



## Appeal Decision

by Ken McEntee

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

Decision date: 21 March 2016

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**Appeal ref: APP/Q1445/C/15/3139380**

**Land at 47 St Pauls Street, Brighton, Sussex, BN2 3HR**

- 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 Mr Daniel Crown against an enforcement notice issued by Brighton & Hove City Council.
- The notice was issued on 22 October 2015.
- The breach of planning control as alleged in the notice is "Without planning permission the use of the dwelling as a House in Multiple Occupation".
- The requirements of the notice are: "Cease the use of the property as a House of Multiple Occupation".
- The period for compliance with the notice is "3 months after this notice takes effect".
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

**Summary of decision: The appeal succeeds in part and the enforcement notice is upheld as varied in the terms set out below in the formal decision.**

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### Reasons for the decision

1. The appellant contends that the 3 month compliance period would not allow enough time for the tenants to be re-housed part way through the academic year. He requests that the period be extended to 6 months, or to the end of the tenancy agreement on 1 August 2016, whichever is the later. The council point out that as the appellant was notified in July that the change of use would require planning permission, he was fully aware of the situation when he started a new tenancy agreement.
  2. I appreciate that the current tenants of the property are students and, although the accommodation is only temporary they will nevertheless effectively be losing their home. I also acknowledge that it would not be ideal for them to have the disruption of having to relocate during term time. However, this has to be weighed against the stated harm to the surrounding area caused by the unauthorised use and I consider that it would not be acceptable to allow the harm to continue for a further 6 months. However, the appellant also requests that the compliance period be extended to 1 August 2016, after the tenancy agreement expires in July 2016. As this will only be a matter of weeks after the 3 month compliance period, I consider it would be an acceptable compromise and would achieve a proportionate and reasonable balance between the need to bring harm
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caused by the unauthorised use to an end and the needs of the tenants. Therefore, I shall extend the period for compliance with the requirements of the notice from 3 months to 5 months, which should adequately cover the time period of the tenancy agreement. The ground (g) appeal succeeds to this limited extent.

**Formal decision**

3. The appeal on ground (g) is allowed and it is directed that the enforcement notice be varied under "TIME FOR COMPLIANCE" by the deletion of "3 months" and the substitution of **5 months** after this notice takes effect. Subject to this variation the enforcement notice is upheld.

*K McEntee*