

NOTIFICATIONS AND GROUNDS AND DECISIONS FOR APPLICATIONS DECIDED

Applications between 21/05/18 – 27/05/18

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: 28 Fiscavaig
Parish: Bracadale
Reg No: I0773
Case Number: 85507
Application Type: Decrofting – Part Croft

Decision – Approved	Extent: 0.013 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 as a first change of use, be used, let or disposed of as amenity ground.	
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: ¼4 Torrin
Parish: Strath
Reg No: I4141
Case Number: 87562
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: 1 Sartle
Parish: Kilmuir (Skye)
Reg No: I2745
Case Number: 86997
Application Type: Decrofting – Croft House Site and Garden Ground

Decision – Approved		Extent: 0.218 ha
Grounds for Decision		
<p>1. The Commission is satisfied on the available evidence that the site consists of the dwellinghouse on the croft.</p> <p>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, and that there is no practical way of reducing it. Therefore the proposed area is considered appropriate for the reasonable enjoyment of the dwellinghouse as a residence.</p>		
Conditions of Direction		
Enclosure of area:	<p>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.</p> <p>That fence shall be maintained in good order and repair by each successive owner or occupier of the land.</p>	

Croft: 4 Drumuie
Parish: Portree
Reg No: I3143
Case Number: 88487
Application Type: Decrofting – Part Croft

Decision – Approved		Extent: 0.14 ha
Grounds for Decision		
<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>		
Conditions of Direction		
<p>The land must as a first change of use, be used, let or disposed of as the site for a dwellinghouse.</p> <p>The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the 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: 3 Eynort
Parish: Sleat, Isle of Skye
Reg No: I0731
Case Number: 74724
Application Type: Decrofting – part croft

Decision – Approval of Modified Area	Extent: 0.093 ha
Grounds for Decision	
<p>Having considered all the evidence in this application, including the croft site inspection held on Wednesday, 21st March 2018, the Commission have decided, in terms of section 24(3) of the Crofters (Scotland) Act 1993, [“the 1993 Act”], to grant a decrofting direction but in terms of section 25(5) of the 1993 Act, to modify the area applied for to an area extending to 0.093 ha, as shown on the enclosed plan, being the site of additional amenity ground for the decrofted croft house site and garden ground.</p>	
<p>The grounds for decision are as follows:</p>	
<ul style="list-style-type: none"> • In terms of section 25(1)(a) of the 1993 Act, the Commission must be satisfied that the applicant has applied for a 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 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 and that the extent of the land to which the application relates is not excessive in relation to that purpose. The Commission is satisfied that the provision of amenity ground (for instance to an existing dwellinghouse) can in certain circumstances be a reasonable purpose within the meaning of section 20 of the Act. However, at 0.522 ha, the area requested by the applicant is considered by the Commission to be excessive and further consider the modified area of 0.093 ha to be reasonable in relation to the stated purpose. • The Commission is satisfied that the benefit to the applicant of granting of a modified direction for the stated purpose outweighs any negative impact on the remainder of the croft. • 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 the area sought would have an adverse impact upon the croft and would likely make the croft less attractive to potential future tenants of the croft, as well as reducing the local pool of croft land available to persons who might obtain crofter status (whether tenanted or owned). The Commission therefore considers that it would not be in the interest of the community to decroft an area extending to 0.522 ha. Additionally, as noted above, the area applied for is considered to be excessive in relation to the reasonable purpose applied for. However, the Commission concludes that modifying the direction to a reasonable extent (0.093 ha) for additional amenity ground for the decrofted croft house site and garden ground would not be detrimental. • In considering applications to decroft the Commission has had regard to its Policy Plan as published and in this regard we refer to paragraph 99 in support of our decision, which states: <i>The Commission aims to protect land from being lost to crofting. A decrofting direction irrevocably removes the land subject to the application from crofting tenure. The Commission takes a long-term view when determining applications and will exercise its discretion to consider, amongst other factors, the advantages of retaining the croft (or part thereof) as part of the pool of croft land in the locality. 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> 	

In agreeing to issue a decrofting direction for the modified area, the Commission have exercised their discretion to balance Mr MacDonald's desire to extend his garden ground with the good of the croft and the interests of the crofting community and have accordingly modified the application in order to achieve such a balance and retain the remainder of the land in crofting for future use.

Conditions of Direction

Purpose:	Amenity ground
Enclosure:	<ol style="list-style-type: none"> 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. 2. That fence must be maintained in good order and repair by each successive owner or occupier of the land.

Caithness, Orkney & Shetland

Croft: Fladdabister
Parish: Cunningsburgh
Reg No: Z0379
Case Number: 82757
Application Type: Decrofting – Part Croft

Decision – Approved	Extent: 0.057 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:	Existing house site
Enclosure of area:	<p>The land must be enclosed (so far as not already enclosed) with a stockproof fence.</p> <p>That fence shall be maintained in good order and repair by each successive owner or occupier of the land.</p>

Croft: Aswick
Parish: Nesting
Reg No: Z3746
Case Number: 87277
Application Type: Create a New Croft

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.

Highland (excl Caithness)

Croft: 225 & 490 Proncy Croy
Parish: Dornoch
Reg No: S0712
Case Number: 87302
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: Croft Dhubh & Balnedan
Parish: Dores
Reg No: I5840
Case Number: 78779
Application Type: Division

Decision – Refused

Grounds for Decision

The Commission has considered your application under Section 19D of the Crofters (Scotland) Act 1993 [“the Act”] to divide the owner-occupied croft at Croftdhu & Balnedan to create two new crofts and decided to **refuse** the application on the following grounds:

Section 58A(7) 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 a croft.

In terms of sections 58A(7)(a)(i) 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 crofts created by the division. It is noted that the intention is to transfer ownership of the smaller of the crofts created by the proposed division to the sole ownership of one of the current owners of Croftdhu & Balnedan. It is further noted both applicants would be ordinarily resident on, or within 32 kilometres of the respective crofts created by the proposed division. The Commission are therefore satisfied that the residency duty would be met.

In terms of section 58A(7)(a)(ii) of the Act, the Commission must have regard to whether the crofts will be cultivated or put to some other purposeful use. The Commission noted that the smaller of the two crofts created by division would extend to only 0.405(ha), while the larger croft would be 24.195(ha). The Commission note the comment in the SGRPID officer’s report that the smaller area at 0.405(ha) “...is not viable for a croft in this area even though it is good productive land”. They go on to comment that as there is no common grazing, there is no further land available to work the croft independently. Further, the Commission note that planning permission has been applied for a house site which would reduce the area of the croft available for working even further. The Commission therefore conclude that fragmentation of the current croft to create a new unit of less than half a hectare and with no associated grazing right would create an unsustainable holding with limited potential for cultivation.

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. Against that background the Commission recognise that, in some circumstances, the division of crofts could further the aim of population retention and provide opportunities for new entrants to crofting. The Commission do not, however, consider that the circumstances in this case support the approval of the application, as the Commission in exercising its discretion to balance possible benefits in terms of population retention with the sustainability of crofting has decided, on balance, that more weight should be given to the latter. The Commission conclude therefore that the interests and sustainability of the crofting community are not best served supporting the current proposal.

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. The Commission's Policy Plan at paragraph 113 states:

"The Commission will apply the standard requirements and exercise its discretion to decide every application for division on its merits. However, the Commission will not generally consent to divisions unless satisfied that the croft will not be fragmented into unsustainable units, because the Commission recognises that proper control of the division of crofts prevents unnecessary fragmentation of croft land." As previously referred to, the Commission consider that one of the crofts extending to 0.405ha with no grazing share, would not be sustainable as an independent unit due to its limited size and therefore consider by refusing the application the Commission are preventing unnecessary fragmentation of croft land. Having considered the individual facts and circumstances of this case, the Commission has decided that there is no reasonable basis for not applying policies contained in the Commission's Plan.

For the foregoing reasons, the application has been **refused**.

Croft: 155 Oldshoremore (share)
Parish: Eddrachilles
Reg No: S3137
Case Number: 88309
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: 146 Little Rogart
Parish: Rogart
Reg No: S1893
Case Number: 88150
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: 134(1) Brevig
Parish: Barra
Reg No: I0296
Case Number: 79885
Application Type: Decrofting – Part Croft

Decision – Approved	Extent: 0.245 ha
Grounds for Decision	
<p>The Commission has considered the application to decroft part of the croft 134(1) Brevig, Barra extending to of 0.245 (ha), being the site of an amenity area with established Shrubs and Trees and has decided to grant a decrofting Direction on the following grounds:</p> <p>The Commission concluded, as the land is additional amenity ground to the existing decrofted croft house, comprising shrubs and woodland, that the purpose does not meet the 'reasonable purpose' test within the meaning of section 20 of the Crofters (Scotland) Act 1993.</p> <p>However, the Commission recognises that the application seeks to regularise an existing situation as the area is fenced off, together with the decrofted croft house, from the remainder of the croft and the area has had established shrubs and trees on it for over 30 years. The Commission are further satisfied that the granting of the direction will not have a negative impact on the remainder of the croft or the general interests of the crofting community. In the circumstances, the Commission therefore decided to exercise its discretion and grant the application.</p> <p>Following the public advertisement of this application, there were no objections to this application or expressions of demand received for the croft tenancy.</p>	
Conditions of Direction	
<p>The land must as a first change of use, be used, let or disposed of as amenity ground.</p> <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>	

Croft: 7 Rhenigadle
Parish: Harris
Reg No: I1869
Case Number: 86988
Application Type: Assignment

Decision – Approved
Grounds for Decision
<p>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.</p>

Croft: 8 Sollas
Parish: North Uist
Reg No: I4623
Case Number: 87966
Application Type: Decrofting – Croft House Site and Garden Ground

Decision – Approved		Extent: 0.311 ha
Grounds for Decision		
<p>The Commission has considered the application under 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 grant a decrofting Direction, extending to 0.311 ha, on the following grounds:</p> <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, and that there is no practical way of reducing it. Therefore the proposed area is considered appropriate for the reasonable enjoyment of the dwelling-house as a residence. 		
Conditions of Direction		
Enclosure of area:	<p>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.</p> <p>That fence shall be maintained in good order and repair by each successive owner or occupier of the land.</p>	

Croft: 23 Achmore
Parish: Lochs
Reg No: R2865
Case Number: 87512
Application Type: Assignment

Decision – Approved
Grounds for Decision
<p>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.</p>

Croft: 8 North Tolsta (share)
Parish: Stornoway
Reg No: R6150
Case Number: 88785
Application Type: Assignment

Decision – Approved
Grounds for Decision
<p>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.</p>

Croft: 1 Claddach Illeray (share)
Parish: North Uist
Reg No: I7358
Case Number: 87992
Application Type: Assignation

Decision – Approved

Grounds for Decision

The Commission has considered the application to assign the tenancy of the croft, comprising the grazings share, 1 Claddach Illeray, 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. We are satisfied from the available evidence that the assignee will be in a position to comply with the residency duty within 2 years of the approval. The reason for the 2 year timeframe is to allow Mr Robertson to transfer his business at Lamington, Tain and to take up residence on the croft. In the circumstances, we consider 2 years to be a realistic timescale.

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 has made suitable arrangements for ensuring the croft, comprising the grazings share is cultivated during his initial period of absence, and will cultivate the croft at his own hand when he is in a position to take up residence.

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 assignation 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.

Croft: **6 Luskintyre**
Parish: **Harris**
Reg No: **I1781**
Case Number: **85661**
Application Type: **Decrofting – Part Croft**

Decision – Approved	Extent: 0.2 ha
Grounds for Decision	
<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>	
Conditions of Direction	
<p>The land must as a first change of use, be used, let or disposed of as the site for two new dwellinghouses.</p> <p>The land must be enclosed (so far as not already enclosed) with a stockproof fence within four months of the 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: **7 Laxay (House Site Only)**
Parish: **Lochs**
Reg No: **R6696**
Case Number: **85838**
Application Type: **Decrofting – Section 17/18 Feu**

Decision – Approved	Extent: 0.103 ha
Grounds for Decision	
<p>As this application has been made in respect of a croft which was feued under Section 17 of the Crofters (Scotland) Act 1955, the Commission has agreed to grant the Direction as requested.</p>	

Croft: **57b Leurbost**
Parish: **Lochs**
Reg No: **R3298**
Case Number: **87010**
Application Type: **Decrofting – Croft House Site and Garden Ground**

Decision – Approved	Extent: 0.091 ha
Grounds for Decision	
<p>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.</p>	
Conditions of Direction	
Enclosure of area:	<p>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.</p> <p>That fence shall be maintained in good order and repair by each successive owner or occupier of the land.</p>

Croft: 50 North Shawbost
Parish: Barvas
Reg No: R1106
Case Number: 87224
Application Type: Decrofting – Croft House Site and Garden Ground

Decision – Approved		Extent: 0.102 ha
Grounds for Decision		
<p>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.</p>		
Conditions of Direction		
Enclosure of area:	<p>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.</p> <p>That fence shall be maintained in good order and repair by each successive owner or occupier of the land.</p>	

Croft: 3 Enaclete
Parish: Uig
Reg No: R5231
Case Number: 88402
Application Type: Assingation

Decision – Approved	
Grounds for Decision	
<p>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.</p>	