



**CROFTING COMMISSION
COIMISEAN NA CROITEARACHD**

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Decrofting Application Part Croft (Tenanted) Guidance Notes



Decrofting is the term used when land is removed from crofting tenure.

1. REQUIREMENT TO REGISTER YOUR CROFT LAND

The final element of the Crofting Reform (Scotland) Act 2010 relating to the registration of croft land came into effect on 30 November 2013.

The Crofting Register is map based and provides a definitive record of the extent of, and interest in, land within crofting tenure in Scotland. In addition to showing the boundaries of land, the register also contains information on the crofter, owner-occupier crofter and/or the landlord of the registered croft. The Crofting Register is maintained by the Keeper of the Registers of Scotland, although the application for registration is made in the first instance to the Crofting Commission who will check the information contained in or accompanying the registration application against the information contained in the Commission's Register of Crofts.

If your croft is unregistered, the Commission will be unable to make a decision on your decrofting application until the croft has been registered with the Keeper of the Registers of Scotland. To avoid delays therefore, we recommend that your decrofting application should be accompanied by your application to register the croft on the Crofting Register. This must be accompanied by a map showing the boundaries of the croft along with the registration fee.

A copy of the registration form and accompanying guidance notes can be found at www.ros.gov.uk/services/registration/crofting-register. If an application to register is not submitted within 6 months of the date of receipt of this application, the application to decroft will be withdrawn from our records and returned to you.

If your croft is already registered with the Keeper of the Registers of Scotland, an application for Registration of a Subsequent Event will be required should your decrofting application be approved.

2. IMPORTANT INFORMATION

If the application is being submitted by anyone other than the crofter or their Solicitor, the form should be accompanied by written confirmation from the crofter that they authorise the signatory to act as their agent. You may only apply to decroft common grazing land if the site to be decrofted is the croft house site, within the meaning of section 25(1)(b) of the Crofters (Scotland) Act 1993. All other common grazing land must be fully apportioned, that is, it must have a Final Order of Apportionment before a decrofting application can be considered.

Please note that any information you provide is part of an open process and will be made available to other parties involved in the process. This information would also be released under a Freedom of Information enquiry subject to any disclosure exemptions under the Data Protection Act 1998.

If your application is approved, we will issue an 'Advance of Purchase' decrofting direction. This means that to effect the direction you or your nominee must purchase the area approved within 5 years of the date of that direction and fulfill any registration requirements. This is a statutory time limit, which we cannot extend or modify. You may wish to inform your landlord of this application and of your intention to purchase the area.

We would encourage you to contact the landlord to make them aware of your proposals, as experience has shown this can help establish good community relationships.

2.1 APPLICATION FOR CROFTER HOUSING GRANT

Any crofter intending to apply for the Croft House Grant Scheme must have received approval prior to applying for a decrofting direction.

3 APPLICATION DETAILS

In considering its decision on this application, the Commission will give regard to the purpose and whether the extent applied for is appropriate for the stated purpose and not excessive in line with Sections 24(3) and 25 of the Crofters (Scotland) Act 1993 and the decrofting section of the Crofting Commission's Policy Plan.

Section 20(3) of the Crofters (Scotland) Act 1993

The Commission could consider a decrofting application to be a reasonable purpose where it relates to:

(a) the using, letting or disposing of the land for:

- the building of dwellings
- small allotments
- harbours, piers, boat shelters or other like buildings
- churches or other places of religious worship
- schools
- halls or community centres
- planting
- roads practicable for vehicular traffic from the croft or township or the public road or to the seashore
- the generation of energy or
- any other purpose likely to provide employment for crofters and others in the locality or

(b) the protection of an ancient monument or other object of historical or archaeological interest from injury or destruction.

Please note this list is illustrative only. It is not exhaustive, neither does the purpose indicated above guarantee approval of an application to decroft.

3.1 PLANNING PERMISSION

If the application is for a proposed new development, you must include a copy of the planning permission (either full planning permission or planning permission in principle). In cases where the planning has not yet been approved, we require your planning reference number.

4 WIDER INTERESTS

The Commission must have regard to whether it will be for the good of the croft, estate or the crofting community* in the locality of the croft or the public interest. The Commission may also take account of the effect of the stated purpose on the sustainability of crofting or the crofting community in that locality or the communities in that area, and the environment and landscape of that locality or area. The Commission may also consider the impact of the stated purpose on the social and cultural benefits associated with crofting.

**Crofting community' means all the persons who (either or both) occupy crofts within a township which consists of two or more crofts registered with the Crofting Commission; hold shares in a common grazing associated with that township.*

In this section you are provided with the opportunity to make any comments on these matters which you consider the Commission should take into account when considering your application.

4.1 PUBLIC INTEREST

Crofting legislation does not define 'public interest', although it contains various references to it. It is therefore for the Commission to be satisfied that, where required on a case-by-case basis, the public interest test is met.

In exercising its functions, the Commission must have regard to (a) the desirability of supporting population retention in the crofting counties and in any other designated area where crofts have been created, and (b) the impact of changes to the overall area of land held in crofting tenure to the sustainability of crofting.

In determining if, for example, approving an application is in the public interest, the Commission may consider any evidence of the advantages and disadvantages to other crofters, crofting communities, the wider community and others the Commission considers as having an interest in the application. The Commission will also take into account the Scottish Government's crofting policies and will normally favour the wider public interest particularly where individual private interest will disadvantage the sections detailed above.

4.2 SUSTAINABLE DEVELOPMENT

Sustainable development of a crofting community will normally include the economic social and environmental well-being of the community but meeting the sustainable development criteria need not require meeting all these strands. For instance, the agricultural aspect of crofting is not always necessarily financially sustainable, but this does not preclude it from adding value to the well-being of the individual and the surrounding community. Consideration of applications should take account of the maintenance and possible increase in populations, good management practices, the protection and enhancement of environmental assets, economic demand and employment opportunities, the protection and encouragement of biodiversity, the production of renewable energy reduction in carbon emissions, resource efficiency and the avoidance of dereliction of land. There are many criteria available when considering sustainable development although not all will be applicable to each circumstance.

5 RESIDENCY

An application from a crofter in breach of any of the statutory duties, including the residency duty where consent to be absent has not been obtained, will need to demonstrate how the proposed decrofting will help to resolve the breach.

5.1 WHAT ARE CROFTER'S DUTIES?

CROFTERS DUTIES

Both tenant and owner-occupier crofters have a duty to:

- **Be resident on, or within 32 kilometres (20 miles) of their croft**
- **Not to misuse or neglect the croft**

Misuse – This refers to a croft being used for something which is not considered as cultivation. Crofters require the consent of their landlord or, failing that, the Crofting Commission if they wish to put their croft to another purposeful use.

Neglect – This refers to the management of the croft which should meet the standards of Good Agricultural and Environmental Condition (GAEC).

- **Cultivate and maintain the croft**

Cultivate – This refers to the croft being used for cultivation or put to another purposeful use. This includes horticulture, keeping livestock including poultry and bees, growing of crops and the planting of trees.

Maintain – This refers to the maintenance of the croft; to enable the croft to be cultivated it must be maintained in a fit state except where another purposeful use is incompatible with the croft being kept in such a state.

Purposeful use – This means any planned and managed use which does not adversely affect the croft, the public interest, the interests of the landlord or (if different) the owner, or the use of adjacent land. A crofter may only put the croft to a purposeful use if the landlord has consented to the use (unconditionally or subject to conditions acceptable to the crofter); or the Commission have consented to the use.

6 ACCESS

The Commission will give priority to the provision of appropriate access to **all** remaining parts of the croft and, where appropriate, the common grazing. The provision should allow unrestricted access at all times including access for agricultural machinery. Failure to meet this provision is likely to result in the application being modified or refused.

Your location and/or site map must show all existing access routes to the croft **as well as** any proposed access provision.

7 MAPPING INFORMATION

Your decrofting application must be accompanied by a site map and a croft boundary map as shown in the following examples. Our guidelines reflect the Registers of Scotland crofting register criteria. If the croft is already registered then the location map should show the registered croft boundary.

All maps must be clear and legible. Ideally you should send us original colour maps as maps that have been photocopied several times lose their quality and accuracy. Maps that do not meet our required standard will result in your application being returned. Maps that meet this standard can be acquired from local authorities, architects and surveyors and distributors of Ordnance Survey maps which can be found by searching the Internet.

MAP FOR EXAMPLE PURPOSES ONLY

Appendix 2 Example Site Map

 Proposed decrofting

 Vehicle access (within croft)

 Croft

1. Area to be decrofted:
The boundaries of the area proposed to be decrofted should be clearly shown.

2. Extent: Extent of the area to be decrofted should be clearly stated in hectares to 3 decimal places e.g. 0.044 ha.
(0.001 ha = 10 m²)

10. Up to date Ordnance Survey map: The background mapping should provide **sufficient surrounding detail** (e.g. fences, rivers, buildings) to allow the site position to be fixed accurately.

9. Access: Vehicle access should be shown to the remainder of the croft and any adjacent croft land.

3. Dimensions: The length of each boundary line should be provided in metres, to one decimal place (e.g. 23.2 m).

8. Map size: The site map should be A4 or A3 size.

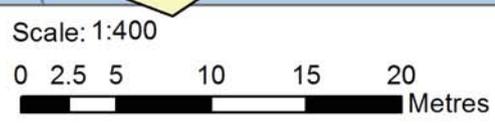
7. Map Scale: The map scale should be appropriate to show the croft boundaries precisely and so there is no doubt about what line each boundary follows.

3. Dimensions: The length of each boundary line should be provided in metres, to one decimal place (e.g. 23.2 m).

6. Scale bar and text: A scale bar and text will help us identify any photocopying issues and allow us to check your boundary measurements.

5. North arrow: So we can orientate your map when trying to locate the croft.

4. Map Coordinate: For the middle of the site. Such as the national grid six figure format (eg: NG 033 836). This allows us to locate your site.

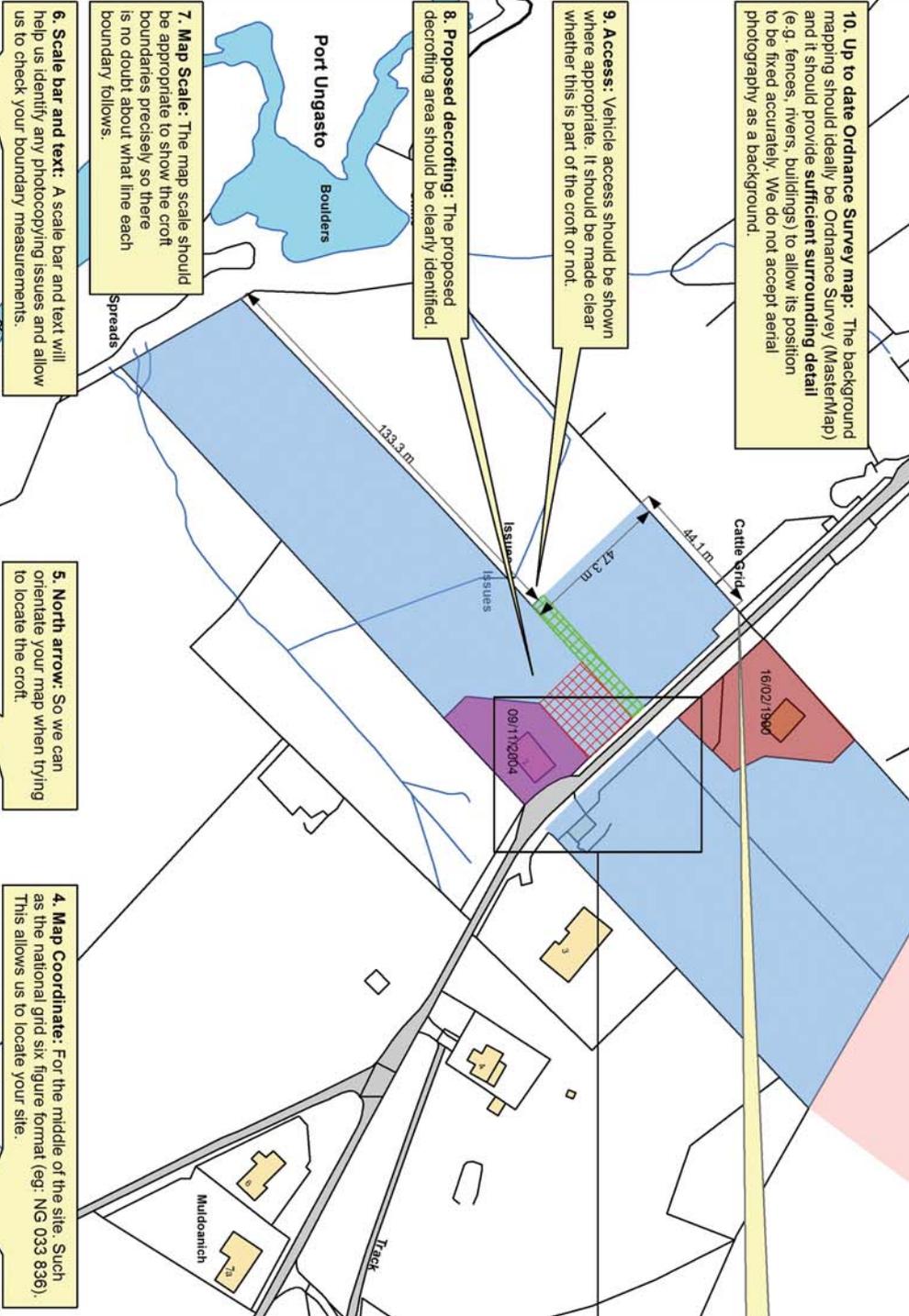


GRID REF: NG 033 836

Appendix 3 Example Croft Boundary Map

Legend:

- Proposed decrofting
- Vehicle access (within croft)
- Resumption
- Decrofted
- Croft
- Apportionment



1. Whole croft boundaries: Must be clearly shown.

2. References to apportionments, decroftings and resumptions: Clearly show and label any apportionments, decroftings or resumptions to your croft.

10. Up to date Ordnance Survey map: The background mapping should ideally be Ordnance Survey (MasterMap) and it should provide sufficient surrounding detail (e.g. fences, rivers, buildings) to allow its position to be fixed accurately. We do not accept aerial photography as a background.

9. Access: Vehicle access should be shown where appropriate. It should be made clear whether this is part of the croft or not.

8. Proposed decrofting: The proposed decrofting area should be clearly identified.

7. Map Scale: The map scale should be appropriate to show the croft boundaries precisely so there is no doubt about what line each boundary follows.

6. Scale bar and text: A scale bar and text will help us identify any photocopying issues and allow us to check your boundary measurements.

5. North arrow: So we can orientate your map when trying to locate the croft.

4. Map Coordinate: For the middle of the site. Such as the national grid six figure format (eg: NG 033 836). This allows us to locate your site.



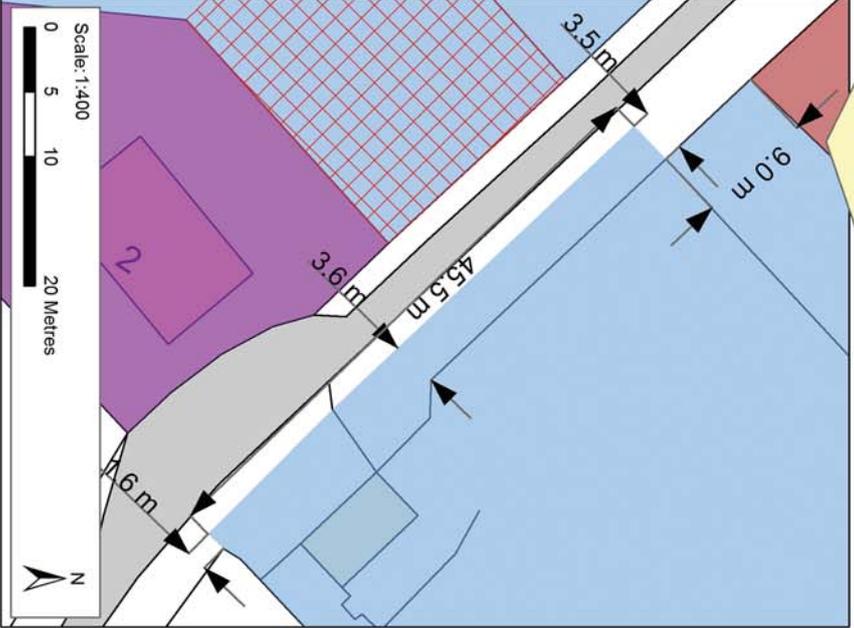
GRID REF: NG 033 836
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MAP FOR EXAMPLE PURPOSES ONLY

Further Guidelines:

- We recommend a map size of A3. Additional maps can be used to show extra detail as necessary.
- Annotation can be added to some or all of boundaries to ensure that they are mapped correctly, such as: 'boundary follows post and wire fence'.
- Decroftings, resumptions and apportionments should be consistent with the boundaries and area specified in the direction or order.
- Extracts of Ordnance Survey Mastermap can be obtained from several sources including Registers of Scotland for a small fee.
- The criteria in this map is consistent with Registers of Scotland criteria for the Crofting Register. Maps that meet this criteria will be able to be submitted for croft registration as well as the decrofting application. For further information visit www.ros.gov.uk/croftingregister
- If the croft is already registered in the Registers of Scotland Crofting Register then this boundary should be used and criteria 2 and 3 will not need to be met.

3. Boundary Measurements: Measurements in metres (to one decimal place) should be provided for the croft boundary sections that do not follow features on Ordnance Survey MasterMap. Surrounding measurements should also be shown to enable the exact boundary line to be determined.





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