



This information note is one of a series produced by the Community Woodlands Association. It describes a range of options for community woodland groups to generate income and deliver their objectives by letting out part of their landholding. It describes the legal and regulatory conditions of each, outlines the differences between the models in terms of the benefits accruing to the community woodland owner and signposts to sources of further information and advisory support from CWA and external bodies.

Introduction

Community woodlands are growing and thriving in Scotland, with over 200 communities across the country engaged in owning or managing woodlands. Community woodlands have a broad range of objectives, with local economic development and provision of affordable housing being key concerns for many rural groups.

Many groups manage their woodlands in-house, either with volunteers or with paid staff. Some larger community woodlands have long-term relationships with private sector forest management companies – a variety of arrangements are possible.

CWA info note 4 describes the various management systems and relationships with the private sector which are available to community woodland groups

Another option for community woodlands is a range of models allowing groups to devolve management of parts of their wood to third parties with varying degrees of a) *control* over management objectives and b) *occupancy* of the woodland itself. The models have differing legal or regulatory conditions but each can potentially bring mutual benefits to all parties.

They may be advantageous where a community group is restricted in expertise or capacity to undertake management themselves and can add a completely new range of benefits in and from the woodland: opportunities for residency, rental or lease income, facilitating social enterprise, innovation and entrepreneurship, development of value-added timber and non-timber products and a broader spectrum of wider community involvement/engagement.

Woodland Crofts

A croft is a unit of land whose occupation and cultivation is subject to the Crofting Acts, recorded in the Register of Crofts held by the Crofting Commission, the Non-Departmental Public Body which is the statutory regulator for crofting. There are over 20,700 crofts: around 72% are tenanted, the remainder owner-occupied. The number of woodland crofts is not officially recorded but is likely to be a very small proportion of the total, perhaps 200-300.

There is no legal definition of a woodland croft: appending the word 'woodland' merely implies that a croft has sufficient tree cover overall to be considered a woodland under forestry policy. Woodland crofts have developed in various ways: they may be existing crofts which have historically been wooded or they may have been traditional agricultural crofts on which woodland has been established more recently.

The predominant mechanism for the establishment of woodland crofts in the future is expected to be the creation of new crofts from areas of existing woodland. Woodland crofts should not be confused with Crofter Forestry, which refers to the establishment of woodland on common grazings.

To create a new croft the owner of any land in the crofting counties must apply to the Crofting Commission, which has the power to constitute such land as a croft by entering it onto the Register. The crofting counties are the former counties of Argyll, Caithness, Inverness, Orkney, Ross and Cromarty, Sutherland and Shetland. Crofts can also be created in certain other areas designated by Scottish Ministers: Arran, Bute, the Cumbraes

and Moray so far and Ministers have powers to designate other new areas.

Crofting regulation requires that a crofter be resident on, or within 32km, of their croft, not misuse or neglect their croft, and cultivate the croft (which includes use of the land as woodland) or put it to another 'purposeful use'. Woodland crofts are also subject to UK & Scottish forestry policy and regulation.

A woodland croft can provide access to woodland to manage in support of both lifestyle (e.g. through the provision of woodfuel) and livelihood (through a woodland based business activity). Importantly, subject to planning approval, a crofter can build a house on their croft. A house built on land in crofting tenure is considered to be part of the croft and cannot be separated from the croft (e.g. to be sold independently) without the approval of the Crofting Commission.

The right to manage and extract most existing trees on croft land rests with the landlord (unless the trees were established by the crofter, or their predecessors in the tenancy). A woodland croft tenant is likely to want to manage and use the trees on the croft, this can be agreed by including use of the trees within the tenancy agreement and setting the croft rent to reflect this; or the trees could be sold to the tenant, either as a lump sum up front, or when harvested.

A woodland crofter can have responsibility to carry out the full range of forestry operations to meet management obligations: felling, thinning, restocking, weeding, cleaning etc. They can erect outbuildings and polytunnels, construct paths and tracks, grow crops, keep livestock etc., as long as these are done within any constraints imposed by the over-arching woodland management plan (e.g. maintaining a minimum percentage canopy cover).

Crofting law defines statutory conditions for all croft tenancies; these can be varied, either by modifying them e.g. by withholding the right to buy, or by introducing new conditions, in a Minute of Agreement, which can be used by community landlords to ensure continued management of the woodland. Should a tenant

break this agreement they will be in breach of their tenancy conditions and the community landlord can take action against them (via the Crofting Commission). This provides stronger protection for the woodland than is offered by forestry regulation alone.

Several community woodland groups have identified woodland crofts as a means to deliver their objectives, in particular the provision of affordable housing to meet local need and to attract young people and families to the area to stimulate economic activity.

North West Mull Community Woodland Company created 9 crofts in 2012, whilst the Kilfinan Community Forest Company established 3 new crofts in 2017: these new crofts were all on recently clear-felled sites but this does not have to be the case.

The Woodland Crofts Partnership was established by CWA, the Highlands Small Communities Housing Trust, Woodland Trust Scotland and the Scottish Crofting Federation to support and promote woodland croft development. It is compiling a database of those interested in taking on a woodland croft, to allow potential woodland crofters to be matched up with those who have woodland crofts available and to provide valuable information on the scale and nature of the demand for woodland crofts, to assist in their strategic development.

Smallholdings

A smallholding has a broad descriptive meaning and historically they have been more applicable to agricultural land rather than woodland. The Scottish Government defines a smallholding as "*an owner-occupied or tenanted agricultural holding typically operating on 20 ha or less, farming non-mainstream breeds of livestock or farming commercial breeds on a smaller scale.*"

Almost one-third of all holdings in Scotland are smallholdings (c. 20,000) and although occupying just 2% of all agricultural land are recognised as playing a vital role in sustaining rural communities, supporting better connections to the land and making a crucial contribution to the rural economy.

There is a subset of smallholdings called Small Landholdings that are a hybrid of a croft and an agricultural holding, regulated under the Small Landholdings Acts. Importantly they are tenanted holdings, with no right to buy. Although there are only currently 74 such smallholdings in the country, they may be a useful long term tenancy model for community woodland owners outwith the crofting counties looking to establish third party residency and management arrangements for parts of a woodland.

Woodlots

A woodlot is a small area of woodland, up to 50ha but more typically 10-20ha, that is managed by a woodlot licence holder using small scale forestry techniques according to an agreed Allowable Annual Cut. The concept comes from Canada: woodlot licences were established in British Columbia's Crown forests after World War 2. They were designed to give rural people a stake in their local forests and there are now over 800 woodlot licences in the province.

Scottish Woodlot Licences have been inspired by the programme in British Columbia and are applicable anywhere in Scotland. A woodlot licence holder's agreement stipulates management plan terms, an Allowable Annual Cut (AAC) and annual rent. The licence holder is responsible for all management including harvesting & restocking, as well as health and safety and public liability. There is no right-to-buy with woodlots and there is no set length for a licence: three to five-year lease agreements are common.

Harvested timber belongs to the licence holder who is free to sell or add value to it. The AAC is set according to the productivity of the woodland and is calculated to ensure harvesting levels are sustainable. The annual rent is set based on anticipated income from harvesting, less costs, restocking, insurances, etc., and an allowance for management time.

The Scottish Woodlot Association is a membership organisation which assists and supports woodland owners and potential woodlot licensees to establish practical and mutually beneficial lease arrangements,

management plans etc. They have developed templates to assist with setting up woodlot licences and maintain a list of available woodlots.

Hutting

Hutting is the building and enjoyment of simple structures (usually wooden) for living, working and recreation in the countryside. Scotland has a relatively modest hutting tradition compared with Europe and North America although there are some long-established sites e.g. Carbeth. In recent years, the Thousand Huts campaign, led by Reforesting Scotland (RS), has stimulated considerable enthusiasm for hutting and delivered some significant changes to planning policy and legislation.

A 'hut' is defined in Scottish Planning Policy as: *"a simple building used intermittently as recreational accommodation (i.e. not a principal residence); having an internal floor area of no more than 30m²; constructed from low impact materials; generally not connected to mains water, electricity or sewerage; and built in such a way that it is removable with little or no trace."* Whilst Planning Permission is required for new huts, they can be exempt from most Building Regulations and the requirement for a Building Warrant as long as the criteria listed above are met.

The ethos of hutting is therefore more in terms of individual access to the woodland environment for recreational, leisure and well-being objectives rather than for woodland management., although a hutting area could include space for individual or communal horticultural activities. RS recommends that groups of hutters in a hut site form a Hutters' Trust (or similar body) to manage the site. This Trust can be responsible for sharing costs and work to make the site viable for all.

The Thousand Huts campaign has published guidance on the planning, development of huts and hut sites to help applicants or planners considering new hut developments, a Good Practice Guide to Hut Building to help hut builders navigate the complex range of relevant technical issues and a Voluntary Code of Conduct for hutters and landowners.

Benefits for Community Woodlands

All four models have the potential to generate a modest income through annual rental. Croft rents are traditionally low but could be higher if there was an element of timber sales income included. The initial set-up process (particularly for woodland crofts) will require significant administrative effort on the part of the community group; this could be recouped through an initial entry fee payment, which might also reflect the value of any other fixtures or improvements included in the lease (e.g. roads, sheds, drainage, fencing).

A more significant attraction for community woodlands may be the opportunity afforded by these arrangements to deliver some of the group's objectives, particularly with respect to affordable housing (for woodland crofts and possibly smallholdings) and encouraging local rural development. Involving more people in woodland management can stimulate social enterprise and innovation, diversify management regimes and increase engagement between people and woodlands.

Additionally, where the community group has limited capacity, they provide a valuable

opportunity to delegate management responsibility over sites that might otherwise be difficult or expensive to manage.

All four models can be lease-only, to ensure ultimate control remains with the community landowner, and in all cases, the proposals will require careful integration with the overarching forest management plan.

These models are most likely to be of interest to community woodland groups with substantial landholdings which are not currently used or managed intensively: it is generally easier to establish them on relatively undermanaged land, or, as in the case of the NW Mull and Kilfinan woodland crofts, on land that has recently been clearfelled.

In these cases the community acquired woodland and created crofts several years later. It is possible to include crofts, woodlots and/or huts in the community group's proposals at the acquisition stage; they would need to demonstrate that their proposals would bring significant community benefit, over and above the benefits to the individual crofters, woodlot licence holders or hutters.

Guidance, support and resources

Woodland Croft Partnership (supports and promotes woodland croft development)

www.woodlandcrofts.org

Scottish Woodlot Association (assists and supports woodland owners and potential woodlot licensees) www.scottishwoodlotassociation.co.uk

Reforestation Scotland Thousand Huts Campaign (campaigns for hutting and publishes detailed guidance) www.thousandhuts.org

Community Woodlands Association (advice and support for community woodlands)

www.communitywoods.org

Making Local Woods Work (advice, tools and resources for woodland social enterprises)

www.makinglocalwoodswork.org

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