

# NOTIFICATIONS AND GROUNDS AND DECISIONS FOR APPLICATIONS DECIDED

Applications between 26/08/19 – 01/09/19

**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:** 16 Bornaesketaig  
**Parish:** Kilmuir  
**Reg No:** 16127  
**Case Number:** 96803  
**Application Type:** Letting – Part Croft

Decision – Approval	Extent: 1.147 ha
<b>Grounds for Decision</b>	
<p>The Commission has considered the application by Kenneth and Mrs J Karan Finlayson for consent to let the part of the croft they own at 16 Bornaesketaig, Kilmuir extending to 1.147(ha) under section 23(3) of the Crofters (Scotland) Act 1993 (“the 1993 Act”) to their daughter, Lianna Finlayson and has <b>approved</b> the application on the following grounds:-</p> <p>We have had regard to whether the proposed tenant will be ordinarily resident on, or within 32 kilometres of, the croft. The Commission are satisfied from the available evidence that the proposed tenant will comply with the residence duty.</p> <p>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 tenant will cultivate this modest size croft by keeping pigs and hens and by carrying out drainage and land improvement works and erecting fencing.</p> <p>We have received no objections from any members of the crofting community. The Commission considers on the available evidence that the entry into crofting of a young person with plans for working the croft will be of benefit to the interests and the sustainability of the local crofting community.</p> <p>We are satisfied on the available evidence that the approval of the assignation will not adversely affect the interests of the public at large.</p> <p>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.</p> <p>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 relation to letting.</p> <p>For the foregoing reasons the application has been approved.</p>	

**Croft:** 4 Strollamus  
**Parish:** Strath  
**Reg No:** I4125  
**Case Number:** 97790  
**Application Type:** Decrofting – Part Croft

<b>Decision – Approved</b>	<b>Extent: 0.069 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>	
<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:** 171 Newton Ardtoe  
**Parish:** Ardnamurchan & Sunart  
**Reg No:** A0263  
**Case Number:** 97528  
**Application Type:** Letting

<b>Decision – Approval</b>
<b>Grounds for Decision:</b>
<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 Dalnabreck  
**Parish:** Arisaig & Moidart  
**Reg No:** I0092  
**Case Number:** 97227  
**Application Type:** Division

<b>Decision – Approved</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>

**Croft:** **Smiddy Croft**  
**Parish:** **Strath**  
**Reg No:** **17459**  
**Case Number:** **98710**  
**Application Type:** **Decrofting – Part Croft**

<b>Decision – Approved</b>	<b>Extent: 0.04 ha</b>
<b>Grounds for Decision</b>	
<p>The Commission has considered the application submitted under section 24(3) and 25(1)(a) of the Crofters (Scotland) Act 1993 (“the 1993 Act”) to decroft part of the croft at Smiddy Croft, Strath extending to 0.04 (ha) to allow the area of ground to be sold to a neighbour for widening an existing roadway and have agreed to grant a decrofting Direction on the following grounds:</p> <ol style="list-style-type: none"> <li>1. Under section 25(1)(a) of the 1993 Act, the application is considered to be for a reasonable purpose (within the meaning of section 20 of the 1993 Act) and that the area applied for is not excessive in relation to that purpose.</li> <li>2. There have been no objections received from any member of the crofting community in response to the advertising of the application to decroft.</li> </ol>	
<b>Conditions of Direction</b>	
<p>The land must as a first change of use, be used, let or disposed of to widen an existing roadway.</p>	

**Caithness, Orkney & Shetland**

**Croft:** **Boultach**  
**Parish:** **Latheron**  
**Reg No:** **C0421**  
**Case Number:** **96645**  
**Application Type:** **Letting of a Vacant Croft**

<b>Decision – Approved</b>	<b>Extent: 0.069 ha</b>
<b>Grounds for Decision</b>	
<p>Having considered all of the available information, the Commission is satisfied this 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>	

**Highland (excl Caithness)**

**Croft:** Ardneasken  
**Parish:** Lochcarron  
**Reg No:** R2726  
**Case Number:** 86392  
**Application Type:** Assignment

**Decision – Refusal**

**Grounds for Decision**

The Commission has considered this application submitted under section 8 and section 58A of the Crofters (Scotland) Act 1993 (“the 1993 Act”) by Mrs Linda Hunter (or MacLean) to assign the tenancy of the croft at Ardneasken, Lochcarron (including the grazing share in Ardneasken Common Grazings) to David J Reason and has decided to **refuse** the application on the following grounds:

Section 58A(7) of the Crofters (Scotland) Act 1993 (“the 1993 Act”) stipulates the factors to which the Crofting Commission (“the Commission”) is obliged to have regard to when reaching a decision on applications for Commission consent to assign a tenancy.

Section 58A(7)(a)(i) of the Act requires the Commission to have regard to: “*whether any person is, or will be ordinarily resident on, or within 32 kilometres of the croft*”. The Commission note that Mr Reason, the proposed tenant, already resides in the township of Ardneasken. The Commission is therefore satisfied that residency duty would be met.

Section 58A(7)(a)(ii) of the Act requires the Commission to have regard to “*whether the croft is being or will be cultivated or put to such other purposeful use as is consented to under section 5C(4)*”. The Commission noted in the application form that the proposed tenant intends to improve the croft by way of repairing the fences and ploughing to carry out soil checks about the viability of growing crops. He does not intend to graze livestock and has stated in the application form that he might use the croft for growing potatoes and kale (and also suggested at the site meeting with the RPID officer that the land may be suited to growing fruit). He has also stated that he may consider putting beehives on the upper part of the croft, if this part of the croft cannot be used for arable crops, but it is clear that he has no firm plans to do so. Mr Reason has stated that he does not intend to use the grazings share that is a pertinent of the croft.

The Reporting Officer advises the croft is in two parts, with 0.25 ha below the road running to the shore and 0.40 ha above the road at the top of a steep wooded slope that runs through the township parallel to the road. The croft is in poor condition and needs a lot of work to bring it into use and this will require specialised machinery and contractors to plough, fertilise, lime and prepare the land for cultivation. The Reporting Officer said Mr Reason has no such machinery or skills which would allow him to carry out such work, but Mr Reason did inform the Reporting Officer that he would be willing to meet the expense of having this work done.

Concern has also been expressed by members of the crofting community and the landlord about the proposed assignee’s commitment to meet the crofting duties in relation to cultivation. These concerns are mainly related to the view expressed that Mr Reason is reported by a member of the crofting community as previously having had croft land that he did not use for crofting activities. The landlord’s objection also attacks the credibility of the proposed tenant’s intention to start growing potatoes or kale on the land or to keep bees, having previously in their words shown no interest in these activities.

The Commission notes that a considerable amount of work would have to be carried out in order for it to be in a fit state for cultivation by way of growing crops. The Commission must assess also the application in light of the proposed tenant's lack of crofting experience and what the Commission considers is, on balance, a reasonable risk that the croft would not be cultivated and would continue to be neglected, despite the stated intentions of the proposed assignee.

The Commission notes that there is conflicting information about Mr Reason's intention and ability to comply with his duties as a crofter. Mr Reason accepts that he does not currently possess the skills to work the croft nor does he intend to use the grazing share, though he did indicate that he might be willing to contribute towards the costs of fencing a small part of the common grazings (which would depend upon the agreement of, and contributions from, the other shareholders). The Commission is unable to conclude when exercising its discretion, and on the basis of the available information regarding the proposed uses for the croft, the current poor condition of the croft and the proposed tenant's experience, that the croft will likely be cultivated or put to a consented purposeful use by the proposed assignee, though there is always a possibility that it may be so cultivated.

The interests of the estate must also be taken into account under subsection 58A(7)(b) of the 1993 Act and subsection 58A(7)(f) relates to any objections received under subsection (4) or 5(A) of the Act. The landlord objects to the application questioning the motives of the proposed assignee (and the genuineness of the application) and his lack of qualifications for being a crofter, having been (in the words of the landlord) resident in the local community for over 20 years and having shown no interest or participation in crofting. The landlord wishes to ensure that the croft is fully worked by an active crofter. Although the proposed assignee has outlined plans for the croft, the landlord considers there is doubt as to the credibility of his proposals and his ability to carry them out. The Commission further notes that the landlord has raised an action in the Scottish Land Court to have the current tenant's tenancy terminated. The landlord wishes to have the application refused in order to enable him to continue his termination action which, if successful, would enable the landlord to make a letting application to the Commission to a proposed tenant of his choice. The Commission accepts that the landlord has a strong and material interest in this application being refused.

The interests of the crofting community in the locality of the croft and the sustainable development of that community must be taken into account under section 58A(7)(c) and 58A(7)(d) of the 1993 Act and section 58A(7)(f) relates to any objections received under subsection (4) or 5(A) of the 1993 Act. Two members of the Crofting Community objected to the application. One member of the crofting community in his objection doubted the credibility of the proposed assignee's stated intention of using the croft for arable cropping and possibly keeping bees, having had no experience of either of these activities, having lived in the local community for approximately twenty years and having previously had an opportunity to use land that was at the time in crofting tenure. Although this objection was originally made by the objector as grazings clerk, the objector subsequently clarified that he was writing in a personal capacity as a member of the crofting community. The Commission has assessed this objection on this basis and representing the views of this member of the crofting community only and not the township generally. Another objector claims an interest in obtaining a tenancy of the croft, stating that he has maintained and cultivated it for the past three years, prior to which he states that it was totally neglected. Having considered the objections and the points made in them, the Commission considers that the interests and the sustainability of the crofting community would be best advanced by the croft being actively worked and managed, particularly in light of the information contained in the RPID report that only 2 out of 15 crofts in Ardnearcan have crofting activity. In the Commission's assessment, one of the factors undermining the crofting community at Ardnearcan is the lack of active crofting in the township and the lack of use

of the common grazings. For the reasons set out above, the Commission has been unable to conclude that approval of this application would likely result in this croft being cultivated or put to a consented purposeful use.

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 information to suggest that the interests of the public at large would be affected, either positively or negatively, by the proposed assignation.

Section 58A(7)(g) requires that in reaching a decision on such assignation applications, the Commission must have regard to their Policy Plan. The relevant paragraph in relation to assignations is paragraph 106 which states that *“When considering applications to assign, the Commission will apply the standard requirements and its policies on residency, land use and shared management. The application should show that the proposed assignee is both able to and intends to comply with all the statutory duties and in particular that he or she intends to be ordinarily resident on or within 32 kilometres of the croft and to cultivate and maintain the croft or put it to a purposeful use which has section 5C(4) consent.”* Given the concerns that the Commission has with regard to whether the croft is likely to be cultivated or put to a consented purposeful use, the Commission is of the view that refusal of this application would not be inconsistent with the Commission’s Policy Plan, but it does accept that the proposed assignee would likely be ordinarily resident.

The Commission has balanced the various factors set out in section 58A(7) when deciding this application on its individual merits. Whilst on the one hand the assignation of a tenancy to a local resident would be consistent with the Commission’s policies on residency, the Commission must also have regard to its policies regarding cultivation and consented purposeful use of crofts. The Commission has noted that only 2 out of 15 crofts in Ardsneaskan are actively worked and have formed the view that, with regard to this particular application, it is important that any proposed assignee can adequately demonstrate that it is likely that the croft will be worked or put to a consented purposeful use. The Commission has also found that the interests of the estate would best be served by refusing the application and has found that some weight must be given to the objectors’ concerns regarding the likelihood of active crofting land use taking place, should the application be approved. On balance, and having weighed all the factors in support of and against giving consent to the application, the Commission has exercised its discretion to decide that in this particular case, the application should be **refused** for the reasons set out above.

**Croft:** 1 Durnamuck  
**Parish:** Lochcarron  
**Reg No:** R2573  
**Case Number:** 99029  
**Application Type:** Assignation

**Decision – Approval**

**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:** 118 Rhitongue  
**Parish:** Tongue  
**Reg No:** S2022  
**Case Number:** 99271  
**Application Type:** Decrofting – Croft House Site and Garden Ground

<b>Decision – Approved</b>		<b>Extent: 0.166 ha</b>
<b>Grounds for Decision</b>		
<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>		
<b>Conditions of Direction</b>		
<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 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:** 4 Erbuisaig (apportionment & share)  
**Parish:** Lochalsh  
**Reg No:** R6479  
**Case Number:** 98335  
**Application Type:** Decrofting – Croft House Site and Garden Ground

<b>Decision – Approved</b>		<b>Extent: 0.118 ha</b>
<b>Grounds for Decision</b>		
<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>		
<b>Conditions of Direction</b>		
<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 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:** 9 Leachkin  
**Parish:** Inverness  
**Reg No:** I2096  
**Case Number:** 98353  
**Application Type:** Letting

<b>Decision – Approval</b>		
<b>Grounds for Decision</b>		
<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:** Heights of Brae  
**Parish:** Fodderty  
**Reg No:** R1335  
**Case Number:** 99599  
**Application Type:** Assignment

**Decision – Approval**

**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:** 402 & 402A Elphin & Aultnachy (shares)  
**Parish:** Assynt  
**Reg No:** S2699  
**Case Number:** 99674  
**Application Type:** Assignment

**Decision – Approval**

**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:** 402B Elphin & Aultnachy (shares)  
**Parish:** Assynt  
**Reg No:** S3016  
**Case Number:** 99675  
**Application Type:** Assignment

**Decision – Approval**

**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:** 3 Ardmhor  
**Register No:** I0166  
**Parish:** Barra  
**Case Number:** 98521  
**Application Type:** Assignment

**Decision – Approval****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:** 35 Callanish  
**Parish:** Uig  
**Reg No:** R5083  
**Case Number:** 97079  
**Application Type:** Assignment

**Decision – Approval****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:** 6 Aird  
**Parish:** Harris  
**Reg No:** I1651  
**Case Number:** 96928  
**Application Type:** Assignment

**Decision – Approval****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:** **5 Uachdar**  
**Parish:** **South Uist**  
**Reg No:** **I5587**  
**Case Number:** **99902**  
**Application Type:** **Decrofting – Croft House Site and Garden Ground**

<b>Decision – Approved</b>		<b>Extent: 0.067 ha</b>
<b>Grounds for Decision</b>		
<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>		
<b>Conditions of Direction</b>		
<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 the acquisition of the land by the crofter or nominee.</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:** **3 Ceann Diebeg**  
**Parish:** **Harris**  
**Reg No:** **I1594**  
**Case Number:** **98753**  
**Application Type:** **Decrofting – Croft House Site and Garden Ground**

<b>Decision – Approved</b>		<b>Extent: 0.225 ha</b>
<b>Grounds for Decision</b>		
<p>The Commission has considered your application under section 24A(1) and section 25(1)(b) of the Crofters (Scotland) Act 1993 to decroft the croft house site and garden ground extending to 0.225 hectares and <b>gives a Direction</b>.</p> <p>The Commission is satisfied on the available evidence that the site consists only of the dwellinghouse on or pertaining to the croft.</p> <p>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. The Commission is therefore satisfied that the extent of the garden ground included in the application is appropriate for the reasonable enjoyment of the dwellinghouse as a residence.</p>		
<b>Conditions of Direction</b>		
<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 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>	