

Application by Highways England for an order granting development consent for the proposed M20 Junction 10a

The Examining Authority's first written questions and requests for information

Issued on 9 December 2016

The following document comprises the Examining Authority's (ExA) first written questions and requests for information. Each question has a **unique reference number** which combines a section number and a question number. **When you are answering a question, please start your answer by quoting the unique reference number.**

Each question makes explicit **which party it is directed at**. The ExA would be grateful if all parties named could answer all questions directed at them, providing either a substantive response, or indicating that the question is not relevant to them for a reason.

It is expected that answers will be given by each party unless an agreed position on relevant matters is to be included in a Statement of Common Ground, or for local authorities the matter is covered in a Local Impact Report.

The direction of questions in this way does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Unless otherwise stated, the Applicant and other Interested Parties should provide any new or amended documentation prepared in support of the answers to these questions for submission by **16 January (Deadline 3)** in the Examination Timetable). All document references have been attributed by the Planning Inspectorate and are taken from the live Examination Library which is available on our website, here: <http://infrastructure.planninginspectorate.gov.uk/document/TR010006-000396>

If you are answering a limited number of questions, responses in a letter format will suffice. If you are answering several questions, it will assist the ExA if you use a table which reproduces the question and incorporates the referencing conventions used in the questions.

With regard to areas of disagreement with the application, please provide evidence including any counter proposals.

Where an Examination document is referred to within a question, the Examination Library reference is provided in square brackets eg [APP-001]. A list of the acronyms and abbreviations used within this document is provided at **Annex A**.

The Proposed Scheme - ES Chapter 2 [APP-030]			
Question number	Question to	Question(s)	Environment Agency Response
2.4	ABC; KCC; Applicant; all IPs	Section 2.6 considers the Construction of the Scheme: i. Would IPs identify any areas in which they are not content with the Applicant's proposals for the construction strategy, access, construction compounds, and outline Construction Environmental Management Plan (oCEMP) [APP-204]?	We accept the outline CEMP in principle however we refer you to our Written Representation for our comments on the pollution prevention mitigation measures' soil handling and management plan, materials management plan and site waste management to be detailed as part of the CEMP when produced.
Consideration of Alternatives - ES Chapter 3 [APP-031]			
Environmental Impact Assessment Methodology - ES Chapter 4 [APP-032]			
Air Quality - ES Chapter 5 [APP-033]			
Question number	Question to	Question(s)	Environment Agency Response
5.1	Applicant;	Having regard to the judgment of the High Court on 2	

	ABC; KCC; Environment Agency; Public Health England	November 2016 ¹ in which the Court found in favour of the Claimant (ClientEarth) and against the Defendant (the Secretary of State for Environment, Food and Rural Affairs (SoSEFRA)), and quashed Defra's Air Quality Plan (AQP) of December 2015 ² : iv. What is the response of the local authorities and Statutory Parties (the Environment Agency, Public Health England) to this judgment in terms of the air quality assessment for the proposed development?	We note that this is an application for a new road junction on a trunk road. While we are statutory consultee for NSIPs, we only comment on those matters within our planning remit, of which air quality is not
Cultural Heritage - ES Chapter 6 [APP-034]			
Landscape - ES Chapter 7 [APP-035]			
Nature Conservation - ES Chapter 8 [APP-036]			
Geology and Soils - ES Chapter 9 [APP-037]			
Question number	Question to	Question(s)	
9.3	Environment Agency	Section 9.8, Predicted Geology and Soils Effects, discusses anticipated impacts both during construction and operation, and Table 9.7 summarises proposed mitigation measures and anticipated effects following the implementation of mitigation.	9.3i: The historic landfill referred to in the Relevant Representation is a backfilled quarry (Mersham Quarry) which accepted a variety of waste types. The site is centred at National Grid Reference TR0459341333 and is bounded to the south by Hythe Road and is therefore located at the red line boundary of the Main Scheme. Please find enclosed a map

¹ <https://www.judiciary.gov.uk/judgments/clientearth-v-secretary-of-state-for-the-environment-food-and-rural-affairs/>

² <https://www.gov.uk/government/collections/air-quality-plan-for-nitrogen-dioxide-no2-in-uk-2015>

		<p>i. Would the Environment Agency expand on the reference to historic landfill at Section 2.2 of its Relevant Representation [RR-011]?</p> <p>ii. If further ground investigation is considered necessary (and contamination risk assessments updated accordingly), are the current provisions of the dDCO [OD-008] suitable to secure the delivery of such additional works?</p>	<p>showing the landfill site.</p> <p>Historic landfill sites such as Mersham Quarry are potential sources of contamination that could pose a risk to a variety of receptors. The applicant has since confirmed that there will be no piling in the vicinity of Mersham Quarry.</p> <p>9.3ii: Part 2 of our relevant representation notes that current ground investigation and risk assessment reports assess groundwater to be at risk from historic sources. The introduction of mitigation measures during construction works will not reduce this risk as it is already present prior to construction.</p> <p>National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121). We therefore believe that further action is required.</p> <p>Depending on the responses to question 14.3iv and 14.3v, additional provisions may be necessary in the DCO to ensure there is no unacceptable risk posed to controlled waters from historic sources of contamination. We would like the opportunity to respond to any further submissions related to this</p>
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			matter.
Materials - ES Chapter 10 [APP-038]			
Noise and Vibration - ES Chapter 11 [APP-039]			
11.4	Applicant; ABC; all IPs	Section 11.7, Mitigation and Compensation Measures, refers to measures to be introduced as part of the proposed development during both construction and operation.	We have no comments to make on the noise and vibration measures in the dCEMP. While we are statutory consultee for NSIPs, we only comment on those matters within our planning remit, of which noise and vibration is not.
Effects on all Travellers - ES Chapter 12 [APP-040]			
Community and Private Assets - ES Chapter 13 [APP-041]			
Road Drainage and Water Environment - ES Chapter 14 [APP-042]			
Question number	Question to	Question(s)	Environment Agency Response
14.1	Applicant; Environment Agency	Section 14.3 sets out the Method of Assessment, including the study area and significance criteria (value and magnitude of impact on surface water, ground water and flood risk), based on the DMRB and other sources. i. With reference to the Environment Agency's Relevant Representation [RR-011], would the Environment Agency expand on the information that it wishes to see with regard to maintaining access to the Aylesford Stream?	14.1i: The Environment Agency accepts the principles of access however require further information at detailed design stage to ensure the area can be accessed, for maintenance and incident management purposes. Previous advice to the applicant has included the need for vehicular access and need for access during works and post development. We have requested detailed drawings and construction method statements (where applicable), to suitable scale with dimensions at the appropriate stage to include: 1. New access track from the A2070 (Bad Munstereifel Rd), e.g. serving Pond 1, to the

			<p>existing farm bridge over the Aylesford Stream. This is to ensure the new track from A2070 is suitable for Environment Agency vehicular access to the Aylesford Stream for incident management and maintenance purposes (e.g. weedcutting, blockage clearance, desilting).</p> <ol style="list-style-type: none"> 2. Proposed mammal pipe bridge adjacent to the M20 including dimensions to indicate proximity to the M20. This will allow us to ascertain the length of Aylesford Stream where our access along the channel (e.g. for desilting operations) may now be blocked by the presence of this bridge. 3. Badger/mammal fencing in the vicinity of the proposed mammal pipe bridge (as above) in order for us to ascertain where our access to the Aylesford Stream may now be blocked. We recommend that suitably sized vehicular access gates are provided within the fencing to still maintain our access to the Aylesford Stream (e.g. between the mammal pipe bridge and the Lacton Farm culvert). 4. Access provision for the Environment Agency to the Aylesford Stream from the A20. 5. Temporary works structures: e.g. temporary bridge (e.g. bailey bridge), coffer dams, over-pumping arrangements, silt mitigation measures, haul roads, compounds, fencing. This is to ascertain whether we can access the Aylesford Stream whilst work on the development is being carried out.
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14.2	Environment Agency	<p>Section 14.6, Baseline Information, refers to the South East River Basin Management Plan and identifies water bodies, SACs, SPAs, licenced abstractions, consents to discharge, pollution incidents, existing drainage, ground water, flood risk and aquatic ecology. The Environment Agency has provided brief commentary in its Relevant Representation [RR-011] as to its satisfaction with the proposed development's compliance with the Water Framework Directive.</p> <p>i. With specific reference to Appendix 14.1 of the ES (Water Framework Directive) [APP-196], would the Environment Agency confirm that proposals put forward by the Applicant to mitigate adverse effects on the water environment are appropriate, and state whether the dDCO [OD-008] provides the necessary provisions for their implementation?</p>	<p>14.2i: The Environment Agency is satisfied that the proposals put forward by the Applicant to mitigate for the adverse effects on the water environment are appropriate and compliant with Water Framework Directive. We have provided additional information in our Written Representations section 3.0 Ecology and section 5.0 Pollution Prevention.</p>
14.3	Applicant; Environment Agency	<p>Section 14.7, Mitigation and Compensation Measures, outlines mitigation measures to be employed during construction and operation, referring to the oCEMP [APP-204] as the location where these measures will be secured.</p> <p>i. Would the Applicant clarify how all of the pollution prevention and water management measures set out in and paras 14.7.3 to 14.7.6 of the ES, and para 6.2.8 of the AIES [APP-208], are secured in the dDCO [OD-008] via the oCEMP [APP-204]?</p> <p>ii. Would the Environment Agency expand on the comments made at Section 1 of its Relevant</p>	<p>14.3.ii: Please refer to sections 1 and 1.1 in our Written Representations that expand on the Environment Agency's comments in section 1 of the Relevant Representation. The Environment Agency is unable to provide advice on the proposed flood risk attenuation measures proposed until the updated FRA and modelling is completed and has been reviewed by us.</p>

		<p>Representation [RR-011] as to the need for additional information being required as part of the FRA [APP-197] to demonstrate that flood risk will not be increased by the proposed development? In light of these comments, are the mitigation and flood risk attenuation measures proposed sufficient and capable of being delivered as part of the dDCO?</p> <p>iii. Would the Applicant confirm its intention to provide an update of the FRA [APP-197] capturing the comments of the Environment Agency?</p> <p>iv. Would the Applicant respond specifically to the points raised at Section 2.0 of the Environment Agency's Relevant Representation [RR-011] in respect of the risks to groundwater pollution by mobilisation of contaminants and the need for dDCO requirements to cover:</p> <ul style="list-style-type: none"> a) Site investigations; b) Remediation strategy; c) Verification report to confirm the completion, and effectiveness of measures carried out under the remediation strategy; d) Piling risk assessment; e) Monitoring and maintenance plan; and f) Surface water drainage plan, limiting infiltration drainage to only those areas of the site where it has been demonstrated that there is no resultant pollution risk to 	
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		<p>the groundwater.</p> <p>v. In particular, would the Applicant highlight how each of the above is secured as part of the dDCO [OD-008]?</p>	
Combined and Cumulative Effects - ES Chapter 15 [APP-043]			
Question number	Question to	Question(s)	
15.1	ABC; KCC; Natural England; Environment Agency	<p>Section 15.3 sets out the method of assessment for the combined and cumulative effects assessment, including the study areas Zols for each ES topic chapter, an assessment methodology, and significance criteria, based on the DMRB and other sources.</p> <p>i. Would the local authorities, Natural England and the Environment Agency state whether they agree with the scope of the combined and cumulative effects assessment, including the 2 km study area and the planning applications included in the assessment?</p>	15.1i: Within the scope of our remit, we have no concerns on the cumulative effects assessment report as our main concerns are linked to drainage which will be captured under pollution prevention measures.
15.2	Applicant; KCC; ABC; IPs	Section 15.6, Predicted Effects, summarises the cumulative residual effects, for each of the other developments for each environmental topic and overall for all other developments and all environmental topics, with the Main and Alternative	

		<p>Schemes in tables 15.9 and 15.10, respectively.</p> <p>i. The proposed lorry park adjacent to Junction 11 of the M20³ (some 8km southeast of the proposed development) does not appear on the 'long list' of 'other developments' at Table 15.8. Given its proximity to, and likely impact on, the proposed development, would the Applicant state why it has not been considered, and if necessary update Chapter 15 of the ES (and other topic chapters of the ES where cumulative effects are assessed) to consider the potential cumulative effect of this scheme, particularly in respect of the traffic modelling study area?</p> <p>ii. Would other IPs (in particular the local authorities) comment as to the potential for cumulative effects between the proposed development and the lorry park?</p>	<p>15.2ii: the M20 Lorry Park (Operation Stack) is a major development nearby with considerable surface water issues. We cannot fully confirm the cumulative implications on flood risk for both this site and the Operation Stack Lorry Site until Flood Risk Assessments are complete and signed off. However, as both proposals will be required to demonstrate no adverse impact on flood risk, we don't envisage any cumulative impact.</p>
Conclusions and Summary - ES Chapter 16 [APP-044]			
Environmental Management - ES Chapter 17 [APP-045]			
Question number	Question to	Question(s)	
17.1	ABC; KCC; Environm	Do the local authorities, the Environment Agency and Natural England have further comments, beyond those already expressed, as to the content of the	The Environment Agency has provided comments on Environment Management issues in our Written

³ <https://highwaysengland.citizenspace.com/he/managing-freight-vehicles-through-kent/> and <https://www.gov.uk/government/news/transport-secretary-announces-proposed-site-for-operation-stack-lorry-area>

	ent Agency; Natural England	Register of Environmental Actions and Commitments (REAC) contained as Appendix D within the oCEMP, Appendix 17.1, Volume 6.3 [APP-204]?	Representation Section 5.0 Pollution Prevention.
Socio-economic Impacts			
Question number	Question to	Question(s)	
18.1	ABC; KCC; Environment Agency; Natural England	Would the local authorities, the Environment Agency and Natural England state whether the proposed development complies with the need to be designed to minimise social and environmental impacts and improve quality of life in accordance with para 3.2 of the NPSNN?	We have no comments to make on the NPSNN. Our advice on environmental impacts is detailed in our Written Representations.
18.2	ABC; KCC; Environment Agency; Natural England	Would the local authorities, the Environment Agency and Natural England state the extent to which the summaries of key economic, social and environmental impacts are agreed, with evidence to support any disagreement?	We have no comments to make on the NPSNN. Our advice on environmental impacts is detailed in our Written Representations.
Requirements (Schedule 2, Part 1)			

20.22	ABC; KCC; Natural England; Environment Agency	<p>Requirement 3 Construction Environmental Management Plan</p> <p>The oCEMP [APP-204] sets out a series of proposed measures and standards to be applied by Highways England and its contractors throughout the construction period.</p> <ul style="list-style-type: none"> i. Do the local authorities or Statutory Parties, responsible for approving the oCEMP under Requirement 3 of the dDCO, have any comments on the sufficiency of the oCEMP for securing the necessary mitigation during the construction of the proposed development? 	<p>20.22i: The Environment Agency has provided comments in its Written Representation on the oCEMP. We do not find that requirement 3 currently secures the necessary mitigation measures as we are not stated as a consultee. The Environment Agency wants to be consulted on pollution prevention measures, soil, waste and materials management plans which should form part of the CEMP.</p>
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Acronyms and abbreviations

ABC	Ashford Borough Council
AI	Aviva Investors
AIES	Assessment of Impacts on European Sites
AP	Affected Person
AQMA	Air Quality Management Area
AQP	Air Quality Plan
BoR	Book of Reference
BT	British Telecom
CA	Compulsory Acquisition
CIEEM	Chartered Institute of Ecology and Environmental Management
DCLG	Department for Communities and Local Government
dDCO	draft Development Consent Order
Defra	Department for the Environment, Food and Rural Affairs
dEM	draft Explanatory Memorandum

DM	Do minimum
DMRB	Design Manual for Roads and Bridges
DS	Do something
EA	The Environment Agency
EIA	Environmental Impact Assessment
EPS	European Protected Species
ES	Environmental Statement
ExA	Examining Authority
FLL	Friends Life Ltd
FRA	Flood Risk Assessment
HAWRAT	Highways Agency Water Risk Assessment Tool
HE	Highways England
IAN	Interim Advice Note (Highways England)
IP	Interested Party
KCC	Kent County Council
LNR	Local Nature Reserve
LoNI	Letter of No Impediment

MMP	Materials Management Plan
NE	Natural England
NMU	Non-motorised user
NO ₂	Nitrogen dioxide
NO _x	Mono-nitrogen oxides NO and NO ₂
NPSNN	National Policy Statement for National Networks
NSIP	Nationally Significant Infrastructure Project
oCEMP	Outline Construction Environmental Management Plan
PA2008	The Planning Act 2008 (as amended)
PCM	Pollution climate mapping
PM10	Particulate matter 10 micrometers or less in diameter
PRoW	Public Right of Way
REAC	Register of Environmental Actions and Commitments
RNR	Roadside Nature Reserve
RR	Relevant Representation
SAC	Special Area of Conservation
SEW	South East Water

SGN	Southern Gas Networks
SHMP	Soil Handling and Management Plan
SoR	Statement of Reasons
SPA	Special Protection Area
SW	Southern Water
SWMP	Site Waste Management Plan
TCPA	The Town and Country Planning Act 1990 (as amended)
TTP	Traffic and Transport Plan
WGC	Wyvale Garden Centres Ltd
ZoI	Zone of Influence

From: [Mitri, Ghada](#)
To: [M20 Junction 10A](#)
Subject: RE: M20 Junction 10a (TR010006)
Date: 12 January 2017 14:00:59
Attachments: [Mersham Quarry.pdf](#)

Dear Mr Price

Please find attached a map of Mersham Quarry that is referred to in our response to question 9.3 (Section 9.8, Predicted Geology and Soils Effects, discusses anticipated impacts both during construction and operation, and Table 9.7 summarises proposed mitigation measures and anticipated effects following the implementation of mitigation).

Apologies for not attaching it to the previous e-mail.

Yours truly

Ghada

Mrs Ghada S. Mitri Renner
Sustainable Places Planning Specialist
Kent Sustainable Places Team
South East
Address: **Orchard House**, Endeavour Park, London Road, Addington, Kent ME19 5SH
Phone: 0208 474 6692

www.gov.uk/floodsdestroy

DO YOU KNOW WHAT TO DO?



To report environmental crime e-mail Intelligence.ksl@environment-agency.gov.uk or Call Crimestoppers



anonymously, Crimestoppers is an independent charity (no. 1108687)

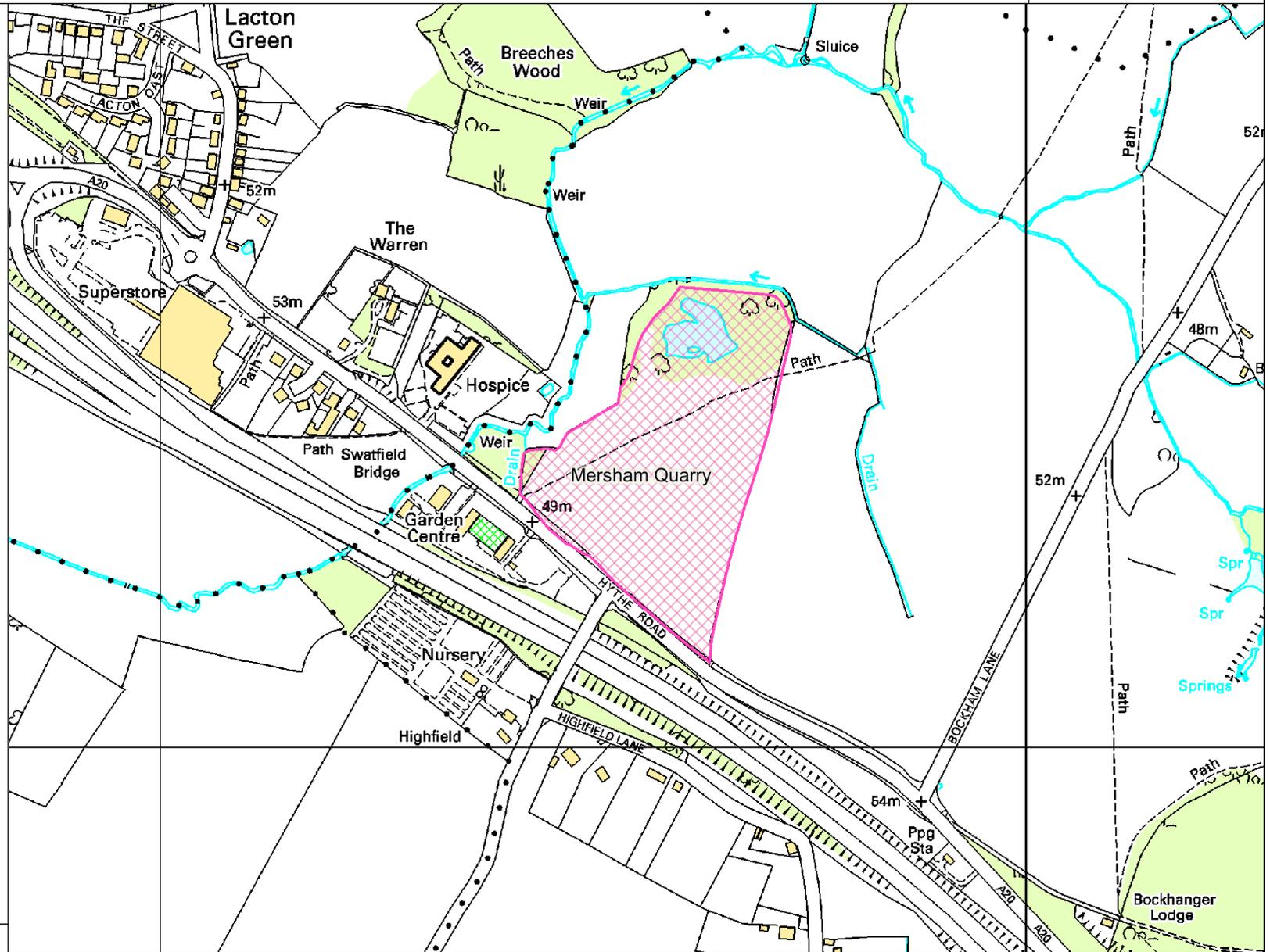
Please consider the environment before printing this email.

At the Environment Agency we encourage people to turn off lights in rooms when they leave and not to use lights in naturally well lit rooms.

Mersham Quarry

Legend

 Historic Landfill Sites



0 65 130 195 m.

