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Adapting Community Right to Buy processes for the urban context: community perspectives.

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Abstract

Community groups in urban Scotland have been able to use Community Right to Buy (CRtB) mechanisms to secure ownership of land since April 2016. Concerns have been raised that elements of the process itself may be a barrier to groups seeking to utilise it, undermining the Scottish Government's goal of 1 million acres of land in community ownership by 2020. The relative speed of urban land markets compared to rural, and the greater density and diversity of cities may be contributing factors not previously taken into account. CRtB tailored for the urban context could help deliver more community land ownership in Scotland's cities, and the social and economic benefits this provides.

The research focusses on urban community group experiences of the first stage of the CRtB process: registering an interest in land. Holistic-case studies developed from semi-structured interviews of two Edinburgh-based groups are presented, one successful and one not. Analysis identifies three key issues that need to be addressed and solutions offered by community groups. Recommendations are presented in the form of six policy proposals for adapting the process of registering an interest in land.

Key words: Community Right to Buy, public policy, Scottish Government, urban, policy adaptation, adapt, IAD, Institutional Analysis and Development, Ostrom, case study, CRtB, review, Action Porty, Inspire East End, Edinburgh, Scotland.

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Abbreviations, Pseudonyms and Definitions

Abbreviations

Abbreviation	Meaning
AP	Action Porty
CB	Community Body
CLS	Community Land Scotland
CofS	Church of Scotland
CRtB	Community Right to Buy
DTAS	Development Trust Association Scotland
IAD	Institutional Analysis and Development
IEL	Inspire East End Ltd
RCIL	The Register of Community Interests in Land
SLF	Scottish Land Fund

Pseudonyms

Pseudonym	Referent
CofS	Landowner representative
GovRep	Community Land team representative
Inspire1	Inspire East End Ltd Board Member no. 1
Inspire2	Inspire East End Ltd Board Member no. 2
Porty1	Action Porty Board Member no. 1
Porty2	Action Porty Board Member no. 2

Definitions

- *Community Body (CB)*: refers to a local community organisation with aims to benefit the community. Legislation stipulates that to be regarded as compliant by the Government for the purposes of the CRtB process, a CB must be one of three different legal entities with compliant Articles of Association: a company limited by guarantee (CLBG), a Scottish charitable incorporated organisation (SCIO), or a community benefit society (BenCom).

- *Community of place*: A community of place is a community of people who are connected together because of where they work, reside, or spend a significant portion of their time. A compliant CB must be a community of place with a defined

geographical area. 75% of its membership must reside within this area, and be registered to vote in local elections.

- *Community of interest*: A community of interest is defined not by geography but by some other factor that draws people together, such as religion, identity, or a particular leisure interest (e.g. rambling).

- *Land*: Unless specifically indicated in the text, references to the acquisition of 'land' or 'asset' through CRtB processes understand 'land' or 'asset' to refer to land alone, buildings alone or both.

- *'Late' (non-timeous) application*: refers to cases where a community body (CB) applies to register an interest in land after moves have been made by the landowner to dispose of it. Late applications are subjected to stricter tests before validation. Additionally, the landowner can foreclose the process at any stage by entering into a contract to sell the land. If the property is put on the open market, a closing date is set by which offers need to be made by all interested parties after this which a contract may be signed. Late applications therefore burden CBs to submit their application as quickly as possible.

Acknowledgements

Chapter 1: Introduction

What is Community Right to Buy (CRtB)?

CRtB is a Scottish legislative mechanism to enable the transfer of land to community ownership. Subject to a registration process and certain restrictions, CRtB offers community bodies a 'right of first refusal' to buy land should it be marketed for sale. CRtB has been described as "a non-confiscatory tool for transferring title, one that requires willing sellers and buyers and a commitment to fair compensation" (Bryden & Geisler, 2005: 32).

CRtB mechanisms form part of a growing suite of policy mechanisms that can be utilised to take ownership of land for the common good. In addition to acquisition of land for voluntary, negotiated sale, these include asset transfer from public sector bodies, the new (2018) community right to buy abandoned, neglected or detrimental land, and the forthcoming (2019) right to buy land to further sustainable development.

Originally applicable to rural areas (defined as having less than 10,000 inhabitants), CRtB was expanded to include urban areas in April 2016. The right was granted by the Community Empowerment Act (2015), amending the Land Reform (2003) Act, and undergirded a policy ambition that 1 million acres of land be in community ownership by 2020 (Scottish Government, 2017a). The 2015 Act made a series of adjustments to the process laid out in 2003, but none were made specifically as adaptations to its expansion to the urban context.

The importance of Community Right to Buy

Scotland has a growing land-reform movement aimed at addressing concentrated patterns of land-ownership and its associated social and economic implications for the wider population. Historically, State, market and legal apparatus have gradually reduced common ownership of land. As a consequence, "just over 1200 landowners hold two-thirds of Scotland's land, a level of concentration unrivalled elsewhere in Europe" (Bryden & Geisler, 2005: 28). It follows that land and its wealth are held in the hands of few people.

Since the turn of the millennium, this has begun to change. By June 2017 there were 562,230 acres of land owned by over 400 community groups, representing 2.9% of the country's total land area (Scottish Government, 2017a; Cunningham, 2018). But 93.7% (527,252 acres) of the land in community ownership, however, is located the Highlands and Islands (Cunningham, 2018). The expansion of CRtB mechanisms to cover urban areas is an attempt to address this

imbalance and enable the benefits that have accrued in rural areas to also emerge in urban contexts.

A CRtB Impact Evaluation in 2015 offered three cautions. First, that "despite relevant support measures being put in place, uptake of the 2003 CRtB provisions has been relatively limited" (Scottish Government, 2015: 14). Second, that systematic research into the impacts of community land ownership has been sporadic. And third, that it is difficult to assign causality for outcomes to one or other mechanism given the complexity of inputs and outputs from the overall system. For example, the existence of CRtB mechanisms may have encouraged landowners to engage in more voluntary transfers of land, and funding mechanisms like the Scottish Land Fund have an important influence.

The Impact Evaluation also highlighted social and economic benefits to community land ownership: rebuilding community capacity, enhanced participatory governance, increased community confidence and belief, enhanced community involvement, increased private enterprise, and improved land management (Scottish Government, 2015). As part of a suite of policy tools, CRtB has the potential to maximise these benefits for communities across Scotland. These outcomes in part lie in the quality of the process designed for implementing the policy.

The need for research into CRtB in the urban context

The use of CRtB mechanisms in urban Scotland is still at an early stage. As of August 2018, 7 urban Community Bodies (CBs) have made 12 applications to register an interest in land. 5 were approved, 1 withdrawn, and 6 were rejected (5 from the same CB). Only one of the successful groups has gone on to successfully acquire an asset. Consequently, Chorley (2018a: 13) has described urban community land ownership in Scotland as "minimal, varied, and cautious."

Concern about the implementation gap of CRtB policy has been aired consistently since 2003. This gap refers to "the difference between the expectations of policy-makers and…actual policy outcomes" (Cairney, 2012:34). Despite this, the 2015 CRtB Impact Evaluation concluded that "fundamental change was not required." (Scottish Government, 2015: 15).

In 2018, the situation has changed. The Scottish Land Commission was commissioned to conduct a wide-ranging review, in part to "make recommendations on simplifying and improving the process to make it easier for community groups to achieve a successful outcome"

(Cunningham, 2018). As Bryden & Geisler (2005: 32) have noted, "for community-centric land reform to succeed, the insights of resident populations, land reform practitioners, and scholars will need frequent airing, a process that will thrive only if there are successes among and evaluations of the early buy-outs."

Previous studies of CRtB mechanisms in the urban context have focussed on building the capacity of CBs to navigate the process (Chorley, 2018a). This research instead questions the processes themselves.

This dissertation focusses on the insights and experiences of two urban CBs involved in CRtB processes. It asks how the process of applying to register an interest in land could be adapted to better enable community groups achieve their aims. Foundational to the premise of the research is Elinor Ostrom's conviction that "the more that people [are] involved in constructing the rules of governance, the better the rules would work" (Wall, 2017: 10).

Chapter 2 presents a brief overview of the process, introduces two key debates and outlines some implementation challenges. Chapter 3 explores the theoretical context, particularly the work of Elinor Ostrom. It ends with a series of propositions drawn from the previous two chapters, which form the analytical framework for the research. Chapter 4 outlines the key elements of the case study methodology used, with further detail provided in a technical appendix. Chapter 5 presents two short overviews of the cases. Results and analysis appear in Chapter 6 along with process solutions offered by CB participants. A discussion follows in Chapter 7, along with policy recommendations. Chapter 8 details conclusions, discusses the limitations of the research and suggests options for further research.

Chapter 2: Understanding Community Right to Buy

In this chapter, an overview of the CRtB process is followed by an exploration of two key debates about CRtB mechanisms. Previously encountered challenges and their proposed solutions are then summarised.

The process of Community Right to Buy

There are two stages to the implementation of Community Right to Buy: registration and activation. First, an application is made to register an interest in land. This is assessed by the Community Land Team, part of the Scottish Government responsible for overseeing the process. They make a recommendation to the Scottish Ministers, represented by the Cabinet Secretary for Environment, Climate Change and Land Reform (currently Roseanna Cunningham MSP). If approved, the land in question is entered on the Register of Community Interests in Land (RCIL), and the landowner notified. An appeal option allows landowners and community bodies (CBs) to challenge the decision.

The second stage involves activation of the assigned right when the land in question is put on the market. If the land is marketed at any point within 5 years of registration, the community must be informed and offered first chance to buy the land. Re-registration can extend this time period.

Submitting an application for the first stage (registering an interest) involves the following components (Scottish Government, 2016b):

- The organisation's details, including a *definition of the community boundary*. This is a geographic boundary that also defines the community demographic and population size.
- Information about the land to be registered, including a boundary description and map, and an explanation of how the community is connected to that land.
- Details of current ownership of the asset.
- Evidence of *community support*, usually a petition of citizens registered to vote within the stipulated geographical boundary.
- Proposals for the land: evidence that these meet the aims of economic, social and environmental *sustainability*.
- Evidence that the application is in the *public interest*.

In addition, an application assumes that *community body compliancy* has been attained: the constitution of the CB must establish it as a community of place rather than a community of interest (see definitions, above), with only certain types of governance structure allowed (Scottish Government, 2016a). *Late (or 'non-timeous') applications* occur when a CB applies to register an interest in land after moves have been made by the landowner to dispose of the asset. The italicised components are particularly important and will be referred to throughout the study:

Component
1. Community body compliancy
2. Definition of the community boundary
3. Community support
4. Sustainability
5. Public interest
6. Late applications

Table 1: Key components of registering an interest

After the application is submitted, a statutory period of assessment is imposed: 63 days for timeous applications, 30 days for non-timeous. Both include time for the landowner to make comments on the application and the Minister to make a decision. If the application is late, higher expectations are levied to fulfil components 3-5, and the CB has no ability to comment on the landowner's own submission, reducing the over-all time-limit for this period accordingly. Apart from an appeal option, this part of the process ends with the minister's decision as to whether the application is declined or registered.

The Development Trust Association for Scotland (DTAS) has designed a detailed route-map broken down into four phases (Appendix 1). The section of the DTAS route-map particularly concerned with registering an interest is shown in Figure 1. Guidance is also available from the Scottish Government (2016a; 2016b).

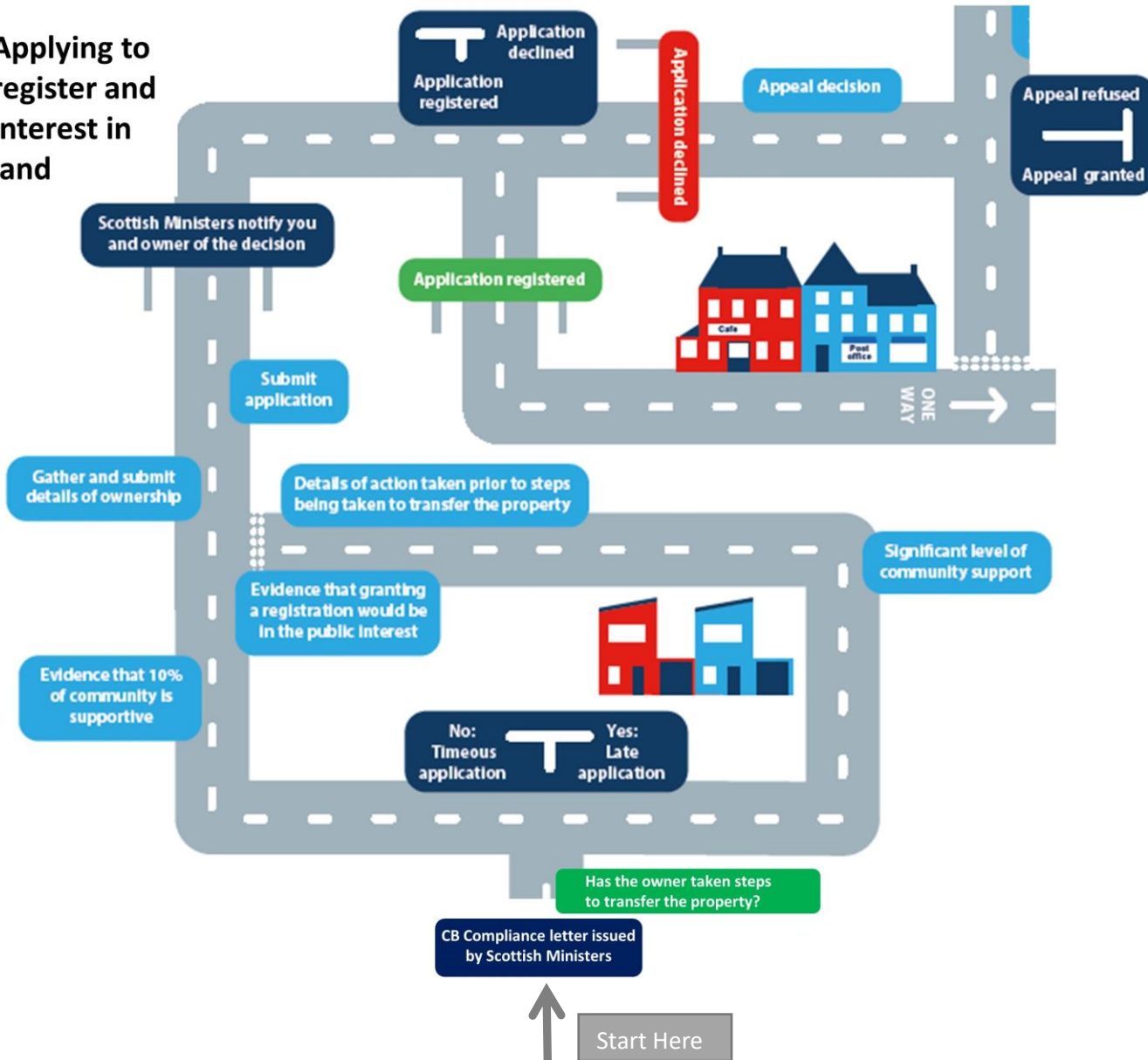Fig.1:
CRtB Route-map:
Applying to register an
interest (DTAS, 2018)

CRtB legislation: Two key debates

A key question is the extent to which CRtB is understood as a primary mechanism of transferring land to community ownership, or a 'back-stop' power designed to stimulate landowners to engage proactively in negotiated sales to CBs. Concerns have been expressed that public expectations are of the former, when in reality negotiated sale remains the most important mechanism (Chorley, 2018a).

A second debate, rendered more urgent when CRtB is understood as a primary mechanism of transfer, involves the complexity of the process. Repeatedly highlighted as a barrier to community groups (Scottish Government, 2014a; Scottish Government, 2015; Chorley, 2018a), it is particularly the case when an application is deemed 'late' (or 'non-timeous'). Others counter that the process should not sacrifice rigour for ease of use, pointing to the need for accountability should public funding be secured, healthy caution as to the capacity of all CB's to run their own assets, and safeguarding land-owner rights (Bryden & Geisler, 2005; Hunter, 2018).

Assessing the Right to Buy: what can we learn?

Chorley (2018a) provides an excellent initial overview of the state of urban community land ownership in Scotland, covering groups that have attained land through asset-transfer, voluntary sale and CRtB mechanisms. Based on a broad-ranging, questionnaire-based study of a large number of groups (including both CBs featured in this present study), she focusses on Action Porty as a model case, being the only urban group that has successfully registered and activated a CRtB application. However, Chorley's conclusions are limited, in that they focus on the importance of increasing support and capacity-building for groups, without exploring CBs experiences of the technicalities of the process, or their insights as to how they might be changed for the better.

From the literature reviewing community land transfer mechanisms more generally, three stand out. These shed light on various previously-identified issues that could contribute to an implementation gap in CRtB mechanisms when applied in an urban context. Aitken et al (2011) and Roberts & McKee (2015) wrote reports respectively for the Joseph Rowntree Foundation and the Hutton Institute. The former is a UK-level survey of the experience of CBs in owning assets, the latter explores the barriers to land-based activities in Scotland. A third survey by

Bryden & Geisler (2005) explores lessons learnt for community land ownership soon after the introduction of the 2003 Land Reform (Scotland) Act.

The following table breaks down a selection of challenges identified in these and other publications, focussing on issues connected to governance and credibility of CBs, the implications for CBs of complying with various procedural requirements, and the market context. The propositions outlined at the end of Chapter 3 take account of these insights.

No.	Issue	Relevant registration component (see Table 1)
	Governance and credibility	
1	"Community groups may suffer from a <u>lack of legitimacy</u> which discourages landowners from selling or leasing property rights to the group" (Roberts & McKee, 2015: 20).	All
2	"Will communities <u>meet democratic standards</u> of governance?" (Bryden & Geisler, 2005)	Defining the community boundary, Public Interest
3	"To speak of community-centric land reform raises a long list of issues under the heading of State–community relationships, including <u>power-sharing and sovereignty</u>" (Bryden & Geisler, 2005).	CB compliancy
	Difficulties in complying with procedural requirements	
4	Fragmentation of social cohesion in urban communities: "<u>frailty of social capital</u> will render the buyout problematic" (Bryden & Geisler, 2005).	Sustainability
5	Avoiding non-timeous status in an application requires significant proactivity but <u>communities often mobilise reactively</u> (Aitken et al, 2011; Scottish Government, 2015; BBC, 2006).	Late Applications
6	"<u>enough people…to take on responsibility for assets</u> – the costs to individuals running assets can be high and it is essential that this is not just left to the few" (Aiken et al, 2011: 70).	Sustainability
7	"<u>Reconciling different community interests and needs</u> was identified as a significant challenge and one that might stretch a small group beyond its capacity" (Roberts & McKee, 2015: 15; Aiken et al, 2011: 59).	Public Interest
8	The <u>process is complex and time-</u>consuming for CBs to implement (Scottish Government, 2014a, 2015; Roberts & McKee, 2015; Aiken et al, 2011: 78).	All
	Market context	
9	The <u>heightened pace of urban land markets</u> has implications for the application process (Munton, 2009, Chorley, 2018a).	Late Applications

Table 2: Key challenges faced by CBs engaging in community land transfer.

One approach to overcome these issues, majored on by Chorley (2018a), is to strengthen CB capacity to self-organise and navigate the existing process. An alternative approach draws on the conviction that the legislation and policy implementation itself has structural problems, from both a landowner and CB perspective. Carpenter (2005: 4) states: "if pre-registration were easier, the legislation might work as intended." Past proposals for reform include extending timeframes (Scottish Government, 2015), clarifying the validation requirements for late applications (Scottish Government, 2014b), and smoothing the buyout process.

Proposed solutions also need to consider protection of landowner rights (Scottish Government, 2014a: 98). This includes compliance with the legal property rights of the landowner, and the European Convention on Human Rights.

Chapter 3: Literature Review

The literature review starts with an overview of the resurgence of 'the commons' in Scotland. It then explores the underpinning theoretical foundations, including: rational choice theory, new institutionalism, Elinor Ostrom's design principles for commons management and her Institutional Analysis and Development (IAD) framework. Starting propositions for the research then conclude the chapter.

The resurgence of the commons in Scottish land policy: opportunities and constraints

In high-democratic societies, socio-political theory and practice tend to assume the State or the market, or some combination of both, are necessary for governing citizen interactions institutionally. The predominance of theories of 'rational self-interest' have led to institutional frameworks of State or market being seen as the only way to secure collective agreement around resources and relationships. The alternative, in which common resource is sustainably managed by a self-organising collective, has been discredited and downplayed over time (Wall, 2017).

The land reform movement has recently created an upsurge of interest in common ownership of land and property. Tarinski (2016: 1) articulates this alternative well: "the logic of the commons goes beyond the ontology of the nation State and the 'free' market. In a sense it presupposes that we live in a common world that can be shared by all of society without some bureaucratic or market mechanisms to enclose it." In shaping market processes, State intervention can create 'breathing room' for a new commons to flourish. The focus on communities as agents, and community flourishing as an explicit goal, moves away from classical understandings of land reform: "it would seem that Scotland's land reform is simultaneously top down (State authorized and assisted) and bottom-up (privileging communities)" (Bryden & Geisler, 2005: 32).

CRtB is just such a State intervention. It attempts to change the culture of the use, value and ownership of land in favour of community ownership. The State uses its power to regulate the market in favour of the commons, focusing on "local institutional factors, over which it has substantial influence" (Adams, 2013). However, within a legal and market system still designed to elevate the rights of private owners, re-imagining and enabling the nascent movement in policy terms requires careful articulation. The State can strengthen the rights of CBs within the

wider system, but legal, market-based and other constraints remain. The State itself can be one of those constraining forces. State-centric assumptions can continue to pervade process design, creating new problems even as it attempts to solve others (Bryden & Geisler, 2005). Bureaucracy can stifle common life with its expectations (Illich, 2009; Wall, 2017). The State can also be oblivious of, or actively ignore, emerging issues (Cairney, 2012: 25). The State can in this way undermine its own policy goals.

Theoretical foundations: rational choice theory, new institutionalism and Elinor Ostrom

CRtB mechanisms reflect *State* intervention in the *market* in favour of the *commons*. Any such intervention involves an intricate balancing of power-dynamics between the three spheres, and can open up complex theoretical and ideological debate. Although required, any analytical framework used risks oversimplifying it (Cairney, 2012).

Rational-choice theory involves adapting economic principles to policy analysis with a "commitment to explain socio-political outcomes as the aggregation of the decisions of individuals." (Cairney, 2012: 79) It enables analysts to make reasonable assumptions about how individuals relate to the specific institutional environment within which they operate, when operating under particular conditions. It has been used to try and understand complex 'collective-action' problems that can arise among multiple actors and institutional processes. Collective-action problems emerge "around the challenges associated with coming to agreement around a set of rules that could benefit a group, but where those rules might impose some costs on particular actors who must comply with or enforce those rules" (Heikkila & Andersson, 2018: 311). They include, for example, rules to reduce pollution from industries, or manage a shared resource like a community asset.

Varieties of rational-choice theory can be used to answer three types of policy question (Cairney, 2014). First, *to what extent should the State replace the market (or the commons)*? Second, and following on from this, *will State action improve collective outcomes?* and third, *what are the unintended consequences to government action?* Elsewhere he observes that:

> "since State action generally involves a degree of coercion (including taxation and regulation), it is important to consider how appropriate each intervention is, and how it might compare to solutions based on trust within particular groups, non-State incentives, or private mechanisms to ensure cooperation."

He pinpoints the work of Elinor Ostrom as an approach that demonstrates "potential for non-market solutions to collective action problems based on a combination of trust and less impositional means (than government institutions)" (Cairney, 2014). Generally, Ostrom has sought to show the value of exploring options for self-regulation among civil society without the intervention of State apparatus, advocating "co-management or full transfer of management to local communities." (Bryden & Geisler, 2005: 25). She theorised that "individuals, local communities, governments, or any group of actors or organisations working together can solve collective-action problems as they design and adapt institutions" (Heikkila & Andersson, 2018: 311). CRtB mechanisms can be seen as an attempt to resolve the collective-action problem of enabling more CBs to control shared assets by first ensuring that they are fit to do so. In the process they regulate how various actors involved experience the costs and benefits of the situation.

Understanding the complexity and implications of the interface between State, commons and market is central to Ostrom's work, which explores how institutional context shapes policy formation, implementation and outcomes. Her work is a form of *new institutionalism,* which breaks from *classic institutionalism* (e.g. John Dewey's work). Varieties of new institutionalism explain institutional change through rational-choice theory rather than social or political desires, as favoured by classic institutionalism (Ostrom, 2010). Her work lends itself well to an assessment of the appropriateness, extent and success of State intervention which occurs at the boundary of the market and the commons, like CRtB. Her sensitivity to the perspectives of the commons is particularly apt for this study.

Understanding the institutional context

New institutionalism understands institutions to be composed of "regular patterns of behaviour and the rules, norms, practices and relationships that influence such behaviour" (Cairney, 2012: 69). Defining institutions in this manner can be difficult, because the rules, norms and strategies that shape them are often hidden and understood only through the shared life of their participants (Wall, 2017). Landowners such as the Church of Scotland, community bodies and the Community Land team all operate within their own institutional frameworks and are represented by agents who are themselves shaped by those same contexts. The public policy framework of CRtB is *itself* an institutional arrangement that sets the 'rules-of-the-game' for a particular mechanism of community land transfer between institutional actors. Stepping back and looking from a wider angle, all of the interactions of these institutions also operate within

a wider institutional system. This includes the Scottish legal system, regulation by charitable oversight bodies, and the market structure of solicitors, land agents and other potential buyers.

Cairney (2012) writes that institutions benefit us in at least three different ways. They enable us to solve 'collective-action problems,' such as organising for community development or processing the sale of property. They help reduce 'transaction costs', for example, by reducing the risk to buyers and sellers in the open market. They also address the 'problem of instability' by strengthening governance and keeping community groups accountable for their resources, or the State for its use of power.

Design principles for commons management

A core aim of the CRtB mechanism is to ascertain the viability of community institutions (CBs) aspiring to running an asset for the common-good. The logic is that only viable CBs should benefit from a right of first refusal in the market. Attaining that right is the incentive for CBs to pay the 'cost' of establishing proper governance and evidencing community support. Registering an interest is thus part of an institutional process that provides 'rules-of-the-game' for such validation. Gaining ministerial approval signifies completing a 'gateway check': an official seal of approval that forms the basis of future monitoring. In this way, the process can 'weed-out' CBs that might otherwise collapse under the weight of owning and running an asset.

The CRtB process establishes rules for asset transfer under certain conditions. But it also encodes a certain ideal understanding of commons management which a CB is expected to measure up to when applying. CRtB mechanisms establish rules at a 'level above' the community groups themselves, and then define how a CB seeking to acquire land should organise its governance and aims. These rules are particularly important during the stage of registering an interest in land. Evaluating the quality and appropriateness of these rules requires a theoretical perspective to help develop initial theoretical proposition(s).

Elinor Ostrom developed eight design principles for successful commons management. These were developed for common-pool resources like fisheries but also have resonance for management of land and community property. Ostrom's principles can help interrogate and critique the ideals of governance encoded by CRtB processes. They are listed in Table 3 below.

No.	Design Principle	Explanation
1	An asset should have clearly defined boundaries of use	Defining boundaries of who may use and manage the asset reduces the problem of 'free-riders' and makes it more likely to attain long-term sustainability with reliable community ownership.
2	Rules for commons use must fit local circumstances	Design rules for good governance are best when adapted to local context.
3	Participatory rule-making	Enabling participation in rule-making aids successful outcomes
4	Effective monitoring	Rules will only work if they are policed.
5	Graduated sanctions and the importance of trust	Good will on its own will not prevent abuse of the commons. Appropriate penalties for not complying with the rules are important, but only if delivered in a measured in ways that retain trust.
6	Low-cost conflict resolution	Rules can be interpreted in different ways, even when they are agreed collaboratively. Differences that arise can be mediated by an agreed judicial body, no matter how informal.
7	Minimal recognition of the right to organise	Enabling self-governance by community groups aids outcomes.
8	Commons need to be part of nested enterprises	Good process design fosters and monitors the integration of a community group with its surrounding ecology, preventing duplication of resources and ensuring it is well-integrated.

Table 3: Ostrom's 8 design principles for common-good asset management (Wall, 2017: 29-31)

Ostrom's third principle, 'participatory rule-making', resonates with the approach of this research, which seeks to foreground community perspectives on how CRtB process rules can be re-developed. Her theory reinforces the idea that successful outcomes can be enabled by involving participants in such reviews. Her second principle, meanwhile, states that rules must fit local circumstances, affirming that adaptation to local contexts can aid success. The seventh rule is the 'minimal recognition of the right to organise.' This suggests that creating as much space for CBs to self-organise can aid successful outcomes in the long term. The propositions outlined at the end of the chapter takes account of these insights.

The Institutional Analysis and Development Framework as an analytical tool

Ostrom's work offers not just a theoretical vantage but also a framework of analysis. In an attempt to learn how to reform institutions she went beyond the eight design principles and created the Institutional Analysis and Development (IAD) framework. IAD is an analytical tool used to map and understand the micro-institutional context. It is rooted in Ostrom's belief that "policy analysis must include a careful survey of how participants actually do things and why they do things" (Wall, 2017: 104). In the IAD, institutions are understood in a broad sense to "refer to the shared concepts used by humans in repetitive situations organised by rules, norms and strategies" (Ostrom, 2010: 263). It does not offer solutions but guides the researcher to ask the right questions as they explore deeper into an institutional context (Heikkila & Andersson, 2018). It draws on rational-choice theory in trying to understand how institutions shape the choice of individual actors, but also sees those actors as fallible learners that can shape the rules as things progress (Heikilla et al, 2018). A glossary of IAD terms is available in Appendix 2.

Rules refer to shared prescriptions ('must', 'must-not' or 'may') that are mutually understood and predictably enforced in particular situations by agents responsible for monitoring conduct and imposing sanctions. Heikkila & Andersson (2018: 318) suggest the follow types of rules, among others, may be in use: "what are actors allowed to do or not do (authority rules)? Who must provide information to whom (information rules)?" And how do "actors enter or exit [the action] situation (boundary rules)"? *Norms* refer to shared prescriptions that tend to be enforced by the participants themselves through internally and externally imposed costs and inducements. *Strategies* refer to the "regularized plans that individuals make within the structure of incentives produced by rules, norms and expectations of the likely behaviour of others in a situation" (Ostrom, 2010: 263).

The core unit of analysis in the IAD is the *action arena*. Action arenas include "an action situation and actors in that situation" (Ostrom, 2010: 267). It refers to the social space "where individuals interact, exchange goods and services, solve problems, dominate one another, or fight (among the many things that individuals do in action arenas)" (Ostrom, 2010: 268). An example might be the situation that results when a householder appoints an architect to submit a planning application to a local authority on their behalf. Several actors constrained by a variety of institutional discourses and policies then negotiate an outcome.

An action situation can be characterised by means of seven clusters of variables:

1. Participants
2. Positions
3. Outcomes
4. Action-outcome linkages
5. The control that participants exercise
6. Information, and
7. The costs and benefits assigned to outcomes.

Using this characterisation, IAD offers the ability to dissect and reconstruct the experiences of different participants in a particular action arena, and then assess the outcomes achieved (or not achieved) by particular throughputs of interactivity in that space.

In terms of evaluation, IAD has been developed to enable exploration of a number of different evaluative criteria, including questions around equity, efficiency, adaptability and robustness of particular action situations (Heikkila & Andersson, 2018). This dissertation is particularly concerned with the adaptability of the public policy of CRtB.

In summary, IAD offers a framework of common language and description to allow analysis of the interactions and processes *within* institutions and between different *types* of institutions. The common language of the framework enables analysis between CBs, landowners, and the apparatus of the Scottish Government. It encourages a focus on a particular *action arena,* in this case the process of registering an interest, from which the resulting patterns of interactions and outcomes can be analysed. And it helps shape the *evaluative criteria* of adaptability.

Initial propositions

The research aims to understand community perspectives on how CRtB processes may need to be adapted to the urban context. The following propositions emerged from the practical and theoretical exploration described over the last two chapters. It is against these propositions alone that the research results will be analysed and discussed, before conclusions are drawn.

It is proposed that:

1. CRtB processes take insufficient account of the different needs for support that CBs have, and the different strategies they employ.
2. CRtB processes take insufficient account of the density and diversity of urban contexts.
3. CRtB processes take insufficient account of the rapidity of land markets in urban contexts.

Chapter 4: Methodology

The research methodology is explained in four sections: the research question, research design, data collection, and methods of analysis. Design quality is then considered before the chapter ends with a flowchart of the process. More information has been provided in a technical appendix (Appendix 3 & following).

Research question

The research concept stemmed from an interest in evaluating whether CRtB might benefit from adaptation to the urban context, and learning from the perspectives of community groups themselves. Paul Cairney (2012: 259) asserts that inappropriate transfer (or expansion) of policy may occur "when not enough attention is paid to adaptation." The following research question emerged: how can CRtB processes be adapted to better enable community groups to take ownership of urban land? The research therefore sought to:

1. describe the experiences of the engaging with CRtB mechanisms by the two selected CBs and explain the outcomes for each.
2. discern links between them, and
3. articulate options for process adaptation offered by those CBs in light of their experiences.

Research Design

A case study methodology was chosen because case studies can be a primary evaluation method when the goal is "to illuminate a set of decisions; why they were taken, how they were implemented, and with what result" (Yin, 2014: 15). They are especially appropriate where "understanding is likely to involve important contextual conditions" (Yin, 2014: 16), as in this research. Further reasons are outlined in the technical appendix.

Case Selection

Only 7 suitable urban CBs were found on the Register of Community Interest in Land (RCIL, 2018). Given the small number of subjects, a one-phase approach to selection was made. Action Porty (AP) and Inspire East End Ltd. (IEL) were selected. For the criteria and process, see the technical appendix.

Both subjects evidenced the following similarities:

- Urban; utilised CRtB process since 2015; similar neighbourhood demographics; same landowner (CofS); same type of asset (former church); same aim ("the desire to retain and enhance an asset for community use and secure provision of the asset": Scottish Government, 2015: 20).

The subjects differed according to the following variables:

- Timeous application (AP) vs. late application (IEL)
- Successful (AP) vs. unsuccessful (IEL)

That one was successful and the other not lent themselves to a robust twin-tail design, "in which cases from both extremes (…such as extremely good or extremely bad outcomes) have been deliberately chosen" (Yin, 2014: 62). Of the alternative options for the case studies, none lent themselves as well to a 'twin-tail' design. During case selection process, a decision was taken to focus only on the process of registering an interest in land, in effect bounding the case (Yin, 2014). The IEL application did not proceed beyond this point, and a review of the literature showed that this part of the process was considered particularly onerous (Scottish Government, 2014).

Participant selection

It was decided that participants from community bodies should be representatives of the CBs at directorial or trustee level. In order to enable the exploration of plausible rival explanations (Yin, 2014), appropriate actors in the process *external* to the CBs were identified for interview. Key representatives of the landowner and Community Land team were therefore also selected.

Data Collection

Case Study protocol

A case study protocol was created to guide all aspects of data-collection and analysis, and to ensure that up-close and in-depth coverage of the cases occurred (Yin, 2014). Participants were required to review a participant information sheet before signing a consent form approved by the University ethics committee (see Appendices 4&5). Interviews were recorded using a laptop and microphone and also (for redundancy) by mobile phone app. Transcripts were typed from these recordings.

Interview questions and tools

A list of questions for the interviews was created (see Appendices 6&7). These were used as a topic guide with space for follow-up questions to be articulated during the interview. The DTAS route-map (Figure 1) was used to frame interview questions and help focus conversations on the process of registering an interest alone. It was also later used to help develop case study descriptions.

List of sources: Interviewees

Pseudonym	Description
CofS	Landowner representative
GovRep	Community Land team representative
Inspire1	Inspire East End Ltd Board Member no. 1
Inspire2	Inspire East End Ltd Board Member no. 2
Porty1	Action Porty Board Member no. 1
Porty2	Action Porty Board Member no. 2

Table 4: List of interviewees and pseudonyms

Documentary evidence

The following documents were analysed during the research. Further information about each is detailed in the technical appendix.

Documentary source
Previous questionnaires filled out as part of the written survey carried out by Chorley (2018b; 2018c).
Application forms downloaded from the Register of Community Interest in land (RCIL, 2018)
Documentary evidence provided by IEL (IEL, 2018)
Primary legislation (Scottish Government, 2018b; 2018c)
Secondary legislation (Scottish Government, 2018d)
CRtB Guidance notes (Scottish Government, 2016a, 2016b)
DTAS Route Map (DTAS, 2018)
Newspaper articles (Riddoch, 2017)

Table 5: List of documentary evidence

Methods of Analysis

Description of the analytic approach

A flowchart outlining the analytic process can be found in Figure 2. Three *analytic strategies* (in green) and *two analytic techniques* (in red) were used (Yin, 2014). The word table, which cross referenced challenges (listed as sub-topics under each component) with elements of the IAD, enabled a process of cross-case synthesis (see Appendix 8 for the word table template). The language of IAD helped make sense of the data and articulate what had been learned. Key to the analytical cycle was an assessment of the challenges discerned and solutions offered by CBs against a) other community representative's perspectives and b) the rival plausible explanations and insights offered by the Community Land team representative and the landowner. The data was then assessed against the original theoretical propositions and policy recommendations formulated. The evaluation benchmark of the research, rooted in IAD theory, was assessing the adaptability of CRtB mechanisms to the urban context.

Establishing design quality

Construct validity was established by using multiple sources of evidence (the Community land team representative, 2 interviewees each from 2 different community groups and the landowner). Internal validity was established by addressing rival explanations during a cross-case synthesis. External validity was strengthened by the similarity of so many variables between the case studies. This lends itself to a *literal replication* logic (Yin, 2014: 57) that predicts similar results despite contrasting outcomes. Design quality was further strengthened by establishing a chain of evidence, and by careful research to discern existing standard operating practice. Last, informants were allowed to review and correct their own transcripts before use.

Reliability was established by constructing a database of documentary evidence, defining a case study protocol, and documenting the analytical procedures that followed.

Analytic process: flow chart

INPUT

ANAYLSIS

OUTPUT

Transcription

Explore alternative perspectives of landowner and Community Land team.

Interview two representatives from each community body, using existing logic model as a reference tool

Evaluating

Evaluating extent to which challenges and solutions suggest need for adaptation.

IAD analysis of each transcript

Challenges, solutions, strategies, costs, benefits colour-coded. Also colour coded: Narrative data to help construct case study descriptions; Elements that link challenges to the urban context.

Appropriating narrative data

Extract for use in developing case study descriptions and timeline.

Deeper analysis

Uncovering *rules* and *norms,* Linking to guidance and primary/secondary legislation. Discerning links to urban context.
Assessment of data in light of theoretical propositions.

Initial categorisation

Organising data according to a descriptive framework
"Play" with the data (Yin, 2014:135)
Tabulation of data *by interviewee* in excel.
Data colour coded according to relevant component of registering an interest in land (see Table 1). Existing logic model used for reference.
Challenges listed as sub-topics under each component.
Relevant Costs, benefits, Strategies and suggested solutions appended to each sub-topic.

Interrogating

Interrogating CB member responses in light of landowner and CRtB teams perspectives, assessing rival plausible explanations.

Cross-case synthesis: Word table

Re-tabulation of data *by component and sub-topic* in excel
Responses by each interviewee now colour-coded and appended to each sub-topic for ease of comparison.

Triangulating data

Linking and evaluating data according to documentary evidence and transcripts of other participants.

Text in green refers to the implementation of a general analytic strategy (Yin, 2014:136-142)
Text in red refers to the use of an analytic technique (Yin, 2014:155-170)

Write individual case reports for use in vignettes.

Draw cross-case conclusions, discern rules-at-play, and modify propositions.
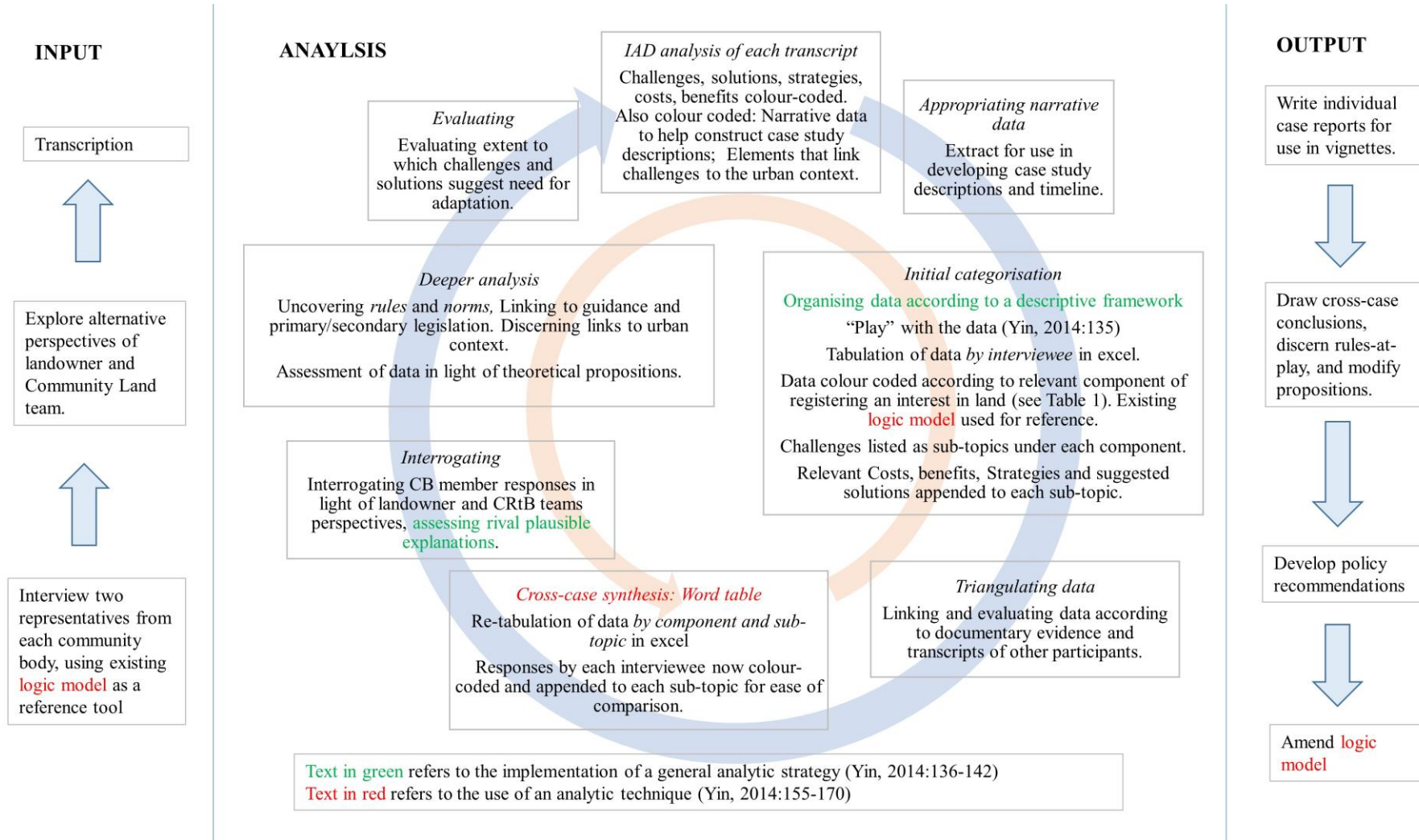
Develop policy recommendations

Amend logic model

Fig 2: Analytic process: flow chart. Discerning the rules-at-play in CRtB mechanisms.

Chapter 5: Case Study Overview

A brief introduction to the two case studies is followed by a table comparing key descriptors. The chapter ends with a narrative explanation of the story of their two applications.

Overview

Action Porty (AP) and Inspire East End Ltd. (IEL) are Edinburgh-based CBs set-up with the aim of registering an interest in land to buy former church buildings for community purposes (respectively, Bellfield Church, Portobello and London Road Church, in the area between Easter Road, London Road and Leith Walk: see figs. 3&4). Portobello as a community was anticipating a significant increase of homes in the coming years, putting pressure on existing community assets. IEL's case rested on their assessment that few to no suitable premises were available in their community for the type of community hub that they were proposing.

Fig. 3. Bellfield Church, Portobello, subject of the Action Porty bid (author's own).

Fig. 4. London Road Church, at the heart of the Inspire East End bid (Riddoch, 2017).

Both bids are from urban areas excluded from accessing CRtB until the Community Empowerment Act came into force in April 2016. AP's registration of their interest was deemed timeous and was approved in May 2017. The asset was formally purchased in September the same year. IEL's non-timeous application was submitted on August 31st 2017 but not approved by the ministers. Data explaining the similarities and differences of the two applications are given in Table 6 below:

Description	AP	IEL
Total population within community boundary	c. 7,500	10,886
Population registered to vote	c. 5,500	c. 7500
Type of CB	Charitable company limited by guarantee	Charitable company limited by guarantee
Date CB constituted	July 2016	July 2017
Compliancy notice issued by Community Land Team re: constitution documents of CB?	Yes	Yes
Date application to register an interest in land submitted	April 2017	August 2017
Number on governing board at time of application	c. 10	10
Number of members on submitting application	c. 200	10 (membership and directorship one and the same).
Type of application	Timeous	Late
Had landowner already been approached by speculative buyers before CB made their interest known?	No	Yes
Application requirements	AP	IEL
75% of membership resided within community boundary defined by the CB?	Yes	Yes
Time limit	Landowner agreed to not market the property. No specific time-limit.	Property marketed. Missives could be concluded at any time, but likely *after* closing date for offers, set at 31st August 2017. This was

		treated as the time-limit by IEL.
Nature of evidence required to prove public interest case	Standard	Needed to be 'strongly indicative' of being in public interest according to primary legislation (Scottish Government, 2018c).
Percentage of registered voters required for successful petition to demonstrate community support	10%	15%
Community right of response to landowner comments before Minister makes decision?	Yes	No

Table 6: Basic data about the two case studies

Characteristics of both case studies

In both cases, there was a time-lag in acquiring knowledge of the impending sale by wider community members who would form the CB. Members of the congregations connected to the churches found out much earlier. Both groups had early knowledge of the property coming to market, however, through connection to people in those congregations. In the case of IEL, but not AP, the congregational contact themselves became part of the committee of the new charitable body.

Both organisations started off as loose 'Friends of' groups, and in the early stages relationships with the landowner were difficult. But both groups changed their names and became more robust in terms of organisational and governance as the process matured. Both groups had to establish themselves from scratch in their communities because no groups with suitable constitutions (including a geographic definition within their constitutions) preceded them. Both groups emerged reactively after they became aware that the assets in question were coming on the market.

Both churches were owned by the Board of General Trustees of the CofS, not by the local congregations. The latter are generally responsible for running costs, not disposal. The landowner can be characterised as a large, charitable organisation proactively trying to dispose of the assets. The CofS is distinct from many other large landowners in that their charitable aims foreground the furtherance of religion as the main way they benefit the community. One implication is that by getting maximum value for the property, the General Trustees can benefit a local congregation in another place, and by extension benefit that *other* community.

Characteristics of the Action Porty application

AP's application is characterised as being a near-perfect example of how a bid should work (Chorley, 2018). Chorley describes it in the following terms:

- "While the Bellfield Church was the focal point of their community engagement campaign, they were able to demonstrate that they had a need that the building could help fulfil. The community used the Church for service provision that was in jeopardy if the building was sold to a third party, and they demonstrated additional uses for the building could provide if it were community-owned.

- They had a small, defined community, allowing for a much more efficient registration process.

- They were very engaged with the community and their needs…

- They had already done work to identify need before they even began their application process.

- They had a highly skilled and very organised board. However, they still found the process very demanding and difficult" (Chorley, 2018: 20).

Characteristics of the Inspire East End application

IEL's application can be characterised in the following way:

- They had a skilled group of directors.

- Circumstances meant that they were not able to start the process before the property was put on the market, which put further time pressures on the application. A disagreement exits as to the extent of knowledge that the CofS had about IEL's intent to submit an application. The CofS expected official communication with their legal or property departments. IEL assert that the church generally knew of the application and

that they considered this enough. With no official communication, the CofS marketed the property. The application was given a late designation.

- They focussed on ensuring they could prove community support and that their organisation was robust.

- IEL were able to meet compliance criteria for their governance laid down by the guidance (Scottish Government, 2016a; 2016b), and show that they had gathered enough community support through the petition. But in the official response to the application, the Minister said that the evidence submitted to prove sustainability and the public interest case was not comprehensive enough for the 'strongly indicative' requirement of a late application (RCIL, 2018).

- The Minister also said that IEL were not able to evidence that early-enough attempts were made to establish their vision before the property went on the market. Guidance states that "for a 'late' application, your CB is required to demonstrate that a person…carried out work to prepare an application to register an interest in land or undertook relevant steps towards securing ownership of the land by a CB." (Scottish Government, 2016). It was adjudged that one member of IEL knew about the sale as early as November 2016. That earlier moves were not made was counted against IEL.

Chapter 6: Results and Analysis

The chapter details participant responses around three key process issues: CB membership and long-term sustainability, proving public benefit and financial sustainability, and the importance of market knowledge. A table at the end of the chapter summarises solutions proposed by CB participants.

The Government representative (Govrep) interviewed for this research confirmed that no context-specific adaptation was made to CRtB processes during the expansion from rural to urban contexts in 2016: "the process is exactly the same, no matter where the land is, or what type it is." Retaining simplicity was a key reason for keeping a universal process. Trends distinguishing urban and rural groups were nevertheless observed by the same participant: "what you find is that [the] different groups find difficulties at different stages…for urban communities it's at the beginning" (Govrep).

All CB participants expressed the conviction that the complexity of the current process dissuades groups from applying, and risks undermining the overall policy goal to expand community ownership.

1. CB membership and long-term sustainability

The first issue raised addresses the question of appropriate membership size for a CB at the point of submitting the application to register an interest. AP had around 200 members at this point, IEL just 10. To be confirmed as 'compliant' regarding the legislation by the Community Land Team (a pre-requisite for submitting an application), a CB must have a minimum of 10 members. IEL were content with attaining this minimum because they had a strategy in place to expand membership after their registration was approved by the Minister. But the Community Land Team expected a higher number of members at the time of application so that they could be assured of the long-term sustainability of the initiative. Although not offered as an official reason for refusal, IEL's low membership was a factor in the recommendation that was made to Minister.

All participants held the view that urban communities are more diverse and dense than their rural counterparts. The density of urban communities meant that the population within the community boundary defined by the CB could be significantly higher than an equivalent

boundary drawn by a rural CB. The population within APs community boundary was c. 7500. For IEL it was 10,886. This holds implications for fulfilling other components of the registration: larger populations imply a larger number of registered voters and therefore more signatories required to evidence community support through the petition.

Strategies

Strategies around membership growth can be compared to strategies for attaining community support through the petition. A key strategy for AP was to keep their community boundary as small as possible during registration and to expand the geographic boundary only after the CRtB process was complete. A smaller population within the initial community boundary meant a lower target for the petition. This strategy could be characterised as 'keeping a tight rein before longer-term expansion.' IEL intended to implement the same strategy regarding community support.

Regarding membership, AP had significant time to grow before submitting their application. They were first constituted 9 months before submission of their registration of interest. IEL only had one month between constitution and submission. In part, they chose a different strategy because of this time-limit. At the time of application, directorship and membership for IEL were one-and-the-same: "you can't get people to join before it exists!" (Inspire2).

But there were also other reasons for their choice. IEL were convinced of the advantages of having a smaller group to implement decisions (Inspire 1&2). That such an approach could have benefits was acknowledged by the Community Land team (Govrep). IEL were also concerned to avoid the cost of raising false hopes in the community. This could be exacerbated by getting people involved before the security of registration had been attained, and then failing. At the time of application, IEL instead had an engagement strategy in place for expanding membership after registration was granted.

The idea that a CB might keep membership small initially but grow it later can be considered a variant of the strategy used by AP regarding attaining community support: a 'tight reins, latter expansion' approach. The Community Land Team did not, however, regard this variant as appropriate. Their rival explanation was that IEL had an active intent to keep their membership small, and were closed to new members:

> "one was a much smaller in proportion to the size of its wider community. From what
> I recall, [IEL] had deliberately not gone out to attract more members. This had been a

conscious choice, which we found strange because one of the things we look at in the public interest test is the capacity of the group…instead of just 10 to assess the capacity of, rather than the capacity of a membership of 200." (Govrep).

"AP had a larger group and were open to new members joining." (Govrep)

The Community Land Team's perceptions rang alarm bells regarding IEL's long-term sustainability and their motivation to ensure democratic standards. For the Community Land team, the issue of membership size took on more weight because it was an urban area: the larger population meant that a larger membership should be desired and expected. The rule defining a minimum of 10 members was designed for the rural context and not fully appropriate for urban areas (Govrep).

The Community Land team were mindful that the sale of the asset would immediately begin, had approval been granted. This is an outcome that distinguishes late registrations from timeous ones: the latter may not be activated by the landowner moving to sale for months or years. The Community Land team was also constrained by primary legislation to ensure that IEL's evidence of sustainability and public interest was 'strongly indicative' of compliance because of their late status. Although they recognised that it was a "subjective judgement" (Govrep), they deemed IEL's membership too low with regards to assessing their sustainability. This was a factor in the overall assessment to not approve the application given to the Minister (Govrep), although it was not highlighted in the official refusal notice.

IEL assert, meanwhile, that they were "absolutely" in favour of recruiting new members (Inspire2). Indeed, their understanding was that "the judgement call on our part was fairly okay," and that "the officials knew what we would do" (Inspire1). Community development is an organic process that requires careful stewardship over time and forcing membership growth can be costly to long-term trust (Inspire2). CBs experience accountability from other agents in the wider system, such as OSCR (the charity commission). If a CB is regulated by OSCR and the Scottish Land Fund have their own vetting procedure, is that level of scrutiny from the Community Land team required?

But from the Community Land team's perspective, IEL's strategy was not explained clearly in the written application, which they are constrained to assess the application on. The Community Land Team sustain that they did flag the issue in advance of the application being made. But no written guidance exists that might have clarified this expectation gap.

Another rival explanation should be noted. The fact that the application was non-timeous meant the group had less time to increase their membership before the application was submitted, and the Community Land team did not have as much time to explain the issues and negotiate (Govrep).

Solutions

One CB participant suggested that the Community Land Team should be more aware of the different ways that community groups develop and grow over time (Inspire2). Forcing an expectation of membership growth too early carries the risk of significant disappointment should an application be refused and might hinder more nimble decision-making processes at an early stage, especially amidst the pressure of a non-timeous application. A concern was expressed that for the Community Land Team to expect membership growth in this way was a form of intervening inappropriately in a CBs self-governance. Counter-solutions offered by the Government representative included ensuring that strategies are explicitly detailed in any application, or simply taking every opportunity to grow membership even when constrained for time. It was also pointed out that securing timeous status for an application is the assumed norm.

2. Proving public benefit and financial sustainability

The credibility of a CB is a critical issue in community asset transfer (Porty1). During the registration process, both AP and IEL progressed from loose 'friends of' groups to become more robust bodies in terms of governance, planning and community support. For a CB to demonstrate that their plans are both financially sustainable and in the public interest, however, "is probably the most challenging part of the process" (Porty1).

From the Government's perspective these components are crucial to ensure that the right-to-buy is bestowed on CBs that are credible, thereby justifying market intervention (Govrep). It was found that such strengthening also benefits the landowner, by mitigating risk. The Church of Scotland has repeated past experience with community bids falling apart and ultimately stalling market sales (CofS). In this sense, CRtB processes can offer "good value" (Porty1) to landowners looking to find credible buyers.

From the perspective of CB participants, however, the required form of evidence for evidencing public benefit and sustainability was unclear. The types or sources of evidence that might be suitable can only be discovered through conversation or researching prior successful

applications, not in any written guidance. For example, if financial integrity is proved in later stages by a full business plan, but the same level of evidence is not required for registering an interest in land, what exactly is required? One participant said:

> "they need to be much more definitive because certainly the clear impression we got from the community right to buy team was that all you had to do was evidence need in a kind of ad hoc way…but not to do a full scope of the community." (Inspire1).

> "If they said, 'You absolutely have to have a business plan', we would have got a business plan" (Inspire2).

Participants also said that representing the needs of the community when their contexts are so diverse and complex made the process more difficult.

Strategies

The relational support of the Community Land Team was recognised and welcomed. But learning what forms of evidence were sufficient for this particular stage in the CRtB process, and how to present them, remained an issue. Currently, the Community Land team advise applicants to look at other applications on the RCIL to get a sense of what works, and/or to contact a consultant to ask their advice. They guide groups to "make [the public interest and financial sustainability case] as strong as you possibly can. Write it as if you are applying to bank." (Govrep).

IEL's approach to evidencing the public interest case was to create a long list of people and groups who had indicated an interest in using space in the asset: "people were coming to us all the time…we thought just listing that would probably be enough in our application." (Inspire1)

Action Porty, conversely, assumed a strategy of building up their sustainability and public interest case iteratively over time. They relied on advice from the Community Land team, and encourage other groups to begin thinking about these components as early as possible (Porty1).

In part, IEL's application failed because not enough evidence of the right sort was submitted. This is particularly an issue for groups that have less of a developed sense of what they might want to do with an asset because it takes time to develop this well, involving community consultation processes and technical knowledge (Porty1).

But other factors were also involved. IEL felt "misdirected" (Inspire1) by the advice of their consultant and the Community Land team, who had encouraged IEL to focus primarily on

attaining CB compliance and evidencing community support, with the limited time they had. IEL's rival explanation is that they followed the Community Land's Team's advice as to best strategy, but eventually failed because they followed that strategy.

Mismatched expectations arise because the Community Land team have a dual-role: both supporting applicants and assessing their application. They need to remain neutral, offering only "advice, not guidance" (Govrep). Another issue is constraints on their resource, time and expertise: "the Scottish Government are good at developing and strengthening your public interest case where you've got a public interest case. If you haven't got one, how do they [help you] go about establishing one?" (Porty1).

The criteria by which evidence of public benefit is judged by the Government lacked clarity and was contested. One participant stated: "I don't think they know what public benefit is!" (Inspire2). From the Community Land team's perspective, meanwhile "public interest tests are very subjective tests…I appreciate it's hard for groups to know what to show us…the community might think it's in the public interest but we don't" (Govrep). Comparing AP and IEL's public interest cases, the landowner representative stated: "I'm not sure I could put much of a cigarette card between what they had written and what AP had originally" (CofS). However, IEL's non-timeous application had to be 'strongly indicative' of being in the public interest compared to AP's as the standards are more stringent for late applications (Govrep). Responses suggest that more could be done to make the process easier to understand: "guidance is very poor…I'm not surprised people don't quite know what they're meant to be doing" (CofS).

Solutions

CB participants suggested that official guidance should be made much clearer. It should detail what forms of evidence are appropriate at the stage of registering an interest to satisfy the public interest and financial sustainability requirements.

3. The importance of market knowledge

Results show that early knowledge that the assets in question would be marketed in future was foundational for both groups. It was essential to enable them to mobilise and attempt to register an interest. One participant considered AP "fortuitous" that their application was timeous (Porty1), and indicated that early market knowledge had been key.

Factors that also helped Action Porty's application included:

1. An insider with connections to the asset that shared the information, but didn't become a part of the group that eventually registered the bid.
2. The fact that this knowledge was received early enough by a group that represented the whole community and mobilised around the possibility.
3. Direct, early contact with the landowner in a way that the landowner perceived as an 'official approach'.
4. An internal process of getting the asset ready for market that proceeded slowly.
5. No proactive speculative interest from other parties.
6. A decision by the landowner that it was in their best interest to not put the property on the market, which favoured the community bid.

Consequently, AP had significant time to gather members and develop their application.

In contrast, IEL's application was hindered by the following:

1. Lack of contact with the landowner early in the process.
2. A fast internal process of getting the asset ready for the market.
3. Proactive speculative interest from other parties.
4. A decision by the landowner to market the property, and to keep it on the market until closing date.

Like AP, IEL's story involves an insider having early information of the intent to sell (in Nov. 2016). The following month General Trustees put a notice in the local paper. But it took longer for a wider group representing the whole community to mobilise (a public meeting took place in Feb 2017). The insider became integral to founding IEL. That he hadn't taken early enough 'appropriate steps' to establish a case after Nov 2016 counted against IEL itself, though it didn't form until later (see Chapter 5). IEL's rival explanation is that as a *community* they only became properly aware of the intent to sell two months after the newspaper notice, and that the notice and prior personal knowledge were immaterial or ineffective. Their application would have been helped if the whole community had known earlier about the landowner's intent to sell, rather than information being dispersed piecemeal through the local congregation and paper.

A strong disagreement exists between IEL and the CofS as to another key factor that happened later in the process. IEL participants assert that the landowner knew of their intent to register an application before the property was marketed, and that they should have responded similarly

to IEL as they had to AP. The landowner's rival explanation was that IEL avoided official communication channels and "played their cards close to their chest" (CofS). This left the landowner uncertain as to IEL's credibility and the formality of their intent. Once on the market, the CofS decided not to withdraw the asset from sale, despite being approached to do so by IEL. With several interested parties, the incentive was strong to go to the closing date: the actual market value for the property would thus be revealed. Retaining the closing date led to a three month timeframe for IEL to submit their application. It was eventually submitted on August 31st 2017, the closing date itself. Conjoining the likelihood of urban applications being deemed late with the fact that the bar for success is set higher in the case of late applications, one participant felt that trying to complete a late-application was a "waste of time" (Inspire1). The Community Land team point to the guidance, which indicates that late applications should be attempted only in exceptional circumstances. The official position encourages CBs to avoid late applications by proactively applying to register an interest on assets long before they might come up for sale.

Without insider knowledge, community groups reacting to an asset coming onto the market are severely disadvantaged, especially if markets move fast: "in an urban context, waiting on the first opportunity that it is coming up for sale is very often too late" (Govrep). Moreover, late applications are generally becoming more common (Govrep). The conviction that urban land markets generally move faster than rural ones was shared by all participants. As one participant noted:

> "urban communities are more likely to see an asset coming up and thinking, 'Oh, I can't afford to lose that'…"if communities are going to step [into the market] then it's very unlikely they're going to get any lead time. It has to be an instantaneous response" (Porty1).

A lack of existing community assets to mobilise from was identified as an issue: "[Our application] was so difficult because by the very nature of this community, there is nowhere that we could gather" (Inspire2). Without such, it is very difficult for communities to develop the vision to register an interest on an asset timeously, and then mobilise proactively.

Solutions

Both the landowner representative and CB participants indicated that finding a way to enable *whole communities* to gain market knowledge before a landowner made a formal move to go

to market, with a *long-enough lead-time*, would maximise the chance for groups to make a timeous application, even from a reactive posture:

> "six months before it was put on the market that they could have said, 'we are intending to put this property on the market in six months' time, is anyone interested in a community right to buy?'" (Inspire2).

The landowner suggested this could be by way of a public meeting but expressed concern that it might lead to a "deluge" of speculative applications (CofS). One CB participant insisted that to have any meaning the expectation would have to be written into legislation rather than simply be expressed as best-practice.

Summary

A summary of the challenges and solutions can be found in Table 7 below.

Topic	Relevant registration component (See Table 1)	Challenges	CB Solution
CB membership and long-term sustainability	Definition of the community boundary, CB Compliancy, Sustainability	Sustainability test assesses size of membership, beyond minimum requirements. CB compliancy rules regarding minimum membership designed with rural communities in mind.	Clearer guidance required to ensure CBs are aware that their membership size should be proportionate to the population within their community boundary.
		Need to ensure groups are sustainable. Officials do not accept a 'tight reins, later expansion' approach to membership size. Perception of State trying to overly influence the governance choices of CBs	Strategy of expanding membership after registration is approved should be allowed as a legitimate approach.
Proving public benefit and financial sustainability	Sustainability and the Public Interest	Providing evidence of community needs in dense, diverse urban contexts is difficult.	Clarity about forms of evidence required to demonstrate financial sustainability and public interest. Better written guidance.
		Uncertainty as to what to offer as evidence. Every CB, asset and context is different. Written guidance could be improved.	
The importance of market knowledge	Late applications	Late applications more likely in urban contexts. Even with some prior market knowledge, mobilising a group rapidly and complying with the application requirements is challenging.	Enable whole communities to gain market knowledge before a landowner makes a formal move to go to market, with a long-enough lead-time. Maximise ability of groups to a timeous application, even from a reactive posture.
		Some communities don't have existing assets or organisations to help ensure proactive registrations of interest.	

Table 7: Key challenges and their solutions as identified by CB participants

Chapter 7: Discussion

Within this discussion chapter, connections are made to wider literature, and results assessed against the original theoretical propositions. Policy recommendations are explored, emerging from the solutions offered by CB participants. These are summarised at the end, and a revised DTAS route-map presented to display them.

Overall, responses from CB participants reinforced previous research findings that the process was complex, frustrating and time-consuming. They all observed that elements of the process helped benefit their CB, by strengthening credibility for example. While both urban and rural groups have found registering an interest to be one of the most challenging parts of the process (Scottish Government, 2015), findings in this study indicate that the registration stage may be particularly challenging for urban CBs.

1. CB membership and long-term sustainability

The research revealed that a judgement is made about the appropriateness of the size of a CBs membership as part of assessing the long-term sustainability of an initiative, not just that the statutory minimum of 10 members are present. Existing rules-as-written regarding minimum membership requirements are rooted in legislation developed for the rural context, and assume that the population within the defined community boundary is small. This assumption does not apply to densely populated urban areas. But no written guidance defines the required ratio of members proportionate to the population within the community boundary, or indicates that this is considered as part of the assessment of sustainability. An *authority rule* (defining what actors allowed to do or not do) is operative as a hidden norm. Although the Community Land team shared with IEL that this could emerge as an issue, the norm is hidden because it is not explicitly stated or defined in the guidance, and the consequences of failing to follow it are not clear.

The second proposition that CRtB processes take insufficient account of the density of urban contexts therefore holds true. The process design question is whether the emerging norm linking expectations of membership to density of demographic should be made explicit and clearly defined.

From a wider angle, the results indicate concern on behalf of CB participants as to the extent to which these questions are matters for the State to judge or not. Beyond applying a reasonable statutory minimum membership requirement, to what extent can and should long-term sustainability simply be left to a CBs own self-governance? Wall (2017: 31) warns that "paternalistic regulation from external authorities can...be damaging because while it may be well-meaning, it is often insensitive to local conditions."

It is true that governance capacity is essential for long-term success in common-asset management. But the legitimacy of keeping decision processes small in early phases was recognised by the Community Land team representative, and IEL's caution to not raise hopes unduly is common among community groups (Scottish Government, 2015; Aiken et al, 2017). The 'tight-reins, later expansion' strategy adopted by IEL in terms of membership is a strategy encouraged by the Community Land team for other process components, like evidencing community support. If registration is approved, organisations have at least 8 months to finalise the transfer of the property even in the case of a late application that moves immediately to sale. This is a significant time period to grow membership once certainty of registration is attained. Overall, the issue may be less about the legitimacy of IEL's strategy, and more to do with whether there is enough flexibility in the institutional system to recognise the diversity of strategies that a CB might employ (Aiken et al, 2011). The breakdown of understanding about IEL's intent towards growing their membership could be avoided with clearer guidance.

In this regard, the first proposition that CRtB processes take insufficient account of the different strategies CBs employ is also supported. The process design question here is whether a 'tight reigns, longer-term expansion' strategy regarding membership is legitimate.

Policy Recommendations

The results indicate the validity of the following theoretical propositions: that CRtB processes take insufficient account of the density of urban contexts, and they take insufficient account of the different strategies CBs employ. Taking into account the solutions offered by CBs in Chapter 6, recommendations to remediate this could include:

1.   Make the hidden norm governing connecting membership and sustainability explicit in CRtB guidance literature.
2.   Define a minimum requirement of membership as a ratio to community size for the urban context.

3. Allow groups to have a membership growth strategy after a registration has been approved. Add a condition for membership size increase by the time the asset is transferred, if required.

2. Proving public benefit and financial sustainability

The results reveal that CBs have significant difficulties establishing that their initiative is in the public interest and is financially sustainable. The guidance itself is characterised by its use of jargon: even the words public interest and sustainability are difficult to define and comprehend. But it is also vague and highly open to interpretation. It seems that an *information rule* (defining who must provide information to whom) is being inadequately operationalised. The issue is compounded where applications are late and time is limited.

Uncertainty as to what is required at the stage of registering an interest is the key issue regarding proving financial sustainability. Later, once the right-to-buy has been activated, a full business plan needs to be submitted. Community groups are clear that this is not required to register an interest. But what is required instead is not clearly written down.

Establishing the needs an urban community, meanwhile, is also a complex task. What *is* in the best interest of its' public, and how can that be shown? This is especially complex in comparatively diverse urban contexts, with larger populations and greater demographic variety than rural counterparts. Because of the wide variety of assets, land types and communities that might be involved, evidencing the public interest case is idiosyncratic and context-specific. Guidance appears to have been written so that general principles can be conveyed that might apply to every possible context. But by universalising the guidance, specifics are lost that would provide traction for CBs to know what forms of evidence to supply. One danger is that CBs are seen as "inherently discordant" (Aiken et al, 2011: 72). This could lead to a situation where the policy community washes its hands of the complexity of the task. But not tailoring guidance to diverse contexts can place a burden on CBs that should arguably be more shared by the system. This analysis supports the second proposition that CRtB processes take insufficient account of the diversity of urban contexts.

Better delivery at an operational level is required. CBs should be equipped with technical aid to help them navigate the policy landscape: "developing and maintaining the field must allow for important variations between organisations [because] many of them are rooted in particular, possibly idiosyncratic, contexts" (Aiken et al, 2011: 72). A standard process for measurement

of community benefit is unlikely to be appropriate. Instead, investment is required to adopt "locally meaningful measurement systems" (Aiken et al, 2011: 72). The first proposition, that processes take insufficient account of the different needs for support that CBs have, holds true in this case.

The process design question that these issues raise is whether more could be done by to provide templates and/or contextualised guidance to help groups provide the evidence required.

Policy Recommendations

The results indicate the validity of the following theoretical propositions: CRtB processes take insufficient account of the diversity of urban contexts, and they take insufficient account of the different needs for support that CBs have. Taking into account solutions offered by CBs, recommendations to remediate this could include:

4.   Create a new template to help CBs frame submissions about the financial sustainability at registration stage. This could include only critical elements of a standard business plan.
5.   Create clear guidance as to the type/form of evidence required for the public interest case, broken down by major asset type and context.

3. The Importance of Market Knowledge

The results reveal the importance of market knowledge to successful CRtB registration. Based on these findings a simple typology of three approaches to registering an application can be derived. In the first (a *proactive registration*), an established community group speculatively registers an interest on an asset that the landowner has no current intent to sell. This is the approach that the guidance expects will be most common (Scottish Government 2016b). It will always tend to be timeous. As the Scottish Government (2015: 12) asserts "timeous applications to register an interest in land are more likely to be successful, indicating the importance of encouraging communities to pursue a strategic approach to development."

The second approach (a *reactive registration*) involves a community reacting to an asset having been placed publicly on the market, rapidly mobilising, and seeking registration. This approach will always be deemed late. A *boundary rule* defining how CB actors enter the action situation (Heikkila & Andersson, 2018) of registering an interest ensures this outcome: once a landowner has made moves to market their asset, any application is deemed late. This is largely to protect

the landowner's property and human rights. The research revealed the conviction among CB participants that applications on such a basis are likely to be particularly common in urban areas, even if it that was not the case in their own experience.

A third approach (a *registration with insider knowledge*) involves communities becoming aware of a landowner's future intent to market an asset before actual moves are made to do so. In this instance, a community that has not prepared itself in advance may have the opportunity to mobilise in time to register a timeous application. But this outcome is not guaranteed. For AP, having such insider information was fortuitous but critical in ensuring a timeous application. This insight reframes the narrative of AP being a "near-perfect" case (Chorley, 2018: 20): the 'luck' of early market knowledge made all the difference.

A general trend towards increasing numbers of late registrations was noted by participants. And Chorley (2018) has observed that most attempts to register from urban communities have so far been been late. CB participants all asserted a conviction that the speed of urban land markets are a prime cause of this. But to what extent do the case studies themselves provide such evidence?

There are three problems in making such an assertion, arising from variables that are independent of the urban context. First, both applications were registrations with insider knowledge. This is a factor identified by Chorley (2018: 20) from rural contexts that can explain a greater number of timeous applications (and a greater chance of success): "it is difficult to determine exactly why so many of the urban applications have been late, but it may be that in rural areas, communities are more likely to hear on the grapevine that land or buildings are coming up for sale." IEL may have eventually been deemed late but they also had a head start (the landowner's willingness to not go to market was the key factor differentiating AP's situation).

Second, faster market processes did play a part in IEL's registration, and some of these *might* point to the urban market being faster: the speculative approaches by other investors in London Road Church, for example. But this did not occur in APs case in a similar urban context. And the landowner's own internal processes played a part: they happened to be fast in IEL's case (perhaps closer to the expected norm for urban landowners in general), but not in APs application.

Third, the landowner's choice to market London Road after not hearing anything officially from IEL (though disputed) was a significant contributing factor to IEL's bid not being

timeous. Indeed, the sharp difference in landowner behaviour between the two groups makes it difficult to draw conclusions about how market speed affected the cases. With IEL the landowner's incentive was to market the property because of prior speculative interest and to keep the property on the market until the closing date in order to secure an accurate market valuation. In the case of AP, landowner behaviour was incentivised in the other direction. Choosing to entertain AP's CRtB registration offered risk mitigation in two ways: it ensured that AP itself was strengthened into a credible buyer, and helped reassure the landowner that money for the sale would eventually be accessed. This made sense when there was no other speculative interest.

What *can* be said, however, is that the greater the foreknowledge that an asset might come to market, the greater the chance of mobilising for a timeous application, and such applications have more chance of success. This is so even where communities react to an opportunity, as demonstrated by AP. Reacting in this way is a more likely scenario when markets are fast, but a registration with insider knowledge can mobilise more quickly. Currently no feature of the process provides for such an eventuality: contextual factors alone define whether a community might gain such early knowledge.

The process design solution offered by participants was to maximise the likelihood of groups to make a timeous applications, even from a reactive posture. This would involve finding a structured way to give whole communities as long a lead time as possible by raising awareness that an asset might be sold in future. An explicit process element could generate the equivalent of 'insider knowledge' for communities.

What might this look like? An additional boundary rule could be established earlier in the process, allowing reactive community groups to enter the situation armed with market foreknowledge. The rule would encourage landowners to inform communities at a public meeting of their intent to market an asset in the future. The existing boundary rule protects the rights of the landowner to market their property. This additional rule might expect the landowner to take responsibility on behalf of the public good to make it possible for the community to be more prepared to buy their asset. The Scottish Land Rights and Responsibilities Statement (Scottish Government, 2017b) could be used to justify such a move. To posit such an idea, however, is to immediately raise a number of further questions. These are addressed under 'areas for further research' in Chapter 8.

Policy Recommendations

The results cannot validate the theoretical proposition that processes take insufficient account of the rapidity of land markets in urban contexts: the data cannot establish that the cases themselves were sufficiently affected by such forces. The results do, however, indicate the perception on behalf of participants that urban market processes move faster than rural ones. And they also point to a process enhancement that would help communities to maximise their chances of success in such a scenario. Taking into account CB solutions previously detailed, the following recommendation is made:

> 6. Explore the possibility, scope and implications of requiring landowners to hold a public meeting to apprise communities of their future intent to market assets.

Unexpected findings

The perception of the landowner that CRtB processes were welcomed as a risk-mitigation device in the sales process was an unexpected finding. Carpenter (2005: 5) writes that "the ability of communities to lodge late registrations has created uncertainty for sellers," but this may not be the whole picture. A landowner may not be incentivised to proactively embrace voluntary transfer if they sense a CB lacks credibility. Waiting until a CB is strengthened by the CRtB process may be to their advantage, especially if finance is more likely to be won as a result. This may only apply to situations with little interest from other buyers, or landowners who can afford to wait longer before sale.

Summary

Table 8 below summarises how the research results do or do not validate the original research propositions, and the policy recommendations that result.

Topic	Relationship to initial proposition	CB Solution	Policy recommendation
CB membership and long-term sustainability.	Results show that processes take insufficient account of the density of urban contexts.	Clearer guidance required to ensure CBs are aware that their membership size should be proportionate to the population within their community boundary.	1. Make the hidden norm governing connecting membership and sustainability explicit in CRtB guidance literature. 2. Define a minimum requirement of membership as a ratio to population size.
	Results show that processes take insufficient account of the different strategies CBs employ.	Strategy of expanding membership after registration is approved should be allowed as a legitimate approach.	3. Allow groups to have a membership growth strategy after a registration has been approved. Add a condition for membership size increase by the time the asset is transferred, if required.
Proving public benefit and financial sustainability.	Results show that processes take insufficient account of the diversity of urban contexts.	Clarity on how to demonstrate public interest case. Better written guidance.	4. Create clear guidance as to the type/form of evidence required for the public interest case, broken down by major asset type and context.
	Results show that processes take insufficient account of the different needs for support that CBs have.	Clarity about forms of evidence required to demonstrate financial sustainability.	5. Create a new template to help CBs frame submissions about the financial sustainability at registration stage. This could include only critical elements of a larger business plan.
The importance of market knowledge.	Results cannot validate that processes take insufficient account of the rapidity of land markets in urban contexts.	Where markets are fast, maximise the ability of groups to a timeous application, even from a reactive posture, helps: Enable whole communities to gain market knowledge with a long-enough lead-time, before landowner makes a formal move to go to market.	6. Explore the possibility, scope and implications of requiring landowners to hold a public meeting to apprise communities of their future intent to market assets.

Table 8: How the data proves or disproves initial propositions, and suggested policy recommendations.

A revised logic model

A revised logic model follows, incorporating the policy recommendations detailed in table 8. It updates on DTAS route-map that was a central tool in the research process (DTAS, 2018).
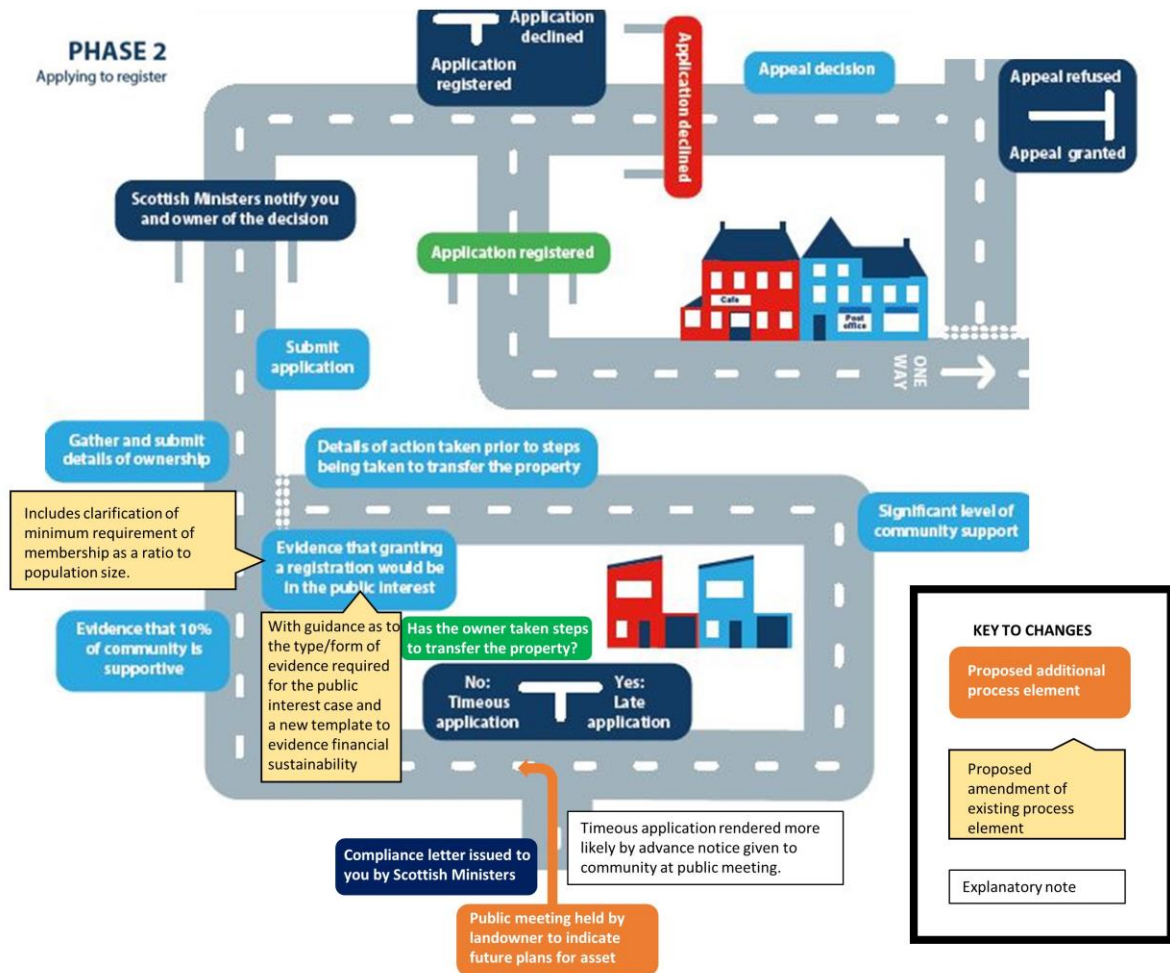

Fig. 5: A revised CRtB route-map for applying to register an interest

Chapter 8: Conclusion

The research set out to understand how CRtB processes can be adapted to better enable community groups to take ownership of urban land. Three theoretical propositions were derived from a review of the literature:

1. CRtB processes take insufficient account of the different needs for support that CBs have, and the different strategies they employ.
2. CRtB processes take insufficient account of the density and diversity of urban contexts.
3. CRtB processes take insufficient account of the rapidity of land markets in urban contexts.

Propositions 1 & 2 were verified in the course of the research. Proposition 3 could not be verified by the data from the case studies themselves, but was perceived to be the case generally by research participants.

Six policy recommendations for adapting the process of registering an interest in land have been proposed. These were derived from the insights of community participants. They have been summarised in Table 8 and schematically presented in a revised logic model of the 'Applying to Register' part of the DTAS route map (Figure 5)

Limitations and weaknesses of the research

The research design itself has a number of limitations. First, the number of subjects available for case study work were limited. As the landowner representative pointed out: "We've only had two experiences, one which worked and one which didn't. From a CRTB perspective that's a very small sample" (CofS). As more applications are registered, the value of this research may be more readily assessed.

Second, the research was restricted to the registration stage and did not explore the activation stage. This approach was justified by the finding that the registration stage posed particular issues for urban groups. But exploration of issues for urban groups in later stages should be considered in future work.

Third, the research question assumes that it is worth exploring adapting CRtB processes because it is a primary mechanism of transfer rather than a back-stop. The case for adapting

the process is rendered less urgent if in fact CRtB processes are downplayed in the future and other transfer-types prioritised.

Fourth, the study question and propositions deliberately foreground the perspectives of community groups in seeking plausible policy solutions to allow the process to work better from their perspective. This is not to deny the critical importance of the perspectives of other actors or the constraints imposed by other levels and exigencies of the system. It is rather to elevate the voice of perhaps less frequently heard actors and enable their wisdom and insight to become part of the policy review process, following Ostrom's design principles.

Fifth, the standard caveats about sources of bias should be considered:

> "All accounts are biased in the sense that they are based on a limited number of indicators, the decision to give some indicators more weight, and an interpretation of the motivation behind, or effect of, policy measures." (Cairney, 2012: 29)

It is hoped that drawing on and interviewing Government and landowner representatives mitigate these dangers to a degree.

During the research, I learned the critical importance of choosing a clear analytic framework in a dissertation of this length. Initially I sought to understand the data using three different frameworks, resulting in a confusing analysis process. If I were to do the research again I would frame a small number of simple theoretical propositions right from the start, as is the case in this final version.

Generalisability

Case studies lend themselves to analytic, not statistical generalisation. This means that their generalisability is rooted in shedding "empirical light" on wider theory, as encapsulated in the original three theoretical propositions (Yin, 2014: 40). Such generalisability occurs at a "level above" the case studies themselves (Yin, 2014: 41) by means of the policy recommendations put forward. These can then be interrogated further by other research. In this regard, it should be noted that the comparability of the two cases could also be a weakness. The landowner has fairly unique charitable aims to advance religion first but then also benefit the wider community. Similarly, churches are unique asset-types with particular characteristics. This may hamper generalisation to other landowner and asset types.

Areas for further research

Building on the two case studies used here, future research could strengthen the findings by comparing these results against further applications from other urban groups. Further research exploring the CRtB process for urban groups at the activation stage would also be beneficial. In addition, as further examples emerge it may also be useful to compare settings where CRtB is used against other land transfer approaches, to help identify which mechanisms are best suited to a particular context or circumstance. Finally, future work could focus on implementation questions raised by the recommendations. For example, in relation to the recommendation on landowner public meetings, future research could help to identify landowner types and size of organisation that may be expected to comply, costs, length of notification, and potential dis-benefits.

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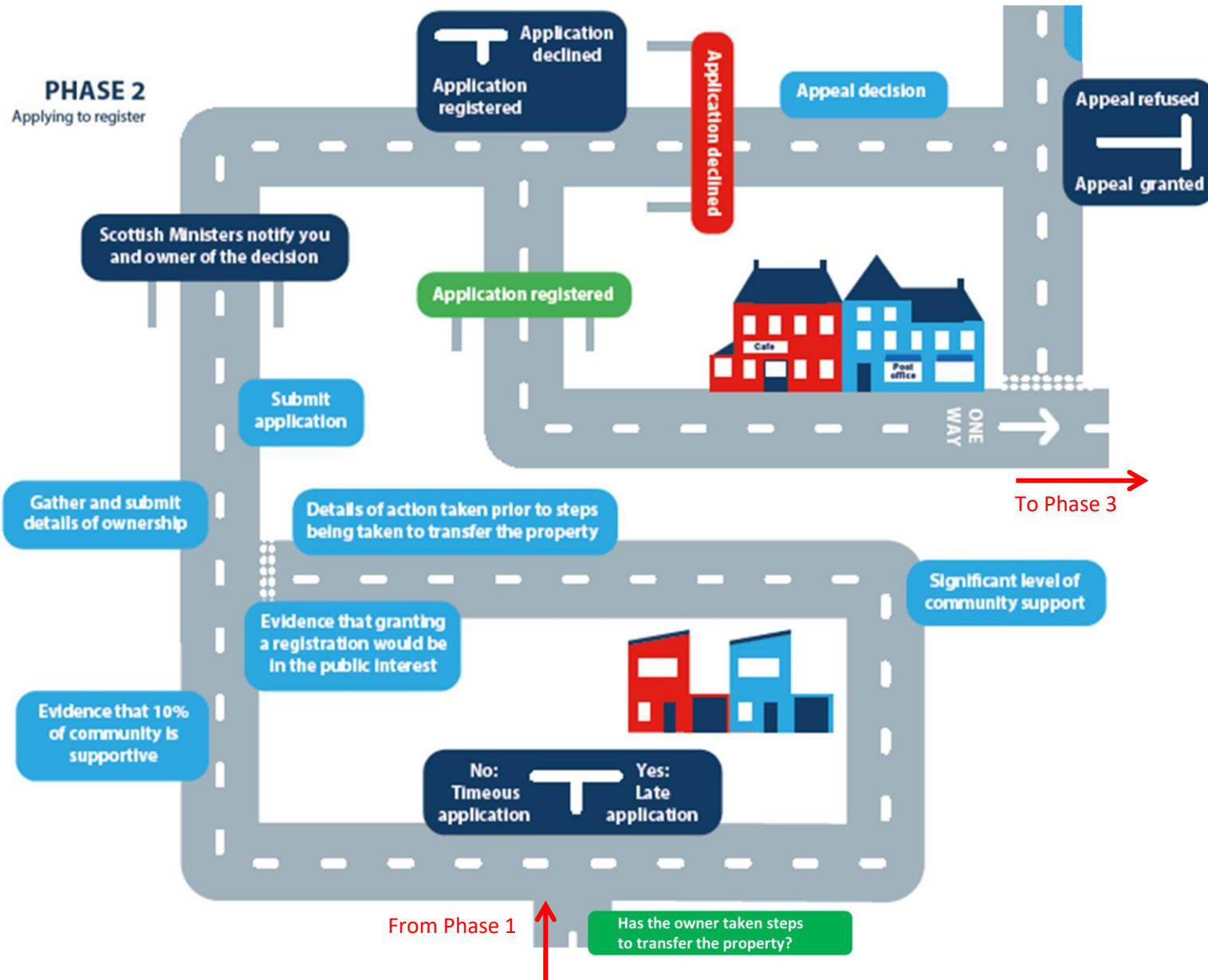Wall, D. (2017). *Elinor Ostrom's Rules for Radicals*. London: Pluto.

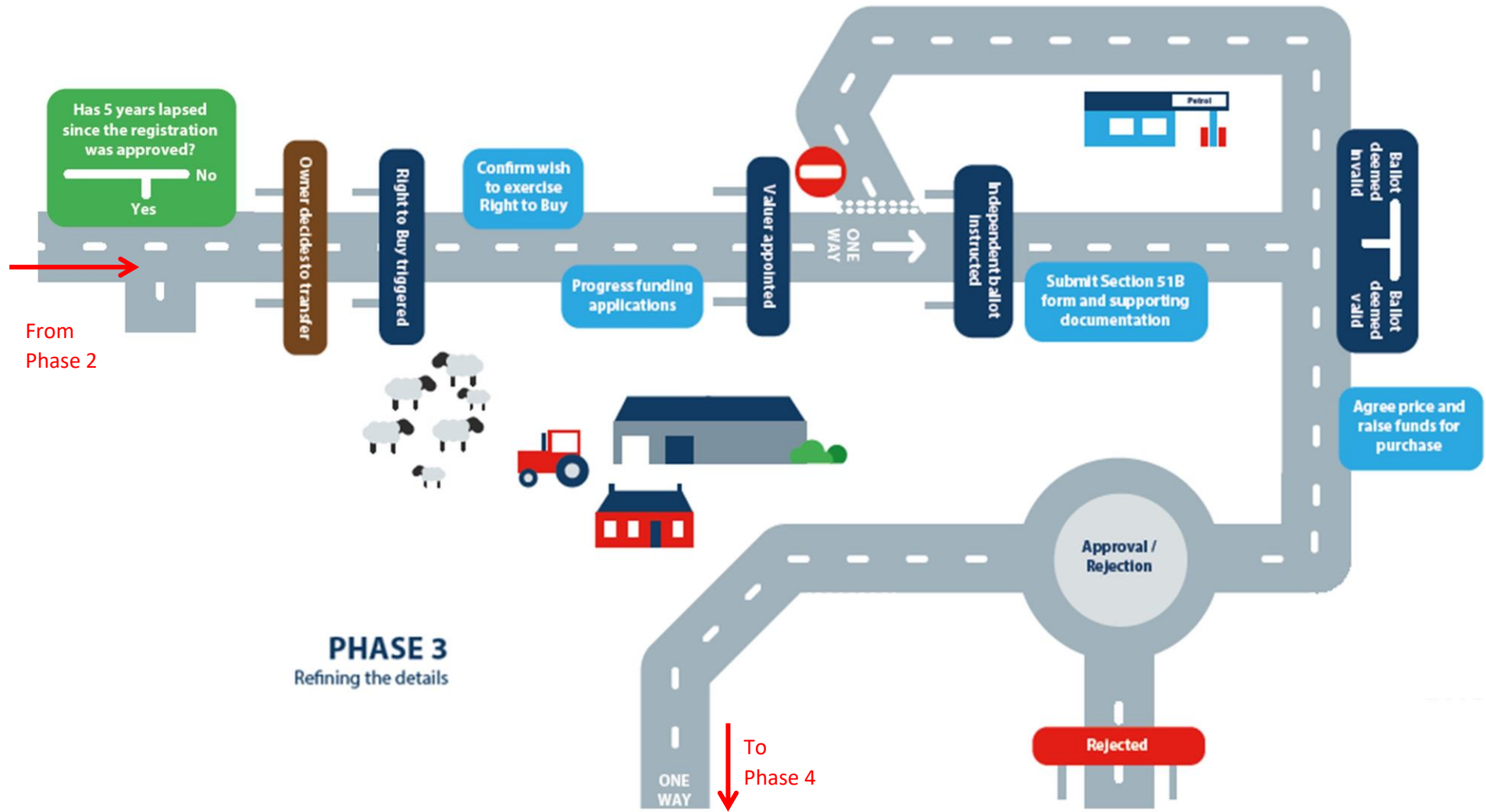Yin, R. K. (2014). *Case Study Research: Design and Methods*. 5th ed. London: SAGE

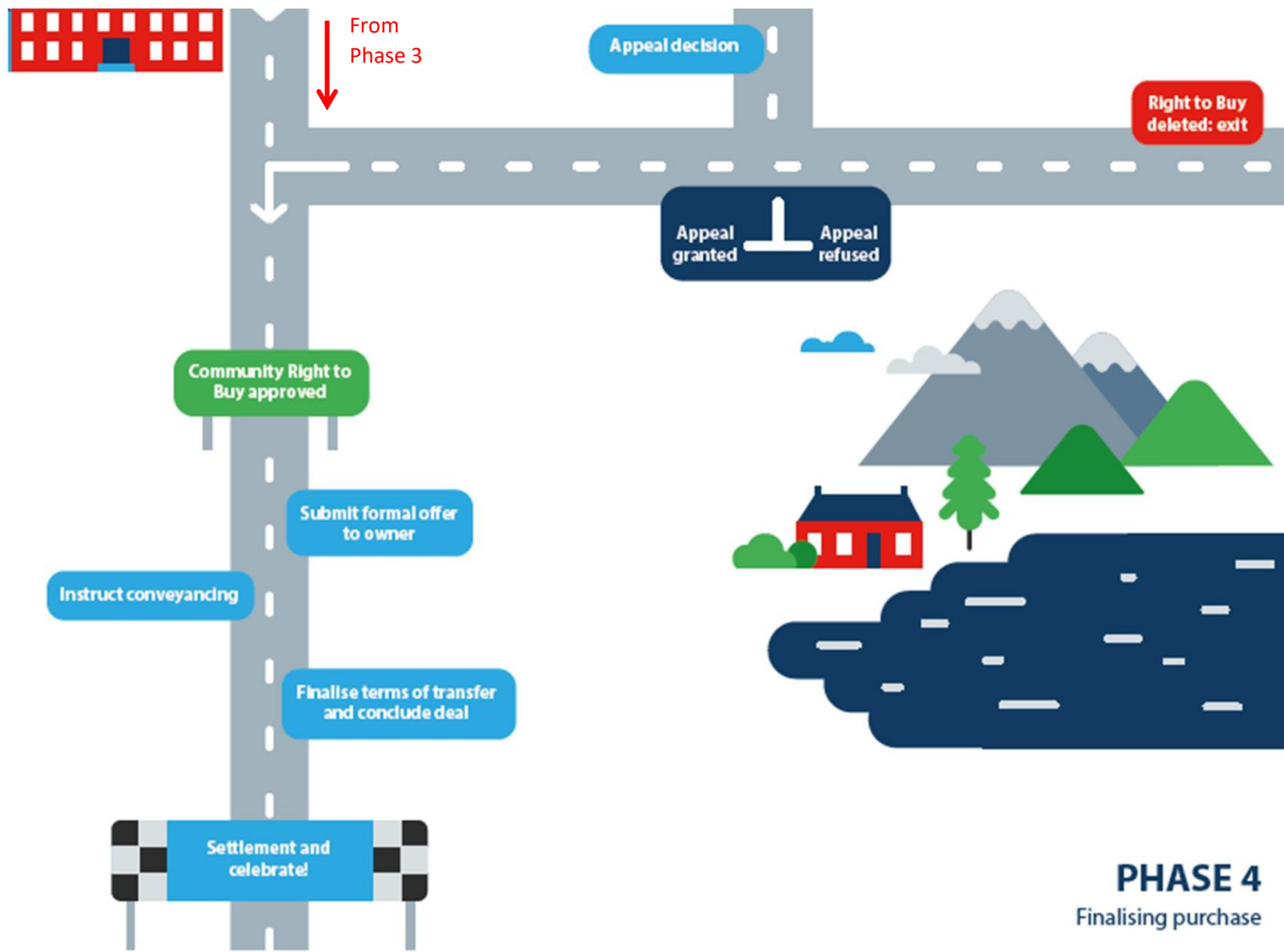# Appendices

Appendix 1: DTAS CRtB Route-map in four parts

(The four images that follow are from the CRtB Route-map by DTAS, 2018)

PHASE 2
Applying to register

Application declined

Application registered

Appeal decision

Appeal refused

Appeal granted

Scottish Ministers notify you and owner of the decision

Application registered

Submit application

Gather and submit details of ownership

Details of action taken prior to steps being taken to transfer the property

Significant level of community support

Evidence that granting a registration would be in the public interest

Evidence that 10% of community is supportive

No: Timeous application

Yes: Late application

ONE WAY

To Phase 3

From Phase 1

Has the owner taken steps to transfer the property?

56

Has 5 years lapsed since the registration was approved?

No

Yes

Owner decides to transfer

Right to Buy triggered

Confirm wish to exercise Right to Buy

Progress funding applications

Valuer appointed

ONE WAY

Petrol

Independent ballot instructed

Submit Section 51B form and supporting documentation

Ballot deemed invalid

Ballot deemed valid

Agree price and raise funds for purchase

From Phase 2

PHASE 3
Refining the details

Approval / Rejection

Rejected

ONE WAY

To Phase 4

57

From Phase 3

Appeal decision

Right to Buy deleted: exit

Appeal granted   Appeal refused

Community Right to Buy approved

Submit formal offer to owner

Instruct conveyancing

Finalise terms of transfer and conclude deal

Settlement and celebrate!

PHASE 4
Finalising purchase

Appendix 2: The IAD framework: glossary of terms

Institutions	The rules, norms, and strategies that structure interactions between individuals so that there is less uncertainty in these interactions.
Institutional analysis	The study of how people create rules, norms, and strategies and how they affect people's ability to solve collective-action problems.
Self-governance	The process of people devising institutions collectively, without force or interference of a central or higher-level authority.
Institutional choice	The process of making decisions to create, adapt, or refine institutions.
Rules	The things that you may, may not, or must do, or else…
Rules-in-use/Rules-in-play	The rules that are actually followed and respected by people.
Rules-in-form	The rules that have been formalized and written down, but may or may not.
Action situation	A setting where actors interact on a particular issue or topic and produce a shared outcome. The action situation is structured by institutions/rules and biophysical and community context.
Collective action	Working together to achieve things that no one can achieve individually.
Common pool resource	A resource system (e.g. an irrigation system or fishery), whose size or characteristics makes it costly (but not impossible) to exclude potential beneficiaries from accessing the resource. One accessed, the resource face problems of congestion or overuse because it is subtractable, which means that if I extract one unit of the resource, it will no longer be available for other people's use.
Public goods	Like CPRs, it is costly to exclude potential beneficiaries to public goods. Examples include free-to-air television, air, or national defence.
Rule typology	Seven different types of rules that comprise institutional designs, including scope, boundary, authority, choice, information, enforcement and payoff rules.
Authority rule	Rule defining what actors allowed to do or not do.
Information rule	Rule defining who must provide information to whom.
Boundary rule	Rule defining how actors enter or exit the action situation.
Evaluative criteria	The standards by which IAD analysts explicitly assess the outcomes of institutional design, which may include effectiveness, efficiency, robustness, adaptability, equity, coherence.

(Heikkila & Andersson, 2018: 314)

Appendix 3: Technical Appendix: Methodology

Additional information by topic areas is given below:

Research question

The primary focus is on process design and institutional context, and only secondarily on how context might influence those processes. This suggested an approach that foregrounds a political-economic analysis rather than ecological/sociological or community development perspective, even though community group insights remain key.

Research design

Further reasons for choosing a case-study methodology included:

- The form of the research question (how and why questions), and a focus on both description and explanation of the situation (Yin, 2014).
- No requirement to control behavioural events.
- A focus on contemporary or very recent events (Yin, 2014: 9).
- Case studies can make "sense of very specific events" when we suspect there are multiple factors at work in policy processes. (Cairney, 2012: 4).
- It is a conventional way for doing process or implementation evaluations (Yin, 2014: 222).

Criteria for case selection

The research question led to a search for geographically defined CBs in Scottish urban areas that have attempted to come into ownership of property or land since the implementation of the Community Empowerment Act (2015). The focus on CRtB mechanisms excluded groups using voluntary sale or asset transfer mechanisms. Only 7 groups in this category were found on the RCIL.

Process for selecting cases

Initial information about subjects was drawn from Chorley's (2018a) baseline research into urban community land ownership. Then an assessment of the back-stories of current successful and unsuccessful CRtB applications for urban land was made, utilising data from the RCIL, newspaper reports and personal contacts knowledgeable about each case.

Further reasons for selecting the cases

Both timeous and non-timeous tracks in the DTAS route-map were represented. Action Porty with its timeous application is described as having "several factors [that] led to them being a near-perfect group in relation to Community Right to Buy" (Chorley, 2018a) making them an excellent comparator case to the more complex non-timeous and unsuccessful case of Inspire East End.

Bounding the cases

As the exploration progressed and a deeper understanding of the level of complexity involved in the entire CRtB process, a decision was taken to put boundaries on the process elements of the study. Beyond reasons given in the main body of the text, it was recognised that IAD analysis works best within clearly defined action arenas and in situations that are not over-complex. The latter would have been the case if the process of activation was also included.

This was in effect both a contextual and a temporal bounding, distinguishing the area of analysis from its wider context but also framing a defined period of analysis in each case. In this way a narrower focus was facilitated.

Participant selection: additional criteria

- They must have taken part in implementing the process to register an interest in land.
- The key implementer of the application process for that CB must be included.
- There should be at least two participants from each location/group in order that triangulation could strengthen the construct validity of any conclusions.

Case study protocol

The case-study was developed in line with ethics approval from the University. The protocol was reviewed and used to prepare for each interview. The protocol included: an overview of the case study; notes on data collection procedures (including what documentary evidence to review before each interview and a list of kit to take on site); a basic outline of data collection questions in the verbal line of enquiry (and reminders of what to look for regarding the mental line of enquiry); and a guide for the final case-study report.

Interview questions and tools

Two tools in particular were foundational to guiding data collection: a logic model of the process created by DTAS (Figure 1), and the Community Land team's guidance notes for communities using CRtB (both referred to in the introduction). The DTAS model is well-known to participants and the research community, and lent itself to several phases of the research. First, as an interview tool to stimulate and guide conversation, second, as 'construct diagram' during analysis, and third as a suitable basis for drawing up a revised logic model to explain the results of the research. The guidance notes (broken down as components in Table 1) offered a touchstone topic list of process components useful grounding the interviews, but also provided a framework for initial categorisation of issues.

Documentary evidence with further description

Documentary source	Further detail
Previous questionnaires filled out as part of the written survey carried out by Chorley (2018b; 2018c).	These questionnaires detailed basic facts about the CB, its experience of CRtB and the outcomes of their applications. It also contained information and pointers as to the difficulties that were encountered. These documents form the core of the case study descriptions. Their existence and use enabled the interviews for this research to concentrate on the interviewee's insights into the CRtB process itself. Full permission from both the researcher and the participants was obtained.
Application forms downloaded from the Register of Community Interest in land (RCIL, 2018)	Including maps, correspondence and evidence presented to demonstrate compliance with each of the key components (see introduction) of the process.
Documentary evidence provided by IEL (IEL, 2018)	• CofS comments to Minister on application by IEL. • Decision notice by the Minister. • Secretary of IEL's initial public response to the Minister's decision. • Letter from IEL to MSP for the area. • MSP letter to Roseanna Cunningham, Minister Land Reform (CRtB is in her portfolio). • Roseanna Cunningham's response to MSP for the area. • Final review by Secretary of IEL.
Primary legislation (Scottish Government, 2018b; 2018c)	Relevant sections of the Land Reform (2003) Act as amended by the Community Empowerment Act (2015).

Secondary legislation (Scottish Government, 2018d)	Relevant sections of the secondary legislation as it shapes the CRtB process
CRtB Guidance notes (Scottish Government, 2018a)	Guidance for CRtB made on or after 2016
DTAS Route Map (DTAS, 2018)	
Newspaper articles (Riddoch, 2017)	Written about Action Porty and IEL

Table 5 (expanded): List of documentary evidence

Data verification process

Data was triangulated by cross-referencing interview data with the documentary evidence and other interviewee responses. A timeline was drawn up for each case study to ensure accuracy of understanding. Full transcripts were sent to participants who were invited to review the data and correct any mistakes and/or edit anything they had said. If any cases of uncertainty remained, participants were re-approached by email and asked for clarification.

Adaptation to participant needs

On learning that one of the participants was blind the approach to the information form, consent and transcription review required adaptation. It was agreed to follow the participants own solutions for all three: consent was recorded as an audio file after the participant information sheet was read aloud by the researcher. The audio transcript itself was reviewed by the participant to ensure that they were happy with their comments. Particular care was taken in typing up this transcript to ensure accuracy in lieu of participant review.

Analysis methods

Description of the analytic approach

Three analytic strategies were employed (Yin, 2014). First, establishing theoretical propositions as detailed at the end of the literature review above as a basis for parsing the data received. Second, organizing the data according to a descriptive framework involved using IAD terminology as to understand the internal dynamics of the case studies. Third, rival plausible explanations were intentionally sought as a means to interrogate data from the community perspective.

To execute these strategies, two analytic techniques were used: a logic model and cross-case synthesis. The logic model (DTAS, 2018) formed the basis of understanding the implications of different choices that actors could make in the process. In conjunction with the CRtB guidance for communities, it also informed the breakdown of component categories from which a word table was derived. The word table, which cross referenced challenges (listed as sub-topics under each component) with elements of the IAD, enabled a process of cross-case synthesis (see appendix 8 for the template). Clarifying the component parts of an action situation in this way enables "unpacking the design of institutions and linking them to the

actions of targeted actors within a specified policy context." (Heikkila & Andersson, 2018). From there, the underlying structure of rules within a policy and their impact on actors can be discerned.

A diagram of the analytical process can be found in the main body of the dissertation (Figure 2).

Evaluation

Uncovering the actual 'rules-in-use' of the CRtB process, including any hidden norms, led to a discernment of constructive alternatives. Heikkila & Andersson (2018: 318) suggest the follow types of rules (hidden or otherwise) may be in use: "What are actors allowed to do or not do (authority rules)? Who must provide information to whom (information rules)? How do actors reach agreement on decisions (aggregation rules)?" The ways that these different rules might interact should also be born in mind.

Alternative rules to reshape the process suggested by community perspectives were displayed in the form of a re-worked logic model, which "should operationalise the links - that is, specify 'how' the actions might produce the immediate outcome of interest" (Yin, 2014: 225).

Participant Information

Research Title:

"Understanding the perspective of grassroots associations as they engage with Community Right to Buy processes: how can such processes encourage and enable community groups to take ownership of urban land?"

Researcher: Paul Ede, Student: MSc Real Estate and Planning.

Supervisor: Professor David Adams: Ian Mactaggart Chair of Property & Urban Studies, Glasgow University

You are being invited to take part in a research study. Before you decide it is important for you to understand why the research is being done and what it will involve. Please take time to read the following information carefully and discuss it with others if you wish. Ask me if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part. Thank you for reading this.

What is the purpose of the study?

The aim of the study is to find out how community groups use the Community Right to Buy process, learn about best practice and find out how to make the process easier for community groups to engage with. It will begin at the end of May and conclude at the end of October 2018, with interviews taking place largely in June 2018.

Why have I been chosen?

You have been chosen because you are a representative of a community group that has sought to use Community Right to Buy processes in an urban area since April 2016. This information was sourced from the Scottish Government Register of Community Interest in Land.

Do I have to take part?

It is up to you to decide whether or not to take part. If you decide to take part you are still free to withdraw at any time and without giving a reason

What will happen to me if I take part?

The researcher will contact you to set up an interview. This interview will take place in a mutually agreed format (face-to-face, by phone, or by Skype or similar online software). If face-to-face, we will chose and mutually agreed location. If you agree, the interview will be recorded by MP3 data recorder or computer software, transcribed and used in the report submitted for my degree.

Will my taking part in this study be kept confidential?

Yes, you will be referred to by pseudonym in the research report and any further publication. Your data will be kept on a password protected hard-drive in a secure location, and will be deleted after the research has concluded. Should using your real name be eventually deemed helpful for any reason, your written permission will always be sought.

Having said this, the study sample is relatively small, and only a few groups have registered an interest to buy urban land. This may have implications for privacy/anonymity.

Please note that assurances on confidentiality will be strictly adhered to unless evidence of wrongdoing or potential harm is uncovered. In such cases the University may be obliged to contact relevant statutory bodies/agencies.

What will happen to the results of the research study?

The report will be submitted for my degree. It may also be published as a report or blog connected to groups interested in encouraging best practice for community groups engaging in the CRtB process, and advocating for policy change to help them (such as the Scottish Land Commission or Community Land Scotland).

The data you provided will be destroyed/deleted at the end of the allotted research period (end October 2018). A copy of my dissertation will be available to you should you request it.

Who is organising and funding the research? (If relevant)

This research is not being funded. The researcher is organising it himself.

Who has reviewed the study?

The supervisor of the research study: Professor David Adams, and the School of Social and Political Sciences Ethics Forum.

Contact for Further Information

Paul Ede, Email: 2055568E@student.gla.ac.uk

If you have any concerns regarding the conduct of this research project, you can contact the School of Social and Political Sciences Ethics Officer, Ms Jakki Walsh. Email: socpol-pgt-ethics@glasgow.ac.uk

Consent Form

Title of Project: "Understanding the perspective of grassroots associations as they engage with Community Right to Buy processes: how can such processes encourage and enable community groups to take ownership of urban land?"

Name of Researcher: Paul Ede

I confirm that I have read and understood the Plain Language Statement/Participant Information Sheet for the above study and have had the opportunity to ask questions.

I understand that my participation is voluntary and that I am free to withdraw at any time, without giving any reason.

I consent / do not consent (delete as applicable) to interviews being audio-recorded. (I acknowledge that copies of transcripts will be returned to participants for verification.)

I acknowledge that participants will be referred to by pseudonym. I acknowledge that participants will not be identified by name in any publications arising from the research without their express written permission.

I acknowledge that where required I will seek permission from the organisation I am part of to participate in this study.

I agree / do not agree (delete as applicable) to take part in the above study.

Name of Participant …………………………………………………

Signature …………………………………………………..………..

Date …………………………………………………………..……….

Name of Researcher ………………………………………………….

Signature …………………………………………………..……….

Date …………………………………………………………..………

Appendix 6: Interview Themes and Questions: Community Groups

Experiencing the process

1. Which of the steps to register an interest in land did you find most challenging?
    a. Why?
    b. To what extent was this exacerbated by your urban context?
2. What unexpected/non-explicit requirements or expectations did you encounter as you navigated the process?
3. How did you overcome these challenges?
4. Specifics
    a. Was the issue of boundary definition particularly problematic or important?
        i. In terms of geography or demographics
    b. Was the issue of defining the business case in the public interest particularly problematic or important?
5. If you could take out stages ('hoops') of the process, what would they be and why?

Improving the process

6. How could the CRTB *process* have been easier for you to navigate?
7. How would you adapt the CRtB *process* to work better in an urban context?
    a. What goals would these changes be seeking to achieve?
8. Do you have any observations about the multiple roles that the Community Land team play in the process
    a. How that might have affected the group's experience of the application?

Further reflection

9. It has been argued that the complexity of the CRTB process serves a side function of ensuring that community groups are forced to grow capacity that they will later need for further success, as an attempt to justify that complexity. What would you say to this statement?
10. To what extent do you think the complexity of the process itself might put communities off?

Thank you for supplying all the documents so far

11. Can you think of any other relevant documents that might be helpful?

General

1. What positive and negative insights into the CRtB process, based on these two case studies, can you offer?

2. What constraints do you operate under?

3. What strategies do you (or would you) encourage community groups to take?

Responding to the community group's insights

1. Could you comment on your perspective on the following issues by community groups?

    a. CB Membership, boundary definition and the public interest case

    b. Evidencing the Sustainability and Public benefit component

    c. Community and Market Knowledge

        i. How could community groups have better awareness of the market in order to secure timeous status?

    d. Time limit

        i. In what ways could time pressures be alleviated?

    e. Petition

        i. Whose job to prove veracity?

        ii. Can alternative approaches to gathering the petition be pursued?

    f. Timeous/non-timeous applications

        i. What are the design and conceptual reasons for non-timeous applications.

        ii. Is there any scope for adaptation?

Interview Themes/Questions – Community Land team specific

1. How do the multiple roles that the Community Land team have in the process affected the group's experience of the application?

2. Why was the decision taken to not adapt the process to the urban context but simply extend the same process?

Appendix 8: Template Word Table for Cross-case Synthesis

The coding frame below was used, with separate excel tabs for each process component and distinct issues listed according to a colour coding of each participant pseudonym. Similar issues raised were then grouped together for analysis.

Who	Issue	Shared with other participant from same case?	Shared with participant from other case?	Relevant part of CRtB guidance	Problem	Solution	Linked to hypothesis?	Link to previously detailed challenges
Porty #1								
Porty #2								
Inspire #1								
Inspire #1								
GovRep								
LandRep								

Who	Issue	Rival plausible explanations	Potential outcomes	Costs	Benefits	Strategies	Rules discerned	Norms discerned
Porty #1								
Porty #2								
Inspire #1								
Inspire #1								
GovRep								
LandRep								