



Appeal Decision

by **Ken McEntee**

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 13 September 2018

Appeal ref: APP/Q1445/C/18/3201695

Land at 33 Hallett Road, Brighton, Sussex, BN2 9ZN.

- 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 brought by DB Sussex Investments Ltd against an enforcement notice issued by Brighton & Hove City Council.
- The notice was issued on 21 March 2018.
- The breach of planning control as alleged in the notice is "Without planning permission the Change of use from Single Dwellinghouse (Use Class C3) to House in Multiple Occupation (Use Class C4)".
- The requirement of the notice is: "Cease the use of the property as a House in Multiple Occupation (HMO)".
- The period for compliance with the requirements of the notice is "3 months after this notice takes effect".
- The appeals are proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The basis of the appellant's case is that there are shorthold tenancy agreements in place which are effective until 9 September 2018. Therefore, the appellant requests the compliance period be extended to allow for this period and for the tenants to be rehoused. However, as 4 months have elapsed since the appeal was submitted the tenancy agreements have now expired. It also means that as the compliance period will begin again from the date of this decision, the appellant will effectively have had some 7 months in which to comply with the requirements of the notice. I consider this period to be both reasonable and proportionate and achieves an appropriate balance between the needs of the tenants to seek out alternative accommodation and the need to bring the harm caused by the unauthorised use to an end.
2. I note that since the appeal was submitted the appellant has submitted a retrospective planning application and has now requested that the period for compliance be extended by a further 6 months. However, I cannot justify extending the compliance period in these circumstances. Should the appellant's application not be determined by the time the compliance period has expired, the Council has the power under section 173(1)(b) of the amended 1990 Act, to

extend the compliance period themselves, should they see fit. Whilst this is entirely a matter for the Council's discretion, it would be open to the appellant to ask for a further short extension of time, should that prove necessary.

3. In these circumstances, I can see no good reason to extend the compliance period further. The ground (g) appeal fails accordingly.

Formal decision

4. The appeal is dismissed and the enforcement notice is upheld without variation.

K McEntee