

Environment, Climate Change and Land Reform Committee evidence session with Scottish Land Commission

This briefing sets out the views of Scottish Environment LINK¹ members on the intertwined issues of Land Reform and Land Use, as well as some points for consideration by the Committee during the evidence session with the Scottish Land Commission. As explained below, LINK bodies support that the twin agendas of Land Reform and Land Use should be seen together as both seek to answer the same fundamental question: ‘how and in whose interests is land used?’.

With respect to the Scottish Land Commission, we note that in its [strategic plan](#) there are only two references to the environment, both relating to the National Performance Framework. The Commission defines its own land management objectives as: Productivity, Diversity and Accountability. The strategic plan also refers back to an earlier version of the Scottish Government’s purpose. Since then the National Performance Framework purpose and outcomes have been reviewed in line with the Government’s adoption of the Sustainable Development Goals.

INTRODUCTION

Land reform is – or certainly should be - about helping society as a whole to get the most out of Scotland’s land and natural resources. Many of the benefits sought are in the language of economics private and can be provided through effectively functioning markets. This is true, for example, of traditional primary outputs such as food and timber.

But many are not so readily marketable – or are judged politically to be ones that should be free to all. Such “public goods” range from carbon sequestration and flood mitigation through rich and healthy wildlife habitats to beautiful landscapes and public access. As this list demonstrates, many of them are in a broad sense environmental and it is these that are the concern of LINK bodies.

The question is how such public benefits can be secured for the nation. In the absence of conventional markets, and without state intervention, they will almost certainly be under-supplied. There are several potential mechanisms to correct this “market failure”: regulatory controls, financial inducements, and advice and encouragement. For built development there is already a well-established regulatory mechanism: the town and country planning system, although with its emphasis on control this is better geared to restricting than to stimulating activity. But in relation to wider land use there is no such comprehensive framework.

LINK bodies believe strongly that the time has come to remedy this deficiency and that the Scottish Government’s land reform represents a golden opportunity to do so. The overarching purpose of land reform should be to define and articulate a new bargain between society at large and those owning and managing land. Key to this endeavour is a mechanism for identifying the public benefits being sought in any given part of the country, akin to that for built development provided by the planning system. The nearest approximation to such a system that exists today is probably National Park Plans. What these critically lack, however, is a firm connection with the country-wide land use support regime.

THE IMPORTANCE OF THE LAND USE STRATEGY

The current Land Use Strategy, the preparation of which was required by the original Climate Change Act, is undoubtedly a move in the right direction. The principles that it lays down are sound.

¹ Scottish Environment LINK is the forum for Scotland’s voluntary environment community, with over 35 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

But it is deficient in two vital respects:

- **it has not been translated into practical priorities and proposals at a regional or local scale; and**
- **it is not (partly for that reason) enmeshed with and embedded in the land use incentive regime.**

Initial attempts to move in that direction were made in the Regional Land Use Framework pilots prepared in Aberdeenshire and the Scottish Borders. But despite pledges in the last update of the Land Use Strategy, these have not so far been followed up with efforts to establish inclusive Regional Land Use Partnerships.

In the view of LINK members, the development of the Land Use Strategy as an effective tool and its rolling out across the country should be a central plank of the land reform agenda. This is particularly important now so as to prepare the ground for the new regime of land use and rural support due to be introduced from 2024 onwards, following Brexit. The aim should be to provide a collaboratively developed and widely accepted basis for targeting public subsidy and advice designed to achieve maximum public benefit from the land.

LINK members would therefore like to see:

- **urgent action to set up a series of Regional Land Use Partnerships, as envisaged in the most recent iteration of the Land Use Strategy; and**
- **these Partnerships used to establish a country-wide system of Regional Land Use Frameworks designed to identify and prioritise public benefits sought from the use of land and to create the basis for the targeting of future land use support programmes and of the accompanying advisory effort.**

We note that oversight of the Land Use Strategy is referenced in the [2016 Land Reform Act](#) as a function of the Commission, but it does not appear in the [Commission's 3-year strategic plan](#): there is only one passing mention in the preamble.

LINK members see the Scottish Land Commission as having an important part to play both in facilitating the necessary processes and in encouraging the land-owning and managing community to engage with them. It should also be uniquely well placed to foster the appropriate ethos and approach amongst the individuals and organisations concerned. By doing so, it might well be able to catalyse on a voluntary basis activity and behaviours which might otherwise require financial incentivisation or even regulatory action.

With this in mind, LINK members:

- **welcome the Land Commission's efforts to prepare Codes of Conduct to define and encourage responsible behaviour; and**
- **urge it to give thought to preparing, on the basis of widespread consultation and engagement, a comprehensive Code of Responsible Land Stewardship, analogous to the Scottish Outdoor Access Code, to provide the foundation for a future publicly articulated bargain between land managers and wider society.**

Moreover, given that the functions of the Commissioners extend to 'any matter relating to land in Scotland' and in that respect can 'review the impact and effectiveness' of laws and 'recommend changes' to laws, **LINK bodies would like to explore whether the Commission will engage in a review of the effectiveness of the Land Use Strategy as a whole.**

LAND RIGHTS AND RESPONSIBILITIES STATEMENT

We strongly support the principle of a Land Rights and Responsibilities Statement and its potential to better align policies to deliver the best outcomes for the environment, people and the economy. LINK submitted [evidence](#) to the development of the Land Rights and Responsibilities Statement.

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As it stands, however, it is unclear how the high-level statement will reach all of the relevant audiences and be taken forward to delivery, as advocated previously by LINK.

To deliver the ambitions of the Statement, Scottish Environment LINK recommends the following:

1. Establish the current baseline for each of the six principles, in particular:
 - a. Principle 1: Assess how well the current framework of land rights, responsibilities, public policies and existing balance between public and private interests support the LRRS vision – this should be an independent, comprehensive assessment of opportunities, gaps and barriers, rather than the list of relevant policies currently presented in the LRRS
 - b. Principle 2: Define how diverse the current pattern of land ownership and tenure is and determine what pattern of diversity is optimal to support delivery of the vision.
 - c. Principle 4: Define what is meant by good stewardship, beyond regulatory requirements, and assess how well the current available advice and training promotes it
2. Identify and implement concrete actions, processes and procedures to ensure that future development of policy and action in relation to land support delivery of the vision.
3. Publish an action plan outlining objectives, outputs, outcomes and key milestones for delivery under each principle of the Statement, so that progress can be monitored.
4. Determine and adequately resource the mechanisms for delivery. For example, Regional Land Use Partnerships and Frameworks, as proposed in the Land Use Strategy, could provide a vehicle through which to identify land use priorities in a region, better target public subsidies, demonstrate what good stewardship looks like, involve local communities in decision making and facilitate collaboration.

LINK bodies would welcome the Land Commission's responses to the above points and as to whether the Statement can be amended to reflect the above.

This briefing was prepared by John Thomson, Leader of the Land reform, land use and landscape subgroup.

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