploring funding possibilities only to find a resistance amongst public funders in relation to supporting the proposals.



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Benefits of the model

We argue that a modern version of the traditional approach of the provision of a croft house by the landlord for the croft tenant as a landlord's improvement would bring benefits to landowners and their communities, and therefore merits official recognition, support, and funding.

There is a case for wider recognition, and in particular, funding support for this model of croft housing provision on account of the many benefits it provides. These include:

- The model provides affordable access to housing for crofters, on crofts. As already alluded to, there is an acute lack of affordable housing in general which impacts on community sustainability, and at present there are no affordable housing solutions specific to crofters.
- As an affordable housing model for crofters, the model delivers against a number of key Scottish Government agendas, including land reform, Just Transition and repopulation.
- The model offers an alternative to self-build or the renovation of older croft houses which are both supported by CHG, but inevitably require a degree of dedication, expertise and individual financial input from the crofter to deliver.
- The model ties the house to the croft in a very simple (perhaps the simplest) way, avoiding the risk that occupancy of the two becomes separated, with detrimental consequences, as under the model occupancy of house and croft are always the same.
- Only one tenancy agreement is needed (the croft tenancy, effectively a statutory lease), reducing complexity and cost. This consequently avoids the needs for burdens or other legal controls, again reducing complexity and cost.
- Where the crofts are community-owned, the model ensures that the croft housing (which has considerable value) is retained as a community asset.
- Additional income for (community) landowners is generated, over and above croft rents, from the housing element of the rent.

- It is a model that can be applied to both new crofts, and existing bareland crofts. With respect to the latter, this can help bring neglected crofts back into use.
- Provision of housing on crofts (rather than elsewhere within 32 kilometres/20 miles as per crofting duties) maximises the benefits of the crofting model and therefore should be encouraged. This is especially important in reducing unnecessary travel as we shift to a low-carbon society.
- Provision of croft housing by (community) landlords provides an opportunity for economies of scale and shared infrastructure etc. which are less likely when houses are individual responsibilities. It also provides an opportunity to promote and utilise sustainable materials and technologies.

The clear public benefits provided by this model should give reassurance to the various stakeholders involved (regulatory authorities such as planning, or Scottish Forestry, with respect to woodland crofts; and neighbours, community councils etc) that their support is merited. The model reduces complications, delays and costs where de-crofting would otherwise be needed. It simplifies and therefore de-risks the delivery of croft housing generally, with similar time and cost savings.



The model reduces complications, delays and costs where de-crofting would otherwise be needed.

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Barriers to implementing the model

In order to progress the model, the following barriers need to be overcome:

- No obvious current source of funding support exists for construction and associated development of a house on croft land as a landlord's improvement. In particular, initial indications are that it is unlikely to attract support from the Rural & Islands Housing Fund despite the benefits of the model as outlined above.
- Commercial lenders are unlikely to offer (full) loan finance, as they are typically wary of lending on croft ground.
- Though a 'traditional' model of housing provision on crofts, the proposed model is not (yet) widely understood either by communities or public agencies.
- The model may not be favoured by some housing stakeholders, as a Private Residential Tenancy is not involved (which for some may be a mandatory condition of support)
- The croft tenancy may require to include additional conditions relating to house occupancy and use, though the need for other agreements is removed (see above).

Of these, the first two relating to finance are by far the most significant. Regarding public finance, initial discussions with Scottish Government officials, in particular in relation to the Rural and Islands Housing Fund²¹ (RIHF), have indicated that an affordable croft housing model could not be supported within this funding framework.

While the RIHF is designed to offer flexibility and creative solutions to provide affordable homes in rural areas, the guidance does not mention crofting nor croft housing. The fund is designed to provide affordable housing in perpetuity, and although it is not specifically stated that Private Residential Tenancies have to be used, the assumption is that they will be, based on previous project approvals.

In terms of government, a holistic approach to land use and housing is currently lacking. The Crofting Commission (a Non-Departmental Public Body) and the Croft House Grant Scheme (operated by Rural Payments and Services) are seen as separate portfolios, with the RIHF being an offshoot from the Affordable Housing Supply Programme operated by More Homes Division. If, however, the RIHF guidance could be updated to incorporate an affordable croft housing model, based on standard legal templates, this might enable the officials to offer their support.

The experience of CHT when dealing with commercial lenders in relation to land under crofting tenure has been that they are unsupportive. In general, lending for community-led affordable housing is a niche market with only two or three lenders prepared to offer finance, and the situation deteriorates even further in connection with croft land. The advice from an estate agents' website is instructive: "You should be aware that at present no mainstream lenders offer loans secured against land which forms or is part of a croft. In practice, this most often means your purchase will be self-funded."²²

In order to move the discussion forward, and address this reluctance amongst public and private funders, we make a number of recommendations below.



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Other solutions

As a general principle, it is best to give both individuals and communities multiple options for delivery of crofts and housing, as circumstances vary – there is no one size that fits all. That is why the latest woodland crofts projects (e.g. in Glengarry) are seeking to provide both tenanted crofts and affordable owner-occupied crofts.

In relation to the latter, new models of housing delivery are emerging. Community landowners are considering the possibility of creating crofts for owner-occupation, but controlling their future occupancy by use of title conditions such as the Rural Housing Burden²³ (RHB) originally developed and used by the affordable housing sector. Indeed, there appears to be no legal barrier to extending the RHB to cover the whole of the croft and not just the site of the house. Glengarry Community Woodlands and the Communities Housing Trust are jointly looking into this possibility at the time of writing.

Rural Housing Burden

The Rural Housing Burden is a title condition which gives a right of pre-emption, at a pre-determined price, to the rural housing body in whose favour it is. It can also be used to provide a protected discount on the purchase price of the property, which suppresses the resale value of the home. Furthermore, the property must be used as a primary residence, and not let, to keep communities thriving

The benefits of using a RHB in this way are several: it is a new model of crofting which will be accessible to those with capital behind them, avoiding them competing for a limited number of 'affordable' crofts or croft tenancies (though still allowing for a discount to be offered). It also raises an element of match funding for communities developing crofting projects and it devolves responsibility for financing and constructing the croft house to the crofter rather than the community; all while being able to apply similar controls to protect the community interest as might be attached to a tenancy.

The main barrier to this approach – and the reason why it is mentioned in passing rather than forming the focus of the paper – is that even with a discount involved, capital values of woodland are now such that owner-occupied woodland crofts will not be accessible to all. Nevertheless, as part of the suite of options for creation of new crofts it deserves recognition, and a level of funding commensurate with its needs.

Recommendations

A funded pilot



A funded pilot project should be established to test the proposed model of tenanted housing as an integral part of the croft. Ardochy in Glengarry might be the most suitable opportunity, as a confirmed project with land already acquired.

Legal templates being developed under the current project will also be available for the tenanted croft houses. This example can cover both NGO and community provision in the same project, providing lessons from each case. The project will lead collectively to three new tenanted croft houses, which will determine the required budget for any pilot.

A commercial partner



A suitable commercial lending partner(s) should be identified to provide match funding as grants are not likely to cover 100% of costs, so there will be a need to involve most likely 'alternative' lenders for match funding (Ecology, CAF, Triodos etc). The pilot above provides an initial opportunity but the goal would be to secure their commitment to funding an agreed scheme (e.g. to match a newly established public funding stream).

Establishment of a dedicated fund



A new fund to support community-owned croft housing (or the expansion of eligibility of existing funding to allow that) should be established. This should be informed by a review of the pilot project and would likely comprise a mix of a Scottish Government grant, a Scottish Government loan, and commercial lending.

The relative proportions of each source might be tied to the status of the applicant with the highest rates of grant and Scottish Government loans for community landowners, and greater emphasis on commercial funding for other landowners. An important task which would need to be carried out alongside a review of the pilot would be to assess the potential scale of the fund – how many houses could be involved were a scheme to be rolled out?

Stakeholder comment

An advanced draft of this paper was circulated to a range of stakeholders having a relevant interest in the issues discussed within it, who were invited to comment in order to provide wider context to them.

The comments below have been reproduced verbatim from the feedback received.

“ Housing must be made an integral and essential part of croft tenancies if we are to address the long term deeply damaging depopulation seen in much of the crofting counties. Dealing with absentee crofters and securing new funding mechanisms to enable the development of croft housing are critical. Community landowners are at the forefront of exploring new models to develop housing and sustain population and crofting tenancies are a key part of this work. ”

Ailsa Raeburn, Chair, Community Land Scotland

“ The project at Ardochy is a lifeline for Glengarry, where numbers of families in the community are dwindling, and there is a constant threat of closure of the primary school.

Our community has benefited from policy and legislation that is helping to address the issue of access to local land and housing. Yet, having acquired a site and formed the partnerships to establish new crofts – which would deliver this – it is disheartening that policy support does not go all the way and provide the funding to ensure that croft housing can be provided as a landlord’s improvement to the croft.

This lack of funding is an obvious gap that is holding communities like ours back, as the model provides the safeguards to protect the community interest which are essential for us. ”

Tom Cooper, Development Manager, Glengarry Community Woodlands

“ CHT are delighted with the positive outcomes this paper encourages, and will ultimately enable, if strategic bodies embrace this opportunity. Having community controlled crofting and affordable housing options such as this, to protect crofting plus housing as affordable in perpetuity, providing models that will strengthen Scottish Government priorities, deliver environmental benefits, a circular economy and most importantly of all enabling communities to regenerate and be sustainable, is an exciting addition to currently disadvantaged rural areas. ”

Ronnie MacRae, CEO, Communities Housing Trust

“ At the SCF our members have long raised the issue of a lack of access to affordable housing in the crofting counties and the difficulties associated with trying to finance the build of a new croft house when they cannot secure any lending to do so. It is also frustrating in many crofting communities where we see many houses that have become separated from the croft and are either occupied by someone who is not crofting or used as a holiday let, or when for sale, are marketed at prices that are unaffordable for new entrants.

The prospect of a scheme that would enable the build of a croft house that is tied to the croft itself would make a significant difference, particularly for young new entrants who will then in turn contribute to the sustainability of the local community and we would be very supportive of this approach. This has real potential to strengthen rural communities in the future and keep people in them who want to actively maintain stewardship of the land and the community. ”

Donna Smith, Chief Executive, Scottish Crofting Federation

“ Any options that can provide much needed affordable housing and maintain the link between a house and its associated croft land are very interesting, and were funding support to become available for the model in this paper we would consider using it again.

We would also be interested to understand how this type of idea might work for croft tenants coming into bare land crofts on tailored leases – i.e. building houses as a tenant’s improvement, rather than a landlord’s - possibly with a house site and outline design already identified. ”

Alan Barrow, Estate Surveyor North, National Trust for Scotland

“ South West Mull and Iona Development (SWMID) have pursued the creation of woodland crofts in order to deliver on the express wishes of our communities. One of the core reasons for establishing new crofts is to provide the security of tenure that will allow individuals and families to live and work in the area, which will help to increase biodiversity, and encourage entrepreneurialism.

However, the process is lengthy and complicated, particularly with regard to providing homes for would-be crofters. We, therefore, absolutely welcome any routes towards a reduction in complexity that does not dilute important regulations, and believe that these proposals for a modern approach to the traditional model of housing as a landlord’s improvement offer one such route. ”

Cameron Anson, Chairman, South West Mull and Iona Development



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Conclusions

Since the Crofting Reform Act 2007 enabled it, creation of new crofts has been supported by Scottish Government policy, and not least by the Crofting Commission itself. This begs the question – since new crofts will by definition not have houses on them, how will we provide them? And in particular, since community landowners are spearheading the creation of new crofts, and are typically motivated by a desire to make access to crofting affordable, how can community landowners provide affordable croft housing?

There is a desperate need for a model of affordable croft housing to be supported and funded, at the very least for community landowners to deliver. The facts speak for themselves – of the more than 30 community-owned crofts created since 2007, none of them have involved the provision of housing on the crofts. And most, if not all, remain without houses of any kind on them.

The Scottish Government has comprehensive rural agendas but policy and financial support for them is patchy. In the context of housing, support is inconsistent. Public funding is available for 'mainstream' affordable housing and it is also available for private croft housing through the Croft House Grant, where benefit accrues to the individual crofter, and the house is lost to crofting by default, through decrofting to raise commercial finance. Yet, funding is not available for the model in this paper, which retains the house as a community and crofting asset and prevents speculation. There is a strong case for closing this gap.



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SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

Contact us

Scottish Land Commission
An Lòchran
10 Inverness Campus
Inverness
IV2 5NA

@ info@landcommission.gov.scot

☎ 01463 423 300

🌐 www.landcommission.gov.scot

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