
STATUTORY INSTRUMENTS

2024 No. 733

**The A1 in Northumberland: Morpeth to
Ellingham Development Consent Order 2024**

PART 6

OPERATIONS

Felling or lopping of trees and removal of hedgerows

41.—(1) The undertaker may fell or lop any tree (other than a tree subject to a tree preservation order) 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 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.

(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 hedgerow described in Parts 1 (removal of hedgerows) or 2 (removal of important hedgerows) of Schedule 9 (trees and hedgerows) that is required to be removed; and
- (b) with the consent of the local authority in whose area the hedgerow is located, remove any hedgerow within the Order limits that may be identified and that is not described in Parts 1 or 2 of Schedule 9.

(5) The giving of consent by a local authority under paragraph (4)(b) 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)(b) the local authority is deemed to have given consent.

(7) Any application for consent under paragraph (4)(b) must include a statement that the provisions of paragraph (6) apply to that application.

(8) In this article “hedgerow” has the same meaning as in the Hedgerow Regulations 1997(1) and includes important hedgerows.

(1) [S.I. 1997/1160](#). There are amendments to the Hedgerow Regulations 1997 that are not relevant to this Order.

Trees subject to tree preservation orders

42.—(1) The undertaker may fell or lop any tree described in Part 3 (trees subject to tree preservation orders) of Schedule 9, cut back its roots or undertake such other works described in column (2) of that Part of that Schedule relating to the relevant part of the authorised development described in column (3) of that Schedule, if it reasonably believes it to be necessary do so in order 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; and
- (b) the duty contained in section 206(1) (replacement of trees)(2) of the 1990 Act is not to apply although where possible the undertaker is to seek to replace any trees which are removed.

(3) The authority given by paragraph (1) shall constitute 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, shall be determined as if it were a dispute under Part 1 of the 1961 Act.

(2) Section 206 was amended by section 192(8) of, paragraph 11 of Schedule 8 to, the Planning Act 2008.