

**Item 24**

**Church Farm, Ulcombe Hill, Ulcombe, Kent**

**17/503284**

**Pages 167-187**

**Additional representation/information submitted**

Ulcombe Parish Council

Ulcombe Parish Council have submitted a Landscape and Visual Impact rebuttal produced by Harper Landscape Architecture (referred to as HLA). This consists of the following documents :

Rebuttal dated October 2017

Executive Summary of Rebuttal dated October 2017

Appendix 1 – HAD and additional HLA Viewpoints

Appendix 2 – Landscape and Visual Impact Assessment Methodology

Appendix 3 – Table of LVIA Judgements

Appendix 4 – Landscape Assessment of Kent October 2004

Appendix 5 – Maidstone Landscape Character Assessment 2012

Appendix 6 – Maidstone Borough Wide Local Plan 2017

Appendix 7 – Listed building designations

Appendix 8 – Critique of DHA and Graham J Field drawings

Appendix 9 – LI Photography Advice Note

It is understood that these documents have been submitted to Members as lobbying material.

**Officer Response**

The submitted information has been considered by Officer's and the Landscape Officer. In summary the information seeks to question the methodology used by DHA (the applicant's agent) and draws differing conclusions regarding the impact of the proposed development.

Firstly regarding the methodology, it should be acknowledged that the Guidelines for Landscape and Visual Impact Assessment (GLVIA), 3<sup>rd</sup> Edition, 2013 is as the title suggests, guidelines and does not need to be strictly followed in producing a landscape and visual appraisal. It is considered by Officer's that the document generally conforms with the guidelines and although lacking in information relating to the impact on the adjoining landscape area and not taking into consideration the Maidstone Landscape Capacity Study : Sensitivity Assessment.

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It is noted that the conclusions reached regarding the impact of the proposed development differs considerably between the two assessments. The DHA report concluding a slight to moderate adverse impact on the local landscape, whereas the Parish Council report identifies the impact to be of major significance on the local landscape character.

This significant variation in conclusion is acknowledged by Officer's and it is not disagreed that the conclusions in the DHA report do somewhat underplay the impact of the proposed development. However it is clear in the Committee Report, in particular at Paragraph 6.34 that *'The visual harm in this case is considered to be outweighed by the agricultural and economic benefits that the scheme would give rise to.'*

It is not considered that the rebuttal documents provided by the Parish Council give reason for Officer's to depart from the conclusions set out in the Committee Report.

### **Agent's response**

The applicant's agent has had sight of the rebuttal information submitted by the Parish Council and have provided the following comments in response :

1. *HLA claim that in paragraph 3.2 that having the photographs in two sections in the submitted LVA report makes it 'inconsistent and difficult to follow'. The photographs are split because the first batch are general and illustrate the preceding general descriptive text, and the second batch illustrate the visibility of the site, and so follow that text. This is an example of the general HLA approach, which seems to have been to criticise everything indiscriminately, rather than conducting an even-handed review.*
2. *HLA say in their paragraph 2.11 that it is not clear who produced the submitted LVA report. The author of the report is Jon Etchells who has 37 years professional experience, and has been carrying out landscape assessments for 30 years and is a chartered member of the Landscape Institute.*
3. *HLA also make a number of points about the methodology used in the assessment – the methodology used is considered to be entirely acceptable and appropriate and has been used by Jon Etchells for some 25 Public Inquiries without any serious question, and importantly follows the GLVIA guidance. Furthermore, the method for the assessment is the same as that used for the Hill Farm and Morry Farm polytunnel assessments, which the Council found to be entirely acceptable. Ulcombe Parish Council will have seen the document for Hill Farm and as far as we are aware did not make any comments.*
4. *HLA criticise the LVA methodology, yet their own methodology is a) quite brief and b) contains a number of errors – for example in their 4.21 HLA say that there would be a 'High Adverse and Significant Landscape Impact', whereas their methodology (their Appendix 2) does not use the term 'high adverse' for significance of effects at all. Their Table 2 is headed 'Sensitivity of Landscape Receptors', but appears to relate to visual receptors.*
5. *HLA comment on the photography, and the interpretation they put on the fact that a shadow can be seen on one of the photographs which they say shows a 'small camera or mobile phone' held above someone's head. What it in fact is shown is a Nikon compact digital camera held at eye level. That camera has been calibrated against an optical SLR camera to check that the degree of zoom used approximates to a 50mm lens, as set out in the methodology.*

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6. HLA have pointed out (their 2.421) three spurious viewpoints shown in my Figure 2 – they are correct in that and the additional viewpoints are a drafting error, but it is clear from the description under those photographs which are the correct viewpoints.

7. HLA also criticise the visual envelope shown on Figure 4, saying that they have found views from outside the dotted line shown. That is clearly indicated on the Figure, which shows some more limited and distant views from beyond the main visual envelope. HLA claim that there are 'a wide array of panoramic views' from the south (their page 6), and also that (their page 8) the LVA is wrong to say in respect of photograph 23 that there would be some 'distant and partial views'. That viewpoint is 1.5km from the site, which is clearly distant, and the views of the greenhouses would be partial.

8. In section 4.1 HLA claim that the height of the Cravo structures is incorrectly stated in paragraph 3.1.1 of the LVA, as 5.25m, when it should be 6.19m. HLA have clearly made an error, it is clear in the application that the height of the proposed Cravo structures is 5.25m. Perhaps their assumption of an incorrect height has led them to overstate the effects.

9. The HLA report claims that there would be (6.311) major adverse effects on the Borough landscape character area and also on the local landscape. Their Table 1 in their Appendix 2 shows that this is the highest possible category of significance of effect. This is a gross exaggeration – a methodology for landscape and visual assessment needs to cover all potential developments, up to and including nuclear power stations and motorways. For HLA to claim that the new greenhouses would have the maximum possible effect on the landscape and on views, effectively meaning that no other development could have greater effects, is clearly wrong. The degree of exaggeration is also shown by their assessment (also in 6.311) that there would be up to moderate adverse effects on the landscape of the national character area of the Wealden Greensand. We point out that this is a very large area, extending from Petersfield and Farnham in the west to Folkestone in the east and including the urban areas of Petersfield, Farnham, Redhill, Sevenoaks, Maidstone, Ashford and Folkestone, as well as lengths of the M25, M26 and M20 – to suggest that there would be any significant effects on such a large and varied character area from the proposed development calls into question all of the comments made by HLA.

10. The degree of exaggeration by HLA can be seen from the fact that the current proposals are similar in form and extent to those for Hill Farm and Morry Farm. Both these developments were approved by the Council and were not found to have major adverse effects.

11. HLA state (in their 3.1) that the submitted LVA does not mention the grade I listed church. This is incorrect, there are many references to the church, starting with sections 1.1.2 and 2.1.1.

12. HLA state in their 6.341 that there would be significant adverse landscape and visual effects on the listed church. As set out in their consultation response, Historic England have considered this matter and have no objections.

13. HLA criticise the design of the reservoir as 'overly engineered' with steep slopes. The side slopes are 1 in 3, which is quite shallow – even gentler side slopes would just make the reservoir bigger, and it is tucked away, with a low degree of visibility.

14. HLA also criticise the building and water storage tanks proposed, saying (their 4.41) that these would be 'major landscape detractors', and would in themselves have a 'High Adverse and Significant Landscape Impact' – in fact they are just typical modern

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*agricultural buildings and are common agricultural features in the countryside including areas such as the Greensand Ridge and AONB's.*

15. *In their 4.53 HLA criticise the lack of proposed mitigation planting for views from the east – such planting is not needed as there are already tall trees alongside Ulcombe Hill which screen the farm site and prevent views from that direction.*

16. *In their 4.551 HLA say that our Section AA drawing does not show the existing hedge. HLA have not checked properly, because they would have seen that the existing hedge does not extend as far west as the section line, and the section doesn't show it because it isn't there.*

17. *The submitted LVA says, there would be some (relatively low level) adverse effects. Clearly however these have to be balanced against the agricultural and economic benefits of the proposal.*

18. *We submit that the LVA assessment is perfectly reasonable and the methodology is tried and tested – there is an inherent element of judgement in landscape and visual assessment, and a different assessor may come to a slightly different conclusion. In our opinion the HLA assessment is unreasonable and has exaggerated the effects significantly.*

19. *With regard to the comments set out in HLA Appendix 8 documents a number of the points made are addressed above but we would add that in terms of 4.04 the viewpoint is from the south just beyond the village, looking north towards the site. The submitted drawing DHA/11931/07 shows the existing tree planting and the Cravo structures when first erected, and DHA/11931/08 show the site with the proposed additional native species tree and hedgerow planting after approximately 5 years of growth.*

20. *We considered that the proposed building will have no impact on the setting of All Saints Church bearing in mind that it will be 500/600 metres from the Church and just over the crest of the hill and furthermore it is proposed to screen the building with new native species tree planting. Indeed Historic England raise no objection to the proposals.*

Comments received from Councillor Harwood

**Road traffic impacts mitigation** – The introduction of a similar poly-tunnel set-up at nearby Hill Farm East in Lenham Road and 'industrialisation' of Knowle Game Farm has resulted in a significant increase in road traffic on the local lane network. This includes tractors and trailers and other farm vehicles driven at high speed on country lanes, polluting old buses used to shuttle workers and assorted other recklessly driven vehicles associated with these agri-industrial sites 7 days a week and into the night. Walking on the local lane network has become a risky business and riding or even leading horses virtually impossible

**Possible solution** – Is it possible for a transport plan to be conditioned to ensure that vehicles servicing this site are confined to specific roads such as Chartway Street and Lenham Road (i.e. not smaller lanes or Ulcombe Hill) and that modern clean buses and vans are used to move workers to and from the site?

**Landscape and biodiversity** – The current proposal will clearly result in an industrialisation and sterilisation of all life on a large tract of the Greensand Ridge as has occurred at nearby Hill Farm East. Landscaping at Hill Farm East is totally inadequate, grasses verges and bunds are mown to sterile bowling greens, while leyland cypress and other non-native and incongruous trees and shrubs have been planted. Even worse, spoil from muddy tracks has been repeatedly bull-dozed into ancient woodland destroying ground flora and wildlife, while field headlands have been laid with stone chippings to overcome the Somme like

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conditions caused by heavy vehicle use. In addition seemingly endless earth moving operations take place on those parts of the farm without poly-tunnels or buildings (these have been reported to Enforcement to no avail).

Blocks of woodland on the application site are currently dense and shaded with arable cropping right up to the dank and dark woodland edge. In the summer months PROWs crossing the site along field edges are virtually impassable.

**Possible solution** – A far more robust landscaping scheme is required to protect woodland within and bounding the application site and should comprise the fencing and planting with woodland edge native shrub species of 15m buffers around all this woodland. Essentially, rough grass interspersed with widely spaced common hawthorn, purging buckthorn, hazel, wild privet and blackthorn saplings is required. This would create a better structured woodland edge for a range of wildlife, enhance landscape and protect woodland from damage.

**Nuisance issues** – human waste and litter from the large numbers of workers on agri-industrial sites in Ulcombe is an increasing problem and causes much local upset.

**Possible solution** – Conditioning of bins and hygienic lavatory availability should be incorporated into any permission.

**Reservoir inundation risk** – The proposed raised reservoir is likely to exceed 10,000 m<sup>3</sup> and will therefore be covered by the provisions of the Reservoir Act 1975 and Flood and Water Management Act 2010. This requires:

1. All undertakers with reservoirs over 10,000m<sup>3</sup> to register their reservoirs with the Environment Agency;
2. Inspecting engineers will have to provide a report on their inspection within 6 months;
3. Where directed, undertakers will need to prepare a reservoir flood plan (the 'On-Site' plan); and
4. All incidents at reservoirs will have to be reported to the Environment Agency.
5. Kent County Council must develop a site specific off-site reservoir inundation plan if the reservoir is considered to be Category A (i.e. Where a breach could endanger lives in a community (10 persons or more)).

**Possible solution** – The Environment Agency should provide information on the capacity of the proposed reservoir and provide a view on which category the reservoir is likely to attain. Design of the reservoir should maximise resilience and biodiversity.

In conclusion, the committee report as it currently stands does not acknowledge the damage and disturbance to the Greensand Ridge and local communities being wrought by the industrialisation of agriculture in this most unspoilt area of Maidstone Borough. This application must be significantly improved in environmental, landscape and biodiversity terms, and reassurance provided on safety and resilience issues pertaining to the proposed reservoir.

### Officer Response

#### **Road traffic impacts mitigation**

Paragraph's 6.40-6.42 of the main report set out the principle consideration of highways matters. Whilst acknowledging that there would be a likely increase in traffic movements,

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this increase is not considered to be severe and traffic movements to and from the land would be necessary irrespective of the decision of the application.

A condition has been suggested which would require a transport plan which would confine traffic movements to specific roads and require the use of modern and clean buses and vans.

A condition has been considered in consultation with KCC Highways and it is not considered that it would meet the six tests set out in the NPPF and NPPG. Whilst Councillors concerns are noted regarding the use of tractors and trailers on country lanes a condition that restricted the vehicular movements of traffic associated with the development would be hard to physically enforce and police. It is also noted that the primary access to the site is via either Ulcombe Hill or The Street/Ulcombe Hill and these roads would have to be used, at least for short length, in order to physically access either Lenham Road or Chartway Street.

A condition that restricted vehicles associated with the development to 'modern' and 'clean' ones only would most likely be difficult to enforce due to its subjective nature. If such a condition was imposed then what is the definition of 'modern' and 'clean.' One would hope that the applicant would want to make their operation as efficient as possible and therefore choose to use as modern and clean a vehicles as possible for their own benefit. Similarly, with regards to movement, it would expected that the applicant to use off road routes where possible across his land but also make effective/efficient use of the public highway.

It is therefore considered a condition of the nature proposed would be appropriate and the application needs to be considered on the basis of the information submitted.

### **Landscape and biodiversity**

The applicant has been requested to amend their landscaping plan to provide additional buffer's around the woodland which adjoin the site areas. Amended plans have not been forthcoming and the agent's response is as follows :

*'With regard to the designated Ancient Semi-Natural Woodland (ASNW) this is located over 40 metres to the north of the closest part of the proposed agricultural building and well beyond the Natural England standing advice of a 15 metre buffer. The building will be accessed on the north side by farm machinery and equipment but there will be no encroachment of any form of development within the 15 metre buffer zone.*

*We would also point out that the land at Church Farm including the land at the northern boundary next to the ASNW has been cultivated and used for crop/food production for many years. This includes ploughing and crop production to within a few metres of the edge of the woodland.'*

Officer's, in consultation with the Landscape Officer have considered the comments from Councillor Harwood, together with the agent's response. Condition 5 as set out in the recommendation at 8.0 of the Committee Report currently requires a robust landscaping scheme, together with a demarcation of the 15m buffer to the Ancient Woodland. However it is not considered unreasonable by officers to amend the condition to require planting within the buffer of the Ancient Woodland and other woodland area to enhance the landscape and biodiversity. The agent's comments regarding current crop production within the margins of the woodlands is noted, however the application offers significant benefits to the applicant in terms of productivity and landscape harm has been weighed against this benefit. It is therefore not considered unreasonable to secure environmental and ecological benefit as compensation for the harm.

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Amended wording for Condition 5 is suggested as follows :

- (5) *The development hereby approved shall not commence until a landscape scheme designed in accordance with the principles of the Maidstone Landscape Character Assessment Supplement 2012 has been submitted to and approved in writing by the local planning authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed and include a planting specification, a programme of implementation and maintenance and a 5 year management plan. The landscape scheme shall reflect the locations of the lines of hedges shown on the Planting Proposals Plan (LVA, Figure 3) but specify the removal of existing conifer species and their replacement with appropriate native hedgerows. The hedgerow species mix shall include a proportion of evergreen shrubs (Holly or Yew) and species which retain their leaves for a large proportion of the year (Hornbeam or Beech) to maximise the screening effect without compromising existing landscape character. The scheme shall also include a minimum 15m wide buffer area to the adjacent woodland areas, defined with post and rail fencing and planted with a mix of 55% *Corylus avellana* (Hazel), 10% *Ligustrum vulgare* (Privet), 10% *Prunus spinosa* (Blackthorn), 15% *Rhamnus cathartica* (Purging Buckthorn) and 10% Field Maple (*Acer campestre*), planted at 1.5m centres and at a minimum height of 45-60cm.*

*Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development*

### **Toilet/litter issues**

Details of how the applicant would expect to deal with toilet facilities and rubbish storage and collection have been requested from the agent. This sets out that *'mobile toilets and washing facilities will be provided on site at Church Farm together with litter bins/bags. This is in line with the established practice operated on the other farm sites run by G Charlton and Sons during busy work periods and harvest time. We advise that the provision of toilet and washing facilities is a requirement of the British Retail Consortium, Red Tractor scheme, Assured Produce scheme and other farm audit procedures.'*

The applicant's intentions regarding toilet/wash facilities and litter are noted, and accepted in principle as a reasonable way to deal with the required need of workers and to avoid litter becoming a nuisance on the land. However due to the sensitivity of the landscape, the proximity to neighbouring properties and Listed Buildings and the temporary nature of these facilities (which would normally fall outside planning control), it is considered a condition requiring details of toilet/wash facilities and a litter management plan should be secured by condition. The suggested wording of the condition is as follows :

- (12) *Prior to the commencement of development details of toilet/wash facilities for the farm workers shall be submitted to and approved in writing by the Local Planning Authority and any facilities shall be provided in accordance with approved details. The details shall include, but not be limited to details of siting, appearance, management, maintenance and timescale.*

*Reason : In the interests of the visual appearance of the landscape, setting of heritage assets and residential amenity. Details are required prior to the commencement of development as the facilities may be necessary during the construction phase of development.*

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(13) *Prior to the commencement of development a litter management plan shall be submitted to and approved in writing by the Local Planning Authority and any measures shall be provided in accordance with approved details. The details shall include, but not be limited to details of siting and appearance of bins, details of collection and a management and maintenance plan.*

*Reason : In the interests of the visual appearance of the landscape, setting of heritage assets and residential amenity. Details are required prior to the commencement of development as the measures may be necessary during the construction phase of development.*

### **Reservoir inundation risk**

Further comments have been received from Councillor Harwood which clarify that the threshold for reservoir capacity under the referred to acts has been increased to 25 000 m<sup>3</sup>. The proposed reservoir would fall below this threshold with a volume capacity at outfall level being approximately 17 855 m<sup>3</sup>.

It is noted on this application the Environment Agency has been consulted and raised no objection, however information relating to reference to the separate environmental regulations has been referred to. As the reference relates to legislation outside that relating to planning, it is considered an informative would be sufficient and no further consideration of the matters is necessary as part of the consideration of the planning application. This guidance has not however been included in the proposed informatives and it is therefore proposed to add the following additional informatives to the recommendation :

#### Additional informatives

(3) *The applicant should be made aware of the following environmental regulations which may apply :*

#### **Reservoirs Act**

*If the reservoir will hold more than 25,000 m<sup>3</sup> of water above normal ground level, this will require firstly, registration with the Local Authority under the Reservoirs Act 1975, and secondly an impoundment licence from the Environment Agency under Section 25 of the Water Resources Act 1991. Any reservoir holding more than 10,000m<sup>3</sup> of water will fall under the Reservoir Act, and the applicant would need to appoint a panel of safety engineers.*

#### **Water Resources**

*Under current legislation all abstractions from surface or ground sources greater than 20 cubic meters per day require an abstraction licence from the Environment Agency. Forms of irrigation other than 'spray' irrigation such as trickle/drip, Capillary matting, Hydroponics, currently do not need a licence. However, it is expected that these forms of irrigation will soon require an abstraction licence.*

*Any plans to abstract or store water must take into account these anticipated future changes to licencing to ensure the business is not unnecessarily impacted when the legislation changes. In this case we recommend that all rainwater harvested be directed to the reservoir without using a natural watercourse as a conduit. This way, rainwater and its subsequent use remains exempt from licencing.*



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*For further details on the on the local water resource situation please read the Medway CAMS strategy. We recommend you contact our area Groundwater & Hydrology team at [ksl.gwh@environment-agency.gov.uk](mailto:ksl.gwh@environment-agency.gov.uk) to discuss abstraction licence requirements and the sustainability of the proposed reservoir.*

*They can carry out a preliminary assessment alongside a possible site visit. This will allow them to review the applicant's requirements and advise on the probability of a licence being issued, if required under the terms of the Water Resources Act 1991 and as amended Water Act 2003. Any assessment will take into account the resource situation in the area.*

### **Fuel, Oil and Chemical Storage**

*Any facilities for the storage of oils, fuels or chemicals must be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment.*

*The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.*

### **Waste on site**

*The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. We recommend that developers should refer to our position statement on the Definition of Waste: Development Industry Code of Practice and our website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) for further guidance.*

### **Waste to be taken off site**

*Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:*

- Duty of Care Regulations 1991*
- Hazardous Waste (England and Wales) Regulations 2005*
- Environmental Permitting (England and Wales) Regulations 2010*
- The Waste (England and Wales) Regulations 2011*

*Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterization of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, we should be contacted for advice at an early stage to avoid any delays.*

*(4) Detail relating to Condition 8 (surface water drainage) should take into consideration the following :*

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- *Appropriate pollution prevention methods (such as trapped gullies or interceptors) should be used to prevent hydrocarbons draining to ground from roads, hardstandings and car parks.*
- *Clean uncontaminated roof water should drain directly to the system entering after any pollution prevention methods.*
- *No infiltration system should be sited in or allowed to discharge into land impacted by contamination or land previously identified as being contaminated.*
- *There must be no direct discharge to groundwater, a controlled water. An unsaturated zone must be maintained throughout the year between the base of the system and the water table.*
- *A series of shallow systems are preferable to systems such as deep bored soakaways, as deep bored soakaways can act as conduits for rapid transport of contaminants to groundwater.*
- *Design of the reservoir should maximise resilience and opportunities to promote/enhance biodiversity.*

*All precautions must be taken to avoid discharges and spills to the ground both during and after construction.*

The agent has also advised that 'G Charlton and Sons will advise the Environment Agency and appoint a Panel Engineer to oversee the project and produce a flood plan and report any incident.'

### **Other matters raised**

The comments suggest that the report fails to adequately address the impact of the proposals on the Greensand Ridge. The Committee Report clearly sets out at paragraphs 6.18 to 6.22 the key landscape characteristics and guidelines identified in the Landscape Character Assessment forming the Council's evidence base for landscape character within the area. It is these characteristics which form the basis to the appraisal and the report then continues to assess the impact of the proposed development both individually and cumulatively. The impact on the landscape is a subjective matter and as such the identified harm is balanced against the benefits of the proposal.

### **Other matters**

For Member's information a Woodland Tree Preservation Order (No. 5021/2017/TPO) with effect from 14<sup>th</sup> November 2017 has been made on Rough Field Wood, The Street, Ulcombe, Kent. The woodland area adjoins the application site to the south-east and is sited next to the proposed location of the new reservoir. The making of the order does not affect the appraisal relating to trees as set out in Paragraphs 6.46-6.52 of the Committee report.

**Recommendation remains unchanged subject to the amended/new conditions and new informatives as set out above.**