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## Appeal Decision

Site visit made on 6 June 2018

by **Nick Fagan BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2018

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**Appeal Ref: APP/Q1445/Y/17/3189986**

**Marlborough House, 54 Old Steine, Brighton BH1 1NH**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr David Squair against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/01990, dated 12 June 2017, was refused by notice dated 25 August 2017.
  - The works proposed are the repainting of the east elevation and window frames.
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### Decision

1. The appeal is allowed and listed building consent is granted for the repainting of the east elevation and window frames at Marlborough House, 54 Old Steine, Brighton BH1 1NH in accordance with the terms of the application Ref BH2017/01990 dated 12 June 2017 and the plans submitted with it subject to the following condition:
  - 1) The windows and window frames shall be finished with a top coat or coats of white paint only, to be completed within four calendar months of the date of this consent.

### Procedural Matters

2. The works are retrospective. According to the application form they were carried out between 13 March and 7 April 2017. Hence the effect of the painted front elevation on the building's appearance and on that of neighbouring listed buildings and the wider area is clear to see.
3. The property is a Grade I listed building (LB) located in the heart of Brighton close to the Royal Pavilion, within the Valley Gardens Conservation Area (CA), adjoining the Old Town CA and next to other listed buildings.
4. I am required to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and likewise the settings of adjacent LBs. I am also charged with paying special attention to the desirability of preserving or enhancing the character or appearance of the CA.<sup>1</sup>

### Main Issue

5. Consequently the main issue is the effect of the works on the special interest of the Grade I LB and on the character and appearance of the CA.

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<sup>1</sup> S16(2) & 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

## Reasons

6. Marlborough House is one of the most architecturally and historically significant buildings in Brighton and Hove, being described in the Pevsner Guide as "*the finest late c18 house, or rather villa, in Brighton*". It was built c1765 by Samuel Shergold, proprietor of the Castle Inn, to let to rich visitors and then owned by the third Duke of Marlborough. But its present appearance follows its sale by the Duke in 1786 to William Hamilton MP, who commissioned its enlargement and neo-classical remodelling by Robert Adam. It was listed in 1952.
7. The building's external elevations were originally finished in 'oil cement' or Liardet's cement, named after its inventor. This was stone coloured stucco probably consisting of linseed oil, turpentine, sand and possibly crushed limestone, and white or other lead as a drier. The Adam brothers acquired the right to Liardet's patent in 1774 and in 1776 acquired by an Act of Parliament the exclusive right to make and sell it for 18 years, until 1794. It was first used by them on the south face of Kenwood House, Hampstead, in 1767.
8. I have given careful consideration to the various representations and accompanying specialist reports<sup>2</sup> relating to the stucco on the external elevations of the building. Planning permission and listed building consent was granted in 2002<sup>3</sup> for various refurbishment works to the front elevation of the building including "...repainting new stucco and windows...". But identical conditions on these approvals reserved the "*Details of the colour, texture and finishes to the external joinery, masonry and ironwork...*" for Council approval prior to commencement of work and specified that such works should be implemented in strict accordance with the agreed details.
9. The Council states that it was subsequently agreed to reinstate a fibrecem artificial stone finish, which would be similar to the original Liardet's artificial stone, and to leave it unpainted. It is not disputed that this was done in 2002.
10. Be that as it may the Miele Report (page 17) acknowledges that Liardet's patent stone often failed and proved unreliable as a finish, as it did most famously at Kenwood House. This explains why, as documented in detail in the Ingram Report (especially page 5), it was largely replaced on Marlborough House in the first quarter of the c19 with Roman cement stucco, which covered the majority of the façade in 2001 when that Report was written.
11. The Ingram Report (page 3) states: "*As the coloured lime finish on the Roman cement stucco weathered, a maintenance regime of painting was adopted; the paint analysis indicates re-painting approximately every five years.*" It also states (page 7): "*The paint investigation...shows that the building has been painted at least 40 times, although the first seven paint schemes occur on the early oil mastic stucco only and the Roman cement is covered in some 33 layers only, applied in years subsequent to the original*

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<sup>2</sup> Marlborough House, Brighton: Site Investigation of Stucco and Paint with Recommendations on Repair and Conservation, Ingram Consultancy for Eurolink Group PLC, May 2001 (the Ingram Report) & Marlborough House, 54 Old Steine, Brighton: A Preliminary Analysis of the Building History and Fabric with a Brief for Fuller Building Analysis and Recording, Chris Miele, English Heritage Historical Analysis & Research Team Reports and Papers (First Series, 33), 1997 (the Miele Report)

-Both reports submitted as appendices to the appellant's final comments

<sup>3</sup> BH2002/01243/FP & BH2002/01245/LB respectively

- construction.*" It goes on to state that no evidence was found for the use of any paint colours other than white and shades of stone/buff.
12. I acknowledge that the Council's desire, in agreeing the replacing of the three types of stucco present in 2001 (oil mastic, Roman cement and repair stucco) with the fibrecem finish in 2002, was to leave it unpainted. But it is clear from the above history in the Ingram Report, which is undisputed by the Council or any of the internal and external consultees including Historic England, that the Liardet's oil mastic stucco was itself painted even before it was largely replaced by the Roman cement stucco in the early c19, which itself was subject to regular painting.
  13. This indicates to me that, contrary to what the Council, Historic England, the Regency Society and the Brighton Conservation Advisory Group state should happen, there is no historical precedent for maintaining this facade of the building unpainted. Although the original Liardet's artificial stone finish may originally have been unpainted there is clear evidence that it was painted at least seven times and that it was largely replaced with Roman cement that was also painted multiple times.
  14. It is acknowledged that the type of paint used will not damage the fabric of the building. I was also able to see for myself the numerous buildings within both CAs in the vicinity of the site, both those documented in Appendix 1 of the appellant's appeal statement and others, which are painted white or off-white. As such I agree with the appellant that no harm is caused to either the Valley Gardens CA or the Old Town CA. The two adjoining Grade II LBs, whilst of a later age than Marlborough House, are also painted white or off-white and the painting of this facade of the appeal building does nothing to harm their settings.
  15. It is clear, both from the listing description and the Miele Report (page 2 of the Summary in particular) that the principal significance of Marlborough House lies in its intrinsic design merit, its principal elevation and its dining room, hall, small study or library being outstanding examples of Adam's work; the ensemble as an eloquent witness to Adam's ability to solve a complex architectural problem with a limited budget; and its importance as the most distinguished piece of architecture in the late Georgian period of Brighton as a resort. The painting of the main facade does not affect that significance, particularly having regard to the fact that it was painted for the vast majority of its life.
  16. I appreciate that the Council has issued a listed building enforcement notice that requires the removal of all the paint from the external render. But for the above reasons I consider that compliance with such a notice is unnecessary because the painting scheme does not affect the special interest or significance of Marlborough House as a Grade I LB, and it preserves the character and appearance of the CA.
  17. The appellant has confirmed in his Final Comments that the grey paint to the windows and window frames is merely an undercoat and that he intends to use a white top coat. This needs to be conditioned accordingly. The Council has not suggested any other conditions and I do not see the need for any, given that the proposal is retrospective.

18. Compliance with development plan policies is not a statutory requirement for listed building applications but such policies are relevant considerations to be taken into account. Policy CP15 of the Brighton and Hove City Plan Part 1 and Policies HE1, HE4 and HE6 of the Brighton and Hove Local Plan together require the city's historic environment, including LBs and CAs, to be conserved and enhanced as appropriate in accordance with relevant policy in the National Planning Policy Framework. For the above reasons the proposal would do so and therefore it would comply with these Policies.

19. For the reasons given above I conclude that the appeal should succeed.

*Nick Fagan*

INSPECTOR