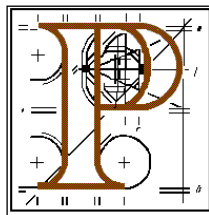


An Bord Pleanála



Inspector's Report

Development: Permission for berms to north, east and west, 3m. high straw bales at shooting stands. Retention of shooting stands, small bore shooting range, target areas, berms and all associated works at Skidoo, Ballyboughal, Co. Dublin.

Planning Application

Planning Authority: Fingal County Council
Planning Authority Reg. Ref.: F15A/0526
Applicant: Balheary Clay and Target Shooting Club
Type of Application: Permission & Retention
Planning Authority Decision: Grant Permission & Retention

Planning Appeal

1. Peter Kettle and Ann Fox
2. Residents of Balcartie
Type of Appeal: Two 3rd Party
Observers: 1. David Ryan
3. An Taisce
Date of Site Inspection: 12th May 2016
Inspector: Fiona Fair

Appendices: Photographs, Site location Map, Copy of Clay Target Shooting Guidance on the Control of Noise, Chartered Institute of Environmental Health, 2003.

1.0 SITE DESCRIPTION (see photographs and location map)

The appeal site, which has a stated area of 3.01 ha, is located northwest of Swords at Skidoo, Ballyboughan, County Dublin. It is located to the northern side of the Warbelstown Road which links with the (R108) Ballyboughal Road some 300 meters to the east. The immediate area is rural in nature and is mainly characterised by agricultural uses and one off rural dwellings. Roganstown Golf and County Club is located approx. 500m distant on the opposite side of the Warblestown Road to the south.

The Balheary Clay and Target Shooting Club site is rectangular in shape and comprises a single field. Approx. 182m in depth x 169m in width. It currently comprises 6 no. shooting areas (4 no. to the north of the site and 2 to the south of the site), two number buildings used as a reception / recreational areas associated with the shooting grounds, the main reception building is centrally located. The small bore shooting range / covered rifle firing point is located to the south of the reception area and the ammunition store is located to the east of the reception building. The launching shed and tower is located to the north of the main club house in the centre of the site. Surface car parking to accommodate some 36 cars is located along the access avenue to the main reception area.

Shooting from the shooting points is confined in a northerly direction, by way of three sided timber shooting huts, steel shooting cages and the provision of 3.5m high straw bales located to the sides of each shooting stand (hut). The site is bounded on all sides by a high hedgerow with earthen berms around each shooting area and to the north and west of the site.

The site access off Warblestown Road is controlled by way of high metal roller electronic gates and the site is protected by Netwatch Live CCTV Monitoring.

2.0 PROPOSAL:

The proposal comprises **Permission for:**

- The erection of a five metre high planted earthen berm around the north, east and west boundaries of the club grounds;
- The provision of three metre high straw bales at each of five covered shooting stands;
- Landscaping and associated site improvement works;

Retention Permission for:

- Five covered shooting stands, 3.5 metre high, with concrete and gravel pathway connections;
- Small bore (air rifle / 0.22) shooting range with
 - (1) Single storey roofed block (21.5 sq. m.) with five rifle firing points;
 - (2) 2 no. x 0.7 metre high ground baffles;
 - (3) Covered target area with 3.5 metre high ammunition back stop; and
 - (4) A 2.1 to 2.4 metre high side wall between firing points and target area on northern side of rifle range.
 - (5) A 3.5 metre high earthen berm on southern side of rifle range;
- A covered wooden stand at the existing skeet shooting area (2.5 metres high);
- Seven new earthen safety berms (between three and four metres high;
- Two metres high, and eighty seven metres in extent, wooden fencing with three entrance gates, around the clubhouse; and steel storage container (31 sq. m).

3.0 PLANNING AUTHORITY'S DECISION

Fingal County Council Granted planning permission subject to 10 number conditions. Conditions of note are summarised as follows:

2. The Clay and Target Shooting Club shall only be available for the use of club members.

3. The hours of operation of the facility shall be between 09.30 hrs and 18.00hrs Monday – Friday and between 10.00hrs and 18.00hrs Saturday to Sunday.
4. Noise levels emanating from the development when measured at the nearest noise sensitive locations shall not exceed 55dB(A) (30 minutes Leq) between 0930 hours and 1800 hours, Monday to Sunday and shall not exceed 45 dB(A) (15 minute Leq) at any other time.
5. Requires that a noise survey and monitoring programme shall be undertaken.
6. Within 6 months of this grant of permission, a detailed landscaping scheme shall be submitted to and agreed in writing with the planning authority.
10. Requires archaeological pre development testing to be carried out.

4.0 TECHNICAL REPORTS

4.1 The Planners report reflects the draft decision to grant planning permission. It is considered that the proposed development does not include an intensification of use and the works are required to improve conditions on site for club members and improve health and safety controls. It is considered proposals to provide earthen berms to the boundaries of the site will provide additional noise mitigation and will screen the site from view. It is also concluded that limitation of hours of operation, which heretofore would not have occurred, is a positive outcome. It is also considered that mitigation measures are robust to ameliorate against excessive noise levels and it is considered works can be implemented without causing injury to residential amenity of the area.

4.2 Transportation Report: No objection subject to condition

4.3 Water Services: No objection subject to condition.

4.4 Environmental Health: No objection subject to condition.

4.5 Irish Water: No objection subject to condition.

4.6 Objections/Submissions

A number of objections were submitted to the proposal. The issues raised are similar to those raised in the appeals and observations, summarised in detail below. A number of letters of support for the planning application are also noted.

4.7 Pre Planning

Information on file indicates that preplanning consultation took place in relation to the current proposal.

5.0 APPEAL GROUNDS

5.1 A third party appeal has been lodged by Hughes Planning and Development Consultants on behalf of the Residents of Balcartie. The relevant grounds of appeal are summarised as follows:

- Intensification of use on site - a grant of permission would significantly increase the shooting activity on site.
- Proximity to existing dwellings
- Devaluation of property
- Negative noise impact of proposed development
- Serious health and safety concerns of residents – no health and safety assessment carried out.
- Increase in infrastructure on site
- Increased shooting hours – commercial nature of the use
- Security risk of the storage of firearms
- Unauthorised land use, contrary to the zoning objective on site
- Use of live ammunition and firearms would be seriously detrimental to the level of amenity and safety of the adjacent residential dwellings
- Hours of operation – 8 hours a day 7 days a week
- Impacts on surround property, livestock and passing vehicles has not been taken into account. Proximity to public roads.

- A shooting facility was set up on the appeal site in 1968 without the benefit of planning permission
- Shooting competitions began to take place within the facility in 1971, no planning permission was ever obtained.
- The use of the site has increased and intensified over the past number of years since 2003 – material change of use from low intensity shooting club to a commercial shooting facility with 120 no. members.
- Due to the size scale and intensity of use on site, the development is not solely a member's only facility.
- Documentary evidence from Facebook, Balheary Shooting Club website, IPCSA Certificate and Leinster League Shooting website indicate that the subject site is in use as a commercial shooting facility.
- The proposed works are to facilitate a commercial shooting development
- The developments fails to overcome the two reasons for refusal in respect of Reg. Ref. F14A/0489 – previous application for a similar development proposal on the appeal site.
- The following applications have been identified as relevant planning precedent with FCC where the planning authority considered noise, opening hours and other impacts associated with a low intensity shoot club (Sporting Fingal Club) – Reg. Ref. F02A/0783, Reg. Ref F09A/0418, Reg. Ref. F10A/0359, Reg. ref. F11A/0197 (granted subject to stringent conditions with respect to 'confined to private members of the Fingal Shooting Club and shall not be open to members of the public.' And hours of operation limited)
- No information on noise impact has been submitted
- Condition 5 which restricts noise at the site boundary, to not exceed 55dB LAeq during the hours of operation, cannot be met, or at several residential developments between 110m and 326 m from the site boundary.
- There are 25 no. residential dwellings, a clubhouse, 9 no. residential dwellings and 3 no. apartment blocks associated with Roganstown Golf and Country Club within a 0.5Km radius of the proposed shooting

facility and an additional 75 – 100 residential dwellings to the west of the site within a 1.5Km radius.

- Submitted that the following Board decisions are of relevance, with respect to commercial use of shooting facilities and serious impacts upon residential amenity, in particular from noise. PL27.240842, PL27.242651, PL08.232640, PL06S.128814, PL20.235023, PL08.217226.
- Submit that the proposed development is consistent with previous refusals (as listed above) by the Board for similar facilities.
- Proposal is not materially consistent with the RU zoning objective
- The presence of lead on agricultural land restricts the use to cultivation as grazing is not permitted where lead contamination arises.
- Commercial and recreational shooting could result in the discharge of hundreds of kilos of lead falling on surrounding agricultural lands in a single day- substantial and dangerous accumulation of a toxic material over time.
- The appeal site is also being used as a firearms retailer which is not permitted within the RU zoning objective.
- Concern with respect to the existence of an archaeological feature to the eastern boundary of the site.
- The proposal is contrary to international best practice and standards for commercial shooting ranges: Chartered Institute for Environmental Health – Guidance on Control of Noise – Clay Target Shooting (2003)
 - Minimum safety zone of 275 m in the general direction of shooting should always be provided for safety reasons. A much larger buffer zone will be required to protect noise sensitive premises and other noise sensitive areas. The size of noise buffer zone required will depend on local circumstance and on the level of shooting noise transmitted to noise sensitive areas.
- The proposed development is located in open and level ground with virtually no screening and or noise retardant features in the landscape between it and the dwellings located to the west, northeast and east.

- The distance from the site boundary and direction of fire to nearest dwellings is 266m to the north, 235m to east (a development of 8 no. dwellings) and 101m to west (cluster of 9 no. dwellings incl. the Kettle family home all of which are within the 275m minimum safety zone).
- The CPSA Clay Pigeon Shooting Association is the national governing body for shooting in England aimed at clubs and not commercial facilities it provides a useful assessment tool. – it recommends 275m as a minimum safety requirement in every direction in which shooting is likely to take place.
- Leinster League Competition at Balheary attracted 309 shooters over two days and the Easter weekend shootout attracted 287 shooters over the course of the weekend.
- On average over 15,000 shots were fired each weekend
- Concern with respect to increase in traffic and car parking in the area
- Documentary evidence submitted indicating that the club is 'open to all', has an open door commercial policy and accommodates hens and stags
- Commercial and intensive nature of the club is compounded by the need to employ 2 full time members of staff and additional part time at weekends and evenings.
- Earthen berms 3- 4 m in height will do little to reduce noise impact and will provide little protection from lead fall onto adjacent properties.
- Support from local residents in the form of letters is questioned.
- There is a large amount of objection from local people to the proposal as evidenced by submissions and objections to the p.a.
- Concern with respect to the 120ft high launching tower, which launches clays into the air at different heights up to 120 ft – unacceptable in close proximity to residential dwellings.
- The ICAN report submitted by the applicant concludes that there will not be unacceptable change in noise levels. It is considered this report is contrary to the existing and proposed conditions on site.

- It is not possible to achieve the stated noise levels on site nor is it possible for the council to monitor these levels daily to ensure that the applicant complies.
- Negative impact upon the agricultural activity and wildlife activity of the area in particular the Kettle Family Farm
- The site is located in close proximity of a number of watercourses – direct pathway for transmission of pollutants arising from the development to the Broadmeadow Estuary Natura 2000 SAC
- Appeal accompanied with:
 - Leinster League Attendance 2008 – Balheary Shooting Club
 - Leinster League Attendance 2015 – Balheary Shooting Club
 - Company Registration Office Documents
 - Unaudited Abridged Financial Statements
 - Irish Clay Pigeon Shooting Association Trade Members Licence
 - Certificate of Registration of a Firearms Dealer
 - Letter of support from the local residents of Roganstown, Balcartie, Skidoo, Warblestown and Lispopple
 - Review by Resonate Acoustics of ICAN Acoustics Report (February 2016)
 - Recommends that any conditions make reference to the Chartered Institute of Environmental Health Clay Target Shooting: Guidance on the Control of Noise 2003
 - That the LAFMAX is adopted as the appropriate metric to assess the impact of the shooting range (as opposed to the LAeq,T or LAR,T.
 - A monitoring programme includes a range of activities on the site, incl. the competitive events.

5.2 A third party appeal has been lodged by Peter Kettle and Ann Fox.

The grounds of appeal are summarised as follows:

- Safety
 - Serious safety risk due to proximity of family residence (only 101m) west from the proposed site, 2 other family members

have residences within the recommended minimum safety distance of 275m

- A .22 rifle can send a bullet up to a mile away
- Numerous occasions have had bullets in back garden
- A member of the appellants family was hit by lead shots, albeit, they were not seriously harmed.
- Concern with respect to theft – security risk associated with storage of firearms and ammunition
- Noise
 - Negative impact upon residential amenity – use of garden
 - Associated negative traffic noise
- Negative Impact to agricultural lands / Pollution
 - Effect of continuous loud noise on livestock
 - Lead contamination of lands
 - Negative effect on watercourses – from lead fall
 - Impact upon Broadmeadow Estuary SAC which is a Natura 200 site.
- Opening Hours
 - The permitted opening hours will result in a 58.5 hours of shooting per week over 7 days.
 - This is unacceptable as it affects daily lives
- Commercial Use
 - The proposed facility is not used for the purpose of local / recreational shooting, but instead is classified as a commercial facility
 - While there has been shooting here since 1968 it was a small gun club for members, most of whom were from the farming community
 - Target (rifle) shooting had never been carried out previously
- Archaeological heritage
 - The area immediately surrounding the site (to the east) has structures of archaeological interest.

- Flood Risk
 - Concern that the proposed development and development carried out will and does contribute to flooding
 - The appeal site flooded historically – it is submitted that the appellant can remember a time when there was a permanent lake / pond in the proposed site over winter months
- Traffic Impacts
 - Increase in traffic and car parking would result in a risk to public safety
 - Appeal site is completely inappropriate as a venue for large events.

6.0 RESPONSES

6.1 Two number responses have been received from the planning authority. Summarised as follows:

- The clay and target shooting facility has been established on this site since approx. 1968 and operates as a not for profit club.
- From site inspection and having regard to information submitted the p.a. is not of the view that no intensification of activity is occurring on site to a degree that materially alters the nature and established use of the facility.
- The landscaping works and berms would offer significant visual and acoustical improvement, over and above the current conditions.
- The applicant submitted a noise management plan and a predicted noise assessment report and the p.a. imposed conditions in relation to noise monitoring and limitations.
- Condition no. 4 of the decision of the p.a. requires compliance with specific noise levels at sensitive receptors outside of the site.
- A condition was imposed limiting hours of operation of the facility which heretofore was not subject to control.
- The use of the facility is limited by way of condition to members only.

- In relation to safety zones and guidance specified under the Chartered Institute for Environmental Health – Guidance on control of noise – Clay Target Shooting 2003, it is noted that the site has been established since 1968 and amelioration conditions imposed would significantly improve health and safety considerations on site and safe guard against excessive noise.

6.2 Two responses have been received from JG Consulting on behalf of Balheary Clay and Target Shooting Club Ltd. Jointly summarised as follows:

- Permission is sought for modifications and upgrading only of an existing approved shooting facility.
- Planning permission is sought to provide for increased health and safety measures, noise mitigation measures, gravel pathways, landscaping and associated site improvement works on the shooting grounds.
- Access is via the existing vehicular access on Warblestown road.
- The shooting ground has the benefit of planning permission on foot of Reg. Ref. TA383 (dated May 1980) - A Dublin County Council permission subject to 3 no. conditions.
- Residential development in the immediate vicinity of the shooting ground has been promoted by the construction of a hotel and golf course (Roganstown Golf Club) which were granted permission for 45 houses in the year 2000.
- Sets out planning history on adjoining sites. Since 1983 – 2015, 50 houses were constructed in Roganstown, Skidoo and Warblestown, incl. Roganstown house.
- The p.a. have considered in detail the permission granted on the site, the historical established permitted use of the site, the mitigation measures proposed, the health and safety aspects and the reduced hours of opening and closing.

- The Balheary Shooting Grounds have been in operation at this location since 1968. During that period of time both national and international shooting has taken place on the site.
- Fail to see how improvements to existing facilities could be construed as contributing to 'significant intensification and commercial use'.
- No additional shooting stands proposed
- No change in existing use of the lands
- The club is a members club only to be used solely by members and other registered visiting clubs in competition.
- No stag or hen parties or similar equivalent groups will be catered for nor will the club be open to all.
- Extracts from Facebook, submitted by the appellants, referring to events prior to the subject application being made have been removed from Facebook.
- Attached Legal contract entered into between Balheary Clay and Shooting Club and the Kettle family dated 2012. During the negotiation of the said contract no complaint was made and no issue arose in relation to use or disturbance.
- Issues raised in relation to the CPSA Guidelines (275 m shooting range) and noise mitigation measures have been reviewed by ICAN Noise and Vibration specialists. With regard to public safety, clay pigeon traps will be adjusted so as to ensure that the shooter will only be shooting targets in a restricted area, in one direction only, directly north and well within the 275m safe fall out zone. A distance of 325m is achievable in this direction.
- The steel framed cage within the shooting hut restricts shooting to the front (north only)
- Should the appellant's agent's diagrams and figures be accepted, it would be necessary in order to hit the nearest dwelling to the south west of the site, the shooter would have to turn his body and gun at least 90 degrees and shoot through the side walls of the shooting shelter and large straw bales.

- Diagrams no.'s 17.0, 20.0 and 22.0 included in the Hughes Report are inaccurate and misleading
- Skeet shooting lunches clays at low levels from each side of the shooters – shots fired will be in a northern direction and will not cross the eastern or western boundaries.
- Skeet shooting is different to sports shooting. The position of the shooters never changes – it is impossible for them to shoot towards the south.
- Shots will not fall on the Kettles home or the Public Road.
- A legally binding licence agreement is in place with Balheary club recently documented Balheary Clay and Shooting Club to use the lands as a 'members only' club and 'not for profit'. Licence document accompanies the appeal response.
- The company Balheary Shooting Ground Limited has never made a profit. Financial Statements are Public Record.
- The established shooting facilities are suitably located – rural sport.
- It was never the intention of the club now or in the future to inconvenience or interfere with the residents of Balheary, who reside in the vicinity of the shooting grounds.
- The modifications and upgrading of the on-site facilities sought are not injurious to the amenity of the area or properties in the vicinity, would not be prejudicial to public health and is acceptable in terms of traffic safety and convenience.
- Response accompanied with the following Appendices
 - Balheary Gun/ Clubhouse application, Planners Report and Planning Permission Reg. Ref. TA383
 - Balheary Clay and Target Club Minutes Records and Event Dates
 - CPSA – Colander of Events and Records 2011 members calendar
 - Planning Register Extracts and Copy of Planning Permissions from Dublin County Council and Fingal County Council with locations indicated on attached Map

- Copy of Legal Agreement between Club and Andrew Kettle, Dated 2012
- Copy of JG Consulting Planning Supporting Statement to FCC
- Copy of ICAN Noise and Vibration Consultants Response to Grounds of Resonate Acoustics Appeal, dated 10th March 2016.
- Copy of Historical Photographs Documentation and Events of Balheary Shooting and Club Members who represented Ireland at Home and Abroad at National and International Shooting Competitions
- Accurate Site Layout Map showing position of skeet shooting
- Licence Agreement
- Report from ICAN Acoustics, dated April 2016 – rebuttal report.

7.0 OBSERVATIONS

7.1 An observation has been received from Hughes Planning and Development Consultants on behalf of David Ryan. It is summarised as follows:

- Supports the appeal by the Residents of Balcartie against the notification of decision by FCC to grant planning permission
- Negative impact upon surrounding residential properties
- Increased noise levels
- Queries the accuracy of the ICAN Noise Assessment Report
- The conditioned noise limits cannot be adhered to
- Noise level of 64 dB(A) and 83 dB(A) indicated in the noise assessment as recorded to the north east are likely to give to severe annoyance and detrimentally impact adjoining residential amenity
- The noise impact assessment carried out by Resonate Acoustics clearly indicates the noise levels generated are in excess of recommended guidelines and the maximum noise level stated by FCC on granting planning permission.

- Recent Facebook post from the Leinster Inter Club Shooting League identified the number of shooters present at Balheary Shooting Club as 352 guns (shooters) on sat 13th Feb 2016.
- The no. of shooters present is in excess of the 120 members which it is claimed are the only users of the shooting grounds.
- Recommended safety zone standards are not adhered to and concern is expressed with respect to health and safety
- High level shooting range in such close proximity to residences in particular the Kettle family resident (101m distant) is unacceptable.
- Storing of firearms and ammunition is a serious cause of concern
- Observation accompanied with: Resonate Acoustics Noise Impact Assessment (March 2016)

7.2 An observation has been received from An Taisce. It is summarised as follows:

- An adequate site evaluation is required regarding the generation of noise pollution from the numerous shooting stands.
- Development should not be injurious to the residential amenity of adjacent properties.

8.0 PLANNING HISTORY

8.1 Reg. Ref. F14A/0489 Permission Refused, February 2015, for Retention of the following modifications and improvements: (i) Six covered shooting stands 3.7 metre high with concrete and gravel path connections; (ii) Small bore (air rifle/0.22) shooting range with (a) single storey roofed block (21.5 sq.m.) with five rifle firing points; (b) 2 x 0.7 metre high ground baffles; (c) covered target area with 3.5 metre high ammunition back stop; and (d) a 2.1 to 2.4 metre high side wall between firing points and target area on northern side of rifle range, and (e) a 3.5 metre high earthen berm on southern side of rifle range; (iii) Seven new earthen safety berms (between three and four metres high); (iv) Two metre high and eighty seven metres in extent, wooden

fencing with three entrance gates around the club house; (v) Steel storage container (31 sq.m.) and (vi) landscaping and development works.

Reason 1. 'The applicant has failed to provide sufficient information regarding the anticipated noise impacts associated with the development, sufficiently robust mitigation measures to ameliorate against same, and to therefore demonstrate that the proposed development can be implemented and operational without causing injury to the residential amenity of adjacent properties. In the absence of this information, permitting the proposed development would seriously injure the residential amenity of properties in the vicinity and would not be in accordance with the proper planning and sustainable development of the area'

Reason 2. 'The proposed development represents a significant intensification of the previous use at the site. This appears to represent a material change of use from a members only club to a significant commercial operation. Having regard to the facility operating beyond normal business hours and on Saturdays and Sundays, it is considered that the development would seriously injure the residential amenity of property in the vicinity by reason of the intensity and scale of activity generated and the associated nuisance and as such would be contrary to the proper planning and sustainable development of the area'.

8.2 T.A.383

Permission granted, by Dublin County Council, for Balheary 'gun / Clubhouse' attached to the existing shooting grounds, 30th May 1980, subject to 3 conditions.

Inspectors Note: This permission is not referred to by the p.a. However the first party have submitted the planning application letter, planner's report, grant of planning permission, planning register extracts with the response to appeal submission.

8.3 ENF.14/122A The Planners report on file indicates that a warning letter was issued to the landowner in relation to unauthorised change of use to commercial activity and additional unauthorised structures.

9.0 DEVELOPMENT PLAN

The pertinent statutory Development Plans for the area is the Fingal County Development Plan 2011 – 2017.

The site is zoned 'RU', *"to protect and promote in a balanced way, the development of agriculture and rural – related enterprise, biodiversity, the rural landscape and the built and cultural heritage"*.

Objective RE01

Objective RE03

While the Development plan outlines strategic enterprise opportunities which are dependent on locations within the rural area. A development, such as the subject development, is not listed. Therefore while a clay and pigeon shooting operation, is not specified as 'permitted' or 'not permitted' use within the Development Plan under the RU zoning; recreational facilities / sports club are permitted in principle where they are in proximity to residential settlements and where they would not generate unacceptable traffic problems.

A subterranean archaeological feature is present to the east of the site.

10.0 ASSESSMENT

I have read through the file documentation, the relevant provisions of the County Development Plan and have carried out a site inspection. In my judgement the principle factors for consideration in this appeal relate to:

10.1 Principle of the Development and Compliance with Policy

10.2 Impact Upon Residential Amenity

- **Noise**
- **Public safety**
- **Opening Hours**
- **Lead Contamination**
- **Devaluation of Property**
- **Security Risk**

10.3 Traffic Impact

10.4 Impact Upon Archaeological Heritage

10.5 Flooding Impact

10.6 Appropriate Assessment (AA)

10.1 Principle of the Development and Compliance with Policy

This appeal site is located within an area designated under the Fingal County Development Plan, 2011-2017, as 'Rural' (RU). Where the objective is *"to protect and promote in a balanced way, the development of agriculture and rural – related enterprise, biodiversity, the rural landscape and the built and cultural heritage"*.

While clay and pigeon shooting use, is not specified as 'permitted' or 'not permitted' use within the Development Plan under the RU zoning; I note that recreational facilities / sports club are permitted in principle where they are in proximity to residential settlements and where they would not generate unacceptable traffic problems.

Where a use is neither, 'permitted in principle' or 'not permitted', the Development Plan provides the following guidance for the consideration of planning applications:-

“uses which are neither ‘Permitted in Principle’ nor ‘Not Permitted’ will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan”.

In this regard Objective RE01 of the County Development Plan which seeks to *‘protect and promote the sustainability of rural living by facilitating rural – related enterprise for rural dwellers’* while Objective RE03 which seeks to *‘maintain commerce and vitality within the rural area and particularly within the villages’* are specifically noted. The Development Plan outlines several strategic enterprise opportunities which are dependent on locations within the rural area. A development, such as the subject development, is not listed.

I note documentary evidence on file that planning permission was granted in 1980 for Balheary 'gun / clubhouse', Reg. Ref. T.A.383 refers, see planning history section 8.2 of this report above. The First Party submits that the Balheary Clay and Target Shooting Club, is strictly by licence 'a non-commercial' 'not for profit' organisation. It was formed in 1968 and has used the subject lands for clay pigeon shooting for local, national and international competitions since 1971, documentary evidence has been submitted to support this. It is submitted that the existing clubhouse, toilet block, shooting stands, car park and entrance are approved and have been on the site for years. It is submitted that planning permission is currently sought to provide for increased health and safety measures, noise mitigation measures, gravel pathways, landscaping and associated site improvement works on the shooting grounds.

From my site inspection and information contained on the file I tend to agree with the opinion of the planning authority that the proposed development does not include an intensification of use (the site boundaries have not changed

and the number of shooting points has not increased) and the works are required to improve conditions on site for club members and improve health and safety controls.

Overall I am of the opinion, that the modifications sought to the existing clay and target shooting club are 'open for consideration' within the 'RU' land-use zoning. The use on the appeal site is an established use since the mid 1960's and this use has been legitimised by way of Reg. Ref. T.A.383. It is clear that both national and international shooting has taken place on the site. Given that no additional shooting stands or change of existing use is proposed, I tend to agree with the planning authority and the first party that no intensification of activity is occurring on site to a degree that materially alters the nature and established use of the facility.

It has been unreservedly confirmed and undertook in the planning supporting statement to Fingal county Council that the club is a members club to be used solely by members and other registered visiting clubs in competition. That the club has a full quota of 120 members. This matter was the subject of condition (2) of the notification of decision to grant planning permission Reg. Ref. F15A/0526. I am of the opinion that this condition or a similar condition which restricts the use of the Clay and Target Shooting Club for the use of club members would be reasonable and enforceable and should be attached to any grant of planning permission forthcoming from the Board, should the Board be mindful to grant planning permission.

10.2 Impact Upon Residential Amenity

Serious concern is expressed by third parties that the proposed development would have a negative effect on neighbouring properties and the adjoining local road, by reason of public safety and potential disturbance from noise.

It is submitted by the third party that the distance from the site boundary and direction of fire to nearest dwellings is 266m to the north, 235m to east (a development of 8 no. dwellings) and 101m to west (cluster of 9 no. dwellings)

incl. the Kettle family home all of which are within the 275m minimum safety zone). Reference to a 275m minimum safety zone will be explained in detail later in this section of the report.

‘An Assessment of the Change in Noise Level as a Result of Modifications at Balheary Clay and Tareget Shooting Club’ was carried out by ICAN Acoustics (Nov 2015). It sets out that the nearest noise sensitive receptors as follows: A hamlet of approx. 8 houses are located approx. 400m to the north east, a farmhouse is located approx. 332 m to the north east with large agricultural shed to its south, a dwelling to the west at a distance of approx. 217m from the site (represents the nearest noise sensitive location). To the south of the site there are residential dwellings and Roganstown Golf and County Club approx. 500m from the shooting grounds. I note that Figure 3 of the Report indicating Nearest Noise Sensitive Receptors shows distance to noise sensitive locations measured from the centre of the site (the point of the skeet shooting range and 120ft launching tower) and not the sites boundaries.

The ICAN Acoustics Noise Assessment Report identifies that the change in intensity of noise at noise sensitive receivers, from clay shooting or rifle activities, will relate to the actual noise level from the shooting facility and any increase or decrease in activity. The report concludes there would be no significant change in the shooting noise level as a result of the modifications carried out on site. That modifications will actually reduce the noise levels. It determines that shooting noise levels will be lower following the provision of 5m high earthen berms on the eastern, northern and western sides of the site.

The first party strongly submit that planning permission is sought solely for the specific development as set out in the public notices, incl. modifications and upgrading of shooting facilities, in addition to providing and improving safety measures. There will be no change in the number of shooting stands, intensity of shooting or existing use of lands. It is proposed to erect 3.6m high straw bales at the sides of shooting stands to help reduce noise impact and to restrict / control the angle of shooting by the use of enclosed wooden huts and metal frames) from south to north, only. I note that the noise created by rifle

shooting is in the sub-sonic range – below 10 db. The Club has a noise management plan in place, copy on the file.

The third party appeals refer to *Clay Target Shooting; Guidance on the control of noise* (Noise Control Guidance) published by Chartered Institute of Environmental Health (2003). A copy of this document is attached in the appendices to this report. I am of the opinion that in the absence of relevant Irish planning standards it is accepted practice to refer to British standards. While I consider reference to this guidance document is somewhat relevant, cognisance is had, that this is not a new Clay Pigeon Shooting Facility to be introduced into the area of Skidoo, but instead it is an existing long established facility (since 1968). I note the submission of the first party and documentary evidence submitted to support same, that the shooting facility pre-dates the majority of residential dwellings within the locality.

This being said, Section 4 of the Guidance Document sets out guidance (not statutory) as follows:

4.1 'Minimum Safety Zone'

'No shooting should take place in the direction of any public right of way (or any building with public access) that is within 275 metres (300 yards) of the shooting position'

I consider that Balheary shooting club complies with this basic site requirement. The closest farm house to the north – north-east, direction of shot, is approx. 332m from the closest shooting position, thus in excess of 275m. While its garden area is approx. 310m from the closest shooting position. For information purposes I note that the farm house is located approx. 275m from the appeal site northern boundary.

The Warblestown Road is located directly to the south of the appeals site shooting points and the Ballyboughal Road runs north south to the east of the appeal site. From information contained on file, it is evident that, shooters will be shooting targets in a restricted area, in one direction, only, directly north. I

agree with the first party that the public roads adjoining the appeal site to the north are well in excess of the 275m safe fall out zone.

'Noise Buffer Zone'.

'As mentioned above, a minimum safety zone of 275 metres in the general direction of shooting should always be provided for safety reasons. However, a much larger buffer zone will be required to protect noise sensitive premises and other noise sensitive areas.'

'The size of noise buffer zone required will depend on local circumstances and on the level of shooting noise transmitted to noise sensitive areas. The advice given below is based on experience and is intended to offer practical guidance on the typical size of a noise buffer zone, rather than precise enforceable distances.'

It is proposed to erect a 5 m high berm around three boundaries of the site (north, west and east) with trees planted on top of the berm. The site is lower than the adjoining fields, as it was previously quarried for gravel, (this is verified in the O.S.I map on file). It becomes gradually lower from the road towards the rear of the site so that the ground level is between 1.8 and 2.0 m below the adjoining field on the northern boundary. The proposed 5.0m high berm will therefore be 6.8m to 7.0m high relative to the ground level of the field along the northern boundary of the site.

A report on the file from Environmental Health Officer in charge of Air Pollution and Noise Control Unit, dated Nov 2015, relating to Reg. Ref. F15A/0526, states that the subject proposal is acceptable subject to conditions. The planning authority consequently attached the following conditions to the notification of decision to grant planning permission:

Condition 4. Noise levels emanating from the development when measured at the nearest noise sensitive locations shall not exceed 55dB(A) (30 minutes Leq) between 0930 hours and 1800 hours, Monday to Sunday and shall not exceed 45 dB(A) (15 minute Leq) at any other time.

Condition 5. Requires that a noise survey and monitoring programme shall be undertaken.

There is a considerable amount of confusion in relation to acoustic matters. The appellants argue that it is not possible to achieve the stated noise levels on site nor is it possible for the council to monitor these levels daily to ensure that the applicant complies. The third party appeal by residents of Balcartie is accompanied with a 'Review by Resonate Acoustics of ICAN Acoustics Report (February 2016) which:

- Recommends that any conditions make reference to the Chartered Institute of Environmental Health Clay Target Shooting: Guidance on the Control of Noise 2003
- That the LAFmax value is adopted as the appropriate metric to assess the impact of the shooting range (as opposed to the LAeq,T or LAR,T.
- A monitoring programme includes a range of activities on the site, incl. the competitive events.

The ICAN Acoustics Report uses LAFmax value to predict noise level at each noise sensitive location (NSL). Table 4 of the report sets out predictions to the nearest noise sensitive properties, the predicted LAFmax ranges from 27.0db at NSL4 southern direction, 31.6 db at NSL 2 northern direction, 44.5 db at NSL 3 western direction and 55.5 db at NSL 1 north westerly direction. I accept the findings of the ICAN Acoustics Report and consider it acceptable that 'a potential noise change' was assessed. This is an existing long established facility since 1968.

I have no objection in principle to the modifications proposed to the established Clay and Target Shooting Club for the use of club members, only, in this 'RU' zone. It is my opinion that the development, subject to condition, will not generate any significant adverse impacts to safety or noise in the vicinity. The development includes measures to improve safety and to reduce noise impact on the immediate environment by way of earthen berms to the

boundaries of the site, insulated timber huts and straw bales which will all aid direction control of shot to the north, only. I considered that the mitigation measures are robust to ameliorate against excessive noise levels, ensure safety and will screen the site from view. I also consider modifications proposed can be implemented without causing injury to residential amenity of the area.

Therefore it is my opinion having regard to the existing and permitted use on the appeal site and in the area generally the development if permitted would not be detrimental to the amenity currently enjoyed by the adjoining residents. I recommend that should the Board agree with my findings that a noise control condition and a condition requiring a noise measurement survey, to facilitate an appropriate assessment of the unique characteristic of noise emitting from the outdoor shooting range, and to ensure control of noise, be attached to any decision to grant planning permission.

Opening Hours

The applicant submits that currently there are no time or day restrictions on the shooting facility which operates all year round. This is not disputed by the appellants. Under the subject proposal the applicant has indicated a willingness to confine shooting to a set number of hours per week – 51 hours. This matter was the subject of condition (3) of the notification of decision to grant planning permission Reg. Ref. F15A/0526. Whereby the hours of operation of the facility were restricted to between 09.30 hrs and 18.00hrs Monday – Friday and between 10.00hrs and 18.00hrs Saturday and Sunday. This totals a 58.5 hour week.

I note the Legal Agreement (copy submitted with appeal response) between the Club and Andrew Kettle, Dated 2012, on foot of which the applicant agreed to restrict hours of operation to 9pm daily. Cognisance being had to concerns raised with respect to noise nuisance arising from hours of operation, it has not been proven that the noise nuisance exceeds tolerable levels. Given the separation distances of residential dwellings to the appeal

site, the established use of the site, the requirement for weekend / holiday opening, the nature of the subject application which it is submitted does not include an intensification of use and would give rise to improved conditions on site. I agree with the planning authority that limitation of hours of operation, which heretofore would not have occurred, is a positive outcome. No evening or night time operation is proposed. I therefore recommend that a condition restricting opening hours as recommended by the planning authority be attached to any grant of planning permission forthcoming from the Board.

I am of the opinion such a condition would be wholly reasonable and enforceable and would aid amelioration of the established Clay and Target Shooting Club.

Lead Contamination

Third party concern has been raised with respect to the presence of lead on agricultural land. Concerns are also expressed in the grounds of appeal that lead from the discharge shot could present a hazard to humans and animals. It is submitted it restricts the use of agricultural lands to the north of the site to cultivation, as grazing is not permitted where lead contamination arises. I note that the lands to the north are currently in intensive arable use. Concern is also raised with respect to quantum of lead falling on surrounding agricultural lands, which could give rise to accumulation of a dangerous toxic material over time negatively impacting upon ground water. I note that the Broadmeadow River runs to the south of the appeal site with a tributary running some distance to the west. There are no watercourses on the appeal site itself or immediately to its north.

No soil sampling has been submitted and no data / evidence is presented of measures to deal with lead fall within or outside of the appeal site. Having regard to the separation distance and separate ownership of agricultural lands immediately to the north of the appeal site I would have some concern that the shooting facility could represent a problem in terms of certain types of agricultural practice in the adjoining field. I am also of the opinion that, in the

absence of information, lead contamination of soil and impact upon ground water requires further investigation.

Following on from the foregoing it is acknowledged that the appeal site contains an established long term shooting operation (incl, clay pigeon shooting and skeet shooting) and that 5m high berms and extensive tree planting is proposed to the northern boundary. I would, however, recommend that further information be sought, by way of condition, in relation to measures to deal with lead fall out.

Devaluation of Property

Many agricultural uses, which would give rise to noise, odour and dust and other disturbance, could be established and/or carried out within the rural area without planning permission.

Equally agricultural buildings or other structures could be erected in close proximity to boundaries which would also affect the existing amenity of adjoining residential property.

The subject appeal case relates to a long established shooting facility which dates to 1968. Thus, provided that the shooting range is subject to conditions which replicate an appropriate standard of amenity for the rural area, in my opinion, the value of adjoining property would not be affected by modification of the shooting range as proposed.

Security risk

Appellants have raised concern with respect to security risk from the storage of firearms, safety of the adjacent residential dwellings and inter-related potential for crime risk.

The site access off Warblestown Road is controlled by way of high metal roller electronic gates. During my site visit I observed the ammunition storage shed

was well secured, located centrally within the site and well removed from adjoining residential properties. I also note that the site is protected by 24 hr Live Netwatch CCTV Monitoring. There is no information on file to suggest that the Clay and Target Shooting Club would give rise to potential for anti-social behaviour or crime. While I consider that the proposed development is unlikely to attract / give rise to anti-social behaviour in the area, I note that security matters and antisocial behaviour is a matter for the guards.

10.3 Traffic Impact

The Transportation Department of Fingal Council have no objection to the development subject to condition. I concur with the transportation department report on file which states that the required sight distance for an 80 Km/hr limit of 145m in both directions measured from a setback point of 2.4m to the near side edge of the road is achievable at the existing site entrance. Adequate car parking is provided for on the site. I do not consider that the proposed development would give rise to a significant traffic hazard.

Concern has been raised with respect to traffic safety related to car parking on event days. In this regard I recommend that permission be granted for the proposed development and that a condition in respect of car parking and traffic management, on event days, be attached.

10.4 Impact Upon Archaeological Heritage

The planning authority report notes that '*subterranean archaeological features may be present to the north of the site.*' From my investigations, however, it appears that an archaeological site of national importance, classified as 'ring-ditch' is located to the eastern boundary.

A condition was attached to the notification of decision to grant planning permission by the p.a. on foot of Reg. ref. F15A/0526 in respect of the subterranean archaeological feature, Condition 10 requires archaeological pre development testing to be carried out. I recommend that should the Board

agree that permission should be forthcoming in the subject case that a similar condition with respect to archaeological pre development testing be attached to any grant of planning permission.

10.5 Flooding Impact

The issue of flooding was raised by the appellants. However no evidence was submitted to support the claim that the site is prone to flooding and I did not witness any evidence of flooding at the time of my site visit. It has not been raised as an issue by the planning authority I note that Irish Water and Water Services Department of the Council have been consulted on the proposal and have raised no objections, subject to conditions. The appeal site is not included as a site identified in the OPW Flood Map.

Based on the foregoing I do not recommend a refusal of planning permission based on flooding related reasons and considerations.

10.6 Appropriate Assessment (AA)

The appeal site is not located in or adjacent to any Natura 2000 site.

The Broadmeadow River, along which an 'ecological corridor' is designated on the County Development Plan Map (Green Infrastructure 2, sheet no. 15) runs to the south of the Warblestown Road and to the south of the appeal site. There are some tributaries running north south to the west of the appeal site, however, no watercourses are evident on the appeal site itself or directly to its north.

Having regard to the nature, extent and scale of the proposed development no Appropriate Assessment issues arise and it is not considered that the development would be likely to have any significant effect either individually or in combination with other plans or projects on a European site.

11.0 CONCLUSION / RECOMMENDATION

I have read the submissions on file, visited the site, and had due regard to the provisions of the Development Plan and all other matters arising. In light of this and the assessment above, I recommend that planning permission and retention planning permission be Granted subject to the conditions set out below.

12.0 REASONS AND CONSIDERATIONS

Having regard to the zoning of the site, its location and established pattern of development on the subject site and in the general area, it is considered that, subject to compliance with the conditions set out below, the development to be retained and the proposed development would not seriously injure the amenities of the area or property in the vicinity, would not give rise to a traffic, noise or safety hazard and would not, therefore, be contrary to the proper planning and sustainable development of the area.

13.0 CONDITIONS

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The Clay and Target Shooting Club shall only be available for the use of club members.

Reason: In the interest of clarity.

3. The hours of operation of the facility shall be between 09.30 hrs and 18.00hrs Monday – Friday and between 10.00hrs and 18.00hrs Saturday to Sunday.

Reason: In order to protect the residential amenities of property in the vicinity.

4. The noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the nearest noise sensitive location (NSL), NSL 3 as indicated in Figure 3 of the ICAN Acoustics Noise Assessment Report, dated Nov 2015 between 0930 and 1800 hours, Monday to Sunday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity of the site.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority within 6 months of this grant of planning permission. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
 - (i) Existing trees, hedgerows specifying which are proposed for retention as features of the site landscaping
 - (ii) The measures to be put in place for the protection of these landscape features during the construction period
 - (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species
 - (iv) Details of screen planting which shall not include cupressocyparis x leylandii
 - (v) Details of roadside/street planting

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

(c) A timescale for implementation

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

6. A traffic management plan shall be submitted to the planning authority for written agreement dealing with peak flow events during national and international competitions and which shall adequately detail car-parking management.

Reason: In the interest of proper planning and development.

7. The developer shall comply with the following:

(a) No development of any form including planting, fences or wing walls shall exist within the area required to provide visibility from the existing entrance point.

(b) The hedge fronting the site along the local Warblestown Road shall be kept trimmed back to maintain visibility.

Reason: In the interest of traffic safety.

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development and to prevent pollution.

9. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development, and

(b) Employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) The nature and location of archaeological material on the site, and
- (ii) The impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements including, if necessary, archaeological excavation prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation and protection of any archaeological remains that may exist within the site.

10. Within 6 months of the date of a final grant of permission, a lead management plan, including a ground water quality monitoring regime, from an appropriately qualified professional, shall be submitted to the planning authority for written agreement.

Reason: In the interests of the sustainable protection of soils, ground and surface waters in the vicinity from lead contamination and to avoid costs of rehabilitation devolving to public authorities.

Fiona Fair
Planning Inspector
18.05.2016