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STATUTORY INSTRUMENTS

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**2022 No. 911**

The A47 North Tuddenham to Easton  
Development Consent Order 2022

PART 6

OPERATIONS

**Felling or lopping of trees and removal of hedgerows**

**39.**—(1) The undertaker may fell or lop any tree or shrub, within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1) or (4), the undertaker must

- (a) do no unnecessary damage to any tree or shrub;
- (b) pay compensation to any person for any loss or damage arising from such activity; and
- (c) take steps to avoid a breach of the provisions of the Wildlife and Countryside Act 1981<sup>(1)</sup> and the Conservation of Habitats and Species Regulations 2017<sup>(2)</sup> or any successor acts and regulations.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined as if it were a dispute under Part 1 of the 1961 Act.

(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2) —

- (a) remove any hedgerows within the Order limits and specified in Schedule 8 Part 1 (removal of hedgerows);
- (b) remove the important hedgerows as are within the Order limits and specified in Schedule 8 Part 2 (removal of important hedgerows); and
- (c) without limitation on the scope of sub-paragraph (a), and with the consent of the local authority in whose area the hedgerow is located, remove or translocate any hedgerow within the Order limits that is required to be removed.

(5) The grant of consent of a local authority in terms of paragraph (4)(c) must not be unreasonably withheld.

(6) If a local authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (4)(c) the local authority is deemed to have granted consent.

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(1) 1981 c. 69.

(2) S.I. 2017/1012.

(7) Any application to which this article applies must include a statement that the provisions of paragraph (6) apply to that application.

(8) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerow Regulations 1997(3).

### **Trees subject to tree preservation orders**

**40.**—(1) The undertaker may fell or lop any tree within or overhanging land within the Order limits subject to a tree preservation order which was made after 24 July 2020, if the undertaker reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to passengers or other persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity;
- (b) the duty contained in section 206(1)(4) (replacement of trees) of the 1990 Act is not to apply although where possible the undertaker is to seek to replace any trees which are removed; and
- (c) the undertaker must consult the relevant planning authority prior to that activity taking place.

(3) The authority given in paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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(3) S.I. 1997/1160.

(4) Section 206(1) was amended by paragraph 11 of Schedule 8 to the 2008 Act.