
Snodland Snodland West	566852 163724	3 August 2012	TM/12/02434/FL
Proposal:	Erection of pergola (retrospective)		
Location:	Dode Church (Church Of Our Lady In The Meadow) Wrangling Lane Luddesdowne Gravesend Kent		
Applicant:	Mr Douglas Chapman		

1. Description:

- 1.1 This full application proposes the retention of an unauthorised pergola approximately 23 metres to the south west of Dode Church. The pergola is in a 'U' shape and made of timber. The structure has an overall length of 12.3m and an overall width of 7.5m. Due to the sloping nature of the site the overall height varies between 2m to a maximum of 2.45m.
- 1.2 The application is supported by various statements from the applicant that put forward the following points:
- *The oak pergola is appropriate in terms of materials, design, construction and is entirely unobtrusive being totally invisible to any adjoining houses and practically invisible from Wrangling Lane;*
 - *It provides an appropriate focal point for the continued and proper use of this important and rare Listed Building as well as a framework for the growing of hops etc (used in conjunction with educational visits of school children to the site);*
 - *The primary use of the pergola is as a backdrop for the taking of photographs associated with civil ceremonies. It has also been used when school children have made occasional educational visit to the site – but this is very much a secondary and low key occasional use;*
 - *The application is made on the basis that the pergola would be a permanent structure but, if it was considered preferable, the applicant is prepared to accept a permission for a temporary 5 year period;*
 - *The structure can be removed with relative ease and has no long-lasting or permanent impact.*

2. Reason for reporting to Committee:

- 2.1 Due to the planning history of the site and because the Officer recommendation includes the service of an enforcement notice.

3. The Site:

- 3.1 Dode Church lies in a relatively isolated position in a rural area on the north-western side of Wrangling Lane at Great Buckland on the northern extremity of the Borough near to its boundary with Gravesham Borough. Dode Church is a two celled church, probably Norman, which was restored in the 20th century. It is a Grade II* Listed Building.

4. Planning History:

TM/00/00893/FL Refuse 23 June 2000

Use of site for 24 days per year for wedding receptions

TM/00/02730/OB1 Refuse 23 March 2001
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Application to modify Section 106 Legal Agreement attached to planning permission TM/94/0240/FL to allow toilet facilities in retreat number 2 to be used occasionally by visitors to Dode Church

TM/02/00752/FL Refuse 28 June 2002

Erection of restroom for use of visitors/staff

TM/02/00755/FL Refuse 28 June 2002

Temporary change of use of the retreat to provide accommodation (wc facilities, reception and interview accommodation) in connection with the holding of civil weddings held within Dode Church

TM/91/11317/FUL Refuse 30 October 1991

Erection of dwelling and change of use of church to provide additional attached living accommodation.

TM/91/11318/LBC Refuse 30 October 1991

Listed Building Application: Erection of dwelling and change of use of church to provide additional attached living accommodation.

TM/93/00826/FL refuse 27 April 1993

Erection of single storey building to provide caretaker and retreat facilities

TM/94/00857/FL grant with conditions 7 April 1995

Erection of retreat facility

TM/97/01352/RD Grant With Conditions 22 September 1997

details of external materials pursuant to condition 4 of TM/94/0240FL: erection of retreat facility

TM/99/02401/RD Grant 3 February 2000

details of a scheme of landscaping and boundary treatment submitted pursuant to condition 10 of permission TM/94/0240/FL: erection of retreat facility

TM/02/02268/LDC Certifies 7 November 2002

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Lawful Development Certificate Proposed: siting of mobile prestige toilet

5. Consultees:

5.1 Snodland TC: No objection.

5.2 Gravesham BC: Object on the grounds that:-

- The development is within a Green Belt area and an Area of Outstanding Natural Beauty.
- The test is whether the development is inappropriate development and harmful to the openness of the Green Belt and therefore contrary to the National Planning Policy Framework (NPPF) and any adopted Local Plan Policy, and secondly whether there is any harm to the local landscape character.
- The structure would not fall within the category of permitted development and requires planning permission and the proposal needs to be judged on its merits and having regard to adopted planning policy notwithstanding that this is a retrospective application.
- Based on the plans submitted and from viewing the photographs provided by neighbours this Council would adjudge the development to be harmful to the openness of the Green Belt and the local landscape and does not consider that there are sufficiently strong or overriding reasons that would necessarily justify the retention of the pergola.
- Should your Council decide otherwise it would strongly recommend that restrictions are placed on the pergola such that it is not enclosed or roofed over.

5.3 Luddesdown PC: Object for the following reasons:-

- It is the Council's view that planning permission was required and should have been sought before the pergola was erected.
- Dode Church is a listed building, which fact naturally limits the scope for development and the Council cannot see that there are any special circumstances in this case that would make having a large pergola structure on this site an appropriate addition in keeping with a Grade II listed church building.
- Dode Church is situated in an AONB and the addition of such a large structure in the grounds is obtrusive and not in keeping with the surrounding countryside. As a pergola is a type of gazebo and is generally used as a feature in a garden it is not a type of structure that has any connection with a church and does not really fit in with the grassland and woodland countryside of the surrounding area.
- The pergola is inappropriate development on the site of Dode Church as it is being used in support of the conducting of weddings at Dode. Luddesdown Parish Council has opposed the use of Dode Church for weddings because of the adverse effect this has on residents in the parish and also on the natural peacefulness of the area due to traffic and noise nuisance. The Council is very concerned that the addition of further structures at the site in support of the wedding business carried on there will erode further the tranquil environment of the area in which Dode Church is situated. The Council is therefore opposed to the addition of the pergola to the site.

5.4 English Heritage: No objections.

5.5 Private Reps: 1/0X/1R/0S + site and press notice.

One letter of objection and one clarification letter raising the following concerns:-

- Structure is visible from the adjacent property and from Wrangling Lane.
- Pergola is not just used as a backdrop for wedding photos but is used as part of receptions at the site and has been known to be covered in plastic sheeting with tables inside, used to house a music system and as a gathering point which ruins the general peace and tranquillity of the area and the character of this part of the Green Belt and AONB.
- The pergola is not an important structure to Dode Church as stated in the supporting information as there are plenty of other elements that could be used as a photographic backdrop.

6. Determining Issues:

- 6.1 Given the location of the site the principal considerations with this application are the principle of the development, the impact of the works on the Green Belt, Area of Outstanding Natural Beauty, countryside and on the setting of the listed building.
- 6.2 The site is located in the Metropolitan Green Belt, and in open countryside outside any settlement boundaries indicated on the Tonbridge and Malling Local Development Framework Proposals Map. Policy CP3 of the Tonbridge and Malling Borough Core Strategy applies national Green Belt policy to those areas of the Borough designated as such. Paragraph 89 of the NPPF says that the erection of new buildings in the Green Belt is “inappropriate” unless it is for one of a range of specified uses, none of which applies to this pergola. The pergola is, therefore, inappropriate development in the Green Belt and, indeed, the applicant acknowledges as much in his submissions. Inappropriate development can only be permitted if the applicant demonstrates that there are very special circumstances such as to override the harm caused, both by the inappropriateness of the development and any other harm.
- 6.3 In my view, no such very special circumstances can be said to apply in this case. The applicants have stated that the pergola is used as a backdrop for wedding photographs. It is, however, sited *outside* the historic and relatively closely-drawn immediate curtilage of Dode Church and is therefore not in an area that is permitted to be used for or during civil ceremonies or wedding receptions. *There is an extant Enforcement Notice precluding the use of this additional land for the holding of wedding receptions.* Given the fact that the land does not have planning permission for the use, and while no change of use of the land is sought under this application, there can be no justification for siting the pergola here in order to facilitate or support such a use. In any event, and as pointed out by the objectors, there are other features, including the church building itself, that could quite adequately be used as a backdrop for photographs, and I do not consider that this is the type of argument that could reasonable be said to amount to a case of very special circumstances necessary to overcome the harm caused by the inappropriateness of the development, nor indeed the other harm that is caused, as discussed below. The development is therefore contrary to TMBCS policy CP3 and paragraphs 87, 88 and 89 of the NPPF relating development in the Green Belt. Because of the location, size and character of the structure, I also believe that it is harmful to the openness of the Green Belt.
- 6.4 TMBCS policy CP14 relates to development in the countryside generally and says that such development will not normally be permitted unless it falls within certain specified categories, none of which applies here. The development is therefore also contrary to this policy.

- 6.5 The site also lies within the Kent Downs AONB. Planning policy towards the AONB is set out in paragraph 115 of the NPPF and TMBCS policy CP7. The NPPF says that great weight should be given to conserving landscape and scenic beauty in the AONB, which has the highest status of protection in regard to these factors. Similarly, policy CP7 says that permission will not be given for development which would be detrimental to the natural beauty and quiet enjoyment of the AONB, including its landscape, other than in exceptional circumstances, which might include development that is essential to meet local social and economic needs. Any such development must have regard to local distinctiveness and landscape character, and use sympathetic materials and appropriate design. The pergola is visible from Wrangling Lane and also from the neighbouring property. Although it is open-sided, it is a large structure and its impact on the character and appearance of the site is not insignificant. It is, in my view, a type of structure that one would not necessarily expect to see in this context, being more like something one might expect in a residential setting or in the garden of a public house. It is, I believe, an alien feature in this part of the AONB and therefore harmful to its landscape and scenic beauty. As discussed above, I do not believe that there is any justification on the grounds of operational *need*, whatever customer demand there might be, that can be applied in this instance. As such the development would not accord with policy CP7 or paragraph 115 of the National Planning Policy Framework 2012.
- 6.6 Dode Church is a Grade II* Listed Building. The pergola is sited 23m from the listed building and given its size is clearly visible in views of the setting of the church. It is not the kind of structure that would be associated with such a building and is strikingly at odds with the very particular rural, uncluttered and almost bucolic setting that is redolent of Dode. On this basis is considered that the pergola has an unacceptable impact on the setting of the listed building and therefore fails to meet the objectives set out in paragraphs 129 – 134 of the NPPF.
- 6.7 In more general terms, because of the design, character and appearance of the building, it does not respect the site or its surroundings and is thereby contrary to TMBCS policy CP24 and policy SQ1 of the MDE DPD.
- 6.8 The applicants have stated that if permanent permission was not forthcoming they would be prepared to have a temporary 5 year consent. Given the fact that the development is unacceptable in principle, it is not considered that this would be appropriate.
- 6.9 Assuming Members accept my recommendation that planning permission be refused, for the reasons I have outlined, as the application is retrospective it will also be necessary to consider whether it is expedient to take enforcement action against this unauthorised development. I consider that the harm that is caused by this development is significant, raising as it does a wide range of Planning issues. I do not believe that the identified harm can be overcome by any steps that fall

short of requiring the removal of the structure. I therefore also recommend that an Enforcement Notice be served to that end.

7. Recommendation:

7.1 Refuse Planning Permission for the following reasons:

- 1 The development constitutes inappropriate development within the Green Belt for which no very special circumstances have been demonstrated. It is also considered to have a materially harmful effect on the openness of the Green Belt. Accordingly, it is contrary to Policy CP3 of the Tonbridge and Malling Core Strategy 2007 and paragraphs 87, 88 and 89 of the National Planning Policy Framework 2012.
 - 2 The site lies within an Area of Outstanding Natural Beauty. The retention of the pergola and associated activity would not conserve and enhance the natural beauty of the area. As such the proposal is contrary to Policy CP7 of the Tonbridge and Malling Core Strategy 2007 and paragraph 115 of the National Planning Policy Framework 2012.
 - 3 The development is contrary to Policy CP14 of the Tonbridge and Malling Core Strategy 2007 which states that development in the countryside is restricted unless the development falls into one of the special categories listed in the policy, none of which applies to this structure.
 - 4 The pergola, by virtue of its design and siting, has a detrimental impact on the character and setting of the Grade II* Listed Dode Church contrary to the objectives set out in paragraphs 128 - 133 of the National Planning Policy Framework 2012.
 - 5 The pergola, because of its design, scale and character, does not respect the site and its surroundings and is harmful to the character and amenity of the countryside. It does not conserve or enhance the character and local distinctiveness of the area. It is therefore contrary to policy CP24 of the Tonbridge and Malling Core Strategy 2007 and policy SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010.
 - 6 The Local Planning Authority does not consider that there is any justification, in the circumstances of the present application for overriding the planning policy objections.
- 7.2 An Enforcement Notice **BE ISSUED**, the detailed the wording of which to be agreed with the Director of Central Services, requiring the removal of the pergola for the reasons identified above.

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