



LAND AND COMMUNITIES: BEYOND THE ECHO CHAMBERS

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Introduction

This report is the result of a collaboration between SURF and the Scottish Land Commission (SLC) to consider the practical potential for realising the Scottish Government's vision of a strong and dynamic relationship between Scotland's land and its people. In particular, the Commission sought to engage SURF's experience and networks to explore assets and challenges; and varied partner perspectives in the interlinked complexity of the urban context.

A series of SURF hosted, community based, cross sector 'reality check' discussions informed a gathering of relevant national agencies, where participants debated the practicalities and shared benefits of more fully engaged urban communities in the policies and processes which influence land use, planning and ownership.

The detailed findings are discussed later in the report, but the key learning points were:

- **The timeliness of this exploration was underpinned by a broad recognition that there is increasing cohesion of policies around the place based principle, and towards greater subsidiarity in governance. This was further reflected in the interest, enthusiasm and contributions from participants at local and national levels.**
- **Many of the challenges of enhanced community engagement stem from a poor understanding and misplaced perceptions about the needs, capabilities and expectations of both communities, *and* landowners.**
- **There is concern that, without adequate care, policy intended to broadly enhance community empowerment, may inadvertently increase existing inequalities.**

Background

The Scottish Land Commission was established by The Land Reform (Scotland) Act 2016. The Land Commissioners can carry out their functions in order to address issues which relate to: the ownership of land and land rights; the management of land; the use of land; and the land use strategy of the Climate Change (Scotland) Act 2009.

In carrying out their work they must have regard to the Scottish Government's Land Rights and Responsibilities Statement¹ (LRRS), which was the first of its kind in the world. The LRRS presents a vision of a strong and dynamic relationship between Scotland's land and its people, while recognising the complexity of protocols and processes around land ownership, management, planning and access.

As part of their operations, the Commission is issuing a series of Land Rights and Responsibilities Protocols, based on the LRRS principles, to provide clarity on what may be expected in implementing the LRRS and highlighting good practice.

The first protocol² looks at Community Engagement and reflect Scottish Government Guidance (April 2018)³ - *Engaging Communities in Decisions Relating to Land*.

Given SURF's long-standing experience and advocacy of enhanced community engagement and empowerment, SURF has welcomed the opportunity to use its knowledge, processes and networks to support the aspirations of the Commission and the LRRS.

The aspiration is that, with effective community engagement, local communities and those with decision making powers over land, become genuine partners in better land-based decision making. Effective community engagement increases opportunities for local economic, social, cultural and environmental improvements. It supports sustainable development and creates opportunities for land owners and communities to develop mutually beneficial solutions to local issues.

Given the particular complexities of the urban environment, in terms of land ownership, management, planning and access, the Commission recognised that SURF's 'Alliance for Action' collaborations offered the opportunity for a constructive, cross sector, community focused examination of that challenge.

¹ <https://www2.gov.scot/Resource/0052/00525166.pdf>

² https://landcommission.gov.scot/wp-content/uploads/2019/02/SLC-PROTOCOL-1_web-6.2.19.pdf

³ <https://www.gov.scot/publications/guidance-engaging-communities-decisions-relating-land/>

The Commission's partnership initiative with SURF set out to explore how the stated purpose and content of the Guidance and Protocol, fits with the reality of partner perspectives and challenges in the urban context.

That process was begun with SURF using its extensive networks and community connections, to facilitate opportunities for the Commission to listen to unmediated community views of their lived experience of planning, access, development and use around local land and buildings.

Listening : a reality check

In order to encourage the most usefully frank and constructive exchanges between all interested parties, SURF ensured that the interactions took place in a spirit of mutual respect and understanding; and that legitimate interests were taken into account in a reasonable and fair way.

To that end, SURF used its 'Alliance for Action' programme to convene three stakeholder roundtable discussions, hosted by three discrete, but complementary communities – Govan, East Kirkcaldy and Rothesay.

These cross sector Alliance for Action partner sessions were well attended, with between 15 and 20 invited participants at each of the three local 'Food for Thought' events. ⁴ Initial discussions were based on a SURF and SLC context briefing paper⁵ as a starting point for exploring perspectives and increasing shared understanding. The focus was on the applicability of national policy and related guidance and recommended processes, in relation to the lived realities of the local context.

SURF's pre-existing and trusted relationship with the local communities and partners, enabled attendees to speak frankly about local challenges and to provide reality-based views on questions such as: What are the current barriers and how could a cross-sector approach help overcome these? How can we develop a more open approach to urban land-based decision making which helps to achieve mutual benefits for landowners, managers and communities?

The use of the Chatham House Rule, in combination with SURF's ability to engender an informal and cooperative atmosphere for these discreet discussions, enabled lively and productive debate.

⁴ Participating Organisations listed as Appendix 1

⁵ See Appendix 2

The main conclusions drawn from the three community based discussions were:

- **Good timing**

There was a general acknowledgement that the direction being advocated by communities, reflects a broader national recognition of the need for cohesive policies around the place based principle, and towards greater subsidiarity in governance.

- **Confusion is Common**

Planning and ownership issues are largely viewed as unclear and complicated. Communities, local agencies and private developers may need bespoke guidance, because perspectives, aspirations and processes are not often shared.

- **Terms are Disputed and Complicated**

What is The Community? Directing land owners and managers to engage with 'the community' is not straightforward. Complex urban communities are not naturally cohesive and cannot be adequately represented by one agency.

What Counts as Engagement? The perception is that authentic, timely engagement is rare. Most consultation processes are viewed as tokenistic, under-resourced and after the fact.

- **Change is Possible**

Asset maps, improved transparency, post-acquisition support, and better marketing of the value and real nature of engagement to all players, could form part of a mutually useful response.

SURF used anonymised notes from the reality checks to inform a discussion paper⁶ for a further national Food for Thought debate which was held in Glasgow in April (2019). Twenty-three senior representatives from key national organisations participated in a wide-ranging and constructive conversation.

Among the issues discussed were the concepts of power, democracy and the place principle; the realities of community empowerment and engagement; and the need for enhanced transparency and education.

Notes from each event were provided to all the participants for any feedback, to ensure that the content of the discussion had been accurately represented and to provide opportunities for making additional contributions.

⁶ See: Appendix 3

Challenges

With a very few exceptions, there was broad consensus on the issues raised at local and national level. The same questions were repeated across the board.

If it is accepted that communities are rarely cohesive entities, then what qualifies as a representative community body – and how does a protocol approach work when one can't be found? In a similar vein, what qualifies as community engagement and how is success measured? How is understanding of rights and responsibilities to be disseminated in a way which doesn't further obscure and confuse existing regulations and processes? How is the cost of the well-recognised need for support and resources to be met?

National bodies and community event participants were in agreement about many of the challenges they faced and there was acknowledgement that many of those difficulties arose from genuine misunderstandings and confusion about existing protocols, rights and responsibilities and, *crucially*, mistaken assumptions about what others needed and/or wanted.

Collaboration – education – community

Enthusiasm for more collaboration is tempered by the recognition that it needs time and support to be effective. Misperceptions and confusion can be addressed by greater clarity, transparency, reciprocal honesty about desired outcomes and agreement on the terms that are used.

Austerity pressures on the capacity of local authorities, is undermining the important role they play in supporting development and planning. It is often expensive and time consuming to track down titles and to conform to planning criteria. For many people, planning, policy and ownership issues remain unclear and complicated. Well-meant protocols and principles are open to misinterpretation, even among professionals, and applying the 'letter of the law' does not always ensure that the spirit of the law is enacted. Local authorities can struggle to promote one goal when they can be simultaneously owners, planners and developers. They are under increasing pressure to 'unload liabilities', rather than being able to plan and invest in cooperative developments that are designed to meet local needs and produce longer term savings.

Communities, local agencies and private developers may want to work in partnership, but are likely to require support and facilitation to better understand each other's perspective, aspirations and processes. The same applies to budget holders and recipients who might struggle to understand misaligned priorities and timescales. Misguided perceptions of power, influence and needs are common.

Communities can mistakenly assume that it is straightforward to apply interventions such as compulsory purchase orders. It is often assumed that the

local authority is the majority owner of vacant land and buildings, rather than other public sector agencies, which can have different priorities that may conflict with local development plans and aspirations.

The most desired outcome may not be for communities to own and develop neglected or derelict land and buildings, but for land and buildings to be developed in ways that better meet community needs. A community may not always have the ambition or capacity to take on ownership. Asset transfer can sometimes mean the transfer of problems and burdens, which can damage the whole concept, not just individual organisations and activists. A local organisation may only want sufficient support to manage or lease, in order to make the best use of community facilities.

How do we progress?

Inequity

The central issue is one of addressing inequalities. While the universal application of the LRRS principles and SLC protocols may be welcomed, better off communities will benefit disproportionately, unless resources are targeted at poorer communities, which are most in need and least listened to. For the most productive, society wide benefits, policy, resources and practical support, should be directed towards the communities which disproportionately suffer the greatest negative health, social and economic impacts of vacant and derelict land and buildings.

Sharing knowledge

There is a desire for a clearer, accessible registration of ownership, both public and private. Ideally, that would be a one stop site where all area plans, ownership, land and building use can be identified. Too much urban land/property is still being banked at unrealisable market levels which pre date the 2008 property crisis. It would be useful if the national planning framework were too broadly designate regionally intelligent uses for all of Scotland's land. Measures could also be introduced to encourage dormant or passive owners to act or to put their assets on the market.

Better alignment is needed with a review of the future of surplus property. For example, key institutions with large land sites (NHS etc) should be encouraged to

collaboratively review their asset management, use and disposal. Digitalisation provides new opportunities for more accessible, accurate and interactive sharing of information and related joint opportunities.

Rebalancing power

In the context of broadly shared aspirations for more place based inclusive growth, there are crucial links between local activity/Place Principle and national policy. This opportunity to set protocols for practising greater community empowerment can be productively linked in to a range of related initiatives, including: the ongoing Local Governance review; the work of the Vacant & Derelict Land Taskforce; a review of Compulsory Purchase Order powers; the consideration of Compulsory Sale Orders; the Scottish Futures Trust Research; Common Good Funding; a revised strategy for Crown Estate assets; Scottish Enterprise returning to place based considerations and a more cohesive approach to investment in place appropriate assets and enterprise; and, the intention for the National Investment Bank to promote access to patient capital investment.

This timely consideration of the most productive and rebalanced use and ownership of Scotland's vital and finite land assets, complements the direction already being taken by Scottish Government in promoting policies on place, inclusive growth and community empowerment, and towards more subsidiarity in national, regional, local and community governance.

There is, however, a need for substantial strategic investment, if broadly shared aspirations are to be realised. Local authorities need adequate financial and human resources to enact the vital role they have to consult, plan, support and, where necessary, enforce, improvements in land and building use.

Community Councils are not widely viewed as sufficiently effective or representative and protocols should not assume them to be so. That may change as their status and resourcing is currently under review. There are, however, many community organisations which may be well placed to facilitate local engagement processes. Identifying and resourcing them to effectively do so, could represent a good investment for public and private partners.

Protocols and recommendations are unlikely to be sufficient to effect a broadly wished for culture change in larger institutional and commercial landowners. The introduction of regulatory or legislative underpinning is likely to be necessary.

Alternatives to Asset Transfer as an 'endgame'.

The assumption of community ownership as the ideal outcome will not be right in every circumstance.

Derelict urban land could be gifted to communities for 'meanwhile uses'; ie. gardens, allotments, play areas etc. Communities may not want or have the capacity to own or even manage property or sites. Alternatives to ownership including the provision of temporary leases and supported/partnership management arrangements can also benefit communities in their wider aspirations. When assets are transferred, post-acquisition support is a crucial investment for sustainable success.

Change is possible

Change is possible, and as discussed, is already underway. Policies and priorities appear to be aligning. Recognition of the need for investment in those shared priorities and the provision of accessible information, with better marketing of the value of engagement for all stakeholders, should be at the heart of next steps. Building trust, as in any relationship, is based on transparency and honesty. Effective and early communication before the fact, results in fewer objections and appeals and is a clear win-win for landowners, developers and communities. The reverse is frequently evidenced.

There is clearly a growing and broadening interest in more cooperative development of urban land ownership and use, based on genuine collaborations between land planners, owners and users. The risk of inadvertently increasingly inequalities is real, but stakeholders seem genuinely receptive to the benefits that can accrue to everyone from consolidation of the proposed protocols. SURF's unique role, capacity and connections, mean it is well placed to enhance productive collaboration at high agency level; informed by the interactive local realities that SURF supports and shares learning from.

Andy Milne, Elaine Cooper, SURF, May 2019.

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Appendix 1: Participating Organisations

Organisations attending the Food for Thought events:

(Individual participants are not named, in accordance with the Chatham House Rule)

Built Environment Forum Scotland
Burness Paull
Central Govan Action Plan
Community activists from Govan, Kirkcaldy, Rothesay
Community Land Scotland
Development Trusts Association Scotland
Ecology Centre
Fife Council
Glasgow City Council
Glasgow City Council DRS
Govan Housing Association
Greener Kirkcaldy
Heads of Planning Scotland
Homes for Scotland
Kinning Park Complex
Landscape Institute Scotland
Link Up Gallatown
National Lottery Heritage Fund
Peel Holdings
Peter Brett Associates
Scotland's Towns Partnership
Scottish Community Development Centre
Scottish Enterprise
Scottish Federation of Housing Associations
Scottish Futures Trust
Scottish Government
Scottish Property Federation
Smith Scott Mullan
The National Lottery Community Fund
The Wheatley Group.

Appendix 2: SURF and SLC Context Briefing Paper

Land and Communities – Beyond the Echo Chambers

Scottish Land Commission/SURF partnership Initiative: Embedding community engagement in decisions relating to urban land

1 The policy background.

The Scottish Government's [Land Rights and Responsibilities Statement \(LRRS\)](#) is the first of its kind anywhere in the world and sets out a vision for a strong and dynamic relationship between Scotland's land and its people. It underpins the work of the [Scottish Land Commission](#) in **supporting change and good practice**, creating a Scotland where everybody benefits from the ownership, management and use of the nation's land and buildings. The Commission will be issuing a series of **Land Rights and Responsibilities Protocols** which will provide clarity on what is reasonably expected in implementing the LRRS and highlighting good practice.

The first of these protocols will look at Community Engagement in Decisions Relating to Land, reflecting [guidance published by Scottish Government in April 2018 on Engaging Communities in Decisions Relating to Land](#).

The guidance supports greater collaboration and engagement between those who make decisions about land and the local communities affected by those decisions. **It supports positive behaviours by all interested parties**, to make sure that interactions take place in a spirit of mutual respect and understanding, ensuring that legitimate interests are taken into account in a reasonable and fair way.

Effective community engagement can increase opportunities for local economic, social, cultural and environmental improvements, supporting sustainable development and creating opportunities for land owners and communities to develop mutually beneficial solutions to local issues. **The aspiration is that local communities and those with decision making powers over land become genuine partners in land-based decision making.**

2 SURF and SLC take a reality check

The Commission has embarked on a partnership initiative with [SURF, Scotland's regeneration forum](#), to explore how the stated purpose and content of the **Guidance and Protocol above fits with the reality of partner perspectives and challenges in the urban context.**

It is widely acknowledged that the urban environment is complex in terms of land ownership, management, planning and access. The SLC is keen to explore how the protocol can be implemented successfully within 'less well heard' communities. How can those who are disempowered through disadvantage be more effectively engaged in land-based decisions that affect them?

SURF's 'Alliance for Action' connections offer the opportunity of constructive, cross sector, community focused examinations of that challenge. Through a series of SURF hosted discussions, the Commission and SURF hope to gain reality based views on questions such as: What are the current challenges and barriers and how could a cross-sector approach help overcome these? How can we develop a more open approach to urban land-based decision making which helps to achieve mutual benefits for landowners, managers and communities?

APPENDIX 3: Discussion Paper for National Event

Land and Communities: Beyond the Echo Chamber

A SUMMARY REPORT FROM SURF'S COMMUNITY-BASED 'REALITY CHECKS'

This summary report highlights key outcomes from a series of community events, facilitated by SURF as part of a partnership initiative with the Scottish Land Commission. The purpose of this joint initiative is to explore the context for enhancing the engagement of communities in land use decision-making.

IN SUMMARY

- **Communities are Messy:** There are considerable challenges as to who land owners and managers are expected to engage with, when instructed to engage with 'the community'.
- **Engagement is Lacking:** Existing community consultation processes are generally perceived as being tokenistic, under-resourced and inauthentic.
- **Confusion is Common:** Planning and ownership issues are largely viewed as unclear and complicated. Communities, local agencies and private developers may need bespoke guidance, because aspirations and processes are not often shared.
- **Change is Needed:** Asset maps, improved transparency, post-acquisition support, and better marketing of the value of engagement to all players, could form part of a mutually useful response.

POLICY BACKGROUND

The Scottish Government's [Land Rights and Responsibilities Statement \(LRRS\)](#) is the first of its kind anywhere in the world. It sets out a vision for a strong and dynamic relationship between Scotland's land and its people.

It underpins the work of the [Scottish Land Commission](#) in identifying good practice and delivering change to support a vision of a Scotland in which everybody benefits from the ownership, management and use of the nation's land and buildings. The Commission will be issuing a series of Land Rights and Responsibilities Protocols to provide clarity on what is reasonably expected in implementing the LRRS and highlighting good practice.

The first of these protocols will look at Community Engagement in Decisions Relating to Land, reflecting guidance published by the Scottish Government in April 2018 on [Engaging Communities in Decisions Relating to Land](#).

The guidance supports greater collaboration and engagement between those who make decisions about land, and the local communities affected by those decisions. It encourages positive

behaviours by all interested parties, to make sure that interactions take place in a spirit of mutual respect and understanding, in order to ensure that legitimate interests are taken into account in a reasonable and fair way.

Effective community engagement can increase opportunities for local economic, social, cultural and environmental improvements, supporting sustainable development and creating opportunities for landowners and communities to develop mutually beneficial solutions to local issues.

The aspiration is that local communities and those with decision making powers over land become genuine partners in land-based decision making.

ABOUT THE SURF & LAND COMMISSION INITIATIVE

The Commission has embarked on a partnership initiative with SURF – Scotland’s Regeneration Forum. The purpose is to explore how the stated purpose and content of the Protocols fits with the reality of stakeholder perspectives and challenges in the urban context.

The urban environment is complex in terms of land ownership, management, planning and access. The Commission is keen to explore how the Protocols can be implemented successfully within ‘less well heard’ communities.

SURF’s [‘Alliance for Action’](#) programme offers the opportunity for constructive, cross-sector, community-focused examinations of how people disempowered through disadvantage can be more effectively engaged in the land use decisions that affect them.

SURF hosted a series of three multi-sector stakeholder discussions in three economically challenged urban communities that participate in the Alliance for Action. SURF and the Commission used these events to raise questions such as:

1. What are the current challenges and barriers?
2. How could a cross-sector approach help overcome these barriers?
3. How can we develop a more open approach to urban land-based decision-making, which helps to achieve mutual benefits for landowners, managers and communities?

[A context paper](#) was used as a starting point for exploring perspectives and increasing shared understanding. The focus was to explore national policy, related guidance and recommended processes in the context of local realities.

SURF captured concise, accessible and anonymised learning outcome notes from each of the community events in East Kirkcaldy, Govan and Rothesay. SURF shared these notes with participants, and actively encouraged further feedback on any of the issues raised.

This report is a condensed summary of some of the main views expressed by the cross-sector participants in the three ‘local reality check’ sessions, and in follow-up exchanges. It is intended to inform discussion at a concluding ‘Food For Thought’ discussion involving relevant national organisations and policy makers. This event will be held on Tuesday 2 April 2019, 5.30pm-8.30pm, at the Grand Central Hotel, 99 Gordon Street, Glasgow.

This report is intended to be a constructive and reasonably accurate reflection of the diverse perspectives, experiences and views that SURF has gathered in this process. As such, it presents a range of points which may not always be verifiable or consistent. It is not necessarily reflective of the views of SURF or of the Scottish Land Commission.

SUMMARY REPORT: IN BRIEF

WHO IS 'THE COMMUNITY'?

- Communities are diverse, energetic and aspirational. They contain knowledge, assets and initiatives, which are essential to the sustainable success of any sincere community regeneration strategy.
- Communities are rarely the rational, homogenous entities that appear to be imagined in land use policy. They are more often a combination of: 'the usual suspects'; lifelong activists; eager newcomers; sceptics; the disillusioned; the weary and overburdened; and those who just want someone else to 'get on with it'.
- There are often misaligned priorities and assumptions between budget holders and budget recipients.
- The 'community' label is sometimes misappropriated by non-representative single issue bodies. Scotland's Community Councils, even where they function, are inadequately representative of the wider community spectrum.
- How would a protocol approach work when there is no representative community body?

WHAT IS GENUINE COMMUNITY ENGAGEMENT?

- At the community level, general scepticism about consultation processes are common. There is too little trust, and big imbalances of power. 'Tick box' statutory process may meet specified criteria, but are often viewed at the community level as pointless, lengthy exercises, without any commitments to act on findings.
- Genuine engagement needs additional resources than are committed at present. But resources are not enough; they must be well-managed. Community agencies with local structures in place to support community engagement with constituted bodies, are rarely funded to do so. The Charrette model is at risk of becoming a routine, easy money-maker for external consultants that doesn't fully deliver on engagement.
- Despite longstanding formal community engagement guidelines, in practice, there is a lack of clarity on what constitutes consultation or engagement. Is it realistic to expect to involve *all* of a community? If not, what counts as a 'good enough' effort? The level of engagement that can be expected may depend on whether the land is viewed as a liability or asset by the local community.
- Community groups may be best-placed to facilitate engagement processes. Resourcing them to do so could represent a good investment for public and private partners. Private sector partners generally see the longer term value in greater community engagement, but are often unclear on who to work with, and how.
- Articulate, middle-class communities have many advantages in land engagement and ownership opportunities. Poverty-blind empowerment opportunities are therefore helping to increase inequalities.

WHAT ARE THE MAIN PROBLEMS?

- Planning and ownership issues are largely viewed as unclear and complicated. There are concerns that new guidance may just add layers of complexity and frustration. Different sectors may need different guidance, because aspirations and processes are not often shared.

- Misunderstandings, misperceptions and fears are common. Communities tend to assume that compulsory purchase of unused land and property is straightforward. Misguided perceptions of influence and power are commonplace; in reality it is rare for any one agency to have full autonomy and control of processes and timescales.
- Planning departments and legislation can confuse and obscure. They may stick to the letter of the law, but not the spirit of genuine community engagement.
- There are a wide range of practical issues. It can be resource and time-consuming to track down titles and meet planning criteria. Many public and private bodies lack dedicated budgets to support community engagement processes. Community buy-out criteria is so rigid, it can end up excluding the community. Communities may want responsibility of managing, but not of ownership. Developer deadlines may mean consultation activity is reduced or eliminated.
- Local authorities can struggle to promote one clear goal, when they are landowners, planners and developers. They often face pressure to 'offload liabilities', not to satisfy community needs. Is the driver desire for development or disposal of property?

WHAT SHOULD WE BE DOING DIFFERENTLY?

- There is clear demand for an easily accessible online map of all private and public assets with land and property owners identified.
- Transparency, honesty, trust, and clear communication can drive mutually useful positive activity. Communities need to know: Who owns this land? Where is consensus? Who has responsibility? What are the timescales? Why are there delays? The poorest areas want quick outcomes, but delays and changes can be accepted when they are clearly explained.
- Engagement tools are already present at the community level. Local projects, programmes, websites and social media may communicate reality better than external consultants.
- Effective communication before the fact results in less objections and appeals, and is a clear win-win for landowners and the communities they engage with. This should be communicated more widely. Negative engagements escalate when people see diggers moving in. Early engagement, and solutions that come from the community, are more effective and sustained, but should be built on beyond 'usual suspects' to ensure diversity.
- In community asset transfer processes, post-acquisition support is crucial. It is hard for communities to gain land assets, and even harder to sustain them five years down the line. There is also an imbalance towards housing – it is comparatively easy to find funding and resources for housing development, whereas communities need and want land and buildings developed to provide wider amenities.

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