
STATUTORY INSTRUMENTS

2024 No. 60

The A12 Chelmsford to A120 Widening
Development Consent Order 2024

PART 4

SUPPLEMENTAL POWERS

Authority to survey and investigate the land

26.—(1) The undertaker may for the purposes of the construction, operation or maintenance of the authorised development enter on any land shown within the Order limits or which may be affected by the authorised development and, where reasonably necessary, any land which is adjacent to, but outside the Order limits, and—

- (a) survey or investigate the land (including any watercourses, groundwater, static water bodies or vegetation on the land);
- (b) without limitation on the scope of sub-paragraph (a), make any excavations or trial holes and boreholes and other investigations in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and groundwater and remove soil and water samples and discharge water from sampling operations on to the land;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including making excavations or trial holes on the land for such purposes; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making trial holes and boreholes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take into the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes and boreholes.

(4) No trial holes are to be made under this article—

- (a) in land located within the highway boundary without the consent of the relevant local highway authority; or
- (b) in a private street without the consent of the street authority.

but such consent must not be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) The notice required under paragraph (2) must indicate the nature of the survey or investigation that the undertaker intends to carry out.

(7) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(8) If either a local highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

(a) under paragraph (4)(a) in the case of a local highway authority; or

(b) under paragraph (4)(b) in the case of a street authority,

that authority is deemed to have granted consent.

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