

PLANNING ACT 2008

**THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE)
RULES 2010**

**APPLICATION BY SEGRO PROPERTIES LIMITED FOR A
DEVELOPMENT CONSENT ORDER IN RESPECT OF EAST MIDLANDS
GATEWAY PHASE 2**

**WRITTEN SUBMISSIONS ON HOW THE APPLICATION SHOULD BE
EXAMINED**

ON BEHALF OF

PROLOGIS UK LIMITED AND PROLOGIS UK 121 LIMITED

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1 Introduction

- 1.1 These written submissions ("**Submissions**") are made on behalf of Prologis UK Limited and Prologis UK 121 Limited (together, "**Prologis**") in connection with the application by SEGRO Properties Limited ("**SEGRO**") for a Development Consent Order ("**DCO**") for East Midlands Gateway Phase 2 ("**EMG2**") ("**DCO Application**").
- 1.2 Prologis is the global leader in logistics real estate and a major source of foreign direct investment into the UK. Prologis is promoting, in partnership with MAG, a live and policy-compliant Joint Application affecting land over which compulsory acquisition powers are now sought. The DCO Application therefore raises issues of legal principle and procedural fairness of particular importance.
- 1.3 The Submissions are made further to the Rule 6 letter issued by the Examining Panel ("**ExP**") dated 10 February 2026 which, *inter alia*, invited written submissions on how the DCO Application is to be examined ("**Rule 6 Letter**").
- 1.4 Subject to the views of the ExP, the most appropriate point in the agenda for the preliminary meeting to hear the issues raised by these Submissions would seem to be within Item 4 (*Draft Examination Timetable*).
- 1.5 The Submissions should be read alongside:
 - (a) Prologis' Relevant Representation dated 9 January 2026 ("**Prologis Representation**"); and
 - (b) Prologis' letter to the Planning Inspectorate dated 2 February 2026 ("**2 February Letter**").

Terms used in this submission have the same meaning as set out in the Prologis Representation unless otherwise defined.

2 Request for the Examination to be deferred

- 2.1 The Prologis Representation explains why the DCO Application, in its current form, is not fit for examination.
- 2.2 The deficiencies in the DCO Application and supporting material are set out in the Prologis Representation and the 2 February Letter and do not need to be rehearsed in any detail here. For convenience they can be summarised as follows:
 - (a) There is no evidence in relation to the viability of the proposed development that is capable of scrutiny, notwithstanding that the Applicant's case depends upon persuading the ExP and the Secretary of State both as to the viability and deliverability of its scheme and the non-viability of alternative ways of delivering the claimed public interest benefits. Such evidence will clearly need to be adduced and properly examined and tested or the Applicant's case will not lawfully be capable of acceptance. Viability is distinct from funding. Without appropriate viability evidence capable of supporting the Applicant's stated case, the ExP will not be in a position to test whether the proposed interference with Prologis' interests is necessary or justified, and Prologis's ability to respond to that case will be substantially impaired.
 - (b) The ES does not assess the adverse socio-economic and land-use consequences of making an order whose intended effect is to frustrate delivery of the development proposed in the live, policy-compliant Joint Application on the Prologis/MAG Land. Those effects arise on the making of the Order and must be assessed now on a realistic worst-case basis. An assessment of those effects is needed to make the ES complete and fit for purpose, and the outcome of the assessment will be directly relevant to need, alternatives and the overall planning balance.
 - (c) The highways case is not examination-ready. As drawn together in the 2 February Letter, National Highways and LCC identify fundamental gaps including the need to rebuild the

assessment on the 2023 PRTM, demonstrate DMRB compliance and provide Stage 1 RSAs for SRN works; the proposed mezzanine “cap” requirement is, on any view, unclear and unworkable.

- 2.3 The Prologis Representation explains why these shortcomings are significant and substantive, and that unless and until they are addressed through the production of additional evidence and assessments the ExP will not be in a position to properly examine and test the case made for the DCO and compulsory acquisition. If this additional evidence and assessment is only produced after the examination commences, it will inevitably compromise the fair and efficient examination of the DCO Application and place the ExP's ability to complete the examination within its six-month statutory duration in significant jeopardy.
- 2.4 In the Prologis Representation, Prologis requested that the ExP should first secure the missing information and afford Interested Parties a fair written opportunity to respond before principal issues are fixed and before the examination is allowed to commence.
- 2.5 There is nothing in the Rule 6 Letter which responds to this specific request. Prologis' request therefore remains to be determined by the ExP. Whilst the Rule 6 Letter appears to proceed on the implicit assumption that the examination will commence following the conclusion of the preliminary meeting, a procedural decision in response to Prologis' specific request will clearly be required before that could happen. If the ExP decides to proceed without deferral, it will need to provide reasons for that decision which address and respond to the submissions it has received from Interested Parties, including Prologis.
- 2.6 The ExP has the power to decide whether the examination should or should not commence in accordance with the draft timetable. It would be open to the ExP to conclude that the process should instead be sequenced so that the missing evidence and assessments are supplied and published first, with an opportunity for Interested Parties to review that material and respond to it in writing. This would allow the identification of the main issues and the procedural decisions associated with the commencement of the examination to be made on a properly informed basis, as the Planning Act 2008 anticipates. The Rule 8 timetable can be set to that end, and further procedural advice can be issued to secure the information needed.
- 2.7 Prologis does not seek to rehearse the merits of its request in this Submission – these are comprehensively set out in the Prologis Representation. The issue we raise now is a strictly procedural one: namely the need for a reasoned decision by the ExP in response to the request made within the Prologis Representation when it decides whether to commence the examination in accordance with the draft timetable published with the Rule 6 Letter.

3 Examination

Principal Issues

- 3.1 Prologis notes that the principal issues in the Rule 6 Letter do not separately identify the central issues arising from Prologis' Representation with the compulsory acquisition powers sought, and that instead the ExP intends to deal with these matters as part of '*the matters relating to compulsory acquisition...[which] form an integral part of the examination*'¹. Prologis asks that the ExP confirms Prologis's understanding of the Rule 6 Letter is correct.
- 3.2 Principal Issue 6 (Need, Funding, and Socio-economics) includes reference to “what economic impacts [the scheme] would bring locally, regionally and nationally in terms of employment, among other things” and “the consideration and clarification of alternatives”. Prologis assumes that these items would (singularly or together) be broad enough to embrace the issues it has raised about the adverse economic and land use consequences of the proposed DCO if its effect was to frustrate delivery of the development proposed in the Joint Application. Prologis asks that the ExP confirms

¹ Rule 6 Letter, Page C1

this understanding, or alternatively supplements Principal Issue 6 so that it does include suitable wording to embrace that key issue raised by the Prologis Representation.

- 3.3 Principal Issue 6 also includes the following sub-issue: “whether the appropriate and required funding is in place”. Viability is not synonymous with funding. It is fundamental to whether the scheme is deliverable, whether alternatives exist, and whether compulsory acquisition is justified. It should therefore be expressly included within Principal Issue 6. Prologis considers that whilst there is a relationship between the issue of funding and the issue of viability, they are nevertheless distinct concepts. As indicated above, the Prologis Representation explains the relevance and importance of the issue of viability in the assessment and determination of the DCO Application. The issue of viability is one which not only affects the Applicant’s case for compulsory acquisition but also necessarily intersects with other issues as detailed under Principal Issue 6. Prologis therefore requests that the issue of viability is added to the sub-issues in Principal Issue 6.
- 3.4 Finally, Principal Issue 10 (Traffic and Transport) should be supplemented by a further sub-issue which encapsulates the questions as to the appropriateness or otherwise of the proposed highway measures and the funding of those measures. These are plainly relevant and important issues for the decision-maker and are raised not only in the Prologis Representation but also in the representations made by National Highways and LCC as summarised in the 2 February Letter at section 3.

Draft Examination Timetable

- 3.5 Prologis’ remaining submissions in respect of the draft examination timetable are made without prejudice to the issues raised in the Prologis Representation as to the need for the start of the examination to be deferred.
- 3.6 Examination of the substantive issues raised in the Prologis Representation will require structured examination in oral hearings. Prologis will require a Compulsory Acquisition Hearing or Hearings to consider its objections to the proposed compulsory acquisition of its interests in land. This is likely to involve hearing oral evidence from a number of witnesses to address the issues raised in the Prologis Representation concerning the purported justification of the compulsory acquisition, the existence of reasonable alternatives, and the consequences of frustrating the Joint Application. The time needed for such a hearing (or more likely, hearings) will depend in part on the extent to which these issues are also explored in Issue Specific Hearings, given that in a number of respects they overlap with the general case for and against the making of the proposed DCO. It will also depend on the extent to which the significant evidential lacunae identified in the Prologis Representation are filled, and if so how and when.
- 3.7 Prologis therefore submits that it would be appropriate to arrange an Issue Specific Hearing into the relationship between the DCO application and the Joint Application in the week commencing 11 May 2026. This will allow the outcome of such a hearing to inform both the content of the ExQ2 and any further oral hearings on related matters (including Compulsory Acquisition Hearings) in the week commencing 17 August 2026.
- 3.8 Furthermore, given that Prologis’ case is that there is simply not enough information currently before the ExP and Interested Parties for the examination to proceed fairly, it wishes to reserve its position as to whether cross-examination of any witnesses by Prologis will be necessary until its request for deferral has been the subject of a reasoned decision, and there has been an opportunity to consider both the ExQ1 and the Applicant’s response to those questions (including any further evidence this may contain).

Statement of Common Ground

- 3.9 Finally, we note that the Rule 6 Letter only requires that the Statement of Common Ground with Prologis addresses land rights issues. However, it is submitted that the scope of the Statement of Common Ground should be expanded to cover the parties positions on each of the main issues raised in the Prologis Representation to facilitate a more effective dialogue on these issues:

- (a) Viability and Funding Case

- (b) Socio-Economic and Land-Use Consequences of Frustrating the Joint Application
- (c) Assessment of Alternatives to Compulsory Acquisition
- (d) Justification and Necessity for Compulsory Acquisition of Prologis/MAG Land
- (e) Interaction Between the DCO Scheme and the Joint Application

4 Conclusion

4.1 Prologis seeks a formal reasoned decision in respect of the request it has made in the Prologis Representation for the start of the examination to be deferred.

4.2 Should the ExP decide not to defer commencement, Prologis request that the ExP:

- (a) clarify and amend the list of principal issues as set out above;
- (b) arrange an Issue Specific Hearing into the relationship between the DCO application and the Joint Application² in the week commencing 11 May 2026; and
- (c) expand the scope of the Statement of Common Ground with Prologis to cover each of the main issues raised in the Prologis Representation.

DLA Piper UK LLP

24 February 2026

² An issue which North West Leicestershire District Council in their relevant representation have similarly observed is not currently addressed at all by the Applicant.