
STATUTORY INSTRUMENTS

2024 No. 60

The A12 Chelmsford to A120 Widening
Development Consent Order 2024

PART 6
OPERATIONS

Trees subject to tree preservation orders, etc.

47.—(1) Subject to paragraph (2), 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 that Part of that Schedule.

(2) The undertaker may only exercise the powers referred to in paragraph (1) if the undertaker reasonably believes it to be necessary in order 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; and
- (b) the duty contained in section 206(1)(1) (replacement of trees) of the 1990 Act is not to apply although where possible the undertaker is to seek to replace any trees which are to be removed.

(4) The authority given in paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(5) The powers conferred by paragraph (1) may be exercised in relation to any tree or shrub that is situated within a conservation area designated under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990(2).

(6) Before exercising the powers mentioned in paragraph (5), the undertaker is required to give written notice to the relevant planning authority of the intended works (with sufficient particulars to identify the tree and either—

- (a) the relevant planning authority has indicated in writing that it has no objection to the works or that the works fall within an exemption in paragraph (7)(a) or (b); or
- (b) six weeks have elapsed from the date of the notice and a tree preservation order has not been made in respect of the tree or shrub.

(1) Section 206(1) was amended by paragraph 11 of Schedule 8 to the Planning Act 2008 (c. 29).

(2) 1990 c. 9.

- (7) Paragraph (5) does not apply—
- (a) where consent would not be need for the proposed works if the tree or shrub were subject to a tree preservation order; or
 - (b) to any works which would be exempt in accordance with the regulations made under section 212(3) (disapplication of tree preservation offences) of the 1990 Act.
- (8) The duty contained in section 213(1)(4) (enforcement of controls as respects trees in conservation areas) of the 1990 Act does not apply to the undertaker in carrying out the activity authorised by paragraphs (5) and (6).
- (9) The authority given by paragraphs (5) and (6) constitutes an authorisation by an order granting development consent for the purpose of section 211(1A)(5) (preservation of trees in conservation areas) of the 1990 Act.
- (10) In carrying out any activity authorised by this article, the undertaker must not unnecessarily damage any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.
- (11) Any dispute as to a person’s entitlement to compensation under this article, or as to the amount of compensation, is to be determined as if it were a dispute under Part 1 of the 1961 Act.

(3) Section 212 was amended by paragraph 15 of Schedule 8 and Schedule 13 to the Planning Act 2008.
(4) Section 213 was amended by paragraph 16 of Schedule 8 to the Planning Act 2008.
(5) Section 211(1A) was inserted by paragraph 36(2) of Schedule 2 to the Planning Act 2008.