

NOTIFICATIONS AND GROUNDS AND DECISIONS FOR APPLICATIONS DECIDED

Applications between 18/09/17 – 25/09/17

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.

Argyll, Skye & Lochalsh, South and West Inverness

Croft: 7 Fernielea (shares)
Parish: Bracadale
Reg No: I5971
Case Number: 77787
Application Type: Assignment

Decision – Approved

Grounds for Decision

We are content that we have sufficient evidence to reach a decision.

The Commission has considered your application to assign the tenancy of your croft, comprising a grazing share under section 8 of the Crofters (Scotland) Act 1993 (“the 1993 Act”) and has **approved** your application on the following grounds:

As required by section 58A of the 1993 Act, the Commission has had regard to whether the proposed assignee will be ordinarily resident on or within 32 kilometres of the croft, comprising a grazings share, and are satisfied from the available evidence that she will meet the crofter’s residence duty. In addition to this, we are further satisfied from the available evidence that she will utilise the additional souming provided through the grazings share by increasing her stocking levels. The Commission further notes that the assignation will resolve a long term issue relating to the current tenant’s duties to reside and cultivate her croft, comprising her grazings share.

The Commission considers on the available evidence that the approval hereby provided will not have an adverse effect on the interests of the crofting community in the locality of the croft nor on the sustainable development of that crofting community. This is on the basis that approval of the application will allow the croft, comprising a grazings share, to be used by an active crofter who is keen to develop her crofting business.

In response to advertising the application, the Commission received both an objection and an expression of demand from individuals who occupy discrete parts of the croft land at 7 Fernielea which is a separate croft on the Commission’s Register of Crofts. The issues raised relate to a desire for the tenanted grazings share to be re-associated with the owned croft from which it originated from. The issue of tenanted grazings shares being deemed to be a separate croft at the point when the associated croft land is purchased was determined by a Scottish Land Court Order dated 3 August 2012 response to a reference made to them by the then, Crofters Commission (SLC/121/11). Therefore while the Commission notes the wish of parties for the croft land and share to be re-associated, the Commission consider it is competent for the applicant to apply to assign her croft, comprising a grazings share to a person of her choice. Furthermore, the Commission do not have the power to direct a tenancy to an individual, no matter how qualified, nor do they have the power to direct a re-association of owned crofts and tenanted grazings shares.

For the foregoing reasons the Commission approve the application.

Croft: **3 South Cuil**
Parish: **Snizort**
Reg No: **I3660**
Case Number: **79987**
Application Type: **Decrofting – Part Croft**

Decision – Approved		Extent: 0.140 ha
Grounds for Decision		
Having considered all of the available information, the Commission is satisfied this application is for a reasonable purpose and that the extent of the land applied for is not excessive in relation to that purpose. The Commission has therefore agreed to grant the Direction as requested.		
Conditions of Direction		
Purpose:	Additional amenity ground for building plot and new house	
Enclosure of area:	<p>The land must as a first change of use, be used, let or disposed of as a dwellinghouse.</p> <p>The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of development being completed.</p> <p>That fence shall be maintained in good order and repair by each successive owner or occupier of the land.</p>	

Caithness, Orkney & Shetland

Croft: **Torriedhu & Lower Bogs Park**
Parish: **Latheron**
Reg No: **C0772**
Case Number: **81046**
Application Type: **Letting**

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: **5 Forss**
Parish: **Thurso**
Reg No: **C0872**
Case Number: **80700**
Application Type: **Letting**

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.	

Highland (excl Caithness)

Croft: 41 Ardneasken
Parish: Lochcarron
Reg No: R2711
Case Number: 76067
Application Type: Sublet

Decision – Refused

Grounds for Decision

The Commission has considered this application to sublet the tenancy of the croft 41 Ardneasken, Lochcarron (including grazings share) under section 27 of the Crofters (Scotland) Act 1993 (“the 1993 Act”) and has **refused** the application on the following grounds:-

Section 58A(7) stipulates the factors to which the Crofting Commission is obliged to give regard when reaching a decision on applications for Commission consent to the sublet of a tenanted croft.

In terms of subsections 58A(7)(a)(i) and (ii) of the 1993 Act, the Commission must have regard to whether any person is or will be ordinarily resident on, or within 32 km, of the croft and whether the croft is being or will be cultivated or put to such other purposeful use.

We have had regard to whether the proposed subtenant will be ordinarily resident on, or within 32 kilometres, of the croft and are satisfied from the available evidence that the subtenant will likely be in a position to comply with the residency duty.

We have had regard to whether the croft will be cultivated or put to a purposeful use under section 5C(4) of the 1993 Act and are satisfied from the available evidence that the proposed subtenant will likely cultivate the croft.

In terms of subsection 58A(7)(b) of the Act 1993, the Commission must have regard to the interests of the estate. In this case we note that the tenant has not been resident on the croft since he was assigned the tenancy in 2005. The landlord’s agents have indicated that while they acknowledge the proposed subtenant has the appropriate qualifications and intentions in relation to the subletting of the croft, in the circumstances the landlord would rather that the croft be made available to the proposed sub-tenant or to someone in similar circumstances on a full tenancy basis rather than a short term usage of the croft. The Commission finds that approval of the application to sublet would, in light of the landlord’s objection, not be in the interests of the estate which seeks to have resident, active crofters in preference to subtenants.

Subsection 58A(7)(c) of the 1993 Act relates to the interests of the crofting community in the locality of the croft and subsection 58A(7)(d) relates to the sustainable development of that community. While the Commission do accept that the proposed sub-tenant will likely meet the residency and land use duties for the period of the sublet, the Commission also consider that it would be of greater benefit to the crofting community to have the opportunity to have the croft tenanted, occupied and worked on a full crofting lease under a permanent arrangement, particularly in light of the objection made by the landlord. The Commission acknowledge that there can be short term benefits gained from having a subtenant in place of a non-resident crofter. However the Commission consider that in the circumstances of this case, against a background of a tenant who has never resided on the croft since he obtained the tenancy, that the long term sustainable development of the community would benefit from having the croft occupied by a tenant on a permanent basis with potentially greater incentive to invest in the croft and expand crofting activities.

The interests of the public at large must also be taken into account under subsection 58A(7)(e) of the 1993 Act. The Commission has found no evidence to suggest that the interests of the public at large would be affected, either positively or negatively by the proposed subletting.

Subsection 58A(7)(f) relates to any objections received under subsection (4) or 5(A) of the 1993 Act. The Commission notes that the landlord's agents have submitted an objection under subsection (4) on the basis that Mr Macrae has been a longstanding absentee tenant who they consider to be in breach of his obligations of residency and cultivation. In the objection, doubts were expressed by the landlord about whether Mr Macrae will return at the expiry of the sublet period, quoting from a previous indication from him given in 2005 that he fully intended to return to the croft in the not too distant future.

Section 58A(7)(g) requires that in reaching a decision, the Commission must have regard to their Policy Plan. Paragraph 71 of the Policy Plan (dated November 2015) states that the Commission will "*...apply its policies on residence, land use and shared management and it will take into account the demand for crofts in the area*". In the specific circumstances of this case the Commission's view is that the interests of the crofting community and its sustainable development, the interests of the estate and the residency and land use situation would be best served by a longer-term rather than a temporary solution.

For the foregoing reasons therefore, this application to sublet has been refused.

Western Isles

Croft: 40a Leurbost
Parish: Lochs
Reg No: R3278
Case Number: 82074
Application Type: Assignation

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: 5 Garyvard
Parish: Lochs
Reg No: R3060
Case Number: 58865
Application Type: Division of Croft Tenancy

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: 27 North Street
Parish: Stornoway
Reg No: R4501
Case Number: 81475
Application Type: Assignation

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.