**Response 011**

**Questions**

**Q1. Do you agree that Highlands and Islands Enterprise Community Land Unit is the appropriate body to provide advice to the KLTR on potentially suitable community groups? If not, who would you suggest and why?**

Energy Saving Trust would also encourage the KLTR to consider engaging with local community energy organisations, in particular where sites have the potential to be used to generate renewable energy for community benefit. Energy Saving Trust notes that this is one of the potential uses for long-term vacant or derelict sites as identified by the Task Force on Vacant and Derelict Land1. Such use would help to tackle fuel poverty, provide resilience for rural communities and help to meet both the Scottish and UK Government’s net zero targets.

**Q2. Do you agree that a valuation and other reports undertaken by the KLTR are sufficiently independent to avoid duplication of cost for all involved in the OPTS? If not, why not?**

**Q3. Do you think three months for the local authority to decide whether or not it wishes to take ownership of an ownerless property is reasonable? If not, how long would you suggest and why?**

**Q4. Do you agree that the above process is reasonable and workable? If not, how would you improve the process?**

**Q5. Do you agree that the property transfer value for OPTS should be at “nominal value” as described above? If not, what value do you think should apply and why?**

**Q6. Do you think the KLTR should place conditions on the transfer of OPTS property to ensure the intended benefits to local communities are delivered?**

1 https://[www.landcommission.gov.scot/downloads/5dd40380c9791\_VDL-STATEMENT-OF-INTENT\_final-](http://www.landcommission.gov.scot/downloads/5dd40380c9791_VDL-STATEMENT-OF-INTENT_final-) 17.7.19.pdf

Yes, Energy Saving Trust believes that the KLTR should place conditions on the transfer of ownerless property, similar to those in section 14 of the Community Asset Transfer Guidance or through the planning system to ensure that the intended use is complied with.

Energy Saving Trust believes that the KLTR should take a more directive approach to ensuring that transfers of ownerless property provide environmental and social benefits for communities and that future uses of the property must conform to minimum environmental and social standards.

It is unclear what the response of the KLTR would be should it become clear that property transferred for community benefit was instead being used for private purposes or how this would be addressed. Equally it is unclear what rights and remedies would be available to community groups through the scheme should a transfer fail to deliver. If conditions are imposed on transfer, as we believe should be the case, such conditions must be enforced and there should be a mechanism to ensure that this is done. The lack of a meaningful form of measurement or accountability would effectively render any conditions placed on transfer meaningless.

**Q7. Do you think a recognised public authority should retain a property to allow an appropriately constituted community body to raise the necessary funds, etc.? If so, should a timescale be set for raising the funds?**

**Q8. Do you think the OPTS should apply to all properties as described or should it be restricted to certain types of properties? If the latter, which types?**

**Q9. Do you agree that the above proposals provide an opportunity for ensuring community interests are considered as early as possible? If not, why not?**

Energy Saving Trust would welcome more detail on how this would work in practice. We read the proposed approach as meaning that a group or individual representing the community should get the buy-in of the local authority but that the local authority wouldn’t be expected to consult further on the proposal if they supported it, which may raise fairness and transparency issues. As it stands, the

proposed process is very open to interpretation and would benefit from a more detailed explanation.

**Q10. Do you agree that the above criteria should apply to the OPTS? If not, what criteria do you think should or should not apply and why?**

**Q11. Do you agree that the OPTS should ensure the wider public interest is considered before private interest? If not, why not?**

Energy Saving Trust agrees that the OPTS should ensure the wider public interest is considered before private interest. However, this should not preclude a private sector use of a site if there is no viable public or community use and if it can be robustly demonstrated that this is in the public interest and has the support of local communities.

**Q12. Do you think the public interest is defined reasonably for the purposes of the OPTS? If not, how should it be defined?**

**Q13: Do you agree that the KLTR should take a high-level approach to sustainable development issues, as above, in order to allow further scrutiny and transparency at local level? If not, why not?**

Energy Saving Trust understands the reference to sustainable development within the consultation, given the wording of the Land Reform (Scotland) Act 2016. However, we would encourage the KLTR to look more broadly at the way in which the UN Sustainable Development Goals are being delivered through Scotland’s National Performance Framework2 and consider how the Ownerless Property Transfer Scheme could be designed to contribute towards the implementation of that framework.

We would also encourage the KLTR to draw on the approach that has been adopted by the Scottish Land Commission in moving away from using a purely financial basis for evaluating return on investment to one that measures the full range of social, environmental and economic benefits that a project will deliver.

2 https://nationalperformance.gov.scot/

In conjunction with the publication of its report on vacant and derelict land, the Vacant and Derelict Land Taskforce published guidance3 on how to capture the wider social and environmental benefits of bringing vacant and derelict land back into use and we would encourage the KLTR to consider applying a similar approach to the Ownerless Property Transfer Scheme. The Ownerless Property Transfer Scheme has the potential to make a significant contribution to sustainable community-led development across Scotland and, in our view, should have sustainable development as a primary focus.

**Q14: Do you consider there are specific circumstances in which the KLTR should never deal with dissolved company property when a company still remains within its 6-year restoration window?**

**Q15. In addition to the above, do think any other financial controls or safeguards are required? If so, please describe how and why.**

**Q16. Do you think the KLTR’s approach to liability and risk is acceptable? If**

**not, how could this be improved?**

**Q17. Are there any other ways you think the OPTS may be monitored? If so, in what way?**

**Q18. Do you agree that penalties for non-delivery of aspirations are unnecessary, as above, and that local accountability should be sufficient to ensure delivery of agreed aspirations?**

Energy Saving Trust does not consider that the combination of local democracy and annual returns from those acquiring property through the OPTS would be sufficient to ensure delivery of any aspirations or conditions placed on transfer. It is unclear what the response of the KLTR would be should it become clear that property transferred for community benefit was instead being used for private purposes or how this would be addressed. Equally it is unclear what rights and

3 https://[www.landcommission.gov.scot/downloads/5f48e7a98c655\_Land%20Reuse%20Framework.pdf](http://www.landcommission.gov.scot/downloads/5f48e7a98c655_Land%20Reuse%20Framework.pdf)

remedies would be available to community groups through the scheme should a transfer fail to deliver. If conditions are imposed on transfer, as we believe should be the case, such conditions must be enforced and there should be a mechanism to ensure that this is done. The lack of a meaningful form of measurement or accountability would effectively render any conditions placed on transfer meaningless.

**Q19. Which of the further measures above do you think should be applied to the OPTS?**

**Q20. Do you think properties within the 6-year restoration window should be excluded from OPTS or do you agree that a criteria-based policy approach, as described above, is the best way of addressing this?**

**Q21. Are there any other measures you think should be taken to safeguard those involved in the OPTS process?**

**Q22. Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on island communities in a way that is different from the impact on mainland areas?**

**Q23. Are you aware of any examples of particular current or future impacts, positive or negative, on young people, (children, pupils, and young adults up to the age of 26) of any aspect of the proposals in this consultation?**

**Q24. Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on those with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)?**

**Q25. Are you aware of any examples of potential impacts, either positive or negative, that you consider any of the proposals in this consultation may have on the environment?**

As noted, by the Vacant and Derelict Land Task Force, the environment is an important consideration for vacant and derelict sites. Depending on the former use and the location of the site, their presence can cause harm to local conditions via water quality, air quality, biodiversity and natural capital. Redevelopment for greening, recreation or renewable energy has the potential to bring both general and specific benefits to people and the wider environment. In addition to direct environmental benefits, there could also be value from a climate change adaptation perspective, in particular with redevelopment proposals that address green infrastructure and water management. A well designed and focused OTPS has the potential to significantly benefit communities and the environment. Not including social and environmental considerations and conditions as cornerstones of the scheme would be a missed opportunity.

**Q26. Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on groups or areas at socioeconomic disadvantage (such as income, low wealth or area deprivation)?**

**Q27. Are you aware of any potentially unacceptable costs and burdens that you think may arise as a result of the proposals within this consultation?**

**Q28. Are you aware of any impacts, positive or negative, of the proposals in this consultation on data protection or privacy?**