



COMMUNITY RIGHT TO BUY ABANDONED, NEGLECTED OR DETRIMENTAL LAND



Application for Consent to Exercise Right to Buy
Section 97G of the Land Reform (Scotland) Act 2003

For official use only

Code: APP

Rev'd date

RECEIVED

03 DEC 2009

You are advised to keep a copy of this form for your records

Notes:

1. This form is to be used by a Part 3A community body applying for consent to exercise the right to buy land under Part 3A of the Land Reform (Scotland) Act 2003 ("the Act").
2. Only a Part 3A community body within the meaning of section 97D of the Act is entitled to make this application. Note that section 97D (8) of the Act requires that Ministers have given confirmation to the Part 3A community body, in writing, that they are satisfied that the body's main purpose is consistent with furthering the achievement of sustainable development.
3. Before making this application, a Part 3A community body must have conducted a ballot in accordance with section 97J of the Act. The ballot must have been conducted during the period of 5 months which immediately preceded the date on which this application is made.
4. You may download this form and complete it manually or electronically.
5. If you complete the form manually, please do so using black or blue ink and capital letters.
6. Whether you complete the form manually or electronically, you may continue any answer on a separate sheet of paper. If you do this, please –
 - indicate on the form where any answer is given or continued on a separate sheet,
 - indicate on each separate sheet the question number(s) to which it relates.
7. You may submit the completed form and attached documents –
 - electronically to crtb@gov.scot, or
 - by post to Community Land Team, Q Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD.
8. For more information and guidance on the community right to buy abandoned, neglected or detrimental land (including how to submit this form), please visit www.gov.scot and search for "community right to buy".

SECTION 1 – WHO IS APPLYING

- 1.1 Please provide the name of the Part 3A community body ("CB") applying for consent to exercise the right to buy abandoned, neglected, or detrimental land.

Helensburgh Community Woodlands Group

SECTION 2 – DETAILS OF WHO IS APPLYING

- 2.1 Please supply the registered or principal office of the CB.

Postal Address:

12 Duchess Park

Town:

Helensburgh

County:

Dunbartonshire

Postcode:

G84 9PY

Country:

Scotland

- 2.2 Please supply the address the CB wishes correspondence in relation to the community right to buy process to be issued to.

Contact name:

Andrew Donald

Postal Address:

Tairlaw
Rhu Road Higher

Town:

Helensburgh

County:

Dunbartonshire

Postcode:

G84 8JR

Country:

Scotland

Telephone:

Email:

2.3 Please mark an "X" in the relevant box to confirm the type of CB and its official number.

Company Limited by Guarantee (CLBG)
and its company number is:

Scottish Charitable Incorporated Organisation (SCIO)
and its charity number is:

Community Benefit Society (BenCom)
and its registration number is:

This application must be accompanied by a copy of the CB's governing documents (i.e. memorandum, articles of association, constitution or registered rules) and evidence of its company, charity or registration number. Please mark an "X" confirming that such a copy and evidence accompanies this application.

2.4 Please provide the definition of the community as set out in the CB's governing document in accordance with section 97D(2)(a), 97D(3)(a) or 97D(4)(a) of the Act.

The community is defined by the postcode units listed in Annex A of the HCWG constitution (Attachment 1.) as outlined in blue on the community boundary map provided with this application (Map 1). This shows the location of the community in the western part of Helensburgh. The community is bounded to the east to Suffolk Street from West Clyde Street as far as its junction with Barclay Drive and thence following Edward Drive to its junction with the West Highland Railway. From there, the community boundary crosses the railway line and heads north following the western edge of this part of Helensburgh to join the footpath that links Highlandman's Road to Hill House. Here, it heads first west and then north to connect with Highlandman's Road itself. The boundary then follows Highlandman's Road westwards until it emerges through the gate into the farmland north of Rhu. At this point, the boundary follows the line of the small burn southwards to the West Highland Railway. It then takes the line of the railway for a short distance to the west, before turning south and following a short zig-zag to connect with northern edge of the settlement of Rhu. It keeps to the settlement edge first east and then south to connect with the A814 and thence the edge of the Clyde, which it then follows in a south-easterly direction until this meets the junction of Suffolk Street and West Clyde Street.

2.5 This application must be accompanied by one or more maps or drawings, which:

(a) is/are prepared to the specifications referred to in regulation 3 of the Community Right to Buy (Abandoned, Neglected or Detrimental Land) (Applications, Ballots and Miscellaneous Provisions) (Scotland) Regulations 2018, and

(b) describe(s) the area of the community to which the CB relates.

Please confirm the total number of such maps, plans or other drawings which accompany this application.

2.6 Please provide:

(A) The total number of members in the CB.

98

(B) A breakdown of the total number of each type(s) of membership as stated in the CB's governing document (i.e. memorandum, articles of association, constitution or registered rules).

Local Community Members: 83
General (or associate) Members: 15
Junior Members: None

(C) The membership details (i.e. name, address and membership type of the CB's members).

See attached membership list (Attachment 2.).

SECTION 3 — THE LAND IN RESPECT OF WHICH THE RIGHT TO BUY IS SOUGHT TO BE EXERCISED

3.1 Please mark an "X" in the relevant box(es) to indicate the type(s) of land to which this application relates.

Buildings

Recreation land

Woodland

Brown field site

Water

Farm/grazing land

Industrial site

If other type of land, please state below.

Former woodland, now open land, some replanting. Never previously developed, so not brownfield

3.2 What is the estimated total area of the land

Approximately 0.8 hectares

3.3 What county is the land located in?

The land is located in the pre-1974 county of Dunbartonshire and the local authority area of Argyll and Bute.

3.4 Please provide a written description of the land to which this application relates (e.g. the location of such land; postcodes covering the land; the condition of the land; its northern, southern, eastern and western boundaries and measurements if applicable).

The land intended to be registered is shown bounded in red on the attached Map 2. It lies to the south of Cumberland Avenue, Helensburgh, which is located within the pre-1974 county of Dunbartonshire, and is largely triangular in shape. It is bounded to the west by a strip of deciduous woodland in separate ownership, beyond which are the back gardens of Ardencaple Drive. To the east, it is bounded by the back gardens of Fraser Avenue. The land falls within the postcode unit of G84 8QP. The land is open to full view from Cumberland Avenue and still contains mounds of debris left over from the 2011 felling of the woodland that previously occupied the site. A small number of replacement trees have been planted at various places within the site, with natural regeneration of vegetation otherwise taking place.

3.5 This application must be accompanied by one or more maps or drawings, which:

- (a) is/are prepared to the specifications referred to in regulation 3 to the Community Right to Buy (Abandoned, Neglected or Detrimental Land) (Applications, Ballots and Miscellaneous Provisions) (Scotland) Regulations 2018, and
- (b) describe(s) the land to which this application relates.

Please confirm the total number of such maps, plans or other drawings which accompany this application.

3.6 Please mark an "X" in one box which you consider best describes the community's connection to the land in relation to which this application is made.

A significant number of the members of the community have a connection with the land.

The land is sufficiently near to land with which those members of the community have a connection.

The land is in, or sufficiently near to the area of the community (the community being the community as defined in response to question 2.4).

Please provide details to explain why the relevant box has been marked with an "X" above.

The land is close to a large area of recreational land in West Helensburgh, which is very well used by members of the community and indeed by the people of Helensburgh more generally. Here, Helensburgh Rugby and Cricket Clubs occupy a large area on the north side of Rhu Road Higher (into which Cumberland Avenue itself connects) and provide an important focus for local sporting activity. Both clubs have junior as well as several senior teams, making the area a busy place for community activity particularly at weekends, both for fixtures and for extensive training activities involving both adults and all ages of children. The area between Rhu Road Higher and Castle Woods to the south of the road is occupied by the new Lomond School Sports Hall and associated all-weather sports pitch. Although a private school, Lomond School makes its Sports Hall available for local community organisations to hire at a modest charge – indeed HCWG has already held two of its meetings there.

Duchess Woods, which are heavily used by members of the community for informal recreation, wrap around and extend well beyond, these formal sports facilities. As one of only two Local Nature Reserves in Argyll and Bute, Duchess Woods is estimated to have over 100,000 annual visits, many of which are made by members of the community who walk there daily. It is important to note that both Duchess Woods and Castle Woods (on which HCWG is making a similar application) are ecologically very similar, with large and old oak and beech dominating over birch, alder, willow and other wet woodland species. The understorey and flower populations also reflect their common ancestry as woodland parkland around Ardencaple Castle, as shown in Ordnance Survey maps from the 1860s.

The Cumberland Avenue land is also close to several other local landmarks, with which members of the community have a strong connection. These include the local Kidston Park less than five minutes away to the south, with its improved play facilities and café, the frontage of the Clyde itself, and the listed and recently renovated Ardencaple Tower. This last remaining structure from the former Ardencaple Castle is highly visible just to the south. In the past, people could enjoy walking from Kidston Park alongside the Clyde, up Cumberland Avenue, through the land, then climb up to Ardencaple Tower and onwards to Castle and Duchess Woods and beyond.

SECTION 4 – OWNERSHIP & INTERESTS

4.1 Please provide the contact details of the owner of the land to which this application relates.

Contact Name:

Margery Ray Osborne

Postal Address:

Brandon Grove
119 West Princes Street

Town:

Helensburgh

County:

Dunbartonshire

Postcode:

G84 8EX

Country:

Scotland

Company No. (if applicable):

4.2 If the owner has an agent or representative, please provide their contact details.

Contact Name:

Postal Address:

Town:

County:

Postcode:

Country:

Company No. (if applicable):

- 4.3 If there is more than one owner (e.g. the land is in joint or common ownership between a number of owners), then please provide the contact details for the other owner(s) using a separate sheet if necessary.

Thomas Henry Luigi Paterson, Cartref, Back Road, Clynder, Helensburgh, G84 0QQ.

- 4.4 Please confirm the checks carried out (including by whom and when) to establish who owns the land to which this application relates and whether there are any creditors in a standard security with a right to sell the land.

Search made at Registers of Scotland on 22nd October 2019 by [REDACTED] – Land Register Title DMB76106 included as Attachment 3. to this application. No record of creditors in a standard security.

- 4.5 Please indicate by ticking "Yes" or "No", whether you are aware of the existence of either of the matters listed. You may disregard any obligation that would be suspended, once the application is made, by regulation 15 of the Community Right to Buy (Abandoned, Neglected or Detrimental Land (Eligible Land, Regulators and Restrictions on Transfers and Dealing) (Scotland) Regulations 2018.

An enforceable personal obligation on the owner of the land to sell to it to someone else:

YES NO

Is there anything else preventing the owner of the land from selling it:

YES NO

If you ticked "Yes" for either matter listed at 4.5, please provide details for each matter, using a separate sheet if necessary. You should attach evidence to support any matters you raise where possible.

HCWG already has a Community Interest registered in the land under Part 2 of the Land Reform (Scotland) Act 2003.
Registration Number: CB00204
Date of Registration: 2 November 2016

- 4.6 Please indicate by ticking "Yes" or "No", whether there are any tenancies of the land or any part of it.

YES NO

If you ticked "Yes" at 4.6, please provide details for each tenancy, using a separate sheet if necessary.

Name of Tenants (if different):

Postal Address:

Town:

County:

Postcode: Country:

Email:

Term:

Nature of Tenancy:

4.7 Please indicate by ticking "Yes" or "No", whether there are any standard securities in relation to the land or any part of it.

YES NO

If you ticked "Yes" at 4.7, please provide details for each standard security in relation to the land, using a separate sheet if necessary

Name of Creditor holding security:

Contact Name (if different):

Postal Address:

Town:

County:

Postcode: Country:

Email:

Details of standard security:

4.8 Please indicate by ticking "Yes" or "No", for each of the planning rights or interests known to the CB, whether that right or interest applies to the land or any part of it.

- Planning permission applied for (by any person) but not yet granted YES NO
- Planning permission granted but not yet fully utilised YES NO
- Suitable for development under the local development plan YES NO
- Subject to a compulsory purchase order YES NO
- Any other restriction on the use of the land YES NO

4.9 If you ticked "Yes" for any of the rights or interests listed at 4.8 please give details.

Planning Application for the erection of one house and the formation of community woodland submitted 12 March 2012 and remains undetermined more than seven years later. It is not known why this application has not been determined, but on the Council's public record, there appears not to have been any progress on this application for at least five years – see <https://publicaccess.argyll-bute.gov.uk/online-applications/applicationDetails.do?keyVal=M0VHA5CH06C00&activeTab=summary>
The land is protected by a Tree Preservation Order, designated as an Open Space Protection Area, and identified as a local Key Environmental Feature

4.10 Please indicate by ticking "Yes" or "No", whether you know of any other existing rights or interests in the land or any part of it.

YES NO

4.11 If you ticked "Yes" at 4.10, please provide details of the holder of each right or interest, using a separate sheet if necessary

Name of Person holding Interest:

Contact Name (if different):

Postal Address:

Town:

County:

Postcode:

Country:

Email:

Nature of Right or Interest:

4.12 Unless it is impracticable to do so, please attach at least one map or drawing that shows the location of the rights and interests identified under this section (4.1-4.11) in relation to the land.

Maps and drawings must comply with regulation 3 to the Community Right to Buy (Abandoned, Neglected or Detrimental Land) (Applications, Ballots and Miscellaneous Provisions) (Scotland) Regulations 2018.

Please confirm the total number of such maps, plans or other drawings which accompany this application.

SECTION 5 – ELIGIBILITY OF LAND

5.1 Please provide the basis on which the land is considered to be eligible land under Part 3A of the Land Reform (Scotland) Act 2003.

Please indicate, by ticking "Yes" or "No", the basis on which you consider that the land is eligible land.

You must select "Yes" for at least one option.

5.1.1 The land is wholly or mainly abandoned or neglected.

YES NO

5.1.2 The use or management of the land is such that it results in or causes harm, directly or indirectly, to the environmental wellbeing of a relevant community.

YES NO

5.2 Please give reasons for the selection(s) you made at 5.1. You must attach evidence for the reasons you give.

See Appendix

5.3 Complete this question if you claim at 5.1 that that the use or management of the land results in or causes harm, directly or indirectly, to the environmental wellbeing of a relevant community.

5.3.1 Please indicate, by ticking "Yes" or "No", whether you consider there to be any relevant regulators.

YES NO

A regulator is a person or body described in regulation 10 of the Community Right to Buy (Abandoned , Neglected or Detrimental Land) (Eligible Land, Regulators and Restrictions on Transfers and Dealing) (Scotland) Regulations 2018.

Whether a regulator is relevant to this application will depend on the nature of the harm to the environmental wellbeing of the community. You should consider whether the regulator could take action, or might reasonably be expected to take action, to remedy or mitigate the harm.

If you ticked "No", please explain why you consider there to be no relevant regulators

Not applicable

5.3.2 If you ticked "Yes" at 5.3.1, please identify each regulator whom you consider to be relevant, including contact details, and explain why the regulator is relevant, using a separate sheet if necessary.

Not applicable

5.3.3 Please provide information about each request you made to a relevant regulator to remedy or mitigate the harm and each action taken in response by the regulator, using a separate sheet if necessary.

Not applicable

5.3.4 Please explain why you consider that the harm is unlikely to be removed, or substantially removed, by the owner of the land continuing to be its owner, using a separate sheet if necessary.

Not applicable

5.3.5 Please explain why the community body's purchase of the land is compatible with removing or substantially removing the harm, using a separate sheet if necessary.

Not applicable

SECTION 6 – STEPS TAKEN TO BUY THE LAND

6.1 Please describe the steps taken by the CB in relation to buying the land.
Please include the date when the CB decided to try to buy the land.

Please provide details of each offer to buy the land or any part of it and whether the offer was made to the owner of the land or to a creditor holding a standard security in relation to the land or any part of it.

Offer Date: 20th June 2019, by recorded delivery.

Terms(including amount offered and conditions)

After obtaining SLF phase 1 funding we commissioned the valuation of the woodland which was carried out by CKD Galbraith. SLF funding also enabled us to employ a lawyer (Harper MacLeod) in order to submit our formal offer.

On behalf of HCWG our lawyer made a Conditional offer dated 20th June 2019 to both owners simultaneously (Attachment 4. - Page 1 only). The amount offered for Cumberland Avenue was £45k which was the amount that CKD Galbraith valued it at. The condition of the offer was the Purchaser completing financing arrangements within 9 months from conclusion date. Deadline by which a response was required from the owners was 6pm, 5th July 2019. Postal records of receipts show Margery Osborne received her offer on 22nd June 2019 at 10.46am and Thomas Henry Luigi Paterson received his on 22nd June 2019 at 12.05pm.

Response to offer:

Our lawyer received a letter of acknowledgement dated 25th June 2019 from the owners (Attachment 5.). The letter acknowledged receipt of documentation dated 20th June 2019 regarding the above areas of land. This was sent on behalf of both owners signed by Margery Osborne. No further response was received from the owners.

SECTION 7 – COMMUNITY SUPPORT

7.1 Please indicate, by ticking the appropriate box how the ballot result is being/has been notified to Scottish Ministers. You must select one option.

Ballot results attached to application

Ballot results already notified to Ministers

Please note that the ballot result must be/have been notified to Ministers in the form specified in schedule 4 of the Community Right to Buy (Abandoned, Neglected or Detrimental Land) (Applications, Ballots and Miscellaneous Provisions) (Scotland) Regulations 2018.

If you indicated at 7.1 that the ballot result has already been notified to Scottish Ministers, please give the date of notification.

3rd October 2019

SECTION 8 – PROPOSALS FOR THE LAND

8.1 Please explain how the CB proposes to use, develop and manage the land to which this application relates.

See Appendix

8.2 Please explain how the acquisition by the CB of the land to which this application relates is compatible with furthering the achievement of sustainable development in relation to the land to which this application relates.

See Appendix

8.3 Please explain how the achievement of sustainable development in relation to the land to which this application relates, would be unlikely to be furthered by the owner of the land continuing to be its owner.

See Appendix

SECTION 9 – PUBLIC INTEREST


9.1 Please explain why the exercise by the CB of the right to buy under Part 3A is in the public interest.

See Appendix

SECTION 10 – DECLARATION

- We the undersigned have been authorised by the CB to provide the information in this form, the proposals detailed within it and any supporting documents.
- The CB understands that, if it makes any inaccurate statements or provides inaccurate information (deliberate or accidental) at any stage during the right to buy process, or if it knowingly withholds any information, this could result in Scottish Ministers deciding not to consent to the exercise of the right to buy.
- The CB has not altered or deleted the original wording of this form.
- The CB understands that this form requires each signatory (2 board members, charity trustees or committee members) to this form to provide his/her full names and home address for the purposes of prevention and detection of fraud.
- The CB confirms that it is still a CB within the requirements of subsection (2), (3) or (4) of section 97C of the Act.
- The CB understands that this form and supporting documents may appear in the Register of Applications by Community Bodies to Buy Land.
- We understand that all or part of the information contained in this form and all information related to this application, may be publicly available via the Register of Applications by Community Bodies to Buy Land.
- We the undersigned have read and understand the terms of this declaration.

We, the undersigned on behalf of the CB as noted at section 1, apply to consent to exercise the right to buy land under Part 3A of the Act.

Name:	Andrew Donald
Address:	Tairlaw Rhu Road Higher Helenaburgh, G84 8JR
Date:	4 Dec 2019
Position:	Convener
Signature:	

Name:

Kathleen Stolle

Address:

12 Duchess Park
Hellersburgh, GA 304 9PY

Date:

4 Dec 2019

Position:

Secretary

Signature:

A black rectangular box redacting the signature of Kathleen Stolle.

For more information and guidance on the community right to buy, and on this form (including where to post this form) please visit www.gov.scot and search for "community right to buy".

You can also email the completed form and associated documents to crb@gov.scot