

# NOTIFICATIONS AND GROUNDS AND DECISIONS FOR APPLICATIONS DECIDED

Applications between 24/07/17 – 31/07/17

**N.B.** If your area is not shown in the list below, this is due to no notifications being recorded/ applications decided in your area for the specified period.

## Highland (excl Caithness)

**Croft:** 109 Achvoan  
**Parish:** Rogart  
**Reg No:** S1759  
**Case Number:** 73320  
**Application Type:** Decrofting – whole croft

### Decision – Refused

#### Grounds for Decision

The Commission has considered this application and **refuses** it. In coming to its decision, the Commission has identified the following factors are relevant to this application:-

- Whether the application is for a reasonable purpose within the meaning of section 20 of the Crofters (Scotland) Act 1993 (“the Act”);
- The desirability of supporting population retention;
- The impact of the changes to the overall area of land held in crofting tenure on the sustainability of crofting;
- The general interest of the crofting community in the district in which the croft is situated;
- Whether or not there is or would be demand for a tenancy of the croft.

This application has been decided under section 24B(1), section 25(1)(a) and 25(2) of the Act. The Commission note that the reason given by the applicants in the application to decroft the land to create a freehold holding not subject to crofting tenure for the needs of the modern day. The applicants believe decrofting will help continue the interest and investment, and make crofting more sustainable and self-reliant.

The Commission do not consider the purpose provided for decrofting is a reasonable purpose within the meaning of sections 25(1)(a) and 20 of the Act. The Commission recognises that the list of reasonable purposes in section 20 is not an exhaustive list, but notes that the application contains little in the way of concrete detail as to any particular purpose that the Commission could properly assess having relation to the good of the croft and the interests of the crofting community. The Commission Policy Plan clearly sets out at paragraph 63 that “Applications that are made only for the reason of taking the croft, or part of the croft, out of crofting tenure are unlikely to be approved.” Accordingly, no presumption applies in favour of decrofting in connection with this application and the application has been considered on its individual merits and having regard to the relevant law and policy. Having found there to be no reasonable purpose relating to the factors set out in section 25(1)(a) of the Act, the Commission notes that it has a discretionary power to decroft under section 24B(1) of the Act.

The Commission has balanced the interests of the applicants in the Commission giving a decrofting Direction, with the factors to which it must have regard in section 25(2) of the Act. The Commission recognises the interests of the applicants in having the croft decrofted to create a freehold not subject to crofting tenure but has balanced this against the general interest of the crofting community. It has made its decision to refuse on the following grounds:-

1. In terms of section 1(2A)(a) of the Act, the Commission must have regard to the desirability of supporting population retention. In terms of the Commission's Policy Plan, paragraph 20, it states that a well-regulated crofting system will encourage population retention. In exercising its regulatory functions therefore the Commission must be mindful of the potential for any particular regulatory application to impact upon the issue of population retention. The Commission is of the view that 109 Achvoan could in future support a croft tenant or owner-occupier crofter who would contribute to population retention. The removal of this area of land would reduce any future options and the Commission consider that by retaining within rather than removing an area of land from crofting tenure, the sustainability of crofting would be enhanced.
2. In terms of section 1(2A)(b) of the Act, the Commission has had regard to the impact that the application, if granted, would have on the overall area of land held in crofting tenure on the sustainability of crofting. It has decided that the impact of approving the application is that it would tend to adversely affect, rather than promote or have a neutral effect on, the sustainability of crofting by reducing the pool of available croft land and its ability to sustain future generations of crofters.
3. The Commission notes the croft is situated in a township which satisfies the definition of a crofting community in terms of section 61 of the Act. In the Commission's view the removal from crofting tenure of this croft would reduce the local pool of croft land available to persons who might obtain crofter status (whether tenanted or owned) and therefore the Commission considers that it would not be in the interest of the community to decroft the land, resulting in only two remaining crofts in the township. The Commission are also required to consider whether there would be demand for the croft if it was made available for let. SGRPID in their report stated they considered there would be demand if the croft was available on the open market at the usual price for tenancies of such a croft. The Commission therefore believe that interest exists, if a tenancy of 109 Achvoan were available for letting. The Commission are therefore satisfied that there would be interest should the croft be made available for letting or for sale as a croft and that it would not be in the general interests of the crofting community to give the Direction sought.

In conclusion, the Commission does not consider it necessary to decroft this land in order to create a freehold holding not subject to crofting tenure when the land could be conveyed to a purchaser and kept within crofting tenure or let as tenanted unit. The application is therefore refused.

**Croft:** 6 The Reach  
**Parish:** Rogart  
**Reg No:** S3047  
**Case Number:** 73377  
**Application Type:** Decrofting – whole croft

#### Decision – Refused

##### Grounds for Decision

The Commission has considered this application and **refuses** it. In coming to its decision, the Commission has identified the following factors are relevant to this application:-

- Whether the application is for a reasonable purpose within the meaning of section 20 of the Crofters (Scotland) Act 1993 (“the Act”);
- The general interest of the crofting community in the district in which the croft is situated;
- Whether or not there is **or would be** demand for a tenancy of the croft.
- The desirability of supporting population retention;
- The impact of the changes to the overall area of land held in crofting tenure on the sustainability of crofting;

This application has been decided under section 24B(1), 25(1)(a) and 25(2) of the Act. The Commission note that the reason given by the applicants in the application to decroft the land is to enable a prospective purchaser to buy and invest in the croft by creating a freehold holding. The applicants believe decrofting will allow borrowing and capital investment in the croft which will benefit both the crofting community and the wider community and make crofting more sustainable.

The Commission do not consider the purpose provided for decrofting is a reasonable purpose within the meaning of section 25(1)(a) and section 20 of the Act. The Commission recognises that the list of reasonable purposes in section 20 is not an exhaustive list, but notes that the application contains little in the way of concrete detail as to any particular purpose that the Commission could properly assess having relation to the good of the croft and the interests of the crofting community. The Commission Policy Plan clearly sets out at paragraph 63 that “Applications that are made only for the reason of taking the croft, or part of the croft, out of crofting tenure are unlikely to be approved.” Accordingly, no presumption applies in favour of decrofting in connection with this application and the application has been considered on its individual merits and having regard to the relevant law and policy. Having found there to be no reasonable purpose relating to the factors set out in section 25(1)(a) of the Act, the Commission notes that it has a discretionary power to decroft under section 24B(1) of the Act. The Commission has balanced the interests of the applicants in the Commission giving a decrofting Direction, with the factors to which it must have regard in section 25(2) of the Act. The Commission recognises the interests of the applicants in having the croft decrofted to create a freehold not subject to crofting tenure but has balanced this against the general interest of the crofting community. It has made its decision to refuse on the following grounds:-

- 1 In terms of section 1(2A)(a) of the Act, the Commission must have regard to the desirability of supporting population retention. In terms of the Commission’s Policy Plan, paragraph 20, it states that a well-regulated crofting system will encourage population retention. In exercising its regulatory functions therefore the Commission must be mindful of the potential for any particular regulatory application to impact upon the issue of population retention. The Commission is of the view that 6 The Reach could in future support a croft tenant or owner-occupier crofter who would contribute to population retention. The removal of this area of land would reduce any future options and the Commission consider that by retaining within rather than removing an area of land from crofting tenure, the sustainability of crofting would be enhanced.

- 2 In terms of section 1(2A)(b) of the Act, the Commission has had regard to the impact that the application, if granted, would have on the overall area of land held in crofting tenure on the sustainability of crofting. It has decided that the impact of approving the application is that it would tend to adversely affect, rather than promote or have a neutral effect on, the sustainability of crofting by reducing the pool of available croft land and its ability to sustain future generations of crofters.
- 3 The Commission notes the croft is situated in a township which satisfies the definition of a crofting community in terms of section 61 of the Act. In the Commission's view the removal from crofting tenure of this croft would reduce the local pool of croft land available to persons who might obtain crofter status (whether tenanted or owned) and therefore the Commission considers that it would not be in the interest of the community to decroft the land, resulting in only two remaining crofts in the township. The Commission are also required to consider whether there would be demand for the croft if it was made available for let. We note that one expression of demand in obtaining a tenancy of the croft was made in connection with this particular application. SGRPID in their report stated they considered there would be demand if the croft was available on the open market at the usual price for tenancies of such a croft. The owners of the croft expressed that there was such demand for croft land. The Commission therefore believe that interest exists, if a tenancy of 6 The Reach were available for letting. The Commission are therefore satisfied that there would be interest should the croft be made available for letting or for sale as a croft and that it would not be in the general interests of the crofting community to give the Direction sought.

In conclusion, the Commission does not consider it necessary to decroft this land in order to create a freehold holding not subject to crofting tenure when the land could be conveyed to a purchaser and kept within crofting tenure or let as tenanted unit. The application is therefore refused.

**Croft:** 43 Farlary  
**Parish:** Golspie  
**Reg No:** S1411  
**Case Number:** 73378  
**Application Type:** Decrofting – whole croft

#### Decision – Refused

##### Grounds for Decision

The Commission has considered this application and **refuses** it. In coming to its decision, the Commission has identified the following factors are relevant to this application:-

- Whether the application is for a reasonable purpose within the meaning of section 20 of the Crofters (Scotland) Act 1993 (“the Act”);
- The desirability of supporting population retention;
- The impact of the changes to the overall area of land held in crofting tenure on the sustainability of crofting;
- The general interest of the crofting community in the district in which the croft is situated;
- Whether or not there is or would be demand for a tenancy of the croft.

This application has been decided under section 24B(1), 25(1)(a) and 25(2) of the Act. The Commission note that the reason given by the applicant in the application to decroft the land is to create a freehold holding which in time will be an attractive investment for another family to make their life and home. He believes decrofting will help continue the interest and investment and make crofting more sustainable and self-reliant.

The Commission do not consider the purpose provided for decrofting is a reasonable purpose within the meaning of sections 25(1)(a) and 20 of the Act. The Commission recognises that the list of reasonable purposes in section 20 is not an exhaustive list, but notes that the application contains little in the way of concrete detail as to any particular purpose that the Commission could properly assess having relation to the good of the croft and the interests of the crofting community. The Commission Policy Plan clearly sets out at paragraph 63 that "*Applications that are made only for the reason of taking the croft, or part of the croft, out of crofting tenure are unlikely to be approved.*" Accordingly, no presumption applies in favour of decrofting in connection with this application and the application has been considered on its individual merits and having regard to the relevant law and policy. Having found there to be no reasonable purpose relating to the factors set out in section 25(1)(a) of the Act, the Commission notes that it has a discretionary power to decroft under section 24B(1) of the Act. The Commission has balanced the interests of the applicant in the Commission giving a decrofting Direction, with the factors to which it must have regard in section 25(2) of the Act. The Commission recognises the interests of the applicant in having the croft decrofted to create a freehold not subject to crofting tenure but has balanced this against the general interest of the crofting community. It has made its decision to refuse on the following grounds:-

1. In terms of section 1(2A)(a) of the Act, the Commission must have regard to the desirability of supporting population retention. In terms of the Commission's Policy Plan, paragraph 20, it states that a well-regulated crofting system will encourage population retention. In exercising its regulatory functions therefore the Commission must be mindful of the potential for any particular regulatory application to impact upon the issue of population retention. The Commission is of the view that 43 Farlary could in future support a croft tenant or owner-occupier crofter who would contribute to population retention. The removal of this area of land would reduce any future options and the Commission consider that by retaining within rather than removing an area of land from crofting tenure the sustainability of crofting would be enhanced.
2. In terms of section 1(2A)(b) of the Act, the Commission has had regard to the impact that the application, if granted, would have on the overall area of land held in crofting tenure on the sustainability of crofting. It has decided that the impact of approving the application is that it would tend to adversely affect, rather than promote or have a neutral effect on, the sustainability of crofting by reducing the pool of available croft land to the crofting community and its ability to sustain future generations of crofters.
3. The Commission notes the croft is situated in a township which satisfies the definition of a crofting community in terms of section 61 of the Act. In the Commission's view the removal from crofting tenure of this croft would reduce the local pool of croft land available to persons who might obtain crofter status (whether tenanted or owned) and therefore the Commission considers that it would not be in the interest of the community to decroft the land, resulting in only one remaining croft in the township. The Commission are also required to consider whether there would be demand for the croft if it was made available for let. We note that one expression of demand in obtaining a tenancy of the croft was made in connection with this particular application. SGRPID in their report stated they considered there would be demand if the croft was available on the open market at the usual price for tenancies of such a croft. The Commission therefore believe that interest exists, if a tenancy of 43 Farlary were available for letting. The Commission are therefore satisfied that there would be interest should the croft be made available for letting or for sale as a croft and that it would not be in the general interests of the crofting community to give the Direction sought.

In conclusion, the Commission does not consider it necessary to decroft this land in order to create a freehold holding not subject to crofting tenure when the land could be conveyed to a purchaser and kept within crofting tenure or let as tenanted unit. The application is therefore refused.

**Croft:** 168 Stoer (Share)  
**Parish:** Assynt  
**Reg No:** S3032  
**Case Number:** 78796  
**Application Type:** Assignment

**Decision – Approved**

**Grounds for Decision**

Having considered all of the available information, the Commission is satisfied that the application does not adversely affect the interests of the estate, the crofting community, the public at large or will have an adverse effect on the sustainable development of the crofting community and the application has been granted.

**Western Isles**

**Croft:** 8 Cromore  
**Parish:** Lochs  
**Reg No:** R2985  
**Case Number:** 78806  
**Application Type:** Assignment

**Decision – Approved**

**Grounds for Decision**

The application provided us with all necessary information to take a decision and is in line with the Commission Plan and Policy Guidance. We are therefore satisfied that the application does not adversely affect the interests of the estate, the crofting community, the public at large or have an adverse effect on the sustainable development of the crofting community.

**Croft:** 33 Ranish  
**Parish:** Lochs  
**Reg No:** R3377  
**Case Number:** 79237  
**Application Type:** Assignment

**Decision – Approved**

**Grounds for Decision**

The application provided us with all necessary information to take a decision and is in line with the Commission Plan and Policy Guidance. We are therefore satisfied that the application does not adversely affect the interests of the estate, the crofting community, the public at large or have an adverse effect on the sustainable development of the crofting community.

**Croft:** 13a North Tolsta  
**Parish:** Stornoway  
**Reg No:** R4669  
**Case Number:** 80728  
**Application Type:** Assignation

<b>Decision – Approved</b>
<b>Grounds for Decision</b>
The application provided us with all necessary information to take a decision and is in line with the Commission Plan and Policy Guidance. We are therefore satisfied that the application does not adversely affect the interests of the estate, the crofting community, the public at large or have an adverse effect on the sustainable development of the crofting community.

**Croft:** 6 Dalmore  
**Parish:** Barvas  
**Reg No:** R0591  
**Case Number:** 79257  
**Application Type:** Assignation

<b>Decision – Approved</b>
<b>Grounds for Decision</b>
Having considered all of the available information, the Commission is satisfied that the application does not adversely affect the interests of the estate, the crofting community, the public at large or will have an adverse effect on the sustainable development of the crofting community and the application has been granted.

**Croft:** 5 North Shawbost  
**Parish:** Barvas  
**Reg No:** R1062  
**Case Number:** 78438  
**Application Type:** Decrofting – croft house site and garden ground – in advance of purchase

<b>Decision – Approved</b>	<b>Extent: 0.194 ha</b>
<b>Grounds for Decision</b>	
The Commission has considered the application under section 24(3), section 25(1)(b) and section 25(4) of the Crofters (Scotland) Act 1993 to decroft the croft house site and garden ground and has decided to <b>grant</b> a decrofting Direction, extending to 0.194 ha, on the following grounds:	
The Commission is satisfied on the available evidence that the site consists only of the dwellinghouse on or pertaining to the croft.	
<b>Conditions of Direction</b>	
<b>Enclosure of area:</b>	With a stockproof fence within four months of acquisition.
<b>Additional Conditions:</b>	Fence to be maintained in good order and repair by each successive owner or occupier of the land.

**Croft:** 15 Ardmhor  
**Parish:** Barra  
**Reg No:** I0178  
**Case Number:** 80762  
**Application Type:** Decrofting – croft house site and garden ground –  
in advance of purchase

<b>Decision – Approved</b>		<b>Extent: 0.075 ha</b>
<b>Grounds for Decision</b>		
<p>The Commission has considered the application under section 24(3), section 25(1)(b) and section 25(4) of the Crofters (Scotland) Act 1993 to decroft the croft house site and garden ground and has decided to <b>grant</b> a decrofting Direction, extending to 0.075 ha, on the following grounds:</p> <p>The Commission is satisfied on the available evidence that the site consists only of the dwellinghouse on or pertaining to the croft.</p>		
<b>Conditions of Direction</b>		
<b>Enclosure of area:</b>	With a stockproof fence within four months of acquisition.	
<b>Additional Conditions:</b>	Fence to be maintained in good order and repair by each successive owner or occupier of the land.	