

# NOTIFICATIONS AND GROUNDS AND DECISIONS FOR APPLICATIONS DECIDED

Applications between 18/12/17 – 25/12/17

**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:** 1A Edinbane (Shares)  
**Parish:** Duirinish  
**Reg No:** I7436  
**Case Number:** 83431  
**Application Type:** Assignment

<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.

**Caithness, Orkney & Shetland**

**Croft:** **New Burnside**  
**Parish:** **Latheron**  
**Reg No:** **C0589**  
**Case Number:** **76072**  
**Application Type:** **Decrofting – part croft**

<b>Decision – Refused</b>	<b>Extent: 0.58 ha</b>
<b>Grounds for Decision</b>	
<p>The Commission has considered this application by Stuart Murray–Threipland and Mrs Claire Rose Murray-Threipland to decroft part of the croft extending to 0.58 ha for the purpose of providing amenity ground and <b>refuses</b> it. In coming to its decision, the Commission has identified the following factors are relevant to this application:-</p> <ul style="list-style-type: none"><li>• Whether the application is for a reasonable purpose within the meaning of section 20 of the Crofters (Scotland) Act 1993 (“the Act”)</li><li>• The general interest of the crofting community in the district in which the croft is situated</li><li>• Whether or not there is or would be demand for a tenancy of the croft.</li></ul> <p>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 to decroft the land is to sell the area to the owner of Burnside, Knockally, Dunbeath as amenity land for a house.</p> <p>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, as there is no suggestion in the application that the use of the land would change following the granting of a decrofting Direction and the sale and transfer of land (in the absence of a specific proposed development) would not usually be considered to be a reasonable purpose within the meaning of the Act. Accordingly, no presumption applies in favour of decrofting in connection with this application. The application has been considered on its individual merits and having regard to the relevant law and policy.</p> <p>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.</p> <p>In the absence of a reasonable purpose and any rebuttable presumption in favour of decrofting, the Commission considered whether to exercise its discretionary powers under sections 24B(1) and 25(2) of the Act. In exercising its discretion 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 acknowledges the interests of the applicant in having the area decrofted in order to sell the land to a third party, but has balanced this against the general interest of the crofting community in the district.</p> <p>The Commission has exercised its discretion to refuse the application on the following grounds:-</p> <ul style="list-style-type: none"><li>• The Commission has concerns that if the area were removed from crofting tenure, it could potentially restrict access to the remainder of the croft land. The Commission’s policy is that when considering applications, the Commission will seek to ensure that suitable access arrangements are provided for any croft land or, where appropriate, common grazing. Such access must normally be suitable for agricultural or other machinery required for the cultivation and maintenance of the croft. The Commission acknowledges that a servitude right of access could be reserved over the land sought to be decrofted in any transfer of part of the land. The Commission when deciding whether to decroft land will, however, usually seek to ensure that as a result of decrofting, any tenant or future tenant of the croft would not have to rely upon a servitude right of access in a title deed (the existence or terms of which the Commission would have no control over) over non-croft land when there is existing access across croft land forming part of the owner-occupied croft.</li></ul>	

- The Commission notes that there were no expressions of demand received in response to the advertising of the decrofting application. However, the Commission agrees with the assessment in the SGRPID report by the Reporting Officer that *“if the tenancy of a croft was advertised and offered on the open market, I have no doubt there would be a healthy demand both locally from existing crofters/smallholders and from people outwith Caithness”*. The Commission notes that a tenancy of the croft is not currently available, but must assess the situation on the assumption that such a tenancy is available. It considers that approving the application could potentially deter any such interest in the tenancy by making the croft less attractive to any potential future tenant, as it would materially reduce the extent of the croft (which extends to only 3.91 ha or thereby) and could result in access issues to the area of the croft not included in the application, as noted above. The Commission considers that by making the croft less attractive to future potential tenants, there could be an adverse impact upon the general interest of the crofting community in the district and in particular on persons who may wish to obtain a tenancy of the croft, if it were put on the open market. The Commission notes the comment in the SGRPID report that the granting of the application would not have a detrimental impact on the interests of the crofting community in and around Dunbeath, but has had to balance this comment against the view also expressed by the SGRPID reporter that there would likely be healthy demand for a tenancy of the croft.
- The Commission acknowledges that the area sought to be decrofted may have been fenced off from the remainder of the croft for some considerable time but notes that the croft is an owner-occupied croft with ownership of the whole of the croft being in the names of the applicants, who are also responsible for complying with the owner-occupier crofter’s statutory duties to be ordinarily resident and to cultivate the croft or put it to another purposeful use. The Commission has control over any division of an owner-occupied croft.
- The Commission acknowledges that the applicant has an interest in having the croft land decrofted in order to facilitate the sale of additional amenity land to a third party. The Commission has exercised its discretion to balance this interest against the general interest of the crofting community in the district and finds that the potential adverse impact upon the crofting community, although relatively modest, is nevertheless sufficient in this instance (and in the absence of any presumption in favour of decrofting) to outweigh the interests of the applicant.

The application is therefore refused.

**Western Isles**

**Croft:** **11b Leurbost**  
**Parish:** **Lochs**  
**Reg No:** **R3246**  
**Case Number:** **82123**  
**Application Type:** **Decrofting – Part Croft**

<b>Decision – Approved</b>		<b>Extent: 0.1048 ha</b>
<b>Grounds for Decision</b>		
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.		
<b>Conditions of Direction</b>		
<b>Purpose:</b>	Site for a dwellinghouse.	
<b>Enclosure of area:</b>	The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of development being completed. That fence shall be maintained in good order and repair by each successive owner or occupier of the land.	

**Croft:** **30 Galson**  
**Parish:** **Barvas**  
**Reg No:** **R0813**  
**Case Numbers:** **82465**  
**Application Type:** **Subletting**

<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.	
The sublet of the part croft will be for the fixed period of 3 years.	

**Croft:** **14a Calbost**  
**Parish:** **Lochs**  
**Reg No:** **R6651**  
**Case Number:** **82617**  
**Application Type:** **Assignment**

<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:** 19b Breasclete  
**Parish:** Uig  
**Reg No:** R4997  
**Case Number:** 83031  
**Application Type:** Decrofting – Part Croft

<b>Decision – Approved</b>		<b>Extent: 0.068 ha</b>
<b>Grounds for Decision</b>		
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.		
<b>Conditions of Direction</b>		
<b>Purpose:</b>	Site for a dwellinghouse.	
<b>Enclosure of area:</b>	The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the date of the direction. That fence shall be maintained in good order and repair by each successive owner or occupier of the land.	

**Croft:** 25 Aird of Tong (House Only)  
**Parish:** Stornoway  
**Reg No:** R6663  
**Case Number:** 81207  
**Application Type:** Decrofting – croft house site formerly pertaining to the above croft and feued under section 18 of the Crofters (Scotland) Act 1955.

<b>Decision – Approved</b>		<b>Extent: 0.093 ha</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:** 63 Back  
**Parish:** Stornoway  
**Reg No:** R3618  
**Case Number:** 82918  
**Application Type:** Decrofting – croft house site and garden ground – in advance of purchase

<b>Decision – Approved</b>		<b>Extent: 0.107 ha</b>
<b>Grounds for Decision</b>		
The Commission has considered the application under section 25(4) of the Crofters (Scotland) Act 1993 to decroft the croft house site and garden ground extending to 0.107 hectares and, under sections 24(3) and 25(1)(b) of the 1993 Act, <b>gives a direction</b> . The Commission is satisfied on the available evidence that the site consists only of the dwellinghouse on or pertaining to the croft. The Commission is further satisfied that the extent of the garden ground included in the application is appropriate for the reasonable enjoyment of the dwellinghouse as a residence.		
<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:** 1 & 2 Gramisdale  
**Parish:** South Uist  
**Reg No:** I5089  
**Case Number:** 65792  
**Application Type:** Assignment

<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:** 6 Gramisdale  
**Parish:** South Uist  
**Reg No:** I5093  
**Case Number:** 66819  
**Application Type:** Assignment

<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:** 53a Coll  
**Parish:** Stornoway  
**Reg No:** R3841  
**Case Number:** 84251  
**Application Type:** Assignment

<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:** 37 Gress  
**Parish:** Stornoway  
**Reg No:** R4059  
**Case Number:** 84187  
**Application Type:** Assignment

<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:** 17 Rushgarry  
**Parish:** Harris  
**Reg No:** I1904  
**Case Number:** 79239  
**Application Type:** Division of Owner-Occupied Croft

**Decision – Approved**

**Grounds for Decision**

The Commission has considered your application under section 19D of the Crofters (Scotland) Act 1993 (as amended) [“the Act”] to divide the owner-occupied croft at 17 Rushgarry to create two new owner-occupied crofts and decided to grant the application on the following grounds:

Section 58A(7) and section 1(2A) of the Act stipulates the factors to which the Crofting Commission is obliged to give regard to when reaching a decision on applications for Commission consent to the division of an owner-occupied croft.

In terms of sections 58A(7)(a)(i) and (ii) of the 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. It is noted that it is the applicant’s intention to sell the smaller of the two crofts created by this division but that it has not yet been advertised for sale. We are therefore unable to come to a conclusion on these matters, but any incoming crofter will be the subject of the duties imposed on a crofter under section 19C of the Act to be ordinarily resident on, or within 32 kilometres of the croft and to cultivate it or put it to another purposeful use.

The Commission must give regard to the interests of the estate under subsection 58A(7)(b) of the Act. However, as this is not a tenanted croft there is no estate interest to give regard to.

Sections 58A(7)(c) and (d) of the Act relate to the interests of the crofting community in the locality of the croft and the sustainable development of that crofting community. The Commission are of the opinion that by creating an additional croft will potentially increase the number of crofters in the community which will be to the benefit of that community and its sustainable development. The Commission are also required under section 1(2A)(a) of the Act to consider the desirability of supporting population retention in the crofting counties. By creating two new crofts and the applicant selling one of those crofts, the Commission are of the opinion that this is assisting supporting population retention.

The interests of the public at large must also be taken into account under subsection 58A(7)(e) of the 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 division.

Subsection 58A(7)(f) of the Act relates to any objections received to the application. The Commission notes that no objections were received to the public notification process of the application.

Section 58A(7)(g) of the Act requires that in reaching a decision on such applications the Commission must have regard to their Policy Plan. Although the Commission’s Policy Plan at paragraph 113 refers to the Commission not generally consenting to applications where the result would be the fragmentation of a croft into an unsustainable unit, the Commission note that in the circumstances of this particular application – although it is creating a new croft extending to 0.923ha – the current croft is already fragmented to all intent and purposes as the area of land comprising this new croft is distinctly separate and distant from the other croft which is being created through this consent. The Commission consider the smaller croft to be capable of supporting modest agricultural or purposeful use activities.

Finally, the Commission is satisfied that there will be no access issues created by the granting of this division application.

**Croft:** 3 Claddach Kyles  
**Parish:** North Uist  
**Reg No:** I4353  
**Case Number:** 82798  
**Application Type:** Sublet

**Decision – Approved**

**Grounds for Decision**

The Commission has considered the application to sublet the croft and **provides its consent** to the application. We are satisfied on the available evidence that it has been demonstrated that the subtenant will be ordinarily resident on or within 32km of the croft, and will cultivate the croft for the full duration of the period of the sublet. The sublet includes the right to graze in Claddach Kyles Common Grazings. The sublet excludes the croft house and garden ground.

The Commission notes that no objections to the proposed subletting have been received from the landlord or any member of the crofting community.

The sublet will be for the fixed period of 10 years.

**Croft:** 11 Cleat  
**Parish:** Barra  
**Reg No:** I0361  
**Case Number:** 78484  
**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.