

Agenda Item	5
Report No	ECI/14/26

The Highland Council

Committee: Economy and Infrastructure

Date: 28 May 2026

Report Title: Flow Country World Heritage Site – Article 4 Direction

Report By: Assistant Chief Executive - Place

1 Purpose/Executive Summary

- 1.1 On 29 May 2025 the Economy and Infrastructure Committee considered a [report](#) on The Flow Country World Heritage Site (the WHS), including a recommendation that an Article 4 Direction under the [Town and Country Planning \(General Permitted Development\) \(Scotland\) Order 1992 as amended](#) (the Order), be prepared for the WHS. This report seeks committee agreement for officers to prepare and submit the legal documentation for the proposed Article 4 Direction, but with some additional restricted classes of development to be included that have been identified since the previous paper was discussed and agreed.
- 1.2 Permitted Development Rights (PDR) allow certain types of development to be undertaken without the need for planning permission. The purpose of an Article 4 Direction (the Direction) is to restrict certain development activity from benefiting from PDR. They are used to protect local amenities, heritage or conservation areas from harmful development. The effect would be that the prescribed development would fall within planning control, requiring submission of a planning application.
- 1.3 It is recommended that the Direction should cover the whole area within the boundary of the WHS. Some additional classes of development have been identified that officers recommend are included as part of the Direction beyond those originally presented. These are set out alongside the original use classes in Appendix 2. The reasons for these additional classes being included are explained in Section 7 of this report.

- 1.4 Subject to Committee agreement, the documentation for the proposed Direction itself, including the plan of the area in respect of which the Direction applies, together with a statement of the planning authority's reasons for making the Direction (in line with the previous report and this one), will be submitted to the Scottish Ministers for approval. Subject to first gaining such Scottish Ministers approval (be it with or without modifications), notice of the approved Direction shall be published and copies of the Direction, including plan of area, made available to view. It is intended that notice would be published as soon as reasonably practicable after receiving Scottish Ministers' approval. The Direction would come into force on the date on which notice thereof is first published.

2 Recommendations

2.1 Members are asked to:-

- i. **Agree** that the proposed Article 4 Direction, to be made under the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended, will cover the whole of the area within the boundary of The Flow Country World Heritage Site;
- ii. **Agree** to the extended list of Classes of Permitted Development proposed to be removed by the Article 4 Direction, being Classes 8, 14, 15, 18A, 19, 20, 22, 22A, 22B, 27, 38, 39, 40, 53, 54, 55 and 67 of Schedule 1 of the Order;
- iii. **Agree** that officers collate the documentation for the proposed Article 4 Direction and statement of the planning authority's reasons for making the Direction, in line with this report, and submit those documents to Scottish Ministers for approval; and
- iv. **Agree** that subject to gaining Scottish Ministers' approval of the proposed Article 4 Direction (with or without modifications), officers undertake the subsequent administrative steps required to implement it.

3 Implications

- 3.1 **Resource** – There will be officer time involved in processing the proposed Direction. This can be accommodated within existing resource. The input of the Council's Legal Team will be required. Some additional planning applications will result from implementation of the Direction; such applications will require to be processed. As explained in Scottish Government Planning Circular 1/2026, fees regulations provide an exemption from fees for planning applications in cases where a planning application is only required because of the removal of permitted development rights through Article 4 Direction. At this stage it is difficult to estimate the scale of the additional resource demand. Whilst the area of the WHS is extensive (nearly 190,000 hectares), the WHS inscription itself and the nature of the terrain within it will likely have limiting effects on the amount and range of development that will be proposed. However, we know that there is a range of development activity in the wider area, some of which could include elements within the WHS, and some of that could currently be under one or more classes of PDR that it is proposed the Direction would remove.

3.2 **Legal** – There is statutory process to be followed for advancing the Direction. The wording of the Direction needs to be legally competent and will therefore be checked by the Council’s Legal Team prior to submission to Scottish Ministers for approval. It should be noted that the Order sets out a few development types in relation to which an Article 4 Direction shall not have effect. However, in general, the Direction would bring into planning control (i.e. require a planning application for) development that currently meets the definition of a Class or Classes of PDR in [Schedule 1](#) of the Order, noting that for many of the Classes the Order includes limitations to or exclusions from the PDR (i.e., not every development within the general description given within the first part of the Class’s description benefits from PDR). The Direction would not bring into the planning authority’s control, development of a type that is already outwith PDR (so which is already subject of control), including development of a type for which applications for consent are determined by another authority, such as by Scottish Ministers. Furthermore, EIA Development generally is outwith PDR. Note that for any proposed development in Column 1 of [Schedule 2 of The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017](#) that is proposed within the WHS (which is a “sensitive area” under the EIA Regulations) will require EIA where it is likely to have significant effects on the environment.

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 (which also covered the Planning Position Statement for the WHS) was undertaken on 1 May 2025 and included within the report to Committee on 29 May 2025. The conclusions were subject to the relevant Manager Review and Approval.

4.3.2 As a reminder, the Screening process concluded that there were no impacts identified as requiring full impact assessment at that stage. The Committee decision sought to prepare an Article 4 was to the principle of its preparation. Tensions were 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.

4.3.3

Impact Assessment Area	Conclusion of Screening
Equality	No impact
Socio-economic	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
Human Rights	No impact
Children’s Rights and Well-being	No impact
Island and Mainland Rural	Minor differences – the Article 4 Direction (if prepared and implemented) would take effect in a rural area – see ‘Socio-economic’ above
Climate Change	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.
Data Rights	No impact

4.3.4 Revisiting the screening, the proposals set out in this report – for the Article 4 Direction to cover the whole of the WHS and confirming and extending the range of Classes of PDR to be included – are not considered to change the conclusions of the screening. In terms of socio-economic impacts, and island and mainland rural impacts, as noted previously the Article 4 Direction will lead to costs for developers in preparing and submitting planning applications, together with the additional time to obtain consent (with uncertainty as to the outcome of the application ahead of its determination) but as observed in this report no application fee will be due if the application is only required as a result of the Direction. It may be noted that the WHS covers a large area (nearly 190,000 hectares). According to The Flow Country WHS Nomination Document 2023, the land ownership is complex, with many different landowners, primarily from the private and non-governmental (NGO) sectors, and Table 5.1 of that document summarised the main categories of landownership as follows:-

Category	Land-use	Area (ha)	% of proposed property
Private estate, owner-managed	Conservation, sporting estates, agriculture	127,000	65
Croft land, owner occupied or tenanted, with some common grazing	Small scale agriculture, conservation	36,000	19
NGO owner-managed	Conservation	24,000	12
Forestry (state owned and private)	Commercial forestry, tourism, conservation	8,000	4

Table 5.1 The main categories of landownership and their approximate proportions of the nominated property.

The Nomination Document also gave the estimated population located (i.e., permanently resident) within the boundary itself as 20 (in 2022). (A significantly larger resident population exists within the locality of, but outside, the WHS boundary – such as in the settled straths and along the coastal strip).

5 Reasons for the Article 4 Direction

5.1 The statement of reasons for proposing the Direction will be drawn from the relevant report to, and decisions of, the Committee on 29 May 2025, and updated in light of this report and the Committee's decisions on it.

6 Extent of area to which to apply the Article 4 Direction

6.1 In view of the fact that the WHS is inscribed for its blanket bog and that around 73% of the area of the WHS is covered by statutory designations (SSSI, SAC, SPA and/or Ramsar Site), many for (or closely associated with) the blanket bog interests, consideration has to be given to whether existing regulatory arrangements to safeguard the statutory designations in respect of Permitted Development would provide sufficient safeguard to those areas of the WHS. Where this is the case, the Direction could be applied only to those parts of the WHS not also covered by the statutory designations for such interests.

6.2 However, it has been concluded that it will be necessary to apply the Direction to the whole of the area of the WHS (see **Appendix 1** and the more detailed [boundary map](#)), for the following reasons:-

- whilst the existing statutory designations go some way to safeguard the blanket bog, this does not fully reflect the strength of the World Heritage imperative to protect and preserve the Outstanding Universal Value (OUV) of the WHS, including integrity of the WHS and the principle that offsetting of impacts is not permissible;
- the regulatory provisions to safeguard the statutory designations are specific to those designations and cannot, through their application, be extended to address explicit World Heritage consideration;
- as well as neither sufficiently nor explicitly protecting and preserving the WHS OUV, there is no provision to apply any conditions to an approval of a Regulation 62 application under The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) (which is the measure to safeguard SAC, SPA and Ramsar Sites in cases of Permitted Development); and
- each SSSI has a defined list of Operations Requiring Consent (ORC) from NatureScot, and any consents can be conditioned but would be limited to matters of the SSSI designation. Note that if a consent is given for the operations by a relevant regulatory authority (Scottish Ministers, local authorities, Crofters Commission, District Salmon Fisheries Boards, Forestry Commissioners or Scottish Environment Protection Agency) then ORC consent is not required from NatureScot, as long as the required regulatory process under the Nature Conservation (Scotland) Act 2004 including any consultation required with NatureScot has been followed by the regulatory authority in question.

6.3 Current or future development plan policy to safeguard World Heritage would have no role in the application of PDR and would therefore not be available to safeguard the WHS from any adverse effects of such proposals.

6.4 Removing particular classes of PDR across the whole of the WHS (and hence requiring planning applications for such developments) is the only means of implementing a consistent approach to the assessment of effects of proposals on the WHS in support of the appropriate protection and management of the WHS.

7 Extent of Permitted Development Rights to which to apply the Article 4 Direction

7.1 As explained in the previous report to Committee on 29 May 2025, PDR classes 8, 18A, 19, 20, 40, 53, and 67 as set out in [Schedule 1](#) of the Order were identified as focus for the preparation of the Direction, given the nature of their potential interaction with the WHS, bearing in mind the attributes and OUV of the Site.

7.2 However, preparation of the proposed Direction has led officers to consider that additional classes of PDR should be included. The initial identification of classes:-

- had focussed on those types of development regarded as both most likely to occur in the area and to have potential significant effect on the OUV; and
- had not included some classes based on a broad analysis that existing arrangements for the types of development in question (including any prior notification requirement under the Order) or promotion of management and protection of the WHS would suffice.

7.3 Following further consideration, with input from Development Management officers who will implement the Order as part of the normal planning process and will implement the Direction, if approved and brought into force, it is now considered appropriate to include additional PD classes:-

- based less on likelihood of the particular types of development occurring within the WHS and more on the potential consequences if they were to occur and if they were to do so without proper assessment of impacts on the WHS or ability to control that through a consenting process; and
- taking account of the limitations of other arrangements for seeking to secure the appropriate management and protection, for example the scope of information that can be sought through the prior notification process.

7.4 Following further consideration of which Classes of PDR should be included within the Direction, officers have borne in mind the ORC for SSSIs as well as the screening questions in the Council's Flow Country WHS Heritage Impact Assessment Toolkit. It is not practical to complete the screening for the Classes of PD in the absence of the details of specific proposals for particular sites to screen. However, reflection on the types of development activity that could cause concern has helped in the identification of Classes to include in (or exclude from) the Article 4 Direction. For those included, this means that there is at least one aspect of the Class that is of sufficient concern

that it is considered that a planning application should be required for the development.

- 7.5 Class 21 (the winning and working of peat by any person for the domestic requirements of that person) is not proposed for inclusion, on the basis of the likely small scale of this activity and that the World Heritage Site documentation recognises such domestic peat winning and working as part of the heritage of the site. If in the future it becomes evident that the scale and impact of activity has increased and become a concern (individually or cumulatively) then an Article 4 Direction could be considered.
- 7.6 Class 31 (roads authority works to maintain or improve the road within the boundaries of the road and works incidental to that on land outside but adjoining the boundary of the road) is not proposed for inclusion, nor is Class 33 (covering various works and developments by the local authority). It is intended that as a responsible authority, guidance and internal practices can ensure that an appropriate approach is taken (including by the Council's contractors), with due consideration to the protection and management of the WHS. If necessary, this can be reconsidered in the future if the proposed approach proves insufficient.
- 7.7 A number of other Classes have been considered but excluded from the proposed Direction as it has been considered not necessary to remove the PDR.
- 7.8 It is therefore now recommended that the Article 4 Direction remove not only classes 8, 18A, 19, 20, 40, 53, and 67 of the Order, but also classes 14, 15, 22, 22A, 22B, 27, 38, 39, 54 and 55, which are described within **Appendix 2**.

Designation: Assistant Chief Executive - Place

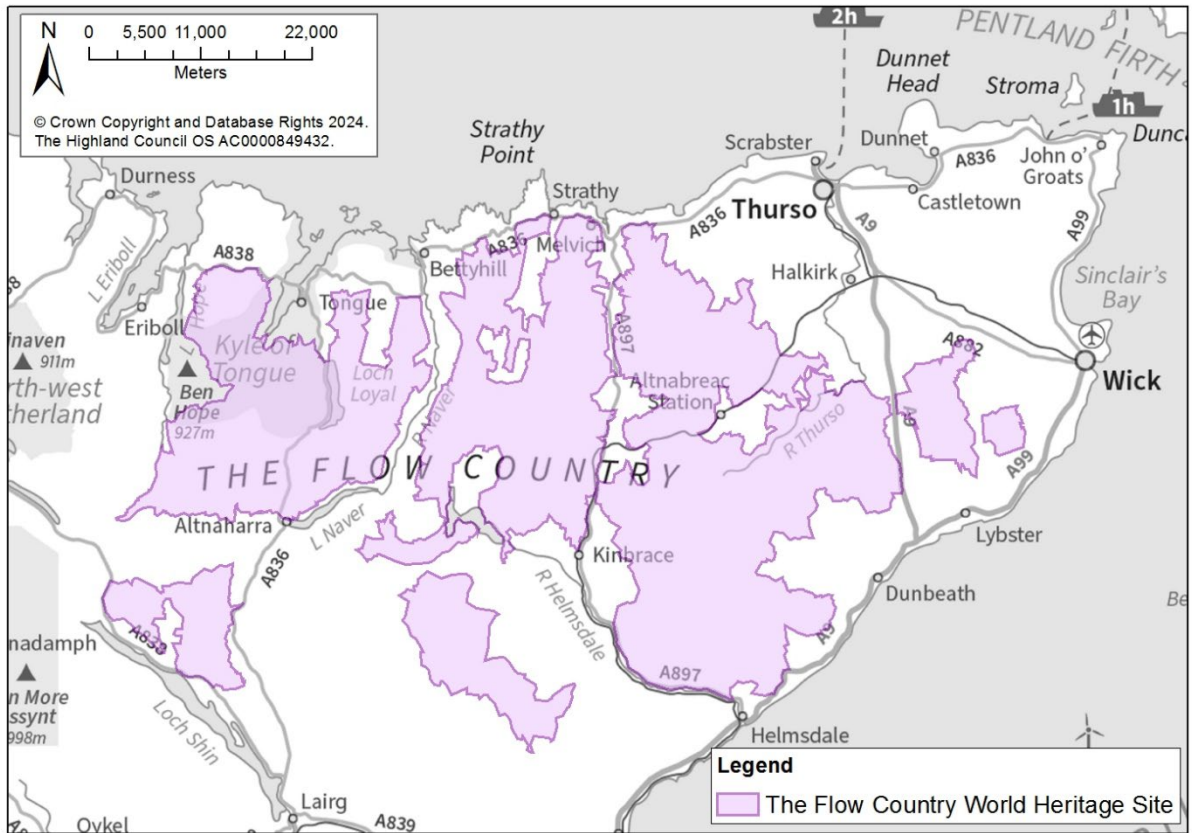
Date: 28 April 2026

Author: David Cowie, Principal Planner

Background Papers: The Flow Country World Heritage Site Planning Position Statement [Report](#)
Town & Country Planning (General Permitted Development) (Scotland) Order [1992](#)

Appendices: Appendix 1 – Boundary Of The Flow Country World Heritage Site
Appendix 2 – Classes Of Permitted Development Rights Proposed To Be Removed Within The Flow Country World Heritage Site Through Article 4 Direction

Boundary Of The Flow Country World Heritage Site



Classes Of Permitted Development Rights Proposed To Be Removed Within The Flow Country World Heritage Site Through Article 4 Direction

For each Class of Permitted Development Right (PDR) included below, the description given in this table is taken directly from [Schedule 1](#) of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended. For each of those classes for which a paragraph number “(1)” is indicated in the table below, Schedule 1 of the Order must be referred to in order to view additional detail specifying limitations, conditions and/or implementation definitions not shown in this table.

<p>Class 8. The formation, laying out and construction of a means of access to a road which is not a trunk road or a classified road, where that access is required in connection with development permitted by any class in this Schedule other than classes 3E or 7.</p>
<p>Class 14.—(1) The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land.</p>
<p>Class 15. The use of land (other than a building or land within the curtilage of a building) for any purpose, except as a caravan site, on not more than 28 days in total in any calendar year, and the erection or placing of moveable structures on the land for the purposes of that use.</p>
<p>Class 18A.—(1) The carrying out of drainage for agriculture or of any other water management project for that purpose but not including the carrying out of irrigation work.</p>
<p>Class 19.—(1) The winning and working on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part.</p>
<p>Class 20. The carrying out of any works required in connection with the improvement or maintenance of watercourses or land drainage works.</p>
<p>Class 22.—(1) The carrying out on land used for the purposes of forestry, including afforestation, or in the case of sub-paragraph (c) land held or occupied with that land, of development reasonably necessary for those purposes consisting of—</p> <ul style="list-style-type: none"> (a) works for the erection, extension or alteration of a building; (b) the formation, alteration or maintenance of private ways; (c) operations on that land, or on land held or occupied with that land, to obtain the materials required for the formation, alteration or maintenance of such ways; (d) other operations (not including engineering or mining operations).
<p>Class 22A.—(1) Development consisting of a change of use of a building from use for the purposes of forestry to use as a dwelling together with the following building</p>

operations to the extent which they are reasonably necessary to convert the building to use as a dwelling—

- (a) the installation or replacement of—
 - (i) windows, doors, roofs, or exterior walls,
 - (ii) water, drainage, sewerage, electricity, gas or other services,to the extent reasonably necessary for the building to function as a dwelling,
- (b) partial demolition to the extent reasonably necessary to carry out building operations allowed by subparagraph (a)(i),
- (c) the provision of access to the dwelling and of a hard surface for the purpose of the parking of vehicles incidental to the enjoyment of the dwelling.

Class 22B.—(1) Development consisting of a change of use of a building from—

- (a) use for the purposes of forestry to a flexible commercial use, or
- (b) a flexible commercial use permitted by virtue of this class to another flexible commercial use,

together with the following building operations described in sub-paragraph (2) to the extent which they are reasonably necessary to convert the building to a flexible commercial use.

(2) The building operations are—

- (a) the installation or replacement of—
 - (i) windows, doors, roofs, or exterior walls,
 - (ii) water, drainage, sewerage, electricity, gas or other services,to the extent reasonably necessary for the building to function for the purposes of the flexible commercial use to which the building is converted,
- (b) partial demolition to the extent reasonably necessary to carry out building operations allowed by sub-paragraph (a)(i),
- (c) the provision of access to the building and of a hard surface for the purpose of the parking of vehicles incidental to the enjoyment of the building for the purposes of the flexible commercial use.

Class 27.—(1) The carrying out on land within the boundaries of a private road or private way of works required for the maintenance or improvement of the road or way.

Class 38.—(1) For the purposes of water undertakings development of any of the following descriptions—

- (a) the laying underground of mains, pipes or other apparatus;
- (b) the installation in a water distribution system of a booster station, valve house, meter or switchgear house;
- (c) the provision of a building, plant, machinery or apparatus in, on, over or under land for the purpose of survey or investigation;
- (d) any other development carried out in, on, over or under the operational land other than the provision of a building but including the extension or alteration of a building.

Class 39.—(1) Development by a public gas transporter required for the purposes of its undertaking consisting of—

- (a) the laying underground of mains, pipes or other apparatus;
- (b) the installation in a gas distribution system of apparatus for measuring, recording, controlling or varying the pressure, flow or volume of gas, and structures for housing such apparatus;
- (c) the construction in any storage area or protective area specified in an order made under section 4 of the Gas Act 1965, of boreholes, and the erection or construction in any such area of any plant or machinery required in connection with the construction of such boreholes;
- (d) the placing and storage on land of pipes and other apparatus to be included in a main pipe which is being or is about to be laid or constructed in pursuance of planning permission granted or deemed to be granted under Part III of the Act;
- (e) the erection on operational land of the public gas transporter of a building solely for the protection of plant or machinery; and
- (f) any other development carried out in, on, over or under the operational land of the public gas transporter.

Class 40.—(1) Development by an electricity undertaker for the purposes of their undertaking consisting of—

- (a) the installation or replacement in, on, over or under land of an electric line and the construction of shafts and tunnels and the installation or replacement of feeder or service pillars or transforming or switching stations or chambers reasonably necessary in connection with an electric line;
- (b) the installation of any electronic communications line which connects any part of an electric line to any electrical plant or building, and the installation of any support for any such line;
- (ba) the replacement of any electronic communications line which connects any part of an electric line to any electrical plant or building, and the replacement of any support for any such line,
- (c) the carrying out of works for the purpose of survey or investigation and the installation of any plant or machinery reasonably necessary in connection with such works,
- (ca) the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure,
- (d) the extension or alteration of buildings on operational land of the undertaking;
- (e) the erection on operational land of the undertaking of a building solely for the protection of plant or machinery; and
- (f) any other development carried out in, on, over or under the operational land of the undertaking.

Class 53.—(1) Development on any land during a period not exceeding 28 consecutive days consisting of—

- (a) the drilling of boreholes;
- (b) the carrying out of seismic surveys; or
- (c) the making of other excavations,

for the purpose of mineral exploration, and the provision or assembly on that land or adjoining land of any structure required in connection with any of those operations.

Class 54.—(1) Development on any land consisting of—

- (a) the drilling of boreholes;
- (b) the carrying out of seismic surveys; or
- (c) the making of other excavations,

for the purposes of mineral exploration, and the provision or assembly on that land or on adjoining land of any structure required in connection with any of those operations.

Class 55.—(1) The carrying out of operations for the erection, extension, installation, rearrangement, replacement, repair or other alteration of any—

- (a) plant or machinery;
- (b) buildings;
- (c) private ways or private railways or sidings; or
- (d) sewers, mains, pipes, cables or other similar apparatus,

on land used as a mine.

Class 67.—(1) Development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network in, on, over or under land controlled by the operator or in accordance with the electronic communications code, consisting of—

- (a) the construction, installation, alteration or replacement of any apparatus;
- (b) the use of land in an emergency for a period not exceeding 18 months to station and operate moveable apparatus required for the replacement of unserviceable apparatus, including the provision of moveable structures on land for the purposes of that use; or
- (c) development involving the construction, installation, alteration or replacement of structures, equipment or means of access which are ancillary to and reasonably required for the construction, installation, alteration, replacement or use of equipment housing.