

PLANNING APPLICATION REPORT

Case Officer: Nicola Glanville

Parish: Tavistock **Ward:** Tavistock North

Application No: 1738/18/HHO

Agent/Applicant:

Ms J Flatman
Langs Cottage
South Zeal
Okehampton
EX20 2JP

Site Address: The Leaze, 7 Kilworthy Hill, Tavistock, Devon, PL19 0EP

Development: Householder application for erection of wooden trellis and pergola

Reason item is being put before Committee – Called by Ward Member (Cllr Moody) in order to consider the impact of the proposed trellising above the historic wall on the amenity of neighbours at The Knoll (above the site). Summary of Ward Members comments:

- Increasing the height of the historic wall within the Conservation Area would have a detrimental impact on the amenity of neighbours at The Knoll (above the site).
- The loss of an existing view from the bungalow (The Knoll)



Recommendation:
Conditional Approval

Conditions

Standard time limit

Adherence to plans

Timber materials to be left to weather naturally or any alternative colour finish to be agreed, prior to installation, by LPA.

Key issues for consideration: Design, materials and visual appearance and its impact on the character and appearance of the Conservation Area and WHS. Impact of the development on residential amenity.

Financial Implications (Potential New Homes Bonus for major applications): None

Site Description:

The site is located in an elevated position overlooking Kilworthy Hill and has wider vistas of Tavistock town beyond. As a consequence, it is also visible from viewpoints around the town. The site is not Listed, nor is it in close proximity to other Listed Buildings, although due to its visible position it can be seen in the context of the setting of other Listed Buildings below the site. The site is within the Conservation Area and World Heritage Site.

The Proposal:

The proposal is for the erection of a simple open-sided, wooden pergola (approx. 3m x 3m and 2.5m in height) and a timber latticed trellis fence (0.75m in height). The pergola is to be sited to the rear (north) of an enclosed garden, to the west of and belonging to The Leaze. The pergola is to be sited below and in front of an existing stone retaining wall (2.6m in height) that separates the garden from the neighbouring property above, known as The Knoll. The trellis is to sit on wooden supports above the existing boundary wall.

Consultations:

- County Highways Authority - No objection
- Environmental Health Section - No objection
- Tavistock Town Council - Neutral view - However it is felt a site visit should be called to allow a better understanding of the issues involved
- Heritage Specialist - 'I do not consider the proposed pergola to harm the character or appearance of the conservation area. Such structures have been an element of garden design for a long time and as such fall within the bounds of what may be considered typical – along with sheds and small greenhouses. The scale drawings do not show the structures in situ so it is difficult to see exactly how they relate to the stone retaining wall. I would suggest conditions requiring the timber be left to weather naturally or have an agreed applied colour. So long as the scale of the proposed structure is acceptable in relation to the wall I would say there is

no harm to CA or WHS or setting of LB's, subject to the condition(s) suggested. The conservatory on the adjoining property has harmed the character and appearance of the CA'.

PUBLIC CONSULTATIONS

Representations:

Representations from Residents/Applicant

Representations received from residents prior to re-advertisement and re-consultation of the application, which now only relates to the erection of trellis fencing and a pergola (the application previously also included creation of parking space on Kilworthy Hill and a greenhouse in the garden of The Leaze). The following representations include objections to the trellis / pergola only:

Occupants of 4 Kilworthy Hill – 2 letters of objection

Occupants of The Knoll – 2 letters of objection

Occupants of Brangwyn House – 1 letter of objection

Occupants of Sally House – 1 letter of objection

Representations received from residents following re-advertisement and re-consultation of the application. Objections only relate to the trellis / pergola:

Occupants of 4 Kilworthy Hill – 1 letters of objection

Occupants of The Knoll – 1 letters of objection

Occupants of Penhele – 2 letters of objection

The comments from neighbours to the site cover the following points:

- Loss of view from conservatory at The Knoll due to the trellis fencing
- Trellis will cause Over-dominance to The Knoll (above the site)
- Visual appearance of trellis – harm to CA and WHS.
- Dispute over ownership of the boundary wall, above which the trellis is to be erected
- Dispute regarding whether the conservatory at the Knoll was lawfully built
- Dispute regarding the applicants rights to privacy from over-looking of the garden at The Leaze
- Concerns regarding a potential conflict of interest

Relevant Planning History – None relevant to this proposal.

2468/17/HHO - Householder application for proposed parking space – Refused 10/11/2017

Analysis

This application has taken a while to reach this stage in the determination process due to the applicant making amendments to that proposed and the need to re-advertise and re-consult on revised drawings required as a result. The application now solely relates to the erection of a pergola and trellis fence.

Principle of Development/Sustainability:

The site is located within the development boundary of Tavistock where the erection of buildings within the curtilage of existing residential dwellings is acceptable in principle.

Design/Landscape:

As commented by the Heritage Specialist above, pergola structures 'have been an element of garden design for a long time and as such fall within the bounds of what may be considered typical – along with sheds and small greenhouses'. The scale of both proposals is considered acceptable in design and materials and providing that the timber is left to weather naturally or an appropriate colour is agreed with the LPA prior to its installation, the pergola and trellis fencing is not considered to be of harm to the CA or the WHS or setting of Listed Buildings. A condition is recommended to ensure the colour of the pergola and trellis is agreed.

Neighbour Amenity:

The Knoll is a single storey bungalow, with a conservatory to its rear, which is situated within 1-2m of this boundary wall, above the site. Due to its proximity to the boundary and the approx. 2m difference in ground levels, the conservatory does over-look the garden of The Leaze below and it is therefore understood why the applicant is seeking to erect trellis fencing to provide a degree of privacy to the garden below.

In Planning terms, there is no right to a view and although it is appreciated that the trellis fence once erected would obscure wider vistas of the town currently enjoyed by the occupants of The Knoll whilst seated in their conservatory, it is not considered that the trellis would cause undue loss of amenity to occupants of The Knoll. The trellis is not a solid structure and is not considered to be over-dominant or cause loss of light to the glazed conservatory.

Other Matters:

Comments from residents and applicants have been raised concerning the ownership of the boundary wall. This is not material to the determination of the application and is a civil matter for both parties to resolve privately.

Comments have also been raised as to whether the conservatory was lawfully built. The owners of The Knoll have stated that they sought the advice of the LPA regarding the need for Planning approval prior to the commencement of works to build the conservatory. At that time, Officer advice was that Planning permission was not required. However, no certificate of lawfulness application was submitted to prove this. Based on knowledge obtained from the Officers site visit of the dimensions and siting of the conservatory in relation to current permitted development rights afforded Householders under the GPDO 2015 (as amended) it is considered that the conservatory would be classed as permitted development and therefore would not have required Planning permission. Furthermore, although not formally proven, the applicant states that the conservatory has been in situ for more than 4 years and the Officer has no evidence to consider otherwise, making the conservatory likely to be lawful.

At the outset, concerns regarding a potential conflict of interest were raised that an Officer who gave Pre-app advice was related to the applicant. This claim has now been proven unfounded.

Conclusion:

Following the Officers meeting on site with occupants of The Knoll (neighbouring property) and further careful consideration of the material considerations, as outlined in the assessment above, on balance the Officer recommends conditional approval of this application for the reasons given above.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Policy

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

DEVELOPMENT PLAN

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

West Devon Borough Council Core Strategy 2011

SP1 – Sustainable Development

SP18 – The Heritage and Historical Character of West Devon

SP20 – Promoting High Quality Design

West Devon Borough Council Local Plan Review 2005(as amended 2011)

NE10 – Protection of the Countryside and Other Open Spaces

BE1 – Conservation Areas

BE2 – Conservation Areas

BE3 – Listed Buildings

BE13 – Landscaping and Boundary Treatment

H40 - Residential Extensions

Status of emerging JLP policies for decision makers

The Plymouth & South West Devon Joint Local Plan has undergone a main modifications consultation (22 Oct – 03 Dec 2018) as part of the examination in public to determine the soundness of the plan. The joint councils are waiting to hear from the Planning Inspectorate (PINS) regarding the next steps. Until PINS provide an update, the JLP councils are unable to commit to a timetable for adoption.

The National Planning Policy Framework provides guidance on the weight that can be given to policies in emerging local plans in paragraph 48:

48. Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

The JLP is nearing the conclusion of the examination process, and can be considered to be at an advanced stage of preparation.

Whilst technically all objections are unresolved until the Inspectors' issue their Final Report, some policies which did not receive objections at the Reg 19 stage could be given very significant weight. The nature and scope of objections made regarding each policy have been taken into account when determining the weight to be apportioned to each emerging policy.

The Council consider that all emerging policies are compliant with the NPPF. It should be noted that the JLP is being examined against the provisions of the 2012 NPPF, and therefore for the purposes of paragraph 48 of the NPPF policies should also be assessed for their conformity against the 2012 NPPF.

In considering the merits of this proposal, case officer recommendations are informed by the weight that can be attributed to emerging JLP policies and adopted development plan policies, as well as the degree of conformity with the 2018 NPPF.

PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION

(as considered by the Full Councils end Feb/Early March 2017)

TTV31 Development in the Countryside

TTV32 Residential extensions and replacement dwellings in the countryside

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV20 Place shaping and the quality of the built environment

DEV21 Conserving the historic environment

DEV22 Development affecting the historic environment

DEV23 Cornwall and West Devon Mining Landscape World Heritage Site

Conditions in Full:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall in all respects accord strictly with drawing numbers: Site Location Plan received by the Local Planning Authority on 09/07/2018; Proposed Pergola Floor Plan; Proposed Elevations (Trellis & Pergola); and Block Plan all received by the Local Planning Authority on 30/10/2018.

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

3. The timber materials to be used in the construction of the trellis fencing and pergola hereby permitted shall be left to weather naturally or any alternative colour finish shall have been agreed in writing with the Local Planning Authority, prior to installation.

Reason: In the interests of visual amenity.