
STATUTORY INSTRUMENTS

2023 No. 923

The A38 Derby Junctions Development Consent Order 2023

PART 6

OPERATIONS

Felling or lopping of trees and removal of hedgerows

39.—(1) The undertaker may fell or lop any tree 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⁽¹⁾ and the Conservation of Habitats and Species Regulations 2017⁽²⁾ 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), remove any hedgerow within the Order limits and as shown on the hedgerows plans that is required to be removed.

(5) In this article—

“hedgerow” includes a hedgerow to which the Hedgerows Regulations 1997⁽³⁾ apply and includes important hedgerows;

“the hedgerows plans” means the plans certified by the Secretary of State as the hedgerows plans for the purposes of this Order.

(1) 1981 c. 69.
(2) S.I. 2017/1012.
(3) S.I.1997/1160.