

City Mayor Decision Report

USE OF COMPULSORY PURCHASE POWERS – HAYMARKET BUS STATION REDEVELOPMENT PROJECT

Decision to be taken by: **City Mayor**

Decision to be taken on: **8 November 2013**

Lead director: **John Stevens**

Interim Director of Property

Useful information

- Ward(s) affected: **Castle**
- Report author: **Jeannette Franklin**
- Author contact details: **37 2142, Jeannette.franklin@leicester.gov.uk**
- Report version number:

1. Summary

The declaration of Compulsory Purchase Orders (CPOs) is reserved to the City Mayor. This report seeks approval to declare and make a CPO to acquire any property interests and rights not already acquired, which are required for the proposed Haymarket Bus Station Redevelopment Project. Although negotiations are currently underway to acquire all the required property interests by agreement, approval is sought to start the compulsory purchase process to acquire the property and rights and run it in parallel with the current negotiations.

2. Recommendations

It is recommended that:-

- 2.1 The City Council declare and subsequently make a Compulsory Purchase Order pursuant to Section 226 (1) (a) of the Town and Country Planning Act 1990, for the purpose of acquiring the land identified in Appendix 1. This is required to carry out the development, redevelopment or improvement of the land to deliver the Haymarket Bus Station Redevelopment Project.

The formal making of the Order will be subject to:

- The Council (in its capacity of local planning authority and having regard to the requirements of Section 226(1) (a)) resolving to grant planning permission for the scheme.
- The Council ensuring that all reasonable steps have been taken to acquire the required interests in the land by agreement.
- The Council ensuring that that the necessary funding will be secured in order to carry out the development.

- 2.2 The City Barrister & Head of Standards be authorised to advertise the making of the Order referred to above and take all relevant action thereon to promote the confirmation of the Order.

- 2.3 The Director of Property be authorised:

- 2.3.1 To agree terms to acquire the necessary interests within the CPO land, including those, if any, determined by the Upper Tribunal (Lands Chamber).

- 2.3.2 In the event that further decisions are required during and relevant to the CPO, to make those decisions.
- 2.4 The City Barrister & Head of Standards is authorised to prepare and execute all the necessary documentation required throughout the CPO process, including the acquisition of land and interests by agreement.

3. Supporting information including options considered:

- 3.1 The following barriers have been identified to public transport use and the take up of jobs in the city centre:
- Non-central location of the railway station and St. Margaret's bus station;
 - Congestion at Haymarket bus station (and the approach on Charles Street)
 - Shortage of suitable bus stand kerb space in the city centre
 - Poor facilities at the bus stations and rail station.
- 3.2 Haymarket Bus Station is very well placed at the heart of the city centre, closer to where people want to travel than both the rail station and St. Margaret's bus station. However, this facility is beyond its operational capacity and the lack of stands within the bus station results in, services that cannot be accommodated, stopping along the approach road, Charles Street, which is already intensively used by buses, cars and pedestrians, subsequently causing a congestion problem.
- 3.3 Buses arriving at Charles Street wait on-street for passengers for their outbound journey and employ long layover times in the timetable to maintain an outbound headway. Numbers of buses waiting on Charles Street are high thus obstructing other buses travelling along this street, creating further unreliability.
- 3.4 Congestion in Charles Street is severe and deters bus use and encourages passengers to alight early and walk rather than wait for the bus to progress through grid-lock conditions. Delays, journey time unreliability and long walk distances deter travel by bus and forces people back into their cars, exacerbating congestion and pollution in and around the city.
- 3.5 Many bus services do not attempt to serve this area of the city and the bus station due to this congestion and subsequently these services are less convenient for bus users. Many people face a long walk from their bus stop to their final destination, which again encourages car use.
- 3.6 The Haymarket Bus Station is tired and dated and its general poor state makes it appear unwelcoming and less safe than it should be. The current bus stands comprise old fashioned on-street shelters with no lighting and often with broken windows. This inhospitable environment deters commuters from using the bus to access the city centre and it deters businesses from locating in the immediate vicinity of the bus station.
- 3.7 In addition to perceptions of poor security there are problems of safety caused by bus conflicts on Charles Street, a pedestrian intensive road.

3.8 Leicester's Local Development Framework Core Strategy sets out the vision, objectives and spatial strategy for the City to 2026. It identifies a need for 40,000 new homes between 2006 and 2026, within the Leicester Principal Urban Area. This increase on existing housing stock will give rise to a corresponding increase in travel. This growth needs to be accommodated and public transport opportunities provided for new housing development as soon as they are built as travel habits are cemented at points of major changes in people's lives. To assist with this housing developers are committed to fund new bus services under Section 106 Agreements but without addressing capacity problems within the city centre and specifically at the Haymarket bus station, the new services will not be able to access the heart of the city.

3.9 The Council has identified an opportunity to address these issues by improving and increasing the size of the existing bus station to provide the following

- i an improved, drive in, reverse out layout,
- ii 23 bus stops with passenger seating in high quality waiting areas,
- iii a 120m long covered concourse, housing a passenger help desk, ticket office, electronic bus information displays, ancillary staff facilities and roof mounted Photovoltaic cells to generate electricity for the bus station and charging mobility scooters,
- iv a new, fit for purpose facility for Shopmobility comprising approximately 252 sq m of space, over two floors to house facilities required for staff and users
- v a kiosk of approximately 7 sq m
- vi the demolition of existing buildings situated at the junction of Charles Street and Belgrave Gate
- vii The provision of a new highway layout including a wider footway on the eastern side of Charles Street,
- viii The creation of new areas of public realm
- ix Refurbishment of the existing toilet facilities

These changes will bring about:

- i An improved, safer layout which will remove passenger/bus conflict and allow for greater efficiency in vehicle movement, improved accessibility and better connectivity between bus services
- ii Reduced congestion and improved air quality, particularly on Charles Street, with more buses loading and unloading within the bus station and more people using public transport rather than cars,
- iii Reduced passenger journey and waiting times with buses able to access stops, load passengers and move off which present congestion, at on-street stops in particular, is preventing ,

- iv Improvement to this run down part of the city and aid regeneration and stimulate further development.
- v. accommodate bus stops which are presently located in locations inconvenient to user.

3.10 National Transport Policy

3.10.1 On 3rd October, 2012, the Department for Transport (DfT) published, a policy document, 'Improving Local Transport'. This highlights the issue that two thirds of all journeys are under 5 miles and many of these could be walked or made by bike or public transport. Making these alternative modes of transport more attractive would encourage people to leave the car at home and thus reduce their carbon footprint and help the UK reach its climate change goals. An important mode of transport in Leicester and Leicestershire is the bus and one way of making bus services more attractive to users is by improving this bus station.

3.10.2 The Haymarket Bus Station Redevelopment Project proposed by the City Council is in accordance with national transport policy in that it will:

- allow bus services to be managed more efficiently, improve punctuality, inner-connectivity and accessibility
- improve facilities for customers including real time information
- make public transport easier to use including smart ticketing

3.11 Local Transport Policy

Leicester's current transport strategy is delivered through the Local Transport Plan (LTP3) which is a statutory plan covering the period 2011 - 26.

3.11.1 The successful delivery of this Local Transport Plan will, amongst other things, enable more rapid progress in delivering attractive alternatives to car travel, the transport network being almost at capacity during peak periods. It will also cater for anticipated housing growth of approximately 40,000 new homes in the Leicester Principal Urban area between 2006/2026. This increase in existing stock is expected to give rise to a corresponding increase in travel. This growth needs to be accommodated whilst also:

- Keeping congestion under control and improving accessibility for all, but particularly for deprived groups to support prosperity;
- Encouraging more people to walk, cycle and use public transport, thus reducing carbon emissions;
- Providing a transport system that facilitates a safer and healthier way of life.

Locally this translates into many more walking and/or cycling journeys in and around the City and more bus use for longer journeys, particularly into the City centre.

Because 30% of Leicester's households do not have a car, and with fuel prices likely to continue to rise, delivering improved public transport is paramount to Leicester's future. New major road building is not considered feasible.

- 3.11.2 A significant capacity increase is therefore required in the transport system and the focus of LTP3 has been quality improvements to the bus termini, bus infrastructure and bus routing within the city centre.
- 3.11.3. The Council is therefore promoting a major transport initiative, the City Centre Bus Improvements (CBBi) programme, to provide significant bus improvements within the City centre. The provision of a new bus station has been identified as an essential part of this programme which also includes the Humberstone Gate (East) improvement scheme, Causeway Lane and Charles Street bus lane enforcement. Some elements of this programme have already been delivered.
- 3.11.4 The CBBi programme will also deliver an enhanced City centre environment to improve wellbeing, assist in the improvement of the City centre air quality, reduce causes of climate change by the reduction of CO₂ emissions, deliver a Sustainable Transport System, contribute to the economic development of Leicester and the surrounding areas and improve accessibility to employment for the socially excluded thereby reducing inequality.
- 3.11.5 A search has been undertaken to determine a suitable location for a new bus station and numerous options have been appraised to assess their suitability. The appraisal concluded that the improvement and extension of the existing Haymarket Bus Station delivered the required outputs in terms of extra bus stops, safer environment, lower delivery risk, high level of value for money, enhanced circulation space and more efficient use of an existing facility.
- 3.11.6 The use of an existing facility is also less onerous in terms of disruption to businesses in that only five leasehold interests will need to be acquired for the extension to the existing bus station to be developed.
- 3.11.7 The City Mayor gave approval in August 2012 to the negotiation and purchase of the freehold interest in the Haymarket Bus Station and island block shops from CBRE Britannica Fund (now in administration) in order to improve and extend the existing bus station and facilitate the provision of new bus stands in the bus station/Charles Street/Abbey Street area. This would help towards remedying the current deficit in bus stands, provide for some growth in new bus services and potentially facilitate the pedestrianisation of Churchgate and Belgrave Gate South.
- 3.11.8 The Council has now acquired the freehold interest of the land comprising the existing Haymarket Bus Station and a group of adjacent properties required for this proposed redevelopment. These comprise six commercial/retail properties, one of which has two residential lettings on an upper floor. The properties are let on varying terms. It was reported to the City Mayor in April 2013 that in the event that the leasehold interests required for the bus station redevelopment could not be acquired by agreement, a Compulsory Purchase Order would be pursued.
- 3.11.9 Approval is being sought to declare and make a CPO to acquire all the remaining property interests and any rights required for this Scheme. Areas of public highway which are unregistered and therefore ownership unknown have

also been included in the land identified in Appendix 1. Other than undertaking a CPO there is no other route available to ensuring all the property required for this scheme can be acquired and the scheme delivered within a reasonable timescale.

3.12 Planning Policy

3.12.1 Policy CS 12 of the adopted Core Strategy 'City Centre' states that the Council will work to promote the growth of the City Centre as a sub-regional shopping, leisure, historic and cultural destination, as the most accessible and sustainable location for main town centre uses by various methods including making the City Centre the focus of public transport initiatives by improving the bus interchange facilities.

3.12.2 Policy CS 14 of the adopted Core Strategy 'The Transport Network' states that amongst other things that the Council will work with partners to develop and maintain a Transport Network that will maximise accessibility, manage congestion and air quality, and accommodate the impacts of new development. One of the ways this will be achieved is through identifying and safeguarding land for a new city centre bus station and interchange facilities and for the Quality Public Transport Corridors.

3.13 Consequences on current owners and occupiers

3.13.1 Five of the six commercial/retail/residential properties required for the scheme are occupied. Two of the leaseholders affected have instructed a local chartered surveyor to act on their behalf in negotiating their claims. Two of the leaseholders are negotiating on their own behalf and one has an in house team seeking new premises.

3.13.2 Section 6 of the Human Rights Act 1998 (paragraphs 1, 8 & 14) prohibits public authorities from acting in a way which is incompatible with the European Convention on Human Rights (ECHR). Various convention rights may be engaged in the process of making and considering a CPO. The Council considers that the Haymarket Redevelopment Scheme and the proposed CPO will constitute a proportionate interference with third party rights under the ECHR.

3.14 Reasons for the CPO

3.14.1 Section 226 of the Town and Country Planning act enables the City Council to acquire land compulsorily for "planning purposes". Section 226(1) (a) allows these powers to be used if acquiring the land will facilitate the carrying out of the development, redevelopment or improvement on or in relation to the land being acquired and it is not certain that it can be done by acquiring through agreement. This is a wide power and is subject to sub section (1A) of Section 226 which provides that an acquiring authority must not exercise this power unless it thinks the proposed development: redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental wellbeing of the area.

- 3.14.2 The proposed extended and improved bus station will contribute towards Leicester's economic growth by enabling ease of access to the City centre for businesses and their users and helping prevent traffic congestion associated with increased economic activity, by improving public transport facilities. The transportation improvements of the CCBI programme as a whole, cumulatively valued at £18 million will be beneficial to the growth of the City.
- 3.14.3 The provision of improved City public transport facilities brings important benefits with improved access to employment for all sections of the community and therefore contributes to social wellbeing.
- 3.14.4 The scheme will significantly improve the transport and pedestrian environment, reduce bus journey times, create a high quality public realm and a safer environment for bus users. The proposals will maximise the site's potential, create public open space and will be accessible, legible and sustainable. This will provide a safe environment and will have a beneficial impact on wellbeing.
- 3.14.5 Guidance is given on these issues and other concerns that the City Council should take into account in a Government Circular, 6/2004 'Compulsory Purchase and the Crichel Down Rules'. CPO powers should only be exercised where there is a compelling case in the public interest. Compulsory acquisition is usually a last resort, as the preference is to acquire by way of agreement wherever practicable.
- 3.14.6 Property Services have contacted all the known occupiers affected by this scheme in an attempt to purchase the various interests required by agreement. Although negotiations are on-going it might not be possible to reach a successful conclusion with all parties and the only way to progress the acquisition of all the property interests required for such a development is to undertake a CPO, which can be used as a last resort to acquire property interests.
- 3.14.7 The use of a successful CPO should enable the proposed development to proceed within an appropriate timescale. It should also be noted that the confirmation of a CPO can add impetus to secure negotiated settlements, as it brings certainty to the acquiring process. Please see Appendix 2 for a brief description of the CPO process.
- 3.14.8 It is very hard to ascertain how long it takes to obtain a confirmed CPO as the length of time to get a public inquiry and then to receive the final report are in the sole control of central government departments. A delay in the anticipated start date can be expected if the Council has to rely on CPO Powers.
- 3.14.9 The redevelopment and expansion of the Haymarket Bus Station links in with the Council priorities of (i) a low carbon city, and (ii) getting about in Leicester.
- 3.15 The Economic Action Plan
- 3.15.1 The adopted Leicester Economic Action Plan – A plan for jobs and growth: 2012 to 2020, sets out the Council's strategy for investment in the City's economy up until 2020.

3.15.2 The successful delivery of the redeveloped and extended Haymarket Bus Station will help achieve the objective of creating a “thriving city centre”.

3.15.3 More specifically in section 9.1 of the Action Plan, the Council has a priority to “Meeting Transport Needs in the City Centre” and this includes taking forward the bus improvement project in the Humberstone Gate East/Charles Street/Haymarket Bus Station area. The successful development of the Haymarket Bus Station will improve the City Centre transport infrastructure as part of the Connecting Leicester initiative to better plan and co-ordinate delivery of bus infrastructure in the City.

3.16 Concurrent/Associated Procedures

In tandem with the Haymarket Bus Station CPO, an application will be submitted to the Department for Transport for an order to be made pursuant to Section 247 of the Town and Country Planning Act 1990 for the stopping up of highways in order to facilitate the carrying out of the Haymarket Bus Station Scheme.

4. Details of Scrutiny

The Transport and Climate Change Scrutiny Commission published a report in April 2012 titled ‘A City Centre Bus Station – Is it necessary and feasible?’

The report makes a number of conclusions including the following – “Existing bus facilities in the city centre are neither well placed nor of good enough quality. Therefore, there remains an urgent need to upgrade the existing bus facilities within the city centre to cater for the continued and anticipated growth in passenger numbers and to ease bus congestion”.

5. Financial, legal and other implications

5.1 Financial implications

The Haymarket Bus Station Improvement Scheme was approved in principle by the City Mayor on 27th November 2012, as part of the Economic Action Plan. The “in principle” funding approval at that time, ahead of detailed design, was £10m. Following subsequent public consultation and development of the detailed design, the estimated cost is now £13.5m, as follows:

- Land: £1.4m (including stamp duty)
- Tenant costs: £0.8m (including CPO)
- Design and Supervision: £1.3m
- Construction: £10m

The City Mayor's Executive Decision of 21st September 2012 approved the release of £1.85m for land purchase (including the commencement of negotiations with island block tenants) and detailed design works with formal approval of the release of a further £1.5m in early November 2013 for consultant costs to the start of construction, survey work and the costs of proceeding with the CPO (including the payment of any compensation payable to qualifying claimants). Together with the aforementioned £1.85m, this will bring the total funding already released to £3.35m for the early development costs, land purchase and scheme design. The Council will then have sufficient funds in place to cover all the costs to be incurred in preparing and undertaking the Order and compensating affected parties of the property interests required for this Scheme.

The Council anticipates to formally secure the balance of the funding requirement by means of the 2014/15 capital programme which will be submitted to the Full Council for approval in March 2014. Full Council approval is anticipated to be necessary as the scheme exceeds the City Mayor's approval threshold as it requires over £10m of corporate resources.

The costs incurred in obtaining the CPO will be met within the overall funding provision. No financial impediments to the delivery of the Scheme are anticipated.

Colin Sharpe, Head of Finance, Extn. 374081

5.2 Legal implications

5.2.1 The Council needs to be able to satisfy the Secretary of State that there is a compelling case in the public interest for the proposed compulsory acquisition. The more comprehensive the justification that an authority can present, the stronger its case is likely to be. In demonstrating its justification, the acquiring authority should provide as much information as possible about the resource implications both of acquiring the land and implementing the scheme for which the land is required, as well as having to demonstrate that there is a reasonable prospect of the scheme going ahead and that it is unlikely to be blocked by any impediments to implementation (such as the grant of planning permission). In proceeding with a CPO, the Council will need to have regard to the requirements of DCLG Circular 06/2004 "Compulsory Purchase and The Criel Down Rules".

5.2.2 Although the compulsory purchase process is intended as a last resort, once attempts to acquire by agreement fail, an acquiring authority should consider when the land it is seeking to acquire will be needed and, as a contingency measure, should plan a compulsory purchase timetable at the same time as conducting negotiations. It is essential that the acquiring authority keeps any delay to a minimum by completing the statutory process as quickly as possible and that the authority should be in a position to make, advertise and submit a fully documented order at the earliest possible date after having resolved to make it. The authority should also take every care to ensure that the Order is

made correctly and under the terms of the most appropriate enabling power. The Secretary of State has to be satisfied that the statutory procedures have been followed correctly and that no-one has been or will be substantially prejudiced as a result of a defect in the Order, or by a failure to follow the correct procedures. Authorities are therefore urged to take every possible care in preparing compulsory purchase orders. The Council will continue to take advice to ensure that it complies with the statutory procedures and guidance associated with the promotion of the compulsory purchase orders.

*John McIvor, Legal Services
Extn. 371409*

5.3 Climate Change and Carbon Reduction implications

There are no immediate implications arising from the recommendations in this report. Completion of the Haymarket Bus Station Redevelopment is expected to have significant positive climate change implications by enabling improved public transport provision and hence minimising potential growth of car travel.

*Duncan Bell, Senior Environmental Consultant, Environment Team.
Ext. 37 2249*

5.4 Equality Impact Assessment

The provision of accessible and modern city centre public transport facilities brings important benefits, with improved accessibility to employment for the socially excluded thereby reducing inequality.

5.5 Other Implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

None

6. **Background information and other papers:**

None.

7. **Summary of appendices:**

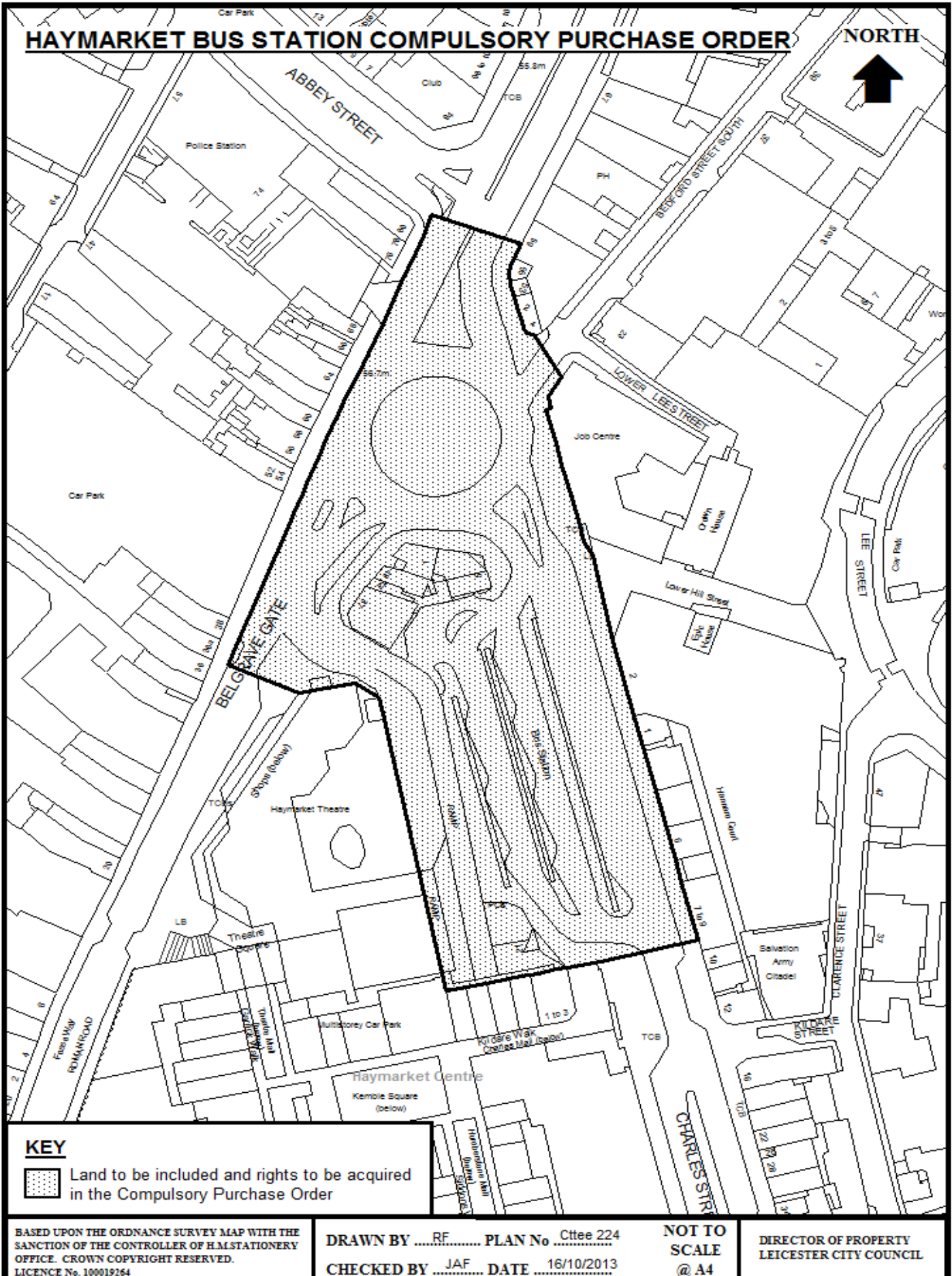
Appendix 1 – Plan of area to be acquired
Appendix 2 – CPO process

8. **Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?**

No.

9. **Is this a “key decision”?**

No.



THE CPO PROCESS

This appendix provides a very brief and simplified description of the Compulsory Purchase procedure. The process outlined below is dependent on the initial investigations (e.g. agreement of the extent of the site and full title investigations) being successfully undertaken. It should also be noted that every effort should be made to acquire by agreement and CPO is really used as a last resort.

Once the above initial investigations have been carried out, the process for this scheme is briefly outlined below:-

- a) Cabinet resolution to declare and make a CPO.
- b) Preparation of statement of reasons – justification on why the CPO is required.
- c) Making the Order and notifying known owners and occupiers then submitting the Order to the Office of the Deputy Prime Minister – this includes the Statement of Reasons. The making of the Order is advertised and is available for general inspection.
- d) If no objections are received and the Minister is satisfied proper procedures have been followed; he can confirm the order without modification, subject to modification (e.g. certain properties are excluded from the Order) or reject it.
- e) If objections are received, it is usual for a public inquiry to be held usually within approximately 6 months from making the Order. The Council will have to provide a full statement of case for the inquiry.
- f) The Inspector heading the public inquiry provides a written report for the confirming Minister with his recommendations and the confirming Minister then either confirms, modifies or rejects the Order.
- g) 2 months after the CPO confirmation (providing proper procedure is followed and relevant notices served) a General Vesting Declaration can be executed which transfers all the land into the City Council's ownership, with the compensation payable to the owners and occupiers to be agreed later, if not already agreed at the time.
- h) In the event that compensation cannot be agreed between the Council and the claimant, then the compensation will be determined by the Lands Tribunal

NOTE: This is a very simplified version of the CPO procedure which should not be used as a definitive guide.

**SCHEDULE OF TENANCIES AFFECTED BY
HAYMARKET BUS STATION PROPOSAL**

Property	Tenant
37 Belgrave Gate	Zankem (UK) Ltd, t/a Munch Munch
47 Belgrave Gate	V K and M V Pala
1 Charles Street	I A Mulla, t/a McIndians
3 Charles Street	Subway Realty (UK) Ltd.
5 Charles Street	Leicester City Bus Ltd.