

	<p>ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER</p>
<p style="text-align: center;">Title</p>	<p>Visual Improvements in the Form of Digital Roadside Advertising to the highway at Henlys Corner, North Circular Road, junction with Regents Park Road, N3 3JN.</p>
<p style="text-align: center;">Report of</p>	<p>Jamie Blake, Strategic Director - Environment</p>
<p style="text-align: center;">Ward</p>	<p>Golders Green</p>
<p style="text-align: center;">Status</p>	<p>Public</p>
<p style="text-align: center;">Urgent</p>	<p>No</p>
<p style="text-align: center;">Key</p>	<p>Yes</p>
<p style="text-align: center;">Enclosures</p>	<p>Appendix 1 – Location Plan Appendix 2 - Heads of Terms</p>
<p style="text-align: center;">Officer Contact Details</p>	<p>Steve Dunevein, steve.dunevein@barnet.gov.uk 020 8359 3919 Christian Loveday, Christian.loveday@barnet.gov.uk</p>

Summary

Following approval of the Council’s Highways Advertising Policy at the Environment Committee on 13th September 2018, this report seeks approval to the grant of a licence to Insite Outdoor Advertising, for the erection of a digital advertising billboard on the small paved area within the public highway at Henlys corner, as illustrated on the attached location plan. The licence will be subject to the licensee securing planning consent and any necessary statutory consents and the council completing any necessary consultation and giving consideration to any representations received.

The Council owns the freehold interest in the sub soil of this area of land which has highway status. In granting permission to Insite Outdoor Advertising the Council is entitled to impose such conditions as it sees fit, including the payment to the Council of reasonable charges. Provisional Heads of Terms have been agreed which are included in the exempt report. This location currently lacks amenity value and in order to improve the visual amenity of this junction it is considered that the erection of a digital advertising billboard on this area of

highway land, will provide an enhancement in accordance with the principles laid out in the councils Highways Advertising Policy.

Decisions

To approve;

- 1) The proposed improvements to the amenity of the highway under Part VIIA of the Highways Act 1980, through the introduction of a digital display advertisement hoarding as detailed in this report.**
- 2) The grant of a Licence agreement to Insite Outdoor Advertising for the erection of a digital advertising billboard on the highway land at Henlys corner shown on the attached plan, subject to the grant of planning consent, compliance with the council's policies and any other statutory requirements, on the terms detailed in the exempt report.**
- 3) Prior to completing any agreement with Insite Outdoor Advertising, to comply with all relevant statutory requirements and with the Council's Highways Advertising Policy and to consult and serve notices where appropriate and for consideration of any representations to be delegated to the Commissioning Director Environment.**

Recommendations

That the proposed improvements to the visual amenity of this section of the highway network as detailed in this report are approved and officers in conjunction with HB Public Law are instructed to complete the licence which will enable, subject to planning, the erection and ongoing display of an advertising hoarding on highway land, by Insite Outdoor Advertising Ltd.

1. WHY THIS REPORT IS NEEDED

- 1.1 Following approval of the Councils policy on Highways advertising at The Environment Committee on 12th September 2018 the following criteria were approved for consideration when granting consent for a structure for the purpose of bill board or digital advertising
- a) The extent to which the structure is in keeping with the built environment and does not detract from features of high amenity value
 - b) There will be a presumption in favour of consent for the structure, where the majority of the advertising space or advertising time will be devoted to Council messaging or other public information items
 - c) The extent to which the structure screens other structures or objects that detract from visual amenity
 - d) The extent to which the structure blocks other structures or objects that provide visual amenity
 - e) The extent to which the structure provides additional lighting and whether this provides enhanced visual amenity
 - f) The extent to which the structure could restrict use of the highway by pedestrians.
- 1.2 The site in question is one of the largest intersections in the Borough and currently lacks amenity value. To the south east and south west of the junction are areas of open space which form part of the Dollis Valley Green Walk and provide a green buffer, but are largely unmaintained without any formal landscaping. At the southerly junction there are four traffic islands of various sizes within the carriageway all having a paved surface and currently house pedestrian crossings, lamp posts, traffic lights, road signs and CCTV. There is no landscaping, planting or other visual amenity at this junction and no buildings are located within approximately 70 metres as shown on the attached plan.
- 1.3 To the north of the junction is a large area of open space which is landscaped and managed and has a number of trees within its perimeter. This provides an attractive island between Regents Park Road and the slip Road from the North Circular Road. The Holiday Inn is located to the north east of the junction and the synagogue is located on the slip road to the north west. There are 3 traffic islands to the north of the junction which

are all paved and have similar installations to those to the south and a small tree is located on the island.

- 1.4 As a result, it is considered that this intersection is dominated by carriageway and paving and while the green areas that are located on the periphery soften the impact there is no visual amenity at the intersection. The lack of buildings also contributes to the visual dominance of carriageway and paving and no significant provision of visual amenity is available. This paved area currently serves as a large wide traffic island at the intersection of Regents Park Road and the North Circular Road (A406). The provision of a digital advertising hoarding will provide visual impact that breaks up the otherwise vast surface area of concrete and tarmac at this junction.
- 1.5 The need to maintain visibility and safety at this busy junction renders soft landscaping within the carriageway unviable however the installation of a structure that maintains the functional requirements of the highway and maintains public access and future road improvements but also contributes aesthetically to the location has been considered.
- 1.6 Following significant highway improvements to this junction by Transport for London, there are wide areas of paved land without any structure or landscaping within the highway. The Council is seeking to enhance this location and immediate surroundings through the erection of an illuminated digital advertisement hoarding, subject to planning consent being granted. Given that this is highway land the Council is seeking to use its powers under the Highways Act 1980 to permit the enhancement of the visual the amenity value of the location.
- 1.7 Following initial discussions with the planning department and providers it is proposed, subject to planning to erect a Mega 6 digital advertisement display board measuring 9m x 6m with the base of the hoarding being 3m above ground level. The structure will be architecturally designed to maximise the aesthetic quality and the materials will be considered through the planning process. The advertisement hoardings will display commercial advertisements in LED format. The proposal is to place the hoarding on the area of land so that the LED hoarding fronts onto the eastbound carriageways of the A406 & A1. The height of the structure above ground level will ensure that pedestrian access will not be inhibited or visibility affected.
- 1.8 The Digital Roadside Advertising will not conflict with the performance and safety of this junction. A full assessment of the road safety impact will be

made during the planning process. To facilitate the implementation of the advertising hoarding, new materials will be agreed through the planning process and laid in place of those taken up to complete enabling works. Any defects in the immediately surrounding area will be corrected during the construction of the hoarding. These actions may add a further small enhancement to the amenity of this area of the highway.

- 1.9 It is proposed, subject to planning and satisfactory consultation to complete an agreement on the terms detailed in the exempt report, with Insite Outdoor Advertising for the development and use of an illuminated digital roadside advertising billboard on the site, with the result of any consultation being reported under delegated powers.
- 1.10 The standard contract allows for free time/space to display public based information.
- 1.11 The criteria (section 1.1) for consent of a structure for the purpose of billboard or digital advertising has been assessed and the site and structure is considered suitable for granting consent, as summarised in the table below.

LBB Advertising Policy	Policy Assessment
a) The extent to which the structure is in keeping with the built environment and does not detract from features of high amenity value	The proposal is in keeping with area-road infrastructure based highway signage/ digital advertising is part of a typical strategic road infrastructure streetscape. The A406 forms part of the TLRN. See Appendix A
b) There will be a presumption in favour of consent for the structure, where the majority of the advertising space or advertising time will be devoted to will be devoted to Council messaging or other public information items	There is a possible option to display council messages if requested by the council.

c) The extent to which the structure screens other structures or objects that detract from visual amenity	Does not screen existing visual amenity which detracts from visual amenity. Currently the quality of visual amenity in this area is poor and the structure will improve this see Appendix B
d) The extent to which the structure blocks other structures or objects that provide visual amenity	The structure will not obstruct other structures or impact on any other generated visual amenity in the surrounding area. Appendix B
e) The extent to which the structure provides additional lighting and whether this provides enhanced visual amenity	Some light drop from digital advertising is expected, however the signage provides visual interest were there currently is none. The luminance associated with the proposed signage will not exceed that specified by the Institute of Lighting Engineers (Professional Lighting Guide 05).
f) The extent to which the structure could restrict use of the highway by pedestrians.	The sign has a minimal footprint on a generous pedestrian area see Appendix C

2. REASONS FOR RECOMMENDATIONS AND DECISIONS

- 2.1 To improve the visual interest and amenity of this junction.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 3.1 To leave the land in its current state. This would not enhance the visual amenity of the area.
- 3.2 Consideration was given to potential soft landscaping; however, the location of the site within the carriageway, size, public access and current paved surface resulted in this being considered unviable.

4. POST DECISION IMPLEMENTATION

- 4.1 Following approval of this report officers will comply with their statutory duties under the Highways Act 1980 in respect of notification and

consultation (where applicable) to include TFL and any frontage owners. Following that, and subject to consideration of any representations made and reported under delegated powers, should the council decide to proceed, officers will seek to grant permission (utilising Highways Act powers) to Insite Outdoor Advertising for the erection of an advertising hoarding at Henlys Corner. Should the council consider, following the results of the consultation that they do not wish to proceed any agreement will enable the council to withdraw from the proposal.

- 4.2 Insite Outdoor advertising at its own expense will be requested to submit a planning application for development of the site with a digital billboard. Any permission granted pursuant to Highway Act 1980 powers will not override any requirement to obtain the necessary planning consents.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 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.

5.1.2 This report supports these core principles.

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

- 6.1 There will be no costs to the Council associated with the development of advertising sites, all fees and costs will be borne by the advertising developer.
- 6.2 As the Council owns the subsoil to the highway land it is entitled to impose conditions including a requirement for the payment of reasonable charges. A provisional fee of £80,000 pa has been negotiated.

7. Legal and Constitutional Reference

- 7.1 Land constituting a highway is regulated under the Highways Act 1980 (HA1980) and the public have the right to pass and repass along a highway. Section 137 HA1980 makes it a criminal offence for any person to wilfully obstruct the public's free passage along a highway, where the obstruction has been caused without lawful authority or excuse. An advertising panel is likely to constitute an unlawful interference, and therefore an offence under section 137, unless it is put there with lawful authority.
- 7.2 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 a highway for the purpose of enhancing the amenity of the highway and its immediate surroundings. The Council has to be satisfied that the structure or object being placed on the highway will enhance the amenity 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 (section 115E of the Act).
- 7.3 The powers set out in sections 115B and 115E only apply to highways where vehicular traffic is prohibited such as a footpath, footway or subway.
- 7.4 Section 115E of the Act enables the Council to grant permission to a person: to do on, in or over a highway anything which the Council could do on, in or over such a highway under section 115B(1)(ii) or to use objects or structures on, in or over a highway for a purpose connected with the enhancement of the amenity of the highway and its immediate surroundings and where the Council considers the object or structure in this case the advertising panel does meet this statutory requirement anywhere a fee is charged which will result in the production of income or for the purpose of advertising. This will be subject to obtaining the consent of frontagers with an interest in the land.
- 7.5 In accordance with section 115F of the Act, the Council may impose conditions on and/or require payment of reasonable charges in relation to any permission which is granted as it owns the subsoil of this site. Details of the potential charges available following initial discussions with providers are detailed in the exempt report. The Council may also seek an indemnity against any claim in respect of injury, damage or loss arising out of the grant of the permission.

- 7.6 Before granting permission under section 115E the Council must first publish a notice (affixing it in a conspicuous place near to the proposed location and serving a copy of the notice on the owner and occupier of any premises appearing to the council to be likely to be materially affected) in accordance with section 115G. The notice shall offer a minimum 28 day period within which representations may be submitted to the Council. The Council must then consider the responses to any representations received before exercising the power / granting permission.
- 7.7 Prior to granting a permission the Council must consult any authority other than themselves who are the highway authority for the highway (section 115H (1) (b) (i)). As the proposed advertisement hoarding will front the A406 / A1 which are maintained by Transport for London its consent will need to be obtained before any permission may be granted. Section 115J sets out the process where consent is unreasonably obtained. It may be reasonable for consent to be given subject to a specified time period or the payment of a fee to TfL.
- 7.8 As outlined in the Council's Schemes of delegation, the Strategic Director for Environment has the authority to sign off the decisions.

8. Risk Management

- 8.1 A previous planning application (15/04136/ADV) was made for digital roadside advertising signage at the above location, this application was not decided and the case officer deemed the application as withdrawn as no further contact had been received from the applicant during the decision period.
- 8.2 A planning consultation exercise has been undertaken and it has indicated that it is likely that an application for consent for a digital advertising hoarding at this location can be supported. TfL will need to be consulted on the full planning application.
- 8.3 All cost will be borne by the developer.
- 8.4 Legal advice has been provided by Bevan Brittan and Counsel and the risks of challenge have been identified in this exempt section of this report.
- 8.5 The developer will be required to submit a planning application for the Henlys Corner advertising site and all future proposals. The process of determining the planning application will include a consultation process with the highways and traffic teams. The highways and traffic teams will

provide a professional opinion of whether the proposed advert structure can be supported or whether the advert proposal would constitute an obstruction or safety issue from a highway perspective. If planning consent is not granted the proposals will not proceed.

9. Equalities and Diversity

- 9.1 The 2010 Equality Act outlines the provisions of the Public \Sector Equalities Duty which requires Public Bodies to have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010; Due regard has been considered and there is no impact.
- 9.2 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.
- 9.3 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.
- 9.4 To ensure fair competition the Council invited expressions of interest from advertising developers to develop potential sites across the Borough and following this invitation the Council received an expression of interest from Insite Outdoor Advertising to develop an advertising site at Henlys Corner.
- 9.5 To ensure that best value may be achieved for the London Borough of Barnet two large format consultants have been approached to establish an estimate of fair market rate for the proposed advert site at Henlys Corner.
- 9.6 Consideration of the community and appropriateness of advertising that will be displayed at the Henlys corner location will form part of the negotiations and subsequent licence agreement with the developer.

10. Consultation and Engagement

- 10.1 As TfL is the relevant highway authority for [A406 / A1] and the proposed advertisement displays will be fronting onto those roads the Council will consult TfL in respect of the proposal prior to granting any permission.
- 10.2 Any given planning permission will be subject to auxiliary agreements (S106/S278)

10.3 Initial consultation has been conducted as part of the pre application process with the Development Management Team.

10.4 The relevant ward Councillors have been consulted and are supportive of the proposal.

11. BACKGROUND PAPERS

11.1 None

12. DECISION TAKER'S STATEMENT

12.1 *I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision-making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations.*

13. OFFICER'S DECISION

I authorise the following action:

The proposed improvements to the amenity of the highway under by Part VIIA of the Highways Act 1980 as detailed in this report.

The negotiation an agreement with Insite Outdoor Advertising for the erection of a digital advertising billboard on the Highway land at Henlys corner shown on the attached plan, subject to the grant of planning consent.

Signed



Name

Jamie Blake

Designation

Strategic Director – Environment

Date

21st March 2019