

## **STEWARDSHIP IS THE KEY TO THE FUTURE OF SCOTLAND'S LAND AND ENVIRONMENT**

The outcome of the advisory referendum on the UK's membership of the EU and the evolution of policy and legislation on land reform in Scotland, prompt the question of the implications for Scotland's land and environment. **This paper argues the case for a radical change to the way that land is looked after and the support provided. The focus should be on the delivery of public benefits by:**

- ✓ **defining the role and responsibilities of all owners and managers as its stewards,**
- ✓ **all owners and managers adopting basic codes of practice,**
- ✓ **directing public financial support to achieve public benefits with contracts for delivery over the longer term,**
- ✓ **greater integration of policy under the umbrella of Land Use Stewardship Strategy,**
- ✓ **production of regional, indicative land use maps, and**
- ✓ **inviting all to buy into the common cause and cast away silos and old mind sets.**

### **Taking stock**

At present, Scotland has a plethora of strategies, policies and schemes focused on the use of the land and protection of the environment, some developed in Scotland and some resulting from membership of the EU. But, there is dysfunction in the system as there is inconsistency and conflict between them and the Scottish Government fails to resolve clear conflicts between policies and especially between their application on the ground. There is no real challenge to the total amount and distribution of financial support provided to those owning and managing land. There is the ground-breaking Land Use Strategy, but it is subservient to other policies related to economic development. The land reform agenda is focused particularly on changing the balance of ownership and only now, with the consultation on the Statement of Rights and Responsibilities, is there recognition of the need for focus on how the land and environment are managed and used.

The EU Common Agricultural Policy (CAP) has been seen by recipients of money under its Pillars as something which must be retained in its financial quantum. Surprisingly, perhaps, most farmers are reported to have voted for Brexit with the potential loss of some or all of the £0.5 billion of support payments. These are paid predominantly to larger lowland farms in the east and north east of Scotland. This maldistribution of these substantial resources is totally distorted, ignoring the important role played by the remaining land classified as agricultural use and the very substantial amount of land which falls outwith that definition but which is significant in the public benefits it provides and the level of stewardship demanded of those areas. For these reasons alone, there is a need to address, fundamentally, how we support the land and its owners and managers to provide a range of public benefits and to ensure that these remain available for future generations. So far, the debate since the Brexit vote has been overly focused on access to markets and largely ignores the public benefit arguments.

There are those who consider that the EU Common Agricultural Policy should be continued given the substantial funds directed towards farmland despite the bureaucracy of the system. Equally, there are those who take a different perspective considering that a system focusing predominantly on support for owning farmland with certain activity conditions attached needs to be fundamentally revised, especially in the light of the many benefits

from the land because of the efforts of farmers and other owners and managers of land. This paper takes this latter position. It may be criticised for verging on the altruistic. So be it, as it is meant to stimulate a necessary debate on the primary policy objectives for the way the land of Scotland is used and managed.

Put simply, we need to think hard and imaginatively how we are to achieve our own solutions which benefit Scotland's land and environment. Rather than merely replicating what existed under the EU regime, we should think outside the box for even better solutions that will have long-lasting benefit. We should not wait to see whether we remain in or have a different relationship with the EU before starting a national debate on future agricultural and environmental policies, as it will undoubtedly take a considerable time to agree an outcome. Surely forewarned is forearmed.

Here are **three steps** we should be taking on land and environment: **develop the public interest case, place stewardship at the heart of policy and financial support, and develop improved instruments for delivery.**

### **Public goods and public benefits**

First, we need to recognise that, although the land is a private asset, it is also a major source of goods and services which provide benefits to the public. It is relatively straightforward to identify what these goods are, especially if viewed within the framework of natural capital and ecosystem services, all within the overarching framework of sustainable development - all global needs with local deliverables. There is political support for these approaches as the First Minister has signed up the Scottish Government to them all.

In a general sense, public goods can be defined as:

- ✓ a healthy environment not subject to epidemic diseases and antibiotic resistant organisms,
- ✓ healthy natural systems able to act naturally,
- ✓ public enjoyment of and healthy engagement with the countryside, and
- ✓ well cared for landscapes reflecting our natural and cultural history.

### **The principle and practice of environmental stewardship**

But, it is not just about the public goods and services provided, it is also about the standards expected of those who own and manage these resources: farmers, land owners, crofters and other owners and managers. Hence, the second element of the new approach is **improved stewardship** by all irrespective of whether they currently receive public support or not. The old adage that 'farmers are the stewards of the land' has some truth and some falsehood. The new system must be all truth, i.e. an open and transparent contract between owners and their managers of all types and the public, represented by government, to provide the public with the goods and services from the land and water in an environmentally sustainable manner.

The acceptance that land is both a private asset and a public, common good means that a new type of environmental, social and economic contract between the people (through the Scottish Parliament) and the owners is both essential and justified. Stewardship should be the centre piece of the proposed Statement of Rights and Responsibilities: what I call

**Scottish peoples' objectives for their land.** Preferably, this should be a major component in the next Land Reform (Scotland) Bill. The requirement in the current Land Reform (Scotland) Act 2016 to develop a land rights and responsibilities statement is placed on the Scottish Government within a year of enactment. Unfortunately, the factors to be considered in drawing up this statement fail to refer to the provision and stewardship of environmental goods and services (although the consultation paper published in December 2016 seeks to correct this imbalance). This should be repaired and a duty placed on all.

There should be explicit provisions in government policy and new legislation on stewardship of land by **requiring all owners, occupiers and managers to maintain its natural values and functions and its long term productive capacity.** The Scottish Government should draw up, implement and periodically review a **Code of Good Land Stewardship.** This code should be informed by land owning and managing interests in the statutory and representational sectors, and informed by the expertise within the farm advisory service. If this approach is taken, it would place the care of the land on the same basis as the important and valuable provisions on public access to land under the Land Reform (Scotland) Act 2004 and the accompanying Scottish Outdoor Access Code.

If we are to make progress, we need to identify the range of current issues for each of the public policy objectives and what the basic stewardship requirement should be. The table is a simple attempt to do this.

#### **Delivering public policy objectives through responsible stewardship**

<b>Public policy objective</b>	<b>The issue</b>	<b>Stewardship requirement</b>
<b>Producing high quality food from animals</b>	Concern about overuse of antibiotics, and diseases carried by livestock and potential transfer to other animals and even humans, and of inoculants spreading in soil and water	Highest standards of biosecurity in animal husbandry meeting all international and European protocols
<b>Producing high quality food from plants</b>	Concern about herbicides and pesticides spreading into the soil and water courses  Concern about GMOs causing hybridisation in native plants	Guidelines for application using the most modern technology for assessing weather conditions and need for application  Scientific protocols applied when approvals for GMOs are finally given
<b>Ensuring pollinators maintained as natural agents in plant germination</b>	Loss of pollinators due to pesticides & herbicides, and potentially due to climate change	Greater risk assessment of side effects before use of herbicides & pesticides
<b>Providing secure locally produced</b>	Recognising importance of security of food supply from	Retaining food production from the most appropriate land

<b>supply of food</b>	local sources in face of changing global consumption patterns	
<b>Maintaining the productive capacity of the land</b>	Loss of best quality agricultural land to development	Safeguarding best quality agricultural land from development: informed by the JHI Agricultural Land Capability data
<b>Ensuring no net loss of soil</b>	Net loss of soil continuing especially on most friable soils in arable areas and through overgrazing. Failure to impose strict codes of practice	No net soil loss through appropriate tillage and through reduced grazing by domestic and wild livestock using the protocols under the EU Soil Thematic Strategy Framework & the Scottish Soils Framework, & state of soil data
<b>Providing clean and plentiful supply of water</b>	Water quality improved considerably and only occasional localised problems. Some relate to overgrazing, poor soil management on farms and in forestry	Adhere to the tenets of the relevant EU Directives, including Framework Water Directive and Ecological Status of Freshwaters
<b>Securing protection and restoration of key species and habitats</b>	Biodiversity continuing to decline despite Natura 2000 scheme and the 2020 Challenge for Scotland's Biodiversity	Maintain basis of Natura 2000 and SSSI approaches to achieve <i>favourable conservation status</i> but ensure connectivity between sites to form ecologically functioning linkages & networks; provide adequate funding for maintenance and restoration by owners
<b>Reducing GHG emissions</b>	Land use operations of many types are the greatest single source of GHG emissions	Maintain current carbon stores and enhance sequestration through improved practices; reduce NO <sub>x</sub> through improved fertiliser application; reduce methane through dietary improvements for ruminant livestock; reduce GHG footprint of buildings & all operations on the land
<b>Safeguarding landscape and scenic quality</b>	Landscape degraded over many decades by intensification of activities, especially industrialisation of agriculture, forestry and renewable energy, by overgrazing & by under management of paths	New policies implemented on protection of all landscapes and scenic areas within the framework of the Council of Europe's European Landscape Convention. In addition, protecting and improving our finest landscapes through renewed National Scenic Areas policies, practices and funding & addition of new areas of national and regional high scenic & landscape quality
<b>Protecting</b>	Loss of cultural artefacts in	Through use of inventories by former

<b>cultural artefacts</b>	the landscape due to ploughing for agriculture and especially by afforestation & re-afforestation	RCAHMS (now HES) specify those areas needing protection and issue codes of good cultural heritage stewardship
<b>Improving public access to the countryside</b>	Still places where restrictions without legal basis and Access Fora having difficulty resolving issues	Improve access infrastructure: paths, signing etc in accord with the Scottish Outdoor Access Code for wide range of health benefits for the public, 'the outdoor pill', and across all land without infringing curtilage & other ownership rights

For each of these policy objectives, general measures can be developed using the information in the Scottish element of the Millennium Ecosystem Assessment and the protocols already in existence from EU, UK and Scottish sources as these have been developed through consultative processes and extensive knowledge of practice on the ground. The Scottish Government should ensure that action is taken to develop these indicators by inviting JHI, SNH and SEPA to collaborate with other expert organisations.

### **An overarching framework**

It is essential that the current competition and needless confusion between the different policy mechanisms for using the land and water resources is resolved. This is the core of the third element: **improving the policy instruments**. How can we possibly justify separate plans applying to the same areas of land for commercial forestry development, biodiversity protection, wildland safeguarding, and at the same time have no spatial plans for renewable energy? Scotland has the perfect mechanism to overcome this with the statutory requirement to produce and periodically update a Land Use Strategy (LUS). Now in its second iteration, the LUS is developing into an important mechanism for ensuring that public and private interests are more effectively balanced to achieve social and environmental objectives. This needs to be given full Scottish Government Ministerial support at Cabinet level as an overarching mechanism for managing land rather than only having the status equal to policies such as the forestry expansion strategy and the biodiversity challenge strategy. That way it can be used as a means of resolving the land use conflicts around the country.

Greater emphasis to this point is shown by how far apart the policies are in addressing their impact, in practice, on the specific areas of land and therefore on the local environment and local communities. There has been for the last 20 years a resistance in the government to even considering how to map out in practice the delivery of different, often conflicting, policy objectives for one area of the country or another. 'Let market forces operate' has all too often been the governmental mantra. I first heard it in my last formal meeting as SNH CEO with Scottish Government senior enterprise and environment staff in relation to the location of renewable energy installations. Look at the huge costs of time and money to all parties which has resulted! I do not advocate rigid state planning of the land, but a sensible approach to address the actual conflicts on the ground from the application of legitimate

policies on renewable energy, biodiversity, forestry, upland agriculture, water quality management and landscape protection.

We should recognise that all Scotland schemes can make no sense given its natural diversity and the diversity of cultural and economic approaches to using these resources. Surely, for example, we can no longer treat 85% of the land area in the blanket manner of the Less Favoured Areas (LFASS) approach. (The Basic Payments, for example, are only regionally differentiated in a rather crude fashion.) These are blunt instruments which belie current knowledge. So, we need regional approaches which recognise that Shetland is not the same as Orkney, nor the North-West Highlands the same as the Southern Uplands. We should recognise this diversity to develop regional approaches, embracing all land and water, not just farmland by developing a system of support tailored to the attributes of each region.

New ideas can be developed and tested out at a regional level around Scotland now, following the successful pilots under the first LUS, which proved that expertise and enthusiasm exists, rather than the tentative approach in the second Land Use Strategy published in 2016. The Scottish Government should give local and regional interests support in taking this forward in a fully collaborative manner engaging all interests.

Scotland has a long history of devising indicative plans, particularly to guide the statutory land use planning system. In the past, the National Planning Guidelines series were a brave attempt, all too often after the event, to guide development. But some progress was made, for example, with the development of guidance on locational planning for forestry and for marine fish farming. Some local authorities produced practical plans, but we seem to have lost the ability, or more likely the will, to pursue this sensible approach. New maps which seek through consultation between all of the interests to resolve or reduce conflicts in land use regionally make good sense to a geographer like myself and I make no apology for promoting this approach for adoption around the country.

### **Positive payments not compensation**

Let's not be thinking about subsidies. The new system should support all owners and managers who provide public goods and services above and beyond what their business model dictates. This approach would give recognition to owners and managers of all types who care for, restore and enhance our priceless land and water assets. In other words, society, through government, pays owners and managers for looking after the land on behalf of us all.

Although the term 'subsidy' and the slightly more acceptable phrase 'income support' is frequently shunned, that is exactly what it is through Pillar 1 of the CAP. It fails to take account of the wide range of goods and services provided by farmers and it fails to include large areas of land which also produce public benefits. And, it is given to highly profitable enterprises and this practice must be questioned. On the other hand, for many years now positive incentive payments for land management for maintaining and restoring key habitats have been in operation through Scottish Natural Heritage, for example in the form of the Caithness and Sutherland, and the Lewis Peatland Management Schemes, and smaller schemes for example for managing the interaction between sea eagles and sheep rearing on Mull.

With these proven practices in mind, the new system should identify those practices which maintain and/or improve the quality of the natural environment and therefore the natural capital and ecosystem services delivered now and those that can be provided in the future. But, we must remember that society cannot expect owners of land to provide for free all of the goods and services beneficial to society. This is especially so where additional demands are placed on owners for new activities, such as habitat restoration, carbon storage, and winter soil cover, all of which add to the costs of their operations but not necessarily to the operating balance sheet of the business. What is needed to take this forward is definable and verifiable additionality of action which enhance valuable public assets.

Mention also needs to be made of the responsibilities of owners and managers to abide by regulations to protect the public interest. The 'polluter pays principle' remains a pragmatic method for adjudicating on whether an owner or manager has overstepped a regulation and should be applied.

It also means that we need a new basis for valuing land and the natural resources it provides. Too often the outmoded approach of valuation based on productive capacity is used. For example, valuing sporting estates based on the number of stags, bags of grouse and salmon caught as if that was the only thing that mattered to owner or potential purchaser. Similarly, with farmland there is over concentration on the productive food capacity of the land and not the other values and the benefits to society identified earlier in this paper. Not to mention land speculation, for example, in relation to potential change of use from agriculture to housing, causing prices to escalate. It is a challenge to the farming and estate advisory companies and bodies to devise a better system that is in accord with the enlightened approaches under the umbrella of sustainable development and natural capital, taking a lead from those developed by Costanza and colleagues over many years in valuing the natural capital of resources.

### **The contract approach**

There needs to be a new basis for operation by owners and managers representing a 'social contract' between the provider (owner and rights holder) and the public as the beneficiary. It should reflect the social responsibility on the provider to act in the public interest and for the public to recognise that, as a beneficiary, it has responsibilities as well as rights. This is best done on an ownership unit basis. A critical element in developing a contract will be the production of a whole farm or whole estate plan; this is not revolutionary as this approach has been used for many years around Scotland.

We need to move to a more open and transparent system for determining priorities of support for owners and managers of land that better serves the public interest and fully recognises the contribution which owners and managers make in providing public benefits. Rather than the rag bag of current systems under the CAP and schemes through other parts of government such, as the Forestry Commission and SNH, we need an approach which reduces the bureaucracy to the recipient of public money, provides a timely payment system and is totally transparent to everyone in terms of the monies provided and the services and goods procured for the benefit of the public. In other words, the new system should make it clear to all what the public is getting for their money channelled through

government to owners and managers. The timescales for these contracts must be beyond the short term of political cycles bearing in mind that long term stewardship is the major driver for the new system.

We must recognise that it will take both time and ingenuity to develop the contract approach. The fact that a previous system, based on the French Land Management Contracts, was discarded is no reason to refuse to develop this approach now but tailor-made for emerging Scottish circumstances. Advice and support will be needed from those with real knowledge and experience in land use for multiple benefits. We are fortunate in Scotland that such expertise exists.

### **Institutional architecture**

It is all too often the case that structures are changed without first determining the policy objectives and means of delivery. This should not be the case in Scotland. Merging the Nature Conservancy Council and the Countryside Commission into Scottish Natural Heritage has worked better than the two predecessor bodies (admittedly from my perhaps biased perspective), as has the merger of the river purification boards and local authority environmental quality responsibilities into SEPA. To suggest merging these two bodies, with their quite different roles: one predominantly regulatory and the other predominantly advisory, would be a grave mistake. And, to add to that Forestry Commission Scotland would compound the problem. Cognisance should be taken, for example, of the widely-considered failure of the institutional reforms in Wales through the establishment of Natural Resources Wales.

Recognising the natural and economic diversity of Scotland, the development of land partnerships around the country to work out a common future for the land and environment would make good sense. This can be developed from the pilot studies of the Land Use Strategy and from other regional exercises and be based on natural units which make sense locally, such as river catchments.

Put another way, do the changes advocated in this paper require new institutions or rather much better overall integrated policy? I favour the latter. But, this can only be achieved by a fundamental **change in the mind sets** of those charged with their delivery. My answer is quite clear: we need new mind sets to get away from the traditional, but still existing, confrontation born out of “protecting one’s own patch” to one where there is a greater acceptance of multi-benefits to all interests in effective collaboration and coordination. This can only come from the Scottish Government showing leadership and a breakdown of the traditional silos mentally which all too often remains prevalent, and by the constituent representative bodies moving their stance to one which better reflects the public interest.

### **Developing the ideas**

In Scotland, we have the potential to develop land policy, including agriculture, to meet the wider health, economic, as well as rural and environmental policies. The normal groups might be expected to prepare the new system: land owning and management interests and environmental experts. But local and wider communities of interest have a real role to play recognising the land and environment as a public good and the services it provides being of

benefit to everyone. A collaborative approach engaging all the communities of interest is essential, rather than leaving it to the usual suspects.

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