

## Development Control Committee 6 April 2022

### **WORKING PAPER 1**

#### **Planning Application DC/22/0113/LB – 7 The West Front, Samsons Tower, The Great Churchyard, Bury St Edmunds**

|                         |   |                        |   |
|-------------------------|---|------------------------|---|
| <b>Date registered:</b> | 24 January 2022   | <b>Expiry date:</b>    | 21 March 2022<br>EOT 08 April 2022  |
| <b>Case officer:</b>    | Connor Vince  | <b>Recommendation:</b> | Recommend that consent be granted and refer to the Secretary of State for determination |
| <b>Parish:</b>          | Bury St Edmunds<br>Town Council   | <b>Ward:</b>           | Abbeygate   |
| <b>Proposal:</b>        | Application for listed building consent - roofing remedial works to Samson's tower as amended by plan received 04 March 2022. |                        |   |
| <b>Site:</b>            | 7 The West Front, Samsons Tower, The Great Churchyard, Bury St Edmunds  |                        |   |
| <b>Applicant:</b>       | 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.

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## **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.**

**Consideration of proposals such as this is governed by The Planning (Listed Buildings and Conservation Areas) Regulations 1990. These regulations require that for applications by Local Planning Authorities relating to the execution of works for the demolition, alteration, or extension of listed buildings, the Authority should apply to the Secretary of State for that consent.**

**Members will note the recommendation therefore. Whilst Officers are satisfied that, having considered all material matters, the proposal is acceptable, this is not a decision for West Suffolk Council to take. The recommendation therefore is to note this Officer position in relation to the acceptability of the scheme, but thereafter to refer the matter to the Secretary of State for determination.**

## **Proposal:**

1. Listed Building consent is sought for roofing remedial works to Samson's Tower, a Grade I Listed Building situated within the Great Churchyard and Bury St. Edmunds Town Centre Conservation Area.
2. The proposal is for remedial works to the roof of Samsons Tower (No.7) and includes for stripping of existing roof covering and lead gutter lining, repair of failed structural timbers, installation of new wool insulation, new gutter lining, new breathable membrane, lead flashing and wood roll detailing to hips and ridge junction and re-pointing and consolidation of stonework.

## **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

## **Site details:**

3. Samson's Tower is a Grade I Listed Building, situated at 7 The West Front, The Great Churchyard, Bury St. Edmunds. The site comprises a two storey, terraced building currently occupied as a dwelling. The site is also situated within the Bury St. Edmunds Town Centre Conservation Area and also within the Grade II Listed Abbey Gardens.

## Planning history:

| <b>Reference</b> | <b>Proposal</b>  | <b>Status</b>          | <b>Decision date</b> |
|------------------|--|------------------------|----------------------|
| SE/08/0481       | Listed Building Application<br>- Insertion of single glazed window into front door   | Application<br>Granted | 27 May 2008          |
| SE/07/0729       | Listed Building Application<br>- Raising of boundary wall to southern elevation  | Application<br>Granted | 20 August 2007       |
| SE/07/0728       | Planning Application -<br>Raising of boundary wall to south elevation  | Application<br>Granted | 3 July 2007          |
| E/90/2679/P      | Regulation 4 Application -<br>Change of Use of first floor from domestic to museum/office purposes   | Application<br>Granted | 10 September 1990    |
| E/90/1084/LB     | Listed Building Application<br>- (i) Alterations associated with use of Samsons Tower as visitors' centre, including (a) provision of new pathway to the Nave Ruins with gates, railings and sections of new garden wall (b) staff facilities; and (ii) Installation of new toilet window in rear elevation of No. 2 as amended by letter and revised plans received 8th May 1990 CO REPLY 20/02/90 - C      | Application<br>Granted | 18 July 1990         |
| E/90/1083/P      | Regulation 4 Application -<br>Use of Samsons Tower as visitors' centre and associated alterations, including provision of new pathway to the Nave Ruins with gates, railings and section of new garden wall as amended by revised plan drawing No. 4.5.21/2A indicating position of trees to be removed to accommodate the development and further amended by letter and revised plans received 8th May 1990 | Application<br>Granted | 31 July 1990         |

## Consultations:

4. **Bury St. Edmunds Town Council:** No objection based on information received subject to Conservation Area issues and Article 4 issues.

5. **Historic England** – (22 February 2022 to originally submitted plans): Samsons Tower is an important Grade I listed building situated within the registered park and garden in the Bury St Edmunds Abbey Complex. The site is situated outside of the scheduled area. It contains the remains of the medieval Abbey of St Edmund and the large archways, still visible within the ruins were the remains of a large area surmounted by a tower. It is impressive in the surviving medieval stonework. The structure was converted into buildings in the 16th, 17th and 18th centuries and some of the work is good Victorian Gothic. Samsons Tower probably owes its roof to the conversion of the structure to a Probate Registry in 1863 by architect William Rednell.

The works to make the building weathertight are essential to its preservation. It is clearly not able to shed water away from the roof due to missing or poorly bedded tiles and rotting wooden battens. The works to the parapet gutters and the removal of two rows of tiles to enlarge the gutter is understood and will not impact upon the significance of the building. The installation of insulation, it is understood, will be installed while the roof is off and will involve no intervention into existing ceilings. The proposed insulation needs to be breathable which normal loft insulation is not. We would suggest sheepswool insulation or hemp insulation be used as an alternative.

The area of the proposal which is most concerning is the removal of the shaped ridge tiles used on the octagonal roof and their replacement with lead. It is highly likely that the water ingress issues are down to poorly bedded tiles and are not due to an inherent issue with the use of tiles in this situation. While lead would be easier to source and install in this location, the loss of the shaped ridge tiles is likely to impact upon the significance of the building through a loss of a design feature by a known architect.

Historic England considers that the principle of the proposal is one to be supported. However, the removal of the shaped roof tiles and lack of breathable insulation mean there is a potential for the scheme to cause less than substantial harm to the significance of the building. There is not enough information relating to any previous works which may have been undertaken or the conversion works to a Probate Office which would assist in understanding the significance of the building as a whole. We believe that the retention of the shaped tiles and the installation of breathable insulation could mitigate this and would not cause harm to the building. At present though, the scheme is not in accordance with paragraphs 194, 199 and 200 of the NPPF.

We therefore consider that minor alterations are required to ensure this scheme is consistent with its conservation and at present there is the potential for less than substantial harm to the buildings' significance through the loss of architectural details and the installation of inappropriate materials. We believe that the applicant should therefore consider the requirements of paragraph 202 of the NPPF and carry out the required balance.

(21 March 2022 in response to amended plans) - Historic England have reviewed the amended plan provided and note the addition of a sentence

stating that sheeps wool or hemp insulation will be used and that the decorative clay ridge tiles are to be retained.

The amendments therefore address the concerns raised in our previous letter, and we have no further comments to make on this scheme.

Historic England has no objection to the application on heritage grounds.

6. **Conservation Officer:** This application is for remedial works to the roof of Samsons Tower to prevent water ingress and to improve the access for maintenance behind the parapet wall. Visually, there would be a small change to the external appearance of the roof by the replacement of the clay hip tiles with a lead roll to provide an improved water-tight detail at the hip junctions. This is a traditional detail and lead is used throughout the West Front to protect against water damage.

The works would benefit the fabric of the building whilst not affecting its significance. I therefore have no objection to this application. Sufficient information in respect of the proposals has been submitted with the application so no conservation conditions are required.

7. **The Gardens Trust** (09 February 2022): Thank you for consulting the Gardens Trust in its role as Statutory Consultee on the above application which affects Abbey Gardens and Precincts, an historic designed landscape of national importance which is included by Historic England on the Register of Parks and Gardens of Special Historic Interest at Grade II.

We have considered the information provided in support of the application and on the basis of this confirm we do not wish to comment on the proposals at this stage. We would however emphasise that this does not in any way signify either our approval or disapproval of the proposals.

(16 March 2022): Thank you for re-consulting the Gardens Trust in its role as Statutory Consultee on the above application which affects Abbey Gardens and Precincts , an historic designed landscape of national importance which is included by Historic England on the Register of Parks and Gardens of Special Historic Interest at Grade II.

We have considered the information provided in support of the amended application and confirm we have no further comments to add.

8. National Amenity Societies: No response received.
9. Victorian Society: No response received.
10. Ecological Consultant: comments awaited.

#### **Representations:**

11. No third-party representations received.

#### **Policy:**

12. 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.

13. The following policies of the Joint Development Management Policies Document and the St Edmundsbury Core Strategy 2010 & Vision 2031 have been taken into account in the consideration of this application:

### **SEBC Core Strategy 2010**

- Core Strategy Policy CS1 - St Edmundsbury Spatial Strategy
- Core Strategy Policy CS2 - Sustainable Development
- Core Strategy Policy CS3 - Design and Local Distinctiveness

### **Bury Vision 2031 document**

- Vision Policy BV1 - Presumption in Favour of Sustainable Development

### **Joint Development Management Policies Document 2015**

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places Development Principles and Local Distinctiveness
- Policy DM10 Impact of Development on Sites of Biodiversity and Geodiversity Importance
- Policy DM11 Protected Species
- Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity
- Policy DM15 Listed Buildings
- Policy DM17 Conservation Areas
- Policy DM19 Development Affecting Parks and Gardens of Special Historic or Design Interest

### **Other planning policy:**

14. National Planning Policy Framework (NPPF) 2021

15. 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:**

16. The issues to be considered in the determination of the application are:

- Legislation
- Principle of Development
- Heritage Impacts
- Ecological implications

### **Legislation**

17. Regulation 13 of The Planning (Listed Buildings and Conservation Areas) Regulations 1990 requires that applications by Local Planning Authorities for the execution of works for the demolition, alteration or extension of listed buildings are to be considered by the making of application to the Secretary of State for that consent. This proposal is a listed building, it relates to the alteration of such, and relates to a building owned by West Suffolk Council.

18. West Suffolk Council as Local Planning Authority cannot therefore make the final decision on this proposal and the decision is one for the Secretary of State to make. The Regulations require that an application for such consent be submitted to the Local Planning Authority. The Authority is then required to consult and publicise in the usual manner and the matter is then provided to the Secretary of State along with a copy of all representations duly made to them.

### **Principle of Development**

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for St Edmundsbury comprises the Core Strategy, the three Vision 2031 Area Action Plans and the Joint Development Management Policies Document. Policies set out within the NPPF and the presumption in favour of sustainable development contained at its heart are also material considerations.

20. Development will need to be in accordance with policy DM2 and is considered generally to be acceptable provided that the proposal respects the character and appearance of the immediate and surrounding area, and providing that there is not an adverse impact upon residential amenity and highway safety. Along with CS3, DM2 requires development to conserve and where possible enhance the character and local distinctiveness of the area.

21. The principle of development in this location is therefore something the LPA are able to support, subject to other material planning considerations which, in this instance, are predominantly related to the impact of the proposal upon heritage assets.

### **Heritage Impacts**

22. The proposal includes roofing remedial works to a Grade I Listed Building. The application site lies within the Bury St Edmunds Town Centre Conservation Area, albeit outside of the scheduled area of the Abbey Gardens complex. Accordingly, the impact upon these heritage assets must be considered fully as per the statutory duty placed on the Local

Planning Authority by paragraphs 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

23. In policy terms the National Planning Policy Framework identifies protection and enhancement of the historic environment as an important element of sustainable development and establishes a presumption in favour of sustainable development in the planning system (paragraphs 7, 8, 10 and 11). The core planning principles of the NPPF are observed in paragraphs 8 and 11 which propose a presumption in favour of sustainable development. This includes the need to conserve heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life for this and future generations as set out in Chapter 16.
24. At paragraph 199 the NPPF goes on to require planning authorities to place 'great weight' on the conservation of designated heritage assets, and states that the more important the asset the greater the weight should be, and that 'this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'. It is also recognised in the NPPF (paragraph 201) that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
25. As confirmed by Historic England, the site contains the remains of the medieval Abbey of St Edmund and the large archways, still visible within the ruins were the remains of a large area surmounted by a tower. The structure was converted into buildings in the 16th, 17th and 18th centuries and some of the work is described as "good Victorian Gothic."
26. The works to the parapet gutters and the removal of two rows of tiles to enlarge the gutter is understood and will not impact upon the significance of the building. Having received amended plans in response to the comments received from Historic England, the application now proposes sheep's wool insulation which is more breathable and considered acceptable.
27. The ornamental clay tiles which form part of the octagonal roof form will also be retained, as per the amended plans, therefore preserving the architectural integrity and historical significance of the building. The application therefore accords with the provisions of policies DM15 and DM17, the relevant paragraphs of the NPPF and Listed Buildings and Conservation Areas Act.

## **Ecological Impacts**

28. As required by the National Planning Policy Framework (2021) at paragraphs 8c, 174 and 179 the LPA have a duty to consider the conservation of biodiversity and to ensure that valued landscapes or sites of biodiversity are protected when determining planning applications. At a local level, this is exhibited through policies CS2, CS3, DM10, DM11 and DM12.
29. Policy DM11 states that development will not be permitted unless suitable satisfactory measures are in place to reduce the disturbance to protected



species and either maintain the population on site or provide alternative suitable accommodation. Section 40 of the Natural Environment and Rural Communities Act 2006 requires that public authorities (which explicitly include the Local Planning Authority) must have regard to the purpose of conserving biodiversity.

30. Policy DM12 seeks to ensure that, where there are impacts to biodiversity, development appropriately avoids, mitigates or compensates for those impacts. The policy requires that all development proposals promote ecological growth and enhancement.
31. The National Planning Policy Framework (2021) indicates that when determining planning applications, local planning authorities must aim to conserve and enhance biodiversity and that opportunities to incorporate biodiversity in and around developments should be encouraged (Paragraph 180). This is underpinned by Paragraph 8 of the NPPF, which details the three overarching objectives that the planning system should try to achieve and it is here that the Framework indicates that planning should contribute to conserving and enhancing the natural environment.
32. The requirement to have regard to biodiversity is a statutory duty that runs through all decision making and is relevant to the consideration and determination of this proposal. The proposal involves the removal of the entire roof covering, the replacement of failed timbers, and the subsequent replacement of the roof of a building that very clearly, noting its age, position and condition, has some biodiversity related potential. An inspection has revealed rotten roofing rafters, cavities within the stonework, and a deteriorating roof membrane, all of which are leading to water ingress, and all of which, again noting the position of the site within the Abbey Gardens where bat records exist, increase the likelihood that some suitable habitat might otherwise be impacted by the works. It is noted that no Preliminary Ecological Appraisal has currently been provided.
33. Accordingly, the matter cannot be referred to the Secretary of State until this matter has been satisfactorily considered and concluded. Discussions are ongoing with the applicant and officers recommend that delegated authority be given to officers to conclude this consideration, prior to referral of the matter to the Secretary of State.

### **Conclusion:**

34. 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, with the exception of the matter of biodiversity still to be resolved.
35. However, consent cannot at this stage be granted by the Local Planning Authority and the matter, and all details provided and representations received, must be forwarded to the Secretary of State for a decision to be made on the proposal.

## **Recommendation:**

36. It is recommended –

- i. That Delegated Authority be given to Officers to conclude considerations in relation to the biodiversity related implications of this proposal, and for the matter to only be referred to the Secretary of State in the event that such impacts are considered acceptable.
- ii. That subject to i. the LPA confirms that it is content that, all matters considered, it is minded to **GRANT** Listed Building Consent.
- iii. That the matter be sent to the Secretary of State for determination, and that it be recommended to the Secretary of State that consent be granted 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:

Reason: To define the scope and extent of this permission

## **Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/22/0113/LB](#)