

# NOTIFICATIONS AND GROUNDS AND DECISIONS FOR APPLICATIONS DECIDED

**Applications between 18/06/18 – 24/06/18**

**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:** **1 Caoles**  
**Parish:** **Tiree**  
**Reg No:** **A1129**  
**Case Number:** **81668**  
**Application Type:** **Decrofting – Part Croft**

<b>Decision – Refusal</b>	<b>Extent: 0.051 ha</b>
<b>Grounds for Decision</b>	
<p>The Commission have considered the application and have decided, for the reasons set out below, to <b>refuse</b> the application:</p> <p>Section 25(1)(a) of the Crofters (Scotland) Act 1993 (“the 1993 Act”) sets out those matters to which the Crofting Commission (“the Commission”) must give regard when reaching a decision on applications for a Commission direction to decroft a croft or part of a croft.</p> <p>The Commission is required to consider whether a decrofting application is for a reasonable purpose in terms of section 25(1)(a) of the Crofters (Scotland) Act 1993 (“the 1993 Act”). In this particular case, the applicant has indicated that the area applied for is as a site for a building which will be used partially as a boat shed and partially as an agricultural building.</p> <p>In terms of the agricultural building element, section 19C of the 1993 Act sets out the duties of owner-occupier crofters, which include the requirement that they cultivate the croft or put it to another purposeful use. Any building for agricultural purposes would clearly be intended to support any stocking and cropping activities on the croft and would be regarded as fixed equipment (and possibly also a permanent improvement) which facilitates cultivation of the croft. There is no requirement to decroft land in order to build or improve fixed equipment. The Commission does not consider that this element of the purpose set out in the application constitutes a reasonable purpose which would justify decrofting within the meaning of section 20 of the 1993 Act.</p> <p>In terms of the boat shed element, the Commission consider that this may qualify as a reasonable purpose under section 20 of the 1993 Act. However, the Commission notes that the permitted development identified by the local authority (Class 18 of the Town &amp; Country Planning (General Permitted Development) (Scotland) Order 1992) relates to the erection of a building for agricultural purposes. It is not clear to the Commission whether the proposed shed would be primarily for agricultural purposes or for uses associated with the applicant’s water sports and surfing business and whether, if the latter, it would be covered by Class 18 or by some other class of permitted development. Where a proposed development is not covered by one of the classes of permitted development, the Commission would normally expect to see evidence that the proposed development will proceed, such as planning permission. In the absence of supporting information both as to the precise nature of the proposed development (in particular whether it falls within a class of permitted development) and demonstrating that the development will proceed, the Commission is of the view that the applicant has not established that the land requires to be decrofted.</p>	

The Commission recognises that the applicant runs a local water sports and surfing business. The Commission is able to decroft land in relation to a “reasonable purpose” within the meaning of section 20 of the 1993 Act for a purpose that is likely to provide employment for crofters and others in the locality. The applicant has not however, in the Commission’s view, provided information as to how any decrofting would provide such employment and why such decrofting is required in light of the ability of a crofter or owner-occupier crofter to use the croft for a purposeful use rather than cultivation.

The Commission notes that the applicant wishes to sell the land to a third party. The Commission would point out that the sale of land to a third party is not in itself a sufficient reason for decrofting.

Accordingly the Commission, having exercised its discretion to assess the case on its individual merits, is not satisfied that a sufficient case has been made to justify the decrofting of the land in question.

Having given regard to the factors set out at section 25(1)(a) of the 1993 Act and concluded that the area applied for does not appear to meet the reasonable purpose requirements for the reason set out before, the Commission has considered whether to exercise its discretionary power to decroft under section 24(3) of the 1993 Act. Without clear information as to the purpose of the proposed shed, and whether it would require planning permission, the Commission does not consider that it would be in the interests of the crofting community in the district to decroft the land in question, particularly on an island where croft land is in demand.

The Commission notes that although there were no explicit expressions of demand for the tenancy received in response to the advertising of the application, the local Scottish Government Rural Payment and Inspections Directorate (SGRPID) Reporting Officer states that *“From my experience on Tiree, there is always demand for croft land, whether it be from established crofters looking to expand or from the younger generation wanting to get a foot on the crofting ladder. There is very little land, if any, on Tiree that is not used for crofting purposes, either on a formal agreement or informal gentleman’s agreement.”* The Commission is satisfied that there would be interest in the croft were it to be offered for letting on the open market.

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

**Croft:** 2 Unachan  
**Parish:** Kilmonivaig  
**Reg No:** I2379  
**Case Number:** 88207  
**Application Type:** Decrofting – part croft

<b>Decision – Approved</b>	<b>Extent: 2.237 ha</b>
<b>Grounds for Decision</b>	
<ul style="list-style-type: none"> <li>The granting of this area which comprises of two strips of land will regularise an existing situation and the Commission are satisfied that the granting of a Direction will not have a negative impact on the remainder of the croft land.</li> <li>No objections or expressions of demand have been received following the advertising of the application.</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>. There are no issues with access to the site or the remainder of the croft land.</li> </ul>	
<b>Conditions of Direction</b>	
<b>Purpose:</b>	General Purpose

**Highland (excl Caithness)**

**Croft:** Aultchruine  
**Parish:** Glenshiel  
**Reg No:** R1959  
**Case Number:** 88172  
**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:** 11 South Erradale  
**Common Grazing:** South Erradale Opinan & Porthenderson  
**Parish:** Gairloch  
**Reg No:** R1527  
**Case Number:** 83999  
**Application Type:** Apportionment

<b>Decision – Approved</b>	<b>Extent: 0.030 ha</b>
<b>Grounds for Decision</b>	
The application for the Commission’s consent to apportion a part of the above common grazing for the applicant’s own exclusive use has been approved subject to the conditions below.	
<b>Conditions</b>	
<p>(FIRST) The apportionment must be fenced in accordance with the attached map. If you find it is not possible to enclose the area with a stockproof fence in terms of the attached map, you must complete the fencing within the line of apportionment. You must not encroach onto the unapportioned common grazing land. However, if there are any unforeseen physical constraints which prohibit from enclosing on or within the agreed fence line you may seek a review of the condition.</p> <p>(SECOND) You and your successors shall in all time coming maintain in a stockproof condition any new fences and gates erected to complete the enclosure of the said area of ground and that without prejudice to any liability they may have for the maintenance of any other fences and gates bounding the said area of ground.</p> <p>(THIRD) The souming for the said 11 South Erradale in the Township Common of the said common grazings shall be unchanged.</p> <p>(FOURTH) Your liability for township expenses including the expenses incurred by the Committee in maintaining the said common grazing and in providing, maintaining and replacing any fixed equipment required in connection therewith, shall, notwithstanding the foregoing abatement of souming remain as hitherto (that is to say, based on the original souming) but you may apply to the said Grazing Committee for modification of your liability for township obligations and if you are dissatisfied with the decision of the said Grazing Committee you can make representations to the Crofting Commission.</p> <p>(FIFTH) The apportionment is granted on the understanding that the area apportioned is for your own exclusive use.</p> <p>(SIXTH) All existing rights of access over the area apportioned shall be reserved.</p>	

**Croft:** 90 Laid, Loch Eribollside  
**Parish:** Durness  
**Reg No:** S0783  
**Case Number:** 86976  
**Application Type:** Decrofting – Part Croft

<b>Decision – Approved</b>	<b>Extent: 0.6 ha</b>
<b>Grounds for Decision</b>	
<p>The Commission has considered this application under sections 24B(1) and 25(1)(a) of the Crofters (Scotland) Act 1993 to decroft an area of land extending to 0.6 ha and has decided to <b>grant</b> a decrofting Direction on the following grounds:</p> <ul style="list-style-type: none"> <li>• The area forms part of a larger apportionment granted for the proposed micro hydro scheme. The Commission therefore consider that the granting of a Direction will not have a negative impact on the remainder of the croft land.</li> <li>• No objections or expressions of demand have been received following the advertising of the application.</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 or, where appropriate, common grazing”</i>. The Commission is satisfied there are no issues with access relating to the site applied for and that decrofting the 0.6 ha site will not impede the access to the remainder of the common grazings for any of the shareholders.</li> </ul>	
<b>Conditions of Direction</b>	
<p>The land must as a first change of use, be used, let or disposed of as a site for a micro hydro scheme.</p>	

**Western Isles**

**Croft:** 20 Galson  
**Parish:** Barvas  
**Reg No:** R0802  
**Case Number:** 87417  
**Application Type:** Assignation

<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 Knockintorran  
**Parish:** North Uist  
**Reg No:** I4454  
**Case Number:** 88352  
**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.
<b>Conditions</b>
The sublet will be for the fixed period of 10 years.

**Croft:** 2 Knockintorran  
**Parish:** North Uist  
**Reg No:** I4455  
**Case Number:** 88356  
**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.
<b>Conditions</b>
The sublet will be for the fixed period of 10 years.

**Croft:** 25B Garrygall  
**Parish:** Barra  
**Reg No:** I7429  
**Case Number:** 87067  
**Application Type:** Assignation

### Decision – Approved

#### Grounds for Decision

The Commission considered the application under section 8 of the Crofters (Scotland) Act 1993 (“the Act”) to assign the tenancy of the croft 25b Garrygall to Mrs Anne-Marie McKirdy, and has decided to approve 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 assignation of a tenanted croft.

- 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 3 years of the approval. The reason for this timeframe is that the proposed assignee, Mrs McKirdy intends to retire in 3 years. In the circumstances we consider this to be a realistic timescale to comply with the residency duty.
- In terms of section 58A(7)(a)(ii) of the Act the Commission must have regard to whether the croft is being or will be cultivated or put to such other purposeful use and are satisfied from the available evidence that Mrs McKirdy has made arrangements for ensuring the croft is cultivated during her absence and that she will cultivate the croft herself when she takes up residence on the croft.
- The Commission must give regard to the interests of the estate under subsection 58A(7)(b) of the Act. We have not received an objection from the landlord/estate in respect of the land to which this application relates and therefore do not consider that the interests of the estate will be adversely affected.
- 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. We have not received any objection to this application from any member of the crofting community. The Commission therefore consider that approving this application will not have an adverse effect on the interest of the crofting community in the locality of the croft or on the sustainable development of that crofting community.
- 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, nor were any expressions of demand received in respect of the tenancy of the croft.
- 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 has had regard to its Policy Plan and is satisfied that the consent hereby provided is consistent with the said Plan as it relates to assignation.

**Croft:** 2 Cheesebay  
**Parish:** North Uist  
**Reg No:** I4297  
**Case Number:** 89040  
**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.
<b>Conditions</b>
The sublet will be for the fixed period of 8 years.

**Croft:** 18 Garrygall  
**Parish:** Barra  
**Reg No:** I0464  
**Case Number:** 86442  
**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.