

From: Clare McGough
Sent: 21 December 2009 16:12
To: Alma Howell; Mei Chiu; Jacqui Steele
Cc: Claire Tester; Nick Rogers; Louise Gibbons; Heather Flowers; Daniel Goodwin; Tom Clark; John Arnold; Paul Collick
Subject: Article 4 Danny Parkland, Hurstpierpoint
Attachments: Decision Letter.pdf; Site Visit Report.doc

Dear colleagues,

I wish to inform you that I have today received notification from the Government Office for the West Midlands that the Secretary of State has decided not to approve the Article 4 Direction and it will therefore cease to have effect.

I attach for your attention: -

1. Site Visit Report
2. Decision Letter dated 18th December 2009

LAND CHARGES - Please note your records accordingly. If you have any questions please contact legal.

Regards,

Clare

(Please note that I will be out of the office from the 22nd December returning on the 4th January 2010.)

Clare McGough
Solicitor
Legal Services
01444 477318
ClareM@midsussex.gov.uk
www.midsussex.gov.uk
Mid Sussex District Council,
Oaklands Road, Haywards Heath,
West Sussex, RH16 1SS
(DX 300320 Haywards Heath 1)

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Under Article 5(8) of the Town & Country Planning (General Permitted Development) Order 1995 The Secretary of State has given notice that the Article 4 Direction in relation to Danny Parkland, New Way Lane, Hurstpierpoint dated 23.06.09 has not been approved and ceases to have effect from 18.12.09.

Removed from Local Land Charges registers on 22.12.09 using the wording opposite.

**SITE VISIT REPORT FOR ARTICLE 4(1) DIRECTION
DANNY PARKLAND, OFF NEW WAY LANE, HURSTPIERPOINT, WEST
SUSSEX**

I made an unaccompanied inspection of the above site on 14 December 2009.

The land to which the Article 4(1) Direction applies appears to encompass the whole of the parkland within which resides the Grade I listed Danny House. This lies about a mile to the south of the village of Hurstpierpoint and is approached from the unclassified New Way Lane which runs southwards from the B2116 in Hurstpierpoint. Limited views of the park are afforded from New Way Lane, this forming the eastern boundary of the site. As far as I could establish, views of the park are not available from any other public vehicular highway.

The photographs appended to this report were all taken from the public footpath that bisects, from north-west to south-east, the area of parkland understood to be owned by Mr & Mrs Vogt. The photographs show the open grassland character of the site with sporadic oak trees on the land to the east of the footpath. There are some sheep grazed on this area whilst alpaca are kept on the land to the west. These areas of the park either side of the footpath are enclosed by the fencing shown on the photographs. This is about 1m in height and consists of circular timber posts linked by wire.

The fencing is not characteristic of the parkland but, because of its limited height and 'transparent' nature, it did not seem to me to be too visually intrusive or to detract significantly from the appearance of the parkland. Since the alpaca and sheep evidently are now enclosed, this raises the question of whether any further fencing is likely to be erected. I am not in possession of any evidence, and did not observe anything during my visit, to suggest that there is a continuing real and specific threat of the specified permitted development taking place. The representations from the parties may shed more light on this issue.

In the case of Article 4 Directions involving rural plot sub-divisions, the plots concerned are often very small and the amount of fencing corresponding quite extensive. In this particular case, however, as the photographs illustrate, the areas of land that have been enclosed remain sizeable so, if more fencing were to be erected, it would not necessarily result in serious harm to the open character of the parkland.

The Direction land covers an area of 90 hectares whereas it appears to me that the threat of the specified permitted development taking place is probably confined to the field in the south-east corner of the park. Again, I am not in possession of all the relevant evidence, but there is therefore the suggestion that the Order does not only include the land which is necessary to obviate the threat of development at this time.

Conclusion

From my site inspection, I am not convinced that there is both a real and specific threat of the specified permitted development taking place, or that such development, if it were to take place, would be harmful to the visual appearance and character of the area.

Having regard to the requirement of Circular 9/95 that there must be *exceptional circumstances* and *compelling reasons* for serving an Article 4 Direction, my impression is that the requirements of the Circular have not been met and that the development the Council seeks to bring under control would not result in sufficient harm to the visual amenities of the area to justify confirmation of the Direction. As I have mentioned, however, I have not seen the representations that have been submitted in this case and it may be that these will put a different slant on the matter.

If the Direction is to be confirmed, there may be a case for making modifications in terms of reducing the area of land covered by the Direction so that it would correspond more directly with the area most under threat from further means of enclosure.

A handwritten signature in black ink that reads "JR Cheston .". To the right of the signature is a vertical line that extends from the top of the signature down to the printed name below.

John Cheston BA MRTPI
Senior Planning Officer
Government Office for the South East

14 December 2009



View looking south-west from the public footpath off New Way Lane



View looking west from the public footpath off New Way Lane



View looking north from the public footpath off New Way Lane



View looking west from the public footpath towards Danny House



GOVERNMENT OFFICE
FOR THE WEST MIDLANDS

Mid Sussex District Council
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

For the Attention of Alma Howell

Your Ref: AH/MC/A/35/34/(9289)
Our Ref: GOWM/PLN/D3830/91139

Date 18 December 2009

Sustainable Futures Directorate
(National and West Midlands
Planning Casework Team)

5 St Philip's Place
Colmore Row
Birmingham
B3 2PW

Direct Line: 0121 352 5421

Email:

WMPlanning@gowm.gsi.gov.uk

Website: www.gowm.gov.uk

Dear Madam

**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED
DEVELOPMENT) ORDER 1995
DIRECTION UNDER ARTICLE 4(1) TO WHICH ARTICLE 5(4) APPLIES
LAND KNOWN AS DANNY PARKLAND, NEW WAY LANE,
HURSTPIERPOINT**

I refer to your letter of 23 June and subsequent correspondence requesting the Secretary of State's approval to the above mentioned Article 4 Direction.

The Direction has been made by Mid Sussex District Council and covers a 90 hectare area of formal parkland known as Danny Park which includes a Grade 1 listed building, Danny House, situated approximately one mile south of Hurstpierpoint West Sussex. Its purpose is to withdraw permitted development rights under schedule 2, part 2 (Minor operations), Class A, relating to the erection, construction, maintenance, improvement, or alteration of a gate, fence, wall, or other means of enclosure. The Direction is accompanied by a Statement of Reasons, plans and photographs.

The Statement of Reasons explains the processes and consultations undertaken by the council before making the Direction. The council consulted with 'relevant organisations' including the South Downs Joint Committee, the Sussex Gardens Trust, the County Archaeologist, and the County Landscape Officer following concerns originally expressed by the Joint Committee and the owner of Danny House, in response to a planning application for a field shelter in Danny Park on land to the south of the House and the subsequent erection of fencing. Varying views were put forward by those organisations, including the Joint Committee's view that a clear threat to the Park exists and the County Landscape Officer's view that recent permitted development has not had any visual impact.



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FOR THE WEST MIDLANDS

In light of these consultations the council concluded that there was sufficient justification to make an Article 4 Direction because there is a real and specific threat from the erection of fences and gates to sub-divide the land which is in several different ownerships. Following the making of the Direction the council indicates that they received a planning application for fencing opposite Danny Lake and a general planning inquiry about a kissing gate at the entrance to the park which, in their view, is further evidence of landowners wishing to make changes to the land.

The Statement of Reasons also sets out the special interests issues which would be adversely affected by the permitted development. The Statement explains that Danny Park is within the South Downs Area of Outstanding Natural Beauty (which will become part of the South Downs National Park on 1 April 2011) and is identified as a key feature of the Hurstpierpoint Scarp Footslopes character area within the Mid Sussex Landscape Character Assessment document 2005. It also contains Danny House which is an integral element of the Park. In terms of the quality of the landscape, the Statement indicates that there are dramatic views of the scarp slope of the Downs from the house and parkland, and correspondingly attractive views from the Downs. The Statement also explains that the area covered by the Direction has been defined using evidence, research and analysis from historical records of the boundaries of Danny Park.

Overall, the council considers that national planning policy guidance in Planning Policy Statement 7 (PPS7) *Sustainable Rural Communities* on giving high priority to conserving the natural beauty of protected landscapes, and Planning Policy Guidance Note 15 (PPG15) *Planning and the Historic Environment* on the importance of protecting the setting of listed buildings, together with the relevant policies in the Mid Sussex Local Plan and other associated statutory documents support the Article 4 Direction.

The Secretary of State's role is to determine whether or not permitted development rights should be withdrawn in light of the considerations set out in Appendix D of Circular 9/95. The circular makes clear that they should be withdrawn only in exceptional circumstances, and that directions under Article 4 will rarely be justified unless there is a real and specific threat i.e. there is reliable evidence to suggest that permitted development is likely to take place which could damage an interest of acknowledged importance. The appendix indicates that the boundaries of land subject to directions should be drawn as tightly as possible and that directions covering wide areas of land will not normally be approved.

The information and justification submitted by your council has been carefully considered in the light of this policy. A site visit has been made by a planning officer from the Government Office for the South East which has also been



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considered. A copy of his report is attached to this letter. Representations from landowners and from third parties objecting to and supporting the Direction have also been taken into account.

The Secretary of State agrees that the historic landscape features of Danny Park and the Grade 1 listed building Danny House, make the parkland an attractive and distinctive location of high landscape quality. He also accepts that both national planning policies and the local development plan give the parkland protected status through its location within the South Downs Area of Outstanding Natural Beauty, and within the Low Weald National Landscape Character Area.

The Secretary of State notes that some development has taken place partly under permitted development rights and partly through the exercise of a planning permission, primarily the erection of fencing in the south east corner of the park. He notes from the site visit report that whilst the fencing is not characteristic of the parkland, its limited height and transparent nature means that it is not visually intrusive and does not detract from the appearance of the parkland. He has considered all of the evidence before him on this point and he concludes that such development would not damage an interest of acknowledged importance to any significant degree.

As for the extent of the area covered by the Direction, the Secretary of State notes the council's view that it would be impracticable to limit it to specific parcels of land because that would undermine their objective to protect the whole of Danny Park. Having considered their view together with the representations from landowners and the site visit report, the Secretary of State is not convinced that there is a significant threat of permitted development under schedule 2, part 2, class A, taking place across the entire 90 hectare parkland area, and any threat is probably confined to its south east corner.

The Secretary of State has considered the option of modifying the Direction by reducing the area it covers perhaps just to the south eastern corner of the parkland. However, he takes the view that this would not be practicable because it would potentially require such a substantial reduction in area thereby changing the entire nature and purpose of the Direction as submitted by the council. Nor, for the reasons given earlier, would it necessarily be appropriate since even if further permitted development were to take place it is questionable whether the impact on the visual amenity of the park is significant enough to justify withdrawing permitted development rights on all or part of the site.

For the reasons given, the Secretary of State considers that there is insufficient justification in the light of the requirements set out in Circular 9/95



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for withdrawing permitted development rights on the terms proposed in this case. He has therefore decided not to approve the Direction and I am returning the sealed copies herewith.

A copy of this letter is being sent to those who made representations to the Secretary of State.

Yours faithfully

A handwritten signature in black ink, appearing to read 'J. Pizze'.

MRS J PIZZEY

MID SUSSEX DISTRICT COUNCIL

MEMORANDUM

To: Senior Land Charges Officer

Date: 24/6/09

From: Solicitor to the Council
Clare McGough, Solicitor

My Ref: CM/A/35/34

Your Ref:

**Re: Town and Country Planning (General Permitted Development) Order 1995 ("the Order")
Land known as Danny Parkland (being land to the west of New Way Lane), New Way Lane,
Hurstpierpoint, West Sussex
Article 4 Direction to which Article 5(4) applies (in relation to Class A of Part 2 of
Schedule 2 to the Order)**

I attach a copy of the above Direction, which was made on the 23rd June 2009 for noting in the Local Land Charges Register. The Plan attached to the Direction identifies in red the extent of the land covered by the Direction. The Direction comes into force immediately but if after a period of 6 months from the date of the Direction it has not been confirmed by the Secretary of State, the Direction will lapse.

I will notify you of the Secretary of State's decision in due course

Regards,



Solicitor

MID SUSSEX DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

**TOWN AND COUNTRY PLANNING
(GENERAL PERMITTED DEVELOPMENT) ORDER 1995**

DIRECTION UNDER ARTICLE 4(1) TO WHICH ARTICLE 5(4) APPLIES

WHEREAS the Council of the District of Mid Sussex of Oaklands, Oaklands Road, Haywards Heath in the County of West Sussex being the appropriate local planning authority within the meaning of Article 4(6) of the Town and Country Planning (General Permitted Development) Order 1995, are satisfied that it is expedient that development of the descriptions set out in the Schedule below should not be carried out on land known as Danny Parkland (being land to the West of New Way Lane), New Way Lane, Hurstpierpoint, West Sussex being the land shown edged red on the attached plan, unless permission is granted on an application made under Part III of the Town and Country Planning Act 1990,

AND WHEREAS the Council consider that development of the said descriptions would be prejudicial to the proper planning of their area and would constitute a threat to the amenities of their area and that the provisions of paragraph 4 of Article 5 of the Town and Country Planning (General Permitted Development) Order 1995 apply.

NOW THEREFORE the said Council in pursuance of the powers conferred upon it by Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995 hereby direct that the permission granted by Article 3 of the said Order shall not apply to development on the said land of the descriptions set out in the Schedule below.

THIS DIRECTION is made under Article 4(1) of the said Order and in accordance with Article 5(4), and shall remain in force until the **23rd day of December 2009** (being six months from the date of this Direction) and shall then expire unless it has been approved by the Secretary of State before that date.

SCHEDULE

- I. The erection construction maintenance improvement or alteration of a gate fence wall or other means of enclosure being development comprised within Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 and not being development comprised within any other Part or Class.

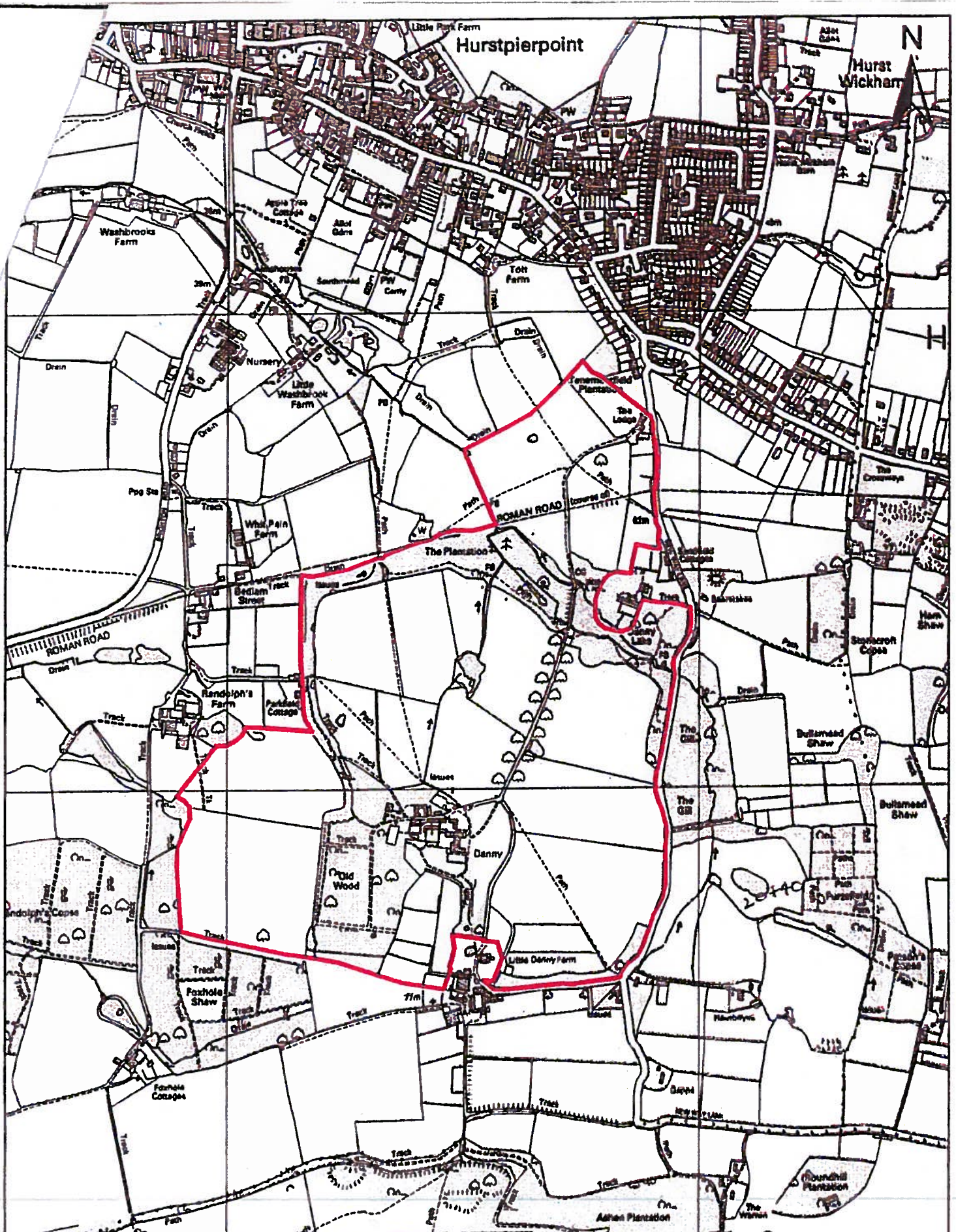
GIVEN UNDER THE COMMON SEAL of Mid Sussex District Council

DATED this 23rd day of June Two Thousand and Nine

THE COMMON SEAL of
MID SUSSEX DISTRICT COUNCIL
was affixed to this Direction
in the presence of:-

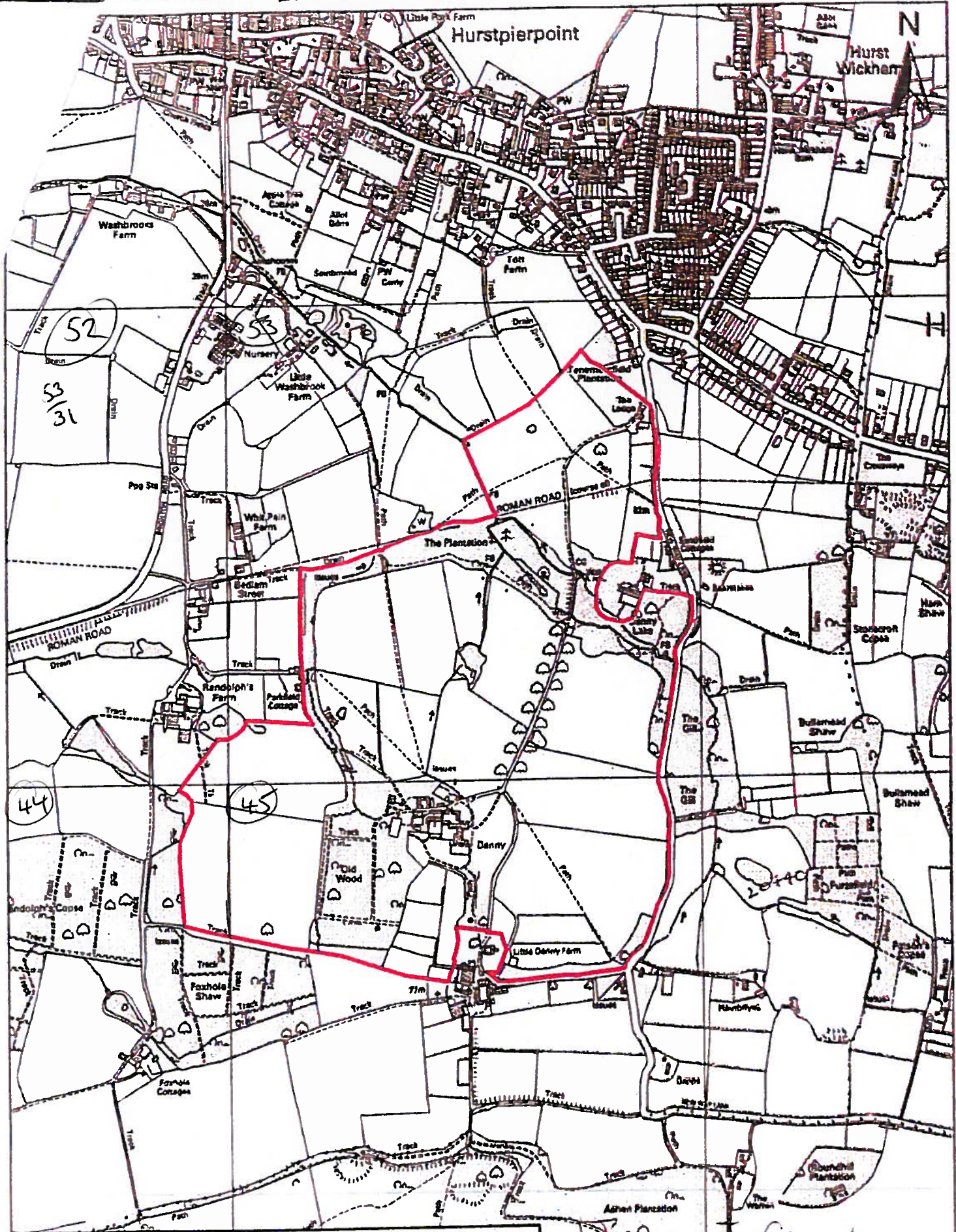


Thom J. Carl
Authorised Officer



ARTICLE 4 DIRECTION
 Danny Parkland, New Way Lane, Hurstpierpoint

AUTHORISED OFFICER
 1:10,000



ARTICLE 4 DIRECTION
 Danny Parkland, New Way Lane, Hurstpierpoint

AUTHORISED OFFICER
 1.10.00

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52 - see 53/31 53 - 31, 36A, 16, 52, 36, 43, 51, 23, 24, 37 44 - see 53/31 45 - 12, 3, 8, 10, 13, 15