

CROFTING COMMISSION MEETING

6th May 2026

Report by the Director of Operations

Decrofting interim policy statement

SUMMARY

This paper presents a draft interim policy for decrofting. This is based on direction from the board, current policy and practice at the Commission, and input from staff. If approved this will be published as interim policy guidance to support the current policy plan and it will also form the basis for the decrofting section of the initial draft of the policy plan due in 2027/28.

BACKGROUND

This paper presents a draft interim policy statement on decrofting. The policy covers all types of decrofting and the details of the different requirements for different types of decrofting will be detailed in the relevant application forms and guidance. The policy also covers access and planning. This has been written based on the board discussion at the scoping meeting in March. The text is based on feedback from the board, with input from Commission staff. The current policy on decrofting is found in the [current policy plan](#) on page 6, paragraphs 25 to 27. Footnotes are included to highlight certain aspects of the policy which will change when certain provisions in the crofting bill come into force.

If approved, this draft will be published as an interim policy statement, which will not replace the current policy plan but add further detail about Commission policy approach. The interim policy statement will also form the basis for the initial draft of the policy plan due in 2027/28. The text may need to be adapted slightly as other related policies evolve and when it is published alongside other policies.

INTERIM POLICY ON DECROFTING - DRAFT

Policy context

The preservation of croft land is vital for the sustainability of crofting. A key role the Commission holds is its authority to consent to the removal of land from crofting tenure via decrofting. The retention of land in crofting tenure is a high priority for the Commission, to ensure the continuity of crofting and the wider benefits it brings. However, the Commission recognises that judicious removal of land in crofting tenure, for a clear reason, can be beneficial. These benefits include enabling the development of new housing, separating a house site from a croft, and supporting the development of a crofter's business. These all bring wider benefits to crofting and communities, through helping to increase housing stock, facilitating active crofting and facilitating economic development.

Availability of housing is an issue affecting the whole of Scotland. The magnitude and impact of this was recognised when the Scottish Parliament declared a housing emergency in 2024. This issue is felt acutely in rural areas where issues can include challenges in the

identification of suitable land, construction capacity, skills challenges and supply chain challenges. Lack of suitable housing limits the sustainability and growth of rural communities and can have a detrimental impact on crofting.

Housing challenges in crofting areas have a direct impact on population retention, which the Commission has statutory responsibility to have regard to. This is balanced against the potential impacts of decrofting on the sustainability of crofting and the overall area of land in crofting, which the Commission also has a statutory responsibility to have regard to. Commission decrofting policy aims to strike the right balance between these, sometimes competing, factors, in order to enable decrofting to help tackle the housing crisis and simultaneously ensure the sustainability of crofting.

Decrofting goes hand in hand with planning permission in order to enable houses and other developments to be built on land in crofting tenure. The Commission recognises the role it plays within this wider system and the different demands on Scotland's land. The Commission will engage with planning authorities, to help ensure that planning considerations relevant to crofting are embedded within local development plans.

Policy aims

1. Decrofting will support housing creation, economic development and community benefits in crofting areas.
2. Decrofting will minimise the unnecessary removal of croft land and support the sustainability of crofting.

Policy principles

- The Commission will typically support decrofting for the creation of housing, economic development and community benefits. The Commission recognises that despite the loss of croft land being of itself detrimental to crofting, this is typically outweighed by the other benefits to crofting and the local community, as well as to the public interest (which the Commission are required to consider in terms of section 25(1)(a)).
- The Commission recognises the important role that decrofting plays in enabling housing in rural communities where crofting is prevalent.
- Decroftings should not have a detrimental impact on the sustainability of the crofting community in the locality; the landscape of that locality; the environment of that locality; or the social and cultural benefits associated with crofting. If the Commission consider that the proposed decrofting will have a detrimental impact on any of these factors then the application may be refused.¹
- The Commission will consider the demand for the croft tenancy based on what is submitted directly to the Commission in response to a decrofting application. This alone would not determine how the Commission would decide the application. However, it may be a factor that contributes to the refusal of an application alongside another reason(s).²
- Decroftings should be considerate to the long-term sustainability of the croft. This will include considerations such as avoiding the best quality agricultural land where

¹ When the relevant sections of the Crofting Act 2026 commence this will change to: 'Decroftings should not have a detrimental impact on the sustainability of crofting in the parish in which the croft is situated, crofting communities in that parish, the landscape of that parish, the environment of that parish and the social and cultural benefits associated with crofting. If the Commission consider that the proposed decrofting will have a detrimental impact on any of these factors then the decrofting may be refused.'

² This principle will be removed once the relevant section of Crofting Act (2026) commences.

possible, not fragmenting the croft and siting to allow for possible future house sites on the croft for future crofters. If the Commission consider that the proposed decrofting will have a detrimental impact on the croft and/or its sustainability then the application may be refused.³

- The Commission has no authority to reserve access over land that has been decrofted. Therefore, decroftings should maintain access to the appropriate public road, either by siting to avoid current access routes or by creation of appropriate alternative access routes. This will include access to the remainder of the croft as well as access to the decrofted site. Any existing access to adjacent crofts or common grazing should also be maintained. Width of access is typically expected to be at least 4 m wide to accommodate agricultural vehicles and machinery. Applications for proposed decroftings that do not demonstrate suitable access are likely to be refused.
- Decroftings should be of an appropriate size for their purpose. If a proposed decrofting is considered to be excessive in relation to its purpose then the application is likely to be refused or modified.
- Decroftings should be for a reasonable purpose.⁴ Reasonable purpose is covered by section 20(3) and 25(1)(a) of the 1993 Act and includes purposes such as the building of housing and the generation of energy.
- The Commission will typically refuse decrofting applications that are not for a reasonable purpose.⁵ This includes the following:
 - A purpose that is unclear based on the application.
 - Decrofting so that the crofter or their successors are not subject to crofting duties.
 - A purpose that could be carried out under crofting tenure. These are broad and are defined under section 5C of the 1993 Act, as amended by the Crofting Reform (Scotland) Act 2010. There are exceptions to this where the purpose is also specified in the list of reasonable purposes in section 20(3) of the 1993 Act.
- If the Commission is not satisfied that the purpose of the decrofting will be carried out then the application is likely to be refused.
- Where planning permission will be required for the intended purpose of the decrofting the applicant should have obtained this permission prior to submitting the decrofting application. If there is no planning permission in full or in principle, where required for the intended purpose, the application is likely to be refused.
- Decrofting applications which include a grazing share will typically be refused.
- Where a decrofting application is not in line with the policy principles the Commission may offer the applicant a modification to their application to help ensure that the proposed decrofting is in line with the policy principles.
- Decroftings will be approved for a wind and water tight house on or pertaining to the croft which is applied for under section 25(1)(b) of the Act, where the extent of garden ground included is deemed appropriate for the reasonable enjoyment of the dwelling house as a residence and unless the crofter has already decrofted a house site under this provision.

³ When relevant sections of the Crofting Act 2026 commence an additional principle will be added here: 'Where the croft, which is subject to the proposed decrofting, has had previous decroftings, which in number and/or in area considered to be excessive by the Commission, this will be taken into account. It may also be relevant to consider the reasons for the previous decroftings, whether they were used as intended and who decrofted them. If the Commission consider that the cumulative impact of the decroftings, alongside the proposed decrofting, will have a detrimental impact on crofting, then the application may be refused.'

⁴⁴ When the relevant sections of the Crofting Act 2026 commence this will change to: 'Decroftings must be for a reasonable purpose.'

⁵⁵ When relevant sections of the Crofting Act 2026 commence this will change to: 'The Commission will refuse decrofting applications that are not for a reasonable purpose.'

- Decroftings will be approved in respect of a croft conveyance in feu which was granted under the Section 17 or 18 of the 1955 Act (as referred to in 25(1)(c) of the 1993 Act), provided the area applied for matches the plan accompanying the feu disposition.
- The Commission will engage with Planning Authorities in crofting areas to feed into local development plans. The Commission may also engage with consultations on Masterplan Consent Areas in crofting areas.
- Key considerations that should be incorporated into local development plans in crofting areas include:
 - Recognition of the right of crofters to build a house on their croft.
 - The importance of maintaining the operational use and sustainability of the croft. This includes maintaining appropriate access for agricultural vehicles and machinery (at least 4 metres wide) from the appropriate public road to the croft. This also includes avoiding good quality agricultural land where possible and not fragmenting the croft.
 - The importance of maintaining suitable access from the appropriate public road to surrounding crofts and Common Grazings land for agricultural vehicles and machinery (at least 4 metres wide).
 - The size of site should be appropriate to the purpose of the development to avoid unnecessary removal of croft land.
- The Commission will continue to fulfil its obligations as a statutory consultee on planning applications that may affect croft land. However, the Commission will not comment in detail on individual planning applications on croft land to avoid any implication of bias when it assesses the application when it is submitted as a decrofting application.

What will success look like

1. Decrofting contributes to housing and other developments in crofting areas, benefiting local crofting, communities and economies.
2. Decroftings are of an appropriate size for their purpose and contribute to the sustainability of crofting.

IMPACTS AND RISKS

The policy principles outlined above are consistent with existing processes and principles currently followed by the Commission in its consideration of decrofting applications. Therefore, there are no substantive impacts in terms of changes to processes, forms, information and staff training.

The draft interim policy for decrofting incorporates greater detail on decrofting policy and includes information on access and planning. Detail includes definitions about what would be considered reasonable purpose and what would fall outside of this. This change should improve clarity around this for customers, staff and the Land Court. This will help to ensure consistency of decision making and clarity around how the Commission deal with this issue. This should help mitigate the risk of the Commission being subject to an appeal and of losing an appeal for decrofting.

The policy has an increased emphasis on housing and gives the context for this as a pressing issue in Scotland's rural areas. This should help mitigate the risk of the Commission being seen to be not doing enough to contribute to the housing crisis. The policy aims make clear the balance that the Commission strikes between development, in particular housing, and maintaining croft land for the sustainability of crofting. However, this balance is difficult to fully capture in policy as each case has a unique set of circumstances.

| Impact: | Comments |
|------------------------|--|
| Financial | n/a |
| Legal/Political | Expansion and clarification of decrofting policy is beneficial to the Commission and provides clarity to applicants, agents and the Land Court. A greater emphasis on housing and the housing emergency will help make clear that the Commission is playing its role to help address this. |
| HR/staff resources | n/a |
| Consumer Duty Guidance | Expansion and clarity of decrofting policy benefits consumers. |

RECOMMENDATION

The Board is invited to approve the interim policy statement on decrofting.

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