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## Appeal Decision

Site visit made on 26 October 2021

**by R Satheesan BSc PGCert MSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 02 November 2021**

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**Appeal Ref: APP/R5510/C/21/3277458**

**17 Broadwood Avenue, Ruislip HA4 7XS**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mrs Shamyka Douglas against an enforcement notice issued by the Council of the London Borough of Hillingdon.
  - The enforcement notice was issued on 12 May 2021.
  - The breach of planning control as alleged in the notice is without planning permission the demolition of the dwellinghouse ("the breach").
  - The requirements of the notice are:
    - (i) Re-build the dwellinghouse in accordance with the Existing Plans (named LOCATION/SITE PLAN 18\_006\_S0, EXISTING PLANS 18\_006\_S1, EXISTING ELEVATIONS 18\_006\_S3, EXISTING ELEVATIONS 18\_006\_S4 and EXISTING PLANS 18\_006\_S2) attached to Planning Decision Reference 14578/APP/2018/1492 granted on 5th July 2018 and;
    - (ii) Following compliance with (i) above, remove from the Land all debris, waste, building materials, fixtures and fittings, plant equipment and machinery resulting from the works listed in (i) above.
  - The period for compliance with the requirements is 6 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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### Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

### The appeal on Ground (f)

2. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e. the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
3. The enforcement notice requires that the house is rebuilt in accordance with the existing plans, and therefore, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity. As the notice does no more than seek remedy of the breach, it is not excessive.
4. The appellant states that the demolition works were not intended to be permanent and were carried out in connection with the implementation of a

planning permission for extensions to the pre-existing property<sup>1</sup>. Details and drawings of this approved planning permission have been submitted with this appeal. They state that more of the building was demolished than originally intended because, once large parts of it were removed, the remaining parts became unstable and unsafe. It is further stated that once the works are completed, the house will comply exactly with what is shown in the approved drawings. Therefore, the appellant requests that the requirement be varied to allow the following, alternative, requirement:

*"ii. Rebuild the dwellinghouse in accordance with the Proposed Plans (numbered 18\_006\_P0A, 18\_006\_P1A, 18\_006\_P2A, 18\_006\_P3A, 18\_006\_P4A and 18\_006\_P5A) attached to Planning Decision Reference 14578/APP/2018/1492 granted on 5th July 2018."*

5. However, the original permission approved extensions to a property which no longer exists. It did not grant planning permission for the demolition and construction of a new dwelling and therefore the original permission is now incapable of being implemented. Compliance with the appellant's suggested wording above, would in effect grant an unrestricted new planning permission, which would not be bound by any of the conditions attached to the original planning permission (Council ref: 14578/APP/2018/1492). As such, it is not possible to vary the requirements in a way that would satisfactorily secure all the necessary conditions attached to the original permission.
6. As the notice does no more than seek remedy of the breach, it is not excessive. It is not therefore possible to vary the notice in the ways suggested by the appellant whilst achieving the purpose of the notice. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.
7. On this basis, the Ground (f) appeal fails.

### **Conclusion**

8. For the reasons given above I consider that the appeal should not succeed. I shall uphold the enforcement notice.

*R Satheesan*

INSPECTOR

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<sup>1</sup> Council ref: 14578/APP/2018/1492: Planning permission granted for the part two storey, part single storey side/rear extension and conversion of roofspace to habitable use to include raising of roof, 1 rear dormer, 1 side dormer and 4 side rooflights, involving demolition of existing single storey side/rear elements approved on 5 July 2018.