

# NOTIFICATIONS AND GROUNDS AND DECISIONS FOR APPLICATIONS DECIDED

Applications between 22/01/18 – 28/01/18

**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:** 133 Kilmory (Share)  
**Parish:** Ardnamurchan & Sunart  
**Reg No:** A1665  
**Case Number:** 85137  
**Application Type:** Assigantion

### **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:** 139 Kilmory (Share)  
**Parish:** Ardnamurchan & Sunart  
**Reg No:** A1667  
**Case Number:** 85139  
**Application Type:** Assigantion

### **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:** 140 Kilmory (Share)  
**Parish:** Ardnamurchan & Sunart  
**Reg No:** A1657  
**Case Number:** 85140  
**Application Type:** Assigantion

### **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:** 3 Airds Bay  
**Parish:** Ardchattan & Muckairn  
**Reg No:** A00017  
**Case Number:** 83531  
**Application Type:** Decrofting – Part Croft

<b>Decision – Approved</b>		<b>Extent: 0.116 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.		
<b>Conditions of Direction</b>		
<b>Purpose:</b>	Amenity ground	
<b>Enclosure:</b>	Within four months of acquisition	

**Croft:** 4 Mill Park  
**Parish:** Portree  
**Reg No:** I3192  
**Case Number:** 83905  
**Application Type:** Letting

<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:** Hogaland (Apportionment)  
**Parish:** Whiteness  
**Reg No:** Z3599  
**Case Number:** 85241  
**Application Type:** Sublet

<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.	
The period of sublet shall be for 5 years	

**Croft:** Easter Hill of Dale  
**Parish:** Delting  
**Reg No:** Z3693  
**Case Number:** 83280  
**Application Type:** Assignment

**Decision – Approved**

**Grounds for Decision**

We have had regard to whether the proposed assignee will be ordinarily resident on, or within 32 kilometres, of the croft and are satisfied from the available evidence that the assignee will 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 assignee will cultivate the croft.

We have received no objection from the landlord/estate in respect of the land to which the application relates and do not therefore consider on the available evidence that the interests of the estate will be adversely affected.

We have received no objections from any members of the crofting community. The Commission considers on the available evidence that the consent hereby provided will not have an adverse effect on the interests of the crofting community in the locality of the croft or on the sustainable development of that crofting community.

We are satisfied on the available evidence that the approval of the assignment will not adversely affect the interests of the public at large.

We have not received any other objections under subsection (4) or (5A) of section 58A of the 1993 Act, nor were any expressions of demand received in respect of the tenancy of the croft.

We have had regard to the Commission's Policy Plan and are satisfied that the consent hereby provided is consistent with our Policy Plan.

In exercising our regulatory functions, the Commission must have regard to the desirability of supporting population retention in the crofting counties. The available evidence indicates that the consent hereby provided will likely have a neutral impact upon population retention in the locality.

**Croft:** **Setter, West Yell**  
**Parish:** Yell  
**Reg No:** Z2819  
**Case Number:** 85236  
**Application Type:** Sublet

<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.
The period of sublet shall be for 5 years from 22 January 2018
<b>Specific condition</b>
Whole croft to be sublet excluding the grazing shares

**Croft:** **Northaburn, Setter, West Yell**  
**Parish:** Yell  
**Reg No:** Z2815  
**Case Number:** 85238  
**Application Type:** Sublet

<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.
The period of sublet shall be for 5 years
<b>Specific condition</b>
Whole croft to be sublet excluding the grazing shares

**Croft:** **Cooperstown**  
**Parish:** Northmavine  
**Reg No:** Z1248  
**Case Number:** 85091  
**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:** High Road, Burravoe, Yell  
**Parish:** Yell  
**Reg No:** Z3016  
**Case Number:** 82453  
**Application Type:** Decrofting – part croft – in advance of purchase

<b>Decision – Approved</b>		<b>Extent: 0.061ha</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.		
<b>Conditions of Direction</b>		
<b>Purpose:</b>	Amenity ground to an existing dwellinghouse	
<b>Enclosure:</b>	<ol style="list-style-type: none"> <li>1. The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of acquisition.</li> <li>2. That fence shall be maintained in good order and repair by each successive owner or occupier of the land.</li> </ol>	
<b>Additional Conditions:</b>	Acquire within five years from date of Direction	

**Croft:** Leggins  
**Parish:** Northmavine  
**Reg No:** Z1339  
**Case Number:** 85235  
**Application Type:** Sublet

<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.	
The period of sublet shall be for 10 years	
<b>Specific condition</b>	
Whole croft to be sublet excluding the house site	

**Croft:** Midsetter & Setter, Papa Stour (Apportionment)  
**Parish:** Papa Stour  
**Reg No:** Z3662  
**Case Number:** 84103  
**Application Type:** Assingation

<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:** Brake  
**Parish:** Dunrossness  
**Reg No:** Z0258  
**Case Number:** 84752  
**Application Type:** Decrofting – part croft

<b>Decision – Approved</b>		<b>Extent: 0.004ha</b>
<b>Grounds for Decision</b>		
<p>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.</p>		
<b>Conditions of Direction</b>		
<b>Purpose:</b>	Amenity ground	
<b>Enclosure:</b>	<ol style="list-style-type: none"> <li>1. The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the date of the direction.</li> <li>2. That fence must be maintained in good order and repair by each successive owner or occupier of the land.</li> </ol>	

**Croft:** Houlland  
**Parish:** Aithsting  
**Reg No:** Z1618  
**Case Number:** 84329  
**Application Type:** Decrofting – part croft

<b>Decision – Approved</b>		<b>Extent: 0.2154ha</b>
<b>Grounds for Decision</b>		
<p>The Commission has considered your application under sections 24(3) and 25(1)(a) and 25(4) of the Crofters (Scotland) Act 1993 (“the 1993 Act”) to decroft part of the croft, being the site of an existing dwellinghouse and proposed extension, extending to 0.2154 ha, on the following grounds:</p> <ul style="list-style-type: none"> <li>• Under section 25(1)(a) of 1993 Act, the application is considered to be for a reasonable purpose (within the meaning of section 20 of the Act) and is not excessive in relation to the stated purpose;</li> <li>• Paragraph 67 of The Crofting Commission’s Policy Plan, states that: <i>“When considering applications, the Commission will wish to ensure that suitable access arrangements are provided for any croft land”</i>. The Commission determined that there are no issues with access to the remainder of the croft or any other croft land.</li> </ul>		
<b>Conditions of Direction:</b>		
<b>Enclosure of area:</b>	<ol style="list-style-type: none"> <li>1. The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the completion of the development</li> <li>2. That fence shall be maintained in good order and repair by each successive owner or occupier of the land.</li> </ol>	
<b>Additional Conditions:</b>	Acquire within five years from date of Direction	

**Croft:** Moul of Levenwick  
**Parish:** Sandwich  
**Reg No:** Z0506  
**Case Number:** 81370  
**Application Type:** Decrofting – part croft

<b>Decision – Approved</b>		<b>Extent: 0.025 ha</b>
<b>Grounds for Decision</b>		
<p>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.</p>		
<b>Conditions of Direction</b>		
<b>Purpose:</b>	Amenity ground	
<b>Enclosure:</b>	<p>The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the date of the Direction.</p> <p>That fence shall be maintained in good order and repair by each successive owner or occupier of the land.</p>	

## **Highland (excl Caithness)**

**Croft:** 2a Gartymore  
**Parish:** Kildonan  
**Reg No:** S1420  
**Case Number:** 84010  
**Application Type:** Assignment

### **Decision – Approved**

#### **Grounds for Decision**

The Commission has considered the application to assign the tenancy, of the croft at 2a Gartymore, Kildonan under section 8 of the Crofters (Scotland) Act 1993 (“the 1993 Act”) and has approved the application on the following grounds:-

We have had regard to whether the proposed assignee will be ordinarily resident on, or within 32 kilometres, of the croft and are satisfied from the available evidence that the assignee will 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 assignee will cultivate the croft.

We have received no objection from the landlord/ estate in respect of the land to which the application relates and do not therefore consider on the available evidence that the interests of the estate will be adversely affected.

We have received no objections from any members of the crofting community. The Commission considers on the available evidence that the consent hereby provided will not have an adverse effect on the interests of the crofting community in the locality of the croft or on the sustainable development of that crofting community.

We are satisfied on the available evidence that the approval of the assignment will not adversely affect the interests of the public at large.

We have not received any other objections under subsection (4) or (5A) of section 58A of the 1993 Act, nor were any expressions of demand received in respect of the tenancy of the croft.

We have had regard to the Commission’s Policy Plan and are satisfied that the consent hereby provided is consistent with our Policy Plan.

In exercising our regulatory functions, the Commission must have regard to the desirability of supporting population retention in the crofting counties. The available evidence indicates that the consent hereby provided will likely have a neutral impact upon population retention in the locality.



**Croft:** Bog of Rynerich  
**Parish:** Abernethy  
**Reg No:** I0012  
**Case Number:** 61993  
**Application Type:** Whole croft decrofting

#### Decision – Refused

#### Grounds for Decision

The Commission have considered the application and have decided, for the reasons set out below, to **refuse** the application:

Sections 25(1)(a) and 25(2) of the Crofters (Scotland) Act 1993 (“the 1993 Act”) set out those matters to which the Crofting Commission (“the Commission”) must give regard when reaching a decision on reasonable purpose decrofting applications for a Commission direction to decroft a croft or part of a croft.

In this particular case, the applicant has stated in the application form that the purpose of the application was “to remove croft from Register and leave to natural land development”.

Legislation permits non-agricultural uses of a croft, namely

- Conserving the natural beauty of the locality of the croft;
- Conserving the flora and fauna of the locality;
- Purposeful uses of crofts.

The Commission considers that the applicant has failed to demonstrate that he intends to use the croft, or part thereof, in connection with a reasonable purpose within the meaning of section 20 of the 1993 Act having relation to the good of the croft or of the estate or to the public interest or to the crofting community.

Where a decrofting application is made without there being a reasonable purpose, the Commission has discretionary powers under section 24B of the 1993 Act to decroft a croft. No presumption in favour of decrofting applies where a reasonable purpose has not been established.

When considering a decrofting application under its discretionary powers, the Commission must apply 25(2) of the 1993 Act and have regard to the general interest of the crofting community in the district in which the croft is situated and in particular to the demand, if any, for a tenancy of the croft from persons who might reasonably be expected to obtain that tenancy if the croft were offered for letting on the open market on the date when they are considering the application.

The Commission must first assess and conclude if there is a crofting community. The Commission note the comments in the local Scottish Government Rural Payments & Inspections Department (SGRPID) officer’s report that “*In the immediate surrounding area to this croft there are working crofts*”. The Commission’s records shows that there is an unregulated common grazings (Tulloch Hill) within one kilometre of the croft, and the nearest croft is approximately 3 kilometres of the croft that is the subject of the application. The Commission’s records also show that there are a further five crofts within a geographical proximity from the croft at Bog of Rynerlch. The Commission are therefore of the view that there is a local community whose interests are capable of being affected by the proposal to decroft.

In terms of demand the Commission notes the comments made in the report that *“It is highly probable that if the tenancy for this holding came onto the market, then interest would come from outwith the township or locality.”* Taking these comments based on local knowledge into account, and recognising that this is a croft extending to 10.68ha with an undecrofted house site, the Commission consider that there would be a demand for a tenancy if the croft were offered for letting on the open market.

In exercising our functions the Commission are also required to have regard to the desirability of supporting population retention in the crofting counties and the impact of changes to the overall area of land held in crofting tenure on the sustainability of crofting.

The Commission consider that it would be detrimental to the interests of population retention in the crofting counties to have this croft removed from the pool of land available to potential new entrants available to establish themselves in crofting, especially as it is satisfied that there would be demand for the tenancy of the croft should it become available.

Despite the comments in the SGRPID report that the land is of poor quality with very limited agricultural potential, the Commission consider that the decrofting of the croft would have a negative impact on the sustainability of crofting in the area. This is on the basis that the Commission considers that this croft could sustain modest but sustainable agricultural activity. Having viewed the photographs taken of the site, the Commission consider the croft could sustain a small cattle herd, with 2.5 ha of ground potentially capable of providing fodder for at least 4/5 head of cattle plus followers. Alternatively the Commission consider further a flock of sheep could be kept, dependent on breed, equating to 20/25 head plus followers. Notwithstanding the modest agricultural potential of the croft, it would also be open to the current or a potential future occupier in terms of the legislation to engage in other purposeful use and/or conservation activities on the croft if they opted to do so (perhaps with grant or subsidy assistance).

In taking a long-term view of crofting, the Commission note the potential of the croft to sustain a range of crofting and purposeful use activities albeit that the scope for traditional crofting activities is limited and to assist a potential future croft tenant living on the croft or in the locality and the relevance of these factors in terms of the impact of decrofting on changing the overall area of land held in crofting tenure and the sustainability of crofting and the impact of decrofting on population retention. The Commission have weighed these factors against the merits of the application and find that the application has little in the way of reasonable merit to outweigh the potential longer-term benefits associated with keeping the croft in crofting tenure.

Finally we are required to give regard to the Commission's Policy Plan when exercising our range of regulatory functions. Paragraph 63 of the plan states that we *“Applications that are made only for taking the croft, or part of the croft, out of crofting tenure are unlikely to be approved.”* The Commission do not consider that the individual facts and circumstances of this application, to which the Commission has given consideration, would merit dis-applying this policy position.

For the foregoing reasons the application has been refused.

**Western Isles**

**Croft:** 12 Breaclet  
**Parish:** Uig  
**Reg No:** R4947  
**Case Number:** 83284  
**Application Type:** Division of Croft Tenancy

<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:** 12 Hougharry  
**Parish:** North Uist  
**Reg No:** I4421  
**Case Number:** 83986  
**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:** 1 Locheynort  
**Parish:** South Uist  
**Reg No:** I5386  
**Case Number:** 84146  
**Application Type:** Decrofting – Part Croft

<b>Decision – Approved</b>	<b>Extent: 0.14 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:** **1 South Locheynort**  
**Parish:** **South Uist**  
**Reg No:** **I5403**  
**Case Number:** **84176**  
**Application Type:** **Decrofting – Part Croft**

<b>Decision – Approved</b>		<b>Extent: 0.129 ha</b>
<b>Grounds for Decision</b>		
<p>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.</p>		
<b>Conditions of Direction</b>		
<b>Purpose:</b>	Site for a dwellinghouse	
<b>Enclosure of area:</b>	<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>	

**Croft:** **4 Paiblesgarry**  
**Parish:** **North Uist**  
**Reg No:** **I4604**  
**Case Number:** **84528**  
**Application Type:** **Sublet**

<b>Decision – Approved</b>	
<b>Grounds for Decision</b>	
<p>The Commission has considered the application to sublet the croft and <b>provides its consent</b> 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 32 km 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 Paiblesgarry Common Grazings.</p> <p>The Commission notes that no objections to the proposed subletting have been received from the landlord or any member of the crofting community.</p> <p>The sublet will be for the fixed period of 5 years.</p>	