

NOTIFICATIONS AND GROUNDS AND DECISIONS FOR APPLICATIONS DECIDED

Applications between 02/04/18 – 08/04/18

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: 13 Kilmoluaig
Parish: Tiree
Reg No: A1269
Case Number: 86385
Application Type: Owner Occupier Letting

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.

Croft: 14 & 15 Anaheilt (share)
Parish: Ardnamurchan & Sunart
Reg No: A1697
Case Number: 86140
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.

Croft: 51, 53 & 55 Banavie
Parish: Kilmallie
Reg No: I2179
Case Number: 76335
Application Type: Decrofting – Croft House Site and Garden Ground

Decision – Approved	Extent: 0.3 ha
Grounds for Decision	
<ol style="list-style-type: none"> 1. The Commission is satisfied on the available evidence that the site consists of the dwellinghouse on the croft. 2. Although the extent of the land to which the application applies is larger than would normally be granted in relation to that purpose, the area is considered justifiable given the size of the area applied for in relation to the croft as a whole. Therefore, the proposed area is considered appropriate for the reasonable enjoyment of the dwellinghouse as a residence. 	
Conditions of Direction	
Enclosure of area:	The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the acquisition of the land by the crofter or nominee.

Croft: 12 & 13 Upper Inveroy
Parish: Kilmonivaig
Reg No: I2352
Case Number: 81576
Application Type: Decrofting – Non-reasonable purpose

Decision – Refusal	Extent: 0.5986 ha
Grounds for Decision	
<p>The Commission has considered this application to decroft part of the croft at 12 & 13 Upper Inveroy, Kilmonivaig and refuses 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"> • Whether the application is for a reasonable purpose within the meaning of section 20 of the Crofters (Scotland) Act 1993 (“the 1993 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 Commission’s current Policy Plan. <p>The Commission must be satisfied that the applicant has applied for the direction in order that the croft may be used for or in connection with some reasonable purpose (within the meaning of section 20 of the 1993 Act).</p> <p>In this particular case, the applicant has stated in the application form that the purpose of the application was to sell the land to a neighbour because it is in front of their house and garden and who it is stated wishes to buy an area of woodland in order to preserve and develop the existing woodland.</p> <p>In terms of section 19C of the 1993 Act, an owner-occupied croft has to be cultivated or put to some other purposeful use. The Commission note that “...the planting of trees and use of the land of woodland” falls within the definition of “cultivate” as defined at section 5(8) of the 1993 Act. Crofting legislation permits non-agricultural uses of crofts, including:</p> <ul style="list-style-type: none"> • Conserving the natural beauty of the locality of the croft • Conserving the flora and fauna of the locality of the croft • Purposeful uses of crofts. <p>The application does not seek to remove the land from crofting so that it can be used for some reasonable purpose, as the land is already in use as open woodland and rough grazing and it is not proposed to change that. It is the Commission’s view that this use is compatible with crofting legislation and it is unnecessary to remove it from crofting so that it can be put to that particular use. It would appear to the Commission that the real purpose of the application is to sell the land so that it can be added, free of crofting tenure, to other land. The Commission’s Plan, agreed by Scottish Ministers, states at paragraph 99: “<i>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.</i>” The Commission must apply its Plan but, when doing so, will apply it in a manner that considers the individual facts and circumstances and merits of the particular application. The Commission finds that the applicant has failed to demonstrate that the purpose applied for is a reasonable one 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 interests of the crofting community in the locality of the croft.</p> <p>The SGRPID report includes the statement that “<i>The purpose of this decrofting is so that the applicant can sell the land to an adjoining neighbour</i>”. In order to transfer part of an owner-occupied croft (whether or not for valuable consideration), the owner-occupier crofter is required to obtain the consent of the Commission to the division of the croft into the part which the owner-occupier crofter proposes to transfer and the part which he or she proposes to retain. Any such application would be considered on its individual merits and in terms of the applicable law and policy.</p>	

The Commission can also consider an application to decroft under the discretionary provisions set out at sections 24(3) and 25(2) of the 1993 Act. These provisions require the Commission to 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 is satisfied that the township of Upper Inveroy falls within the statutory definition of a crofting community because there are more than two crofts within the township.

The Commission notes the comment in the agricultural officer's report that approval of the decrofting application will not have any adverse effect on the local crofting community as long as the new owners agree to allow Mr Toal, a local member of the crofting community, use of the grazing for his cows as he has in recent years. However if the land remained in crofting, it would for instance be open to the current or future occupier of the land to apply for Commission consent to let the land to Mr Toal (or any other user) on a short term let under section 29A of the 1993 Act. A tenant on such a lease would be potentially able to access crofting grants to support their activities. If the land is lost to crofting tenure, the Commission has no control over whether the land is cultivated or used for crofting purposes, whether by the owner or any tenant. Any owner of the land could decide not to let it to Mr Toal or any other member of the crofting community and the Commission would have lost any remaining crofting controls over the land and would also obviously have no control over the terms of any sale documents entered into between the applicant and any third party and any future use of the croft land. The evidence of the use of the land by a member of the crofting community would tend to demonstrate that the land in question, although modest in extent, is of some current and future value within the local crofting community for the purposes of seasonal and sheltered grazing. On this basis, the Commission does not agree with the agricultural officer's comment that approval of the application will not have any adverse effect on the local crofting community because, in the Commission's view, the agricultural officer has not factored into his assessment the real potential effect of removing the land from crofting tenure and crofting controls. In the Commission's view, the comment in the agricultural report that the croft would still be a sustainable area of croft land if the application were to be approved, rather misses the point that the area of land sought to be decrofted is, on the available evidence, of value to a crofter within the crofting community and would therefore tend (albeit in a modest way) to enhance the present and future sustainability of the croft as a whole.

The Commission further notes that although no expressions of demand were received in response to the advertising of the decrofting application, the local SGRPID report confirms that "[i]n this area there will always be demand for crofts of this type." The Commission is satisfied that there would be interest in a tenancy of the croft as a whole if it were actually to be offered for letting on the open market. In deciding whether to grant the application, the Commission has balanced the interests of the applicant in having the land decrofted for the purposes of selling it to a third party against the interests of the crofting community (both present and future) and, in light of the current and potential future use of the land for crofting purposes within the crofting community and the likelihood of there being an interest in a tenancy of the croft, exercises its discretion to find that the interests of the crofting community in this particular case outweigh the interests of the applicant. Therefore the application is refused.

Highland (excl Caithness)

Croft: 8/9 Achnahamat
Parish: Kincardine
Reg No: S3119
Case Number: 86476
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.

Croft: Allanglack
Parish: Knockbain
Reg No: R2193
Case Number: 85963
Application Type: Division

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: 23 Wellhouse
Parish: Kilmorack
Reg No: I2460
Case Number: 86648
Application Type: Decrofting – Croft House Site and Garden Ground

Decision – Approved	Extent: 0.122ha
Grounds for Decision:	
Having considered all of the available information, the Commission is satisfied as required by the Crofters (Scotland) Act 1993 that the site consists only of the dwellinghouse on or pertaining to the croft and that the extent of the garden ground is appropriate for the reasonable enjoyment of the dwellinghouse as a residence and has agreed to grant the Direction as requested.	
Conditions of Direction	
Enclosure of area:	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.

Western Isles

Croft: 23B Coll
Parish: Stornoway
Reg No: R3808
Case Number: 85665
Application Type: Decrofting – Part Croft

Decision – Approved	Extent: 0.166 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	
The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of acquisition. That fence shall be maintained in good order and repair by each successive owner or occupier of the land.	

Croft: 12A Tolstachaolish
Parish: Uig
Reg No: R5492
Case Number: 85888
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.

Croft: 10 Caryshader
Parish: Uig
Reg No: R5164
Case Number: 86830
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.

Croft: 10 Scalpay Island
Parish: Harris
Reg No: I1928
Case Number: 85736
Application Type: Decrofting – Part Croft

Decision – Approved	Extent: 0.081 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	
The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of acquisition.	
That fence shall be maintained in good order and repair by each successive owner or occupier of the land.	

Croft: 5 Crowlista
Parish: Uig
Reg No: R5184
Case Number: 85833
Application Type: Short-Term Let

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.
Conditions
The short term let will be for the fixed period of 7 years.

Croft: 3 Lionel
Parish: Barvas
Reg No: R0691
Case Number: 84651
Application Type: Sublet

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

Croft: 20 Griminish
Parish: South Uist
Reg No: I5111
Case Number: 85627
Application Type: Decrofting – Croft House Site and Garden Ground

Decision – Approved		Extent: 0.1189 ha
Grounds for Decision		
Having considered all of the available information, the Commission is satisfied as required by the Crofters (Scotland) Act 1993 that the site consists only of the dwellinghouse on or pertaining to the croft and that the extent of the garden ground is appropriate for the reasonable enjoyment of the dwellinghouse as a residence and has agreed to grant the Direction as requested.		
Conditions of Direction		
Enclosure of area:	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: 26 Kirkibost
Parish: Uig
Reg No: R5346
Case Number: 85834
Application Type: Owner-Occupier Crofter Letting

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.		

Croft: 26 North Street
Parish: Stornoway
Reg No: R4500
Case Number: 85663
Application Type: Decrofting – Croft House Site and Garden Ground

Decision – Approved		Extent: 0.07 ha
Grounds for Decision:		
Having considered all of the available information, the Commission is satisfied as required by the Crofters (Scotland) Act 1993 that the site consists only of the dwellinghouse on or pertaining to the croft and that the extent of the garden ground is appropriate for the reasonable enjoyment of the dwellinghouse as a residence and has agreed to grant the Direction as requested.		
Conditions of Direction:		
Enclosure of area:	The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the acquisition of the land by the crofter or nominee.	
	That fence shall be maintained in good order and repair by each successive owner or occupier of the land.	

Croft: 17 Garrabost
Parish: Stornoway
Reg No: R3959
Case Number: 86289
Application Type: Assingation

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.

Croft: 11 Kershader
Parish: Lochs
Reg No: R3164
Case Number: 87416
Application Type: Sublet (Whole croft, excluding CHS&GG)

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.
Conditions
The sublet will be for the fixed period of 5 years.
The sublet excludes the Croft House Site & Garden Ground.