



Application Decision

by Richard Holland

Appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 26 February 2019

Application Ref: COM/3214445

Wisley Common and Chatley Heath, Surrey

Register Unit No: CL 350, CL 446

Commons Registration Authority: Surrey County Council

- The application, dated 18 October 2018, is made under Section 38 of the Commons Act 2006 (the 2006 Act) for consent to carry out restricted works on common land.
 - The application is made by Highways England.
 - The works comprise fencing, trenches/pits and exploratory holes for ground investigation. The works for each exploratory hole will occupy a maximum area of 150 m² and have a maximum length of 15m. Some ground investigations will be installed with monitoring equipment and a raised cover at the surface and will be in place for up to six months. Monitoring equipment will be surrounded by a small (no greater than 1m high) fence.
-

Decision

1. Consent is granted for the works in accordance with the application dated 18 October 2018 and accompanying plans subject to the following conditions:
 - i. the works shall begin no later than three years from the date of this decision;
 - ii. the works shall be removed no later than six months from the date they are commenced; and
 - iii. the common shall be restored no later than one month from the completion of the works.
2. For the purposes of identification only the location of the works is shown in red, within the common land boundary coloured in green, on the attached plans.

Preliminary Matters

3. The applicant confirms that no works will be undertaken on CL 404 and a machine excavated trial pit proposed to be carried out on CL 447 has since been relocated to land outside the common.
4. I have had regard to Defra's Common Land Consents Policy¹ in determining this application under section 38, which has been published for the guidance of both the Planning Inspectorate and applicants. However, every application will be considered on its merits and a determination will depart from the policy if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the policy.
5. This application has been determined solely on the basis of written evidence.

¹ Common Land Consents Policy (Defra November 2015)

6. I have taken account of the representations made by the Open Spaces Society, Bob Milton, Edward Warren, John Gould and the Archaeological Adviser to Guildford Borough Council.
7. I am required by section 39 of the Commons Act 2006 to have regard to the following in determining this application:-
 - a. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
 - b. the interests of the neighbourhood;
 - c. the public interest;² and
 - d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

8. The owners of the commons, Surrey County Council and the Royal Horticultural Society, have been consulted about the application and have not objected to the works. There are no rights registered over the commons. I am satisfied that the works will not adversely impact on the interests of those occupying the commons and the interests of those having rights is not at issue.

The interests of the neighbourhood and the protection of public rights of access

9. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common land is used by local people. The works are in connection with a highway improvement scheme at M25 Junction 10/A3 Wisley Interchange to help reduce congestion, improve safety and support planned growth. The works will enable exploratory ground investigations to be undertaken in preparation for the scheme. The applicant explains that 20 boreholes, 21 dynamic cone penetrometers, nine machine excavated trial pits, two machine excavated trial trenches, four window samples and three hand excavated pits will be needed on the common. Around 17 locations will be used for monitoring for a period of up to six months. The monitoring locations will have flush or slightly protruding (0.3 m) metal lockable covers. With the exception of the hand excavated pits, fencing, measuring approximately 0.5 m x 0.5 m x 1m high, will be placed around the monitoring sites to protect the public from a potential trip hazard.
10. Those commenting on the application have raised concerns about the impact of the works on public access for pedestrians, horse riders and cyclists. The applicant in response confirms that access to public rights of way will be maintained and no closures or alternative routes are needed or proposed.
11. I accept that the works are needed on the commons to facilitate the proposed highway improvements and that fencing is required for the health and safety of the public. While the monitoring works may be required at some locations for up to six months, I am satisfied that, taken together, the works will only impact a small part of the commons (less than 0.3% of the total area of the commons combined) and will not have a significant or lasting impact, particularly as no monitoring site will be fenced for more than 7 days. I conclude that the works will not materially prevent local people from using the commons in the way that they are used to and will not harm the interests of the neighbourhood or public rights of access.

²Section 39(2) of the 2006 Act provides that the public interest includes the public interest in; nature conservation; the conservation of the landscape; the protection of public rights of access to any area of land; and the protection of archaeological remains and features of historic interest.

Nature conservation and conservation of the landscape

12. The commons are part of the Ockham and Wisley Commons Site of Special Scientific Interest (SSSI) and Thames Basin Heaths Special Protection Area (SPA). The applicant confirms that they are in consultation with Natural England and the Environment Agency to agree an appropriate working methodology and environmental specialists will be present to supervise the works and mitigate against any risk.
13. I am satisfied that appropriate measures will be in place to ensure that the works do not harm the SSSI or SPA. The works will be confined to the minimum area required, all pits will be backfilled and the surface fully restored to its original condition upon completion. Any visual impact will be limited and temporary in duration. I conclude that the works will not harm nature conservation interests and will conserve the landscape in the long term.

Archaeological remains and features of historic interest

14. The Archaeological Adviser to Guildford Borough Council does not object to the application and comments that the proposed works have been designed to avoid damage to the known heritage assets and will only have a temporary impact on the commons. As long as provision for archaeological monitoring is put in place it does not consider that this proposal will have an adverse impact in heritage terms. In response, the applicant confirms that ground investigations will be conducted in accordance with a Written Scheme of Investigation for an archaeological watching brief. In view of the applicant's assurances, I am satisfied that the works will not harm any archaeological remains and features of historic interest.

Other matters

15. I note Bob Milton's concerns about the status of land not forming part of this application and John Gould's comments about the safety implications of the highway improvement scheme. I consider these matters beyond the scope of this application and therefore I have not given them any weight.

Conclusion

16. Defra's consents policy advises that *"...works may be proposed in relation to common land which do not benefit the common, but confer some wider benefit on the local community, such as minor works undertaken by a statutory undertaker (e.g. a water utility) to provide or improve the public service to local residents and businesses..... consent under section 38 may be appropriate where the works are of temporary duration (such as a worksite), where the works will be installed underground (such as a pipeline or pumping station), or where their physical presence would be so slight as to cause negligible impact on the land in question (such as a control booth or manhole), and the proposals ensure the full restoration of the land affected and confer a public benefit."* I am satisfied that the works accord with this policy as they will confer a public benefit by facilitating the highway improvement scheme at M25 Junction 10/A3 Wisley Interchange.
17. I conclude that the works will not adversely impact on the interests set out in paragraph 7 above and are consistent with Defra's policy guidance. Consent is therefore granted for the works.

Richard Holland

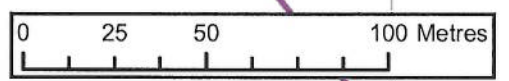


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 CLIENT NAME: Highways England LICENCE NUMBER: 100030649

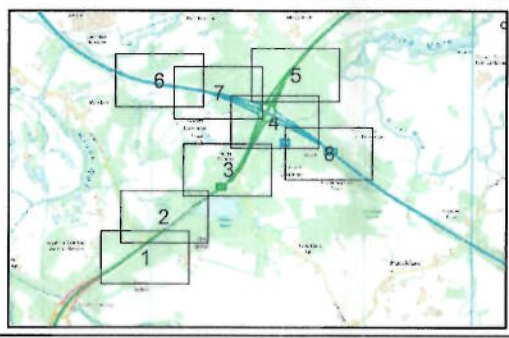
Legend

- Registered Common Land (CL 350, 446, 447 or 448)
- Public Right of Way (PRoW)
- Special Protection Area (SPA)
- Site of Special Scientific Interest (SSSI)
- Scheduled Ancient Monument (SAM)
- Proposed ground investigation within Registered Common Land - See Note 8
- Borehole - (10x10m fenced area)
- Machine excavated trial pit (10x10m fenced area)
- Machine excavated trial trench (10x15m fenced area)
- Window sample (10x10m fenced area)
- Handheld dynamic cone penetrometer



SAFETY, HEALTH AND ENVIRONMENTAL INFORMATION	
In addition to the hazards/risks normally associated with the types of work detailed on this drawing, note the following significant residual risks (Reference shall also be made in the design hazard log)	
Construction	None
Maintenance / Clearing	None
Use	None
Decommission / Demolition	None

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 - For working areas refer to Section 9 and Section 12 of the Application for consent to carry out works on common land - M25 Jn10 and A3



Description	Status	Revision	Drawn	Checked	Reviewed	Authorised	Issue Date
WORK IN PROGRESS	SO	P01	FJKURG	FS	TAR	GB	12/10/18

WORK IN PROGRESS

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Project Title	ROAD IMPROVEMENT PROGRAMME M25 J10 / A3 Wisley Interchange Improvements		
Drawing Title	APPLICATION FOR CONSENT TO CARRY OUT WORKS ON COMMON LAND		
Drawing Number	Project	Originator	Volume
	HE551522-ATK-HGT-M25J10-DR-GE-0179		
Original Size	Scale	Project Ref.	Sheet
A3	1:2,000	Ms158141	1 of 8
Rev	P01		

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Proposed ground investigation within Registered Common Land - See Note 8

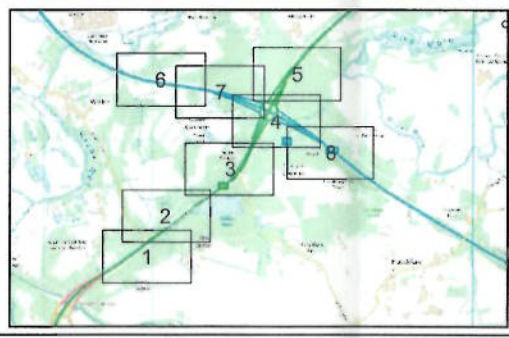
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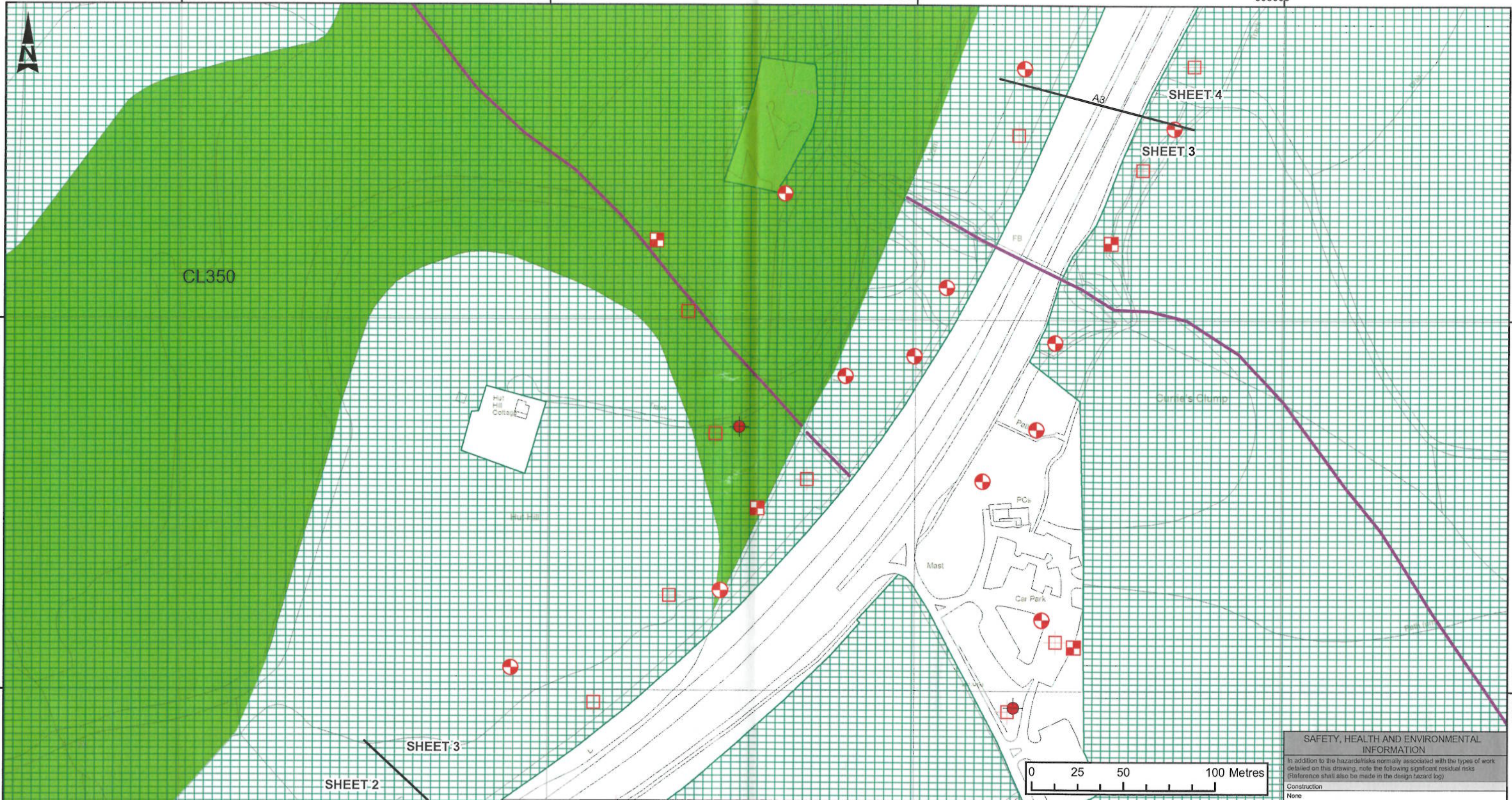
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Project Ref. No.	158141	Sheet	2 of 8
Revis	P01		



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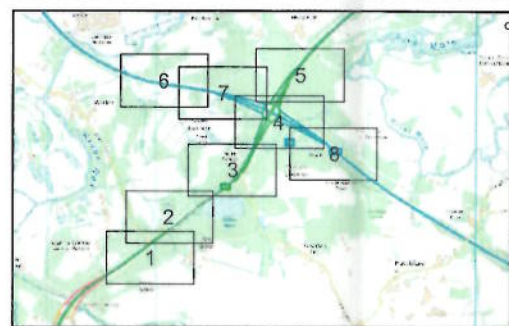
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WORK IN PROGRESS Status **SO**

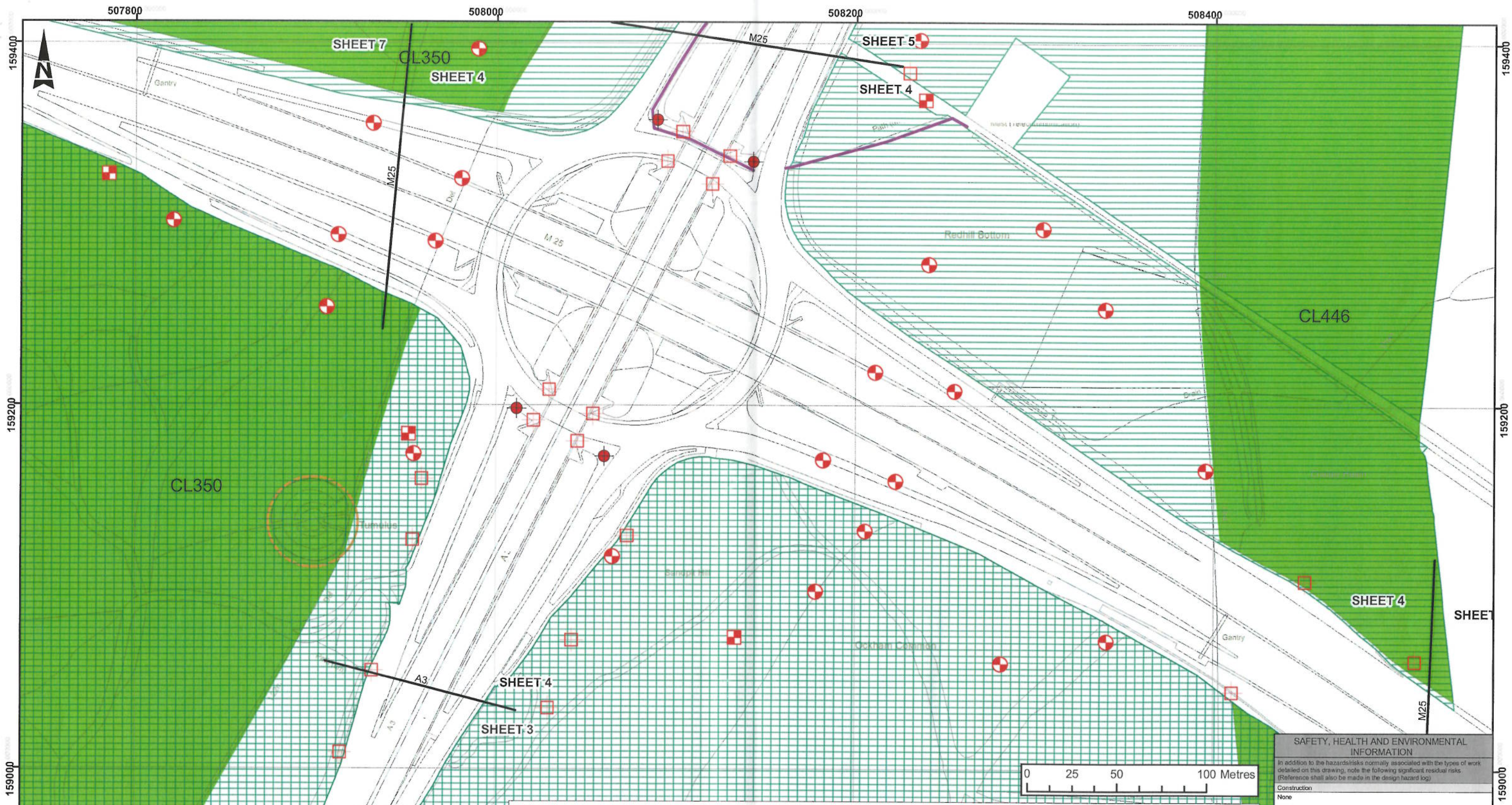
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Location	Type	Role	Number
A3	1:2,000		3 of 8
Original Size	Scale	Project Ref	Sheet
		HE55158141	3 of 8
			Rev: P01



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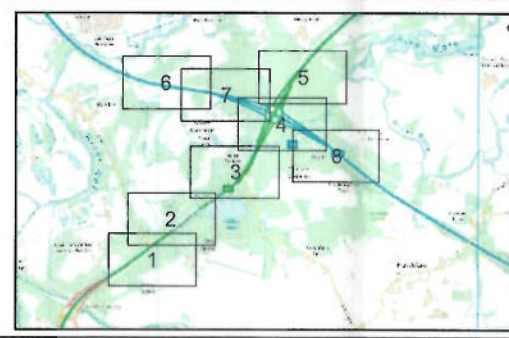
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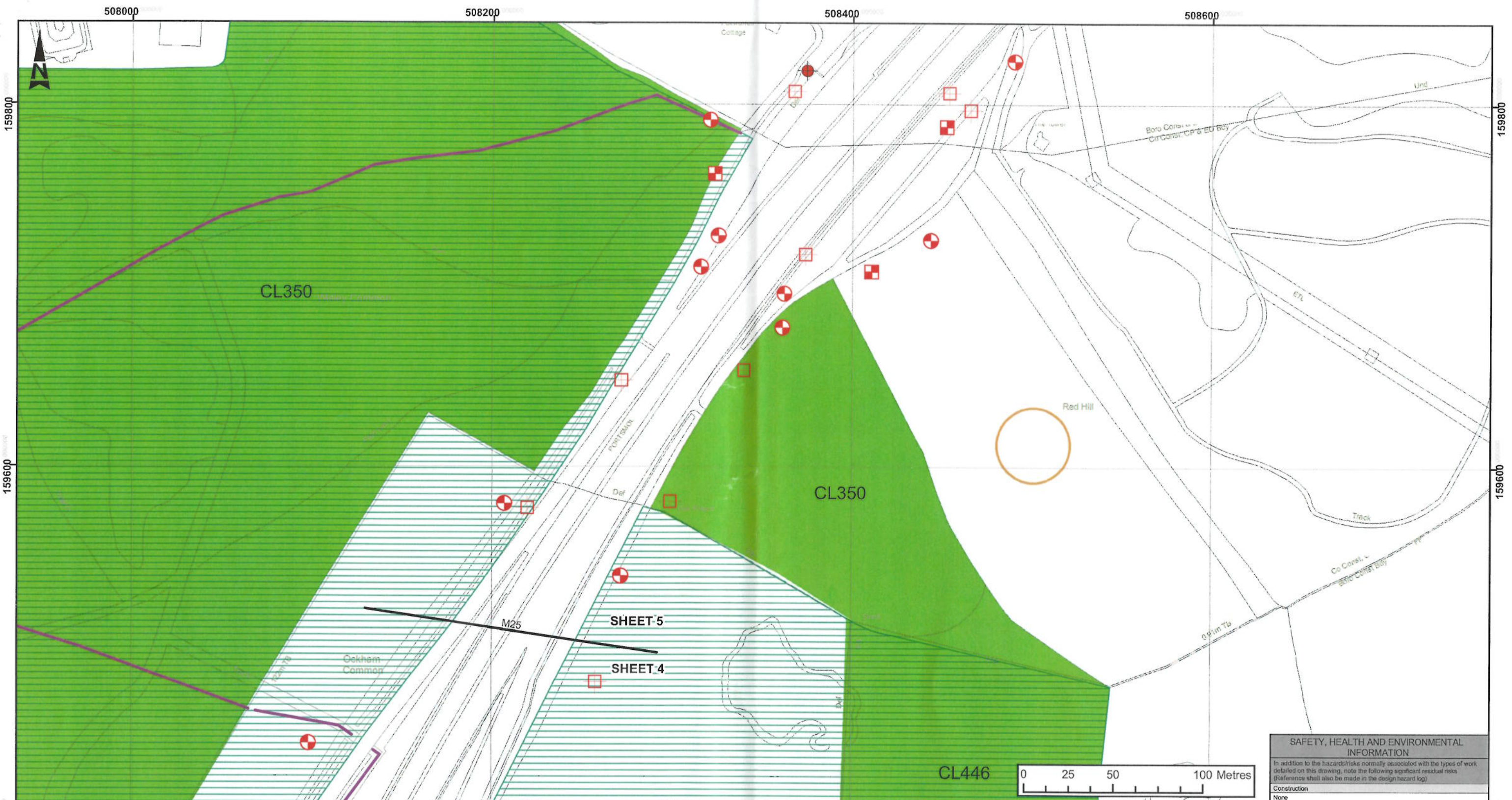
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Drawing Number	Project	Originator	Volume
	HE551522-ATK-HGT-M25J10-DR-GE-0182		
Original Size	A3	Scale	1:2,000
Project Ref	N5158141	Sheet	4 of 8
Rev	P01		



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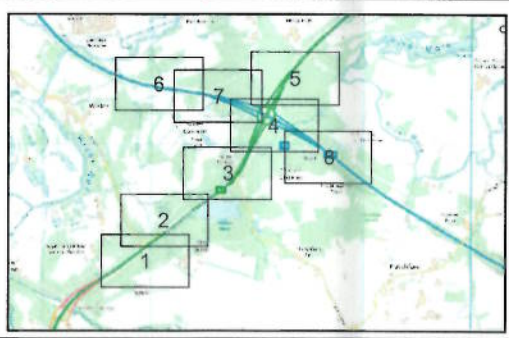
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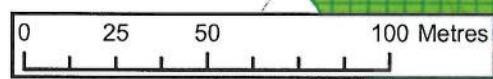
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Original Size	A3	Scale	1:2,000
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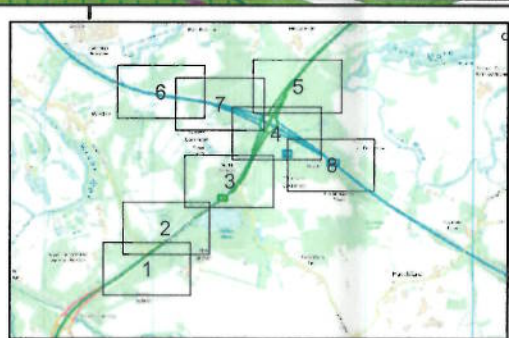
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Maintenance / Cleaning	None
Use	None
Decommission / Demolition	None

- NOTES**
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Description	Status	Revision	Drawn	Checked	Reviewed	Authorised	Issue Date
WORK IN PROGRESS	SO						

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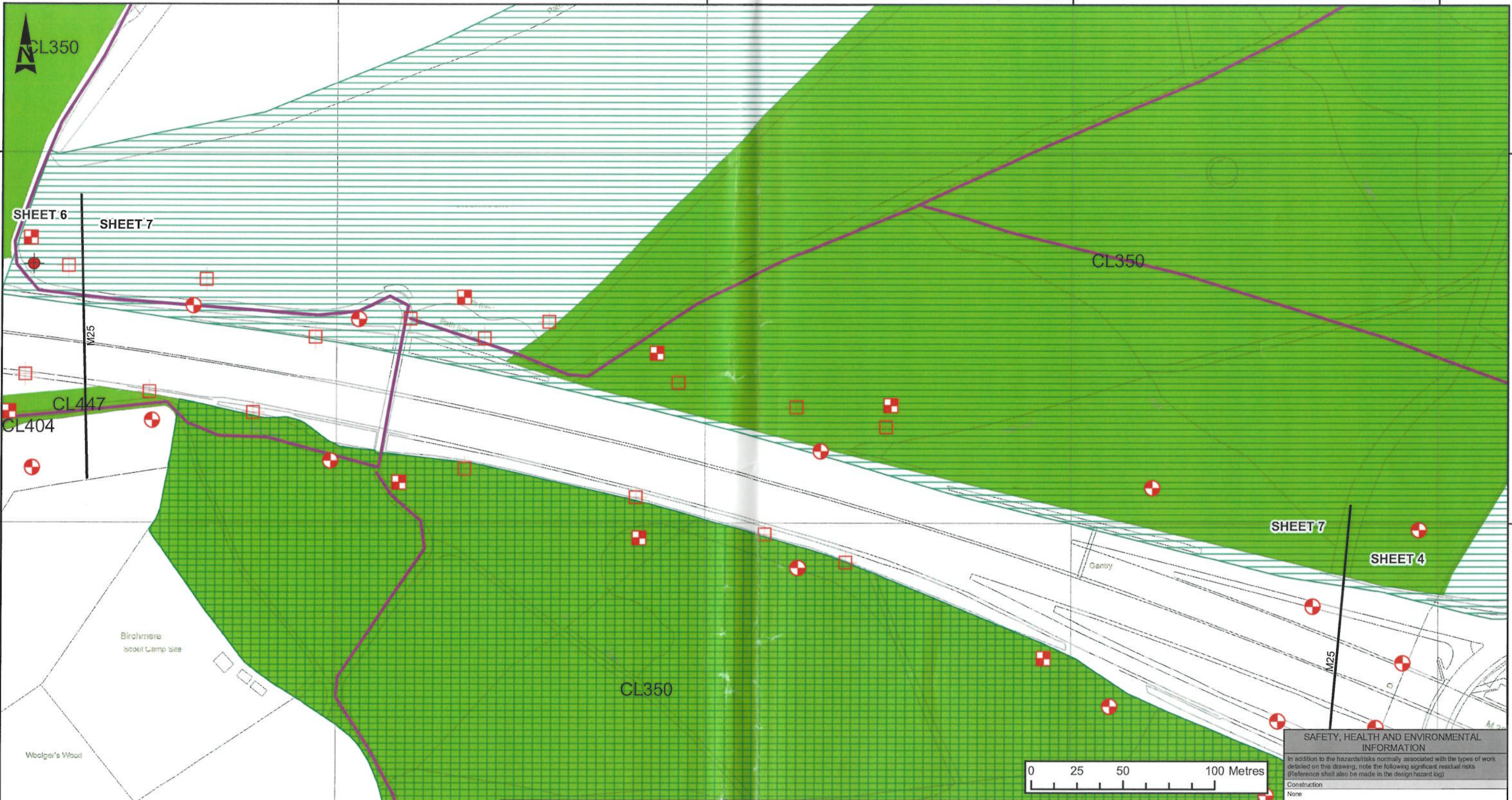
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Project Title	ROAD IMPROVEMENT PROGRAMME M25 J10 / A3 Wisley Interchange Improvements		
Drawing Title	APPLICATION FOR CONSENT TO CARRY OUT WORKS ON COMMON LAND		
Drawing Number	Project	Originator	Volume
	HE551522-ATK-HGT-M25J10-DR-GE-0184		
Original Size	A3	Scale	1:2,000
Location	Project Ref. No	Sheet	Number
	158141	6 of 8	P01



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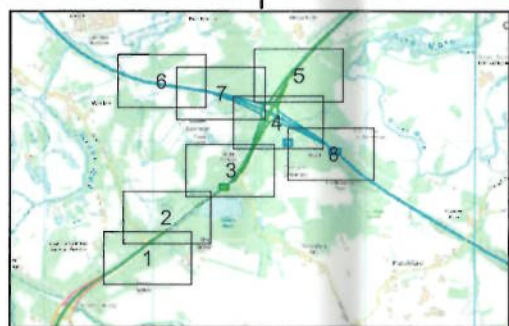
- Legend**
- Registered Common Land (CL 350, 446, 447 or 448)
 - Public Right of Way (PRoW)
 - Special Protection Area (SPA)
 - Site of Special Scientific Interest (SSSI)
 - Scheduled Ancient Monument (SAM)

- Proposed ground investigation within Registered Common Land - See Note 8**
- Machine excavated trial pit (10x10m fenced area)
 - Machine excavated trial trench (10x15m fenced area)
 - Borehole - (10x10m fenced area)
 - Handheld dynamic cone penetrometer
 - Window sample (10x10m fenced area)

SAFETY, HEALTH AND ENVIRONMENTAL INFORMATION	
In addition to the hazards/risks normally associated with the types of work detailed on this drawing, note the following significant residual risks (Reference shall also be made in the design hazard log)	
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Maintenance / Cleaning	None
Use	None
Decommission / Demolition	None

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Description	Status	Revision	Drawn	Checked	Reviewed	Authorised	Issue Date
WORK IN PROGRESS	SO		FJKURG	FS	TAR	GB	12/10/18

WORK IN PROGRESS **SO**

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Project Title		ROAD IMPROVEMENT PROGRAMME	
M25 J10 / A3 Wisley Interchange Improvements		Application for Consent to Carry Out Works on Common Land	
Drawing Title		APPLICATION FOR CONSENT TO CARRY OUT WORKS ON COMMON LAND	
Drawing Number		HE551522-ATK-HGT-M25J10-DR-GE-0185	
Original Size: A3	Scale: 1:2,000	Project Ref: N5158141	Sheet: 7 of 8
Revision: P01		Rev: P01	



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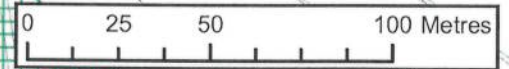
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 CLIENT NAME: Highways England LICENCE NUMBER: 100030649

Legend

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- Public Right of Way (PRoW)
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Proposed ground investigation within Registered Common Land - See Note 8

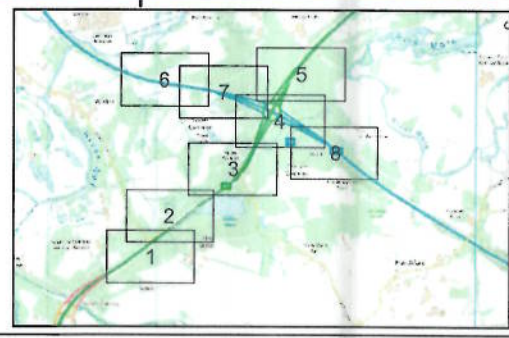
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Description	Status	Revision	Drawn	Checked	Reviewed	Authorised	Issue Date
WORK IN PROGRESS	SO	P01	FJKURG	FS	TAR	GB	12/10/18

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Project Title	ROAD IMPROVEMENT PROGRAMME M25 J10 / A3 Wisley Interchange Improvements		
Drawing Title	APPLICATION FOR CONSENT TO CARRY OUT WORKS ON COMMON LAND		
Drawing Number	Project	Originator	Volume
	HE551522-ATK-HGT-M25J10-DR-GE-0186		
Original Size	A3	Scale	1:2,000
Project Ref.	Ng158141	Sheet	8 of 8
Rev.	P01		