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## Appeal Decision

Site visit made on 10 May 2022

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

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

**Decision date: 20 May 2022**

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**Appeal Ref: APP/D3640/C/21/3289189**

**Land at 1-23 St Georges Court, St Georges Road, Camberley, Surrey  
GU15 3QZ**

- 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 Mr David Poole on behalf of Weston Homes PLC against an enforcement notice issued by Surrey Heath Borough Council.
  - The enforcement notice was issued on 15 November 2021.
  - The breach of planning control as alleged in the notice is set out in the Appendix to this decision.
  - The requirements of the notice are set out in the Appendix to this decision.
  - The period for compliance with the requirements is set out in the Appendix to this decision.
  - The appeal is proceeding on the grounds set out in section 174(2) (g) 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 (g)

2. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 9 to 20 months, in order to obtain the materials and to obtain compliance and verification of the remedial works. The appellant also states that all the flats are occupied and therefore they need to obtain permission from the individual occupiers of the flats. It is further stated that the works must be carried out during spring and summer months to avoid inclement weather. The appellant also states that the impact of the Covid-19 pandemic remains uncertain, and there is no clarity as to the likelihood of further lockdowns or other measures that might be introduced by government.
3. The Notice identifies that the existing windows and trickle vents on the St Georges Road and High Street elevations, which do not meet the glazing specifications and attenuation levels stipulated under conditions 1 and 2 of approval 18/0557, result in unacceptable noise levels for occupiers of a number of flats at the appeal site. As such, the existing unauthorised windows harm their living conditions and therefore the 20 months requested by the appellant

to comply with the notice is disproportionately excessive to complete the requirements.

4. The key question for ground (g) is what is 'reasonable'. The nine months given would be a reasonable and proportionate time to obtain the necessary verification and materials required to carry all remedial works, whilst also obtaining consent from the occupiers of the flats and carrying out the remedial works. Furthermore, we are now in a different position with the pandemic with the easing of Government restrictions. I also note that the Officer's expediency report states if the situation with the pandemic changes, they have powers under s173A(1)(b) to extend any period for compliance, a matter entirely at their discretion, without prejudicing their right to take further action
5. On this basis, the appeal on ground (g) fails.

### **Conclusion**

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

*R Satheesan*

INSPECTOR

## **Appendix to Appeal Decision ref: APP/D3640/C/21/3289189**

### **The matters which appear to constitute the breach of planning control**

On 19 October 2018 planning permission was granted referenced 18/0557, Condition 1 of this permission requires the following:

'The windows hereby permitted on the St George's Road façade shall be completed and retained in double glazing with a specification of 10mm glass/14mm gap/4mm glass (28mm overall thickness) and fitted with acoustic trickle vents with an attenuation value of 40 dB, and subject to the provisions of condition 4, any existing glazing units on that elevation which do not satisfy this specification as a minimum, or are otherwise incorrectly installed, shall be replaced with units that do comply with this specification.'

Condition 2 of this permission requires the following:

'The windows hereby permitted on the High Street façade shall be completed and retained in double glazing with a specification of 10mm glass/12mm gap/6.4mm glass (28.4mm overall thickness) and fitted with acoustic trickle vents with an attenuation value of 40 dB, and subject to the provisions of condition 4, any existing glazing units on that elevation which do not satisfy this specification as a minimum, or are otherwise incorrectly installed, shall be replaced with units that do comply with this specification.'

It appears to the Council that condition 1 and 2 have not been complied with as the windows that remain within the development do not comply with the requirements of these conditions.

### **What you are required to do**

1. To comply with Condition 1 of planning permission referenced 18/0557:
  - a) Floor 1 to comply in full with Condition 1 of planning permission referenced 18/0557 dated 19 October 2018 by replacing the windows annotated in red numbered 1 to 11 on Enforcement Notice Requirement Plan A and Table, ensuring they conform with the exact specifications of this condition.
  - b) Floor 1 to comply in full with Condition 1 of planning permission referenced 18/0557 dated 19 October 2018 by installing the trickle vents in the window unit as annotated in red numbered 12 on Enforcement Notice Requirement Plan A and Table, ensuring they conform with the exact specifications of this condition.
  - c) Floor 2 to comply in full with Condition 1 of planning permission referenced 18/0557 dated 19 October 2018 by replacing the windows annotated in red numbered 13 to 18 on Enforcement Notice Requirement Plan B and Table, ensuring they conform with the exact specifications of this condition.
  - d) Floor 3 to comply in full with Condition 1 of planning permission referenced 18/0557 dated 19 October 2018 by replacing the windows annotated in red numbered 19 to 23 on Enforcement Notice Requirement Plan C and Table, ensuring they conform with the exact specifications of this condition.

- e) Floor 4 to comply in full with Condition 1 of planning permission referenced 18/0557 dated 19 October 2018 by installing the trickle vents in the window unit as annotated in red numbered 24 to 29 on Enforcement Notice Requirement Plan D and Table, ensuring they conform with the exact specifications of this condition.
- 2. To comply with condition 2 of planning permission referenced 18/0557.
  - a) Floor 1 to comply in full with Condition 2 of planning permission referenced 18/0557 dated 19 October 2018 by replacing the windows annotated in red numbered 30 to 53 on Enforcement Notice Requirement Plan E and Table, ensuring they conform with the exact specifications of this condition.
  - b) Floor 1 to comply in full with Condition 2 of planning permission referenced 18/0557 dated 19 October 2018 by installing the trickle vents in the window unit as annotated in red numbered 32 and 52 on Enforcement Notice Requirement Plan E and Table, ensuring they conform with the exact specifications of this condition.
  - c) Floor 2 to comply in full with Condition 2 of planning permission referenced 18/0557 dated 19 October 2018 by replacing the windows annotated in red numbered 54 to 83 on Enforcement Notice Requirement Plan F and Table, ensuring they conform with the exact specifications of this condition.
  - d) Floor 2 to comply in full with Condition 2 of planning permission referenced 18/0557 dated 19 October 2018 by installing the trickle vents in the window unit as annotated in red numbered 56 on Enforcement Notice Requirement Plan F and Table, ensuring they conform with the exact specifications of this condition.
  - e) Floor 3 to comply in full with Condition 2 of planning permission referenced 18/0557 dated 19 October 2018 by replacing the windows annotated in red numbered 84 to 93, 95 and 96 on Enforcement Notice Requirement Plan G and Table, ensuring they conform with the exact specifications of this condition.
  - f) Floor 3 to comply in full with Condition 2 of planning permission referenced 18/0557 dated 19 October 2018 by installing the trickle vents in the window unit as annotated in red numbered 84, 86 to 88, 90 to 92, 94 and 95 on Enforcement Notice Requirement Plan G and Table, ensuring they conform with the exact specifications of this condition.
  - g) Floor 4 to comply in full with Condition 2 of planning permission referenced 18/0557 dated 19 October 2018 by replacing the windows annotated in red numbered 97 to 104 on Enforcement Notice Requirement Plan H and Table, ensuring they conform with the exact specifications of this condition.
  - h) Floor 4 to comply in full with Condition 2 of planning permission referenced 18/0557 dated 19 October 2018 by installing the trickle vents in the window unit as annotated in red numbered 97 to 99, 101 and 103 on Enforcement Notice Requirement Plan H and Table, ensuring they conform with the exact specifications of this condition.

### **Time for compliance**

Within 9 months from the date the notice takes effect.

End.