

The Highland Council

Agenda Item	14
Report No	ECI/20/25

Committee: Economy and Infrastructure

Date: 29 May 2025

Report Title: The Flow Country World Heritage Site Planning Position Statement

Report By: Assistant Chief Executive - Place

1 Purpose/Executive Summary

- 1.1 Committee previously approved a planning position statement for The Flow Country World Heritage Site in May 2023, when the Site was a 'candidate' (at stage of nomination to UNESCO). Officers developed a tailored heritage impact assessment toolkit to accompany the position statement.
- 1.2 In July 2024, The Flow Country was inscribed on the World Heritage list. Officers consider that it would remain useful to continue to have such a position statement and tailored toolkit, to provide guidance on the still relatively new World Heritage consideration for the Site, particularly ahead of the updating of the Management Plan for the Site being completed and the new Highland Local Development Plan being prepared. Both the position statement and the tailored toolkit have therefore been updated to reflect the Site's inscription and emerging practice and to make a number of refinements. [These updated versions have been published](#) on the website, in the interests of providing updated information to users of the documents. Committee is asked to note them.
- 1.3 This report also outlines a proposal to restrict certain development activity from benefiting from existing 'Permitted Development Rights' within the World Heritage Site through promotion of an Article 4 Direction. The effect would be that the prescribed development would then fall within planning control. Committee is asked to agree to this being prepared, noting the process to do so.

2 Recommendations

- 2.1 Members are asked to:
 - i. **Note** the updated versions of the Planning Position Statement and associated, tailored Heritage Impact Assessment Toolkit for The Flow Country World Heritage Site, published on the Council's website; and
 - ii. **Agree** that an Article 4 Direction be prepared for The Flow Country World Heritage Site, covering Permitted Development classes 8, 18A, 19, 20, 40, 53, and 67, and note the process outlined for doing so.

3 Implications

- 3.1 **Resource** – There will be officer time involved in preparing and processing the proposed Article 4 Direction. This can be accommodated within existing resource. The input of the Council’s Legal Team will be required.
- 3.2 **Legal** – There is statutory process to be followed for advancing the Article 4 Direction. The wording of the Article 4 Direction needs to be sound.
- 3.3 **Risk** – No implications.
- 3.4 **Health and Safety (risks arising from changes to plant, equipment, process, or people)** – No implications.
- 3.5 **Gaelic** – No implications.

4 Impacts

- 4.1 In Highland, all policies, strategies or service changes are subject to an integrated screening for impact for Equalities, Poverty and Human Rights, Children’s Rights and Wellbeing, Climate Change, Islands and Mainland Rural Communities, and Data Protection. Where identified as required, a full impact assessment will be undertaken.
- 4.2 Considering impacts is a core part of the decision-making process and needs to inform the decision-making process. When taking any decision, Members must give due regard to the findings of any assessment.
- 4.3 **Integrated Impact Assessment - Summary**
 - 4.3.1 An Integrated Impact Assessment screening has been undertaken on 1 May 2025. The conclusions have been subject to the relevant Manager Review and Approval.
 - 4.3.2 The Screening process has concluded that there are no impacts identified as requiring full impact assessment at this stage. The Planning Position Statement and associated Heritage Impact Assessment Toolkit do not set policy and strategy but reference existing policy and strategy, the existing World Heritage Site inscription for The Flow Country, established international obligations and established planning process. The Committee decision sought to prepare an Article 4 is to the principle of its preparation, if Committee agrees with the recommendation, then the work will be taken forward which will provide a detailed proposal, and this Screening will be updated prior to further report on the Article 4 to Committee for decision. Tensions are noted between protection of the WHS and competing land uses, particularly renewable energy generation and related infrastructure, but the planning and energy consenting processes enable assessment and consideration of schemes. Members are asked to consider the summary in **Appendix 1** to support the decision-making process.

4.3.3

Impact Assessment Area	Conclusion of Screening
Equality	<i>No impact</i>
Socio-economic	<i>Negative financial impact as result of an Article 4 Direction (costs of preparations and submission of planning applications thereby required) – if the proposal is prepared, screening to be revisited prior to final decision</i>
Human Rights	<i>No impact</i>
Children’s Rights and Well-being	<i>No impact</i>
Island and Mainland Rural	<i>Minor differences – the Article 4 Direction (if prepared and implemented) would take effect in a rural area – see ‘Socio-economic’ above</i>
Climate Change	<i>Positive impact resulting from the protection of the World Heritage Site, which would be assisted by an Article 4 Direction. Tension with competing land uses including renewable energy generation and related infrastructure.</i>
Data Rights	<i>No impact</i>

5 Planning Position Statement and Tailored Heritage Impact Assessment Toolkit

5.1 The Planning Position Statement and tailored Heritage Impact Assessment Toolkit previously prepared related to the Site being a ‘candidate’ WHS and reflected the nomination, in particular that the site was nominated under both criteria ix) and x) with the World Heritage Convention. On 26 July 2024, the status of the Site changed from ‘candidate’ to ‘inscribed’, with its inclusion on the list of World Heritage being for criterion ix) only. These have necessitated corresponding updates to the Position Statement and to the Toolkit, with reference to documentation that is published on the UNESCO webpage for the Site, particularly the Statement of Outstanding Universal Value.

5.2 The opportunity has also been taken to further evolve and refine the content of the Planning Position Statement, including for example:-

- greater clarity on definitions and their sources, including Site integrity;
- inclusion of clearer content on mitigation and on restoration in context of development proposals and the Site;
- inclusion of more explicit reference to the World Heritage Convention and the related Operational Guidelines and acknowledgement of international obligations;
- more specific referencing of NPF4 Policy 4-part a) and the significance of World Heritage as a consideration;
- stating the Council’s position (as presented at the Kirkton windfarm inquiry hearing in November 2024) that the provisions of NPF4 Policy 7-part I) are appropriate to, and are to be applied to, ‘natural’ World Heritage Sites as well as ‘cultural’ ones;
- inclusion of direct reference to the Council’s tailored HIA Toolkit;
- inclusion of reference to the forthcoming new Highland Local Development Plan, the preparation of which will provide opportunity to consider developing local policy for The Flow Country WHS, for inclusion in the development plan;

- exclusion of policies from the draft Management Plan for the Site, that had been appended, as the draft Management Plan is being revised and the most up-to-date version available will be made available on the UNESCO website and should be referred to at any given point in time (note: once the revised Management Plan is available, it will be reported to the Economy and Infrastructure Committee);
- greater clarity on the process for assessment and consideration of development proposals; and
- inclusion of reference to the arrangements for consulting NatureScot on development proposals

5.3 The updated Planning Position Statement also includes a brief statement that the Council will consider preparing an Article 4 Direction to restrict certain Permitted Development Rights. Officers intend to update that statement as a minor revision in light of any decision made by Committee on that matter in consideration of this report, and to then republish the Planning Position Statement.

5.4 It is intended that officers will make any future updates to the Planning Position Statement and tailored Heritage Impact Assessment Toolkit that the Assistant Chief Executive – Place considers necessary, with these generally being published and notified to Members, unless consideration by Committee is considered as required.

6 Permitted Development Rights and Proposal to Prepare an Article 4 Direction

6.1 Within the Scottish planning system, extensive Permitted Development Rights (PDR) exist as defined under ‘classes’ within the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. Some PDR are specifically restricted within those definitions, for example so that the particular PDR does not apply within particular locations, where instead a planning application would therefore be required. Article 4 of the Order provides a mechanism whereby a Planning Authority, or Scottish Ministers, may introduce a Direction that restricts particular PDR within particular locations, as defined within the Direction. Typically, this is to provide greater control over / management of change within a sensitive environment.

6.2 Much of The Flow Country World Heritage Site (TFCWHS) area is also covered by statutory natural heritage designations such as Site of Special Scientific Interest, Special Area of Conservation, Special Protection Area – and many of those are for peat bog and related interests, as is the World Heritage Site. Those statutory designations such as SSSI, SAC and SPA are generally well ‘safeguarded,’ either by the Order restricting the scope of certain PDR in those locations in the manner described above, or through the definition of Operations Requiring Consent from NatureScot in respect of the designation. However, there are parts of TFCWHS that are not covered by such designations and therefore where there is currently less planning control. A contributor to this is that, whilst the Order does restrict the scope of certain PDR where there is a World Heritage Site, the PDR in question are in many cases ones that, if not restricted, would be more likely to raise issues for a cultural WHS than for a natural WHS (especially TFCWHS), given the context on the ground. This is unsurprising given that in Scotland, ‘cultural’ WHS have predominated.

6.3 Conversely, there are PDR that could allow development and for which TFCWHS would benefit from its increased management. Officers have reviewed the PDR within the Order and identified the following Classes of PDR for focus, given the nature of their potential interaction with the TFCWHS, bearing in mind the attributes and Outstanding Universal Value of the Site:-

- Class 8 – which covers aspects of creating means of access to a road which is not a trunk road or a classified road;
- Class 18A – which covers aspects of water management;
- Class 19 – which covers aspects of winning and working of minerals for agricultural purposes within the agricultural unit;
- Class 20 – which covers aspects of land drainage works;
- Class 40 – which covers aspects of electricity undertakings;
- Class 53 – which covers aspects of mineral exploration; and
- Class 67 – which covers aspects of development by telecommunications code system operators

[For the wording of the PDR in question, reference should be made to the Order.]

6.4 Officers therefore seek Committee's agreement to the principle of an Article 4 Direction being prepared for TFCWHS, addressing the Classes of PDR identified above; this is to enable officers to progress with its preparation. The Direction may be drafted to cover the whole of TFCWHS, or to cover only those parts not otherwise designated as a SSSI, SAC or SPA. Either way, the Direction would ensure a more consistent approach to the management of the WHS across the entirety of the property, thereby removing ambiguity and stakeholder uncertainty.

6.5 It is proposed that in preparing the Article 4 Direction, officers will discuss the proposal with representatives from NatureScot (preliminary discussions have been held) and Scottish Government. It is also proposed that officers consult with Ward Members prior to the proposed Direction being reported to the Economy and Infrastructure Committee for approval. There is a statutory requirement for the Planning Authority to submit the Direction to the Scottish Ministers for approval; if that approval is given, the Planning Authority must then publish Notice of the Direction. The Article 4 Direction comes into effect on the first date of such Notice being published.

Designation: Assistant Chief Executive - Place

Date: 2 May 2025

Author: David Cowie, Principal Planner - Development Plans

Background Papers: The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended

Appendices: Appendix 1 – Integrated Impact Assessment

Integrated Impact Assessment Screening

About proposal

What does this proposal relate to? Updated versions of the Planning Position Statement (and associated Heritage Impact Assessment Toolkit) for The Flow Country World Heritage Site

Proposal name: The Flow Country World Heritage Site Planning Position Statement (report to Economy and Infrastructure Committee, 29 May 2025)

High level summary of the proposal: Committee previously approved a planning position statement for The Flow Country World Heritage Site in May 2023, when the Site was a 'candidate' (at stage of nomination to UNESCO). Officers developed a tailored heritage impact assessment toolkit to accompany the position statement. In July 2024 The Flow Country was inscribed on the World Heritage list. Officers consider that it would remain useful to continue to have such a position statement and tailored toolkit, to provide guidance on the still relatively new World Heritage consideration for the Site, particularly ahead of the updating of the Management Plan for the Site being completed and the new Highland Local Development Plan being prepared. Both the position statement and the tailored toolkit have therefore been updated to reflect the Site's inscription and emerging practice and to make a number of refinements. These updated versions have been published on the website, in the interests of providing updated information to users of the documents. Committee is asked to note them. This report also outlines in brief a proposal to prepare an Article 4 Direction to withdraw certain classes of Permitted Development Rights within the World Heritage Site, the effect being that a planning application would be required. Committee is asked to agree to this being prepared, noting the process to do so.

Who may be affected by the proposal? Individuals and organisations with a land or development interest within or within the setting of The Flow Country World Heritage Site (which covers parts of Caithness and Sutherland). However, the Planning Position Statement (and associated Heritage Impact Assessment Toolkit) do not set policy and strategy but reference existing policy and strategy, the existing World Heritage Site inscription for The Flow Country, established international obligations and established planning process. The Committee decision sought to prepare an Article 4 Direction is to the principle of its preparation; if Committee agrees with the recommendation, then the work will be taken forward which will provide a detailed proposal, and this Screening will be updated prior to further report on the Article 4 to Committee for decision.

Start date of proposal:

End date of proposal:

Does this proposal result in a change or impact to one or more Council service?

Does this relate to an existing proposal? Yes

Provide details of the existing proposal: Committee previously approved a planning position statement for The Flow Country World Heritage Site in May 2023, when the Site was a 'candidate' (at stage of nomination to UNESCO). Officers developed a tailored heritage impact assessment toolkit to accompany the position statement.

Author details

Name: David Cowie

Job title: Principal Planner

Email address: David.Cowie@highland.gov.uk

Service: Place

Responsible officer details

Name: Nicole Wallace

Job title: service Lead - Environment and Sustainable Transport

Email address: Nicole.Wallace@highland.gov.uk

Sign off date: 2025-05-01

Equalities, poverty, and human rights

Protected characteristics

Select what impact the proposal will have on the following protected characteristics:

Sex: No impact

Age: No impact

Disability: No impact

Religion or belief: No impact

Race: No impact

Sexual orientation: No impact

Gender reassignment: No impact

Pregnancy and maternity: No impact

Marriage and civil partnership: No impact

Protected characteristics impact details: The proposal type has no connection with protected characteristics considerations.

Poverty and socio-economic

What impact is the proposal likely to have on the following?

Prospects and opportunities: No impact

Places: No impact

Financial: Negative

Poverty and socio-economic impact details: If an Article 4 Direction is introduced, planning applications will be required for certain development proposals that might be put forward by landowners and developers and which would otherwise benefit from Permitted Development Rights. There are costs (negative impact on outgoings) associated with the preparation and submission of planning applications.

Human rights

Which of the below human rights will be affected by this proposal? No human rights will be affected

What impact do you consider this proposal to have on the human rights of people? No impact

Human rights impact details: The proposal type has no connection with human rights considerations.

Equalities, poverty and human rights screening assessment

What impact do you think there will be to equalities, poverty and human rights? Negative impact (potential or actual)

Is a Full Impact Assessment required? No

Children's rights and wellbeing

What likely impact will the proposal have on children and young people? None.

Which of the below children's rights will be affected by the proposal?

Explain how the children's rights selected above will be affected:

Children's rights and wellbeing screening assessment

What impact do you think there will be to children's rights and wellbeing? No impact

Is a Full Impact Assessment required? No

Data protection

Will your proposal involve processing personal data? No

Data protection screening assessment

What change will there be to the way personal data is processed?No personal data will be processed

Is a Full Impact Assessment required?No

Island and mainland rural communities

Does your proposal impact island and mainland rural communities?Yes

Could people in island and mainland rural communities be affected differently?No

Have any negative impacts been identified?Yes

Provide details of negative impacts, mitigating actions and the service that is responsible for them: Only as already picked up under Poverty and Socio-Economic (Financial impact – the potential impact on household resources). The World Heritage Site is in a rural area, therefore the proposed Article 4 Direction would have effect in a rural area. Detail of proposal and of impact not known, and no mitigation identified, at this stage.

Island and mainland rural communities screening assessment

What impact do you think there will be to island and mainland rural communities?Minor differences

Is a Full Impact Assessment required?No

Climate change

Does the proposal involve activities that could impact on greenhouse gas emissions (CO₂e)? Yes

Does the proposal have the potential to affect the environment, wildlife or biodiversity? Yes

Does the proposal have the potential to influence resilience to extreme weather or changing climate? Yes

Provide information regarding your selection above: The World Heritage Site (WHS) protects blanket bog which is positive for climate change and the related considerations under this section of the screening. The Article 4 provides opportunity to protect through planning control. There is tension between protection of the WHS and competing land uses, particularly some development proposals for renewable energy generation and related infrastructure.

Climate change screening assessment

Have you identified potential impact for any of the areas above or marked any as not known? Yes

Is a Full Impact Assessment required?No