

Decision under Delegated Powers

Officer Requesting Decision

David Hankin – Team Leader: Regeneration and Economic Development

Officer Making the Decision

Clare Hodgson – Head of Finance and Property Services

Recommendation

That the boundary of the Council's title in respect of land at Railway Terrace is adjusted in favour of Preci Spark Ltd. in accordance with plan attached (DVS Plan 2).

Reason

To remedy a disputed title over land required by Great Central Railway plc so as to enable the construction of bridge support piers and the grant of a flying leasehold to enable the reconnection of the heritage railway while providing compensation for the loss of existing car parking spaces serving Preci Spark Ltd.

Authority for Decision

Under paragraph 8.3 of the Constitution (Delegation of Executive Functions) the Head of Finance and Property Services is authorised under Article 5,

To approve land and property disposals that have been undertaken in accordance with the Asset Management Strategy and the Land and Property Disposal Policy where either:

- a) the freehold value is less than £100,000 or less, or
- b) the leasehold value is £50,000 or less.

Decision and Date

 04/07/2016

Background

Policy Context

The Corporate Plan 2016 - 2020 under the theme, "Creating a Strong and Lasting Economy" includes a commitment to the promotion of the Borough to increase tourism and support initiatives to help our towns and villages to thrive.

That commitment finds further expression through the adopted Local Plan Core Strategy. Policy CS7 includes two specific policy references for the regeneration of Loughborough which are linked to the GCR:

- Supporting proposals to reconnect the GCR at Railway Terrace and deliver a direct connection to the Midland Mainline railway, and
- Supporting development which enhances the tourism potential of our heritage assets including the GCR and Grand Union Canal.

"Bridging the Gap" to reconnect the remaining sections of the original railway is one element of the strategy for the development of the GCR. A second project aims to provide a railway heritage museum at Birstall housing operational locomotives and rolling stock on loan from the National Railway Museum (York).

The Council recently has commissioned a study to identify the economic value of the GCR to the Borough both now and upon completion of the "Gap Project" and museum. That study suggests that Charnwood, over a five year period, benefits from the heritage railway to the value of over £21 million and some 440 direct and indirect jobs. With the completion of the two projects that value is increased to £51.5 million over five years and 1,030 jobs.

Operational Issues

The delivery of the full economic benefits of the GCR to the local economy is directly related to the reconnection of the heritage railway. Planning permission has already been granted for the construction of a bridge spanning the Midland Main Line and work has commenced on that project.

The delivery of the remainder of the link will necessitate the construction of a new embankment parallel to Falcon Street together with a bridge over Railway Terrace and a short section of viaduct spanning land currently largely used as a car park by Preci Spark Ltd, but falling within a title held by the Borough Council.

The land reflected in title deed reference LT202296 (plan attached) was acquired by the Council in January 1988 within a wider parcel comprising 1,441 sqm being the entirety the former GCR embankment between Railway Terrace and the Midland Main Line. The acquisition was effected by way of a land exchange with Preci Spark whereby that company acquired title over a 1,786 sqm site off Falcon Street. The purpose of the exchange is not recorded

although there are clear mutual benefits to the parties including for the Borough Council possession of the land required to deliver the long standing commitment to the reconnection of the heritage railway.

However, notwithstanding that transaction Preci Spark has continued to occupy part of the site as a company car park for in excess of 20 years. Rather than claim adverse possession the company prefers to argue that the title deeds were incorrectly drafted and should have excluded the operational car park, the eastern boundary of which is denoted by means of a green line on the attached plan (DVS Plan 2).

Irrespective of the details of land ownership both Preci Spark and the Council support the aspirations of GCR to reconnect the railway. Preci Spark seek only that in accommodating that aspiration there is no net loss in company parking provision.

A plan has been prepared to satisfy those objectives providing for parking beneath the span of the viaduct (the blue shaded areas in DVS Plan 2) and between the support piers (the red shaded areas). For ease of implementation is agreed between the parties that the boundary between the respective holdings should be adjusted in order that the blue shaded areas are retained / acquired by Preci Spark while the red shaded areas are retained / acquired by the Council. An overarching agreement, prepared by Network Rail, will effect the land transfer and set in place the related access consents and permissions for the construction and subsequent maintenance and repair of the viaduct.

Valuation

The site has been the subject of a valuation report commissioned from the Valuation Office Agency which has concluded:

VALUE OF LAND TO BE TRANSFERRED TO PRECIS SPARK

I estimate from the plans provided that the freehold interest in the area of land, shown shaded blue on DVS Plan 2, covering an area of approximately 346 sq m, assuming vacant possession, has a Market Value of £4,500. However, the bulk of the value is in the car parking use of approximately half of this area, and I understand has been occupied by Preci Spark for some time. In order to reflect the risk of a successful claim for adverse possession being made by Preci Spark I would reduce the value to £1,500.

VALUE OF LAND TO BE TRANSFERRED TO CBC

I estimate from the plans provided that the freehold interest in the area of land, shown shaded red on DVS Plan 2, covering an area of approximately 161 sq m, assuming vacant possession, has a Market Value of £1,700. However, adjusting for and reflecting the risk of a

successful claim for adverse possession being made by Precis Spark on parts of this land, I would reduce the value to £1,100.

FAIR VALUE APPROACH

Fair Value is defined by the IVSC and captured at RICS VPS 4, para 1.5.2 as:

“The estimated price for the transfer of an asset or liability between identified knowledgeable and willing parties that reflects the respective interests of those parties.”

Reflecting this basis, and given the relatively low levels of value involved and the risks and costs associated with pursuing an adverse possession claim to both sides, I believe both parties would agree to a £nil value exchange in this case, in order to provide the clean boundary titles required for each party’s respective use and proposals for the land going forward in the future.

Procedural Compliance

The Asset Management Strategy sets the strategic direction for the use, management and development of the Council’s corporate property resources over the period 2013/14 to 2017/18. The strategy is aligned to the Corporate Plan and aims to support the commitment to growth and prosperity by:

- Supporting opportunities for business growth, and
- Helping business to prosper and grow

The subject site is not specifically identified in the Fixed Asset Base but reasonably might be classified as non-operational land.

The reconnection of the heritage railway clearly will support local business growth and development both directly and indirectly and presents a legitimate use of the Council’s asset.

The Land and Property Disposals and Acquisition Policy sets out the procedures and protocols to be applied in the management of the Council’s assets. As a general principle the Council aims to sell any surplus land or property for the best available consideration, unless there are exceptional circumstances that are within the law.

Such “exceptional circumstances” include sales of small areas of land where there is realistically only one potential purchaser, for example an adjoining owner. (Paragraph 3.1 (a) applies). In this instance there is no sale; rather a transfer to the only potential purchaser.

The disposal of the subject site falls within the provisions for exceptions by reason of its modest area and the needs of the adjacent landowner which additionally comply with the Council’s Corporate Plan priorities.

Further, in anticipation of a low valuation and the contribution that the site will make towards the delivery of the Council's Corporate Plan and Core Strategy objectives for the physical regeneration and projected economic success of the East Loughborough Industrial Heritage Quarter, the Asset Management Team has endorsed the principle of the transfer of the land subject to the Council's legal costs being met.

Financial Implications

The land exchange is to be transferred at nil value with the parties legal costs being covered by Network Rail Ltd within the scope of the overarching legal agreement for the delivery of the "Bridging the Gap" project.

Risk Management

No specific risks have been identified with this report.

Key Decision: No

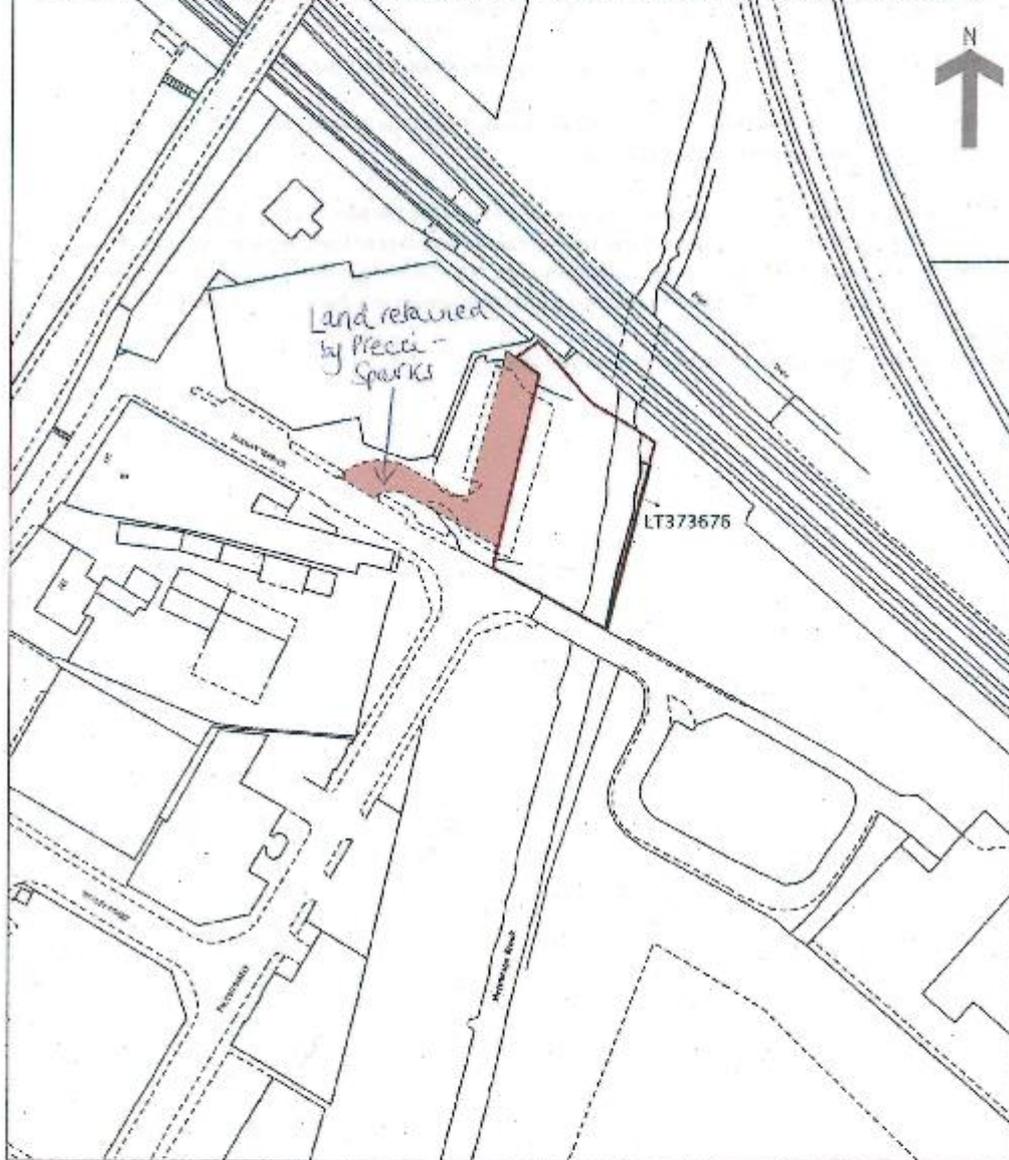
Background Papers: e-mail dated 6 June 2016 (14:28)
from Ken Shirer (Valuation Office
Agency) to Sheetal Shah.

Land Registry
Official copy of
title plan

Title number LT202296
Ordnance Survey map reference SK5420SW
Scale 1:1250
Administrative area Leicestershire : Charnwood

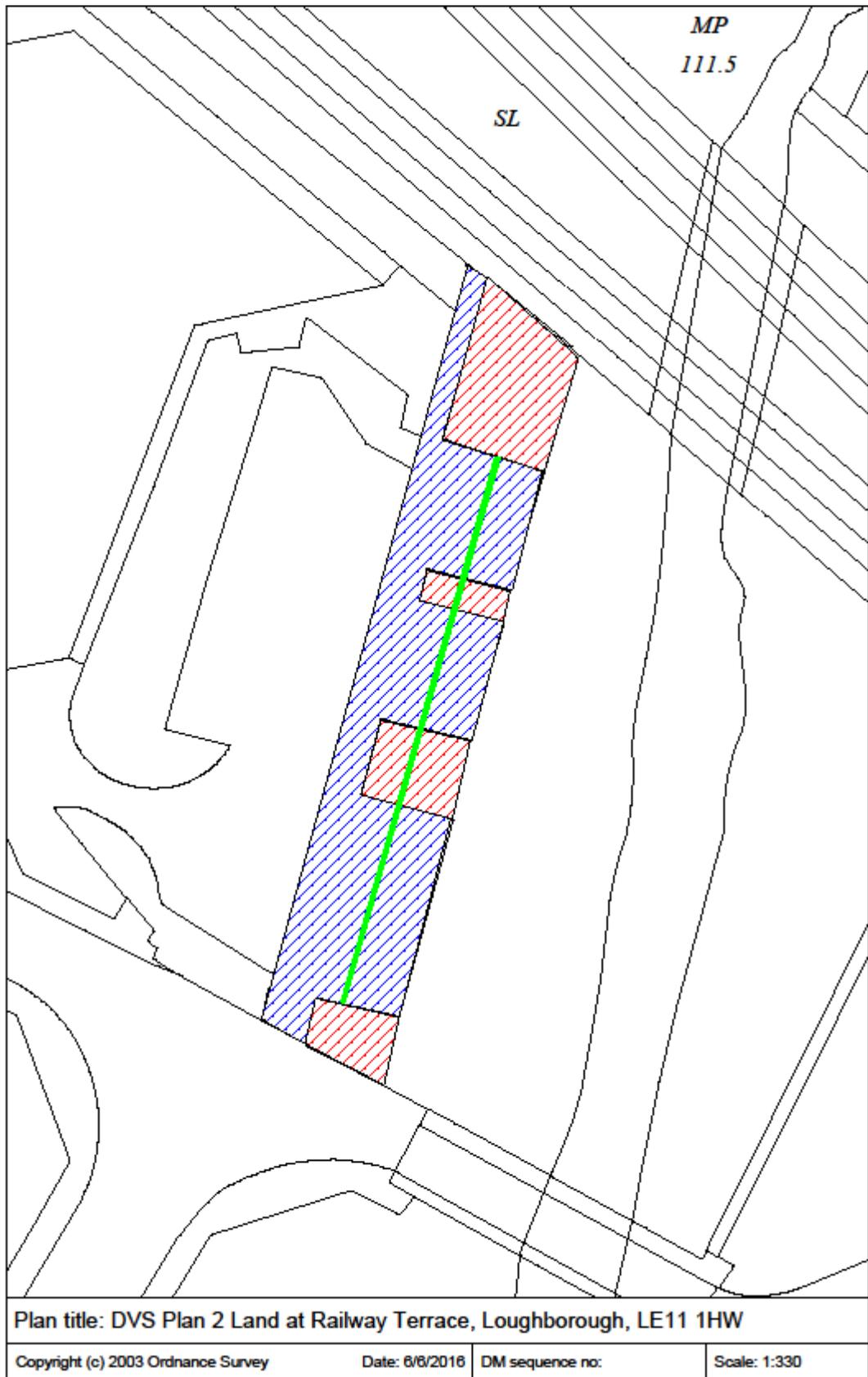


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Title Plan – Land at Railway Terrace



Viaduct "Footprint" – Land Exchange