

Reference:	20/00158/UNAU_B	
Report Type:	Authority for Enforcement Action	
Ward:	Shoeburyness	
Breach of Planning Control:	Without planning permission, the installation of a satellite dish and antenna to the property.	
Address:	Gunnery House, 2 Chapel Road, Shoeburyness, Essex SS3 9SL	
Case opened:	27 May 2020	
Case Officer:	Mark Broad	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



1 Site and Surroundings

- 1.1 The building is Grade II listed and formerly known as Single Officer's Quarters for the British School of Gunnery and currently used as a block of flats.
- 1.2 Gunnery House is situated on the east coast overlooking the North Sea. To the north of the site are residential flats and to the south is a Grade II listed building, the Officers Mess, which has been converted into residential units. To the west of the site is the Gunnery Drill Shed which is also Grade II listed.
- 1.3 The foreshore surrounding Shoebury Garrison has been designated a Special Protection Area (SPA), Ramsar Site and Site of Special Scientific Interest (SSSI). The site is within the Shoebury Garrison Conservation Area.

2 Lawful Planning Use

- 2.1 The lawful planning use is as a dwelling within Class C3 of the Town and Country Planning (Use Class Order) 1987 (as amended).

3 Relevant Planning History

- 3.1 There is extensive history associated with this site. The most relevant planning history for the assessment of this case is shown on Table 1 below:

Table 1: Relevant Planning History of the Application Site

Reference	Description	Outcome [Date]
00/00777/OUT	Mixed use development comprising conversion of existing buildings and erection of new buildings for: parkland and open space; up to a total of 465 dwellings; up to 23,750sq.m of business floorspace (Class B1(a) and (B)); up to 1625sq.m of non-residential (Class D1) uses, including A. a health centre within the mixed use area, B. the former Garrison Church as a community hall, and C. the former battery gun store as a heritage centre; up to 5,900sq.m of leisure (Class D2) uses; up to 800sq.m of retail (Class A1); up to 600sq.m of financial services (Class A2) use; formation of hotel (Class C1) with approximately 40 bedrooms; land for a new school; erection of landmark residential building; construction of new access roads; and associated works (Outline)	Granted [06.02.2004]
03/00814/RES & 03/00815/LBC	Convert officers quarters into nine self contained flats and lay out 16 parking spaces (Approval of reserved matters following grant of Outline permission SOS/00/00777/OUT dated 6.2.2004) (Amended Proposal)	Approve Reserved Matters and Grant Listed Building Consent [31 March 2004]
14/00853/FUL & 14/01073/LBC	Install roof light to hipped roof	Refused [01.10.2014] Appeal Dismissed [06.07.2015]
15/01477/FULH & 15/01564/LBC	Install roof lights to hipped roof	Refused [29.10.2015] Appeal Dismissed [21.06.2016]
22/01029/FUL & 22/01030/LBC	Install window and balcony with glass balustrade to 2nd floor east elevation	Refused [05.07.2022]

4 Planning Policy Summary

- 4.1 The National Planning Policy Framework (NPPF) (2021)
- 4.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2021)
- 4.3 Core Strategy (2007): Policies KP2 (Development Principles), CP4 (Environment and Urban Renaissance)
- 4.4 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land) and DM5 (Southend-on-Sea's Historic

Environment)

4.5 Southend-on-Sea Design and Townscape Guide (2009)

4.6 Shoebury Garrison Conservation Area Appraisal (2022)

5 The alleged planning breach, harm caused and efforts to resolve breach to date

5.1 The identified breach of planning control is:

Without listed building consent, the installation of a satellite dish and antenna to the south-east flank wall of the property.

5.2 In May 2020 a complaint was received by the Council alleging a satellite dish and antenna having been installed at the property unlawfully.

- a. The building is a Grade II listed building and does not benefit from permitted development rights and therefore the installation of a satellite dish and antenna requires planning permission and also listed building consent.
- b. No mention of the satellite dish and antenna is shown in the historic applications, and they are not annotated on the approved plans.
- c. Development on listed buildings does not benefit from immunity through the passage of time.

5.3 The Council has a statutory duty under section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. In addition, the Council has a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

5.4 The NPPF and Policy DM5 of the Development Management Plan state that where a proposed development will lead to less than substantial harm to a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the harm is necessary to achieve public benefits that outweigh that harm.

5.5 As already stated in 5.2 a) the property does not benefit from permitted development rights. Listed Buildings and flats generally do not benefit from permitted development rights. Whilst it is reasonable for an antenna or satellite dish to be installed on a residential property, such installation needs not to be external nor does it need to be on a prominent elevation of the building. Whilst the satellite dish and antenna have been in situ for a number of years, unlawful works on listed buildings do not benefit from immunity through the passage of time.

5.6 Gunnery House is a substantial and impressive building dating from 1871. Now in use as flats, it originally provided accommodation for unmarried officers undertaking the instruction of soldiers in artillery techniques. The significance of the conservation area and its many listed building is defined by the consistent character of the historic buildings including their ordered designs and formal layout and this gives the conservation area great cohesion. Although the building has been converted to new uses, the hierarchy of the former military buildings, which became larger and more elaborate as the ranks of occupants increased, is still evident. Gunnery House is intact without any extensions or alterations and this is important to its special historic character and significance. When considering the 2015 appeals, the Inspectors found that, "The historic interest of Gunnery House is thus plain, but it also possesses architectural interest, this arising

from its design and detailing which reflect the high status of its original occupiers and its important military role. The building has an air of purposeful formality. It avoids decoration and complexity for its own sake...”

- 5.7 Unlike some of the other listed buildings in the conservation area it is very exposed from all sides making it even more sensitive to change as alterations and extensions cannot be discreetly hidden. The satellite dish and antenna have introduced a feature wholly incompatible with the historic military building including as an intervention into the otherwise intact facades of this listed building.
- 5.8 Harm to the visual amenity and architectural and historic significance of the building and the wider conservation area is considered to be less than substantial but significant in degree and no public benefits of the unlawful development this. As such, it is reasonable, expedient and in the public interest to pursue enforcement action to secure the removal of the satellite dish and antenna. The unlawful development is contrary to National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM5 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009), the National Design Guide (2021) and the Shoebury Garrison Conservation Area Appraisal (2022).
- 5.9 Staff consider that it is proportionate and justified in the circumstances of the case that a listed building enforcement notice should be served as this will bring further focus to the need for the breach to cease and the identified harm to be remedied. Service of a listed building enforcement notice carries its own right of appeal and also does not fetter the owner in seeking to gain listed building consent for a different proposal which may remedy the identified harm.
- 5.10 Taking enforcement action in this case may amount to an interference with the owner/occupier's human rights. However, it is necessary for the Council to balance the rights of the owner/occupiers against the legitimate aims of the Council to regulate and control land within its area, particularly when it relates to heritage assets.

6 Equality and Diversity Issues

- 6.1 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have, in considering this enforcement case and preparing this report, had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the recommended enforcement action will not conflict with the Council's statutory duties under this legislation

7 Recommendation

- 7.1 **Members are recommended to AUTHORISE ENFORCEMENT ACTION to:**
- a) Remove the satellite dish and antenna attached to the south-east flank wall of the building; and
 - b) Restore the fabric of the listed building to its condition before the installation of the satellite dish and antenna took place and remove from site all materials and debris resulting from compliance with requirement (a) above.
- 7.2 The authorised enforcement action to include (if/as necessary) the service of a Listed

Building Enforcement Notice under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Listed Building Enforcement Notice.

- 7.3 When serving an Enforcement Notice the Local Planning Authority must ensure a reasonable time for compliance. In this case a compliance period of 28 days is considered reasonable for the above works.