Response 006

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?

It’s not clear what the current structure of the H&I team is, or what areas they cover. Local knowledge is of key importance – is this something they can deliver for the whole of Scotland?

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?

In cases of transfer, The KLTR will effectively be the seller. Would suggest that a third-party valuer be appointed such as the DV – a decision on who would bear the costs would have to be agreed. Valuations generally tend to be undertaken by the DVS which is sufficiently independent.

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?

3 months is not long enough, a minimum of 6 months would be better with the ability to extend if required. The LA may have plans for the property which are not immediately obvious, and time is needed to check this out, there might be funding implications to carry out searches etc, these need to be approved, inter departmental discussions and approval processes can take several months. The section within the Council needs to be made aware of the legal implications. In terms of the ‘trawl’ process under SPFM, who is the contact within the LA? Is it the Communities team or Estates?

Could the approach be missed? The council have only one month to confirm an interest from the trawl so a clear contact within the council would need to be agreed.

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

Concerns were voiced about the level of title that is given. In the cases where a Signed Disclaimer states no interest, the CPO route needs to be taken. When they do grant title, its subject to satisfying the Keeper who may reject it therefore there is no guarantee. There needs to be a better system so that the Keeper grants a good title. There are serious resource implications for Local Authorities – who will effectively be asked to act as the middle man between KLTR and community groups in relation to

transfer of high risk/low value properties, at a time when workloads and budgets are already at full stretch. While welcoming the suggestion that the process of disclaiming and selling land be made easier for the KLTR, this could create more problems for council staff to deal with. Where do H&I fit into this 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?

Yes it should be nominal. The Council promote the time an effort to sort this out where the scheme/ project will benefit the greater public. Often the property/ land is in a poor condition and the Council are going to need to spend money bringing it into a good condition, we shouldn’t then need to pay for the land on top. In the case of CAT transfers of property to local groups, LAs seem to approach this differently. In North Lanarkshire, there have been 2, transferred at 50% of MV after consideration by the council’s internal CAT board. Is nominal value always Best Value for the public purse?

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?

Definitely. Clawback and overage should be included and linked with use/user. Onus for ensuring that the overage trigger is policed seems to be being passed to LAs – again there are resourcing issues.

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?

No. Should remain with KLTR. Real risk for LA budgets. If it was held by LAs, who will be responsible for maintenance and insurance etc while the property is being held by the council? Could it be returned to KLTR if funding not available to the group?

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?

It needs to be all properties, land and buildings, from disused sections of roadway to ruins.

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?

Yes.

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?

Seems like a lot of additional work for the LA

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

Agree but there seems to be an awful lot of onus for determining and demonstrating reasoning being proposed as being placed on the LA resources.

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

Yes, the public interest would need to be supported by a report or sign off as this will always happen.

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?

Yes.

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?

Yes. If there is a chance that a restored company could seek personal injury for disclaimed properties during the 6 year period, LAs should not get involved – cost risks are too great.

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

Safeguards should be included to ensure that assets that are transferred to community groups cannot thereafter fall to private individuals to prevent fraud. Possibly a right of first refusal in favour of The KLTR or LA.

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

not, how could this be improved?

No. To date the QLTR have no obligation to assist with enabling the Keeper to grant a good title, even after the extensive research and information which has been provided to them. They need to grant a clean title or there will always be a risk for the Local Authority.

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

Case studies could be presented to the collaborative contributors to showcase examples of outcomes to encourage take up.

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?

No penalties. Seems unreasonable.

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

Risk of recovery from restored companies should not be passed onto LAs. Limiting scheme to MV properties of £0.5m or less and transferring properties within 6 year window at MV only.

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?

Each case should be considered on merit but LAs must have ability to refuse if too much risk.

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

No.

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?

No.

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?

Not particularly.

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)?

Not particularly.

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?

Collaborative working and promotion of the scheme should serve to heighten awareness and secure better use and outcomes.

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)?

Not particularly however the revised scheme sounds positive therefore will hopefully benefit the country.

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?

LAs appear to be bearing the onus of resourcing the OPTS – staff costs to co-ordinate the local council involvement in its Communities, Estates and Legal teams. Resourcing needs to be looked at more closely.

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

No.