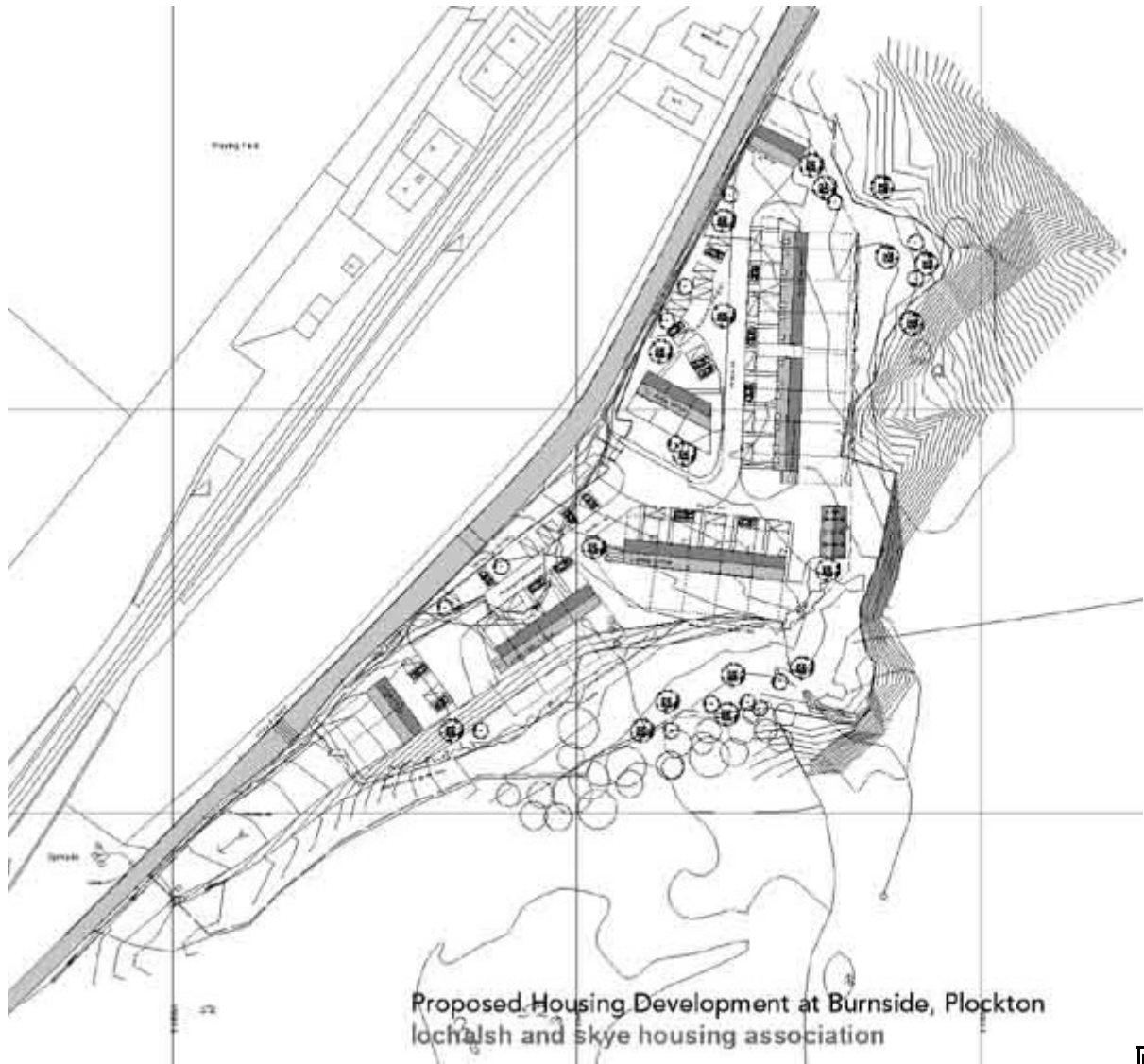


Houses on Crofting Land

A study into meeting housing needs in the crofting areas



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Derek Logie

Rural Housing Service



Scottish Crofting Foundation

2007



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Appendix I: Views of Tiree Crofters

Appendix II: References

Our communities need people to remain viable, to keep our schools open & People need houses. Houses need land. Whether we like it or not, we as crofters control the land. Crofter, Harris

1 Introduction

1.1. Background

The **Scottish Crofting Foundation**, with support from **Argyll & Bute Council**, the **Crofters Commission**, **Highland Council**, **Highlands & Islands Enterprise** and **Tighean Innse Gall**, commissioned the **Rural Housing Service** to carry out research into the shortage of affordable rural housing in crofting areas, and to identify possible solutions to this shortage through the release of croft land.

Specifically the research was to meet the following objectives:

To identify the constraints which are preventing the release of land under crofting tenure, to relieve housing pressure.

To identify existing levels and types of housing need in crofting and the wider communities.

To identify existing and potential models of meeting housing needs in crofting communities.

To identify how land under crofting tenure could be used appropriately to satisfy housing need, and the implications for the crofting community were this to happen.

To quantify the potential land available.

To identify all different methods and models of development that could be used to meet the various identified housing needs whilst protecting long-term crofting community interests e.g.

- Local lease/local lettings initiatives
- Shared equity part-buy (land or house) schemes
- Burdens/pre-emption
- Social housing/affordable housing for rent
- Private build/community build
- Self build (individual/group)
- RHOG, LCHO and CGHS

To identify potential ways in which the crofting community could benefit from increased housing on croft land.

To identify governmental input that could help e.g.

- Rural exception policies
- Land Reform (Scotland) Act
- Access to services
- Increased funds from SE
- Affordable land initiative

To identify impacts resulting from this activity on croft land.

To identify low-cost, sustainable, energy-efficient building techniques appropriate to the area.

1.2. Methodology

The research has involved two distinct approaches:

1. an examination of the existing problem through a literature & data review and interviews with crofting and housing agencies to quantify the level and character of housing need in the crofting counties and to identify the constraints to the release of crofting land for housing.
2. and research to identify possible solutions to meeting housing need in crofting communities, highlighting existing practice, innovation and new ideas to enable the utilisation of croft land for housing without damaging crofting, through a literature and data review and interviews with government, crofting communities and bodies, housing and development agencies.

The research involved interviews with crofting communities in Lewis, Harris, Tiree, Skye, Lochalsh and Badenoch, along with interviews of key housing and crofting agencies in the Highlands & Islands.

2 Crofting

2.1. Introduction

There are 17,778 registered crofts spread across the 7 crofting counties of Argyll, Caithness, Inverness-shire, Orkney, Ross & Cromarty, Shetland and Sutherland. These crofting counties have been superseded in local government by the local and island authorities of Argyll & Bute, Eilean Siar, Highland, Orkney & Shetland.

Of the 17,778 registered crofts, 14,092 are tenanted and 3,686 are owned. Geographically crofts are concentrated towards the north and west of the crofting counties: the Western Isles (6,032: 1% owned), Shetland (2,731: 29% owned), Skye, Lochalsh & Lochaber (2,480; 19% owned), the North West Highlands (2,714; 24% owned), Easter Ross, Inverness & Badenoch & Strathspey (2,282; 41% owned), Argyll (1,080: 36% owned) and Orkney (459: 79% owned). There are approximately 11,500 crofting households comprising a population of 33,000.¹ There is some evidence to suggest that crofting has played a crucial role in helping retain populations in these fragile areas.

2.2. Croft Land

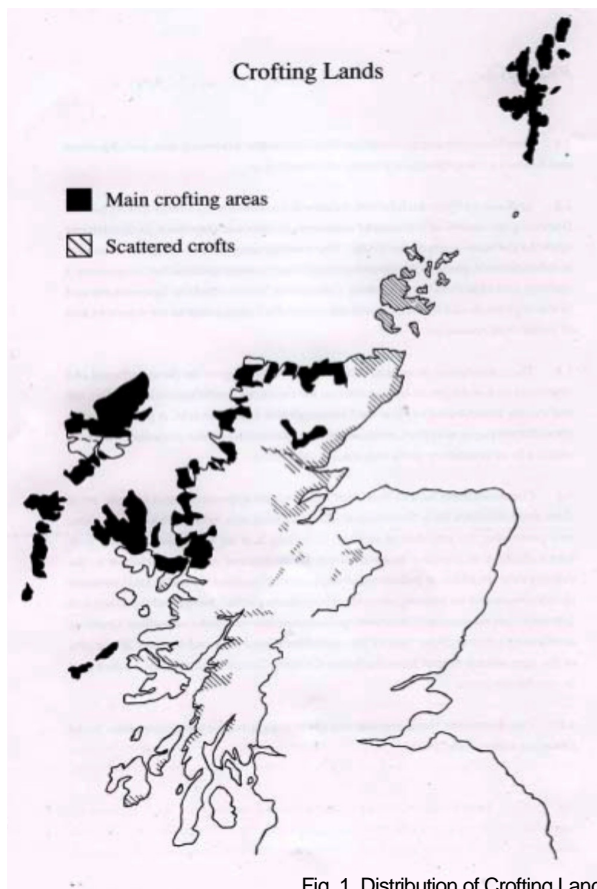


Fig. 1. Distribution of Crofting Land

(Source: Crofting in the 90s, Crofters Commission, Inverness 1991)

The average size of a croft is approximately 5 hectares, with some as small as 1.5 hectare and some up to 50 hectares.

There are 800,000 ha under crofting tenure in the crofting counties; much (700,000 ha) of this land is common grazings. The remaining 100,000 ha is inbye land; generally the better quality agricultural land and location of the croft house. There are few common grazings in Badenoch & Strathspey and just 3 in Orkney².

In 2005/06, a total of 125 hectares of croft land was removed from crofting through decrofting. Some of this decrofting was to decroft the land on which the house site and associated garden ground sits, which a crofter has a right to do. However the majority 87 ha was for other reasons³. Many within crofting believe that increasing amounts of land is being decrofted to provide house plots for sale.

2.3. Housing and Croft Land

The increased pressure on the housing market in the crofting counties is impacting on crofting in three ways; the lack of affordable housing has implications for the sustainability of many communities the viability of the local shop, school and other local services; the inflated housing market has increased land values tempting many crofters to seek to release land for housing plots through decrofting; and the value of crofting assignments has increased as they are seen as a method of acquiring a house site, and indeed are advertised by Estate Agents as house plots⁴.

2.4. House sites on inbye land

Many within crofting are concerned about the sale of inbye land as housing plots as this decreases the amount of better quality agricultural land in the community and perhaps the viability of crofts and the sustainability of crofting agriculture.

Taynuilt

This position was exemplified by a decrofting case in Taynuilt in Argyll. In this case an absentee crofter applied to the Crofters Commission to decroft inbye land which had been granted planning permission, the land had been zoned for housing in the Local Plan. The Crofters Commission approved this decrofting as it argued it had little choice as the local council had granted planning approval and the Commission was not a second planning authority. The position of the Crofters Commission was supported by the then Rural Affairs Minister Rhona Brankin MSP who stated in the Scottish Parliament that The provision of housing is identified in crofting legislation as a reasonable purpose for which land may be decrofted. In the Taynuilt case, the elected local authority had determined it was in the public interest, and indicated in the local plan, that the land should be used to meet housing demand in the Taynuilt area ⁵

At the same time as the Crofters Commission was approving Taynuilt a case where it had refused decrofting permission for housing was overturned by the Scottish Land Court on the basis that decrofting for three houses could be just as beneficial as retaining inbye land in crofting agriculture ⁶

The opposition to the Taynuilt decrofting was exacerbated by the type of housing proposed for the site, large executive homes, mostly unaffordable to local people in Taynuilt. The houses built on the land are currently being sold for £365,000 for a 4 bedroom house⁷. There may have been less opposition to the decrofting if the site had been for affordable housing.

Other voices within crofting are more sanguine about the use inbye land for housing; my own view is that no matter how many house sites are made available there will always be more land for crofting- there are thousands of hectares out there and in places like Skye there is a need for house sites& some are concerned that this is the end of crofting but it is in the nature of the system that it is evolving. ⁸ John Laing SCF Director and Highland Councillor

What the Taynuilt case illustrates is a greater need for engagement of the Crofters Commission and Scottish Crofting Foundation with planning authorities in the development of Local Plans to ensure that valuable inbye croft land is not zoned for housing where such land is crucial for the viability of crofting agriculture.

2.5. Croft Assignations

Alongside the increased rate of house site release through decrofting, there has been a huge rise in the value gleaned for croft assignations. These are effectively being traded as house sites, although the assignation of a croft is subject to Crofters Commission approval and is permitted on the basis of development proposals and the incoming tenant's previous experience. In practice few croft assignations are refused⁹. Recent croft assignations on Skye, illustrate the impact of planning permission for a house site on croft assignations; a croft assignation without planning permission is being sold for £22,000 whilst one with planning is £75,000.

The concern of some that croft land is now at the mercy of the spiralling property market and subject to property speculation is illustrated by a current sale on Skye. A recipient of grant from the Crofters Entrant Scheme in 2004 is currently assigning his croft (without the croft house) for £22,000 as well as 3 house plots with planning for £149,000; a total of £171,000.¹⁰

Many within crofting believe that croft land needs to be protected by the Crofters Commission and planning regulation from the speculations of the housing market, and that crofters themselves could help take some heat out of the housing market¹¹ by releasing house plots on common grazings.

The next chapter will look at the pressures which are causing the need for housing and the heat in the housing market.

3 Housing Need in the Crofting Counties

3.1. Introduction

The lack of affordable housing is widely accepted as a limitation on the sustainable development of the Highlands & Islands. Overall the area is experiencing unprecedented population growth, although this masks significant regional differences between mainland Highland areas and the island councils which are losing population. The demand for housing has fuelled significant increases in house prices and land values; house prices in Highland have increased by 134% over the last 5 years – the highest increase in rural Scotland. Many households, particularly first time buyers are now not able to compete in the housing market; just 23% of house buyers in Highland were first time buyers compared with an urban average of 34%.¹²

In order to meet the growing housing need across the Highlands & Islands, Communities Scotland's investment programme has increased substantially in recent years:

£M	2003/04		2004/05		2005/06		2006/07	
Area	Spend	Units	Spend	Units	Spend	Units	Spend	Units
Argyll	n/a	-	£6.500	-	£12.000	-	£15.500	-
Highland	£14.115	261	£20.496	266	£33.609	684	£43.372	552
Orkney	£2.870	73	£2.054	39	£5.846	56	£5.019	120
Shetland	£1.089	39	£2.008	4	£1.498	17	£3.030	94
Western Isles	£2.928	60	£2.830	48	£3.107	56	£6.879	80
Total H&I	£21.002	433	£27.389	357	£44.060	813	£58.300	846

Table 1. Communities Scotland Investment 2003/07 Source: Communities Scotland

In Highland the spend has increased threefold since 2003/04; investment in Orkney has increased by 75%; investment in Shetland by 178%; and in Eilean Siar by 135%.

Despite the increases in investment there remains significant housing needs in the crofting areas, and crucial obstacles to the increase in the supply of affordable housing; particularly water infrastructure and land supply.

The purpose of this chapter is to analyse housing needs in each of the local and island authorities to assess the level of housing need and the role of land supply in limiting housing authorities' response to these needs and to highlight the value of increasing land supply through the release of croft land to meeting housing need.

3.2. Argyll & Bute

Argyll & Bute covers part of the former crofting county of Argyllshire along with the island of Bute and part of former Dunbartonshire. Argyll has 1060 crofts many of these on the islands of Islay, Tiree and Mull. There remain crofts in mainland Argyll which tend to be larger than those on the islands.

3.2.1. Argyll & Bute Housing Strategy¹³

The key housing issues identified by the Argyll & Bute Housing Strategy are:

Population Change

The population of the larger settlements in the area is forecast to increase while the population will fall in fragile mainland and island communities.

Housing Supply and Demand

Affordable housing choices are limited by: lack of social housing; pressure on housing market from in migrants; and high rates of second/holiday home ownership.

- 17% of houses in Argyll & Bute are second homes -in some areas this rises to 26% (Mull & Iona)
- 42% of council housing has been sold (in some areas 100% has been sold through the right to buy)
- social housing has declined from 27% of housing stock to 21% despite the doubling of housing association stock in the area

Stock Condition

Argyll has one some of the worst housing in the country; Below Tolerable Standard housing accounts for 2.3% of housing in Argyll & Bute compared with 1% nationally

3.2.2. Land Supply

Land supply is highlighted as a key factor in increasing affordable housing supply and sustaining economic growth. The Housing Strategy highlights several areas where land supply is a crucial constraining factor on the delivery of affordable housing:

Mid Argyll review& planning system and more flexible or innovative infrastructure requirements, to address effective land supply shortages p.41

Islay, Jura & Colonsay In respect of land supply, the extent of future housing development on both Islay and Jura will very much depend on the willingness of landowners to dispose of potential sites and if the supply of available land is not increased costs will continue to rise and the potential for addressing housing

need and demand will be severely undermined. p.46

Lorn & Inner Isles Land supply & is a major issue with the short supply of effective housing sites and significant infrastructure restrictions being a major constraint on investment and economic development p. 49

Mull & Iona Ensure a more effective land supply/operation of the Planning system, and address infrastructure constraints p.51

3.2.3. Bramley Report (Local housing need and affordability model for Scotland Update (2005))

The Bramley report is used by the Scottish Government as a key indicator of housing need across Scotland helping to shape housing investment decisions. The update of the report in 2006 highlighted significant housing need; estimating a need for 1095 additional affordable houses to be built in Argyll by 2021¹⁴.

3.2.4. Communities Scotland Investment

Communities Scotland's investment in Argyll & Bute has increased substantially over the last three years; in 2004/05 investment was £6.5M, by 2006/07 this had increased to £15.5M an increase of £9M or 138%.¹⁵

3.2.5. Initiative at the Edge/ Iomairt aig an Oir (Coll, Colonsay & Jura)

Argyll has three islands which have been part of the Initiative at the Edge programme: Coll and Jura are currently members, whilst Colonsay was one of the original areas designated in 1999. All three islands have highlighted housing as crucial to their regeneration and sustainability. On Colonsay the community bought croft land at Kilchattan with help from the Scottish Land Fund. It is planned to divide the land into seven new crofts with house sites for islanders and incoming families.

3.3. Comhairle nan Eilean Siar

3.3.1. Eilean Siar Housing Strategy¹⁶

The key housing issues identified by the Eilean Siar Housing Strategy 2004/09 are:

Population Change

Population in decline throughout the area and migration of households from rural areas to Stornoway. Despite population decline, number of households is increasing as is age of households

Housing System

The Western Isles have a distinctive housing profile with 72% of housing owner occupied (half of which are croft houses); 15% of houses are non-effective (8% holiday homes; 7% empty); 17% of housing is in the social rented sector. The main demand for social rented housing is in Stornoway where there are 6 applicants for every house let compared with 1.5:1 in the rest of Lewis and 2:1 from North Uist to Barra. This is reflected in the council waiting list; over half of all applicants on the waiting list request Stornoway. Communities outside of Stornoway suggest that the apparent demand for housing in Stornoway is a consequence of the lack of social housing in their communities; many dispute the Comhairle assertion that there is little demand for housing outwith Stornoway. The role of the Rural Communities Housing Project established by Tighean Innse Gall is to assess housing needs in small communities in Lewis & Harris.

Social rented house completions average 20 per year whilst annual right to buy sales average 55; 40% of the social rented housing stock in 1980 (when right to buy was introduced) has been sold. Most sales have occurred in the Stornoway area

Homelessness

Homeless applications doubled between 2001 and 2003/04 to 215

3.3.2. Land Supply

Land supply is highlighted as a key factor in increasing affordable housing supply and sustaining economic growth. About 77% of the land area is held in crofting tenure and is subject to crofting legislation.

The potential to develop new housing in many settlements is constrained by the lack of suitable infrastructure. Land ownership patterns also impact on the availability of sites for housing. However the increase in the level of community ownership may help to facilitate land where serviced plots can be developed

3.3.3 Communities Scotland

£M	2003/04		2004/05		2005/06		2006/07	
	Spend	Units	Spend	Units	Spend	Units	Spend	Units
Western Isles	£2.928	60	£2.830	48	£3.107	56	£6.879	80

Table 2. Communities Scotland Investment 2003/07 Source: Communities Scotland

Investment in Eilean Siar has more than doubled over the last three years from £2,928,000 in 2003/04 to £6,879,000 in 2006/07.

3.3.4. Initiative at the Edge

There are six areas of Eilean Siar which are part of the Initiative at the Edge/lomairt aig an Oir; Lochs and Barra & Vatersay which are current members, and Uig & Bernera, Bays of Harris, Lochboisdale and Eriskay which were pilot project areas.

In all of the areas affordable housing was a key factor in community sustainability. In Bays of Harris: a project was established to investigate a Community Land Bank which would work with crofting communities to encourage release of unused croft land to enable young couples in particular to build homes in the area. An outcome from the housing requirements of the initiative at the edge areas has been the establishment of a Rural Community Housing Project which will commission research and work with communities to develop ways of meeting housing needs in the communities.

3.4. Highland

3.4.1. Highland Housing Strategy Update 2006⁷

Population & Demographics

The population of Highland Council area grew by 2.5% between 1995 and 2005. This increase is due to in migration with, in recent years, up to half of all in-migrants originating from Eastern Europe. Much (40%) of this immigration has been to the Inverness area. Other areas of population growth are Nairn and Skye & Lochalsh; the population in Caithness and Sutherland is falling. The population of Sutherland is also aging to a greater extent than all other areas apart from Badenoch & Strathspey.

House Prices¹⁸

Average house prices in Highland grew by 134% from £59,796 in 2000 to £140,041 in 2005. This is the fastest growth in rural Scotland. House prices in Highland are the fourth highest in rural Scotland behind East Lothian, Scottish Borders and Perth & Kinross. They are now 5.4 times average incomes and the third least affordable in rural Scotland. House prices and affordability however vary greatly across Highland with average house prices in Caithness and Sutherland being substantially lower than those in Inverness and Skye & Lochalsh.

Housing Need

Highland Council waiting list grew by 18% between 2003/04 and 2005/06 (from 6907 to 8149). In 2005/06 across the Highland area there were an average 8 applications for every house let (the national average is 5-6). In Skye & Lochalsh there were 21 applicants for every let whilst in Badenoch & Strathspey the ratio was 22:1.

The number of homeless applications in Highland has more than doubled in recent years from 985 in 2001/02 to 2443 in 2005/06 (an increase of 148%).

Despite welcome increases in housing investment in the area; right to buy sales mean that the number of social rented houses has actually decreased in Highland. Between 2003/04 and 2005/06 there were 609 affordable houses for rent or low cost sale completed in Highland and 1698 Right to buy sales; for every 1 new affordable house built almost 3 were sold.

Area	2003/04		2004/05		2005/06		2006/07	
	Spend	Units	Spend	Units	Spend	Units	Spend	Units
Highland	£14.115M	261	£20.496M	266	£33.609M	684	£43.372M	552

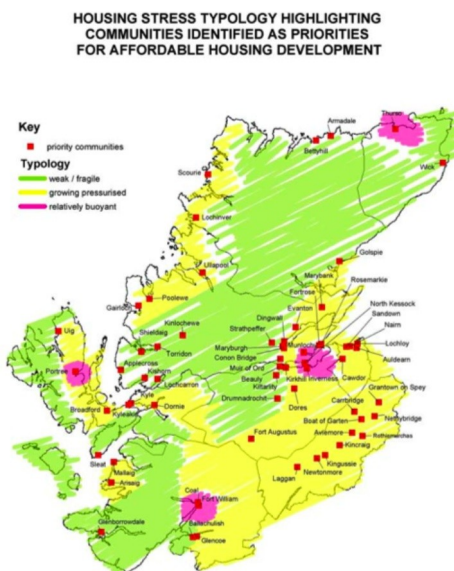
Table 3. Communities Scotland Investment 2003/07 Source: Communities Scotland

3.4.2. Bramley Report¹⁹

Bramley (2006) highlights a need for a further 4330 affordable houses to be built in Highland by 2021. The report also highlights the persistence of housing need in Highland; whilst in most other local authority areas investment achieves a reduced or zero housing need figure by 2021 in Highland the level of need remains constant

	2005	2006	2011	2016	2021
Highland	510	950	1030	845	995

Table 4. Bramley Report (Local housing need and affordability model for Scotland Update (2005) p.32



Bramley also highlights the low level of affordability in Highland; just 44% of households on average incomes can afford to buy in Highland. In areas like Skye & Lochalsh affordability drops to 36%.

3.4.3. Investment Priorities

The Housing Strategy envisages that 2500 houses for affordable rent or ownership will be built in Highland

between 2005/06 and 2009/10. The bulk of these will be in Inverness (730) and Ross & Cromarty (637) but significant builds will also take place in Lochaber (329), Skye & Lochalsh (245) and Badenoch & Strathspey (205).

Fig 2. Priorities for affordable housing development. Source: Highland Council Local Housing Strategy 2003 - 2008

3.4.4. Land Supply

Although a Housing Land Audit has concluded there is an effective land supply in Highland of 11500 housing units up to 2010 which exceeds the Structure Plan requirement by 5000 units; half of this land supply is constrained by water and drainage infrastructure problems.

Whilst infrastructure problems are the main constraint on the amount of land available for housing, other constraints such as high development costs, landowners, legal problems and NIMBYs also constrain the amount of developable land in the Highland area.

3.4.5. Highland Housing Alliance

In order to increase the level of developable land available in Highland, the Council led the establishment of Highland Housing Alliance as the main landbanking vehicle in the Highlands. Highland Housing Alliance has in the last 2 years acquired a series of sites across the Highlands. The HHA is funded by the Scottish Government and the Highland Council utilising funds from the income received from second and holiday home council tax.

3.4.6. Highland Small Communities Housing Trust

Alongside HHA, Highland Council also supports Highland Small Communities Housing Trust as a vehicle for land assembly in the Highlands.

The HSCHT was established in 1998 to take direct and practical steps of intervention on behalf of disadvantaged smaller communities in the Highlands (the Highland Council area), which will help them realise good, long-term solutions to their local, housing-related problems.²⁰

To achieve this aim the Trust is involved in a number of activities:

- Meeting with community councils to advise on local housing needs
- Carrying out housing needs surveys
- Landbanking land for housing association and RHOG housing development
- Buying housing for rent to key incoming workers
- Liaising with housing agencies to secure investment in communities where it is required.

The Trust is managed by a Board of Directors elected from trust members – mostly Highland community councils, and appointed from corporate members such as Highland Council, local housing associations and the Scottish Crofting Foundation.

3.4.7. Initiative at the Edge

Four areas of Highland are part of the Initiative at the Edge/Iomairt aig an Oir; SE Caithness and Glenelg & Arnisdale are current members, and Ardnamurchan and NW Sutherland were pilot project areas.

In all of the areas affordable housing was highlighted as a key factor in community sustainability. The Highland Small Communities Housing Trust has carried out housing needs surveys in both the current areas; SE Caithness and Glenelg & Arnisdale.

3.5 Orkney

3.5.1. Orkney Housing Strategy ²¹

Population & Demographics

The population of Orkney was 19,245 at the 2001 Census. The population is however projected to decline by the next census; the population is also projected to get older influenced by in-migration of older people and the out migration of the young. Despite the projected population decline the number of households is projected to increase. The decline in population is particularly marked in the outer isles with six islands projected to decline by over 20%. This decline may be due to lack of housing and economic options on the outer isles or may reflect a growing preference for the larger settlements of mainland Orkney. In order to address this population decline several parts of Orkney have been designated as part of the Initiative at the Edge (Eday, Westray, Papa Westray, Sanday, North Ronaldsay)

Tenure

Owner occupation is the predominant tenure in Orkney with 72% of all houses owned. Social rented housing is just over half the national average (14% compared with 27% nationally); private rented housing is same size as the social rented sector (14%).

Social Rented Housing

Most of the social rented housing on Orkney (87%) is located on the Mainland and in Kirkwall and

Stromness there is very little on the other isles 13% -169 houses and none of the islands of North Ronaldsay & Papa Westray.

House Conditions

The housing stock on Orkney is on average older than the rest of the country and this is reflected in the level of BTS housing which stands at 4% of the stock nationally BTS is 1%

House Prices

Average house prices in Orkney are £103,771 (May 2007); Bramley considered that 58% of average households would be able to afford a 2-bed property in Orkney, higher than the national average of 47%.²²

Housing Need

Orkney Housing Strategy noted that there were 550 applicants on the council waiting list and that every let attracts 2.2 applicants. This is significantly less than the national average of 5-6 applications per let although still evidence of housing need.

Bramley (2006) projects a small level of housing need (40) in Orkney over the next 14 years to 2021²³.

The number of homeless applications in Orkney has risen in recent years from just 20 in 1991 to 163 in 2000/01.

Housing investment in Orkney has increased substantially in recent years resulting in 288 new houses.

Area	2003/04		2004/05		2005/06		2006/07	
	Spend	Units	Spend	Units	Spend	Units	Spend	Units
Orkney	£2.87M	73	£2.054M	39	£5.846M	56	£5.019M	120

Table 5. Communities Scotland Investment Programme Source: Communities Scotland

3.5.2. Land Supply

A housing land audit conducted by Orkney Islands Council in 2000 identified effective land available for 270 units. Structure Plan projections outlined a need for 830 units to 2010; making a shortfall of 560 houses this was topped up to 700 in the Housing Land Audit to provide for better flexibility. 90% of this shortfall was identified as in the Orkney Mainland and linked islands and just 10% in the remainder of the islands. The Orkney Local Plan has identified sites within settlements to absorb the shortfall of housing land.

Water infrastructure constraints are important constraints on housing development outside of Kirkwall as planning policy prohibits development within towns and villages unless there is a public sewerage system.

In order to facilitate affordable housing development Orkney Islands Council has been proactive in assembling sites for both social rented housing and low cost home ownership. Over the last 17 years the council has made available 100 sites for self-build concentrated in Kirkwall and Stromness. This has been complemented by the active promotion of Rural Home Ownership Grants by Orkney Islands Property Development Ltd.

3.5.3. Initiative at the Edge

There are six areas of Orkney which are part of the Initiative at the Edge/Iomairt aig an Oir; Eday, Stronsay, Sanday & North Ronaldsay which are current members, and Westray and Papa Westray which were pilot project areas.

In all of the areas affordable housing is a key factor in community sustainability. North Ronaldsay has no social housing and no options to help young people set up their own home. The lack of appropriate and affordable housing is a push factor in the depopulation of the outer isles of Orkney.

3.6. Shetland

3.6.1. Shetland Housing Strategy²⁴

Population & Demographics

Shetland's population was 21,988 at the 2001 Census. The population is however projected to decline to 21,739 by 2012. The population is increasingly becoming older with projected declines of 18% of children 5-14 and 14.5% of adults aged 30-44. Older households will increase by 28%.

Tenure

Owner occupation is the predominant tenure in Shetland with 72% of all houses owned. Social rented housing is just over half the national average (14% compared with 27% nationally); private rented housing is same size as the social rented sector (14%). As with other areas despite an overall decline in population the number of households will grow by 11% to 2014.

In common with Orkney and Eilean Siar, there is a drift of population from remote locations towards population centres like Lerwick. By 2005 over half of the population were registered with GPs in Lerwick or Scalloway.

Social Rented Housing

Demand for social rented housing is concentrated in Lerwick, Scalloway and other mainland Shetland

communities.

House Prices

Average house prices in Shetland are £75,727 Bramley considered that 62% of average households would be able to afford a 2-bed property in Shetland, higher than the national average of 47%.²⁵

Housing Need

Shetland Housing Strategy noted that every let attracts 2.18 applicants. This is significantly less than the national average of 5-6 applications per let. Bramley (2006) projects a surplus (45) of social housing in Shetland over the next 14 years to 2021.

Housing investment in Shetland has increased substantially in recent years resulting in 154 new houses.

£M	2003/04		2004/05		2005/06		2006/07	
Area	Spend	Units	Spend	Units	Spend	Units	Spend	Units
Shetland	£1.089	39	£2.008	4	£1.498	17	£3.030	94

Table 6. Communities Scotland Investment Programme Source: Communities Scotland

3.6.2. Land Supply

The Shetland Housing Strategy does not highlight any issues regarding land supply as a constraint on housing development in the islands. This perhaps reflects more permissive policies regarding housing in the countryside. The Shetland Local Plan allocates land for housing in Lerwick but in no other community.

3.7. Conclusions Housing Need

There are significant pressures on housing markets across the Highlands & Islands pushing up the price of housing beyond the reach of many people on low and middle incomes and causing increased need for affordable housing solutions through housing associations and low cost home ownership schemes. The increased need for affordable housing is reflected in the increases in Communities Scotland investment in the Highlands & Islands.

Housing pressure is particularly acute in Skye & Lochalsh, Easter & Wester Ross, Badenoch & Strathspey and Inverness in Highland, and in Argyll. In the island councils there is relatively high housing pressure in the main settlements of Stornoway, Lerwick and Kirkwall which are experiencing migration from internal and external sources.

In more fragile areas of the Highlands & Islands; such as the Outer Isles of Orkney, Shetland and much of Eilean Siar, the availability of affordable housing is a key component in the regeneration of these

communities; in helping young families make the decision to remain in or return to their community.

Leavers have identified housing problems as one of their reasons for not returning to Lewis (Stockdale undated), and it is thought that the supply of low-cost housing is a critical issue in retaining population (Hope et al 2004 p3) ²⁶

The ability of croft land to play a role in helping to alleviate this housing pressure is dependent on a number of issues, of which planning is a key element. The planning system within the crofting counties is explored in the next chapter.

4 Planning

The research brief asked the researchers to identify the constraints which are preventing the release of land under crofting tenure, to relieve housing pressure. Crucial to whether croft land particularly common grazings land can be used for housing are the planning policies of the planning authorities covering the crofting counties. These policies interpret national guidance relating to planning to the local circumstances.

This chapter outlines national planning policy in relation to housing in the countryside, rural development and affordable housing; and the interpretation of national planning policy by the six planning authorities in the crofting counties

4.1. National Planning Policy

4.1.1. SPP3 Planning for Housing

The main national planning policy relating to housing is SPP3 Planning for Housing, this outlines a general presumption against housing in the countryside; development is to be restricted to sites within existing settlements: and ribbon development and settlement coalescence is to be avoided. However in remoter rural areas policy recognises that new housing outwith settlements may have a part to play in economic regeneration and environmental renewal. In remote rural areas with substantial long-term depopulation, proactive planning measures to help increase the resident population could assist economic and social regeneration. A dispersed settlement pattern is already an established feature of the landscape and economy in crofting areas. ²⁷

4.1.2. SPP 15 Planning for Rural Development

Building on the provisions of SPP3, SPP 15 Planning for Rural Development, highlights the potential for more small scale rural housing developments including clusters and groups in close proximity to settlements stating that there is considerable scope for allowing more housing developments of this nature ²⁸.

It goes on to state that some new housing, particularly in the remoter countryside, takes place on land not identified in local plans and outside settlements where there is reduced pressure on the retention of woodland and other amenity land. While this can help keep land prices down and allows a wider range of people to access the market, planning authorities should set out criteria in their plans for the circumstances where this type of windfall development, outwith the main settlements, is likely to be acceptable ²⁹

4.1.3. PAN 74 Affordable Housing

PAN 74 asks planning authorities to include affordable housing policies in their local plans or to adopt them as supplementary planning guidance. It highlights one means through which local authorities may seek to influence the delivery of affordable homes is by allocating sites in local plans specifically for affordable housing³⁰ but states that this method should be limited to small sites as it is contrary to SPP3 which advocates mixed tenure developments.

It advocates that planning authorities impose a benchmark of 25% affordable housing on sites where there is a requirement for affordable housing. In urban areas it states that this should apply for developments of 20 houses, but suggests that this threshold should be lowered for rural developments.

The policy recognizes that in some rural areas, the planning authority may conclude that there is limited scope to achieve new affordable housing through this approach. Other measures that planning authorities should consider include allocating new sites in local plans specifically for affordable housing, in particular small sites within or adjoining existing villages to provide for local needs in perpetuity³¹ This is a form of Rural Exceptions Policy in highlighting land for affordable housing development where development would otherwise not be permitted.

4.2. Argyll & Bute

4.2.1 Argyll & Bute Local Plan 2006

Argyll & Bute Council has a specific planning policy relating to housing on croft land; this seeks to balance the need for limited development on croft land whilst protecting the integrity of croft land assets. The council have adopted a policy of a presumption against the development of more than one house on a bare-land croft; or more than one additional house on an individual croft containing an existing dwelling house³²

In the countryside around settlements the council will

support in principle & small scale housing development on infill, rounding-off, change of use of building and redevelopment sites provided that this does not result in undesirable forms of settlement coalescence, the extension of the established settlement boundary or ribbon development. There is a resistance to housing development in the open countryside within this zone since this would be inappropriate in the more pressured territory on the periphery of settlements³³

The Plan goes on to outline the exceptions to this as limited to a strictly limited amount of housing development on croft land³⁴ referring to permission for one house on a bareland croft or one additional house on a croft with a house.

The Local Plan recognises the need to involve others in the development of policy regarding affordable housing development and will investigate the possibility of establishing affordable housing forum/s in partnership with relevant bodies such as Communities Scotland, local housing associations, the Crofters Commission and Forest Enterprise ³⁵.

The Local Plan identifies sites throughout Argyll where the Local Housing Strategy highlights the need for affordable housing and on these sites the council is proposing an affordable housing quota of 25%. This will be subject to review. The council has allocated five sites for 100% affordable housing.

4.3. Highland Council

4.3.1. Highland Council Structure Plan

The Structure Plan reinforces national policy presumptions against development in the open countryside except where new housing is needed for employment/ land management reasons. However the policy also accepts that there is a case for housing which supports the maintenance of rural communities and services and where the existing settlement pattern or development constraints would warrant the development of sites in the open countryside ³⁶.

4.3.2. Highland Local Plans

There are twelve local plans which cover Highland Council area; the majority of these are currently being revised. Below is an analysis of current planning policy towards housing in the countryside and affordable housing in Highland as evinced by the three most up to date Local Plans (Wester Ross, Easter Ross and Inverness). The plans indicate a more relaxed attitude towards housing in the countryside specifically where this housing is to meet affordable housing needs or will help sustain the viability of fragile or remote communities. On affordable housing the policies impose at least 25% affordable housing quotas on sites in areas of proven housing need and in some cases they are prepared to allocate land solely for affordable housing.

Wester Ross Local Plan (June 2006)

The most recent local plan published by Highland Council illustrates the flexibility of planning policy to cope with the different circumstances in the Highlands. The Wester Ross Local Plan supports development outwith settlements in fragile communities where this development will help maintain population and services. This policy also applies to areas of national importance; in other parts of Wester Ross boundaries of existing settlements have been increased to enable development. However decisions on whether to allow development in the countryside will take account of whether the land proposed is locally important croft land ³⁷. In this way they are seeking to balance the need for housing with those of crofting.

The Wester Ross Local Plan will seek an affordable housing quota of at least 25% in all developments

over 4 houses in settlements where there is housing need; in Gairloch, Lochcarron & Ullapool 30%. The plan also allocates land specifically for affordable housing with allocations in Ullapool, Aultbea, Poolewe, Torridon and Lochcarron.

Easter Ross Local Plan (February 2007)

The presumption against development in the countryside is restated, but a more permissive housing policy is permitted in more fragile areas such as Strathconon and Strath Bran.

All developments of 10 houses or more will be subject to Section 75 agreement to secure 25% of the site as affordable housing. The plan also allocates land specifically for affordable housing.

Inverness Local Plan (March 2006)

There is a presumption against development in the countryside unless the proposal either

- relates to the management of land;
- is required for family purposes related to the management of land;
- comprises conversion of a building of traditional design; or
- **is to be developed by a social housing agency to meet demonstrated local affordable housing need.** ³⁸

All developments of 10 houses or more will be subject to Section 75 agreement to secure 25% of the site as affordable housing.

4.4. Orkney Structure Plan/ Orkney Local Plan

There is a tight approach to housing in the countryside on mainland Orkney with a greater emphasis of renovation and rehabilitation. In the outer isles there is a presumption in favour of development to assist the regeneration of these communities. The development of affordable housing will also be permitted if there is no site available in the settlement boundary.

The council does not give percentage quotas for affordable housing but states that

the proportion of a site which the Council will expect to be used to satisfy affordable and special needs housing will generally be commensurate with the site size and the specific extent and nature of local needs ³⁹

4.5. Comhairle nan Eilean Siar Structure Plan/Local Plan

Eilean Siar has a generally permissive position on development in the countryside;

Development proposals outwith settlements and townships will only be supported when the proposal does not result in excessive additional public expenditure for site servicing and:

- i) a specific locational need has been demonstrated; or
- ii) it is for the sustainable development of a natural resource; or
- iii) it involves sympathetic renovation or replacement of an existing building; or
- iv) it avoids a significant detrimental effect on natural and built heritage resources;
- v) it can be supported in exceptional circumstances, because of the social and economic benefits arising

⁴⁰

Developments on croft land will be supported where the proposals do not: affect the character or viability of the township, or adversely affect neighbouring uses.

The Comhairle will work with local communities, landowners, grazings committees and other agencies to identify additional land suitable for housing, particularly in areas of identified need. The need to safeguard land for crofting activities and other types of development will be taken into account ⁴¹

The Comhairle will seek a quota of 25% on all sites of 15 houses or more, smaller development quotas will be set through discussion with housing agencies. The plan also allocates some sites specifically for affordable housing, including a site on common grazings at Eoligarry in Barra.

4.6. Shetland Structure Plan/ Local Plan

The pattern of development in Shetland favours a permissive policy of housing in the countryside and the Structure Plan highlights the move of national planning policy to a more permissive policy. The policy pursued by Shetland establishes zones for housing development:

Zone 1 development is actively encouraged, subject to the general requirements being met.

Zone 2 is settled countryside in the rural areas generally away from Lerwick, where communities are fragile and the population static or falling. In this zone development is favourably considered. However, proposals to develop on the best agricultural land will be discouraged.

Zone 3 is settled countryside mainly close to Lerwick, where development will be favourably considered where it strengthens and reinforces existing building groups.

Zone 4 is the sparsely populated or generally uninhabited areas where development is strictly controlled. This is open countryside; government policy is not to permit development here. The zone policy permits the building of new houses in exceptional cases, for agricultural or social support. ⁴²

The local plan does not contain a specific policy on Affordable Housing or quotas for allocated sites.

4.8. Planning Conclusions

4.8.1. Housing in the Countryside

The review of planning policies in the crofting counties indicates that most of the planning authorities will permit housing development in remote and fragile communities particularly where this development will provide affordable housing. Argyll has a more restrictive policy presuming against development on the edge of communities.

The policies would therefore favour the use of common grazings land for housing development even where this land is located outside of settlement boundaries. In Eilean Siar and Highland this presumption is qualified by the need to safeguard the viability of croft land.

4.7.2. Housing on Croft Land

Planning policies in Highland, Argyll and Eilean Siar highlight the need for development on croft land to be balanced with the needs of the crofting. Argyll has the only policy which limits development of housing on inbye land restricting development to one additional house; or one house on a bareland croft. Highland planners indicated that they had set aside a similar policy as it became difficult to enforce with the absence of accurate mapping of sub divisions from the Crofters Commission.

4.7.3. Affordable Housing

Planning authorities have generally adopted quota policies for the delivery of affordable housing adopting the national policy of 25%. In some areas of Highland, Eilean Siar and Argyll planners have allocated land specifically for affordable housing, including common grazings at Eoligarry on Barra.

5 Constraints on the Release of Croft Land to Relieve Housing Pressure

5.1. Introduction

The release of croft land by crofters for house sites to enable new households to build their own home is not unusual in the crofting counties. Crofters have for decades decrofted land for a house site for family members. Some will have gifted or sold land at a nominal price for house sites solely recouping the legal costs of decrofting and selling - when approached by friends or other members of their community. This land release has been important in helping local people access housing in their community.

5.2. Crofters attitudes towards release of land for housing

This practice continues today but many crofters are becoming wary of their generosity being taken advantage of in a rising housing market. Anecdotes of sites sold in good faith for nominal sums being sold on the open market, or houses built on land sold by crofters for low prices being sold for huge prices as holiday homes are becoming common place within crofting circles. Although actual examples of crofter s generosity being exploited are rare, the fear of being ripped off is changing some crofters attitudes to land release at low cost.

The attitude of individual crofters and common grazings committees is crucial to whether land for affordable housing is available in crofting communities. Many grazings committees are very resistant to the idea of giving up common grazings land for housing particularly social housing. This is perceived to be accompanied by problem families, anti social behaviour and social work involvement. Resistance to the release of land is also due to a wish to protect crofting some perceive the sale of land for housing as whittling away at the viability of the crofting way of life.

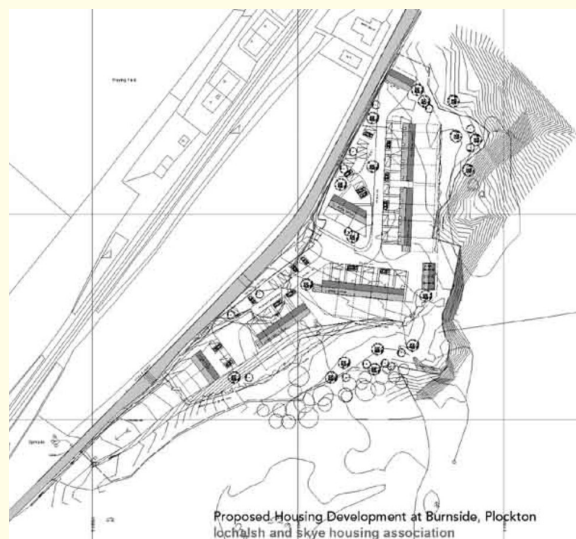
Whilst some grazings committees are motivated from a desire to protect crofting, others have just not considered the idea, or have no idea as to how to go about the process. Others have not pursued the idea because they have not received reassurances on matters such as Right to buy, local lettings, anti social behaviour, or continued affordability of houses for sale, and it all appears too difficult. Although common grazings continues to be an untapped source of land for housing, some grazings committees have released land for house plots to individuals but not to housing associations; whilst others have been proactive in developing links with housing associations to build housing for rent and sale.

In Plockton, the Grazings Committee have agreed to release land for the local housing association to develop housing for rent. there was a great deal of debate amongst the shareholders however as some had long memories and remembered that crofters had released land for council housing in the village which had subsequently been sold through right to buy and then sold on as holiday homes. They needed reassurance that a sale to a housing association would not see history repeating itself.

Common Grazings Case Study: Plockton

The village of Plockton is one of the most pressured villages in housing terms in the Highlands; a housing needs survey undertaken by the in 2002 highlighted 23 local households with specific affordable housing needs.

Lochalsh & Skye Housing Association (LSHA) had been looking unsuccessfully for land zoned for housing in Plockton since 1994. In 2002 the LSHA identified common grazings land as a potential site but decided to pursue the acquisition of Glebe land from the Church of Scotland. The Church was however unwilling to sell and in 2003 LSHA approached the Plockton Grazings Committee regarding land at Carn an Duine which was part of the common grazings and zoned for housing. This land would accommodate 35 houses and the local planning officer had indicated that land adjacent might in the future be zoned for housing.



A meeting of the Grazings Committee was held and attended by the LSHA, HSCHT and the National Trust for Scotland, the landlord. At the meeting LSHA outlined their plans for the development which included a **local lettings initiative** to help steer allocations towards local applicants.

There were a number of concerns raised by crofters not least the feeling that crofters had in the past given up a lot of land for schools, recreation, water treatment, airstrip and council housing housing which has been subsequently sold through the **right to buy** and has leaked into the 2nd home market. There was also a feeling that crofting in Plockton was under threat, as housing and tourist development encroached on grazings. However there was general wish to do something to help resolve local housing problems but a concern that the development was too large and that because LSHA tenants had the right to buy their homes a development by them might not be the best solution to meeting affordable housing needs in perpetuity. LSHA sought to assuage these concerns by outlining the terms of the new right to buy for LSHA tenants and the potential for the area to be deemed a pressured area which would suspend the right to buy for a renewable 5 year period. There remained concern that the proposed development was too large.

At a subsequent meeting LSHA stated that the difficult ground conditions on the common grazings meant that the project would only be viable if 35 houses were built. After much debate it was agreed that LSHA would consider another area of common grazings (Burnside) which was not currently zoned for housing. An approach was subsequently made to the Council Planning Manager about the potential for development at Burnside- his reply was very negative as development there would be contrary to the local plan.

Despite this an application for outline planning permission was made in September 2005. The Highland Council area planning committee granted planning permission for 24 houses at Burnside subject to a Section 75 Agreement requiring the development to be social housing & The Committee confirmed that its reason, for departing from the local plan, was the need for affordable housing in Plockton, the lack of alternative sites and the containment of this site in the landform ⁴³

Despite having resolved issues relating to the use of common grazings, local lettings, right to buy and planning the project was still under threat due to limitations on the supply of water. However investment by Scottish Water will mean that the local water supply will increase to tie in with the completion of the development. This resolved, full planning permission was granted in December 2006 and the site acquired by the LSHA at a valuation reached by the District Valuer in March 2007. This to be shared between the grazings shareholders and the National Trust for Scotland. There remain some concerns amongst the crofters that LSHA wish to develop 8 of the houses as Homestake properties and assurances have been sought that these properties will not leak out of the affordable market.

5.5. Inbye vs. Common Grazings

As discussed above there is strong resistance within crofting to the use of inbye croft land for housing, and pressures to tighten regulation to prevent the loss of inbye land as house sites. The Scottish Crofting Foundation argues that the use of inbye land for housing is detrimental to crofting. However there is significant loss of inbye land for house sites through individual crofters decrofting house sites for sale at full

market value. There is some ambiguity amongst crofters as to whether their resistance to the use of inbye land applies equally to the sale of land for affordable housing either to a housing association or to an individual buying a site to develop with assistance from a Rural Home Ownership Grant.

Restricting the use of inbye land for housing constrains the potential for croft land to contribute to relieving housing pressure in the crofting counties. In many areas if any croft land is to be used for housing it has to be inbye land. In Orkney there are just 3 common grazings and they are also rare in Easter Ross, Badenoch & Strathspey, East Sutherland and Caithness.

In other parts of the crofting counties the inbye land has little agricultural value and its loss has little or no impact on the viability of crofting communities. In all areas inbye land will generally be located within settlement boundaries and thus have access to local infrastructure and gain planning and be developed more easily and cheaply.

Any decision as to whether inbye land is used for housing should be decided by local development fora involving the Crofters Commission, local planners, housing agencies and others. The involvement of local crofters is also essential at local plan development to assist planners in drawing up housing land allocations which avoid the unnecessary use of inbye land but which enable its use when vital to wider community regeneration **and** where its use does not compromise the viability of crofting communities.

Skye & Lochalsh Local Plan

The development of the Skye & Lochalsh Local Plan is exemplary in the level of engagement between planners and crofters. Highland Council planners engaged systematically with grazings committees across Skye & Lochalsh. This was facilitated by Willie Smith at the Crofters Commission. The planners wrote to all Grazings Committees and there was a good involvement of crofters in meetings re Local Plan and comments received.

However this was a very resource intensive exercise and there is some doubt whether similar exercises could be delivered across all areas of all the crofting counties.

Through the engagement with the grazings committees; where possible boundaries of townships have been extended to include some land in common grazings to facilitate housing development. This will be possible specifically where the land can be serviced reasonably easily.

Inbye land currently in settlement boundaries will still be available for development but the quality of the land will be a factor regarding whether planning is allowed on the land.

In larger settlements where housing land is identified for housing efforts have been made to exclude good quality croft land from designation however there is a tension between the natural development of settlements and the retention of areas within settlements as croft land.

There can be no absolute position on the use of inbye land and its use may be vital to help deliver affordable housing in rural communities.

However it should be restated that common grazings do make up the vast bulk of croft land, and their use for housing has the least impact on the crofting way of life. Therefore their use should be considered and discarded before use of inbye land is contemplated.

5.6. Housing Association Attitudes

Housing association attitudes also play a part in constraining housing on croft land. One Highland housing association stated that securing croft land for housing was a nightmare of legislation: negotiations with grazings committees were also a problem as their membership kept changing and agreement was difficult to achieve; they also felt they had to counter a great deal of misinformation about their allocations policy and homelessness.

The scale of development required and possible in crofting communities is also a disincentive for housing associations to become involved in developing housing on croft land. Whether land is viable to develop will depend on the number of houses possible or required on a particular site. For many housing associations developing small sites is uneconomical, yet 4/6 houses may be all that is required within a particular community; hence possible developments on croft land is not pursued. Where large developments have been proposed on croft land housing associations have reported that crofters have much the same views as landowners and expect to achieve open market value for the sale of their land.

There have been relatively few examples of housing associations developing housing on croft land. Albyn Housing Society the largest housing association in the Highlands & Islands has completed 5 housing developments on croft land at Armadale, Inverasdale, Melness, Shieldaig & Stoer. The impetus for many of these developments has come through the crofting communities themselves and the Highland Small Communities Housing Trust.

5.5. Planning

The review of the planning policies of the local authorities in the crofting counties indicates that their policies are generally permissive of development in the countryside. This would enable the development of housing on common grazings which are usually located outwith settlement boundaries. The more permissive policies now in force replace more restrictive policies and reflect changes in national planning policy to enable rural development. The case study of Plockton illustrates how with more permissive planning policies common grazings can be used to create affordable housing opportunities.

The increase use of affordable housing policies and designations in several local authorities may

also give confidence to grazings committees to progress the release of land for housing development.

5.6. Infrastructure

The Plockton Case Study also illustrates one of the major constraints on the development of housing on common grazings; the lack of infrastructure. In Plockton the problem was constraints on water supply, a problem which affects a host of communities on the western seaboard including those in Argyll, Highland and Eilean Siar Councils. In other communities development is constrained by lack of adequate mains sewerage capacity. The development of common grazings outside existing village envelopes faces additional infrastructure issues such as major access road development, extension to utilities and difficult ground conditions.

There has been recent investment in water infrastructure by Scottish Water to help unblock the blockages on development in many communities. However it is unlikely that the infrastructure put in place will be planned to accommodate development on land outside of settlements and outwith land allocated in local plans.

Both water supply and sewerage capacity constraints can be overcome through bore holes and communal septic tanks which would be permitted outside of settlements development areas. However the additional costs associated with developing this infrastructure may make the development of affordable housing on such sites unviable.

5.7. Natural Heritage Designations

Sites outside of settlement boundaries such as common grazings are more likely to have natural heritage designations which will prevent housing development: Special Protection Areas; Special Areas of Conservation; Ramsar Sites; National Nature Reserves; Sites of Special Scientific Interest; National Scenic Areas; Areas of Great Landscape Value

Individual grazings committees will be aware of where such designations interact with common grazings and be able to highlight areas outwith these boundaries suitable for development. Without a national register of common grazings cross referenced with local plan designations it is not possible to determine how much these designations constrain housing development.

Consultation with crofters in Tiree highlighted environmental designations as a crucial constraint on the use of common grazings in Tiree.

5.8. Land Ownership

The use of common grazings land for housing depends on agreement being reached amongst the grazings shareholders and with the landowner, to sell the land and the sale price. Landowners can refuse to sell land the grazings committee wish to release. However, the Land Reform Act 2003 gives crofting communities an absolute right to buy their croft land, and therefore the grazings committee could seek to buy out the common grazings, any part of the common grazings or the whole crofting estate.

The price at which common grazings is to be sold can sometimes be an issue between crofters and landowners. Problems can arise where the sale price cannot be agreed; most often the sale price will be the District Valuer valuation. However grazings committees may wish to release the land at below market value to enable affordable housing development; whilst the landowner may wish to achieve full value for the land. Whatever the eventual sale price this is split equally between the landowner and the grazings shareholders.

In Armadale, Sutherland the grazings committee agreed to release common grazings land for two sites to Albyn Housing Society to build two houses for rent to help regenerate the local community. Because they wished to contribute to this the grazings committee negotiated to give the land to the housing association at nil value. SEERAD who are the landowner blocked the sale at nil value as they wished to get market value for the site. This was not an obstacle to the development as Albyn were able to pay District Valuer valuation for the site without compromising the viability of the overall development. However in some developments securing the land for nil or low cost may be vital to enabling housing association or low cost home ownership on the land.

Scottish Government Environment and Rural Affairs Department Land for Housing Initiative

In 2005, SEERAD announced that it was working with Communities Scotland to define areas where development of affordable housing could take place without compromising crofting interests. The Scottish Government is Scotland's largest crofting landlord with an interest in 72 estates and some 1,600 holdings extending to around 104,000 hectares. Then Deputy Rural Development Minister Rhona Brankin said: "I am committed to working with crofting groups and other agencies to strengthen Scotland's rural communities & The demand for retirement or second homes in rural areas is pushing house prices beyond the means of many local people. By freeing up suitable land for development whilst avoiding the loss of cultivatable croft land we can deliver affordable, sustainable housing in remote communities."⁴⁴ Maps outlining SEERAD land holdings, specifically common grazings were delivered to Communities Scotland, who dismissed the suggested locations as either being where there is no need or outside planning boundaries. The whole initiative failed to gain support from Communities Scotland and who dismissed it as a possible source of land for housing in the Highlands & Islands. The promise to work alongside crofting interests and local planners to ensure land is sold for the development of affordable housing⁴⁵ never materialized. The initiative was to mirror that of the National Forest Land Scheme where Forestry Commission is sold at the District Valuer's valuation of the land which reflects the purpose of the housing; affordable housing for rent.

The Tong Grazings Committee have been able to release land at low cost to local people to build because their landlord, the Stornoway Trust has not insisted on District Valuer valuations for land disposals. However as land values increase the Trust may have to seek District Valuer prices for land disposals as their charitable status requires the Trust to seek best value for land sales. This issue will also arise in other areas where the landowner is a community trust with charitable status.

The landowner may also seek to set a price for land which is what they expect to realise on the open market – one higher than a DV valuation. On Tiree the practice is that the sale price for land is whatever the Duke of Argyll sets as a price. Many of the crofters on the island believe this is a block to the sale of common grazings for affordable housing as the Argyll Estate seeks prices for house sites beyond what many consider affordable (£45,000 per site) It is possible for the grazings committee to propose a buy out of the land in question, and then sell it on at District Valuer valuation. This would however be a time consuming and involved process.

Alternatively if the land sale proposed was to enable affordable housing development, planning permission for the development of affordable housing could be sought. The imposition of this would reduce what could be considered to be the market value to a more affordable level. The landowner could refuse to sell the land if this occurred but again the crofting community could insist on its sale through the right to buy and where the land had an affordable housing designation the onward sale price would be restricted to an affordable housing valuation by the District Valuer.

5.9. Legal Difficulties

A common perception amongst housing associations and other housing agencies was that the release of land from crofting for housing was bound up in red tape and legal difficulties. This would be the case where there were objections from members of the grazings committee to the sale, or where the grazings committees and landowners cannot agree that the land is sold or on the sale price.

However where the sale is not contested then the resumption process need not be time consuming or constraining to potential housing development.

6 Overcoming Constraints

6.1. Introduction

In the consultations and interviews which took place for this research there was universal agreement that crofting could contribute to meeting general housing needs in the crofting counties. There were three main concerns which kept arising: the impact on crofting through the loss of croft land for housing; ensuring that housing built on land released by crofters remains affordable; and ensuring the land is used to meet local needs. This chapter will address how these concerns can be placated, and how the other constraints identified can be overcome.

6.3. Ensuring that housing built on land released by crofters remains affordable

This is a key concern for the crofting communities interviewed for this research; many grazings committees gave up land for council housing in the past and have watched as these houses were sold through right to buy diminishing the opportunities of future generations. In some communities such as Plockton right to buy properties have been sold on as holiday homes and sell for prices far beyond local incomes. Therefore it is vital to crofting communities that if they are to release what is a finite resource they wish to see the benefit of this resource helping their community in perpetuity not just for the first occupants.

This also applies to the sale of land to local individuals at low cost; grazings committees and crofters are concerned that if they sell a plot of land at low cost the land and/or the house may be sold on for a huge profit in a rising housing market.

6.3.1. Housing Association Right to buy

The right to buy housing association houses brought in by legislation in 2002 though not active until 2012 is a huge disincentive for crofting communities to release land for housing association development.

Fortunately most of the housing associations which have housing stock in the crofting counties are charitable, and for most this means that their tenants do not have the right to buy their homes; Lochaber and Pentland Housing Associations became charitable after the right to buy legislation therefore it still applies to them.

Any housing built by charitable housing associations on land released by crofting communities cannot be sold through the right to buy and will remain available for affordable rent in perpetuity.

Right to buy status of housing associations in the crofting counties

Housing Association	Area of operation	Charity	Right to buy
Argyll			
Argyll Community HA	Argyll	X	Yes
Bield HA	National	✓	No
Cairn HA	National	✓	No
Fyne Homes	Argyll (ex Lorn & Argyll Islands)	✓	No
Key HA	National	✓	No
Link HA	National	✓	No
Trust HA	National	✓	No
West Highland HA	Lorn & Argyll Islands (ex Gigha & Bute)	✓	No
Eilean Siar			
Cairn Housing Association	National	✓	No
Hebridean Housing Partnership	Western Isles	X	Yes
Trust Housing Association	National	✓	No
Highland			
Albyn HA	Highland (ex Lochaber/Lochalsh/Skye)	✓	No
Cairn HA	National	✓	No
Hanover HA	National	✓	No
Key HA	National	✓	No
Link HA	National	✓	No
Lochaber HA	Lochaber	✓(after RtB intro)	Yes
Lochalsh & Skye HA	Lochalsh & Skye	✓(after RtB intro)	Yes
Margaret Blackwood HA	National	✓	No
Pentland Housing Association	Caithness	✓(after RtB intro)	Yes
Trust Housing Association	National	✓	No
Orkney			
Orkney Housing Association	Orkney	✓	No
Shetland			
Hjaltland Housing Association	Shetland	✓	No

Table 7: Housing Association Right to Buy Status

There are however five housing associations whose tenants **will** have the right to buy and which are important developers of new housing association housing in the crofting counties: Argyll Community Housing Association; Hebridean Housing Partnership; Lochaber Housing Association, Lochalsh & Skye Housing Association and Pentland Housing Association. However the right to buy entitlement which tenants of any housing they build have is very different from that brought in by the Thatcher Government. The modernised right to buy which applies to new housing association tenants has a few important differences.

Modernised Right to buy

In the original right to buy the discount received by tenants applied after two years and was between a minimum of 32% and a maximum of 60% after 15 years for a house, or between 44% and 70% after 15 years for flats.

To be eligible for the modernised right to buy a tenant has to have been a tenant of a housing association for 5 years. The minimum discount is 20% and the maximum discount is 35% after 20 years or £15,000, whichever is lower. Most housing associations and cooperatives are exempt from offering the right to buy until 2012 at the earliest.

The modernised right to buy is therefore considerably less generous than the original right to buy which applies to older council tenancies or older stock transfer tenancies. In addition in order to mitigate even these reduced effects of the introduction of the right to buy in 2012 some local authorities have applied for **pressured area status**.

Pressured Area Status

The Housing (Scotland) Act 2001 allows Scottish Ministers to designate any part of a local authority area as a pressured area for up to five years at a time, where the demand for social housing outstrips supply and it can be shown that this situation will be adversely affected by tenants exercising their right to buy. The result of the designation is to suspend the right to buy for certain tenants living in the area for a period of up to five years.

The purpose of pressured area status is to protect the amount of affordable rented housing in a Council area and to make sure that there are enough houses for people who need. Essentially all tenants who have the modernised right to buy will have their entitlement suspended. It does not affect the right of tenants with the original right to buy (except for tenants who have succeeded to the original right to buy after 30 September 2002).

Of the crofting counties only Highland has applied for pressured area status. The status has applied to most of the Highland Council area since 15 November 2005 and will last until 2010. The effect of this designation is to suspend the right to buy of new tenants and those with a modernized right to buy. The suspension applies to Highland Council tenants **and** tenants of Lochaber and Lochalsh & Skye Housing Association.

In Highland the communities that are designated as Pressured Area include:

- all communities in the Badenoch & Strathspey Area.
- all communities in the Inverness Area except the estates of Merkinch and Hilton.
- all communities in the Lochaber Area except Kinlochleven; the Plantation estate and the three streets of Carn Dearg; The Corries and Polmona in Claggan.
- all communities in the Nairn Area.
- all communities in the Ross and Cromarty Area except Alness, Aultbea, Balintore and Milton.
- all communities in the Skye and Lochalsh Area.

Caithness and Sutherland have not been designated and therefore the right to buy continues as before in these areas. However in Sutherland the main developing housing association, Albyn has no right to buy as it is charitable.

Argyll & Bute, Eilean Siar, Orkney and Shetland local authorities have considered pressured area status but have decided not to apply but to keep it under review. Eilean Siar considered an application for the status would cause panic buying amongst council tenants even though the designation would not apply to

the vast majority of existing tenants with the original right to buy. This view has not been evidenced by experience in those local authorities which do have **pressured area status**.

In Orkney, Shetland and Argyll & Bute most of the new development of social housing in crofting areas is carried out by charitable housing associations therefore the right to buy would not occur in any case.

In Eilean Siar the amalgamation of the small local housing associations into the Hebridean Housing Partnership has given the tenants of these housing associations the right to buy when before, as they were charitable, tenants did not have the right

The two main crofting areas where housing association tenants have the right to buy are Eilean Siar and Skye & Lochalsh. In Skye, grazings committees can take some reassurance in selling land for housing association development, that the designation of the area as a pressured area will prevent any tenants exercising their right to buy. However in Eilean Siar the emergence of the non charitable Hebridean Housing Partnership as the main housing association and the absence of pressured area status means that housing association tenants will have the right to buy their homes from 2012. Grazings committees may therefore have reservations about releasing land for housing association development unless Comhairle nan Eilean Siar can be persuaded to apply for **pressured area status** in all or some of the islands.

6.2.2. Land release for low cost home ownership

Preventing housing built on land released by crofters for low cost home ownership being sold on for large profits and/or as holiday homes was a major concern of all the crofting communities and community landowners interviewed for this research.

In Tong in Lewis the grazings committee have sold a number of housing plots to local people at well below market value, however they have no way of preventing the buyer selling on their plot at a profit to an external buyer or selling on the house built on the plot for a large profit. Neil MacLeod, the former Grazings Clerk was fairly sanguine about that possibility as it had yet to happen in any of their plot sales so far. Others are not so relaxed and asked about ways to restrict the price of the house built on the plot and thus maintain the affordability of housing built on land released.

Rural Housing Burdens

Rural Housing Burdens came into affect with the Title Conditions (Scotland) Act 2003. They can be used by Rural Housing Bodies to control the subsequent sale of any land sold by them. Those organisations which have become Rural Housing Bodies have used rural housing burdens in different ways. However the organisation which has made greatest use of the burdens is the Highland Small Communities Housing Trust. The HSCHT sells housing plots to people eligible for a Rural Home Ownership Grant. Plots are sold with a rural housing burden attached which gives HSCHT a right to buy back the plot (and any house built on the land) at a restricted price when the property is sold. The use of the burdens enables HSCHT to

negotiate with landowners and others to buy land at below market value, which the trust services and then sells on plots at low cost to people eligible for a RHOG. The burden provides assurance to landowners that land sold for low cost home ownership stays at low cost.

The Trust has recently revised the method it uses to calculate the price at which it will buy back any property built on land it sells with a burden attached. The new method used is a form of shared equity this replaces a version based on inflation and replacement value. The Trust in setting resale formulae is conscious of the need to give the owner a fair return on their investment whilst also securing the house for a price which is still affordable to subsequent buyers.

Many other organisations have become Rural Housing Bodies and can impose rural housing burdens (see table below). The Stornoway Trust applied to become a rural housing body; however its application was refused as it did not have the provision of housing as one of the stated aims in its constitution. The Trust has legal advice which questions the legal strength of rural housing burdens.

Organisations registered as rural housing bodies operating in the crofting counties

Albyn Housing Society Limited

Cairn Housing Association Limited

Colonsay Community Development Company

Comhairle nan Eilean Siar

Community Self-Build Scotland Limited

Eigg Heritage Trust

Fyne Homes Limited

Fyne Initiatives Limited

Gigha Heritage Trust

Highland Small Communities' Housing Trust

Isle of Jura Development Trust

Lochaber Housing Association Limited

Lochalsh & Skye Housing Association

North Harris Trust

Orkney Islands Council

Pentland Housing Association Limited

Tighean Innse Gall Limited

West Highland Housing Association

Barra and Vatersay Housing Association Limited, Berneray Housing Association Limited, Buidheann Taigheadais na Meadhanan Limited, Muirneag Housing Association Limited, Taighean Ceann a Tuath na'Hearadh Limited are registered but are now part of the Hebridean Housing Partnership

Any of the above organisations can therefore impose Rural Housing Burdens on land released to them by crofters or grazings committees.

6.2.3. Homestake

Homestake is a new initiative from Communities Scotland to help people who can't afford to buy a house on the open market. It is a form of shared equity whereby a first time buyer shares the cost of buying a house with a housing association. The split is usually 60:40 or 80:20. The house bought will normally have been built by the housing association as part of a wider social housing development.

The buyer can sometimes buy out the housing association share after they have lived in the house for a period of time. However where there is pressure on the housing market, buying out the housing association stake is not possible as this share is retained by the housing association as a golden share. The housing association can also use a golden share to give them the right to buy back the house at the District Valuer valuation when the owner wishes to sell, and then sell on to someone on their waiting list. If there is no golden share the house can be sold on the open market.

Homestake, with the golden share provisions, gives some measure of affordability protection. However the resale value (even under DV valuation) will not be as affordable as the first time sale if incomes do not keep pace with house price inflation. Housing associations are able however to increase their stake in the property to retrieve the same affordability as at original sale; e.g.

Original Sale:	£80,000 (80%) buyer: £20,000 (20%) housing association
Sale Price (after 2 years):	£96,800 (80%) buyer: £24,200 (20%) housing association 10% annual increase
New Buyer:	£80,000 (66%) buyer: £41,000 (33%) housing association

Homestake utilising a golden share is proposed for 8 of the 24 houses to be developed at the Plockton site released by the grazings committee. Whilst not providing long term affordability, Homestake does retain some affordability whilst helping people gain a foothold in the property market.

Where any form of home ownership model is proposed some degree of affordability will be lost, however what rural housing burdens and homestake provide through the right of pre-emption is an assurance against these properties being lost in the open market to the second home or holiday market.

6.2.4. Rural Home Ownership Grants

Rural Home Ownership Grants (RHOG) are available from Communities Scotland to help people living in rural areas to become homeowners usually by helping them build a house. A RHOG fills the gap between the maximum level of mortgage an applicant can raise, combined with their savings and the cost of a modest starter home.

To be eligible for a Rural Home Ownership Grant applicants must:

- be first time buyers (although some exceptions are possible)
- have lived in the area for at least a year or have a family or local connection
- prove that they can not afford to become a homeowner without a RHOG
- prove that they can get a mortgage big enough to cover what they still have to pay for the house they want after the level of RHOG has been decided.
- be ineligible for the Croft House Grant Scheme.

Other conditions include:

- house size depends on the number of members in the applicant's household
- a 10 year 'clawback' period on the grant, if the house is sold by the applicant

RHOGs vary according to how much the successful applicant can afford, but a grant of up to 33% of costs is typical.

Geographic Coverage

Part of the rationale for RHOGs was to help meet the needs of non-prospective croft inheritors: a crofter might decroft part of his/her land for a second child to build a house and in recognition that not all of the land in the crofting counties was under crofting tenure ⁴⁶.

Rural Home Ownership Grants are available throughout the crofting counties. There are however big differences in the level of uptake of the grants in the counties. These differences reflect variations in the availability of land; effectiveness of promotion and support; and access to Crofters House Grant.

In Orkney the work of the Orkney Islands Property Development Ltd and the availability of serviced plots from the council has led to a large uptake of RHOGs; similarly in Highland where local housing associations are involved in promoting RHOGs and sites are available through the HSCHT there has been a substantial uptake; in Argyll where neither promotion or sites are readily available there have been very few RHOGs progressed. The uptake of RHOGs in Eilean Siar has dropped off considerably in recent years with local housing agents suggesting that there is little demand for RHOGs outwith Stornoway where local services are more easily accessed. ⁴⁷

Interviewees in Harris suggested that there was little uptake of RHOGs in the area because most people thought that the Crofters Housing Grant was a better deal. This position is hard to understand given that the maximum grant now available under CHG is £22,000 whilst a Rural Home Ownership Grant can be much greater. A RHOG is on average 33% of costs but can be as much as 60% dependent on an individual's circumstances. Interviewees on Tiree felt that crofters should be able to choose to apply for a RHOG or a Crofters House Grant.

Characteristics of RHOGs, the CHGS and Homestake (from RHOG Evaluation Satsangi 2006)⁴⁸

Grant	RHOG	CHGS	Homestake
Aim	To provide LCHO opportunities for individuals to provide new housing in crofting and agricultural areas. To help individuals with the costs of providing serviced sites for self-build.	To improve and maintain the standards of crofter housing with the aim of attracting and retaining people in the more remote areas of the Highlands and Islands.	To help people on low incomes who wish to be home owners but cannot afford to pay the full price for a house.
Availability	Useable in rural areas: i.e., local authority areas with a population density of 2.1 persons per hectare or less adjusted to exclude settlements with 10,000 people or more and to include parishes meeting density criterion within urban council boundaries.	Crofting counties: Inverness-shire, Ross and Cromarty, Argyll-shire, Sutherland, Caithness, Orkney and Shetland.	National
Eligibility	All households with at least 1 person in employment, but land must be decrofted. Means-tested.	Crofting tenant, croft owner who has bought within past 7 years, cottar or Kyles crofter. Not means tested.	All households with at least 1 person in employment, but land must be decrofted. Means-tested.
Maxi Amount Paid	Normally no more than 33% of approved total cost, but can rise to 60%.	£22,000 for new building or up to 40% of costs of rehabilitation (maximum £22,000).	Normally 40% of total cost through housing association development.
Public Security	Grant must be repaid if house sold within 10 years of being given.	Grant must be repaid with interest if house sold within 15 years of being given.	If house sold, publicly funded percentage of initial cost is applied to sale to be repaid to HA.

Table 7: Characteristics of RHOGs, the CHGS and Homestake

The table above highlights the main characteristics of the three main grants available to deliver low cost home ownership in the crofting counties.

Land Assembly for Rural Home Ownership Grant Development

As highlighted above the strength of the housing market in rural areas has seen house plots increase to beyond what is affordable to those on low to middle incomes when the costs of building in remote locations are added. Rural Home Ownership Grants are normally below 33% of costs and as such increases in plot prices and tender prices for new housing have meant that RHOGs are becoming unviable for those on low incomes. In order to increase the availability of low cost land for housing and facilitate RHOG and housing association development in Highland area, the Highland Small Communities Housing Trust was developed.

The Trust buys land from landowners in areas where their housing needs surveys supported by community councils, have shown there is a need for affordable housing development. The land is then sold either to a local housing association to build affordable rented housing and/or as serviced plots, at a discounted price, to applicants for RHOGs to build their own homes.

The plots are targeted at people who have a local connection and are eligible to receive a Rural Home Ownership Grant.

At the time of writing the Trust had the following land available

Achmore	(1 Rural Home Ownership Grant plot) - allocated
Aultbea	(5 Rural Home Ownership Grant plots)
Beauly	(10 Rural Home Ownership Grant plots) Interviews in progress
Bettyhill	(2 Rural Home Ownership Grant plots)
Flodigarry	(2 Rural Home Ownership Grant plots, 1 full market)
Gairloch	(2 Rural Home Ownership Grant plots) - both allocated
Glenachulish	(5 Rural Home Ownership Grant plots) - all allocated
Glenfinnan	(1 Rural Home Ownership Grant plot)
Inverarnie	(5 rented Housing Association units and 4 Rural Home Ownership Grant plots)
Kishorn	(2 Rural Home Ownership Grant plots)
Morar	(2 Rural Home Ownership Grant plots)
Ratagan	(3 Rural Home Ownership Grant plots) - 1 allocated, 2 available
Shieldaig	(3 Rural Home Ownership Grant plots) - 1 allocated, 2 available
Skeabost	(2 Rural Home Ownership Grant plots)
Strontian	(1 Rural Home Ownership Grant plot) - allocated
West Laroch	(2 Rural Home Ownership Grant plots)
with the following in the pipeline	
Arisaig	(6 Rural Home Ownership Grant plots)
Dornoch	(4 GRO Grant houses)
Gorthleck	(4 Rural Home Ownership Grant plots)
Hilton	(6 Rural Home Ownership Grant plots, 10 rented)
Inverfarigaig	(4 Rural Home Ownership Grant plots)
Inverdrueie	(5 rented Housing Association units)
Kiltarlity	(2 Rural Home Ownership Grant plots)
Nethybridge	(10 Rural Home Ownership Grant plots)
Laggan	(3 or 4 Rural Home Ownership Grant plots)
Kincraig	(4 Rural Home Ownership Grant plots)
Morar	(2 Rural Home Ownership Grant plots)
Portmahomack	(4 Rural Home Ownership Grant plots)
Resolis	(6 Rural Home Ownership Grant plots)
Strathcarron	(4 Housing Association rented, 4 Rural Home Ownership Grant plots)

Table: Highland
Small Communities
Housing Trust
Landbank

Several of the plots available and previously sold, were previously common grazings land but local crofters have agreed to sell the land for affordable housing.

As a Rural Housing Body, the Trust is able to impose rural housing burdens on land which it sells for RHOG development in this way it able to offer assurances to landowners and grazings committees that land released at low cost will not end up in the holiday home/full cost market.

6.2.5. Planning Designations Exceptions Policies

The Scottish Borders Council has a planning policy whereby people who are building a house with a RHOG are able to gain planning permission for a house where housing would not normally be permitted. This exceptions policy has the potential for greater use further north. The consequence of the designation is that the land is valued at a lower price and is therefore affordable to RHOG applicants. The land can only be developed by a RHOG applicant therefore the designation prevents profiteering, it cannot be bought by someone intending to build a RHOG house and then sold on for the construction of an Executive Home.

Exceptional approvals may be granted provided strong reasons can be given that: & it is an affordable housing development that can be justified under in terms of Policy H1 Affordable Housing Scottish Borders Council Local Plan Policy G8 Development Outwith Development Boundaries⁴⁹

This policy applies to development outside settlement boundaries but could equally apply to development on croft land. **This has the potential to be used to limit decrofted sites to the low cost home ownership market.**

The longevity of the affordability through this designation is not however clear; it is open to the RHOG recipient to sell their home on completion for full market value, repay the RHOG and still make a substantial profit.

6.3. Ensuring the land is used to meet local needs

6.3.1. Local Lettings Initiatives

A concern of crofting communities in releasing land to housing associations is that housing associations may not be able to give priority to local people in the allocation of the houses built on the land. Some therefore are reluctant to progress the release of land for housing associations unless assurances can be provided that priority will be given to local people.

This is after all the purpose of communities working to release croft land to be used for affordable housing development. Where providing priority for local people is an issue for the community or landowner releasing land for development some housing associations have agreed **Local Lettings Initiatives** with local communities.

Housing Association Allocation Policies

Housing associations or Registered Social Landlords (RSL s) have a legal duty to give reasonable preference to certain categories of people in the allocation of their properties. These are:

1. to persons who
 - are occupying houses which do not meet the tolerable standard; or

- are occupying overcrowded houses; or
- have large families; or
- are living in unsatisfactory housing conditions; and

2. to homeless persons and persons threatened with homelessness

In order to fulfil this legal duty housing associations have allocation policies which assess the housing needs of applicants by providing points for different aspects of an applicant's housing need. Housing associations can allocate points for housing needs in addition to those set out above, and include factors within their consideration of what constitutes the terms above. For example, unsatisfactory housing conditions may encompass social and community support as well as health and physical condition of the building. However the priority provided by any additional housing needs factors identified by housing associations can not solely outweigh the statutory factors outlined above.

Housing associations can take into account local connection to an area; however there are six categories of applicant where they cannot use lack of connection as a reason not to house. These are where the applicant: is employed or been offered employment in the area; wishes to move to the area to look for work; wishes to move to the area to be near a relative or carer; has special social or medical reasons; is fleeing harassment or domestic violence. Therefore applicants in these categories with housing needs must legally have the same priority for housing in an area as a local person with housing needs.

One housing association **Local Lettings Initiative** operates as follows⁵⁰:

1. Priority is given to those in housing need who:

- a) live within the community council area of the proposed development
- b) can demonstrate a need to live there, to give or receive support to a relative or friend, or employment reasons
- c) wish to move to the area and who has special social or medical reasons, is fleeing harassment or domestic violence.

Applicants need to have a minimum of 20 housing need points (not accrued from giving/receiving support or taking up local employment to ensure these are not given a double weighting).

2. If there are not enough applicants meeting the above criteria, priority will be given to applicants with 20 housing needs points living in adjacent community council areas.

3. Priority will then be given to applicants from other locations in the local authority area.

4. Priority will then be given to all other applicants.

Several housing associations in the crofting counties operate or are willing to operate local lettings initiatives in all or some of their areas:

Albyn Housing Society

Albyn has operated a Local Lettings Initiative (latterly called Community Lettings) for some time across its area of operation. These have been used on sites on common grazings land in Inverasdale, Armadale, Stoer, Melness and Shieldaig. However at Inverasdale despite the Local Lettings Initiative being in place the houses were allocated to applicants from Gairloch although subsequent re-lettings have been made to candidates from Loch Ewe.

Fyne Homes

A local lettings policy was agreed for the allocation of houses on land released by Gigha Heritage Trust.

Lochalsh & Skye Housing Association

A local lettings policy is to be drawn up for the houses on the common grazings at Plockton.

Orkney Housing Association

The Association will consult local groups such as Community Councils, whenever it is building new schemes outside Kirkwall and Stromness, on whether local lettings initiatives are sensible

Nomination Agreements

All housing associations will have nomination agreements with local authorities whereby 50% of all of their lets will be made to people in housing need on the council's waiting list. Increasingly local authority allocations are being made to people who are statutorily homeless which housing associations have a legal requirement to house. Therefore the likelihood is that any local lettings initiative put in place will be used for just 50% of allocations to any housing association development. However it is also likely that council nominations for houses in a particular area will accrue from people from that area.

6.4 The impact on crofting through the loss of croft land for affordable housing

The two celebrated cases of Taynuilt and Ockraquoy illustrate a tension between the development of housing which may be beneficial to the wider community and the loss of croft land which may be detrimental to the crofting way of life. In the Ockraquoy case the Scottish Land Court decided that decrofting for three houses could be just as beneficial as retaining inbye land in crofting agriculture ⁵¹(Crofters Commission Annual Report 2005/06). The houses that were built in Taynuilt cannot by any means be construed as affordable, however if the developer of this land had been West Highland Housing Association developing social housing for rent or low cost sale, would the development have been beneficial to the wider community and to crofting in the long term.

This balance between the need to meet affordable housing requirements and the needs of crofting has to

be struck across all of the crofting counties. It has been proposed that the use of common grazings is a way through which crofting communities can contribute to meeting housing need whilst protecting crofting, however its use may not be practical or economical and inbye land may have to be used to meet affordable housing needs in crofting townships.

The involvement of crofting communities in the consultations for the Local Plan process, and the involvement of crofting interests in local development forums where they exist and their creation in areas where they don't, is vital to balancing the interests of crofting with the sustainability and diversity of communities.

6.5. Crofting as the affordable housing solution for crofting communities

The West Highland Free Press in opposing the Crofting Reform Bill highlighted the role that crofting has played in making affordable housing available in the Highlands:

“social housing in West Highland communities formerly provided by local authorities and now by housing associations has hitherto been ancillary to that other affordable option, housing associated with croft tenancies, which has acted as a highly-effective bulwark against a market controlled solely by money .

when anyone looks for an answer to the affordable housing shortage in crofting areas, they overlook the fact that crofting tenure if properly administered and regulated provides precisely that solution⁵²

It is beyond the scope of this study to consider the future of crofting; however it is clear that through the proper regulation of absenteeism, and the creation of new crofts, crofting could contribute to the supply of affordable housing. Yet in the course of this research many interviewees highlighted the market in croft assignments existed in part because people wanted a house site, and not a croft, which led to land being left bare when it could have been productive.

It is however beneficial to the crofting community to release unproductive land for affordable housing development to provide homes for local people who will use the local school and shop, and contribute to community life.

It is also questionable whether it is possible to build an affordable house using CHG. Croft House Grant, although it was reviewed just 2 years ago has failed to keep pace with the costs of building. Interviewees for this research thought that crofters should be able to apply for Rural Home Ownership Grants as in many cases it could provide a higher level of grant than CHG. For example a house costing £100,000 to construct (no land cost) where the crofter had an income of £22,000, would in priority areas receive a CHG

of £22,000, whilst in all areas would receive a RHOG of £34,000.

7 Conclusions

7.1. Housing Need

There are significant pressures on housing markets across the Highlands & Islands pushing up the price of housing beyond the reach of many people on low and middle incomes and causing increased need for affordable housing solutions through housing associations and low cost home ownership schemes. The increased need for affordable housing is reflected in the increases in Communities Scotland investment in the Highlands & Islands.

Housing pressure is particularly acute in Skye & Lochalsh, Easter & Wester Ross, Badenoch & Strathspey and Inverness in Highland, and in Argyll. In the island councils there is relatively high housing pressure in the main settlements of Stornoway, Lerwick and Kirkwall which are experiencing in migration from internal and external sources.

In more fragile areas of the Highlands & Islands; such as the Outer Isles of Orkney, Shetland and much of Eilean Siar, the availability of affordable housing is a key component in the regeneration of these communities; in helping young families make the decision to remain in or return to their community.

Leavers have identified housing problems as one of their reasons for not returning to Lewis (Stockdale undated), and it is thought that the supply of low-cost housing is a critical issue in retaining population (Hope et al 2004 p3) ⁵³

7.2. The use of crofting land to meet housing need

Crofting land has been used to meet housing need since the creation of the crofting system. Croft land is sub- divided, assigned, apportioned and decrofted to create land for house building. Housing pressure on croft land has increased in recent years as increases in house plot prices have led more crofters to release house plots to the open market through decrofting. The inclusion of much of croft inbye land within settlement boundaries and the disuse of policies limiting development on croft land has increased the number of planning permissions being given for housing on inbye land. The Crofters Commission contend they are powerless to prevent the decrofting of sites which have been granted planning as the Scottish Land Court has ruled they cannot act as a second planning authority.

Many crofters are concerned with the loss of inbye land for housing, and believe that it should be used

solely for crofting agriculture. The loss of inbye land from crofting for housing is viewed as detrimental to the future of crofting. The use of common grazings for housing is suggested as a route through which the demand for housing land can be satisfied without compromising the viability of crofts and the future of crofting.

This desire to reserve inbye land for agriculture, opposing its use for affordable housing is a significant constraint on the use of crofting land to meet housing need. Inbye land often represents the best land for both agriculture and housing; it is usually within settlement boundaries easing planning, water and road infrastructure problems, and is more economically developed.

The wish to protect inbye land from housing development is particularly pronounced amongst crofters in relation to its loss for expensive housing for incomers and second home owners. However that said there are significant numbers of crofters who view the release of land for house sites as a vital income source and for some their pension. Some interviewees felt that the loss of inbye land for housing had to be put into perspective; as a % of total croft land it is very small.

Any proposed use of inbye land for affordable housing should strike a balance between the needs of crofting agriculture and the need for affordable housing to sustain and develop the community. Therefore more adequate consultation and planning is required between the Crofters Commission, Grazings Committees, housing agencies and planning departments to ensure that high quality croft land is reserved for agriculture whilst making poor quality inbye land available for housing development.

Common Grazings

Common grazings are suggested as the route through which crofters can contribute to relieving pressure for housing in the crofting counties. They account for the bulk of the land under crofting tenure. Their suitability for housing development has a number of constraints which this research has outlined above; none of these is insurmountable;

Crofting attitudes:

- **croft land is sacrosanct**

Resolution: dialogue with housing agencies and planners can help inform of the need for affordable housing and assist release of unproductive land for housing development.

- **too many problems getting involved in housing**

Resolution: dedicated support to grazings committees on housing development will help tackle the

problems raised when contemplating housing development on grazings

- **consideration of affordable housing is not on crofters agenda**

Resolution: support service to enable crofting communities to be involved in resolving local housing problems will publicise how grazings committees can be involved and encourage action.

- **don't know what to do/ too complicated to get involved**

Resolution: support service can outline the housing development process and what steps grazings committees need to take- highlighting models of where partnership developments between grazing committees and housing agencies have taken place or examples of grazings releasing land for low cost housing development

- **social housing is social work cases**

Resolution: housing agencies and support service can help grazings committees and crofting communities understand who it is housing associations house and the legal restrictions upon them

- **right to buy means housing will be sold**

Resolution: publicity material and support service can outline which tenants in which parts of the crofting counties have the right to buy and how to ensure that any development on croft land is not subject to it

- **low cost plots will leak into holiday home market**

Resolution: planning designations, homestead and rural housing burdens serve to prevent the leakage of low cost plots into the open market and to limit the resale price of housing helping to retain the affordability of housing built on the plots. Publicity material, support service and case studies can highlight usage of burdens and planning, and help put these in place on developments.

- **local people don't get housed by housing associations**

Resolution: local lettings initiatives can help to give preference in social housing developments. Information can be provided by the housing associations and their use encouraged and highlighted by the support service

Housing attitudes

- **grazings committees change/ can't agree**

Resolution: attitudes can be changed by providing case studies of where development has taken place, information on actual requirements in regard to consensus needed for resumptions. Guide to Crofting and use of croft land for housing produced for housing association Development Officers, Council and Communities Scotland officials.

- **legal issues and red tape mean its not worthwhile**

Resolution: case studies of where development has taken place to highlight possibilities.

Planning

- **grazings are outside village boundaries**

Resolution: planning policies in most of the crofting counties are more permissive for the development of affordable housing outside of settlement boundaries

Infrastructure

- **grazings locations mean difficult connections to water, utilities and roads network**

Resolution: infrastructural problems can be overcome but may require additional funding

Natural Heritage Designations

- **grazings lie in areas covered by SSIs and other environmental designations**

Resolution: local consultation on the location of grazings and their interaction with designations can highlight where development is possible in each community. If these are too numerous for the practical use of grazings consideration could be given to the use of inbye land.

Landownership

- **landowners will expect too high value for land to enable affordable housing development**

Resolution: Crofters' right to buy can help to persuade landowners to allow resumption process. Many landowners are concerned about the lack of affordable housing and will cooperate. Many in the crofting counties are community landowners or other not-for-profit landowners; designating the land for affordable housing or providing planning permission for an affordable house on the land can help reduce land values.

- **landowners will not permit the resumption of grazings land for housing**

Resolution: Crofters' right to buy can help to persuade landowners to allow resumption process

Legal Difficulties

- **crofting law dissuades housing associations from involvement in croft land developments**

Resolution: case studies to illustrate the ease/pitfalls of this kind of development alongside guide to developing on croft land can help clarify misunderstandings.

Constraints to development can be overcome through a combination of mutual understanding between crofting, planning and housing; information, advice and support to crofters to raise awareness and encourage their involvement in helping resolve local housing problems; the development of vehicles to impose rural housing burdens and the greater use of local lettings initiatives by housing associations.

8 Recommendations

8.1 Crofting and Planning

8.1.1 Local Plan Development

The development of the Skye & Lochalsh Local Plan has demonstrated how the involvement of crofting

interests in the development of the local plan can serve to protect valuable crofting land from development, help identify the most appropriate croft land for housing development, and enable the extension of settlement boundaries to include common grazings on which housing can be developed. This process was however very resource intensive for the planning authority and the Crofters Commission. It will save funds over the long term as planning within crofting communities will be less contentious than when there was no involvement.

The Crofters Commission, Scottish Crofting Foundation and planning authorities should ensure that resources are in place to permit the involvement of crofting communities in the Local Plan process.

8.1.2. Crofting Community Development Plans

Every crofting community should be encouraged to develop a land use strategy or master plan for their community. This would encompass the identification of areas within their township where housing could be developed, the design and density of housing and the constraints on housing association and individual developers. The plan should also set out rules for how land for housing is to be allocated (this might include rules on local connection, affordability etc) and set out the value that should be sought for common grazings land. These rules should be transparent to prevent favouritism or nepotism in the allocation of sites or the price charged for sites.

The development of these plans should not be exclusive but include the views of local residents who are not crofters in land use decisions and master planning for the whole community.

The money gained from the sale of croft land should be used to enable the improvement of township land (improved infrastructure etc) for crofting and further housing development.

The Development Plan should address the potential future crofting needs of the community and restrict housing development to accommodate these needs.

The Crofters Commission should reinstate funding through the Crofting Community Development Scheme to enable the development of these plans. The Development Plans can be incorporated into the development of Local Plans by planning authorities. The plans could also become part of local authority community planning.

8.1.3. Local Development Fora

Crofting interests should be represented on area based local development fora where these exist (Highland) to highlight any potential conflicts between proposed housing development and crofting interests. In Argyll, Eilean Siar, Orkney & Shetland the local authorities should establish formal fora to engage housing and crofting interests in land use discussions.

8.2. Housing Development

8.2.1. Crofting Guide for housing agencies

A guide for housing agencies, highlighting how croft land is managed and regulated and what is required to release land from crofting for housing, would help overcome any misunderstandings over the potential use of croft land for housing. The guide could include case studies of good practice to highlight the potential for housing association involvement.

8.2.2. Housing Guide for crofting communities

Grazings committees and crofters need guidance to help them navigate the maze of housing policy and practice if they are going to consider releasing land for housing. A web based guide outlining the steps they need to take to release land, who they need to talk to, how concerns over affordability, right to buy or local connection can be overcome, and how to ensure their views are included in the design, density and location of housing built on their land. The guide would include case studies and flow charts to highlight good practice and the way through the maze.

8.2.3. Enabling croft land for housing

Many crofting communities are unaware of how to get involved in releasing land or have concerns about the land being used for the purpose intended; many are unsure of the rules surrounding housing association houses and the allocation of their stock. These concerns prevent land coming forward for housing development. It is proposed that support in the form of Rural Housing Enablers is extended to allow work with crofting communities on the release of land.

The Highland Small Communities Housing Trust, the Rural Community Housing Project in Lewis & Harris and the Rural Housing Service all support rural communities to be involved in the development of housing to meet local needs. They could be used to provide a dedicated support service to crofting communities on housing issues; helping them draw up housing development plans, advising on the creation of local lettings initiatives, undertaking housing needs surveys, implementing rural housing burdens, and providing independent advice on housing grants and options.

These new posts would be pro-active in reaching out to crofting communities to help them work through how they release land for housing. It is proposed that there could be five posts created across the country: Orkney & Shetland, Highland (2), Argyll and Eilean Siar. Funding for the posts could come from Communities Scotland, SEERAD, Crofters Commission and Highlands & Islands Enterprise.

The model for the posts exists on Tiree where the Crofters Commission (along with Communities Scotland and Argyll & Bute Council) have funded a housing worker to develop new housing initiatives on the island

including the development of croft land and the renovation of croft houses. This is a new post and its effectiveness is yet to be evaluated but early evidence suggests it is delivering new housing and engaging with the wider community crofting and non-crofting in uncovering housing opportunities on the island

8.2.4. SEERAD Croft Land Initiative

This initiative to identify croft land in the ownership of the Scottish Government which would be suitable for housing development should be revived. As the major landlord in the crofting counties the Scottish Government it has a duty to fully investigate the potential of its landholding to meet affordable housing needs. The initiative should mirror that of the National Forest Land Scheme where Forestry Commission land is sold at the District Valuer's valuation which reflects the purpose of the housing; affordable housing for rent. In areas where the crofters are prepared to forego their share of the development value of the land, the Scottish Government should do the same to help the viability of affordable housing development.

8.2.5. Croft House Grants and Rural Home Ownership Grants

Crofters should be eligible for Rural Home Ownership Grants and be able to choose whether they wish to apply for a Croft House Grant or Rural Home Ownership Grant. The rules surrounding space standards for RHOGs should be relaxed to reflect the 'home for life' nature of housing development in the crofting counties.

Appendix 1

Availability of Land for Affordable Housing in Crofting Areas

Views of Tiree Crofters.

Transcripts of interviews with crofters on Tiree conducted by Clare Jones

Individual interviews took place with Tiree crofters, in their homes or workplaces during March and April 2007.

Each crofter was asked the same questions, some had no views on certain questions but all were given opportunity to elaborate on their answers as they wished.

Opinions were sought on:

- Effectiveness of existing support (CHGS)
- Views on release of individual plots of Common Grazing for LCHO
- Views on release of individual plots on inbye land for LCHO
- Release of land for small/medium scale social rental development
- Perceived existing barriers to development

Crofter 1:

Croft worked part-time by extended family members. Crofter would be willing to sell any land for housing, not necessarily LCHO but nobody has ever asked for a site and would not know how to go about selling a house site.

Crofter 2:

Croft worked part-time by crofters own family. Willing to sell land in theory, but never been approached. Felt that common grazing land would not be suitable for development due to inaccessibility and environmental designations.

Crofter 3:

Croft worked part-time by retired family member. Would be willing to sell house sites as felt that income from crofting inadequate. Expressed particular concern for financial viability of croft for next generation and sees selling land as necessary income. Never been approached to sell land and would not know how to proceed. Felt that environmental designations may be barrier to development.

Crofter 4:

Full-time crofter with young family. Levels of CHGS inadequate and unrealistic and do not compensate for the extra costs of building on Tiree (current estimate for island factor 25-30% over mainland prices). Should be allowed to build a second croft house for next generation. Felt that crofters should have option of accessing RHOG. Would not wish to sell land on inbye due to possible impact on personal space but would consider individual or small scale development on further away or common grazings. Sales must not jeopardise economic and practical viability of the working croft. Favourable circumstances would be selling to full-time occupants with strong Tiree connection, would not sell to speculator. Thinks that barriers may be blocking of sale by Argyll Estates, environmental designation, planning restrictions and lack of infrastructure except along roadside. Strong opinions held against subdivision of crofts to units that are little more than house sites and are agriculturally unviable.

Crofter 5:

Croft worked full-time by family members. CHGS levels inadequate. Felt that £40,000 would be a more realistic sum, or grant given in % terms, with a restriction on resale for profit. Would in theory be willing to sell land though only in exceptional circumstances on inbye. Willing to sell on common grazings, including for small scale RSL development, but these are traditionally unoccupied lands so would be unlikely to receive planning consent. Felt that Argyll Estates sets prices for individual plots too high, restricting affordability.

Crofter 6:

Croft worked full-time by family members. Agreed that many crofters need capital boost of plot sales but would wish control to restrict number of sites sold for holiday homes and none, even for affordable housing, on good agricultural land. Crofters Commission should enforce legislation more rigorously. Concern about selling plots and new owners then moving on. Would prefer to see land sold for rental properties. Suggested HA s buy open market housing for rental. Felt that poorer quality land, such as common grazings could be made available for housing but that this is not the ground wanted by house builders. Approved of community registering an interest in all land and houses coming onto market (through Rural Housing Body). Would like to see more flexibility from Argyll Estates in respect of setting plot cost, currently too high for affordable and too low for potential holiday home owners. Felt that if the landscape and community is to survive then something has to replace single farm payments.

Crofter 7:

Full-time crofter. Disagreed with removal of loan element of CHGS and felt that level of grant under CHGS is inadequate for a crofter starting out. Would be prepared to sell inbye land to family members. Would agree to sales of common grazing for LCHO, and would always wish to be sure that buyer was not profiteering and would remain in owner occupation. Emphasised need to help young people. Felt that Argyll Estates should set the price for plot sales and that if common grazings were sold there should be a compensatory reduction in rent. All land is good land for cropping or grazing.

Appendix II - References

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- ⁸ John Laing SCF Director and Highland Councillor, West Highland Free Press cited in SPICe Briefing 05/50 Tom Edwards
- ⁹ Anecdotal evidence from Scottish Crofting Foundation contacts
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- ¹⁴ Local housing need and affordability model for Scotland Update (2005) p.32
- ¹⁵ Communities Scotland
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- ¹⁷ Highland s Housing Strategy 2003 -2008 -2006 Progress and Update
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- ²⁵ Local housing need and affordability model for Scotland Update (2005) p.32
- ²⁶ Outer Hebrides Migration Study Final Report January 2007
- ²⁷ SPP3 Planning for Housing. Para 50
- ²⁸ SPP15 Planning For Rural Development. para 18
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- ³³ Argyll & Bute Local Plan 2006 p.67
- ³⁴ Argyll & Bute Local Plan 2006 p.68
- ³⁵ Argyll & Bute Local Plan 2006 p.66
- ³⁶ Highland Council Structure Plan 2002 para 2.2.10
- ³⁷ Wester Ross Local Plan Adopted Plan June 2006 p.13
- ³⁸ Inverness Local Plan (March 2006)p.58
- ³⁹ Orkney Local Plan p.45
- ⁴⁰ Western Isles Structure Plan p.19
- ⁴¹ Finalised Western Isles Local Plan p20
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- ⁴³
- ⁴⁴ Scottish Government Press Release 14 September 2005
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- ⁴⁷ Evaluation of the Communities Scotland Rural Home Ownership Grant Mechanism. Satsangi, Morgan & Wager 2006 p.12
- ⁴⁸ Evaluation of the Communities Scotland Rural Home Ownership Grant Mechanism. Satsangi, Morgan & Wager 2006 p.12
- ⁴⁹ Scottish Borders Council Local Plan Policy G8 Development Outwith Development Boundaries

⁵⁰ Rural Stirling Housing Association Local Lettings Initiative Policy

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⁵² West Highland Free Press July 2005

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