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**PEDESTRIAN HEART**

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**Responsible Cabinet Member – Councillor John Williams, Leader**

**Responsible Director – Cliff Brown, Director of Community Services**

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**SUMMARY REPORT**

**Purpose of the Report**

1. The purpose of this report is to seek a decision from Cabinet on whether to commence any form of action for recovery of payments made to contractors in relation to the Pedestrian Heart Project.

**Summary**

2. In January 2007 Cabinet accepted recommendations from Resources Scrutiny that a review should be conducted into whether payments made to the contractors were appropriate. Since that time a detailed investigation has been undertaken to examine the management of main contract and the payments made under that contract, as well as payments made to the project managers.
3. Forensic engineers prepared a report and an addendum report which has been presented to external solicitors to consider whether any action is appropriate. The solicitors have not recommended action at the current time because there is insufficient evidence to support such action.

**Recommendation**

4. It is recommended that :-
  - (a) Discussion on the report is deferred to Part 3 of this agenda.
  - (b) Members accept the report from E C Harris (forensic engineers) and Ward Hadaway Solicitors in relation to the Pedestrian Heart contracts.
  - (c) Members agree not to take further action at this time unless further evidence comes to light.

## Reasons

5. The recommendations are supported by the following reasons :-
- (a) The report does not support further action.
  - (b) Further action is unlikely to be cost effective.

**Cliff Brown**  
**Director of Community Services**

## Background Papers

No Background papers were used in the preparation of this report.

C Whitehead: Extension 2306

S17 Crime and Disorder	There are no implications for Crime and Disorder.
Health and Well Being	There are no implications.
Sustainability	There are no implications.
Diversity	There are no implications.
Wards Affected	All Wards are affected equally by this report.
Groups Affected	There are no groups specifically affected.
Budget and Policy Framework	This does not represent a change to the budget and policy framework.
Key Decision	This is not a key decision.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	There are no specific implications for the SCS.
Efficiency	The report recommends no further expenditure in relation to this issue.

## MAIN REPORT

### Information and Analysis

6. In September 2003 Gillespies were appointed as the lead Consultants to work with the Council to develop a design for the public realm of Darlington town centre. In July 2005 Birse Civils Limited were appointed as the main contractor. On 31st January 2006 an excavator hit a cast iron gas pipe. On 23rd March Council approved funding for the diversion of the gas main and in September 2006 further funding was approved by Council to cover the additional costs which had arisen during the contract. The Resources Scrutiny Committee undertook a review of the gas main incident in July 2006 and on the Pedestrian Heart project in October 2006 and reported its findings to Cabinet on each occasion. At the Cabinet meeting on 11th July 2006 Cabinet accepted the following recommendation
  - (a) In the light of the survey information provided, further works could have been undertaken and Darlington Borough Council explores the possible legal implications;
7. Following the further review Cabinet at its meeting on 16th January 2007 agreed this further recommendation:
  - (f) that the Council continues to review the Pedestrian Heart scheme to ensure that all payments made are appropriate

### Review costs

8. The review has required detailed analysis by external experts of all of the compensation events on the contract and the programmes. The progress of the review has been hampered by the lack of documentation. The costs of the review have been as follows:-  
  
EC Harris £20,000 (including £5,000 for the addendum)  
Ward Hadaway £20,000 (approx)

### Summary and Conclusion

9. The Council has previously and on numerous occasions acknowledged that this project has not been well managed. Significant changes have been made as a result of this project to the Council's process for handling capital projects. The review does not support further action in relation to the payments made.