

## Development Management Report

Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 19/02030/ADV	<b><u>Parish:</u></b>	Shrewsbury Town Council
<b><u>Proposal:</u></b> To erect and display one pole mounted branded flag		
<b><u>Site Address:</u></b> Goldsmiths of Shrewsbury 10 The Square Shrewsbury Shropshire SY1 1LA		
<b><u>Applicant:</u></b> Goldsmiths of Shrewsbury		
<b><u>Case Officer:</u></b> Jane Raymond	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 349098 - 312452



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2018 For reference purposes only. No further copies may be made.

**Recommendation: Grant Permission subject to the conditions set out in Appendix 1.**

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This application relates to the display of one pole mounted branded flag advertising the watch brand 'Tudor'.
- 1.2 The flag will be made of a stiff fabric and will be plain black with the word 'TUDOR' in white with a simple red shield above.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The sign is proposed to be fixed using a bracket that will be mounted to the existing fascia of Goldsmiths the jewellers at 10 The Square that occupies a corner position.
- 2.2 The building is Grade 2 listed and is sited within the Town Centre Special Character Area which makes up part of the larger Shrewsbury Conservation Area.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Town Council have submitted a view contrary to officers and the Local Member considers that the Town Council has raised material planning issues, and the Planning Manager in consultation with the Committee Chairman agrees that the application should be determined by committee.

### **4.0 Community Representations**

#### **4.1 - Consultee Comments**

- 4.1.1 **SC Conservation:** Concurrent listed building consent and advertisement consent have been submitted which proposes the installation of a flagpole and branded flag to the external shop front of 10 The Square, which is a prominent Grade II listed commercial building sited at the south-westerly corner of the historic town centre Square and Market Street. We had provided consultee comments last year on extensive shop front improvements and redecoration along with internal alterations associated with the re-occupation of the ground floor by a jewellers with this work now completed and the redecorated shop contributing strongly to the character and appearance of the historic Square and enhancing this listed building and other heritage assets around it.

As noted in our comments last year, the building is part of a series of designated heritage assets within the historic Square, and therefore Section 66 of the Planning (Listed Buildings and Conservation Areas) Act is relevant to this application, where the Act requires the need to pay special regard to the preservation of listed buildings and their settings. These properties are all within the 'Town Centre

Special Character Area' which makes up part of the larger Shrewsbury Conservation Area, and to that end, special regard to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is also required in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. In addition, in considering this proposal, due regard to the following local and national policies, guidance and legislation is required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF) and relevant Guidance including Historic England's Setting of Heritage Assets.

Having considered this application for further advertisement signage I am reluctant to formally agree the proposed flag which will only add to the visual clutter of the listed building and in a wider sense The Square, where this building is opposite the Grade I listed Old Market Hall. The shop front has quite extensive branded signage across its main elevation already, beyond that indicated in the approved drawings from last year, as well as signage associated with the shop itself and a projecting hanging sign. The main front entrance has been embellished with a floral arch, which is likely easily removable, and which draws attention to the potential shopping experience here. Further branded projecting signage is not considered to be necessary in this instance and cannot be considered as an enhancement to the shop front or the building, or to the setting of this designated heritage asset or those nearby, as required legislatively as detailed above. As a permanent branded advertising feature on the main elevation of this building, the application is not supported on heritage grounds.

## 4.2 - Public Comments

- 4.2.1 **Shrewsbury Town Council:** Objects to this application on the grounds that they are unable to support the proposals for advertising on heritage grounds in an historic setting. This adds to clutter in such an historic setting and neither preserves nor enhances the Conservation Area.
- 4.2.2 **Shrewsbury Civic Society:** This is Grade II listed building in a highly prominent position bordering the Town Square and opposite the Town's Museum and adjacent to the Grade I mediaeval Old Market Hall. A corner position is proposed that would be in view from both the Square and Princess Street.

Historic England and others objected to external flags and advertising just opposite at the Museum's frontage. This was resisted and appropriate signage accepted and effective. The current proposal here would set an alternative and unwanted precedent that would greatly harm the nature of the historic town square.

The proposed flag promotes one particular brand and does not even signify the shop. It is both large, black and undermining of the shop frontage let alone the building's contribution to the conservation area. The proposal is unnecessary, unwanted and does harm to both the building and the Town Centre Special Character Area.

## 5.0 THE MAIN ISSUES

In accordance with the National Planning Policy Framework and Advert Regulations, applications for advertisement consent are considered against the following issues:

- Impact upon public safety.
- Impact on visual amenity

## 6.0 OFFICER APPRAISAL

### 6.1 Impact upon public safety

- 6.1.1 The sign will be situated on a building within a pedestrianised area of Shrewsbury Town centre. Due to the height of the sign and provided it is securely fixed it is considered that the proposal would have no adverse impact on public safety.

### 6.2 Impact on visual amenity

- 6.2.1 The proposed sign will be erected on a listed building situated within a Conservation Area and there are Listed buildings nearby and the sign has the potential to impact on these heritage assets. The proposal therefore has to be considered against Shropshire Council policies MD2, MD13, CS6 and CS17 and with national policies and guidance including section 16 of the National Planning Policy Framework (NPPF). Special regard has to be given to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.2.2 Paragraph 193 of the NPPF states that *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'*.
- 6.2.3 Paragraph 94 advises that *'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification'*.
- 6.2.4 Both the Town Council and the Civic Society object to the application and consider that the proposal would harm the building, the historic town square and the Town Centre Special Character Area. The Conservation Officer considers that a permanent sign would not be an enhancement to the shop front or the building, or to the setting of this designated heritage asset or those nearby and therefore a permanent branded advertising feature is not supported on heritage grounds.
- 6.2.5 Officers agree with these comments but consider that the impact on the character and appearance of the building and the locality would not be significant and would result in *'less than substantial harm'* rather than *'substantial harm'* to the

significance of these heritage assets.

- 6.2.6 At paragraph 196 the NPPF advises 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 including, where appropriate, securing its optimum viable use'*.
- 6.2.7 The shop front has recently undergone improvements and redecoration along with internal alterations associated with the re-occupation of the ground floor by a jewellers. The redecorated shop that is now open to the public positively contributes to the character and appearance of this listed building, the historic Square and the setting of heritage assets around it.
- 6.2.8 The applicant has provided supporting information regarding the need for the proposed additional sign and have confirmed that they are *'proposing to install this Flag to improve visibility of the store and its brand/s to visitors in Shrewsbury, and more specifically, in The Square.'*
- 6.2.9 The 'Tudor' watch brand is only available within Shrewsbury at this shop and the nearest retailers that stock the 'Tudor' brand are situated in Nantwich, Chester and Wolverhampton. The applicants consider that *'as the only TUDOR stockist serving Shropshire, Herefordshire and North and Mid Wales, we strongly believe that the draw of the brand will lead to increased footfall for both The Square and the Town Centre, which will benefit not only ourselves but other independent businesses in the area'*.
- 6.2.9 The proposed sign will help promote the brand which will in turn promote the store and hopefully ensure that this new business is successful and continues to trade. If the company is successful this will attract new customers to Shrewsbury increasing footfall in the locality and helping increase the vitality and vibrancy of the town centre. Allowing this sign is therefore considered to be of public benefit by supporting the local economy and also ensuring the building continues to be occupied and maintained and does not end up being another vacant unit in the town centre which would have an adverse impact.
- 6.2.10 Whilst it is accepted that a proliferation of advertising material is not appropriate on a listed building within the historic core of Shrewsbury town centre conservation area it is considered that the 'less than substantial harm' identified is acceptable when weighed against the benefits of the proposal.
- 6.2.11 This harm can also be limited by granting a temporary consent for 6 or 12 months to enable both the brand and business to become established in this location. This is in accordance with the recommendation of the conservation officer who does not support a permanent branded advertising feature.

## 7.0 CONCLUSION

- 7.1 In determining this application special regard has to be given to the desirability of preserving the setting of the listed building and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72

of the Planning (Listed Buildings and Conservation Areas) Act 1990. Whilst it is considered that the proposal might result in less than substantial harm to the significance of the heritage assets identified this harm is outweighed by the benefits of the proposal and can be limited by a condition requiring the sign to be removed within 6 or 12 months.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- ☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ☐ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

### 8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

### 8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

## 9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Site Allocations and Management of Development (SAMDev) Plan:  
MD2, MD13, CS6 and CS17

## 11. Additional Information

List of Background Papers

19/02030/ADV - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages

Cabinet Member (Portfolio Holder): Cllr G Butler

Local Member: Cllr Nat Green

Appendices

APPENDIX 1: Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. No advertisement shall be sited or displayed so as to—

(a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or

(c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6. The development shall be carried out strictly in accordance with the approved plans and drawings

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

7. The advertisement hereby granted temporary consent shall not be retained on the site after the expiry of 12 months from the date of this decision.

Reason: In order to protect the long term visual amenity of the area.