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STATUTORY INSTRUMENTS

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**2022 No. 934**

The A428 Black Cat to Caxton Gibbet  
Development Consent Order 2022

PART 6

OPERATIONS

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

**42.**—(1) The undertaker may fell or lop any tree (other than a tree subject to a tree preservation order) or shrub, or cut back its roots, within or overhanging land within the Order limits 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), 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>.

(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 (determination of questions of disputed compensation) 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 hedgerow described in Part 1 (removal of hedgerows) of Schedule 8 (hedgerows and trees); and
- (b) subject to consultation with the relevant planning authority remove any hedgerow within the Order limits that may be identified and that is not otherwise described in Part 1 of Schedule 8.

(5) In this article “hedgerow” has the same meaning as in the Hedgerows Regulations 1997<sup>(3)</sup> and includes important hedgerows.

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<sup>(1)</sup> 1981 c. 69.

<sup>(2)</sup> S.I. 2017/1012.

<sup>(3)</sup> S.I. 1997/1160.

**Commencement Information**

**I1** Art. 42 in force at 8.9.2022, see [art. 1](#)

**Trees subject to tree preservation orders**

- 43.**—(1) Subject to paragraph (2), the undertaker may—
- (a) fell or lop any tree described in Part 2 (trees subject to tree preservation orders) of Schedule 8, cut back its roots or undertake such other works described in column (2) of that Schedule relating to the relevant part of the authorised development described in column (3) of that Schedule;
  - (b) fell or lop, or cut back the roots of any other tree within or overhanging land within the Order limits and which is subject to a tree preservation order which was made after 5th February 2018.
- (2) The undertaker may only exercise the powers of paragraph (1) if the undertaker reasonably believes it to be necessary to do so to prevent the tree—
- (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.
- (3) 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) (replacement of trees) of the 1990 Act is not to apply although where possible the undertaker must seek to replace any trees which are removed; and
  - (c) the undertaker must consult the relevant planning authority prior to that activity taking place.
- (4) The authority given in paragraph (1) constitutes a deemed consent under the relevant tree preservation order.
- (5) Any dispute as to a person’s entitlement to compensation under paragraph (3), or as to the amount of compensation, is to be determined as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

**Commencement Information**

**I2** Art. 43 in force at 8.9.2022, see [art. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The A428 Black Cat to Caxton Gibbet Development Consent Order 2022, PART 6.