

Date: 14 March 2025

Our Ref: RFI5018

Tel: 0300 1234 500

Email: infogov@homesengland.gov.uk

[REDACTED]
By Email Only

Dear [REDACTED]

RE: Request for Information – RFI5018

Thank you for your recent email, which was processed under the Environmental Information Regulations 2004 (EIR).

You requested the following information:

I am writing to inquire about the sale of 23 Queensway, Crawley (the Marks and Spencer site) to Marks and Spencer. It has come to my attention that this property was sold for approximately £700,000 including VAT. I must admit, I am quite surprised by this amount, especially considering the location and significance of the site.

Could you please provide details on who was responsible for overseeing and authorising this transaction? Given the importance of this matter, I need to understand who made the decision and under what circumstances the sale was allowed at such a figure.

Response

We can confirm that we do hold the requested information. Please see Annex A below for a copy of the paper that was approved at The Contingent Assets and Liabilities Approval Board.

We have redacted some information contained within Annex A from disclosure under the following exceptions. We have also withheld in full the formal valuation advice provided Thomas Lister Limited under the exception contained within regulation 12(5)(e) of the EIR.

Regulation 12(5)(e) – Confidentiality of commercial or industrial information

Under regulation 12(5)(e) of the EIR, Homes England may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.





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Four elements are required for Regulation 12(5)(e) to be engaged:

- 1) The information is commercial or industrial in nature;
The information contains information relating to the commercial sale of land, as well as tailored advice given to Homes England by Thomas Lister Limited. Therefore it is commercial in nature as it relates to commercial activity.
- 2) Confidentiality is provided by law;
The withheld information is subject to confidentiality provided by law under a common law duty of confidence. The information has a common law duty of confidence because it is not trivial and not in the public domain.

The information was created by two parties who have entered into contractually binding confidentially terms. These show that the parties had the intention that a duty of confidentiality would be created between them. Homes England therefore recognises that this information was intended to be held in confidence between the parties.
- 3) The confidentiality is providing a legitimate economic interest;
If the confidentiality of this information was breached it would harm the ability of Homes England and third parties to dispose of land. There is a legitimate economic interest in protecting the ability of Homes England and third parties to negotiate in current and future commercial agreements.
- 4) The confidentiality would be adversely affected by disclosure;
Disclosure would result in third parties gaining access to commercially valuable information. Disclosure of the confidential information would harm the ability of Homes England to achieve good value for public money.

Public Interest Test

Regulation 12(5)(e) is subject to the public interest test. Once the exception has been engaged it is then necessary to consider the balance of the public interest in maintaining the exception or disclosing the information.

Under regulation 12(2) the public authority must apply a presumption in favour of disclosure, in both engaging the exception and carrying out the public interest test. In relation to engaging the exception, this means that there must be clear evidence that disclosure would have the adverse effect listed in 12(5).

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Factors in favour of disclosure

- Homes England acknowledge that there is a presumption in disclosure regarding environmental information as well as a public interest in promoting transparency in how we undertake our work and allocate public money; and
- Homes England acknowledge that there is a public interest in effective disposals of land and recognise the importance of accountability for these decisions and management of public funds.

Factors in favour of withholding

- The redacted information gives insight into the processes and valuation methodology used by Homes England and the firm of Registered Valuation Chartered Surveyor consultants. It is imperative that independent evaluations are conducted without fear of public scrutiny or undue pressure. Disclosure could prejudice the ability of decision-makers to provide impartial evaluations about future disposals. This would not be in the public interest as it would be likely to prejudice our ability to effectively manage public funds;
- If third parties felt that Homes England would reveal confidential commercial information in relation to projects where we are collaborating it would be likely that future partners would be unwilling to work with us or be wary of being open and transparent. This would cause significant risk in Homes England being able to invest public money and resources in the widest possible net of partners in order to achieve best value for money. It is imperative that Homes England are able to attract competitive partners and are respected in the market as a positive force; and
- Homes England has been unable to identify a wider public interest in disclosing the information requested.

Having considered the arguments for and against disclosure of the information, we have concluded that at this time, the balance of the public interest favours non-disclosure.

The full text of Regulation 12(5)(e) in the legislation can be found via the following link:

<https://www.legislation.gov.uk/ukxi/2004/3391/regulation/12/made>

Regulation 12(4)(e) – Internal Communications

Under regulation 12(4)(e) of the EIR, Homes England may refuse to disclose information to the extent the request involves the disclosure of internal communications.

In engaging this exception, it is only necessary that the information fall into the defined category, not that disclosure would have an adverse effect. However, under regulation 12(1)(b), the public authority can only withhold the information if, in all the circumstances of the case, the public interest in maintaining the

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Regulation 13 – Personal Data

We have redacted information on the grounds that it constitutes third party personal data and therefore engages Regulation 13 of the EIR.

To disclose personal data, such as names and signatures would lead to the identification of third parties and would breach one or more of the data protection principles.

Regulation 13 is an absolute exception which means that we do not need to consider the public interest in disclosure. Once it is established that the information is personal data of a third party and release would breach one or more of the data protection principles, then the exception is engaged.

The full text in the legislation can be found on the following link:

<http://www.legislation.gov.uk/ukxi/2004/3391/regulation/13/made>

Advice and Assistance

We have a duty to provide advice and assistance in accordance with Regulation 9(1) of the EIR. In accordance with this duty we can advise the disposal of the agency interest in the site, was approved at the appropriate internal approval board. In this instance “The Contingent Assets and Liabilities Approval Board” as per the agency’s delegations, with sign off from the Agency National Development Director.

The disposal of the agency’s freehold interest in the site was supported by a Royal Institute of Chartered Surveyors (RICS) Red Book Valuation that adheres to the standards set out in the RICS Valuation Global Standards and confirmed best consideration for Homes England.

Right to make Representations

If you are not happy with the information that has been provided or the way in which your request has been handled, you may request a reconsideration of our response (Internal Review). You can make this representation by writing to Homes England via the details below, quoting the reference number at the top of this letter.

Email: infogov@homesengland.gov.uk

The Information Governance Team
Homes England

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Your request for reconsideration must be made in writing, explain why you wish to appeal, and be received within 40 working days of the date of this response (Reg 11(2)). Failure to meet this criteria may lead to your request being refused.

Upon receipt, your request for reconsideration will be passed to an independent party not involved in your original request. We aim to issue a response within 20 working days.

You may also complain to the Information Commissioner's Office (ICO) however, the Information Commissioner does usually expect the internal review procedure to be exhausted in the first instance.

The Information Commissioner's details can be found via the following link <https://ico.org.uk/>

Please note that the contents of your request and this response are also subject to the Freedom of Information Act 2000. Homes England may be required to disclose your request and our response accordingly.

Yours sincerely,

The Information Governance Team
For Homes England

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Gateway 4 – Approval to Dispose (by Agreement)

Town Centre North Regeneration - 23-29 Queensway, Crawley ("M&S")

CALAB: 15th February 2023

Headline Information

Please review the [Development PE Lessons Learnt](#)

Project details			
PCS Number	18397	Project name	Town Centre North Regeneration - Crawley
Parcel Number	820		
Programme	SLP	Approval level	LDMT
Project Manager	reg. 13	Region	South East
Decisions required			
<ol style="list-style-type: none"> To note and agree the assignment of the Leasehold interest in 23-29 Queensway, Crawley from Marks and Spencer Scottish Limited Partnership ("M&S SLP") to Marks and Spencer PLC ("M&S PLC"). To note and agree the disposal of the Freehold interest in 23-29 Queensway, Crawley for a receipt of £600,000 + VAT to Marks and Spencer PLC. Out of Scope Out of Scope 			
Is this proposal considered novel, contentious or repercussive?		No	
Conditions			Date to be met
1. None			N/A

Structure of Disposal			
Disposal Method	Negotiated		
Payment Structure	Upfront		
Payment Structure Comments including (if relevant):	Full payment on completion.		
<ul style="list-style-type: none"> Proposed deferred terms (timing/triggers) Absolute final payment date Overage provisions 			
Gross Disposal Receipt (£)	600,000		
Minimum Net Receipt (£)	600,000	Discounted Receipt at 3.7% p.a.(£)	600,000

Net Book Value	reg. 12(5)(e)	Red Book Value	reg. 12(5)(e)
ALVVE Valuation	reg. 12(5)(e)	Deductions (£)	None
Overage	N/A		

Project/ Parcel Receipt validation	
Anticipated Project receipt approved at last G2	£305,000
Disposal receipt for this Parcel	£600,000
Total anticipated & actual disposal receipt for all other Parcels	reg. 12(5)(e)
Variance (+/-) in receipt across all phases to the last approved G2	reg. 12(5)(e)
Increase of £295,000 as a result of the marriage value benefit of the proposed disposal in this paper.	

Additional RDEL Investment for Disposal costs up to £50k	£
Current Project Approval (£)	reg. 12(5)(e)
Additional RDEL Investment Required (£)	reg. 12(5)(e)
Total Approval Sought (£)	reg. 12(5)(e)

Disposal Process outcome

Parcel Profile Summary			
Disposal Route	Negotiated	Local Authority	Crawley
Gross Area (ha)	0.24	Proposed Use	Commercial/Retail
Net Developable Area (ha)	0.24	Planning Status	Allocated in Local Plan
Brownfield /Greenfield	Brownfield	OGD Transfer	N

Parcel map image

See Annex 1.1 for Project and Parcel Details.



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Project/ Parcel Output validation

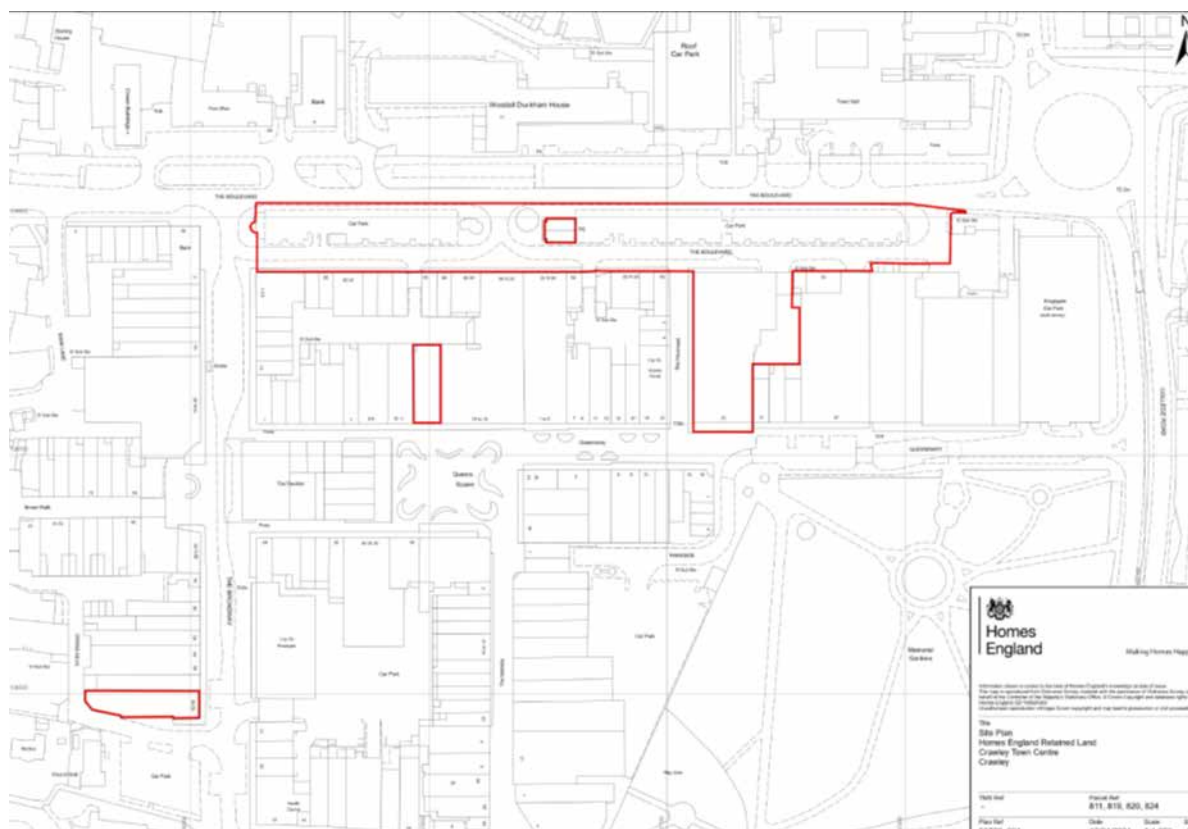
Project Housing Capacity approved at last G2	o
Housing Capacity being delivered in the disposal of this parcel	o
Housing Capacity being delivered in the disposal of remaining parcels	o
Total Housing Capacity being delivered in all parcels	o
Variance (+/-) to Housing capacity across all phases to the last approved G2	o
No variance in housing capacity.	

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Parcel Housing Capacity split	Agency	OGD
PLfH Target	N/A	N/A
Target Claim Date	N/A	N/A
Current Outturn	N/A	N/A
Current Claim Date	N/A	N/A

1. This paper seeks approval for Homes England, as Freeholder to assign the current Leasehold interest from Marks and Spencer Scottish Limited Partnership ("M&S SLP") to Marks and Spencer PLC ("M&S PLC") and subsequently dispose of the Freehold interest to M&S PLC.
2. The Crawley Town Centre North Regeneration project consisted of four, freehold, non-strategic parcels, held subject to individual leasehold interests.
3. The parcels, while all physically disconnected from each other, are within close proximity and are situated in and around the retail centre of Crawley, located to the north of Crawley Railway Station. While located centrally, the assets are situated in a secondary retail location, with prime retail located in the County Mall Shopping Centre, approximately 0.25-0.5 miles east (5-10 mins walk).
4. The four parcels are as follows;

- [REDACTED]
- [REDACTED]
- Parcel 820 - 23/29 Queensway (0.2454 ha)
- [REDACTED]



The plan in figure 1 below shows all four parcels for context.

5. This report relates to solely to parcel 820 ("the property") and seeks approval to the disposal terms agreed in principle to the leaseholder M&S PLC (following assignment). This proposal is in line with the revised G3 dated 14th April 2021.
6. The property comprises a large, late 1960s built three storey department store, with a small office area on the third floor, it is of concrete frame construction, under a flat roof.
7. The areas provided by M&S state that the property extends to 59,806 sq ft over part three, part four storeys. The ground floor is predominantly traded as M&S food, with retail towards the main entrance from Queensway. There are escalators on each floor of the property and goods lifts which link between the ground floor loading bay and third floor warehouse area. The first and second floors are predominantly used for retail, with a M&S Café located on the second floor. The primary access to the store is from Queensway with a secondary access located on The Boulevard. Delivery / goods in access is available through a small service yard to the rear of the store, also accessed off The Boulevard, which forms part of the parcel (for disposal) but not the lease to M&S SLP. The third floor comprises an area of staff offices and warehouse area, with the remainder being open roof space used for plant and M&E.
8. In terms of tenure, the Lease was granted to Marks and Spencer Limited on 3rd July 1967 from the agency's predecessor, Commission For the New Towns. It was granted for a term of 99 years from the date of grant leaving 44 years unexpired (as at 3rd July 2022). reg. 12(5)(e)
9. The Lease is subject to an Alienation clause that states *"Not to assign, underlet or part with possession of the premises without written consent from the Lessor – not to be unreasonably withheld"*.

10. The User clause states *"Not to use or permit to be used the premises or any part thereof for any purpose other than that of a retail shop or store, without the consent in writing of the lessors"*.
11. Records show no issues to date with either of the above and rental payments have been made on time and the account is fully up to date, therefore is assumed that there have been no breaches of the Lease in this respect.
12. reg. 12(5)(e) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
13. In response to the above, appointed Framework Panel Consultants Thomas Lister have assessed value on three bases with their assessments of value for each shown in brackets,

reg. 12(5)(e) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
14. For the purposes of the request, the Thomas Lister valuation exercise assumes Planning will be granted for an alternative use development, in line with Crawley Borough Council Plan and is reflected in the reg. 12(5)(e) [REDACTED]
[REDACTED] reg. 12(5)(e) [REDACTED]
[REDACTED]. On this basis it is recommended that the offer of £600,000 by M&S should be accepted.
15. A copy of the Thomas Lister Red Book Valuation report complete with, assumptions, basis of valuation and recommendation can be found in the Appendices to this report.
16. Subsequent to the request to acquire the Freehold interest, M&S made a request to assign the lease prior to disposal. The reason stated by M&S for the required assignment prior to their acquisition relates simply to timing. Regardless to the rationale, under the Alienation clause of the Lease we are duty bound to consider such requests and not to unreasonably withhold consent and it's not thought a valid concern will be identified in this respect. As with the disposal, the request has been subject to a formal KYC assessment and have successfully been completed.

Project Milestones

Number	Milestone	Original Date	Revised Date
1	Go - Budget allocated	01/06/2003	N/A
2	G2 – Approval (Latest)	22/03/2006	N/A
3	G3 – Approval of Disposal Process	03/09/2019	N/A

4	G4 – Approval to Dispose	15/02/2023	N/A
5	Contract (Conditional)	N/A	N/A
6	Unconditional Completion of Freehold Disposal	31/03/2023	N/A

Evaluation Outcome

Purchaser details		
Name (must match name of entity on the contract)	Marks and Spencer PLC	
Outcome of Financial Vet	Yes	Completed
Security Required	No	Marks & Spencer have sufficient resource to conclude the transaction.
Valuation attached?	Yes	Completed by Thomas Lister
Best Consideration	Yes	Best Consideration has been achieved and verified in the attached valuation.
Credit Risk Rating	No	N/A Payment on completion

See Annex 1.2 for Franking Valuation Report

Project Benefits

Outputs

Corporate Targets								
Targets	Previous years	2022/23	2023/24	2024/25	2025/26	2026/27	Future years	Total
Housing Cap. – Agency Land	-	-	-	-	-	-	-	-
Non-Corporate Targets								
Housing Starts	-	-	-	-	-	-	-	-
Housing Completions	-	-	-	-	-	-	-	-

Due to the uncertainty of any future development no outputs have been forecast at this stage, the project will however be periodically monitored and relevant outputs will be claimed if applicable.

Receipts Profile

The table below summarises the DEL and cash receipt profiles for the parcel covered by this approval.

£ (000)	Previous years	2022/23	2023/24	2024/25	2025/26	2026/27	Future years	Total
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DEL								
Capital	-	10	-	-	-	-	-	-10
Resource	-	-590	-	-	-	-	-	-590
Total DEL income		-600	-					-600
Cash								
Capital	-	-600	-	-	-	-	-	-600
Resource	-	-	-	-	-	-	-	-
Total Cash Income	-	-600	-	-	-	-	-	-600
Present Value @3.7%	100%	100%	96%	93%	90%	86%	83%	
OGD Transfers								
Budget Transfer Value	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Other repayment obligations

Type	Amount (£)	Date due
N/A	N/A	N/A

Risk management

See Annex 1.3 for the project Risk Appetite Statement.

17. The risk template is appended as Annex 1.4 to this report, however the Project Manager can confirm that all risks are within the Agency's appetite for dealing with transactions of this nature.

Assessment of Asset classification		Test outcome
Variability of income	Are there any clauses in the agreement which allow for additional returns such as overage, a share of profits, or which explicitly restrict our returns based on the financial performance of the development or some other specified asset? (physical or financial) If Yes, then the investment is classified as a Fair Value investment for accounting purposes.	No
Investment entity	Is the agreement with a special purpose vehicle (losses limited to that entity) or a small business equivalent to an SPV? (effectively a single project organisation)? If Yes, then it may be considered to be development risk.	No

Post-contract monitoring arrangements

18. The proposed disposal will contain no requirement for post-contract monitoring in respect of overage or clawback provisions due to the nature of the agreed terms. The proposed disposal will however be monitored for potential future outputs which will be claimed at the appropriate time.

19. Despite the unconditional nature of the disposal, a G5 cannot be presented to close the Project upon completion due to ongoing matters relating to other Parcels within the Project.

Resource implications

20. This matter has been dealt with by the CAL & Commercial Disposals Team. The legal panel firm Browne Jacobson have been appointed to formalise the matter with each party responsible for its costs.
21. An additional budget request of **reg. 12(5)(e)** has been made to cover the costs of securing the Agency's exit from the remaining parcels within Crawley Town Centre.
22. The disposal will, upon completion, produce nominal Estate Management Holding Cost savings due to the nature of the interest.

Public Subsidy

23. The proposed disposal does not create a subsidy. The transaction has been reviewed by **reg. 13** who has confirmed that no subsidy has been provided.
24. This is a negotiated disposal and a full red book valuation has been provided by Property Consultants Thomas Lister which confirms that the proposed disposal is considered to be best consideration for Homes England and complies with our s10 HRA 2008 duties.

Equality and Diversity

25. This paper has paid due regard to the Agency's statutory obligations under the Equality Act 2010.
26. The Agency's equality duties to eliminate unlawful discrimination, promote equality of opportunity and foster good relations have been considered when assessing the project and no concerns are applicable.

Policy Declaration	
This paper and mandatory annexes comprise the complete and sole matters for which approval is requested.	<input checked="" type="checkbox"/>
I have incorporated the Development PE Lessons Learnt into this proposal.	<input checked="" type="checkbox"/>
I have considered the requirements of the Due Diligence Technical Reporting Requirements in the development of this proposal.	<input checked="" type="checkbox"/>
This is in accordance with the Agency's relevant policies, procedures and programme criteria.	<input checked="" type="checkbox"/>
The investment meets the programme criteria.	<input checked="" type="checkbox"/>
The recommendations and conditions are appropriate given the risks identified.	<input checked="" type="checkbox"/>
All relevant data has been taken from system records indicating the timing and nature of any associated expenditure, receipts and outputs.	<input checked="" type="checkbox"/>
Where the investment draw-down has not commenced within 6 months of G2/F2 approval the project will need to be re-approved by the original ultimate authority body.	<input checked="" type="checkbox"/>
Collaboration Declaration	

I confirm that I have collaborated with colleagues in Development Delivery Services (Engineering, Masterplanning etc.) and this proposal reflects their advice where necessary.		<input checked="" type="checkbox"/>
I confirm that I have collaborated with colleagues in Finance and this proposal reflects their advice where necessary.		<input checked="" type="checkbox"/>
I confirm that I have collaborated with colleagues in Legal and this proposal reflects their advice where necessary.		<input checked="" type="checkbox"/>
I confirm that I have collaborated with colleagues in Procurement and this proposal reflects their advice where necessary.		<input checked="" type="checkbox"/>
I confirm that I have collaborated with colleagues in Programme Support and this proposal reflects their advice where necessary.		<input checked="" type="checkbox"/>
I confirm that I have collaborated with colleagues in Risk and this proposal reflects their advice where necessary.		<input checked="" type="checkbox"/>
I confirm that I have collaborated with colleagues in Appraisals & Valuation and this proposal reflects their advice where necessary.		<input checked="" type="checkbox"/>
I confirm that I have collaborated with colleagues in Planning and this proposal reflects their advice where necessary.		<input checked="" type="checkbox"/>
I confirm that I have collaborated with colleagues in Estates Management and this proposal reflects their advice where necessary.		<input checked="" type="checkbox"/>
Project Manager:	reg. 13	15/02/2023
Chair of Peer Review:	reg. 13	15/02/2023
Head of CALs & Commercial Disposals:	reg. 13	15/02/2023
Northern Delivery and CAL Commercial Disposals Director:	reg. 13	15/02/2023

Attachments:

- Annex 1.1: Pricing Structure and Risk (N/A)
- Annex 1.2: Project and Parcel Details
- Annex 1.3: Outputs (N/A)
- Annex 1.4: Risk Appetite Statement
- Annex 1.5: Valuation

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Annex 1.2 – Project and Parcel Details

Template Version	Revised and Issued
1.1	21 March 2016

Annex 1.1 - Project and Parcel Details

PCS no.	18397	Project name	Town Centre North, Crawley
Parcel no.	820		

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Parcel ID & Name	OGD	Net Book Value (£000s)	Housing Capacity				Gross Area (Ha)	Receipts Outturn (£000s)	Disposal Date
			PLfH ¹ Target	Year	Current Outturn	Year			
820 - 23/29 Queensway	N	reg. 12(5)(e)	0	N/A	0	N/A	0.2454	600,000	31/03/23
Totals:	N	reg. 12(5)(e)	0	N/A	0	N/A	0.2454	600,000	
OGD Transfer Details (contracted terms contained within the transfer scheme)									
Transfer Value (£)	N/A	Transferred Housing Capacity			N/A	Anticipated Disposal Date		N/A	

¹ Public Land for Housing – combination of Agency contribution to PLfH target, identified in the GPU quarterly returns, and OGD transferred housing capacity

Annex 1.4 – Valuation advice Letter



Template version: February 2022

**Homes
England**
Project Risk Assessment against Risk Appetite

Project Name	Town Centre North Regeneration, Crawley	PCS no	18397	Parcel no	820	Date	15/02/23
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Approval paper	G4	Appendix	1.4
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No	Risk	Risk Appetite	Detail of Risk	Mitigations/Controls currently in place	Current Risk			Further Mitigations/Controls Required	Mitigation timescale	Residual Risk		
					Total Score	Appetite Range	Within appetite?			Total Score	Appetite Range	Within appetite?
1	Other	Neutral	Purchaser (M&S) may not progress with disposal. This would require an alternative exit strategy, reg. 12(5)(e) [REDACTED]	Terms have already been formally agreed with M&S who have in-house property experts.	2	neutral	Yes	n/a	22/01/2023	2	Open Neutral or Averse	Yes
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
14												
15												