**GROUNDS OF APPEAL**

**Town and Country Planning (Control of Advertisements) (England) 2007**

**Appeal Reference: APP/X5210/H/14/2223914**

**138 Maida Vale**

**London W9 1QD**

**11th August 2014**

1. **Introduction**

This appeal is made by KDT Management Ltd. against the decision of Camden Council to refuse planning application number 2014/4108/A on 18th July 2014.

The proposal was for the erection of one freestanding advertising display with internal illumination.

1. **Site and Surroundings**

The application site 138 Maida Vale is a five storey BT Telephone exchange with a car park on the frontage with Maida Vale.

The surroundings are of mixed use with commercial and residential usage. To the immediate north of the site is the Islamic Centre of England and the Marriot Hotel and opposite the site is a shopping parade and the Queens Arms Public House. To the South of the site Maida Vale is largely residential.

Maida Vale from which the advertisements will be viewed, is the A5; a well lit major arterial road which becomes Edgware Road to the south and Kilburn High Road to the north. The A5 trunk Road connects central London at Marble Arch to the M1 Motorway.

1. **The Proposal**

The proposal is to erect in the car park of the telephone exchange a freestanding advertisement display. The advertising panel is a metal, internally illuminated light box with a PVC advertising skin supported on a short monopole.

These types of advertising displays are not an uncommon feature in major cities and in lively commercial areas can contribute to a vibrant, modern and successful city.

Outdoor Advertising is essential to commercial activity in a free and diverse economy and is an important part of a healthy economy stimulating consumer demand, attracting investment and in turn creating jobs and generating tax revenues.

1. **National Planning Policies**

Planning Practice Guidance Paragraph 079 (updated 06 03 2014) states that an advertisement ‘would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.’

We believe this proposal, in this neighbourhood, adheres to these criteria as Maida Vale is a major road and has large buildings of a substantial scale.

The National Planning Policy Framework (March 2012) states in Para 67 that ‘Advertisements should be subject to control only in the interests of amenity and public safety taking account of cumulative impacts’.

 We outline below our submission that the proposal is considered acceptable in the interests of amenity and public safety. Whilst there are other similar advertisements on other parts of the A5 this advertisement would be the only one in the immediate vicinity, it will be a standalone feature and will not add to any existing or cumulative advertising clutter.

1. **Refusal Notice**

The London Borough of Camden refused the original application on the following grounds:-

‘ 1. The proposed free standing internally illuminated sign by reason of its size, siting and illumination would result in an overtly dominant addition which would be detrimental to the street scene contrary to Core Strategy Policy CS5 and CS14 and Development Policies Policy DP24 of Camden’s Local Development Framework.

2. The proposed free standing internally illuminated sign, by reason of its size, siting and illumination close to a road junction, would be likely to distract drivers to the detriment of highway and pedestrian safety, contrary to Policy DP21 (development connecting to the highway network) of the London Borough of Camden Local Development Framework Development Policies.‘

1. **Grounds of Appeal**

**Size**

Camden Council considers that the proposed advertisement due to its size would be an overtly dominant addition in this location. It is submitted that size is a legitimate planning consideration however the proposed advertisement of standard size, would stand within its own plot of land and have its own space around it.

The single sided advertisement would be seen against the substantial backdrop behind the site of the telephone exchange. Beyond the site there is the Islamic Centre of England and the Marriot Hotel a substantial building of seven storeys. It is submitted that scale of these substantial buildings are sufficient to accommodate an advertisement of this size without detriment to the amenity.

The advertisement display is not excessive but a standard industry size entirely typical in city centres. The monopole structure and advertising unit is designed to be simple, attractive and a slim feature in comparison to the nearby buildings.

It is concluded that the size of the advertisement will not be overtly dominant due to the substantial scale of the immediate surroundings.

**Siting and Illumination**

The London Borough of Camden considers the siting and illumination of this advertisement would result in an overtly dominant addition which would be detrimental to the street scene.

Advertisements by their nature are designed to seen from the road by passing motorists and users of public transport. It is therefore necessary to site the advertisements near to and visible from the road and for this reason the proposed siting of this advertisement is not thought to be inappropriate but entirely normal for a freestanding advertisement display.

**Amenity**

It is not stated specifically in the reasons for refusal that the advertisement would be detrimental to ‘amenity’ only implied by the reason that the advertisement would be detrimental to the street scene.

The advertisement will be located in the car park in front of the British Telecom telephone exchange; which is a modern five storey commercial building of no particular architectural merit and it is believed that the advertisement will not detract from the aesthetic value of this building. The advertisement panel is a modern feature which will not be incongruous with the modern appearance of the telephone exchange.

The site is located on a major road and shopping street and so this should be an appropriate location for this proposal.

We conclude that that the ‘overtly dominant addition’ cited in the reason for refusal cannot be sustained due to the commercial nature of the street scene to the north against which backdrop this advertisement will be viewed.

We believe account should be taken not only of factors which may be detrimental to the street scene but also of factors which are positive and may be to the advantage of the street scene, such as the advertisement adding appropriate colour and interest to the street scene. This advertisement will add to the vibrancy of the area by adding colour and visual interest to Maida Vale and the advertising complements the commercial profile of this modern shopping area.

**Location and Area**

The site is not located in a defined area of Special Advertisement Control and is not within a Conservation Area which suggests that advertising may be appropriate in this area. We believe that the dignity of the area will not be diminished by this proposal.

**Highway and Pedestrian Safety**

The London Borough of Camden consider in their reasons for refusal that the advertisement would be likely to distract drivers to the detriment of highway and pedestrian safety. There is no delegated officer’s report available on Camden’s website and the Council have apparently produced no evidence thus far to support their case that the advertisement is detrimental to public safety.

The proposed advert is a normal poster panel and a familiar feature in the city centre and straightforward in its overall form. The display will be clear and simple showing static advertisements. The sign is located on a straight piece of road and does not obscure or conflict with any other road signs or signals.

Planning Practice Guidance (Revised 06 03 14) Paragraph 067 states that ‘There are less likely to be road safety problems if the advertisement is on a site within a commercial or industrial locality’. This appeal site conforms to this criteria and it is submitted that the advertisement does not present a highway safety issue.

The advertisement is designed to be viewed by traffic travelling northbound along Maida Vale and this is the only traffic flow that would be able to view the advertisement material. When viewed from this approach the advertisement display will be visible from a relatively long range and drivers will have ample time to assimilate the advertisement material within their normal field of vision without being distracted.

The Council consider that the sign is close to a road and junction and would be likely to distract drivers. Roadside advertisements by their nature will be close to roads and it is not clear from the refusal notice which road junction the Council are referring to.

There are two junctions in the vicinity and no traffic signals at either junction.

The sightlines at the junction between Maida Vale and Kilburn Park Road (on the opposite side of Maida Vale to this site) are thought to be good and within acceptable limits and will not be affected by this advertising panel which will not visible to drivers exiting Kilburn Park Road.

The sightlines at the junction between Maida Vale and Kilburn Priory which is some distance from the site are thought to be excellent due to the slight curve in the road at this point enabling drivers exiting Kilburn Priory onto Maida Vale to see traffic for a long distance in both directions. The advertisement material will also not be visible to drivers exiting Kilburn Priory.

For the above reasons we do not believe the proposed advertisement is detrimental to highway and pedestrian safety.

**Negotiation**

Camden Council added that in accordance with paragraphs 186 and 187 of the National Planning Policy Framework they have attempted to ‘work with the applicant in a positive and pro active way’.

The applicants attempted to discuss and modify this proposal with the Council including in an email on 26th June 2014 reducing the height of the advertising panel by 1.35m in an attempt to make the proposal more acceptable to the Council. It was felt that the minimum safe height from the ground of the advertisement could be 1.0m.

Furthermore, following the Councils concerns about the size of the advertisements in discussions and in an email on 17th July 2014 the applicants offered to reduce the size of the advertisement display area from 37.5 square metres (7.5m x 5.0m) to 17.5 square metres (5.0m x 3.5m) a reduction in size of approximately 53%.

The Council considered both of these amendments unacceptable.

**Consultation**

It is not clear whether the Council have consulted with anybody concerning this proposal as there appears to be no Planning Officers delegated report available on the Councils website.

The London Borough of Camden has provided no evidence, for example from Transport for London or the Councils Highway and Transportation department to support their highway safety objections.

**Council Policies**

Camden Councils Core Strategy Policies and Development Policies are noted. It is not clear from the refusal exactly how this proposal is contrary to Policy CS5 and CS14 as they are fairly general and wide reaching without specific reference to advertisements or advertisement policy. However we assume that legitimately the Council wish to protect amenity (CS5) and protect heritage (CS14).

As outlined previously we believe this proposal makes a positive contribution to the street scene and therefore is not detrimental to the amenity. This site is not in a Conservation Area and so it is not thought to be detrimental to Camden’s heritage.

Camden’s Development Policy DP 24 appears to relate to buildings and securing high quality design for buildings. However it is believed that this advertising unit is of the highest quality design using durable and long lasting materials.

Development Policy DP21 (development connecting to the highway network) is also noted. This proposal does not create any vehicular traffic that will affect the highway network and we have previously outlined our case that the advertisement is not detrimental to road safety.

Overall it is submitted that this advertisement proposal is not itself specifically contrary to any of the Councils’ policies CS5 CS14 DP24 or DP21.

1. **Conclusion**

In conclusion we believe this advertisement display will make a positive contribution to the appearance and amenity of the area, adding colour and interest and complimenting the commercial profile of this part of Maida Vale and Central London.

It is concluded that the size and siting of this advertisement is appropriate as the surrounding buildings are of a large and sufficient scale to accommodate this advertising unit and this is an appropriate location for this type of advertising display which are not uncommon in London and other cities.

It is not considered that this advertisement will be detrimental to highway and pedestrian safety as drivers will be able to assimilate the advertising material within their normal field of vision.

If the inspector considers that a reduced height (to 1.0m above ground) or a reduced size of advertisement (to 5.0m x 3.5m), as proposed to Camden Council in negotiations, is more appropriate in this location, this would be acceptable to the appellants.