

CALDERDALE MBC

WARDS AFFECTED: Calder

CABINET 27th October 2008

Private Street Works - Central Street, Hebden Bridge

REPORT OF THE REGENERATION AND DEVELOPMENT SCRUTINY PANEL

1. ISSUE

- 1.1 The making up of Central Street, Hebden Bridge

2. NEED FOR A DECISION

- 2.1 Under rule 15 of the Overview and Scrutiny Procedure Rules at part 4 of the Constitution, Cabinet is required to consider reports from Scrutiny Panels.

3. RECOMMENDATIONS

- 3.1 That Cabinet accepts the recommendation of the Regeneration and Development Scrutiny Panel that;
- a. the special nature of Central Street is recognised, being set in a town centre location within a conservation area and serving two schools, with significant finance available; and a Private Street Works (PSW) scheme is promoted and constructed as outlined in the report;
 - b. On completion of the Private Street Works, Pitt Street, Central Street, Fielding Street, Hilton Street be proposed for adoption as highways maintainable at the public expense.

4 BACKGROUND

- 4.1 Issues pertaining to the refurbishment of Central Street have been considered by the Regeneration and Development Scrutiny Panel as far back as 2004. It was most recently brought to the Panel's attention at its meeting on the 7th February 2007, by Councillor Janet Battye in accordance with rule 13(a) of the Overview and Scrutiny procedure rules. The Panel requested a report back on the costs of the scheme and potential sources of funding. At its meeting on the 20th December 2007, the Panel considered this report, attached at Appendix 1. It should be noted that in this report reference to Central Street includes Pitt Street, Central Street, Fielding Street and Hilton Street.

The panel agreed that

- (a) this Panel supports the making up of Central Street; and
- (b) Cabinet be recommended to approve the promotion of a suitable Private Street Works Scheme.

In this report, reference to third Party funding means the funding NOT obtained through frontage contributions.

- 4.2 The attached Scrutiny report highlights the key issues for consideration and for brevity, the contents have not been repeated in this report. In summary, it was identified that there was a strong local desire within Hebden Bridge to have the street made up to adoptable standard and officers have been working with the Town Council to move the scheme forward. The cost of making up the street was around £100k and third party funding of £40k had been secured, leaving a balance of £60k to be funded from the street frontagers. It should be noted that the proposal is for a blacktop carriageway and footways with concrete kerbs and not natural stone, which would be significantly more expensive. No change to the existing Traffic Regulation Orders applying to those streets is proposed.
- 4.3 Private Streets are generally highways which are not maintainable at the public expense. In Calderdale, the Council has chosen to maintain whatever lighting may exist on such streets, but will not improve it. Maintenance and all other liabilities rest with the street managers (usually those fronting onto the street). The public has a right to pass and re-pass along highways which are not adopted. The issues around Private streets have been raised on a number of occasions. There are around 1600 private streets within the Borough and historically, the Council has had no policy in relation to these streets.
- 4.4 There is a risk that agreeing to the promotion of this particular scheme could set a precedent for many other streets to be brought forward for similar treatment. However, Central Street is special, if not unique, in that it fronts onto, or otherwise serves two schools, and acts as the main pedestrian link between those two schools. It is very well used by the public who use it to access the various community facilities on it. It is within the conservation area of the town centre and is the subject of a considerable local lobby for improvement. In the extensive public consultation done as part of the

Hebden Bridge Traffic Review, 89% of respondents were in favour of making up the street to adoptable standard. It is also a priority project for the Hebden Bridge Partnership and the Upper Calder Valley Renaissance.

- 4.5 The recommendation for the apportionment of cost is on a strict frontage basis, which for Central Street, would result in individual properties paying the contributions shown in the Scrutiny report (Appendix B Option 1) and extracted and reproduced in this report as Appendix 2.
- 4.6 The Council has worked with the Town Council to engage property owners on the street as indicated in the Scrutiny report. Historically, the response from property owners has been patchy, with a number of 'absent landlords' failing to respond to letters or telephone calls. The latest round of consultation has been undertaken, resulting in a more positive response. This is summarised in Section 6.
- 4.7 Funding to the value of 40% of the anticipated scheme cost has been identified from sources other than frontagers, with a possibility of attracting another £10k being investigated. On the basis that frontagers would contribute the balance, then any precedent effect would be on the basis that frontagers did, in fact pay their apportionment, and sought their own alternative funding if appropriate. In the past, the prospect of paying to have their street made up has dissuaded all previous groups of residents from progressing, so there seems little prospect of an effective precedent being set. It is suggested that for any future requests, one of the qualifying criteria could be the % of financial contributions that are available prior to a scheme start.
- 4.8 Promoting a Private Street Works scheme would result in all the frontagers being required to contribute, some perhaps unwillingly, to the cost of the scheme as shown in the table in Appendix 2 – typically around £1100 per property, though with gable end properties being around £4500. The three major frontagers – former Pitt Street Adult Education Centre, Central Street School and the Co-op would face bills of around £6k, £18k and £10k respectively.
- 4.9 If it is agreed to progress a Private Street Works, the main stages would be
- 1) Publish Notices of the intention, including a provisional apportionment of costs. These could be contested by frontagers, at which the Council may need to apply to the local magistrates court, for the matter to be resolved.
 - 2) Serve notice of the intention to adopt the street and maintain at the public expense thereafter. This is a further opportunity for frontagers to object to the adoption, and for the matter to be dealt with in the Magistrates Court.

5. OPTIONS CONSIDERED

- 5.1 Do nothing – the street would remain in its current condition and is likely to deteriorate further. Subject to the agreement of frontagers, up to £10k could be spent under the Council's Safer Routes to School programme to improve the pedestrian link from the A646 to the school, but this would leave the rest of

the street in a poor condition. An additional £30k of third party funding would be 'lost' and along with it, any real prospect of having the street improved in the foreseeable future.

6. CONSULTATION

- 6.1 Consultation with frontagers has been undertaken and the results summarised below;

All those who have responded have been in favour of the scheme, with the exception of the current owner of the former Adult Education Centre, who stated that he would support the scheme if it was linked to the granting of planning permission for redevelopment. To date the responses may be summarised as:

% of total cost secured (by 3rd Parties and frontagers combined) = 68% (ie £68k out of £100k)

% of frontager cost secured from frontagers = 47% (ie £28k out of £60k)

- 6.2 Some variation of opinion as to the detail design has been expressed, but it is felt that these can be resolved as the scheme develops.

7. FINANCIAL IMPLICATIONS

- 7.1 The estimated cost of the scheme is £100k. The Council can contribute £20k through Safer Routes and Private Sector Housing under its Decent Neighbourhood Initiative. Hebden Royd Town Council has agreed to contribute matched funding up to £20k. The net cost of the scheme to be recovered from frontagers including the Co-op, Pitt Street Adult Education Centre and Central Street School is, therefore, £60k. Further external contributions are being sought, but have not been agreed at the time of writing. Any such contributions would result in a recalculation of the individual amounts due, but would not upset the principle that frontagers contribute according to their frontage length.
- 7.2 If a Private Street Works scheme is pursued, and the costs exceed the estimated £100,000, frontagers will be required to pay the full cost of the overrun between them.
- 7.3 If members are mindful to pursue a Private Street Works scheme, then it is proposed that the cost of the scheme, less the contributions outlined in 7.1 above, be recharged to the appropriate frontagers. If private owners default on their payments then recovery action will be taken including levying a land charge on the property where necessary.

8. CHIEF LAW & ADMINISTRATION OFFICER'S COMMENTS

- 8.1 The legal process is referred to briefly in paragraph 4.10. The first part of the process being that of carrying out the street works and apportioning the charge to the frontagers is governed by section 205 and subsequent sections of the Highways Act 1980. Section 205 relates to a private street being made good where it is not to the satisfaction of the street works authority. A provisional apportionment (apportioning the estimated expenses between the

premises liable to be charged under the private street works code) is registrable as a Local Land Charge (section 212(2)).

Notices will have to be published in a local newspaper for 2 successive weeks, posted on site for 3 successive weeks, and served on the frontagers within 7 days of the first publication. The period for a frontager (in this case a person shown in a provisional apportionment of expenses as liable) to object is one month from the first publication. If this is not withdrawn then the Council will have to apply to the Magistrates for the matter to be resolved.

- 8.2 In the event that street works are executed, then the "second part" of the process comes into play, pursuant to section 228 of the Highways Act 1980. The Council will post on site a notice declaring the street to be an adopted highway. A month is given before the adoption, and thus for objections. If there are objections from the majority of frontagers, the Council may apply to the Magistrates Court for an order overruling the objection. The decision of the Magistrates can be appealed.
- 8.3 The Council is not obliged to carry out the street works pursuant to section 205, nor is it obligated to adopt the street pursuant to section 228: these are simply powers not duties. As has been detailed in the paragraphs above, there is a detailed process to follow and of course cost is involved, and therefore it is crucial that this is regarded as a unique situation, for as already stated in the Report, there is a risk of setting a precedent.

9. CORPORATE IMPLICATIONS

- 9.1 There is no obligation on the Council to promote a Private Street Works (PSW) scheme, but if one is promoted it will improve the environmental appearance of the area, improve safety for the general public and in particular schoolchildren accessing the school.
- 9.2 It may be interpreted that promoting a Private Street Works scheme sets a precedent for making up private streets elsewhere. This should not be a problem as all such PSWs would be self funded by the street owners. The only potential precedent is in the external funding provided by this Council and Hebden Royd Town Council and these are unlikely to be repeated or justified elsewhere due to the special nature of Central Street.

10 CONCLUSIONS

- 10.1 This initiative represents the last realistic opportunity to have Central Street made up. The Regeneration and Development Scrutiny Panel requests that Cabinet supports its recommendation and approves the Private Street Works scheme.
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DOCUMENTS USED IN THE PREPARATION OF THIS REPORT:

Minutes of the Regeneration and Development Scrutiny Panel, 7th February 2007.

Report of the Group Director, Regeneration and Development, to the Regeneration and Development Scrutiny Panel, 20th December 2007.

DOCUMENTS ARE AVAILABLE FOR INSPECTION AT:

Law and Administration, Westgate House, Westgate, Halifax HX1 1PS

CALDERDALE METROPOLITAN BOROUGH COUNCIL

WARDS AFFECTED: ALL

REPORT TO REGENERATION AND DEVELOPMENT SCRUTINY PANEL

20 December 2007

CENTRAL STREET, HEBDEN BRIDGE – UPDATE

REPORT OF THE GROUP DIRECTOR REGENERATION AND DEVELOPMENT

1 ISSUE

1.1 The making up of Central Street, Hebden Bridge

2

NEED FOR REPORT

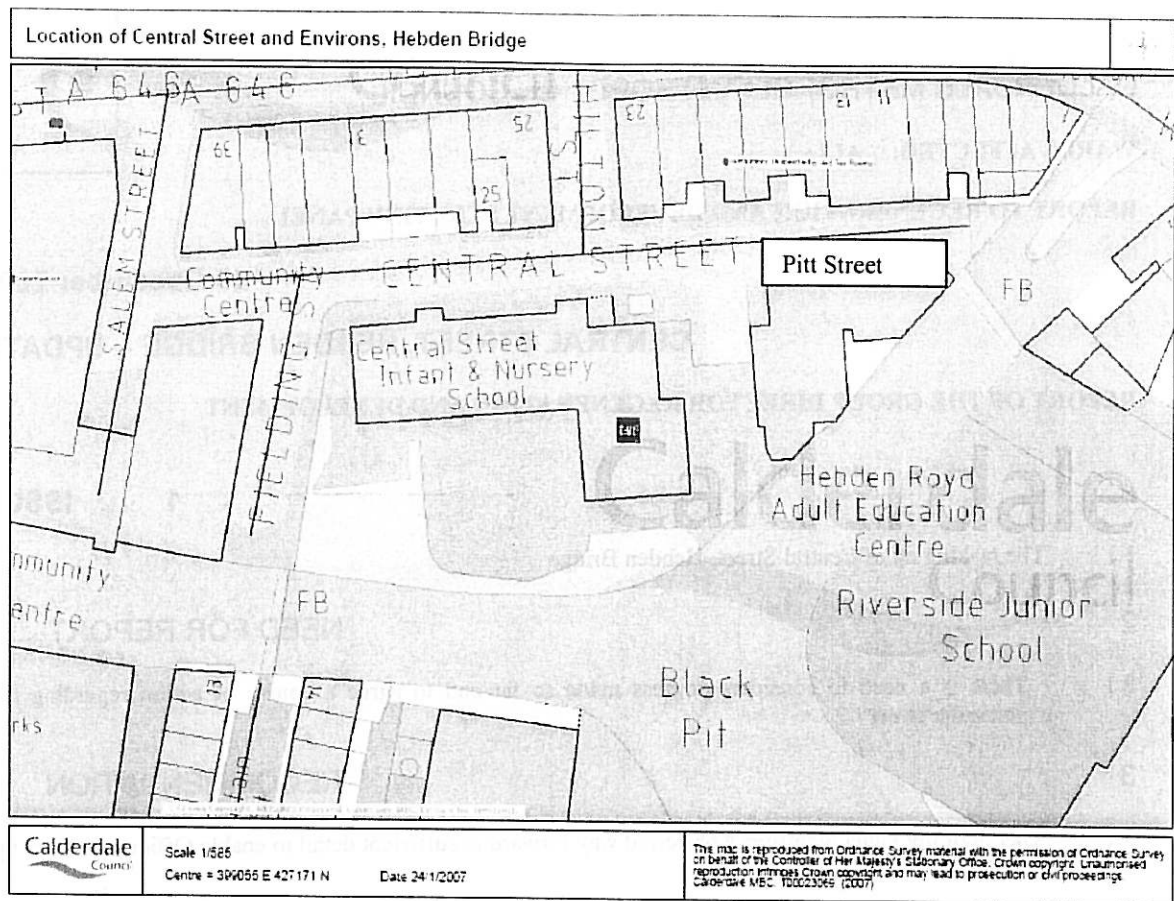
2.1 There is a need to consider progress made so far and to agree a course of action regarding this particular street

3

RECOMMENDATION

3.1 That Scrutiny Panel identifies a preferred way forward in sufficient detail to enable Officers to work up a final proposal for consideration.

4 BACKGROUND



- 4.1 The streets of Hilton, Pitt, Central and Fielding are unmade and unadopted and are referred to collectively in this report as 'Central Street' unless otherwise stated. Salem Street, although immediately adjacent and unadopted has been privately improved to a good standard and is not included in any works proposals contained in this report. (though if the other streets are ultimately adopted for maintenance by the Council, this street should also be adopted)
- 4.2 In February 2007, this Panel received a report outlining the full background to the status of these streets and highlighting the issues involved. The panel agreed that
 - (a) the Panel approves the principle of officers working with partner agencies; and
 - (b) the Acting Group Director, Regeneration and Development be requested to report back on the cost of a scheme and the potential sources of funding, including the possibility of funding from Metro.
- 4.3 Since then, officers have been working with partner agencies and are now in position to report on the progress made so far.
- 4.4 The issue of private street works and unmade roads is often a contentious one. The Council has no obligation to promote Private Streetworks and no obligation to make up streets at it's own expense. There are around 1600 private streets in Calderdale and there is a danger that any action taken in respect of one particular street may be interpreted as a precedent for action elsewhere.
- 4.5 However, Central Street is somewhat unique in that it fronts onto or otherwise serves two schools. It is well used by the public who use it to access the various community facilities on it. It is within the conservation area of the town centre and is the subject of a considerable local lobby for improvement. (In the extensive public consultation done as part of the Hebden Bridge Traffic Review, 89% of respondents were in favour of making up the street to adoptable standard – though the issue of funding was never discussed at that time).
- 4.6 A final design for the street will still be required if a scheme is to go ahead but on the basis of the design shown in Appendix A, the estimated cost is in the region of £100k. (This is for a predominantly tarmac carriageway with a setted gateway treatment). Final design and tendering of the work may cause this to change, but for the purposes of this report all illustrative examples assume the cost to be £100k.

- 4.7 A basic principle of the scheme discussed on the 7 February was that local residents should pay a contribution, but officers should seek external funding to bring the frontager (resident) contribution to a reasonable level. (In that context, the major frontagers i.e. the Co-op, Central Street School and the owners of the former Adult Education Centre are all treated as frontagers)
- 4.8 To that end, Officers have sought external contributions from a number of sources. Many of those approached felt unable to contribute though Officers have been successful in securing Council funding of £10k from Highways Safer Routes to School, plus £10k from Private Sector Housing under its Decent Neighbourhood Initiative. This has been match funded (£20k) by Hebden Royd Town Council who has had a long interest in promoting an improvement scheme in the area. Officers will continue to seek third party contributions, which would ultimately reduce the cost to frontagers, but at the moment, only £40k of 'external' funding can be relied on. Any additional funding would reduce the burden on frontagers. It is clear that external funding for the whole scheme is not going to be forthcoming and the only realistic way to have the streets made up is through a Private Street Works (PSW) order. The main effect of that is that all frontagers would be compelled to contribute, whether they supported the proposal or not. Individual frontagers could not 'opt out'.
- 4.9 Tabulated in Appendix B is the likely cost per frontager based on the extent of their frontage liability for a range of scenarios. The most straightforward and traditional method of calculation is to apportion the balance of the cost (£60k) over all the frontagers pro rata their length of frontage. This results in the private gable end frontagers paying a relatively large contribution. The second method is to set a de-minimis value for residential frontagers of say £500 (on the basis that there are fixed costs in promoting any private streetworks) and apportioning the remainder. A third method would be simply to charge equal contributions for all the residential properties.
- 4.10 Consideration was given to the inclusion of Fountain Street residents into the charging regime on the basis that they do actually use the streets and some do park their cars on Fielding Street. Any such contribution would be difficult to value as they have no frontage, and a nominal contribution of say £250 per property might be appropriate but this has not been assumed in the calculations in Appendix B. Realistically, there is little or no prospect of all Fountain Street residents contributing to the scheme. Members' views on this issue are invited.
- 4.11 The scheme shall be as shown in principle in Appendix A, with no changes to the traffic regulation orders applying to any of the streets. i.e. Shared resident parking on Central Street and Prohibition of Driving (except for permit holders) on Pitt Street.

5

CONSULTATIONS

- 5.1 The Council wrote to all properties in March 2007 and received a poor level of response – 2 residential property owners (one of whom owns 5 properties) one was in favour, and the other was cautiously in favour, depending on the funding arrangements). The Co-op acknowledged receipt but did not comment further. The owner of the former Pitt Street Adult Education Centre (PSAEC) was supportive only if planning permission for conversion of the property to flats was granted.
- 5.2 Since then HRTC have reconsulted all properties on the basis of a joint questionnaire agreed with Calderdale Council (and attached as Appendix C). In addition, local consultation on street was also undertaken to establish the views of street users in addition to street owners (though clearly, it will only be the owners who have to contribute financially). At the time of writing the following had been received;

6 responses from Central St and 4 from Fountain Street (8 filled in the questionnaires and two wrote their own letter/email)

All respondents agreed or strongly agreed that the streets should be made up to adoptable standard

The majority of questionnaire respondents disagreed with being charged (except for the owner of multiple properties who was cautious and wished to know how much his contribution might be), though some then went on to comment about the potential charging options

Charging mechanism: broadly equal numbers supported each of the two main approaches - the degree of derived benefit and the strict frontage

One respondent put strongly disagree to everything except Q1 - that all streets should be made up to adoptable standard

From the questionnaire responses, two were from tenants rather than the property owner.

Both Riverside and Central St Schools are reported as very keen to support the project and were canvassing school users as well.

Central St School is reported as being supportive and willing to contribute, though this has not been confirmed at the time of writing

- 5.3 It would appear that there are a number of 'absent' residential landlords and obtaining their support has been difficult and may continue to be so.
- 5.4 Responses are being chased and the latest results will be available at the Panel meeting on the 20th December

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NEED FOR A DECISION

- 6.1 There is a momentum to the process at present and 'external' funding of at least 40% has been secured. At present, the Council has no policy in respect of Private streets and a decision on this street need not set a precedent – though it is likely that other requests will follow quickly if this is approved.
- 6.2 The next available 'window' for construction is during the school holidays in 2008 and if progress is to be made, then a decision will need to be made around Easter 2008, to allow the appropriate design, tender and mobilisation to take place.
- 6.3 If a Private Street Works scheme is promoted, then the Council will require financial support from around 17 residential properties (though fewer owners as some properties have the same owners) and substantial support from the Co-op, PSAEC and Central Street School. Based on the questionnaire responses to date then some of those will be unhappy about having to contribute.

7

IMPLICATIONS

FINANCIAL

- 7.4 The Council can contribute £20k. Hebden Royd Town Council has agreed to contribute matched funding up to £20k. Other (frontager) contributions depend on which option the Council pursues as it's financial model
- 7.5 The work will need to be funded initially and this could be from budgets within Regeneration and Development
- 7.6 If private owners are unwilling / unable to pay their contribution, then a land charge could be levied on the property, to be collected when the property is next sold

8 CORPORATE IMPLICATIONS

- 8.1 There is no obligation on the Council to promote a Private Street Works (PSW) scheme, but if one is promoted then it will improve the environmental appearance of the area, improve safety for the general public and in particular schoolchildren accessing the school.
- 8.2 It may be interpreted as setting a precedent for making up private streets elsewhere, though this may not necessarily be a problem as all such PSWs would be self funded by the street owners. The only potential precedent is in the external funding issues by this Council and HRTC and these are unlikely to be repeated or justified elsewhere.

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CONCLUSION

- 9.1 The current initiative represents possibly the last realistic opportunity to improve this cluster of streets in the foreseeable future. If Members were mindful to progress an initiative the next step would be to seek approval from Cabinet to promote a suitable PSW scheme.
- 9.2 A detailed proposal, based on preferences expressed at this meeting, could be prepared and presented to this Panel in February, or if Members so wished, it could be presented directly to Cabinet.

FOR FURTHER INFORMATION ON THIS REPORT CONTACT:

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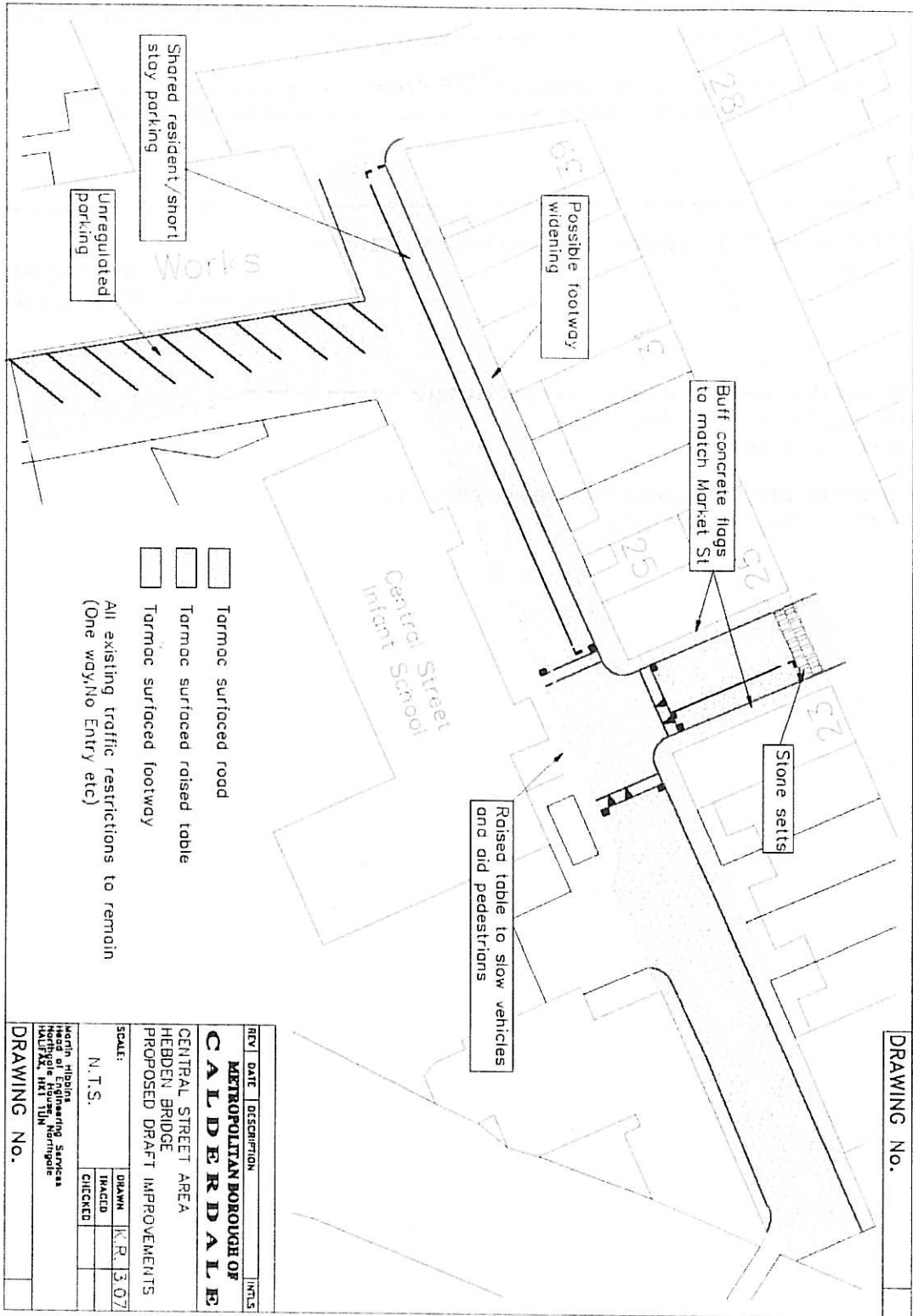
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DOCUMENTS USED IN THE PREPARATION OF THIS REPORT:

R&D Scrutiny Panel report 7 February 2007
Results of local consultation.

DOCUMENTS ARE AVAILABLE FOR INSPECTION AT:

Engineering Services, Northgate House



Appendix B - Central Street PSW apportionment options

CMBC			20 000	20 000	20 000
HRTC			20 000	20 000	20 000
Others					
Sub total			40 000	40 000	40 000

Apportionment method		Frontage length (m)	Pure frontage length	£500 per domestic property + balance as frontage length	Equal domestic shares
Pitt St	7	4.0	851	1 074	1 382
	9	4.5	957	1 146	1 382
	11	5.0	1 063	1 218	1 382
	13	4.0	850	1 074	1 382
	15	5.4	1 148	1 275	1 382
	17	5.4	1 148	1 275	1 382
	19	5.5	1 168	1 290	1 382
	21	5.4	1 148	1 275	1 382
	PSAEC	27.4	5 810	5 810	5 810
	Central St + Hilton Street (where appropriate)	23	5.4 + 15.3	4 388	3 479
25		10 + 15.3	5 354	4 117	2 764
	27	5.3	1 126	1 261	1 382
	29	5.7	1 212	1 318	1 382
	31	4.4	934	1 132	1 382
	33	6.3	1 338	1 405	1 382
	35	4.4	934	1 132	1 382
	37	3.9	828	1 060	1 382
	39	8.5	1 805	1 721	1 382
Central St + Fielding St	School	85.9	18 250	18 250	18 250
	Co-op	45.6	9 688	9 688	9 688
Hilton St included above	23	15.3	Costs added above		
	25	15.3	Costs added above		
Sub total		282.6	60 000	60 000	*60 000
					*Rounded
Total resident contribution			26 252	26 252	26 252

Appendix C

Central Street and adjacent streets (Hilton, Fielding & Pitt streets) – improving the condition of the streets and adoption by the Council.

Below is a series of questions designed to obtain local views from those most directly affected by the proposal. The responses will be used to help inform the Council when it considers the proposal to make up the street and adopt it.

The principle of promoting the scheme is that property owners should contribute at least part of the cost of the scheme.

Attached is a summary of the indicative potential costs to property owners if the Council was to proceed with promoting a Private Street Works improvement. This has been based on all frontage properties (other than the major frontagers) bearing an equal share of the balance remaining when the value of any ex-gratia contributions have been deducted from the scheme cost and the major frontagers have paid their due contribution).

Other cost models are possible, for example, based on precise length of frontage owned (which means that end properties bear a proportionately larger cost). Another model is one where the Council calculates contributions on the basis of 'derived benefit' rather than frontage. In that case, the beneficiaries of the scheme such as the residents of Fountain Street might be expected to contribute as they use all the improved streets and may park their cars on them etc, but they do not directly front the streets in question. This may be a nominal contribution of say £500 per property

Appendix 2

Central Street Apportionment of costs – total scheme cost estimated at £100 k

			£
Amount from third parties			
CMBC			20 000
HRTC			20 000
Others			Nil
Sub total			40 000
Amount to be recovered from frontagers			60 000
Apportionment method – proportionate to property frontage		Frontage length (m)	Frontage length
Pitt St	*No 7	4.0	851
	9	4.5	957
	11	5.0	1 063
	13	4.0	850
	15	5.4	1 148
	17	5.4	1 148
	19	5.5	1 168
	21	5.4	1 148
Former Pitt Street Adult Education Centre (PSAEC)	PSAEC	27.4	5 810
Central St +Hilton Street (where appropriate)	23	5.4 + 15.3	4 388
	*25	10 + 15.3	5 354
	*27	5.3	1 126
	*29	5.7	1 212
	*31	4.4	934
	33	6.3	1 338
	35	4.4	934
	37	3.9	828
	39	8.5	1 805
Central St + Fielding St	*School	85.9	18 250
	Co-op	45.6	9 688
<i>Hilton St (figures included above)</i>	23	15.3	
	25	15.3	
Sub total		282.6	60 000

- Supports the PSW scheme

