

MC/14/3879

Date Received: 31 December, 2014

Location: Riding School (Centre) And Educational Facilities, Capstone Farm Country Park, Capstone Road, Lordswood, Chatham, Kent ME7 3JG

Proposal: Retention of the Primary Use of Equestrian Activities (Riding School) and Change of Use to provide Additional Indoor Educational Facilities incorporating the existing Outdoor Pets Corner and Educational Class Room, supported by additional information provided with supplementary information

Applicant: Medway Rewinds

Agent: Mr Cooper Cooper Associates 6 Poppy Close Maidstone Kent ME16 8TQ

Ward Lordswood & Capstone

---

**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 4 March 2015.**

**Recommendation - Refusal**

- 1 The proposal would result in the intensification of the use of the educational facilities at this site and no additional car parking is proposed to support this development. As a result the proposal would result in unacceptable pressure being placed on the limited car parking provision at Capstone Country Park to the detriment of the operation of the park. Moreover, the operation of the proposed use when the Capstone Country Park is closed would have a detrimental impact on the park in relation to safety and security and may also result in noise and disturbance to occupiers of residential properties around the park. The proposal is contrary to Policies BNE2, BNE8 and L9 of the Medway Local Plan 2003.
- 2 Capstone Country Park is not easily accessible by transport modes other than private vehicles and the operation of the educational/community facility outside of the hours of daylight would require the installation of external lighting to improve safety for the users during the dark evenings and the installation of such lighting would be to the detriment of the character and appearance of the countryside and Area of Local Landscape Importance in which it is situated. The proposal is contrary to Policies CF2, L2, BNE25 and BNE34 of the Medway Local Plan 2003.

## Proposal

This application seeks planning permission for the retention of the primary use of an equestrian activities (riding school) and change of use to provide an additional indoor educational facilities incorporating the existing outdoor pets corner and educational classroom supported by additional and new supplementary information and attachments.

These attachments are entitled 100.1 to 100.10 inclusive. [Please note that the text below in *italics* has been added by officers].

The information provided including these attachments is:

Letter from Philip Cooper (agent) stating that this application seeks to replace application MC/13/2264 and is fundamentally the same as MC/13/1042. It is requested that the application be referred to Planning Committee.

Letter from Philip Cooper (agent) dated 11 September 2013 confirming what had been submitted under (presumably) application ref MC/13/2264.

Supplementary Information in summary:

- MC/12/1106 stated there were no concerns with intensification of the use of the 'Educational facilities and visitors to the Animal Education Centre parking in the Council's car parks, provided the operating hours of the Animal Education Centre are tied to those of the Country Park' in contradiction to MC/13/2264. The letter from the Planning Inspectorate states operational hours are irrelevant (*this is not the case – the Inspectorate's letter is a determination as to whether or not the proposal amounts EIA development and it has been determined that it is not. Issues of noise disturbance etc will be for the appointed Inspector to consider and come to a view on in determining the appeal*).
- No site visit or consultation was undertaken as part of either application (*this is also not the case*)
- Why were these two applications not called into Planning Committee?
- None of the 29 neighbours were consulted. Members were consulted but it can only be assumed that their comments were not made public.
- The Case Officer states in MC/12/1160 that there are no concerns regarding over intensification of educational facilities provided the operating hours of the Animal Centre which are tied to those of the Country Park.
- The 1999 application was refused and then resubmitted and approved at Committee (*no planning references given*)
- The submitted brochures/documents are relevant.
- The inclusion of a public café is contentious and the LPA wanted to impose restrictive conditions to stifle the operation of the Animal Centre and protect the Local Authority's own café.

100.1 – Letter from the Planning Inspectorate dated 17 July 2014 stating the proposed development is not EIA.

100.2A&B – Community Participation Forms (3) and Petition.

100.3 – Committee details from the Council's website.

100.4 – Consultations list from MC/13/2264.

100.5A – Letter from applicant to Councillors dated 13 August 1999. Letters of support from British Horse Society, RSPA, Medway Council Young Offender Team and Medway Education Business Partnership (all 1999).

100.5B – Copies of letters of support from 1999 and 2003.

100.6 – Pages 10-35 of Statement of Appeal (not clear which appeal this relates to).

100.7 – Capstone-Bredhurst Green Cluster Studies. *(this is also referred to in the Design and Access Statement with no 'appraisal or reasoned argument why this has been included by the applicants agent or how it addresses the previous refusal reasons. This document has not been produced or adopted by the Council and its weight is questionable in the current assessment)*

100.9 – Email from Wendy Simpson (Planner) to the Applicant's Agent stating the application (MC/13/2264) is to be refused.

100.9 – (Appendix 9) Capstone Farm Country Park 5 Year Management and Maintenance Plan 2010-2015. *(Again the section in the Design and Access statement that refers to this document purely pulls out extracts from the document and highlights words and phrases without any reasoned discussion as to the relevance to the reasons for refusal for the previous application. None of the extracts provided refer to the application site. This document appears to be a working document for the Medway Council owned and run part of the Capstone Farm Country Park and does not relate to the application site, which is in private ownership and for which the applicant is responsible for its management and maintenance. Again the weight of this document in relation to the current proposal is considered to be negligible.)*

100.10A – Part of the Committee Report (pp. 51-53) from MC99/0306MG/95/0190 raising attention to Condition 5 which stated 'The riding centre car park shall not be used for the parking of vehicles other than staff, service and disabled person vehicles when the main public car parks serving Capstone Country Park are open to public use. Details of measure to control access to the car park shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the approved measure shall be installed on site prior to the bringing into operation of the use.'

100.10B – Part of the Committee Report (pp. 54-57) from MC99/0306MG/95/0190 raising attention to Condition 5. This part of the report explains the reasoning behind Condition 5 and that permission was granted for a similar scheme to Rochester Council prior to a potential compulsory purchase order with a similar condition. Concerns were raised with the applicant and his Solicitor agreed to this condition.

Appendix 8 – Green Cluster Studies Capstone-Bredhurst Technical Report (*repeat of 100.7*).

Appendix 9 – Capstone Farm Country Park 5 Year Management and Maintenance Plan 2010-2015 (repeat of 100.9)

Appendix 10 – Statement in Support stating the Pets Corner is an additional primary use.

Appendix 11 – Details of Outdoor Pets Corner, Educational Barn, Indoor Pets Corner, Educational Classroom, Assembly Area, Operational Building, Small Pets Petting Area, Seating Area, Toilets, Circulation/Access, Stable Block, Car Park, Educational Garden Area, Lower (flat) Paddock Area, Sloped Paddock Area, Paddock on Detached Land

Appendix 12 – Statement in Support regarding access.

Appendix 13 – Letter from Development Control Manager dated 18<sup>th</sup> October 1999 stating that any consent would require a condition controlling car parking.

Appendix 14 – Committee Report for MC99/0306MG/95/0109.

Appendix 15 – Letter from applicant relating to proposed signage.

Appendix 16 – Supplementary agenda to Planning Committee dated 10<sup>th</sup> November 1999 amending suggested condition.

Appendix 17 – Decision notice for MC99/0306MG.

Appendix 18 – Condition 5 of MC99/0306MG/95/0190.

Appendix 19 – Schedule of enforcement notices and letter withdrawing enforcement notice relating to change of use of the land for the stationing of animal shelters and for the keeping and exhibition of domestic and other animals.

Appendix 20 – Community participation form.

The existing site plan shows separate 'menage' and 'grass area' areas, however these elements are not existing and are being considered under this application as part of the proposal. The applicant's agent was asked for details of the 'menage' under planning reference MC/13/1042, which would normally require planning permission in its own right. The agent responded that this is an enclosed grass area, which he considers does not require planning permission.

The proposed staffing of the facility is detailed as: nine full time staff for weekdays. In addition at weekends two part time staff (although four positions are then detailed) plus additional catering person. In addition to these staff it is proposed additional volunteer staff, lecturers and freelance specialists.

In terms of opening hours the applicant does not specify any particular hours but states 'the Local Authority sold the applicant the freehold interests of the land...granted unrestricted rights of way over the access road and provision of public parking for visitors to the site'....'the land which the applicant owns is outside of the council's ownership and control and they cannot a) dictate any operational decisions, b) dictate any/or the opening times for all purposes connected with the use and enjoyment of the property'.

Proposed parking in support of the centre is within the Country Park car park other than a small car park within the application site.

(The current proposal has elements that are similar to those proposed under application MC/12/1160 but not the same. The current proposal now also includes the retention of a Riding School element in addition to and Animal Centre (pets, small and large animals) with an educational element and cafe. The education element of the proposal appears to be extended under this current proposal to include teaching of agricultural education not related to animals at the Animal Centre and it is considered that a significant educational use, unrelated to the keeping of animals within the centre is proposed and this amounts in part to a Class D1 use being sought for the site. The plans and DandA statement also allude to a 'public cafe' possibly being intended as non-ancillary use for the site, but as this does not form part of the proposal on the application form any cafe element is only being considered as ancillary.)

### **Relevant Planning History**

- |            |   |
|------------|---|
| MC/14/3357 | Construction of a single storey extension to provide toilet facilities<br><b>Decision pending</b>   |
| MC/14/3682 | Engineering works to provide area for waste storage together with part retrospective installation of stable doors in external wall of existing west elevation<br><b>Decision pending</b>  |
| MC/14/3879 | Retention of the Primary Use of Equestrian Activities (Riding School) and Change of Use to provide Additional Indoor Educational Facilities incorporating the existing Outdoor Pets Corner and Educational Class Room, supported by additional information and new supplementary information and attachments 100.1 to 100.10 inclusive<br><b>Decision pending</b> |
| MC/13/2264 | The retention of the Primary Use of Equestrian Activities (Riding School) and Change of Use to provide Additional Indoor Educational Facilities incorporating the existing Outdoor Pets Corner and Educational Class Room, supported by additional information provided. (Resubmission of MC/13/1042)   |

**Decision** Refused and subject to an appeal  
awaiting determination  
**Decided 7 November 2013**

MC/13/1042      The retention of the primary use of equestrian activities (riding school) and change of use to provide additional indoor educational facilities incorporating the existing outdoor pets corner and educational class room  
**Decision Refusal**  
**Decided 15 July, 2013**

MC/12/1160      Variation of conditions 7, 8 and 10 on planning permission MC/11/1490 (Change of use, ceasing the primary use of equestrian activities and providing additional indoor education facilities incorporating the existing outdoor pets corner and educational classroom, in so doing building on the existing primary use of the outdoor pets corner and structures, educational class room to provide new and additional indoor facilities to complete the year round educational concept teaching animal care and husbandry and agricultural studies) to vary opening hours, parking control measures and public use of ancillary cafe.  
**Decision** Appeal on non-determination withdrawn

MC/12/0902      Construction of an extension to existing building to form storage area and toilet block  
**Decision** Withdrawn by Applicant  
**Decided 23/07/2012**

MC/11/1490      Change of use, ceasing the primary use of equestrian activities and providing additional indoor education facilities incorporating the existing outdoor pets corner and educational classroom, in so doing building on the existing primary use of the outdoor pets corner and structures, educational class room to provide new and additional indoor facilities to complete the year round educational concept teaching animal care and husbandry and agricultural studies  
**Decision** Approval With Conditions  
**Decided 14/07/2011**  
**Appeal Decided**

MC/06/0235      Demolition of existing roof and construction of a new one  
**Decision Approval with Conditions**  
**Decided 4 April, 2006**

MC/01/1096      Application to allow existing clubhouse to be used by Riding Centre, Pets Corner and educational facilities  
**Decision Approval with Conditions**  
**Decided 4 April, 2002**

ME/96/0744

Extension to stable block and new hay barn

**Decision Refused**

**Appeal Allowed 11 July 1997**

Enforcement Notices served re: -

- [A] Change of use of land from open land to a mixed use as open land and use as a car/vehicle parking area.
- [B] Change of use of part of building from a club room ancillary to the riding centre to use for the purposes of a public cafeteria.
- [C] The laying out of a hard surfaced area for car parking and access purposes.

Appeals into all these notices were considered at a Public Inquiry in December 1995 and were all dismissed on 14th February.

The documentation associated with the planning application for MC2001/1096 noted that much had been done to comply with the Notices, including measures put in place to ensure that the club room was not used as a public café.

### **Representations**

The application has been advertised on site. There are no neighbours adjoining the site boundary other than Capstone Country Park to which notice has been served due to the access being over land in the Council's ownership.

No letters of representation have been received.

### **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003. The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework, 2012 and are considered to conform.

### **Planning Appraisal**

#### *Background*

This site has an extensive planning history however it would appear that the last use was approved under reference MC99/0306MG/95/0109. This was for 'Extension to use for educational purposes ancillary to the riding school and pets corner'. This was approved subject to the following 5 conditions:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission
2. Details and samples of any materials to be used externally and any means of enclosure shall be submitted to and agreed in writing by the Local Planning

Authority before the development is commenced and the development shall be carried out in accordance with the approved details

3. Details of all retaining walls required as a result of the proposed development shall be submitted to the Local Planning Authority prior to the commencement of development and the development shall be undertaken in accordance with the approved details
4. The use hereby permitted shall only be used for educational purposes ancillary to the use of Capstone Country Park, the riding school and pets corner and not for any other use within Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987
5. The riding centre car park shall not be used for the parking of vehicles other than staff service, horse boxes and associated towing vehicles and disabled persons' vehicles when the main public car parks serving Capstone Country Park are open to public use. Details of measures to control access to the Riding Centre car park shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the approved measures shall be installed on site prior to the bringing into operation of the use.

MC/12/1160 is extant until 11 October 2015. This granted permission for 'Variation of conditions 7, 8 and 10 on planning permission MC/11/1490 (Change of use, ceasing the primary use of equestrian activities and providing additional indoor education facilities incorporating the existing outdoor pets corner and educational classroom, in so doing building on the existing primary use of the outdoor pets corner and structures, educational class room to provide new and additional indoor facilities to complete the year round educational concept teaching animal care and husbandry and agricultural studies) to vary opening hours, parking control measures and public use of ancillary cafe' subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with: Site location plan and drawing CFC02 rev A received on 18 May 2011.
3. The use hereby permitted shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment and gates, to be erected/replaced and including details of any fencing within the site to subdivide the different uses of the land. The boundary treatment and gates shall be installed in accordance with the approved details prior to the commencement of the use hereby permitted and shall thereafter be maintained as such.
4. The use hereby permitted shall not commence until there has been submitted to and approved by the Local Planning Authority details of landscaping (hard and soft) comprised in the approved scheme. Hard Landscaping details shall include surfacing and signage. Soft Landscaping details shall include all planting, seeding and turfing. The agreed Hard Landscaping scheme shall be completed prior to the commencement of the use hereby approved. The approved Soft Landscaping scheme shall be implemented by the latest of the first planting season following occupation of the buildings. Any trees or plants which within 5 years of planting are removed or become seriously damaged or



diseased shall be replaced in the next planting season with others of a similar size and species.

5. The use hereby permitted shall not commence until a Management Plan in respect of the maintenance of the buildings, boundary treatment, paddocks, fields and all landscaping, signage, vehicle and pedestrian hard surfaced areas; and to include management responsibilities and maintenance schedules for various areas of the site, has been submitted to and agreed in writing with the Local Planning Authority. The use shall commence in full accordance with the agreed Management Plan and shall operate in accordance with it thereafter.
6. The use hereby permitted shall only operate from 8:30 each day and with varying closing hours through the year as follows : November to February inclusive 16:30 hours; March 17:30 hours; April 19:00 hours; May to August inclusive 20:00 hours; September 19:00 hours and October 17:30 hours, excluding Christmas and Boxing days.
7. The cafe shown on drawing CFC02 rev A shall only operate as ancillary to the Animal Centre use herein permitted with sales of food and drink only to patrons of the Animal Centre for consumption on the Animal Centre premises.
8. The Operational Car Park associated with the use hereby approved (as identified as 'L' on drawing CFC02 rev A) shall not be used for the parking of vehicles other than for staff, disabled customers and delivery/ service vehicles to the facility and not for any members of the visiting public. The use hereby permitted shall not commence until details of measures to control vehicle access to the Operational Car Park have been submitted to and agreed in writing by the Local Planning Authority and the agreed measures have been installed on the site. Thereafter the Operational Car Park shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order amending, revoking or re-enacting that Order) shall be carried out on that area of land or in such a position as to preclude its use.
9. The use hereby permitted shall not commence until details of the storage and disposal of animal waste shall be submitted to and agreed in writing by the Local Planning Authority and the use shall operate in full accordance with the agreed details thereafter.
10. The use hereby permitted shall not commence until details of storage of animal feed and any plant, materials or equipment associated with the use hereby approved shall be submitted to and agreed in writing by the Local Planning Authority and the use shall commence in full accordance with the approved details thereafter. No animal feed, materials, plant or other equipment of any kind shall be stored in the open within the application site. The use hereby permitted shall not commence until details of any external lighting (including illumination levels and spread) shall be submitted to and agreed in writing with the Local Planning Authority. Only the agreed lighting shall be installed at the site and maintained in accordance with the agreed details thereafter.
11. No means of amplification of sound shall be used, including fixed or handheld loudspeakers, megaphones or public address systems
12. No structures shall be erected on the site other than have been submitted to and agreed in writing by the Local Planning Authority.

MC/11/1490 involved the

- the cessation of the riding centre;
- the reconfiguration of the use of the space on the site (including the reuse of the stables for indoor pets corner, feed store and educational space);
- expansion of the animal centre to keep more and larger animals and expand the educational aspect of the site to allow for 'the year round educational concept teaching animal care and husbandry and agricultural studies';

Under this application the applicant applied for the hours of operation of 9:00 to 18:00, Autumn/ Winter and 9:00 to 20:30 Spring/ Summer (7 days a week).

Although not in either the application description or anywhere on the application form the submitted plan detailed a 'Public cafe' use. As a non-ancillary cafe was not applied for on the application form or clearly in the submission the consideration of application MC/11/1490 related solely to an ancillary refreshment facility for the patrons of the proposed Animal Centre.

With reference to 'agricultural studies', in relation to the educational element of the proposal, it was considered by the Council under reference MC/13/1042 as being related to agricultural training relating to the keeping of animals such as chickens and pigs etc and/or the running of animal small holdings etc) and not agricultural studies generally and/or unrelated to the Animal Centre. The education element was considered to be ancillary to the Animal Centre.

To summarise, the Council considered that the permission granted under MC/11/1490 was for an Animal Centre with ancillary educational and cafe elements.

The current proposal has elements that are similar to the proposal under application MC/12/1160 but not the same. The current proposal now also includes the retention of a Riding School element in addition to an Animal Centre (pets, small and large animals) with education element and cafe. The education element of the proposal appears to be extended under this current proposal to include teaching of agricultural education not related to animals at the Animal Centre and it is considered that the scale of educational activity intended for the site would not be ancillary to animals kept within the centre, indicating that a part D1 use is being sought for the site. The plans and DandA statement also allude to a 'public cafe', possibly being intended as a non-ancillary facility at the site (i.e. in effect a freestanding entity), but as this does not form part of the proposal on the application form any cafe element is only being considered as being ancillary (plan CFC/100 shows this area as Public Café connected to the permitted use).

No conditions of planning permissions MC/11/1490 or MC/12/1160 have been discharged

## *Main Issues*

MC/13/1042 was refused for the following reasons:

- 1 The proposal would result in intensification of the use of the educational facilities at this site and no additional car parking is proposed to support this development. As a result the proposal would result in an unacceptable pressure on the limited car parking provision at Capstone Country Park to the detriment of the operation of the country park. Moreover, the operation of the proposed use when the Capstone Country Park is closed would have a detrimental impact on the country park in relation to safety and security and may also result in noise and disturbance to occupiers of residential properties around the country park. The proposal is contrary to Policies BNE2, BNE8 and L9 of the Medway Local Plan 2003.
- 2 The Country Park is not easily accessible by transport modes other than private vehicles and the operation of the educational/community facility outside of the hours of daylight would require the installation of an external lighting scheme, to improve safety of the users during the dark evenings, this would be to the detriment of the character of the countryside and Area of Local Landscape Importance in which it is situated. The proposal would be contrary to policies CF2, L2, BNE25 and BNE34 of the Medway Local Plan 2003.

MC/13/2264 was refused for the following reasons:

- 1 The proposal would result in intensification of the use of the educational facilities at this site and no additional car parking is proposed to support this development. As a result the proposal would result in an unacceptable pressure on the limited car parking provision at Capstone Country Park to the detriment of the operation of the country park. Moreover, the operation of the proposed use when the Capstone Country Park is closed would have a detrimental impact on the country park in relation to safety and security and may also result in noise and disturbance to occupiers of residential properties around the country park. The proposal is contrary to Policies BNE2, BNE8 and L9 of the Medway Local Plan 2003 and the National Planning Policy Framework.
- 2 The Country Park is not easily accessible by transport modes other than private vehicles and the operation of the educational/community facility outside of the hours of daylight would require the installation of an external lighting scheme, to improve safety of the users during the dark evenings, this would be to the detriment of the character of the countryside and Area of Local Landscape Importance in which it is situated. The proposal would be contrary to policies CF2, L2, BNE25 and BNE34 of the Medway Local Plan 2003 and the National Planning Policy Framework.

Application MC/13/2264 is currently subject to an appeal.

The applicant's agent has confirmed that the current application is a duplicate for MC/13/2264, save for some additional information that has been provided. This information has been listed in summary in the proposals section above. It is clear that the applicant's agent has misunderstood the Planning Inspectorate's letter of 17 July 2014 in which it is stated that:

"... There is the potential for temporary effects during the use but no likely significant impacts in terms of noise, waste, contamination, flooding, or traffic. Any potential effects in terms of the local infrastructure would be subject to established mitigation planning procedures and measures and no significant effects are considered likely.

Accordingly, in exercise of the powers conferred on the Secretary of State by Regulations 12(1) and 6(4) of the above Regulations, the Secretary of state hereby directs that this development is not EIA development..."

The applicant's agent has effectively taken the Inspectorate's letter to mean that the development has no impact, whereas in fact, the Inspectorate has only determined that the scale of the development is such that it does not amount to 'Environmental Impact Assessment' [EIA] development and that within the context of the appeal the applicant is not required to undertake an EIA and then submit an Environmental Statement. The appeal is awaiting an Inspector's site visit and therefore remains to be determined.

The site lies within the rural area within the open countryside and outside any recognised settlement. The proposal falls to be assessed against the criteria identified under Policies BNE1 and BNE25 of the Medway Local Plan, which seek to protect the countryside for its own sake and to prevent inappropriate development in the countryside unless a special justification can be made or there is an overriding need for it to be located in the countryside.

The proposal also needs to be assessed against Policy BNE34 as the site is also within the Capstone Area of Local Landscape Importance, a policy which permits development provided it does not materially harm the landscape character and function of the ALLI.

Policy L9 should also be considered with respect to this proposal as the site is in Capstone Country Park.

Policy BNE2 of the local plan seeks to protect neighbours amenities in relation to new development and policy BNE8 relates to matters of safety and security.

The proposal is assessed with respect to the above policies in the sections below.

### *Principle*

A riding school has been granted permission in the past, as has a pets' corner, indoor and outdoor educational facilities and therefore the principle of such

development is considered acceptable. This application seeks to reinstate the Riding School element to the site and the main issues arising from this are parking and any over intensification in the use of the site.

### *New Leisure/Education Facilities*

The preamble to Policy L9 (Country Parks) states that the country parks within the Council's area a range informal recreational activities, based around the nature conservation value of the sites will be provided and that these activities will be supplemented by a regular programme of events to facilitate nature study by schools.

At paragraph 5.1 of the supporting statement the applicant states that "it is intended that the Educational facilities proposed will compliment the Riding School, outdoor pets corner and educational class room and expand on that which is the Primary Use in the present Mixed Use planning Unit".

It is considered that the nature of the uses proposed would be in conformity with the objectives of Policy L9. However, it is considered that the proposal to convert the stables and barn building (referred to in Drawing CFC/100 as building B) to a mixed use providing accommodation for: housing large animals; and providing educational space, in addition to the existing educational facilities and opening these facilities up to use by higher and further educational establishments in the area, including agricultural training institutions, would potentially increase the overall capacity of the facilities/site to be used by larger numbers of visitors which could be incompatible with the country park's recreational character. Furthermore, it is considered that the proposal could cumulatively shift the site's balance from the primary use of Riding School plus pets corner and small education area to an educational establishment/place with the keeping of animals on site becoming ancillary. Such a shift in the emphasis of the site's use has the potential to have increased implications with regard to highway usage, parking demand (which is discussed below) and the functioning of wider Country Park.

The application also seeks unrestricted operating hours and with these it is possible that with these there would be an increased likelihood of the educational facilities being used on an extended basis and thus wholly independently of the country park's general use.

### *Impact on Country Park*

When the Council first sold the site to the applicant was operating as a relatively low-key riding centre. Following enforcement action the site was given planning permission as a Riding Centre with Pets Corner, with ancillary cafe.

Planning permission ME/98/0057 granted a change of use of part of the riding stable buildings for educational purposes. Conditions 3 and 4 of this permission restricted the educational use as follows.

### *Condition 3*

The use hereby permitted shall only be used for educational purposes ancillary to the use of the Capstone Farm Country Park, and not for any other use within Class D1 of the Schedule to the Town and Country Planning Use Classes Order 1987.

### *Condition 4*

No vehicular parking shall take place on the site of the riding centre other than as required for the operational purposes in accordance with details to be submitted to the Local Planning Authority.

Additionally conditions 4 and 5 of permission MC/99/0306MG for the “extension to use for educational purposes ancillary to the riding school and pets corner”; defined the educational use and car parking as follow, with the purpose of limiting the impact of the use of this site on the wider country park.

:

### *Condition 4*

The use hereby permitted shall only be used for educational purposes ancillary to the use of Capstone country park, the riding school and pets corner and not for another use within Class D1 of the Schedule to the Town and Country Planning (use Classes Order 1987).

### *Condition 5*

The riding centre car park shall not be used for the parking of vehicles other than staff, service, horse boxes and associated towing vehicles and disabled persons, vehicles when the main public car parks serving Capstone Country Park are open to public use and would result in greater number of visitors to the site and thus increasing the demand for the Country Park car parking facilities upon which the site is relying for access and parking.

It is important to note that traffic generation and parking were issues raised by the Inspectors in respect of the appeals relating to application ME/96/0744 and the enforcement notices.

The site is not easily accessible by transport modes other than private motor vehicle, particularly in the evenings.

In addition, the applicant is seeking unrestricted opening hours and would suggest the desire to run evening events or classes independently of the country park's general use, while relying on its parking facilities and access. The opening of the site outside of daylight hours would result in a safety need for external lighting to be installed, currently there is no such lighting on site. It is considered that the installation of external lighting would be detrimental to this part of the countryside and the ALL I's character. These matters are discussed in more detail in following sections.

From the representation received from Capstone Country Park management under planning reference MC/13/1042 it is clear that there is concern with regard to the increase demand for car parking and the current proposal has not been formulated in conjunction with the country park's management.

### *Car parking*

The country park manager has stated that over the last few years the parks public car has been under significant pressure due to high demand and the proposal will aggravate the present situation.

The proposal that is now being applied for would further intensify the application site's use and consequently increase its parking demand. The applicant does not propose any additional parking facilities within the site and, given the site's rural location, additional parking provision would in any event not be encouraged.

The nature of the proposal, with the intended increased education element, would result in the use of the site departing from the permitted use, namely a low-key stables and 'pets corner' facility, that provides the opportunity for a multi-use trip to the country park and is thus something which compliments the country park's facilities. The current proposal is for a use more likely to become a 'destination' in its own right and not something which is complementary to the country park's general use.

However, the applicant still wishes the country park to provide parking for the site's intensified use and for this parking to be available outside the country park's opening hours.

The country park manager in commenting on application MC/13/1042 advised that the country park has been experiencing increased visitor numbers over recent years with visitors to the country park's visitor centre in 2009/10 and 2010/11 being an average of 70,906 and 2011/12 and 2012/13 being an average of 88,300. (These parking figures are taken over a period of 4 years, during which the application site was vacant and did not generate any parking demand.)

The Country Park car park has a capacity of 180 spaces (including overflow parking) for the public. Historically the application site operated with staff and delivery parking only being allowed to park within a small car park within the application site. All public parking has been in the Council car park.

The use of the Council car park (including overflow) has averaged between 280-380 cars per day since 2011, due to an increase in visitor numbers. The country park manager advised that a percentage of these visitors are short stay visitors to the park, such as dog walkers.

With a greater emphasis on educational/training in the current application the parking pattern for the application site's visitors would change from that of short-term parking periods or parking associated with shared visits, to both the country park and the application site, to longer duration parking for the application site only. However, the parking within the country park would be unaltered. There would also be the potential for increased coach parking demand (school trips) and multiple cars visiting at the

same time for particular courses being held at the application site.

It is considered that the proposal would have a detrimental impact on the operation of the country park, as the existing car parks cannot accommodate the additional parking that would result from the proposal. With no proposal to increase the country parks car parking provision, it is considered that the proposal would not be acceptable.

### *Hours of Operation*

The applicant contends that the Council does not have the right to impose planning conditions relating to the hours of operation for the proposed use because there are right of access through the country park to the application site and therefore the hours of operation condition is not justified. However, property rights are not a material planning consideration and as this application is for a new use a full assessment of its effects, including those relating to hours of use, needs to be undertaken.

The application site is not independent of the country park and is reliant on its car park and vehicular access. Until now it was not considered necessary to impose an hours of use condition for the riding centre or pets corner, as the application site was open to public in line with the country park's opening hours. Applications MC/11/1490 and MC/12/1160, which increased the education activity in relation to the approved animal centre, did have conditions restricting the operation of the use to the country park's opening hours (less half an hour to allow for exit by the gate closing time). If the application site was to be open to the public outside the country park's opening hours then it is necessary to consider the implication of the extended hours with respect to need for additional lighting within the park and its car park, which are outside the applicant's control, and its impact on the character of the countryside, safety and security within the country park and impacts upon residential properties neighbouring the country park.

As has been indicated above the opening of the site outside of daylight hours would result in the need for an external lighting to be installed and it is considered that this would be detrimental to the countryside and the ALLI's character.

It is also considered that the independent opening of the application site to the public, outside of the park's operational hours, may lead to noise and disturbance to resident's around the site. Uncontrolled, and thus extended opening times, for the application site and the likely need to install external lighting are matters which it is considered would be harmful to residential amenity and the appearance of the area, through the installation of lighting, and would conflict with the objectives of Policies BNE2 and BNE25 of the Local Plan.

### *Local Finance Considerations*

None relevant.

### **Conclusions and Reasons for Refusal**

The proposal would intensify the site's use and cumulatively shift the balance of the



primary use an educational (D1) use, thus adding to car parking demand to the detriment of the users and operation of the country park. Moreover it is considered the site is not easily accessible by transport modes other than motor-vehicle. Furthermore extended opening hours outside the country park's opening hours would potentially require safety and security measures like external lighting to be implemented within a currently unlit area of the countryside. This would be harmful to the character and setting of the countryside and the Area of Local Landscape Importance. Public access to the site, in relation to the proposed use, outside of the opening hours of the country park could result in noise and disturbance to residents of dwellings around the country park. The proposal is therefore considered to be contrary to the following local plan policies - L2, BNE2, BNE8, BNE25 and BNE34 of the Medway Local Plan 2003.

---

## **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess.medway.gov.uk/online-applications/>