

	Environment Committee Thursday 13th September 2018
Title	Review of the Borough's advertising agreements, future advertising & asset sponsorship opportunities and the provision of public conveniences
Report of	Chairman of the Environment Committee
Wards	All
Status	Public, save Appendix 3 which is exempt under paragraph 5 of Schedule 12A Local Government Act 1972 on the basis legal professional privilege could be claimed
Urgent	No
Key	Yes
Enclosures	Appendix 1 – Automatic Public Convenience (APC) Usage figures Appendix 2 - Advertising Policy Appendix 3 – Legal advice - Exempt
Officer Contact Details	Jamie Cooke, Interim Assistant Director Transportation and Highways Commissioning 0208 359 2275 Paul Bragg, Highways Lead, Network and Infrastructure 0208 359 7305

Summary

This report identifies the work that is currently taking place to re-procure a new advertising contract and the proposals regarding new provisions following a review of existing arrangements. This includes the termination in November 2019 of the existing JC Decaux advertising contract and options concerning the future provision of public conveniences which are integral to this current contractual arrangement.

The report also identifies a future policy direction in respect to advertising and public realm sponsorship in the Borough and outlines a future strategy to make best use of the Council's Public Realm assets.

Officers Recommendations

- 1. That the Committee approves the re-commissioning of bus shelters, but notes that a separate report will be presented to a future Environment Committee to determine the number of bus shelters to be provided under new contractual arrangements.**
- 2. That the Committee approves the advertising policy attached at Appendix 2.**
- 3. That the Committee agrees to delegate authority to the Strategic Director for Environment to:**
 - (a) Grant consent under the Highway Act 1980 for the erection of objects or structures for the purposes of advertising and to permit advertising to be placed on existing structures in accordance with the policy at Appendix 2 and subject to following statutory processes and obtaining relevant statutory consents.**
 - (b) Enter into contractual arrangements with service providers to facilitate the provision of advertising on highway land and other Council land to facilitate the policy intentions in Appendix 2**
 - (c) Enter into a licence for highway land and lease or licence arrangements for other Council land as appropriate to facilitate the policy intentions in Appendix 2.**
- 4. That the Committee agree to the removal of the existing Automatic Public Conveniences (APCs) on expiry of the existing contract and to delegate authority to the Strategic Director for Environment to establish alternative public convenience provision via local businesses and other Council buildings.**

1. WHY THIS REPORT IS NEEDED

BACKGROUND

Existing Advertising Agreement

- 1.1. Since 1991, JC Decaux has held the street advertising contract for Barnet. The contract generally, provides for installation, advertising, management and maintenance of a variety of different sizes and types of advertising panels on standalone panels, columns, bus shelters, boards and automatic public convenience facilities around the Borough. This contract includes the provision of the following type and number of advertising assets:
 - 123 Bus Shelters (88 incorporating adverts and 35 without adverts)
 - 52 Free Standing 6 sheet panels
 - 9 Decorative Columns

- 7 Automatic Public Conveniences (APCs)

1.2. The existing JC Decaux (JCD) contract, is due to end in November 2019. In accordance with the requirements of the contract, HB Public Law has served notice to terminate the contract, on expiry, to JC Decaux.

Public Conveniences

1.3. In addition to advertising the JC Decaux contract includes the supply, operation and maintenance of seven Automatic Public Conveniences (APC's) facilities which are located at various locations in the Borough. The contract initially commenced with five APC's however, two further units have been added through a contract variation. The locations of the seven APCs are:

- Ballards Lane, Finchley – Outside Finchley Central Station
- Brent Street, Hendon – at the junction with Bell Lane
- Cat Hill, East Barnet – at the junction with Brookside
- Friern Barnet – Junction with Friern Barnet Lane and Friern Barnet Road
- High Road, Whetstone – Outside Ivy House
- Watling Avenue, Burnt Oak – Outside the Library
- Stanhope Road, North Finchley Town Centre – by the car park

The costs to re-provide these facilities are considerable when viewed in relation to current usage and as this is not providing good value for money a change in this provision is proposed.

The utilisation figures for the seven APCs can be viewed in Appendix 1.

1.4. **Other advertising/sponsorship arrangements currently in place include:**

- An agreement to allow advertising/sponsorship on a small number of the boroughs roundabouts (currently managed by the Council's Strategy and Communications Service)
- An agreement to allow sponsorship of the boroughs Gateway Signs - Barnet Borough entry signs (currently managed by the Council's Strategy Communications Service)
- Agreements to allow seven billboards and a 48-sheet large format advertising panel (currently managed by the Council's Property Services Team)

Future advertising on highway land and other Council land

1.5. Like many other Local Authorities, the Council is mindful of the potential to utilise its highway land and other Council land in the best way possible to benefit the Borough as a whole. With the imminent changes in the long-standing advertising contract it was timely to conduct a more thorough review of advertising in the Borough more generally. This has included investigating other existing similar smaller contracts/arrangements in place, such as roundabouts and Borough entry

and exit sign advertising and determining what other authorities have in place in respect to their advertising provision.

- 1.6. This review has identified a number of opportunities and this report sets out the likely options and proposals and seeks to establish a policy direction in relation to existing and future advertising provisions to be maintained and introduced into the borough.
- 1.7. It is proposed that the Strategic Director for Environment be given delegated authority to seek and select suitable third party providers for each of the opportunities identified in this report. The Strategic Director for Environment would also have delegated authority to grant permission to erect advertising hoardings and place advertising on existing structures on a case by case basis, subject to following the statutory processes for highway land and to enter into appropriate lease/licence arrangements. This would give the third party provider the necessary permission to erect and maintain suitable advertising displays at specified locations. The Council would then grant permission to the third party with appropriate conditions including the application and securing of planning consent, the payment of a reasonable charge, a condition that public and council information will be displayed for set periods throughout the year and an indemnity in relation to injury, damage or loss arising out of granting the permission. It is important to note that the requirement for the third party provider to obtain planning approval will include normal planning application processes to be followed including, where necessary, the Council's planning department seeking the authority of the Planning Committee.
- 1.8. As it is likely that these contractual arrangements will be long term agreements, due to the high capital costs involved in providing the new digital displays, it is also important that the delegated authority extends to allowing amendments, including introducing suitable additional sites, within the term of the agreements.

2. REASONS FOR RECOMMENDATIONS

Preferred options

Existing Advertising Contracts

- 2.1. It has been established from the review that there are a number of existing arrangements in place all of which are at a point where they can be re-provided as existing agreements will come to an end during 2019.
- 2.2. The largest of all the existing arrangements is the longstanding JC Decaux contract. This currently does not provide appropriate terms to kept pace with advertising market advances, including the introduction of digital displays. It is therefore anticipated that the Council will be in a position to improve this situation at the point of re-procuring this arrangement and will also seek to identify suitable service providers for other forms of advertising, at the point these agreements are to be renewed.
- 2.3. The Authority's current approach to advertising and asset sponsorship is somewhat fragmented and as such this does not deliver the best possible outcomes for the Council. Appendix 2 sets out an Advertising Policy, which covers

the different types of advertising and criteria to be applied for each type. The Committee is asked to consider and approve this policy and delegate authority to the Strategic Director for Environment to make decisions in accordance with the policy.

- 2.4. In order to maximise benefits for the Borough it is proposed to amalgamate all advertising and asset sponsorship opportunities and deal with the procurement and the ongoing management together.
- 2.5. In addition to an expansion of existing arrangements there are also other opportunities which include better utilisation of existing assets, involving the use of Lamp Post Banners and Welcome to Town Centre signs.
- 2.6. It has also been established that many other Councils, including those in London, have added digital advertising panels (which are replacing the traditional billboards) to their advertising contracts. These are generally located in areas where there are large volumes of passing traffic and therefore are often situated at the side of major roads, although these are not necessarily on highway land. There are a number of major traffic routes passing through the Borough and as such there are opportunities to include these types of advertising displays into future agreements. Initial work has been undertaken to identify interest from the market. This has indicated that there are a number of sites that are of interest within the borough and therefore including these in a future advertising strategy would be advantageous.
- 2.7. Based on the above position it is now an appropriate time to establish a policy direction in respect to how the various Council assets should be best utilised to provide important Council messaging, advertising and sponsorship. The policy at Appendix 2 covers opportunities and criteria to be applied when making decisions on future erection of advertising hoardings or placement of advertising on existing structures.
- 2.8. It is proposed that the Council should deal with each opportunity identified above as follows:

Termination and Re-procurement of the JC Decaux Contract

- 2.9. Given the JC Decaux Contract has expanded considerably since 1991/2, the income generated has not really kept pace, or provided appropriate benefit to the Authority, in monetary terms. The £63,000 annual charges that is currently paid to the Authority is balanced by the business rates the council applies for the various advertising fixtures at all locations covered by the contract.

Public Convenience Provision

- 2.10. Apart from the financial aspect of the assets provided by JC Decaux, under the contract, the seven APC facilities provide a useful facility to members of the public, and shoppers, in the areas they are situated. The APCs also provide for some advertising facilities to the benefit of the contract.
- 2.11. The APC facilities are comprehensively managed and maintained by JC Decaux. They cover some of their costs from the advertising income, however

due to the addition of two extra APC's since the commencement of the contract the Council is currently charged a subsidised rate of just under £22,000 for each of the additional APC's. The maintenance includes daily cleaning and re-provisioning of each site. In addition to this cost is another £9,500 for rates and utility costs for the seven APC's.

- 2.12. This effectively means that the Council has not paid the market rate for the provision and maintenance of the APC's, as this has been subsidised by the income derived. Therefore the potential decoupling of the APC's from an advertising contract would entail an increased cost to the Borough should the Council continue to provide, in part or full, the APC provision beyond November 2019. Further detail on related costs are identified in section 3 below.
- 2.13. The current contract identifies that all assets party to the contract are owned by JC Decaux and that JC Decaux are required to remove their advertising installations, including the APC units, within six months of the expiry of the contract, including making good and fully reinstating pavement areas they have been installed upon.
- 2.14. This therefore means that all APC's will be removed and hence will no longer be available for use within a period of six months from November 2019. However, it is worth noting that JC Decaux have already indicated that they would ideally commence the removal programme in advance of the contract end date and therefore it is more likely that they will start to be decommissioned before November 2019.

The Usage figures of each of the APC's are included at Appendix 1, to this report.

- 2.15. The APC usage figures indicate that some, but not all, of the APC's are reasonably well utilised and are therefore providing a useful facility of public convenience. However, when considering this against the full cost of providing the facility it may be considered that this does not provide good value for money. This is based on the usage against cost calculation amounting to a cost per use of between £7.57 and £31.60. The lowest cost being associated with the most used APC and the highest cost associated with the least used APC (calculated based on the estimated renewal and maintenance costs and latest 2017 usage figures).
- 2.16. The above costs are, based on the fact that, all of the existing APC's would need to be replaced for new units as the existing units are old and considered to be life expired by JC Decaux due to current condition, fault frequency and the lack of availability of spare parts.
- 2.17. The existing APC's are located in town centres or shopping parades and therefore alternative options are available to the public by utilising the public convenience facilities provided in other facilities such as, public houses, restaurants, cafes and coffee shops. It is recognised that some of these establishments may currently apply restrictions on only allowing these facilities to be used by paying customers, however the Council is negotiating an arrangement with such establishments to remove these restrictions. This may mean entering into a financial arrangement with these establishments, but it is anticipated that this would be considerably less expensive than continuing to

incur the cost of providing and maintaining an expensive APC provision. It is therefore proposed to remove the existing APCs and to not re-provide them within the new contract.

- 2.18. In respect to the existing bus shelter provision, it is recognised that the existing provider has been unable to utilise all of the assets for advertising during the contract term. This means that the cost of continuing to provide all of the 123 shelters in the future could become too expensive in relation to the income provided. Due to the current Bus Shelter advertising contract having been in place for 27 years there is no current market testing data that provides accurate costs for bus shelter provision for either the Borough as a whole or individual sites. It is therefore intended to re-procure this contract on the basis of rationalising the Bus Shelter provision, which may lead to a reduction in the number of bus shelters. However, it is the Council's intention to retain as many of the bus shelters as possible and this will be the stated aim to potential future providers as part of the procurement process. A full inventory of the bus shelters and their locations will be provided to a future Environment Committee and Committee will decide on the number of shelters to be retained as part of the new agreement.

Establishing a new provision of Digital Advertising displays

- 2.19. It is proposed to expand the current provision to include opportunities for digital advertising panels (the type that are being introduced to replace traditional billboards) to be installed at appropriate sites adjacent to main roads.
- 2.20. Twenty potential sites, adjacent to major traffic routes, have been identified and it is intended that these will be offered to interested providers as part of a competitive bidding process. It is also intended that additional sites will be identified in the future and/or potentially could be proposed as suitable sites by potential bidders. It is proposed that the Strategic Director for Environment will have delegated authority to grant permission to erect structures or place advertising on an existing structure on any highway way and such decisions will be made on a case by case basis. This will involve following a statutory process, including giving notice and seeking statutory consents. Appendix 2 sets out the criteria to be applied when making decisions on whether to grant permission. Conditions, including the setting of a reasonable charge, will be applied to such permission.
- 2.21. Any interested parties will be required to submit bids to supply, install and maintain the advertising displays. Bidders will be responsible for seeking planning approvals for each proposed site, which will include seeking expert opinion on any adverse impacts, such as local safety issues, before any approvals are granted. In accordance with normal planning approval procedures local consultation will be conducted for each proposed site. On that basis, the progression of each proposed site will be subject to a positive road safety audit and planning approval being granted in each case.
- 2.22. As part of the amalgamation it is proposed that the existing Billboard sites managed by Property Services are included in this new provision.

New and expanded provision for Small Scale Advertising

- 2.23. There are currently only seven roundabouts and a number of borough entry signs where advertising/sponsorship exists. This represents an underutilisation of highway land for the offering predominantly local businesses sponsorship opportunities and it is therefore proposed to expand provision to additional sites throughout the Borough. This will include all gateway signs, both entry to Barnet and Welcome to Town Centre signs and all appropriately sized roundabouts.
- 2.24. In addition, bidders for the small-scale opportunities will be offered lamp posts to attach advertising banners. These will be a helpful additional for local businesses as the experience obtained from other authorities is that most local businesses are unable to afford other advertising media. Street Lamp banners, gateway signs and roundabouts provide an alternative mechanism for local businesses at a lower cost. This form of advertising can also be a useful resource for community and charity events as they provide high profile messaging to a wide audience.
- 2.25. All of the existing advertising sites are currently being utilised to provide Council messaging. They enable a wide audience to be captured and as such encourages maximum potential engagement with residents and promotes attendance at public events and meetings. It is proposed to utilise the majority of the future advertising displays to continue to promote local Council events, meetings etc. It is also proposed that the future messaging will include campaigns that promote key Council priorities such as Corporate Plan aspirations. As an example, this may include promotion of leisure facilities and healthy eating awareness campaigns.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

Existing agreements

3.1. To allow existing agreements to expire without re-procuring new agreements

This option is not recommended as it loses the opportunity for the Council to consider its policy intentions for advertising on highway land and other Council land. It would also result in a loss of amenity from the bus shelters that are provided as part of the contractual arrangement.

To continue with the current ad-hoc arrangements.

This would not provide the best use of the Council highway and other land and would not be maximising the benefits that can be derived in terms of improved messaging, supporting local businesses and applying reasonable charges.

Public Conveniences

- 3.2. **To negotiate with JC Decaux to continue to provide all of the APC installations and the maintenance and repair of these on an ongoing basis.**

This option is not recommended as it would involve JC Decaux charging at least the full market rate for this service as it will no longer be subsidised by the advertising contract income. Officers have had initial discussions with JC Decaux to establish likely costs of this option and it would appear that ongoing maintenance would be in the order of £20,000 per annum, per unit. However, JC Decaux have identified that due to the age and condition of the existing APC's and the associated difficulty in obtaining replacement parts for them, the existing units would need to be replaced with new units should the Council wish to continue providing this provision. The estimated cost of a replacement unit is £100,000 and therefore a significant investment would be required to retain the existing facilities.

- 3.3. **Retain those APC units that are the most well utilised**

Depending on the numbers retained the costs would be reduced from those indicated above, however this may not be on a pro rata basis as the costs per APC may be increased if there are less to provide and maintain due to economies of scale. This would still involve a significant investment. This option is not recommended.

3.4. Negotiate with JC Decaux to purchase the existing APC units

This option would involve the Council needing to identify an alternative specialist provider to carry out the management of the APC's including all daily maintenance, cleaning and repairs for any retained APCs. However, this option is not recommended due to JC Decaux confirming that the units are considered to be life expired at the end of the existing contract and they would not be willing to sell the units to the Council.

3.5. Establish a new contract with an alternative provider to supply, install and maintain new APC units.

Based on the indicative costs provided by JC Decaux this would require significant investment and involve the additional time and costs of conducting a competitive procurement exercise. This is therefore anticipated to be the most costly option and as such would not provide best value for the Council. This option is not recommended.

3.6. Include the re-provision of APC's within a new advertising contract which will replace the existing JC Decaux advertising contract.

Officers have sought specialist advice on the impact this may have on the Council's ability to obtain the best advertising agreement that maximises income potential for the Council and have been informed that it is highly likely that this will be detrimental as the current key market leaders are not keen on providing an APC service, as an integral part of an advertising agreement.

3.7. Allow the existing APC's to be removed at the end of the existing JC Decaux contract and make no alternative provisions.

This option is not recommended as utilisation figures demonstrate that people do use the public conveniences. Therefore, it is considered more appropriate to provide an alternative means of public convenience.

3.8. Introduce coin operated APCs

Officers have considered the ways in which a retained facility could be part funded. There is an option to re-provide the facility with an associated cost for accessing and using the facility (coin operated entry). The income that this could generate would be low based on the existing usage figures and when the costs associated with collecting and banking the cash and the likely damage/vandalism that will arise due the thieves trying to access the cash it is more likely that this would increase the costs of operation rather than act as a helpful subsidy. It is also likely that usage would drop following the introduction of charges.

Bus Shelters

- 3.9. In respect to Bus Shelters, request potential bidders to re-provide shelters on a like for like basis with a mixture of shelters including adverts and non-advertising units and maintain these alongside the shelters with advertising included. This would significantly increase the costs of operating the contract

and as such would be detrimental to the potential income that could be generated if only the optimal number of shelters are included. However, it is the Council's intention to retain as many of the bus shelters as possible and this will be the stated aim to potential future providers as part of the procurement process. A full inventory of the bus shelters and their locations will be provided to a future Environment Committee and Committee will decide on the number of shelters to be retained as part of the new agreement.

New Advertising Opportunities

3.10. Not pursue the opportunity to expand the use of advertising and sponsorship on the Council's highway and other land

The advertising and asset sponsorship review has identified that other Councils, particularly those in London, are deriving benefits from maximising the use of existing highway and other land. If the Council do not follow a similar approach it could be considered that the Council is not currently managing its existing land appropriately and most importantly to the benefit of residents. In addition, local businesses would not be provided with a potential advertising source that is considered to be affordable.

4. POST DECISION IMPLEMENTATION

- 4.1. Once the options have been established through an agreed Advertising Policy, officers will immediately progress appropriate actions to deliver the required outcomes. This will include the following:

Existing Agreements

- 4.2. To give notice on all existing agreements, produce a specification of requirements for each, market the opportunities, consult as necessary, obtain necessary consents and enter into new agreements with the bidder that offers the best value option for the Council.
- 4.3. To facilitate the mobilisation of the new contract and exit of the existing provider that delivers the smoothest possible transition from the removal of existing equipment to the establishment/installation of new equipment.

New Opportunities (Digital Adverts)

- 4.4. To produce a specification of requirements for each, market the opportunities, consult as necessary, obtain necessary consents and enter into agreements with the bidder that offers the best value option for the Council.

New Opportunities (Roundabouts, Gateway signs and Lamp Post banners)

- 4.5. To make arrangements to access existing framework contracts and negotiate agreements with the framework provider who provides the best value option for the Council for each of these forms of advertising media. Seek necessary consents and conduct consultations as necessary.

Automatic Public Conveniences

- 4.6. To continue to engage with appropriate businesses in each of the locations where the APC's will be removed to gain agreements that alternative toileting facilities will be made available.
- 4.7. Once agreements have been reached, to publicise the proposed changes in public toilet provision in order to ensure maximum convenience for those that wish to use these facilities.

Equalities Impact Assessments

- 4.8. An equalities impact assessment will be performed to determine any positive and negative effects on individuals or groups as a result of any changes to amenity provision as a result of the new agreements.

Returning to Environment Committee for approval

- 4.9. When full market engagement has taken place further details will be provided to Environment Committee to identify the market response in respect to the viability of replacing all existing bus shelters and this will enable the Committee to determine which option they wish to pursue in relation to the number of bus shelters to be re-provided under the new agreement.

Planning Committee

- 4.10. It is worth noting that before any new advertising sites can be installed, planning consent will need to be provided. Where this cannot be provided through officer delegation it will be determined by the Planning Committee with each individual site being considered on its specific merits.

5. IMPLICATIONS OF DECISION

5.1. Corporate Priorities and Performance

- 5.1.1. The 18/19 addendum to the Corporate Plan identifies that our focus is on reaching the best outcomes for our residents and working with a range of public, private and voluntary sector organisations to achieve this. Therefore, utilising alternative existing facilities and working in partnership with private businesses to share resources to provide best value outcomes is aligned with this aim.

5.1.2. The Corporate Plan 2015-2020 is based on the core principles of fairness, responsibility, and opportunity to make sure Barnet is a place:

- Of opportunity, where people can enhance their quality of life;
- Where people are helped to help themselves, recognising that prevention is better than cure;
- Where responsibility is shared, fairly;
- Where services are delivered efficiently to get value for money for the taxpayer.

5.1.3 This report supports the principle of securing efficient delivery of services that provide best value for money for taxpayers through best utilisation of existing resources/assets. It also supports the collaborative working with private sector organisations to use their expertise in a specialist market to deliver best possible outcomes for the Council.

5.2. **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 The costs related to the removal of the existing advertising assets, including Bus Shelters, Free standing displays and APC's will be borne in full by JC Decaux, in accordance with the current contracts terms and conditions. This includes the reinstatement of the public highway.

5.2.2 There will be costs incurred in supplying, installing and maintaining the infrastructure mentioned in the report, however these costs will be borne, in full, by the Service Provider that is selected for each element of advertising. The Service providers will recover these costs via the income that they are able to generate from the advertising and this will also be utilised by them to pay the reasonable charges imposed by the Council as identified in para 5.2.4 below.

5.2.3 There will officer time involved in marketing the opportunities and establishing the agreements for each advertising element. An existing resource has already been allocated to this task.

5.2.4 As the Council owns the subsoil to the land where the displays will be located they are entitled to impose conditions including a requirement for the payment of reasonable charges. The Strategic Director of Environment has delegated authority to determine the appropriate charge.

5.2.5 In terms of sustainability the cost of providing alternative provision is unknown at present and this is largely dependent on the attitude of local businesses to support the Council in allowing their toilet facilities to be opened-up to the general public's use. Other authorities who have achieved similar arrangements have indicated that the costs involved in gaining such agreements are negligible when compared to the costs associated with the maintenance of an APC.

5.2.6 There are no staffing, IT or Property implications of this decision.

- 5.3.1. Each APC/Public Toilet provides a measure of convenience to Barnet's residents and other shoppers. It is anticipated that the alternative provisions will provide improvements for disabled users as the facilities provided for the use of the public in business premises will include adapted provision specifically tailored for the needs of disabled users, whereas the existing APC units do not provide an adapted provision.
- 5.3.2. By utilising alternative local facilities it could assist local businesses as this could encourage extended business due to additional potential custom passing through their doors.

5.4. Legal and Constitutional References

- 5.4.1. The Council has a power to provide public conveniences under s.87 of the Public Health Act 1936 and has byelaws that cover use of such facilities. When deciding to cease providing such conveniences, the Council must act reasonably and consider its overarching duties, including its equality duties.
- 5.4.2. Land constituting a highway is regulated under the Highways Act 1980 and the public have the right to pass and repass along a highway, subject to restrictions on the type of highway. The proposals in this report includes utilising a mix of land, some of which is designated as Public Highway and as such there are specific requirements that exist in respect to land with a highway designation. This does not apply to land that is owned by the Council (including the sub-soil) but is not designated as highway land.
- 5.4.3. Part VIIA (in particular section 115B (1) (b) (ii)) of the Highways Act 1980 ("the Act"), the Council has the power to place objects or structures on, in or over certain types of highway for the purpose of enhancing the amenity of the highway and its immediate surroundings or of providing a service for the benefit of the public or a section of the public and this is the primary motivation for the decision to use its powers under this section. The council is also able to grant permission to another person to do so under Section 115E of the Act.
- 5.4.4. The powers set out in sections 115B and 115E only apply to highway where vehicular traffic is prohibited. If the purpose for placing the object results in the production of income, certain types of highway are excluded, including footpaths, bridleways, restricted byways and footways where no pedestrian planning order or traffic order is in place.
- 5.4.5. Under s.115B and s. 115E of the Act if the Council proposes to place an object on a highway for a purpose which will result in the production of income and intends to grant a third party permission to do this, it must first obtain the consent of the frontage with an interest, assuming that these exist. This consent must cover the placing of the object, the purpose of which it is placed and the proposed grant of permission.
- 5.4.6. Section 115E of the Highway Act 1980 permits the Council to grant permission to use existing objects or structures on, in or over a highway covered by this Part of the Act, for the purpose of advertising.

- 5.4.7. In accordance with s. 115F of the Act, the Council may grant permission on such conditions as it sees fit, including conditions requiring the payment of reasonable charges. As the Council is the owner of the subsoil of the proposed sites, there is no statutory restriction on the amount of the reasonable charge. The conditions can include an indemnity against any claim in respect of injury, damage or loss arising out of the granting of the permission, but this would not extend to matters where they are attributable to the negligence of the Council.
- 5.4.8. Under s. 115G, before granting permission under s. 115E the council must first publish a notice giving details of the proposal and a period of time to make representations. Any representations made must be considered prior to the granting of permissions.
- 5.4.9. Prior to granting permission the Council must consult any authority other than themselves who are the highway authority for the highway (s. 115H (1) (b) (i)). This means that should the Council propose to grant a permission related to land where they are not the highway authority, such as land that is maintained by Transport for London, its consent will need to be obtained before any permission may be granted. Such a consent may involve including a specified time period or payment of a fee to the relevant highway authority.
- 5.4.10. Legal advice is contained in Appendix 3. This is exempt as legal professional privilege could be claimed in any legal proceedings and it is not in the public interest for this legal advice to be published.

5.5. **Risk Management**

- 5.5.1. There is a risk that initially regular users of the existing facilities may find it difficult to locate the alternative facilities and therefore it is important that the Council conduct a thorough process of providing advanced information of the upcoming closures and identify the alternative provisions available in each area. It may be appropriate to provide temporary signposting at the existing APC sites to direct the public in the direction of the nearest alternative toilet facility. It also would be advisable to ensure that the reasons for not re-providing, namely the significant costs and hence poor value for money are well communicated.
- 5.5.2. All potential sites offered to the third party providers will be developed at the third party providers risk. This will include the process of seeking planning consent. If planning consent is not granted the proposals will not proceed and any costs incurred at that point will be fully borne by the third party developer.
- 5.5.3. There is potential for the sites to be detrimental to road safety if they were to be located without proper consideration. This will be avoided by ensuring that experienced traffic engineers review the proposed locations to determine that there will be no adverse impacts of the proposed sites.

5.6. **Equalities and Diversity**

- 5.6.1. The Equality Act 2010 requires all Public bodies and all other organisations exercising public functions on its behalf to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and any other

conduct that is prohibited by or under the Act; advance equality of opportunity between people who share a relevant protected characteristic and those who do not and to foster good relations between people who share a relevant protected characteristic and those who do not. The broad purpose of this duty is to integrate considerations of equality into day to day business and to keep them under review in decision making, the design of policies and the delivery of services.

- 5.6.2. The proposals in this report could have a greater and potentially negative impact on people with disabilities, older people, pregnant women and families. The Council is mindful of this and therefore seeking alternative arrangements in order to mitigate these potentially negative impacts. One example of this is seeking alternative Public Convenience facilities which may provide improved facilities for users. It is proposed that the Strategic Director for Environment has delegated authority to identify alternative sites and to provide appropriate publicity on these. Consideration will be given to ensuring that such alternative provision is accessible to people with disabilities and people with young children.
- 5.6.3. The likely reduction in the Bus Shelter provision may be considered to be detrimental for some individuals. A full Equalities Impact Assessment will be conducted to fully identify any negative impacts and to look at alternative options. This detailed Equalities Impact Assessment will be presented to a future Environment Committee.
- 5.6.4. It is envisaged that the proposals contained in this report will broadly enhance the amenity of a local area and particularly provide additional opportunities for small local businesses. Local businesses and residents will be permitted to make representations and any equality considerations arising from these representations will be fully considered.

5.7. **Corporate Parenting**

Not applicable to subject of report.

5.8. **Consultation and Engagement**

- 5.8.1. Establishing a new advertising site will require a planning application to be submitted. As part of the normal planning process a consultation exercise will be conducted thereby enabling feedback on the proposals to be received and considered.
- 5.8.2. Where the proposed locations impact on another highway authority, such as for example Transport for London TfL a full consultation exercise will be undertaken with the relevant authority.
- 5.8.3. The Council will publish a notice setting out the proposals and give a period during which representations can be made. Any representations will be considered by the Strategic Director for Environment before making a final decision to grant permissions.

- 5.8.4. In order to establish alternative provisions it will be necessary to engage with local businesses and to negotiate agreements with them to expand the availability of their toilet facilities.
- 5.8.5. The Council will ensure that a communication plan is put in place to ensure appropriate messaging to inform, as widely as practicable, the businesses that have agreed to make their facilities available.

6. BACKGROUND PAPERS

None

2014

Address	Totals	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
BRENT STREET, HENDON, JNC BELL LANE	3072	266	228	535	502	471	384	0	16	180	89	107	294
WATLING AVENUE, BARNET, O/S BURNT OAK LIBRARY	3023	195	492	240	241	155	83	333	160	500	199	202	223
CAT HILL, BARNET,	1184	79	74	63	81	105	111	88	74	236	106	96	71
FRIERN BARNET,	3591	330	259	365	319	226	291	249	334	482	345	246	145
BALLARDS LANE, FINCHLEY, FINCHLEY CENTRAL STATION	2605	171	236	192	240	212	298	253	201	362	242	83	115
HIGH ROAD, WHETSTONE, OUTSIDE IVY HOUSE	2678	296	149	255	236	211	185	203	252	305	202	166	218
STANHOPE ROAD, BARNET	7965	815	400	599	626	40	1259	804	432	1108	157	745	980

2015

Address	Totals	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
BRENT STREET, HENDON, JNC BELL LANE	2805	213	155	261	269	185	183	270	217	314	215	244	279
WATLING AVENUE, BARNET, O/S BURNT OAK LIBRARY	2588	52	391	472	379	106	2	0	0	0	389	493	304
CAT HILL, BARNET,	983	81	52	96	95	51	112	81	105	94	93	80	43
FRIERN BARNET,	2710	154	55	204	286	271	356	282	168	233	255	215	231
BALLARDS LANE, FINCHLEY, FINCHLEY CENTRAL STATION	1796	69	95	53	43	156	280	345	287	110	201	72	85
HIGH ROAD, WHETSTONE, OUTSIDE IVY HOUSE	2272	182	84	273	212	198	212	131	78	159	223	289	231
STANHOPE ROAD, BARNET	5929	473	0	120	626	331	689	621	1059	424	747	545	294

2016

Address	Totals	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
BRENT STREET, HENDON, JNC BELL LANE	2621	117	169	233	224	199	102	246	168	307	293	301	262
WATLING AVENUE, BARNET, O/S BURNT OAK LIBRARY	2250	328	274	199	300	175	54	195	16	119	120	158	312

CAT HILL, BARNET,	720	46	67	52	56	79	63	55	60	49	61	77	55
FRIERN BARNET,	1247	66	104	0	44	161	153	198	0	140	1	202	178
BALLARDS LANE, FINCHLEY, FINCHLEY CENTRAL STATION	2409	45	123	123	152	194	224	196	396	180	268	256	252
HIGH ROAD, WHETSTONE, OUTSIDE IVY HOUSE	3700	228	250	387	432	448	290	240	327	309	297	251	241
STANHOPE ROAD, BARNET	3782	289	971	304	13	211	491	273	393	209	320	253	55

Appendix 1

Schedule of APC Usage in Barnet

2017

Address	TOTALS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
BRENT STREET, HENDON, JNC BELL LANE	2,655	227	109	176	44	173	255	240	298	197	243	360	333
WATLING AVENUE, BARNET, O/S BURNT OAK LIBRARY	5,710	396	313	395	747	536	453	507	471	644	570	422	256
CAT HILL, BARNET,	1,367	151	71	113	121	125	100	208	105	108	77	107	81
FRIERN BARNET,	2,927	256	260	252	254	249	202	213	206	297	359	270	109
BALLARDS LANE, FINCHLEY, FINCHLEY CENTRAL STATION	2,837	225	301	279	194	205	288	257	274	225	216	226	147
HIGH ROAD, WHETSTONE, OUTSIDE IVY HOUSE	3,893	188	262	390	247	344	319	478	335	264	308	477	281
STANHOPE ROAD, BARNET	3,275	593	307	200	0	371	0	0	614	262	430	233	265

