

**Platt**                                **562673 156511**    **24 May 2010**                                **TM/10/00875/FL**  
Borough Green And  
Long Mill

Proposal:                                Engineering operation to extend the size of the archery field to the North East, resiting of existing catch netting, associated landscaping together with Variation of condition 9 of TM/05/01396/FL to amend the direction of shooting (retrospective)

Location:                                Beechin Wood Farm Beechinwood Lane Platt Sevenoaks Kent TN15 8QN

Applicant:                                Mr William Terry

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**1. Description:**

- 1.1 This application relates to changes made in early 2010 to an archery field to the north of the dwelling of the applicant. The works started around March 2010 and were completed in May of that year. Since that time the Council has been striving to establish a clear technical context for assessing these changes especially in light of the very special considerations relating to this type of archery.
- 1.2 The history of this site is complex but in summary, an archery field was originally formed in the early 2000s following an engineering operation in which the ground was re-profiled to a level area. Essentially, it was cut away in the south and filled on the north. Enforcement action was taken in 2002 and following an appeal, the notice was upheld albeit with a longer period for compliance. However, the appellant made further changes to the profile of the land with the intention to overcome the concerns of the Council and Inspector. The Council was not convinced that the changes overcame its concerns and as a result successfully prosecuted in the Magistrate's Court for non-compliance. The owner appealed this conviction to the Crown Court and that appeal was allowed with the view also expressed by the Judge that original prosecution was not in the public interest.
- 1.3 A retrospective application to regularise the amended works to create the level field was submitted under ref TM/04/03680/FL. This application was appealed on the grounds of non-determination but this was eventually withdrawn. The Council subsequently resolved not to take enforcement action against the engineering works, as it was judged not expedient to do so. Therefore no planning permission was ever expressly granted for the new field profile.
- 1.4 In 2003 an Article 4 direction was served and confirmed on the land to prevent, *inter alia*, temporary uses (including use of the land for archery) without a grant of planning permission.

- 1.5 In 2005, as a result of the Article 4 direction, a planning application was made to use the field resulting from the engineered re-profiling for the purposes of recreational private archery for up to 28 days per year. It was granted under ref TM/05/01396/FL in 2006. It was granted subject to conditions of which 5 were appealed. The Inspector removed 2 of the conditions (relating to hours of use and the keeping of a log book) and varied one condition on the catch netting. He endorsed the other 2 in dispute (private recreational use and details of safety “catch netting”).
- 1.6 The result of the appeal meant that the field was permitted to remain in use for archery subject to a number of conditions, key ones being:
- Use to be restricted to private, recreational and practice purposes.
  - Details of the safety catch netting to be submitted and approved by the LPA and for it to be erected in accordance with manufacturer’s instructions and drawn back to the supporting poles other than during archery sessions.
  - Archery activities to be carried out in strict accordance with the standards and requirements of the Grand National Archery Society (GNAS- now renamed “Archery GB”).
  - Direction of shooting to be as specified in the letter accompanying the application (one way in a west north-westerly direction).
- 1.7 The details of the catch netting were never formally submitted for approval despite several requests from the planning enforcement section. In mid 2008, minor changes were made to the field levels and landscape bunding. This was investigated and it was judged that the impact of the works did not exceed those previously considered as acceptable in principle and it was therefore not expedient to take any enforcement action.
- 1.8 In March 2010, significant engineering operations of a new nature involving an enlargement of the archery field beyond anything previously considered were undertaken and resulted in the submission of this retrospective planning application in April 2010. However, the works continued to completion during April and May and the enlarged field has since been used for archery. The use of the enlarged field does not have planning permission and is therefore in breach of planning control. Some of the conditions (as outlined in para 1.6 above) have also been breached.
- 1.9 This retrospective application is intended to facilitate/accommodate 2 way shooting (as promoted by the British Long Bow Society) with a Longbow in the York Round: which involves target distances of 60, 80 and 100yds and comprises the following elements:

- Enlarging of the field to its north west corner involving raising of the level (said by the applicant to be an extra average of 900mm) over a roughly triangular shaped area said to be 44m in length with a depth ranging from 4m to 25m.
- The maximum bank height on the northern boundary is shown to be 2m from the level field down to the newly planted rough.
- Installation of surface water drainage associated with the above comprising of 10 sumps over the approved archery field continuing northwards via 100mm wide drains discharging at original level to the newly wooded area to the north of the archery field (i.e. to the south of The Barn and Pigeons Green both on Potash Lane).
- Rearrangement of catch netting alignment and submission of information on the archery backstop netting manufactured by Knox.
- Replacement and repositioned catch netting poles. Originally installed at 5m high but later reduced to 4m high.
- Change in direction of shooting from the approved WNW to SE-NW line.
- Change to 2-way shooting from 1- way shooting.
- Longbows to be 50lb which is understood to be a weight appropriate to experienced archers aiming for 100yd targets. The greater the bow weight, the longer the flight of the arrow.

1.10 The applicant has submitted supporting statement and additional information, key points as follows:

**Design and Access Statement dated May 2010**

- *Works have been carried out recently to extend the archery field to enable shooting at 100 yards range in a southerly direction.*
- *The engineering works comprised raising the ground level over an area of 90 sq m (0.009 hectares) by an average 900mm. This will enable shooting at 100 yards distance to be carried out in both a northerly and southerly direction without exceeding the length of the field.*
- *The ground has been raised using broken brickearth and topsoil finished with turf/grass seeded to match the existing archery field. The tree line to the planted area of saplings has been revised.*
- *At the northerly end of the site, 6 no. 200mm diameter poles (4m high) have been erected at approximately 8m centres to support the catch netting for errant arrows. The catch netting will be a green mesh (as existing) and the*

*posts are natural timber, so as to reflect the natural material colours of the surrounding woodland. The nets are raised and lowered, as and when the field is in use. Although the posts are higher than the existing adjacent saplings, given the rate of growth of the trees, a natural barrier will be formed in due time.*

- *The drainage plan shows the approximate layout of inter-connected sustainable drainage system to remove the excessive surface water from the field, which discharges below the base level of the new bank into the existing tree planted area.*

#### **Letter dated 30 September 2010**

- *The shooting direction permitted in the 2005 application has meant archers looking towards the setting sun, creating intolerable and dangerous conditions that were not foreseen at the Inquiry. The shooting line therefore needs to be more parallel to Boneashe Lane. The breach of the condition has been caused by pragmatism.*
- *The field was inspected in January 2008 by Neil Dimmock of the GNAS who was satisfied with the overshoot towards the village i.e. to the NW).*
- *The catch netting approved in 2005 has not been required to date due to the adequate overshoot in the NW direction.*
- *All archers are over 18 years of age.*
- *Supervised training has been given to several beginners using 20 yd lightweight bows.*
- *The planning permission in 2005 was for recurve bows but this has been dropped in favour of the Longbow (with bow weight 50 lb).*
- *Safety in placing of targets is necessary for BLBS (British Longbow Society) Insurance not be invalidated and accords with GNAS and BLBS Rules.*
- *BLBS and GNAS rules in terms of overshoot and side clearances can be met now the field has been extended. All shooting complies with both sets of safety standards. GNAS adopted one way shooting in 1950 and the BLBS was a splinter group formed shortly after and promotes 2 way shooting.*
- *The new poles were up to 5m high but have been cut to 4m high.*
- *The surface water will not reach any neighbouring cellars due to dispersed soakaways in the field and discharge points being at original field level.*

- *Archery is a skilful practice and can only be tested by archers in competition with each other. Shooting at the field is scored and this constitutes “competitive shooting” but it remains a recreational pursuit.*
- *All archers at the Butts must be BLBS members and adhere to BLBS rules on 2 way shooting. This gives BLBS insurance. Any archers who are also GNAS members have double indemnity. Insurance has not been invalidated by the redesign of the field.*
- *Mr Dimmock’s letter of January 2008 pertains to the present formation of the field. He revisited in August 2010 and the work has his unreserved approval on the grounds of safety. Mr Dimmock’s assessment made on behalf of the GNAS stands even more favourably in the light of the changes to the field.*
- *The catch netting does not have a safety function but prevents arrows entering and having to be collected from the roughage.*

### **Letter dated 8 August 2011**

- *Mr Dimmock as a regional judge of the GNAS and honorary treasurer of the BLBS is able to approve or reject any ground on behalf of the BLBS.*
- *Mr Dimmock inspected the ground after the changes made in 2009 and has approved the ground subject to the placing of targets not less than 20 yds from the hedgerow in the South East corner, a policy now instituted.*
- *It is not disputed that a target was placed too near the boundary to Boneashe Lane, an error caused by not measuring the distance between the hedgerow and the targets.*
- *Legally the curtilage of Beechin Wood includes the bank that slopes down to the metalling of the Lane; I have maintained it and it does not belong to the KCC (Local Highways Authority).*
- *BLBS specifications are guidance and not mandatory. A raised bank can reduce the need for a given overshoot, Beechin Wood has a bank. The GNAS has no jurisdiction over the range at Beechin Wood.*
- *To avoid any further queries over whether the ground is used for private practice, instructional purposes or any purported club activity, it may be sensible to submit a planning application for an unrestricted use now that the range has been improved to permit 2 way shooting.*

## **2. Reason for reporting to Committee:**

- 2.1 The complex planning history, the retrospective nature of the application and the locally controversial nature of the application.

### 3. The Site:

- 3.1 The site lies outside any settlement and is thus in the countryside. It is in the MGB and adjacent to a Conservation Area.
- 3.2 Beechin Wood Farm is a detached dwelling with former agricultural land to the north and north west which the submitted drawings show naturally slopes down from south to north (total drop of approx 4.5m) but which has been reprofiled into a level area dropping only approx 1.1m by the combination of cut at the south and fill at the north. It is laid to closely mown grass and is used as an archery field. Scaling from the submitted drawings, it measures 21.5m wide at the southern end and 43m wide at the northern end. It has a length of 95m along the eastern side increasing to 105m along its western side.
- 3.3 The southern part of the archery field, nearest the applicant's dwelling, is set down in a cutting and is shown to be 12.5m from the rear garden boundary of the host dwelling. The northern extent is on top of the newly formed bank and shown to be set approx 47m from the rear garden boundaries of The Barn and Pigeons Green. The eastern flank of the archery field tapers along the eastern boundary with Boneashe Lane, shown as being 10.3m away from the boundary fence/hedge at its closest.
- 3.4 In terms of the positions of targets, the drawings show that the 100yd (91.44m) target for shooting SE is shown to be 15m measured sideways from Boneashe Lane and 16.5m in front of the garden of the host dwelling. The 100yd target shooting NW is shown to be approx 53m in front of the rear garden boundary of the neighbouring dwellings.

### 4. Planning History:

TM/02/01896/FL	Refuse	19 September 2002
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Continued occupation of existing dwelling without complying with agricultural occupancy condition attached to planning permission ref: MK/4/65/93

TM/02/03560/FL	Non-determination appeal allowed	15 December 2003
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Continued occupation of existing dwelling house without complying with agricultural occupancy condition attached to planning permission MK/4/65/93

TM/03/01789/FL	Grant With Conditions	15 January 2004
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Replacement pool house

TM/03/01821/FL      Application Withdrawn      7 November 2003

Re-contouring of agricultural land to provide an area of level terrace

TM/04/03680/FL      Non-determination      2 February 2005  
   appeal - withdrawn

Retention of engineering works relating to land regrading

TM/05/01396/FL      Grant With Conditions      5 July 2006

   Appeal on conditions 4,  
   6, 10 partly allowed      16 November 2007

Use of land for the practice of Archery for not more than 28 days in total in any calendar year

TM/05/02804/FL      Grant With Conditions      16 June 2006

Garage and store (retrospective)

TM/07/01131/FL      Approved      30 September 2008

Erection of sectional timber shed with mineral felted roof 12ft by 8ft

4.1 Further relevant history of an enforcement nature is given in paras 1.2 to 1.5 above.

**5. Consultees:**

5.1 DHH: The applicant should contact the Health and Safety team regarding the siting of the catch netting.

5.2 PC: Strenuously object to this application.

5.2.1 The applicant appears aware that this retrospective application will be approved; otherwise he would not have expended so much money on landfill, drainage, etc.

5.2.2 The original concerns on application TM/05/01396/FL, although numerous, were primarily safety and the threat that this facility would end up as a large tournament event.

5.2.3 On appeal the applicant did not object to T&M Condition 9. *"Any archery activities practised pursuant to this consent shall involve shooting only in the directions specified by the letter from Robinson Escott Planning dated 28.04.06 (with accompanying illustration) and the related plan date stamped 03.05.06."*

- 5.2.4 This appears adequate as one of the supporting documents within this current application dated 13 January 2008 from the GNAS National Judge states that all is satisfactory. So why change it? To change one of your conditions makes a farce of insisting on it in the first place. The applicant states "that at a distance of 100 yards it is not safe to shoot towards my house" Another reason not to change. On the original agreed shooting plan the distance was shown as 100 yards and if reversed is in a different direction. We feel that the original direction should be insisted upon and if the overshoot is insufficient (less than 50 yards) move the start line further west.
- 5.2.5 On appeal the Inspector upheld your Condition 2. "Notwithstanding the provisions of Part 4 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, the use of the site shall be restricted to use for the applicant's own private recreational and practice purposes in strict accordance with the details set out in the letter dated 27.04.05 from Robinson Escott Planning and no tournaments or events shall be held at the site." This application would infer, with the Applicant's reference to the "York Round" that he intends to exceed his own private purpose. On appeal, the Inspector qualified your condition 2 "I therefore agree with the Council that this type of use should be the subject of a separate application... supported with fully detailed information" If this application purports to justify this statement then we would insist on more detailed information, such as number of events, expected anticipants, spectators etc.
- 5.2.6 On all counts we feel that this application should be refused. The new direction puts adjoining owners at risk as well as members of the public using Boneashe Lane. You are aware of problems with stray arrows in the past and we feel that this will get worse if this application succeeds.
- 5.2.7 We can see no reason, within the additional information, to alter our previous objection. In fact, the accompanying letter leads us to believe that the field will be used for more than "the applicant's own private recreational and practice purposes" with reference to training, events and "competitive shooting". We do not agree with the overshoot distances and if the information shown on Drawing WT/2010/03 is incorrect, then it should be revised and resubmitted. We would also expect that you would want to see calculations justifying the surface water outfall, it covers a large area. In summary, we still feel that this application be refused.
- 5.3 Private Reps (32/37R/1S/0X) plus CA press and site notice: A total of 37 letters of objection have been received although several are written from the same household due to a number of renotifications sent but occupants of a total of 17 households have formally submitted objections. Objections are summarised below:
- Yet another long episode of unauthorised earthworks. The applicant writes of his anxiety to complete the work before the start of the shooting season. There



is no mention of his obtaining the required permissions before he started work nor of any intention of obtaining them.

- Given the total area of the Applicant's holding, it beggars belief that he has constructed his arena in the most sensitive corner of the field, so close to Boneashe Lane and the properties to the northwest.
- Close to a Conservation Area.
- He has owned the property since 2002 and is now arguing that he was not aware that the sun may be a distraction late on a summer's evening. There is nothing dangerous about shooting to the northwest, indeed, by his own admission; it is the safest direction – away from the dwellings to the north and away from Boneashe Lane. His complaint that he may have to stop shooting when the sun gets low is utterly ridiculous.
- He may have planted 200 trees in February. These are in fact mostly decorative bushes planted down the side of the arena, not down the slope to the north, offering no protection.
- Without unsightly protection over and above the low hedge alongside the lane, the risk of arrows landing in the lane could be considerable. The idea of extra protection along the length of the lane, with all its visual consequences on such a site, would be inconceivable.
- The garden of 'The Barn' has absolutely no protection from arrows, and that these arrows will be aimed at the property - we are not even talking about misfired arrows in this regard. The protection for Pigeon's Green, such as it is, presumably relies on the Applicant installing netting, which he has not yet done, and drawing the netting together each time he shoots.
- The new poles for safety netting at the northern end are closer to the houses and are more obtrusive.
- The poles have been recently reduced in height, thus also reducing the height of the catch netting. However they are in the wrong position- they do not enable the netting to extend fully behind the northwest direction of shooting.
- The original smaller poles that protected the properties to the northwest should be replaced in their original positions.
- Firing in the direction approved is no longer possible. In the long term only by the restoration of the land and the full adherence to the approved direction of shooting can the safety of residents and the public be assured.

- The applicant's response on catch netting is disturbing. He wants to shoot directly at my house, has sited his netting arrangements to accommodate this and then suggests in relation to the safety nets that there is 'really no need for their presence as a safety barrier.'
- Whilst the agreed direction towards the northwest is **away** from Boneashe Lane, the latest application seeks to move this to a more northerly direction further towards the lane, and, to make matters worse, he says that even this is wrong, and that the direction should be parallel to the lane and directly at the dwellings to the north.
- According to GNAS regulations the range must have a minimum side clearance of 25yds with any site boundary, building or field entrance.
- On drawing WT/2010/03 the line of shooting parallel with Boneashe Lane is approx 12m from the boundary hedge to the public lane and therefore is totally inadequate. The line shown as the Boneashe Lane boundary is incorrect and the shooting line is directed towards the Lane at the farmhouse end. (*NB a subsequent drawing WT/2010/06 does show the correct position of Boneashe Lane*).
- Drawing WT/2010/03 shows an oblique line of shooting up the field. Mr Terry now says this is incorrect and should be parallel with the downward line.
- That the letter from Mr. Dimmock pertains to the present formation of the field cannot be correct nor has he provided you with an up to date assessment. Mr. Dimmock's letter must have referred only to one-way shooting to the northwest, as shooting back towards Boneashe Lane could never have been contemplated with the lack of the 50 yard overshoot.
- The letter from Mr. Dimmock is dated 13 January 2008, well before the new ground works and the application to change the direction of shooting. Much of the contents of the letter are irrelevant. He states inter alia that netting has been erected to cover the entire width of the field: this is blatantly not the case, also that arrows 'very rarely reach to the base of this netting'. The new proposal shows the netting sited only about 10 yards behind the targets. From a distance of 100 yards, virtually any overshoot would be likely to strike the netting.
- Mr. Dimmock is the Secretary of the British Longbow Society; he may well be able to speak for them in an official capacity, but BLBS insurance only offers cover for formal events held under BLBS auspices, never casual shooting. GNAS advice is that private individuals shooting on private land on a casual basis, regardless of whether the individuals themselves are GNAS members,

are not covered under their policy. At the very least, the site would have to be approved and registered with the GNAS and would normally be a GNAS affiliated club.

- The British Longbow Society uses Class D longbows. For your guidance, distances covered by arrows from 50 lbs bows are as follows: Gentlemen 315 yds; Ladies 240 yds.
- The Applicant has not shown each target position with an overlay of the clearance zones in all directions.
- The overshoot to the north is deficient and the side clearance down Boneashe Lane insufficient. The extension of the levelled area has no bearing on safety clearances.
- The Applicant's comments about other grounds are not relevant, but all I would comment on is that if the Glebe at Swanley to which he refers has a deficiency in the overshoot of 50 yards, then they are shooting with no overshoot whatsoever. The minimum overshoot itself is 50 yards.
- The outdated letter from Mr. Dimmock has done nothing to allay any misgivings local residents may have.
- With regards to the 50 yard overshoot specified by the GNAS, the new distance from the poles to the boundaries of properties to the north is now 60 yards but the land is all at a steep downhill angle. This has the effect of foreshortening the distance and has not been taken into account.
- Under GNAS Rule 903 (c) it states that in two-way shooting, lines can be moved and waiting lines omitted. This has not been and cannot be allowed on the Beechin Wood site.
- The application contains a lot of technical information about what is needed for competitions but he has been refused permission to hold competitions so surely this information is irrelevant. Increased numbers at the "club"- traffic and noise.
- 'Competitive shooting with the longbow...' and 'Gentlemen shooting the York round...' using 12 dozen arrows at varying distances. The site is restricted to use for private and recreational and practice purposes.
- It appears that the acceptance of novice archers from local residents is in contravention of the planning approval.
- If this application purports exceed his own private purpose, we would insist on more detailed information, such as number of events, expected participants, spectators etc.

- The field will be used for more than "the applicant's own private recreational and practice purposes" with reference to training, events and "competitive shooting".
- The Applicant says he is engaged in training beginners and that these 'tyros' will be given progressive instruction. In order to comply with their rules, GNAS states that lessons must be properly organised, names of individuals receiving instruction entered into the minute book before lessons commence and that shooting must comply with GNAS Rules of Shooting.
- The applicant should be obliged to keep strict and up to date records of dates of meetings, attendance etc for inspection by the Council on demand.
- Thus the archery was restricted to private and recreational practice only with strict limitations on the number of participating archers and spectators, the number of days per year and hours per day of archery and the firing of arrows was restricted to one direction only in a north westerly line.
- To change one of your conditions makes a farce of insisting on it in the first place. The applicant states "*that at a distance of 100 yards it is not safe to shoot towards my house*" Another reason not to change. On the original agreed shooting plan the distance was shown as 100 yards and if reversed is in a different direction. We feel that the original direction should be insisted upon and if the overshoot is insufficient (less than 50 yards) move the start line further west.
- The Applicant contends that there is no possibility of flooding to Mrs. Silberston's garden or house because the slope of the land is contrary to expectation, namely, that it falls towards the farmyard. I take it that the 'farmyard' is the area of land to the southwest of the archery site. This is nonsense.
- Drawing WT/2010/02 Section A-A shows the levelled area clearly sloping to the north. The drains are described as discharging into interconnected sumps connected to final outfall. The drawing then shows the final outfall as being in the tree planted area just above neighbouring property. I take it that building regulations have been applied for in respect of this work, and that the efficacy of this arrangement will have been considered by the Inspectors.
- The final outfall from the archery field is sited just south of my boundary. I am unable to accept the applicant's assurances that I will experience no further problems with flooding. On August 16th, 2002, the applicant wrote in a letter that excavation work in the field has revealed, to his dismay, a colloidal mixture of sandstone and clay 'which is in areas completely impervious to water'. I am fully aware of the assurances given over the construction of soakaways throughout the field and the information regarding additional drainage.

However my own cellar has become increasingly damp over the past months having remained dry since the winter of 2002 when heavy rains coincided with construction activity in the field, leading to flooding in my property.

- We would also expect that you would want to see calculations justifying the surface water outfall, it covers a large area.
- The measurement of 61.423 yards does not measure the direct line distance to the boundary with Pigeons Green. The distance of 15.381 yds to Boneashe Lane is below the GNAS requirement of 25 yards.
- Boneashe Lane is a quiet lane which should be suitable for non-motorised traffic- this is not possible with arrows flying within 15 yards of it. This is contrary to Policy P6/12 of the TMBLP and PPG17.
- If the GNAS has no longer jurisdiction over the range then he should also be amending condition 4.
- He appears to be shooting without insurance. No wonder he denied the arrow found on my land was noting to do with his archery site. He is ignoring his duty of care to the public.
- The embankment to Boneashe Lane is most probably classed as highway no matter who cuts it.

5.3.2 One letter of support states that the writer and his archery friends have used the range and found it to have serenity and privacy for a traditional pastime. All forms of archery are safe when conducted by experienced archers. The Longbow is benign when used for target shooting. The changes to the field were to reduce the risk of an arrow landing in Boneashe Lane. Mr Terry has over 40 years experience and his field now exceeds the safety requirements of the GNAS.

## **6. Determining Issues:**

- 6.1 The Draft National Planning Framework has recently been published and was subject to a period of consultation from 25 July 2011 - 17 October 2011. The NPPF as a consultation document is capable of being a material consideration: it is for the decision making authority to determine how much weight is to be attached to the draft Framework. Given the draft status of the Framework, it has limited weight in this case at present. The relevant national planning advice in respect of this application is as referred to below.
- 6.2 The Government intends to revoke the South East Plan, envisaged to take place in Spring 2012, and thus it has limited weight.

- 6.3 The site is in the countryside and lies in the MGB. Relevant policies are in *PPG2 – Green Belt* and *PPS7 – Sustainable development in rural areas* and also policies CP3, CP14 of the TMBCS.
- 6.4 PPG17 relates to *Planning for Open space, Sport and Recreation*. It does mention the need for safe recreation facilities where the LPA is planning for new sites. Whilst this is not an allocation as such, the principle set out in the PPG is that public safety is a proper and material consideration and this is encompassed in Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.
- 6.5 Policy DC5 of the MDE DPD superseded policy P6/12 of the TMBLP which applied at the time of the appeal. Policy DC5 relates to tourism and leisure and is thus more narrowly focused than P2/16 which also included recreation. Policy P6/12 did refer to safety of PROW. It is my view that DC5 does not apply to this application which is private recreational archery adjoining the dwelling of the main participant and is not a tourism or leisure facility intended to be encompassed by that policy. In any case, CP24 of the Tonbridge and Malling Borough Core Strategy 2007 includes safety as a material planning consideration in a more general sense.
- 6.6 The site is close to Platt Conservation Area and PPS5 relates in that the character and appearance of the CA should be preserved or enhanced.
- 6.7 Policies CP1 and CP24 of the TMBCS and policy SQ1 of the MDE DPD require the character and amenities of a locality to be safeguarded.
- 6.8 The archery field adjoins 2 residential gardens to the north, the garden of the host dwelling to the south and Boneashe Lane to the east. Residential amenities are to be protected as per policy CP1 and CP24 of the TMBCS. Policy CP24 also relates to the safety of an area.
- 6.9 There are a number of more detailed issues to assess in this application which includes inter-related elements of
- Land level changes and drainage implications.
  - New poles for repositioned catch netting, nearer the Platt CA and neighbouring cottages.
  - Restrictions on the use of the range.
  - Change from recurve bows to longbows.
  - Changes in the direction of shooting and perceived safety thereof.
  - Introduction of 2-way shooting and perceived safety thereof.

### **Green Belt/Countryside**

- 6.10 The issues in terms of the MGB are the visual impact and the impact on openness of the land level changes and the re-sited poles/catch netting.
- 6.11 It is the case that the extension of the archery range is not inappropriate development in the Green Belt if it maintains openness and does not conflict with the purposes of including land in the MGB.
- 6.12 I share objectors' concerns that the land level changes are an unwelcome revisit to the unauthorised engineering works carried out in the early 2000s and it is extremely disappointing that a similar breach of planning control by the same applicant has had to be investigated by enforcement officers.
- 6.13 However, *on its planning merits*, while I accept that it is an addition to an alien landform, in the context of what has been endorsed previously, and especially in view of the views expressed by the Judge during the appeal against prosecution, I am of the view that the additional area of fill is not so significantly harmful such as to amount to a loss of openness or conflict with the purposes for identifying the land as MGB. Indeed it must be remembered that the Inspector in dismissing the appeal went so far as to say that those more extensive works did not cause a loss of openness. It has been carried out to facilitate an open recreation use suited to a rural environment – a recognised function for the Green Belt. However, it should be borne in mind that due to the Article 4 direction, the use of the enlarged part of the field for archery needs planning permission in its own right.
- 6.14 The poles for the catch netting are inappropriate development but they have been endorsed in this general location in principle by the appeal decision in 2006. They have been moved nearer to the village and neighbouring dwellings and when they were first installed at a height of 5m, they were more visually prominent. However, they have now been reduced to 4m in height and are now hardly visible from the public domain of Potash Lane. I agree with the appellant that the tree planting rear of The Barn and Pigeons Green will help to screen the poles over time.
- 6.15 Members will note that there are differing opinions as to the function of the catch netting. It is certainly perceived as “safety” netting by the objectors but the archery expert at GNAS states it is more for the benefit of the archers to make it easier to find their arrows by preventing them landing in the rough scrub area. In any event, details of the catch netting have now been submitted as part of this application and the quality of the manufacture has been endorsed by the GNAS Judge. It is therefore satisfactory in my view.

### **Surface Water Drainage**

- 6.16 There were no conditions on surface water drainage in the previous planning decisions made on this form of development and based upon the drainage details submitted and the intervening distances to the neighbouring dwellings, I do not

consider that any claim of damp cellars in neighbouring property can be attributed without doubt to the land level changes made in this particular application. The drainage works do not need approval under any Building Regulations.

6.17 However, the Council's drainage engineer may be able to assist if problems persist.

### **Use of the Archery Range**

6.18 I share objectors' concerns that there have been mixed messages from the applicant as to whether he is fully complying with the use restrictions imposed by the Inspector which were:

*Notwithstanding the provisions of Part 4 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, the use of the site shall be restricted to use for the applicant's own private recreational and practice purposes in strict accordance with the details set out in the letter dated 27.04.05 from Robinson Escott Planning and no tournaments or events shall be held at the site.*

6.19 However at the present time there is no clear evidence of "non-private" recreational use/practice to investigate that would indicate that this condition is being breached and the current application does not seek to formally amend that condition. It is not appropriate or necessary in my view to consider the merits or otherwise of relaxations in the private use in this report.

### **Change from Recurve bow to Longbow**

6.20 The applicant advises that the form of archery in 2005 was with a Recurve bow which is more powerful than the Long Bow and with which 1-way shooting is the norm. He has decided to promote the use of Longbows instead of recurve bows and he wishes to promote traditional 2-way shooting.

6.21 The implications of this change is in relation to the condition imposed in the 2005 planning permission that required the field to accord with the safety standards and requirements of the Grand National Archery Society. That organisation (GNAS) is now known as Archery GB. However, it does not oversee Archery where there is no affiliated Club.

6.22 As a consequence, the field now needs to be used under the Rules of the British Long Bow Society (BLBS).

### **Change in direction of shooting**

6.23 The approved direction of shooting is WNW. This means that the archers would stand with their backs to Boneashe Lane and shoot away from the host dwelling of Beechin Wood and roughly obliquely towards the gardens of dwellings of Pigeons Green and The Barn. Any overshoot would be into open farmland owned by the



applicant. The reason for the condition was “in the interests of public safety”. It was promoted by the applicant and was not appealed. It was therefore effectively re-imposed by the Inspector.

6.24 The change in direction of shooting to be northwards (directly towards the rear of 2 neighbouring dwellings in Platt) needs to be assessed *on its own merits*.

6.25 Members are advised that a key issue is the perception of safety, which is a material planning consideration. It is therefore necessary to consider the 2 sets of safety rules pertaining to Archery at the site. The applicant has stated that the BLBS Rules are adhered to. For shooting at 100yds, the BLBS Rules require an overshoot of 50 yds (45m) and a side buffer of 20 yds (18.29m). Contrary to the assertions of the applicant in his August 2011 letter that the BLBS safety criteria are guidance and not fixed (indicated by the use of the word “Recommended”) it does contradict the statement made by the applicant in his letter of 30 September 2010 where he said:

*“the placement of targets is determined by the shooting rules....within the rules, target layouts with the necessary requirements for an overshoot and side clearance can be readily met on the subject ground now the field has been extended”*

6.26 In any event, I am of the view that in assessing the “perception of safety” as experienced by local residents, they should, as far as possible, need to feel confident that the BLBS Rules for safety are in fact applied as “Rules” and not merely recommendations. The Rules specify that in terms of Field Safety, Annex A of the Rules shows recommended over-shoot and lateral safety distances. There is nothing in the Rules of the BLBS that specifies any scope for discretion in that the distances can be reduced or any other form of divergence can be introduced below the quantitative dimensions clearly shown in the Annex A.

6.27 The 2005 planning permission for the archery range is subject to a condition that it complies with GNAS Rules. The GNAS no longer applies to the field as there is no affiliated club and also the type of Bow used has been changed. In any event, the GNAS Rules also require an overshoot of 50 yds but in these Rules, the side margin needs to be 10yds, tapering out to 20 yds and extrapolated thereafter (i.e. a cone shape instead of an oblong). The GNAS Rules can be interpreted by archery judges (such as Mr Dimmock) on a more discretionary basis in that fences and earth banks can be used to offset the safety distances based upon the judge’s experience and expertise.

6.28 In terms of the now proposed northwards shooting direction, the safety distance of both sets of Rules are met and there is also shown to be catch netting along the northern boundary to augment the overshoot distance.

6.29 Objectors have mentioned that the land falls away to the north, which they argue should be factored in. I cannot accept that the slope of the land within the overshoot falls away *to such a degree or in such an unusual manner* that the safety margins of the 2 sets of Rules are rendered inadequate to such a degree as to warrant refusal on safety grounds.

6.30 On its merits, my conclusion is that, as there appears to be compliance with the Rules of both the BLBS and the GNAS for the northwards shooting, the perceived fears of the objectors are not of such weight as would justify refusal of the proposal on such grounds.

### **Two way shooting**

6.31 In respect of the introduction of 2 way shooting with the Longbow, this is not practiced by the GNAS at all and it is clear in the BLBS Rules that it is “allowed” but not mandatory. Therefore it appears that the introduction of 2-way shooting is not **necessary** in itself especially as there should be no formal competitive shooting at the Beechin Wood site under the terms of the planning condition. It appears to have arisen solely from the desire of the applicant to be part of the 2-way Longbow shooting “splinter group” as he describes it.

6.32 Notwithstanding the above, the proposal needs to be assessed on its own merits. I have concerns in terms of the proposed line of southwards target shooting for two reasons. One is that Boneashe Lane and the garden of the applicant’s dwelling at Beechin Wood both fall within the combined 20 yard side clearance and 50 yd overshoot and margin recommended by the BLBS. In terms of the more discretionary margins in the GNAS Rules (which the applicant has confirmed in writing do not apply here in any case), the regional judge (Mr Dimmock) has factored in that the dwelling is under the control of the applicant and thus can be kept clear of people/pet animals and he has also factored in the boundary fence to Boneashe Lane and the earth bank that rises above the field at that point. However, even then Mr Dimmock has stated that it is not safe to shoot to 100yd southwards and has required an 80 yd limitation.

6.33 In my view, any failure to adhere to both sets of Rules of the range for southwards shooting at 100yds would be both unsafe and would add significant weight to the perceived fears of the PC and residents that stray arrows may reach the public domain of Boneashe Lane. Members may agree that it would also generate well-grounded fears arising from invalidation of the BLBS insurance when its Rules are breached inasmuch as an uninsured activity compounds the perception of fear.

6.34 The applicant has stated in his letter of August 2011 that he has now complied with Mr Dimmock's advice on the 80 yd limitation. However, in terms of assessing the weight that can be attributed on planning grounds to "perceived fear", there are several points of concern which have arisen during the determination of this application:

- The applicant has said in writing that due to the sunset problems, south-east shooting has taken place since 2008. This does not appear to have ever been assessed by Mr Dimmock as his letter of January 2008 only refers to northwards overshoots and does not mention southerly overshoots at all.
- The changes to the field to accommodate 2-way shooting of arrows was completed in May 2010 but Mr Dimmock was only invited to formally re-inspect the range in August 2011 and only then in apparent response to queries on the January 2008 assessment obviously being out of date.
- Mr Dimmock's August 2011 advice had not been formally submitted to the LPA and so cannot be corroborated, despite requests to do so.
- The applicant has mentioned that he does not generally measure the side margins of his targets, even though it is a requirement of the Rules and thus insurance cover is only valid where there is compliance.
- The applicant is claiming the embankment to Boneashe Lane should be in the safety margin. Not only does that claim attempt to override the conclusions of the Regional Judge, it is clearly not an area that the applicant can ensure is free from trespass during any archery shooting and thus questionably cannot be in a safety buffer.
- It seems to defeat the object of the applicant having carried out the engineering to facilitate "traditional" 2-way longbow shooting if one of the directions is curtailed to 80 yds by a Regional Judge.
- The applicant has openly admitted to having breached conditions for "pragmatism".

6.35 I have given consideration as to whether the imposition of a condition on a planning permission requiring compliance with the BLBS Rules could also deal with all perceived fear. However, for the reasons outlined above, I think there is a genuine concern that they could be easily breached. The enforceability of the condition would be virtually impossible for 2 reasons: firstly there would be no public access for investigating officers during any archery practice as Beechin Wood dwelling is in the overshoot area and public access thereto would have to be prevented during the archery practice. Secondly, the position of the targets can be fairly rapidly altered.

## Conclusions

- 6.36 This case is complex and has raised a lot of public concern. It comprises a number of elements that need to be considered on their own merits, notwithstanding the retrospective nature of the engineering works or the past issues on the site. I have concluded that the element of the proposal that involves the introduction of southwards-facing shooting is not acceptable due to the impact on actual and perceived safety. I have nevertheless formed the view that the engineering works themselves and the adjustment of the direction for northwards-facing shooting do not warrant refusal.
- 6.37 There is no express provision within the Town and Country Planning Act entitling a local planning authority to issue a 'split' decision. However, because of the specific, distinct nature of the various components that are comprised in this proposal, it is possible on this occasion to grant permission for the engineering works and the adjustment of the direction for northwards facing shooting, subject to a condition prohibiting southwards-facing shooting. As this would not result in the grant of permission substantially different from that applied for, it would be within the powers of the authority.
- 6.38 In the light of this, and the conclusions on the merits of each individual element as set out earlier in this report, I will recommend that permission be granted for the amendment of condition 9 of planning permission TM/05/01396/FL to permit the change in the direction of northerly shooting, that permission be granted under Section 73A for the engineering works and the associated extension of the archery field, subject to conditions to reflect those that now apply to the remainder of the archery field and a further condition to preclude the introduction of two-way shooting (i.e. the southward-facing element).

## 7. Recommendation:

- 7.1 **Grant Planning Permission** as detailed by Letter dated 06.04.2010, Letter dated 06.04.2010, Letter dated 26.04.2010, Photographs dated 06.04.2010, Site Plan WP/01/165/01 dated 06.04.2010, Design and Access Statement dated 24.05.2010, Drawing WT/2010/03 dated 24.05.2010, Drawing WT/2010/01 dated 24.05.2010, Section WT/2010/02 dated 24.05.2010, Location Plan WT/2010/05 dated 08.07.2010, Block Plan WT/2010/04 dated 08.07.2010 subject to the following conditions:
- 1 Notwithstanding drawings WT/2010/03 and WT/2010/06, no archery activities practised pursuant to this consent shall involve shooting other than between the directions of West and North West and at all times there shall be a minimum of a 50 yd overshoot to the neighbouring properties of The Barn and Pigeons Green and a minimum 20 yd side safety margin to the boundary fence/hedge of the site with Boneashe Lane.

Reason: In the interests of the actual and perceived public safety of the area.

- 2 Notwithstanding the provisions of Part 4 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, the use of the site shall be restricted to use for the applicant's own private recreational and practice purposes with a maximum of 8 participants and there shall be no club run from the site and no formal competitions.

Reason: In the interests of highway and rural amenities.

- 3 There shall be no illumination of the site without the prior approval in writing of the Local Planning Authority.

Reason: In the interests of rural amenities.

- 4 The approved catch safety netting shall be erected in strict accordance with the manufacture's instructions and retained so at all times whilst archery is taking place at the site. It shall be drawn back to the supporting poles immediately on cessation of an archery session and maintained in that position until the commencement of the next session.

Reason: In the interests of rural amenities.

- 5 There shall be no use of public address systems or other use of amplified sound systems at any time.

Reason: In the interests of rural amenities.

- 6 Any archery activities practised pursuant to this consent shall be carried out using a Longbow of a maximum weight of 50lbs and in strict accordance with the safety standards and requirements of both the British Long Bow Society and Archery GB (formerly the Grand National Archery Society (or any body that may in the future supersede such organisations)).

Reason: To accord with the terms of the application and in the interests of actual and perceived public safety.

Contact: Marion Geary