

Development Control Committee 7 September 2022

Listed Building Application DC/22/0113/LB – 7 The West Front, Samsons Tower, The Great Churchyard, Bury St Edmunds

Date registered: 24 January 2022 **Expiry date:** 21 March 2022

Case officer: Connor Vince **Recommendation:** Approve application

Parish: Bury St Edmunds **Ward:** Abbeygate
Town Council

Proposal: Application for Listed Building Consent - roofing remedial works to Samson's tower as amended by plan received 4 March 2022

Site: 7 The West Front, Samsons Tower, The Great Churchyard,
Bury St Edmunds

Applicant: Colin Wright

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters.

Recommendation:

It is recommended that the committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

Connor Vince

Email: connor.vince@westsuffolk.gov.uk

Telephone: 01284 757373

Section A - Background

This application is before the Development Control Committee as it is an application having been submitted by West Suffolk Council's Property Services department on a building owned by West Suffolk Council.

The application was previously considered by Members at the Development Control Committee on 6 April 2022, where Members were advised that the consideration of proposals where a local planning authority require listed building consent for proposals, relating to the execution of works for the demolition, alteration, or extension of listed buildings and the Council is the applicant, the Authority should apply to the Secretary of State for that consent under the provisions of The Planning (Listed Buildings and Conservation Areas) Regulations 1990. Members will note the previous recommendation was that consent be granted following the referral to the Secretary of State for determination, and subject to the outstanding ecological matters being addressed.

This report updates the position in relation to ecology and explains why referral to the State is not actually required.

Proposal:

1. Please refer to Working Paper 1 for a description of the proposal.

Application supporting material:

- Application Form
- Site Location Plan, Existing Roof Plan and Through Section
- Amended – Proposed Roof Sections and Elevations
- Heritage Statement
- Design & Access Statement
- Specification & Schedule of Works
- Preliminary Roost Assessment
- Working Paper 1 (DCC report 06 April 2022)

Site details:

2. Please refer to Working Paper 1 for a description of the proposal.

Planning history:

3. Please refer to Working Paper 1 for a description of the planning history.

Consultations:

4. Please refer to Working Paper 1 for a summary of consultation responses. The comments from the Ecological consultant have been added below which are not included in Working Paper 1.

5. Ecological Consultant:

We have reviewed the Preliminary Bat Roost Assessment (Adonis Ecology Ltd, 27th May 2022) to the likely impacts of development on bat (European protected species).

We are satisfied that there is sufficient ecological information available for determination.

This provides certainty for the LPA of the likely impacts on protected species and, with appropriate precautionary mitigation measures secured, the development can be made acceptable.

The recommendations identified in section 5 of the Preliminary Bat Roost Assessment (Adonis Ecology Ltd, 27th May 2022) should be secured and implemented in full. This is necessary to conserve bats, a European protected species. We draw your attention to paragraph 5.1.3 which states that, "In the highly unlikely event a bat or potential bat signs are discovered, works should cease and an ecologist covered by a bat survey licence be called in to assess the situation and advise on how works can proceed in compliance with wildlife legislation".

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 as updated by the Environment Act 2021. Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013.

We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

Representations:

6. Please refer to Working Paper 1 for representations received.

Policy:

7. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by regulation. The development plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies Document (which had been adopted by both councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved St Edmundsbury Borough Council.
8. Please refer to Working Paper 1 for a list of policies and guidance that have been taken into account in the consideration of the application.

Other planning policy:

9. National Planning Policy Framework (NPPF)

10. The NPPF was revised in July 2021 and is a material consideration in decision making from the day of its publication. Paragraph 219 is clear however, that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework; the greater weight that may be given. The policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2021 NPPF that full weight can be attached to them in the decision making process.

Officer comment:

11. Please refer to Working Paper 1 for the officer assessment of the proposals.

Section B - Update

12. Since the conclusion of the previous Development Control Committee meeting on 06 April 2022, Officers have received comments from the Ecological Consultant, confirming they are content with the mitigation and enhancement measures noted within the Preliminary Roost Assessment submitted by the applicant on 30 May 2022, subject to a compliance condition being imposed on the decision.

13. Further discussions have been held by Officers with the Authority's legal and Conservation Officers regarding the delegation and determination of the application. At the time of consideration of the application at 06 April's DCC meeting, Officers advised that under the provisions of The Planning (Listed Buildings and Conservation Areas) Regulations 1990 where a local planning authority require listed building consent for the demolition, alteration or extension of a listed building in their area the authority should refer the application to the Secretary of State for that consent. The recommendation was that delegated authority be given to officers to conclude considerations in relation to the biodiversity related implications of this proposal, and then for the matter to only be referred to the Secretary of State in the event that such impacts are considered acceptable. Members voted in favour of this recommendation.

14. It has since come to light that the aforementioned delegation suggested for the application is incorrect. The position now, as clarified, is that applications by the Council for listed building consent only need to be referred to the Secretary of State for determination in instances where an objection has been received from Historic England (HE) or the National Amenity Societies (NA) (where there is a requirement to notify them) and only then if the Authority are looking to approve the application contrary to any objection by either HE or the NA's. For clarity, both HE and NA were consulted on the application, HE commenting (no objections) and NA not commenting.

15. Historic England's advice on this matter is summarised within the quoted passage below:

"Where a local planning authority require listed building consent for the demolition, alteration or extension of a listed building in their area and the following conditions are met the authority shall make the application to the Secretary of State for that consent.

- a) The authority have notified the Commission and the National Amenity Societies of the application in accordance with any direction issued by the Secretary of State under section 15(5) of the Act;
- b) The authority have received an objection to the application from any of the above bodies within 21 days of the date of issue of the notice; and
- c) The authority does not propose to refuse the application."

16. In light of the above, the Council is not required to refer the application to the Secretary of State and is therefore able to determine the application.

17. The previous recommendation and resolution did not expressly say that the application needed should be referred back to Committee if different circumstances became apparent. However, in light of the clarified position in relation to referrals to the Secretary of State, officers are referring the application back to committee for transparency.

18. It is therefore recommended that Listed Building consent is granted subject to the conditions identified below.

Conclusion:

19. In conclusion, the principle and detail of the development is considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework.

Recommendation:

20. It is recommended that Listed Building Consent be **APPROVED** subject to the following conditions:

- 1 The works to which this consent relates must be begun not later than three years from the date of this notice.

Reason: In accordance with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents, unless otherwise stated below:

Reason: To define the scope and extent of this permission.

3. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Bat Roost Assessment (Adonis Ecology Ltd, 27th May 2022) and Precautionary Method Statement (Suffolk County Council, November 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."

Reason: To conserve and enhance protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) as updated by the Environment Act 2021. To secure biodiversity enhancements commensurate with the scale of the development, in accordance with policies DM11 and DM12 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/22/0113/LB](https://www.west-suffolk.gov.uk/DC/22/0113/LB)