

By: Director of Community Safety and Regulatory Services
To: Member Panel – Regulation Committee – 11 April 2008
Subject: Application by Mr Douglas Chapman under The Marriages and Civil Partnerships (Approved Premises) Regulations 2005 for a review of the decision to apply certain conditions to his premises as part of a licence for civil marriages and civil partnerships.
Classification: Unrestricted

Summary: Seeks approval for the current conditions applied to the Civil Marriages and Civil Partnerships licence for the Lost Village of Dode to be confirmed.

The Venue

1. The venue lies on the western side of Wrangling Lane, Great Buckland, Luddesdown and the western boundary of the site on which the venue is situated forms part of the boundary line between Tonbridge and Malling Borough Council (TMBC) and Gravesham Borough Council (GBC). The venue is within the Metropolitan Green Belt (MGB), the Kent Downs Area of Outstanding Natural Beauty (AONB) and a Special Landscape Area (SLA), and outside of any rural settlement confines. The venue is in TMBC but access (the approach road) is via GBC.
2. The venues lies within the Malling North Electoral Division but is accessed via the Gravesham Electoral Division. Thus two county members have an interest in this application.
3. The venue comprises a former church, now named by the owner The Lost Village of Dode, and a separate retreat building which lies to the north of the former church. The former Church is the most prominent structure within the site.

Approved Premises for Civil Marriages and Civil Partnerships

4. The Marriages and Civil Partnerships (Approved Premises) Regulations 2005 allows local Registration Authorities (LRAs) to licence, for a period of three years, suitable venues where civil marriages can be solemnized and civil partnerships registered. The procedure provides that in granting a licence the LRA may attach to the approval conditions that it considers reasonable to ensure that the facilities provided at the venue are suitable and that any proceedings at the venue do not give rise to a nuisance of any kind.

Brief History of Previous and Current Application

5. A brief history of previous and current applications by the owner is as follows. A more detailed history is contained in the Review of Licence Conditions document – Appendix 2.
6. A licence was first issued for the Lost Village of Dode in August 1999. However, over the period 1999 to 2002, opposition to the licence and claims of nuisance caused by its use for ceremonies, were received from the Luddesdown Parish Council, neighbours and the then local member, Mr Frank Gibson. This licence expired in August 2002.
7. In December 2002, the owner submitted a new application. This was objected to by both local members and in accordance with the Delegation to Officers the decision as to whether to grant or refuse a licence was referred to a Member panel of the Regulation Committee.
8. The member panel approved the application subject to a number of conditions. In June 2003 the owner requested a review of certain conditions. A member panel agreed to increase the number of people permitted in the ceremony room to 45.
9. In 2005 the owner submitted a renewal application. This was approved under Delegation to Officers, subject to the conditions applied by the Member panel in 2003 being re-applied.
10. In December 2005, the owner requested a review of certain of the conditions. A review was carried out by an Assistant Head of Trading Standards the result of this review is attached at Appendix 2 - Review of Licence Conditions. The review only recommended minor changes to the conditions. These were accepted by the owner. The current conditions applying to the licence are shown at Appendix 1.
11. The owner has now submitted a request for a further review of the conditions reviewed in 10 above, together with a review of additional conditions. The owner's submission is shown at Appendix 3.

Current Review Application

12. The owner has requested that the following conditions be removed:-
 - (a) The number of ceremonies is restricted to 33 per year for the duration of the licence.
 - (b) Ceremonies may only be held on Thursday, Friday and Saturday each week.
 - (c) During April to September inclusive the latest start time for a ceremony will be 4pm

In addition he has asked that the following condition be amended to allow ceremonies during November, December and March:-

(d) Ceremonies may only be held between 1 April and 31 October each calendar year.

13. Conditions (a) and (d) were considered at the last review and I do not feel that there have been any changes that would require me to recommend a different outcome to the Panel. The reasons for these conditions are clearly set out in the "Discussion" paragraphs in the Review of Licence Conditions document – Appendix 2.

14. The removal of conditions (b) and (c) was not specifically considered at the last review but these conditions are so interlinked with the other conditions that I believe that the discussion paragraphs and reasons set out in the Review of Licence Conditions document – Appendix 2, are similarly valid and therefore I do not propose that these conditions should be amended and would recommend this course of action to the Panel.

Consultation

15. The following organisations and individuals were contacted as part of the last review and they have again been asked for their views in respect of this review:-

Luddesdown Parish Council

Gravesham Borough Council

Tonbridge and Malling Borough Council

Kent Highway Services

Local Members

The following local members have been consulted:-

Mrs Sarah Hohler - Malling North

Mr Mike Snelling - Gravesham Rural

Conclusion

It is apparent that in approving the change in law which allowed LRS's to approve venues where civil marriages could be solemnised and civil partnerships registered, Parliament was concerned that this approval should not give rise to a nuisance of any kind. The Regulations do not provide for the non approval of a venue on the grounds of nuisance but that a venue may be approved and any possible nuisance dealt with by the application of conditions.

Whilst nuisance can be a very subjective word it is obvious due to the number of complaints etc. received over the period 1999 to 2002, and the objections raised at recent reviews, that nuisance has been, and is, a perceived outcome in this case. The conditions applied by the Member panel in July 2003 have reduced the number of complaints and as such the likelihood of nuisance occurring. On this basis it is considered right that the conditions should continue to be applied to this licence.

In considering this review the Panel may make the following decisions either:-

- (a) Confirm the original decision, or
- (b) Vary the original decision by either removing the conditions or by attaching new of different conditions

Recommendation

It is RECOMMENDED that the existing conditions applying to the Civil Marriages and Civil Partnership licence for the Lost Village of Dode be confirmed.

Background Documents – Regulatory Services File MAI 100119 – The Lost Village of Dode – Review File

Author Contact Details

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Special Conditions currently applied to Lost Village of Dode Licence

To ensure that the facilities provided are suitable:

1. In any advertisement for the venue no mention is to be made of its previous religious connections.
2. Every person enquiring about or booking a ceremony is to be given by the owner a leaflet prepared by KCC detailing the conditions applied to the licence.
3. Any floor covering of straw must be fire proofed.
4. The owner will permit KCC to test the combustible nature of the straw on at least one occasion per year, for the duration of the licensing.
5. Additional electric light(s), as agreed with the Superintendent Registrar and Registrar of Marriages, to be provided for use during the civil marriage or other ceremony and for the signing of the marriage register.
6. Any candles which may be used as a supplementary form of lighting are not to be used in close proximity to the table to be used by the Registrar of Marriages for the signing of the marriage register.

To ensure that the solemnization of marriages does not give rise to a nuisance:

7. The number of ceremonies (marriage, baby naming, renewal of marriage vows and any other ceremonies that may be offered by KCC) be restricted to 33 per year for the duration of the licence.
8. Ceremonies may only be held on Thursday, Friday and Saturday each week.
9. Ceremonies will be limited to no more than one per day.
10. The latest start time for a ceremony will be 4.00pm. During October this will be 3.00pm BST or 2.00pm GMT
11. Ceremonies may only be held between 1 April and 31 October each calendar year.
12. The number of persons attending within the marriage/ceremony room is restricted to 45 persons in total (to include the owner, registrars, photographer, videographer, musicians etc. and any other persons wishing to attend a ceremony). The owner to provide to KCC after every ceremony a list of all persons attending a ceremony.

13. No more than 10 vehicles shall be allowed to attend a civil marriage or other ceremony – 1 for the owner, 1 for the registrars, and 8 for the marriage or ceremony party, photographer, videographer, musicians etc. and any other persons wishing to attend a ceremony. All these vehicles should be parked on the site and not parked on the highway.
14. The premises should not be used, during the three year period of the licence, by any religion, religious practice or religious persuasion, which would be incompatible with the use of the building known as The Lost Village of Dode as an approved premises for the solemnization of civil marriages.
15. No ceremonies of marriage, baby naming or welcoming, renewal of marriage vows, or other ceremonies that KCC may offer in future, are to be conducted, by any person or organisation other than KCC, within the building known as The Lost Village of Dode during the duration of the licence.

Failure to comply with any of these conditions, after a warning has been issued, may result in KCC revoking the licence as an approved premise for civil marriages.

The Lost Village of Dode

www.dodevillage.com

For the attention of Mr Clive Bainbridge

*Kent County Council
Births, Deaths, Marriages & Civil Partnerships
Invicta House
County Hall
Maidstone, Kent ME14 1XX*

1st January 2008.

Dear Mr Bainbridge

Re: The Lost Village of Dode.

As you may be aware I have been having some discussion with Martin Alford as to the best way forward with regard to our particular problem.

Mr Alford has informed me that we may request a review of the decision to apply special conditions to our approval. Mr Alford has informed me that this review will either be carried out by yourself, another Member of the KCC Staff, or a Member Panel.

For my part I am concerned that I do not believe that, in the past, I have been dealt with fairly particularly in comparison with other wedding venues and also that at the heart of this matter there is a serious legal issue (referred to in my correspondence to you 2nd July 2006 and your response of the 1st August).

Mr Alford has suggested that I provide supporting evidence and information which may assist your Council in its deliberations, this I feel is extremely important as unless a satisfactory compromise can be obtained, then we will have no option but to apply for full Judicial Review of the circumstances both past and present, this is something that I have stressed to Mr Alford that I would wish to avoid if possible.

Accordingly I enclose an initial statement of our concerns and as requested by Mr Alford a cheque for £100 made payable to the Kent County Council.

I look forward to hearing from you.

Yours sincerely,

D. Chapman

Encs

The Lost Village of Dode

Is situated at:

Wringling Lane, Holly Hill, Luddesdown, Kent

East Lodge, Delling, Maidstone, Kent

Tel: 01622 751205

Fax: 01622 755500

ME14 5LE

Mobile: 07851 515205

**The Lost Village of Dode
Wrangling Lane
Great Buckland
Luddesdown, Kent.**

Licence Holder – Mr Douglas Chapman

Initial Statement –

In Support of the Licence Holder’s application to review special conditions.

1. The licence holder seeks a review of the following conditions.

(a) The number of ceremonies “... be restricted to 33 per year for the duration of the licence”.

Alteration Requested – The removal of this condition.

(b) Ceremonies may only be held on Thursday, Friday and Saturday each week.

Alteration Requested – Removal of this condition.

(c) During April to September inclusive the latest start time for a ceremony will be 4pm.

Alteration Requested – Removal of this condition.

(e) Ceremonies may only be held between 1st April and 31st October each calendar year.

Alteration Requested – Removal of this condition in respect of the months of November, December & March.

2. Dode is Listed as being of Architectural and Historic Interest (Grade II*). At the time of the licence holders acquisition it was derelict. It had obtained a dubious reputation and was used by drug addicts and undesirables a matter which caused local people considerable concern.

3. Since purchasing Dode, restoring it and removing the previous problems etc., the licence holder has encountered numerous difficulties with the immediately adjoining Owner/Occupier a Mr B Gasper, who has objected not only to each and every use of the premises, but any planning proposals which have been made to the Local Authority. In particular adverse representations in respect of many and unrelated matters have been made by Mr Gasper and by the Local Parish Council, (of whom he is a Member and sometime Chairman), a process which has now been ongoing for some 16 years representations which have been largely unproven and subsequently ignored or discounted

It will be seen from previous documentation, complaints to the Kent County Council regarding weddings have been exaggerated and are not confirmed by the Council's own stringent monitoring process.

4. There is a considerable level of hypocrisy on the part of certain complainants. Three examples only are given :
 - (a) The owner and occupier of Buckland Farm has complained regarding the use of Dode but holds annual events at Buckland Farm at which many hundreds of individuals and vehicles attend. (Please see photographs A).
 - (b) The owner of Haydown has objected to increased "traffic". Despite the fact that he regularly holds events on his premises which engender up to 300 visitors in the space of a single day. (Please see photograph B).

(c) Adjoining owners, including Mr Gasper, have during the last 2 years permitted the use of the immediately adjacent land for use as a track for off-road vehicles, quads and motor bikes, which use continues not only during daylight hours but up to and at times including 2am. (Please see plan and photograph C).

5. AS the result of the circumstances relating to the licensing of Dode, Kent County Council have carried out extensive monitoring of all wedding ceremonies. The Kent County Council will draw its own conclusions as to the extent of "nuisance" (if any) in terms of noise, disruption etc., which the use of the premises causes to adjoining owners and occupiers.

The Kent County Council should be mindful that many premises which are situated in relatively heavily built-up areas (in comparison with Dode), do not engender complaints. The Kent County Council should be mindful that in many such premises outside (gazebo) weddings are licensed.

6. The use class of Dode is D1. The Kent County Council should be mindful that the Local Planning Authority (Tonbridge and Malling Borough Council) are aware of the past and continuing use of Dode as a wedding venue and they have raised no sustainable legal objections, enforcement or other action. The use for weddings is a legal one.

Dode has, in the past, been used practically exclusively as a designated and dedicated Civil Wedding Venue for which there is clearly considerable demand from the public. Kent County Council and the Tonbridge & Malling Council will be aware that given the D1 use classification referred to above, the premises may be utilised for a variety of other uses with no constraint, a process which will become inevitable if Dode ceases as a licensed wedding venue.

7. Of fundamental importance is the question as to whether the Kent County Council are, in law, able to take into account (exaggerated) claims of disturbance due to "traffic generation". This fundamental issue has been raised in the past (correspondence of July and August 2006 between the licence holder and the KCC are relevant) and no definitive decision has been reached, each side reserving their own position. This is a matter which requires urgent resolution as it is the licence holders contention that as Dode has a legal use for Civil Weddings (see above) and as the premises are approached by a public highway, the Kent County Council may only consider conditions that relate to "the solemnisation of marriages on the premises".

Prior to the (apparent) necessity to seek a judicial decision, the Kent County Council is requested through its legal department to confirm their position on this specific matter as this particular matter will, in the licence holders opinion, account for a large percentage of "costs" in any judicial action.

8. The licence holder's submission in any event is simply that the complaints of "nuisance" are exaggerated, are not upheld by the Kent County Council's own strict monitoring process; and any "nuisance" caused by weddings on the premises is far less than would be generated by other alternative legal uses.

17th December 2007.



Douglas Chapman









No: 1

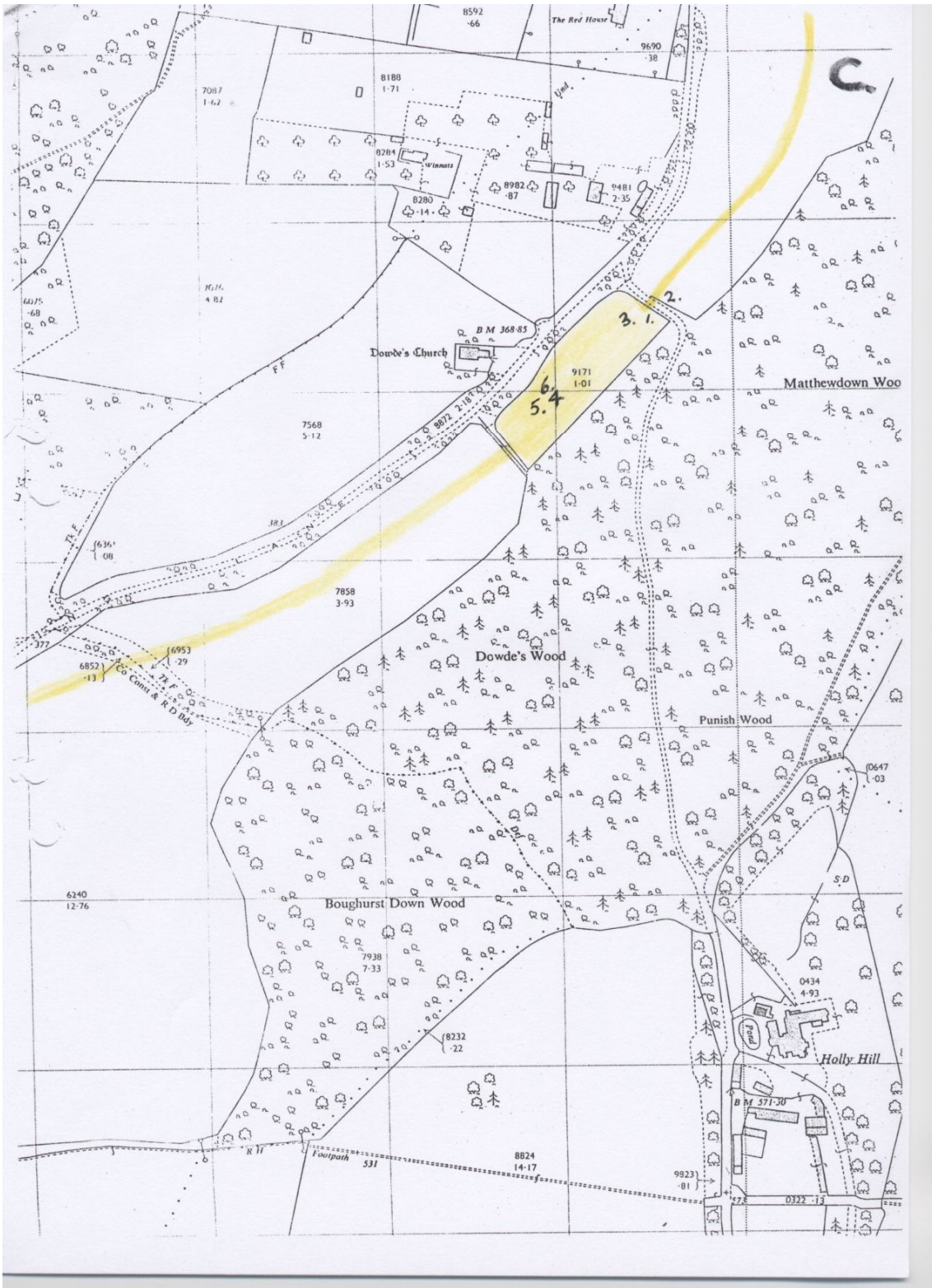




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