



ROTHER DISTRICT COUNCIL

**TOWN AND COUNTRY PLANNING
(GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015
(as amended)**

**The Rother District Council (Land at Fairlight Cove, Fairlight) Direction No. 1,
2022**

Direction made under Article 4(1) to which Article 5 applies

WHEREAS the Council of the District of Rother being the appropriate local planning authority within the meaning of article 4(5) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), are satisfied that it is expedient that development of the descriptions set out in the Schedule below should not be carried out on land at Fairlight Cove, in the Parish of Fairlight, which is 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

NOW THEREFORE the said Council in pursuance of the powers conferred by Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) 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 may be cited as "The Rother District Council (Land at Fairlight Cove, Fairlight) Direction No. 1, 2022"

SCHEDULE

1. The enlargement, improvement or other alteration of a dwellinghouse, being development comprised within Class A of Part 1 of Schedule 2 to the said Order and not being development comprised within any other Part or Class
2. The enlargement of a dwellinghouse consisting of the construction of—
 - (a) up to two additional storeys, where the existing dwellinghouse consists of two or more storeys; or
 - (b) one additional storey, where the existing dwellinghouse consists of one storey,

immediately above the topmost storey of the dwellinghouse, together with any engineering operations reasonably necessary for the purpose of that construction, being development comprised within Class AA of Part 1 of Schedule 2 to the said Order and not being development comprised within any other Part or Class.
3. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof, being development comprised with Class B of Part 1 of Schedule 2 to the said Order and not being development comprised within any other Part or Class
4. The erection or construction of a porch outside any external door of a dwellinghouse, being development comprised within Class D of Part 1 of Schedule 2 to the said Order and not being development comprised within any other Part or Class
5. The provision within the curtilage of the dwellinghouse of—
 - (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or
 - (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas
being development comprised within Class E of Part 1 of Schedule 2 to the said Order and not being development comprised within any other Part or Class

6. Development consisting of—

- (a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such; or
- (b) the replacement in whole or in part of such a surface

being development comprised within Class F of Part 1 of Schedule 2 to the said Order and not being development comprised within any other Part or Class

7. (1) Development consisting of works for the construction of new dwellinghouses immediately above the topmost storey on a terrace building in use as a single dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order, where the development comprises—

- (a) up to two additional storeys, in the case of an existing dwellinghouse consisting of two or more storeys;
- (b) one additional storey, in the case of an existing dwellinghouse consisting of one storey,

together with any development under sub-paragraph (2).

(2) Development consisting of any or all—

- (a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;
- (b) works for the construction of appropriate and safe access to and egress from the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases;
- (c) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses

being development comprised within Class AC of Part 20 of Schedule 2 to the said Order and not being development comprised within any other Part or Class

8. (1) Development consisting of works for the construction of new dwellinghouses immediately above the topmost storey on a detached building in use as a single dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order, where the development comprises—

- (a) up to two additional storeys, in the case of an existing dwellinghouse consisting of two or more storeys;
- (b) one additional storey, in the case of an existing dwellinghouse consisting of one storey,

together with any development under sub-paragraph (2).

(2) Development consisting of any or all—

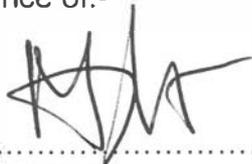
- (a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;
- (b) works for the construction of appropriate and safe access to and egress from the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases;
- (c) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

being development comprised within Class AD of Part 20 of Schedule 2 to the said Order and not being development comprised within any other Part or Class

MADE UNDER THE COMMON SEAL of Rother District Council

DATED this 12th day of August two thousand and twenty-two

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



.....
Chief Executive, Rother District Council

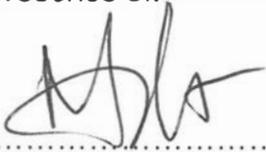


.....
Member of the Rother District Council

CONFIRMATION OF DIRECTION

CONFIRMED under the Common Seal of
Rother District Council this 27th day of January 2023.

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



.....
Chief Executive, Rother District Council



.....
Member of the Rother District Council

STATEMENT OF REASONS FOR MAKING THE ARTICLE 4 DIRECTION

1. Fairlight Cove has experienced ongoing problems of coastal erosion and cliff instability that have led to a number of properties being lost since the 1980s as a result of cliff retreat. Since that time, a phased programme of coastal protection works and drainage has been undertaken, which has helped to slow down the rate of cliff recession. While these engineering works control erosion and land loss they do not prevent it, and it remains prudent to limit development that may have an effect on loading near the cliff or the flow of water in the ground near the cliff edge.
2. National Planning Practice Guidance (PPG) confirms that the planning system has an important role in considering land stability by: minimising the risk and effects of land stability on property, infrastructure and the public; and helping ensure that development does not occur in unstable locations or without appropriate precautions.
3. The effect of an article 4 direction at Fairlight Cove is to remove permitted development rights from specified residential properties close to the cliff edge for certain forms of householder development. These forms of development include residential extensions and outbuildings, the uncontrolled development of which could have adverse effects on land stability in the coastal margin. The removal of these specific permitted development rights would mean that planning permission would be required. The submission of a planning application would allow such effects to be properly assessed before development is permitted to proceed.
4. An independent report by a Chartered Geologist and Chartered Civil Engineer specialising in coastal science, coastal risk management and landslide management has been undertaken, to evidence the need for the article 4 direction and inform its scope and geographical coverage.
5. The report finds that cliff instability can result from both natural physical processes such as the cliff face weathering, sliding and retreating, or a change in drainage regime, as well as from human activity, and the most significant factor is likely to be natural cliff processes rather than human activity. However, loading or surcharge, occurring as a result of a change in the weight imposed on the top of a cliff, may cause the top of the cliff to fail and lead to cliff retreat (depending on the weight of the materials and the proximity to the cliff edge). On the cliffs above Fairlight Cove, human activity will be the most likely cause of surcharge and usually as a result of a load such as soil being deposited or by actual construction works. Along some sections of the Fairlight cliff line the top of the cliff has yet to reach a state of equilibrium (balance) and such surcharge may accelerate the instability processes, particularly at, or after, times of rainfall. In view of the greater level of risk and sensitivity of particular properties, largely on the seaward sides of the roads closest to the cliff edge, the removal of permitted development rights, in the form of an article 4 direction, can be justified.

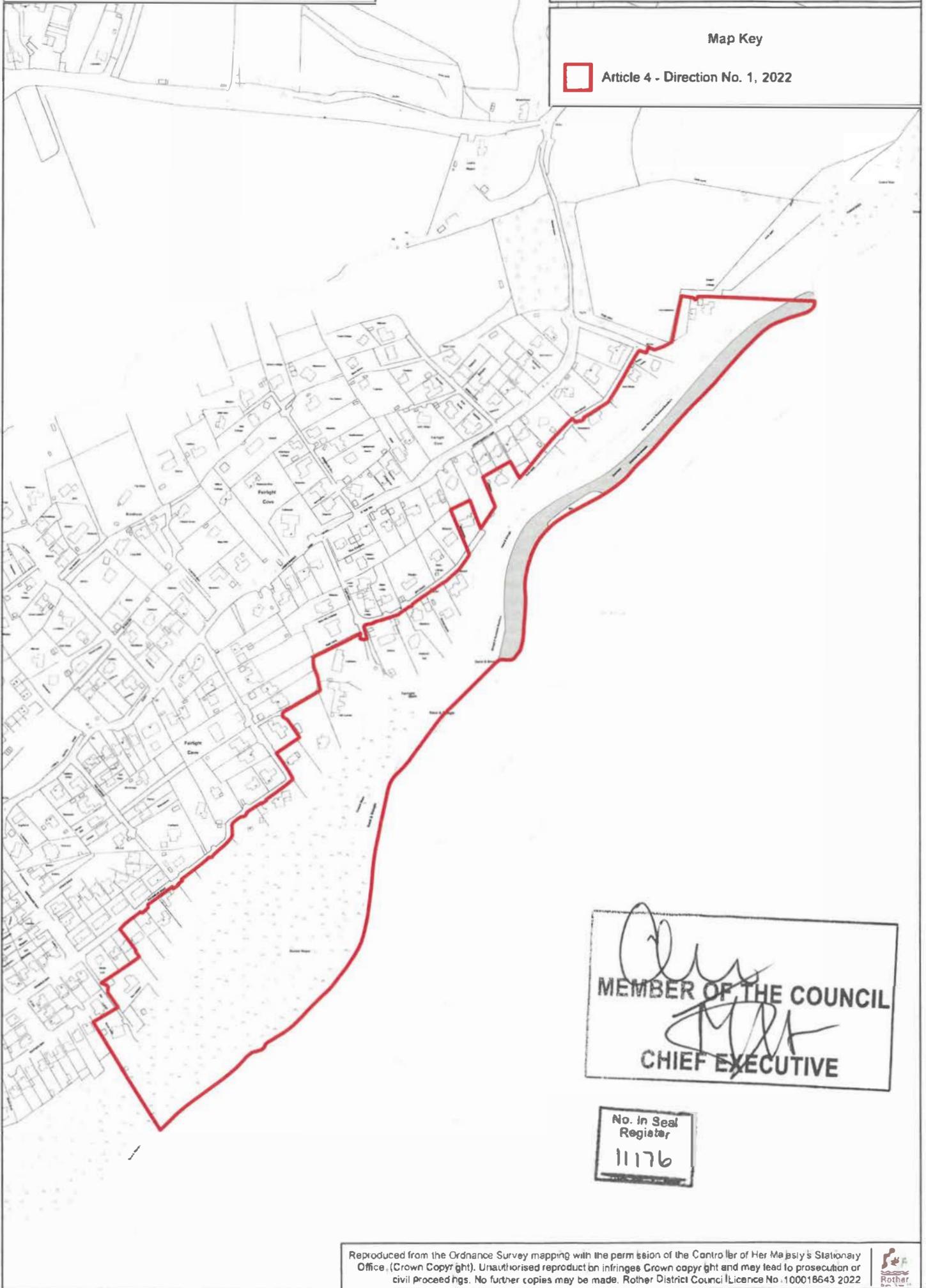
6. There are existing planning policies which apply to planning applications for development at Fairlight Cove. Policy DEN6 of the Rother District Council Development and Site Allocations (DaSA) Local Plan 2019 is relevant to development on unstable or potentially unstable land. Supporting text to the policy confirms that planning applications for development within a 50 metres wide “coastal zone” along the cliff face at Fairlight Cove must be accompanied by a structural engineer’s survey and a geo-technical report to demonstrate there would be no increase in ground loading. Policy DEN6 also prevents the use of soakaway drains in the coastal zone. However, the requirements of planning policy do not extend to development not requiring planning permission, hence the need for an article 4 direction in addition to existing planning policies. Furthermore, for the types of development listed in the Direction, the Building Regulations will not always provide a mechanism to consider the effect of development on ground stability, or indeed apply to the development at all.
7. The approach which has been followed, in obtaining evidence and limiting the extent and coverage of the direction to that found to be necessary, complies with the National Planning Policy Framework which requires (amongst other things), at paragraph 53, that the use of article 4 directions should: be limited to situations where it is necessary to protect local amenity or the well-being of the area; be based on robust evidence; and apply to the smallest geographical area possible.
8. Consequently, in order to offer appropriate protection in terms of reducing risks to ground stability, it is considered appropriate to issue an article 4 direction, covering properties located on the seaward sides of the roads closest to the cliff edge, where the gardens either extend directly to the cliff-edge or where there is little intervening land. This is considered to present a reasonable and consistent approach.



Map Key



Article 4 - Direction No. 1, 2022




MEMBER OF THE COUNCIL

CHIEF EXECUTIVE

No. in Seal
Register
11176