
STATUTORY INSTRUMENTS

2021 No. 125

**The A303 Sparkford to Ilchester Dualling
Development Consent Order 2021**

PART 6

OPERATIONS

Felling or lopping of trees and removal of hedgerows

38.—(1) Subject to paragraphs (6) and (7), 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), the Conservation of Habitats and Species Regulations 2017(2) and the Natural Environment and Rural Communities Act 2006(3).

(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 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 that is required to be removed.

(5) In this article “hedgerow” means a hedgerow to which the Hedgerows Regulations 1997(4) apply and includes important hedgerows.

(6) Except where necessary to prevent or remove a danger to persons using the authorised development, the powers set out in this article may not be used to remove any tree, shrub or hedgerow which is shown as being retained on the works plans or the approved detailed design for the authorised development.

(7) Except where the removal and replacement of any tree, shrub or other planting which fails to establish, dies or becomes diseased is required, the powers set out in this article may not be used to fell or lop any tree or shrub or remove any part of any hedgerow planted in accordance

(1) 1981 c. 69.
(2) S.I. 2017/1012.
(3) 2006 c. 16.
(4) S.I. 1997/1160.

with the approved detailed design for the authorised development other than in accordance with the provisions of the LEMP or HEMP as applicable.

(8) In paragraphs (6) and (7)—

“the approved detailed design for the authorised development” means the detailed design for the authorised development as approved under the requirements in Schedule 2 (requirements);

“HEMP” and “LEMP” have the same meanings as in Schedule 2.