

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

**APPLICATION BY SEGRO PROPERTIES LIMITED FOR THE EAST MIDLANDS
GATEWAY PHASE 2 AND HIGHWAY ORDER 202X**

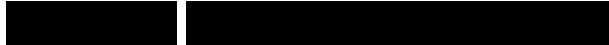
WRITTEN REPRESENTATION

ON BEHALF OF

EAST MIDLAND INTERNATIONAL AIRPORT LIMITED (EMA)

**EAST MIDLANDS AIRPORT PROPERTY INVESTMENTS (INDUSTRIAL)
LIMITED (EMIAL)**

Interested Party References:



1. INTRODUCTION

- a. This is East Midlands International Airport Limited's ("**EMA**") ("**the Airport**", as appropriate) and East Midlands Airport Property Investment (Industrial) Limited's ("**EMIAL**") written representation provided in respect of SEGRO Properties Limited's ("**SEGRO**") application for a Development Consent Order ("**DCO**") for the East Midlands Gateway Phase 2 ("**EMG2**") ("**the DCO Application**").
- b. EMG2 is not a nationally significant infrastructure project but rather is a project of national significance following the making of a direction pursuant to section 35(1) of the Planning Act 2008 ("**the PA 2008**") by the Secretary of State for Levelling Up, Housing and Communities dated 21 February 2024 ("**Section 35 Direction**"). The Section 35 Direction was made in contemplation of an application for development consent being submitted for EMG2.
- c. EMA and EMIAL submit this written representation ("**the WR**") pursuant to item 7 of the Rule 8 letter dated 18 March 2026 [PD-012]. It compliments and should be read alongside EMA and EMIAL's Relevant Representation dated 9 January 2026 ("**RR**") and the summary of EMA and EMIAL's oral submissions provided on 7 April 2026 (together, "the Submissions").
- d. This WR does not seek to rehearse the points already put before the Examining Panel ("**Exp**") in the Submissions save where it is necessary to summarise a point in brief for clarity. Where points have been addressed comprehensively in previous submissions, the relevant section of that document is signposted accordingly.
- e. This WR deals with both:
 - i. The operational impacts to EMA as the Airport operator; and
 - ii. The impacts on EMA and EMIAL as landowners of the EMG2 main site, separately and independently from each other.

2. EMA and EMIAL

- a. EMA and EMIAL are both part of Manchester Airports Group ("**MAG**") whose parent company is Manchester Airport Holdings Limited ("**MAHL**"). MAHL is owned by both public and private shareholders, with ownership share split between Manchester City Council (35.5%), the nine other Greater Manchester local authorities (29%), and IFM Investors (35.5%) (private). The voting interest is split 50:50 public: private. MAG also owns and operates Manchester Airport and London Stansted Airport.
- b. EMA is the owner and operator of East Midlands Airport and EMIAL is a subsidiary property investment company. East Midlands Airport is a nationally strategic airport for cargo services. It is the UK's largest dedicated cargo airport and is second only to London Heathrow in terms of total cargo handled (tonnes).

Statutory Undertaker

- c. EMA is the registered holder of the full Public Use Licence for East Midlands Airport. Aerodrome licences are granted by the Civil Aviation Authority (“CAA”) on behalf of the Secretary of State. On this basis, and under the requirements of section 262 of the Town and Country Planning Act 1990, EMA is a statutory undertaker.
- d. As a licence holder, EMA is bound by relevant airport legislation and regulation that amongst other things, requires the safe operation of air traffic services. This is a broad remit, but one that is cascaded through controls originating from procedures of the International Civil Aviation Organisation (‘ICAO’), the European Union Directives and Regulations (subject to European Union (Withdrawal) Act 2018), and UK’s domestic interpretation of such legislation.
- e. Very specifically, EMA, as the aerodrome licence holder, must take all reasonable steps to secure that the aerodrome, and the airspace within which its visual traffic pattern is normally contained, are safe at all times for use by aircraft. The physical safety of the aerodrome and its “Critical Part” (typically the terminal and airfield) are obviously necessary to achieve this requirement.
- f. There is also a requirement for EMA to have regard to development outside the aerodrome in order to maintain flight safety, and to develop and maintain procedures to manage such development (new or altered). This includes all forms of development including neighbouring land uses, utilities infrastructure or diversions and alterations to highways. These requirements are contained in various domestic legislation and regulation, including but not limited to, the Air Navigation Order 2016 (as amended) and CAA CAP168 - Licensing of Aerodromes. This is commonly referred to as ‘Aerodrome Safeguarding’ and is carried out by airports locally. The safeguarding process and its regulatory compliance are included in the CAA’s licensing process and annual aerodrome inspection and audits.

Principal Port

- g. In addition to its role as a statutory undertaker, EMA is the designated port within the wider East Midlands Freeport. The Airport acts as an anchor for the Freeport, a major employer and investor and a magnet for all forms of investment into the region. The presence of the Airport and its continued success as the UK’s second busiest air freight terminal have catalysed the growth of industrial and logistics development around it – including the existing EMG1.
- h. The East Midlands Freeport aims to boost trade, innovation, and regeneration in the heart of the UK economy. The only inland, airport-centred Freeport in England, it combines three key sites: EMAGIC, Ratcliffe-on-Soar Power Station, and East Midlands Intermodal Park.

- i. The Freeport is overseen by a Board that includes the County Councils: Derbyshire, Leicestershire and Nottinghamshire and District Councils: North West Leicestershire, Rushcliffe Borough Council and South Derbyshire District Council and the Tax Site landowners. EMA is represented on the Freeport Board as the owner and operator of the Freeport's designated port as well as one of several Tax Site landowners.
- j. Logically, the success of the Freeport depends on the continued success of EMA as its Principal Port.

3. EMA/PROLOGIS PLANNING APPLICATION

- a. EMA and EMIAL are actively promoting the joint EMA/Prologis Application ("**Joint Application**") in partnership with Prologis, which can provide up to 135,000 sqm of Class B2/B8 floorspace (plus ancillary offices), together with a new all-movements junction on the A453.¹ The area subject to the Joint Application is the EMA/Prologis Land² located north of Hyam's Lane which consists entirely of land either held by EMA, EMIAL or Prologis.
- b. The Joint Application is a credible pathway to timely, policy-compliant delivery of logistical and commercial development of the same nature as proposed by SEGRO that unlocks very significant Freeport benefits and achieves substantial positive socio-economic outcomes on the EMA/Prologis Land.
- c. The EMA/Prologis Land is included within the order limits comprised in the DCO Application and over which SEGRO has applied for draconian powers of compulsory acquisition under Part 5 of the draft DCO. These powers are sought so that SEGRO can bring forward its own logistics and manufacturing hub on the land owned by Prologis and MAG and in substitution for the development comprised in the Joint Application.
- d. The Joint Application is significantly advanced towards determination. Whilst target dates have been extended, this is entirely commonplace for planning applications of this size and nature. The Town and Country Planning Act 1990 application route is designed to accommodate that reality: it enables iterative testing of the application material, targeted revisions where appropriate, and structured engagement with highway authorities and other statutory consultees. Those steps have now substantially narrowed the issues, which are set out more particularly in paragraph 4.21 of the Spawforths Planning Note appended to the Prologis Written Representation. All outstanding matters are expected to be resolved in the short term as addressed in the Prologis Written Representation. The Joint Application will then be ready to be reported for determination without further material delay in June/ July 2026.
- e. A full update on the anticipated timetable for determination can be found in the Prologis Written Representation and the appended Spawforths Planning Note.

¹ See paragraphs 6.1-6.3 of the RR for the background of the specific land transactions involved in establishing this partnership

² Comprising parcels 1/3, 1/4, 1/5, 1/7, 2/3 and the subsoil fronting land situated to the south of Ashby Road, A453 in relation to parcels 1/2 and 1/14 as shown on the land plans accompanying the DCO Application and further set out in the Book of Reference.

4. DCO APPLICATION

- a. As EMA, EMIAL and Prologis have repeatedly drawn to the ExP's attention in Submissions, the DCO Application has proceeded from application to acceptance and now to examination in circumstances where significant evidence which is central to SEGRO's case for compulsory acquisition and for the grant of development consent has not been published so that all participants can scrutinise and assess the Application. Rather there have been private consultations with statutory consultees which EMA, EMIAL and Prologis have not been privy too despite the threat of compulsory acquisition over their possessions. The submissions of both EMA and Prologis have consistently made clear that the following evidence is needed but has not been made available to inform either the RR or the WR made on behalf of affected persons such as EMA and EMIAL:
 - i. Any viability appraisal or robust evidence demonstrating the commercial viability and deliverability of the development pursuant to the EMG2 DCO Application, including the consequences on viability of paying market value compensation in accordance with the Compensation Code for the EMA/Prologis Land in addition to discharging SEGRO's financial responsibilities in terms of consideration under its option for the land including within the DCO Application south of Hyam's Lane ("Southern Land"), and the related assertion that development of the Southern Land without the EMA/Prologis Land is not commercially viable;
 - ii. SEGRO's environmental statement does not assess the adverse socio-economic and land-use effects of granting a DCO that would frustrate delivery of the Joint Application with no certainty that EMG2 would itself be delivered, either in full or in part, or within the Freeport 'window';
 - iii. A complete highways package including clear, auditable evidence on the deliverability, proportionality as mitigation, or funding of the proposed highway works; and
 - iv. Evidence of meaningful or timely negotiation with EMA and Prologis regarding reasonable alternatives to compulsory acquisition.
- b. The consequence of these omissions has been that EMA has been materially disadvantaged in its ability to participate effectively in the DCO process; in preparing the RR in advance of the examination; in making full oral submissions at the hearings on the week commencing 9th March 2026; and now in formulating its written representation. These are fundamental parts of the examination in what is meant to be a front-loaded process.
- c. EMA is also likely to be constrained in its ability to respond properly to SEGRO's case at Deadline 1 given the very short time now available before Deadline 2 and even Deadline 3. Notwithstanding Prologis' request to defer the examination of the DCO Application, SEGRO has repeatedly been offered opportunities to rectify the deficiencies in its application such that EMA and other Interested Parties are consistently forced to catch up as SEGRO seeks to rectify its insufficient evidence base on an ad hoc basis.

- d. EMA is fully supportive of the request by Prologis for proper interrogation of the decision-making process behind the need for compulsory acquisition – particularly so, given the presentation of the Applicant’s need case at the hearings and the clear uncertainty on the timescales for delivery of the carbon-neutral campus within the Freeport ‘window’. Further, EMA support’s Prologis’ request for an updated ES which assesses the socio-economic factors of frustrating the Joint Application.
- e. All of the items identified above go to the very heart of the case for compulsory acquisition. EMA has not had the opportunity to review, scrutinise or respond to them when preparing the two documents that are intended to set out its case in response to the application for powers compulsorily to deprive it of its property rights, inform the ExP’s procedural decisions on how the examination will be conducted and the testing of the Applicant’s case through hearings and written questions.
- f. Accordingly, EMA reserves its position to supplement this WR and its Submissions once that material has been received and reviewed. EMA acknowledges the ExP’s procedural decision to commence the examination notwithstanding those disadvantages, and has done its best to present its case in a way that will assist the ExP in the circumstances in which it has been placed, but that does not alter the reality that EMA faces a continuing and compounding disadvantage throughout this examination by reason of a lack of adequate information.

5. COMPULSORY ACQUISITION

- a. EMA’s position on compulsory acquisition is aligned with Prologis’ Written Representation at Paragraph 5 and is not repeated here. EMA would supplement that position with respect to the EMA owned land outside of the EMG2 main site and within the limits of the airport boundary.
- b. The Applicant and EMA have held initial discussions concerning the Active Travel link (“**ATL**”) which the Applicant proposes to deliver on plot 2/6 on the Land Plans. The Applicant is proposing to carry out Work No. 14 on plot 2/6, which would comprise of the construction of a 3m wide shared use footway/cycleway alongside the A453 between the EMG1 access junction and the northern end of the existing A453 lay-by, for the purposes of providing better connectivity between EMG1 and EMG2, primarily for cyclists.
- c. Plot 2/6 is owned by EMA and currently forms part of the Airport Trail, a permissive footpath – privately owned and maintained by EMA - that circumnavigates the perimeter of the airport. The Airport Trail was established in the mid-2000’s as a community and recreational asset. It linked a series of existing paths and routes around the perimeter of the airport to provide a circular walking route of some 6.5miles (10 km). It is popular with the local community providing links between villages such as Castle Donington, Diseworth, Hemmington, Lockington, and Kegworth. The airport’s aviation museum, the Aeropark at Hill Top is also linked into the Trail. Over the years East Midlands Airport has worked to provide visitor interpretation

boards at locations along the Trail, as well as working with local artists to install a series of art installations. A picnic area is provided on the Trail in the northeast corner of the airport site. As part of the airport's 60th anniversary celebrations, a range of restoration and improvement works were carried out along the Trail. Appendix 1 illustrates the existing route of the Airport Trail and that proposed for the Active Travel Link.

- d. As set out in EMA's reply to ExQ1 Q7.0.3, the need and the likely use of the ATL is questioned.
- e. Through negotiation with the Applicant, it has become apparent that they intend for the ATL to be dedicated as public highway. EMA is keen to retain control of this land. Whilst for the avoidance of doubt, Plot 2/6 is not operational land³ (instead just land held by a statutory undertaker) there is future need for the land that has been identified in addition to maintaining the Airport Trail. In particular, the Airport needs to retain a land bank of sites suitable for Biodiversity Net Gain (where the land can count as 'on-site' provision). It also serves as a reserved services corridor for the potential future installation of underground services, so as not to require other land within the airport campus.
- f. Without prejudice to its position on the question of need for Work No. 14, EMA is in dialogue with the Applicant about ways in which the ATL could be delivered without the need for the Applicant to own the freehold of Plot 2/6.
- g. EMA and SEGRO's dialogue will seek to address concerns arising from development of the land immediately adjacent to the airfield, where works close to the critical part of the aerodrome (in this case the eastern boundary of the airfield) can present an increased security risk. Both the height and proximity of the final alignment are issues, since they can compromise safety in close proximity to the security fence and also through lighting infrastructure which may cause issues with protected surfaces surrounding the airfield or an increase in glint and glare and thus distractions to pilots. It is quite likely that these matters can be addressed, and it is necessary for the Applicant to have progressed design sufficiently so that concerns can be resolved or reached a stage where confidently they can be secured as part of the suite of protective provisions for the benefit of EMA, before the Examination closes. In that context, EMA is also carefully considering the relationship between Work No 14 and the airport security fence in relation to the appropriate vertical and horizontal limits of deviation for the ATL.
- h. On a similar point, EMA would also refer the ExP to the reply to Action Point 3, arising from CAH1. There, it is flagged that depending on the applicant's responses to ExQ1 EMA may wish to comment further on the proposed compulsory acquisition of plot 2/25.

³ Subject to the resolution of the mapping issue identified in the answer to CAH1 Action Points Q3.

Reasonable Alternatives

- i. The EMA case in relation to reasonable alternatives is set out in Paragraph 6 of the Prologis Written Representation. To summarise, SEGRO have failed to exhaust the reasonable alternatives to compulsory acquisition which EMA and Prologis have repeatedly put to SEGRO. These are:
 - i. Exclusion of CA powers of the EMA/Prologis Land to allow EMA/Prologis to deliver development under the Joint Application;
 - ii. Providing no more than access across the EMA/Prologis Land enabling SEGRO (or others) to bring forward development on the Southern Land in due course;
 - iii. Making the DCO without compulsory acquisition powers over the EMA/Prologis Land, so that EMA/Prologis receive the requisite powers under the DCO to deliver the DCO development on their own land in reliance on s.156 of the Planning Act 2008;
 - iv. An amendment to the DCO Application, enabling the substitution of the Joint Application for the development envisaged under the DCO Application for the EMA/Prologis Land; and
 - v. A joint venture arrangement to bring forward the development comprised in the DCO Application with such variations to be agreed between the parties including enhanced benefits from the Joint Application.
- j. EMA would supplement the position advanced by Prologis on reasonable alternatives by saying that SEGRO has evidently not considered reasonable alternatives to the permanent compulsory acquisition of a freehold interest in plot 2/6, to deliver the ATL improvements (or similarly for plot 2/25). SEGRO has not put forward or fully considered alternative options, such as temporary possession to deliver the ATL improvements, to allow for EMA to maintain ownership of the Airport Trail, whilst at the same time delivering the purported active travel benefits.

Viability

- k. Viability is a central issue in this examination. SEGRO has advanced to seek to justify compulsory acquisition in its Statement of Reasons. As EMA and Prologis submitted at CAH1, viability is central where CA powers are sought – especially where CA is justified on the basis of viability assertions both to dismiss alternatives and to support the claim for CA of this scheme. That is not the case at all for a scheme not seeking CA (i.e. the Joint Application). The contexts are wholly and materially different.
- l. It is a matter of record – and a matter of some significance – that no viability evidence whatsoever was submitted with the DCO Application. The application was therefore accepted for examination, and examination commenced, without the ExP or any Interested Party/Affected

Person having access to any evidential basis upon which to evaluate and respond to the twin viability assertions on which SEGRO's CA case depends. Those assertions are:

- i. That the development of the Southern Land alone would not be viable or deliverable if the EMA/Prologis Land were developed independently by EMA/Prologis;
 - ii. That EMG2 as a whole, would be commercially viable even after paying full open market compensation – including any controlling access premium – for the EMA/Prologis Land.
- m. The land south of Hyam's Lane cannot be accessed save across the EMA/Prologis Land. The provision of access across the EMA/Prologis Land has commercial value to the Applicant. The Applicant cannot take access compulsorily and avoid paying that commercial value. It will form part of the market value of the land for which EMA and Prologis will be compensated for. It makes no difference financially to the Applicant whether the value is agreed as part of an agreement to purchase or whether it forms part of a compensation package (save the latter will be subject to interest from the valuation date). It is well established that the starting point for negotiations for 'ransom strips' is 50 per cent of the value that the access releases. It is no different in this case. The details of that value are principally for commercial negotiations or compensation and not for this examination).
- n. It remains EMA's position that the unsupported and unexplained assertion in SEGRO's submissions that the Joint Application is not viable is refuted in the strongest terms and was a bare attempt by the Applicant to misdirect the ExP's attention from the viability of EMG2 – which is the subject of this examination, not the Joint Application. To the extent that the viability of the Joint Application was a concern – it would have been raised by the Local Planning Authority. Notably, no issue with regard to the viability of the Joint Application has been raised by the Local Planning Authority.
- o. EMA notes that during CAH1, SEGRO committed to providing viability evidence by Deadline 1 and acknowledged that this was a matter calling for evidential treatment. That commitment is welcomed and the provision of that evidence at Deadline 1 – whilst better than its continued absence – does not cure the procedural disadvantage that EMA has suffered in preparing its RR, its submissions at the Hearings, and now its WR, all of which were of necessity formulated without access to SEGRO's viability case.
- p. EMA accordingly reserves its full position on viability pending receipt, review and proper scrutiny of the evidence that SEGRO has committed to provide. For the avoidance of doubt, nothing in this section should be taken as an acceptance of any aspect of SEGRO's viability case and all points are reserved.
- q. In respect of SEGRO's forthcoming viability evidence, EMA submits:

- i. Adequate time must be afforded to EMA, the ExP and other Interested Parties for scrutiny of SEGRO's viability evidence. Viability evidence in a complex commercial development context – particularly one involving assertions about the viability of separate development parcels, compensation liabilities, controlling-access premiums, and highway costs – is not material that can be properly assessed in the days immediately following its production. EMA will require a reasonable period to have the viability evidence reviewed by its technical and commercial advisers before it can respond substantively. It reserves the right to raise this as a procedural matter if when the material is received the timetable does not permit proper scrutiny and to make further submissions at later deadlines should it be necessary to do so, such as where a full analysis is not possible by Deadline 3 (28 April 2026).
- ii. There must be transparency to the assumptions SEGRO makes as to viability: EMA expects the viability evidence, if it is to carry evidential weight, to set out in full the underlying commercial assumptions on which SEGRO's case rests. In particular, it must address:
 - 1. the assumed total development cost, including highway works;
 - 2. the assumed revenue model;
 - 3. the treatment of compensation liabilities for the EMA/Prologis Land;
 - 4. the land costs and price of acquisition for the Southern Land;
 - 5. the no-scheme market value assumptions, including whether and how any controlling-access premium has been modelled; and
 - 6. the assumed programme and phasing.
- r. Without that degree of transparency, the viability evidence cannot be meaningfully tested and should be afforded little weight.
- s. EMA supports fully the position advanced by Prologis in its Written Representation at Paragraphs 7.7-7.21 on the A1 Morpeth to Ellingham Development Consent Order, in particular – the relationship between funding and viability. Commitment of funding towards a development by a parent company does not make a scheme viable. The Morpeth sequence – grant, followed by cancellation of the underlying scheme, followed by revocation – is direct and powerful evidence that the grant of a DCO with CA powers does not guarantee that the development will proceed. A DCO was made; CA powers were conferred; the funding on which the scheme was premised was withdrawn; and the scheme was cancelled before any construction took place. Prologis has consistently submitted that there is a material risk that SEGRO could exercise CA powers over the Prologis/MAG Land and then, for commercial reasons, not build out the DCO scheme. The Morpeth experience illustrates exactly this risk – albeit in a public rather than private funding context.
- t. The critical distinction, however, is this: in Morpeth, when the scheme became undeliverable, the Secretary of State revoked the DCO. That revocation

cannot undo the harm to individual landowners whose land was blighted during the intervening period, but it at least removed the planning and legal constraint going forward. In the present case, if SEGRO was to exercise CA powers over the EMA/Prologis Land and then fail to build out the scheme, there would be no equivalent mechanism to restore EMA's position. Once the land is compulsorily acquired, it is gone. EMA would receive compensation – but would have lost its land, its development opportunity, and the public interest benefits of the Joint Application – not to mention the loss to the Freeport, permanently and irrecoverably.

6. HIGHWAYS

- a. As with viability, there was a substantial deficit in the material submitted originally by SEGRO. EMA looks forward to having sight of SEGRO's highways evidence at Deadline 1. However, as it has consistently submitted, the late arrival of this material goes to the pattern of insufficient information before the ExP – a pattern which, as noted above has materially disadvantaged EMA throughout this process.
- b. A fundamental proposition is that highway works must be subordinate to, and proportionate to, the development they are intended to mitigate – they cannot be an aim in themselves in this case. The proportionality of the highway works is critical: mitigation must be tailored to the actual impacts of the proposed development, not to wider aspirations or network upgrades, which are the purview of the relevant highway authorities. Where the scale, cost, or land-take of highway works exceeds what is necessary to address the scheme's impacts, those works cannot lawfully justify the grant of compulsory acquisition powers, nor should they be afforded significant weight as a “public benefit” in the s.122(3) balance. This reflects the conclusion set out at section 2 above, that associated highway works must be justified as subsidiary to the DCO Application and cannot stand as independent public benefits.
- c. Reinforcing this conclusion is the long-established line of case-law wherein the House of Lords have made it clear that planning decision-making justify the grant of planning permission by reference to collateral or extraneous benefits which do not bear a sufficient relationship to the development proposed and are not necessary to make that development acceptable in planning terms. In *Newbury District Council*, the House of Lords reconfirmed the position that planning conditions, to be valid, must be imposed for a planning purpose, must fairly and reasonably relate to the development permitted, and must not be used to pursue an ulterior objective, however desirable that objective might appear in the abstract.
- d. That principle was subsequently applied in the context of planning obligations in *Tesco Stores Ltd* in which the House of Lords reaffirmed that benefits offered under section 106 which bear only a tenuous or disproportionate relationship to the impacts of the proposed development cannot lawfully constitute a justification for the grant of permission, and warned expressly against the impermissible “buying and selling” of planning consent through unrelated or disproportionate inducements. In this case, Tesco's offer to fund a £6.6 million link road was held by the Secretary of State not to justify the

grant of planning permission where the relationship between the road and the proposed superstore development was tenuous, and the funding bore no reasonable relationship in scale to the development's actual impacts.

- e. The same logic applies by necessary extension to the compulsory acquisition regime under the Planning Act 2008: if a benefit that is insufficiently related to the development, such as over-specified highway works that go beyond what is required to mitigate the scheme's own traffic impacts, cannot lawfully be taken into account as a material consideration justifying the grant of planning permission, it follows that the public interest in delivering that same benefit cannot properly be relied upon to justify the compulsory acquisition of a commercial rival's land to enable that development to be delivered. It is submitted that ExP should maintain awareness of this point when the further highways materials are received at Deadline 1 and EMA reserves its right to make further submissions on the proportionality of the highways works accordingly.
- f. Where SEGRO relies on highway works as part of its asserted public interest benefits, the ExP must be satisfied, on evidence, that those works are both proportionate and realistically deliverable on the claimed programme and funding assumptions. The deliverability of the highways package and the likely timing of delivery are not theoretical matters: they go directly to the credibility of the claimed benefits and the risk and consequences of delay or non-delivery. As the analysis above has shown, if the highways mitigation is over-specified, under-costed, or dependent on uncertain approvals or funding, the weight to be given to those works in the public interest balance must be reduced accordingly. Furthermore, if beneficial occupation and use of the proposed commercial development is contingent upon the delivery of the highways works that too must be properly explored and taken into account when weighing the claimed public interest justification for the grant of CA powers. Again, as already demonstrated, the justification for these works must be rooted in their necessity to support the DCO Application, not as standalone enhancements.
- g. The highways package must therefore be scrutinised as mitigation required to address the impacts of the proposed development, and the compulsory acquisition balance must not be tilted by treating mitigation as a public benefit "in its own right" unless its necessity and proportionality are properly demonstrated. It is submitted that ExP should maintain awareness of the proportionality of the highway works when the further highways materials are received at Deadline 1 and EMA reserves its right to make further submissions in this respect accordingly.
- h. Because the harm to EMA and Prologis arises immediately on authorisation of compulsory acquisition powers, sterilising a deliverable scheme, whereas SEGRO's claimed benefits depend on subsequent delivery (including highways delivery), any material uncertainty on highways deliverability or programme reinforces why CA powers should not be granted.
- i. A rigorous analysis of sensitivities is also required, including scenarios where the MCO proceeds without EMG2 but cumulatively with the Joint Application.

This is not a theoretical exercise, it is essential to test whether the scale and specification of the highway works are genuinely necessary to mitigate the impacts of the proposed development, or whether they have been advanced as a complete, over-proportionate package simply to maximise the perceived public benefit. In this context, it is critical to establish whether an independent assessment of the necessity and proportionality of the highway works associated with the MCO has been undertaken.

- j. As detailed further in Prologis' response to the ExQ 1.2.3, a cumulative assessment of both the MCO and DCO has been undertaken; however, a standalone assessment of the MCO has not directly been undertaken beyond assessment of the travel demand nor has a scenario been considered wherein the EMG1 traffic resulting from the MCO is considered in isolation.
- k. EMA understands that the applicant is preparing additional information on this matter for Deadline 1. The absence of a sufficiently detailed assessment would reinforce the concern that SEGRO has not considered the highway works as proportionate mitigation, but rather as a strategic benefit to bolster its CA case. The ExP must therefore scrutinise not only the deliverability and timing of the highways package, but also whether its scope is justified. Only by undertaking this granular analysis can the ExP be satisfied that the highway works are necessary, proportionate, and lawfully relied upon in the CA balance as mandated by the conclusion in section 2.
- l. EMA reserves its ability to further supplement this position until it has had sufficient time to review the additional highways material due from the applicant at Deadline 1.

7. UTILITIES

- a. EMA reserves its position on this matter until further detail is provided by the Applicant in its replies to ExQ1. East Midlands Airport is a key stakeholder in the region, a major employer and a critical part of national infrastructure and economic resilience. If any utility works proposed to facilitate power, heat, gas, data, water or telecoms to EMG2 could compromise the safe and effective operation of the airport, EMA would suffer a material detriment.

8. OPERATIONAL IMPACTS AND AERODROME SAFEGUARDING

- a. The status of the land subject to compulsory acquisition is set out in EMA's replies to Action Point 3, which was raised by the ExP during CAH1.
- b. The EMA Sustainable Development Plan (SDP) outlines the strategic framework for the airport's long-term operation and growth. It ensures the airport leverages the expanding international aviation sector while maintaining a responsible, community focused business approach.
- c. The Airport supports, development of logistics and warehousing in this location, assuming that all cumulative effects have been appropriately assessed and mitigated against accordingly. However, EMA is yet to

be fully satisfied that the impacts of EMG2 on the operation of the Airport are acceptable, for the reasons explained below.

Operational Impacts

Surface Access

- d. The airport operates 24 hours-a-day, 7 days-a-week, 365-days-a-year and has its own access needs and travel patterns. These are different for airport passengers, staff working in the passenger operation, the on-site cargo businesses and their staff and visitors, and the other businesses on the airport site such as hotels and offices.
- e. EMA is a large site with a substantial passenger and cargo operation. As a 24-hour airport with passenger activity peaking early in the morning and cargo road traffic operating throughout the night, it is important that road traffic from new developments in the vicinity do not constrain the airport's current operations or its future growth. Accordingly, EMA is particularly concerned to see the results of the traffic modelling to understand exactly how it affects the airport's operations.
- f. Passenger activity at EMA peaks in summer and varies throughout the day. Most passenger aircraft that are based at EMA and depart between 06:00 and 09:00, requiring passengers and colleagues to arrive as early as 03:00. Although these times fall outside peak traffic hours, limited public transport options and low road traffic volumes make cars the preferred travel mode. Similarly, passenger aircraft arrivals typically occur in the early afternoon or late evening, when the road network is typically less congested and makes travel by car a more attractive option.
- g. Cargo operations, however, are mostly at night, with aircraft arriving and departing and trucks accessing the airport from early evening to early morning. Cargo staff generally work overnight shifts, starting between 20:00 and 22:00. This activity also avoids peak traffic but may be disrupted by overnight roadworks.
- h. It is critical to EMA that any construction traffic management plan put in place for EMG2 takes into account the reasonable concerns of EMA from the perspective of any interface with airport operations – from a cargo, passenger or staffing perspective.
- i. The ExP's attention is also drawn to the contents of the Relevant Representation made by DHL in relation to the significance of their operation at EMA and their own concerns about the impacts of EMG2 on the highway network.

Aerodrome Safeguarding

- j. Major UK aerodromes, including EMA, are safeguarded through the planning system to protect aviation safety and airport operations. The aerodrome safeguarding process is set out in ODPM Circular 1/2003

(and subsequent revisions). Safeguarding is also an important part of the aerodrome licensing process that is overseen by the CAA. Therefore, EMA as the airport operator, has an important and a statutory duty as the aerodrome safeguarding authority for East Midlands Airport, to ensure safe aviation operations at the airport. The principal considerations in the aerodrome safeguarding process are:

- i. **Obstacle Limitation Surfaces and Instrument Flight Procedures:** Around major UK aerodromes there are a series of surfaces that must not be penetrated by buildings or other obstacles, nor compromise the safe and efficient operation of aircraft and air traffic control systems.
 - ii. **Bird Hazard and Wildlife Control:** Birds and other wildlife can compromise aviation through birds and wildlife striking aircraft and or being ingested into aircraft engines. This especially important at critical stages of flight such as aircraft approach and landing, and take-off and initial climb.
 - iii. **Electromagnetic Interference:** Air traffic control and on-board aircraft systems must not be affected by interference from developments or other activities in the area surrounding the airport.
 - iv. **Air Traffic and Aircraft Communication and Navigation Systems:** These are critical to flight safety and therefore must be protected.
 - v. **Lighting:** Any site or ground lighting must not interfere, confuse, or distract pilots in the critical phases of flight or distract air traffic services.
 - vi. **Glint & Glare:** This must be avoided to avoid any ocular or distraction to aircraft pilots or air traffic services.
- k. Detailed evaluations, proposals and enforceable measures will be required to protect and safeguard the safe operation of the airport and aircraft operating in the surrounding airspace. This can be developed into an Aeronautical Safeguarding Assessment as part of the DCO that sets out the safeguarding parameters and requirements for the protection of East Midlands Airport.

Protected Surfaces and Instrument Flight Procedures

- l. The Protected Surfaces are intended to ensure that aircraft operating in areas around the aerodrome are not compromised by structures and obstacles. These surfaces, based on international standards, impose height restrictions around a runway and are the most stringent alongside the runway and at the runway ends. Closest to the airport there can be no penetration of the Protected Surfaces, further away, penetrating structures are required to be lit with aviation hazard lighting.
- m. Instrument Flight Procedures are similarly based on international standards and to protect the key flight corridors around the aerodrome. This is also important for flight safety and for developments around major airports there is a requirement for an assessment of any infringements. This is undertaken by

aviation technical specialists. These assessments can only be undertaken when there is detail of the proposed development and therefore are incorporated as a requirement of the Protective Provisions.

Bird Hazard Management Plan

- n. The Applicant has prepared an Outline Bird Hazard Management Plan that covers the approach to the prevention, control, and management of the aviation bird hazard in the design, construction and management of the EMG2 site. This requires the approval of elements of the detailed scheme by EMA as the aerodrome safeguarding authority and the approval of the detailed bird hazard management measures for that element of the development. The requirement for the detailed Bird Hazard Management Plan, its approach and its use, and development in the detailed design and operational phases of the development are incorporated into the Protective Provisions.

Electromagnetic Interference and Aviation Communication and Navigation Systems

- o. As part of the detailed design phase, the Applicants will be required by the aerodrome safeguarding authority to undertake a formal Communications, Navigation and Surveillance Assessment, to confirm that the development, elements of it and any associated works will not affect critical aviation and aircraft infrastructure equipment at East Midlands Airport or aircraft operating in its vicinity. This is covered by the Protective Provisions.

Lighting, Glint & Glare, and Wind Shear

- p. Lighting details will need to be assessed by the aerodrome safeguarding authority for the detailed design of each component of the authorised development to demonstrate and confirm that there is no effect on aircraft operating at East Midlands Airport. The proposed site and highway lighting must conform to the requirements set out in CAP 738 and the Air Navigation Order. This is secured through the Protective Provisions. Glint and Glare can be a hazard to pilots and to air traffic control, an assessment of the details of external, cladding, glazing, and photovoltaic arrays will be required to demonstrate that there are no effects on the safe operation of aircraft. The disruption of local wind patterns in the immediate vicinity of a runway and its approaches can result in disturbance to flight, referred to as wind shear. A wind shear assessment will be required of the detailed design to be approved by the aerodrome safeguarding authority and this is secured in the Protective Provisions.

Protective Provisions

- q. Draft Protective Provisions have been prepared by the Applicant, based on the Development Consent Order for EMG1. Aviation legislation and standards have evolved, and a wider range of assessments and protections are required. Initial discussions have taken place with the Applicants, and an amended draft of the Protective Provisions has been prepared for further

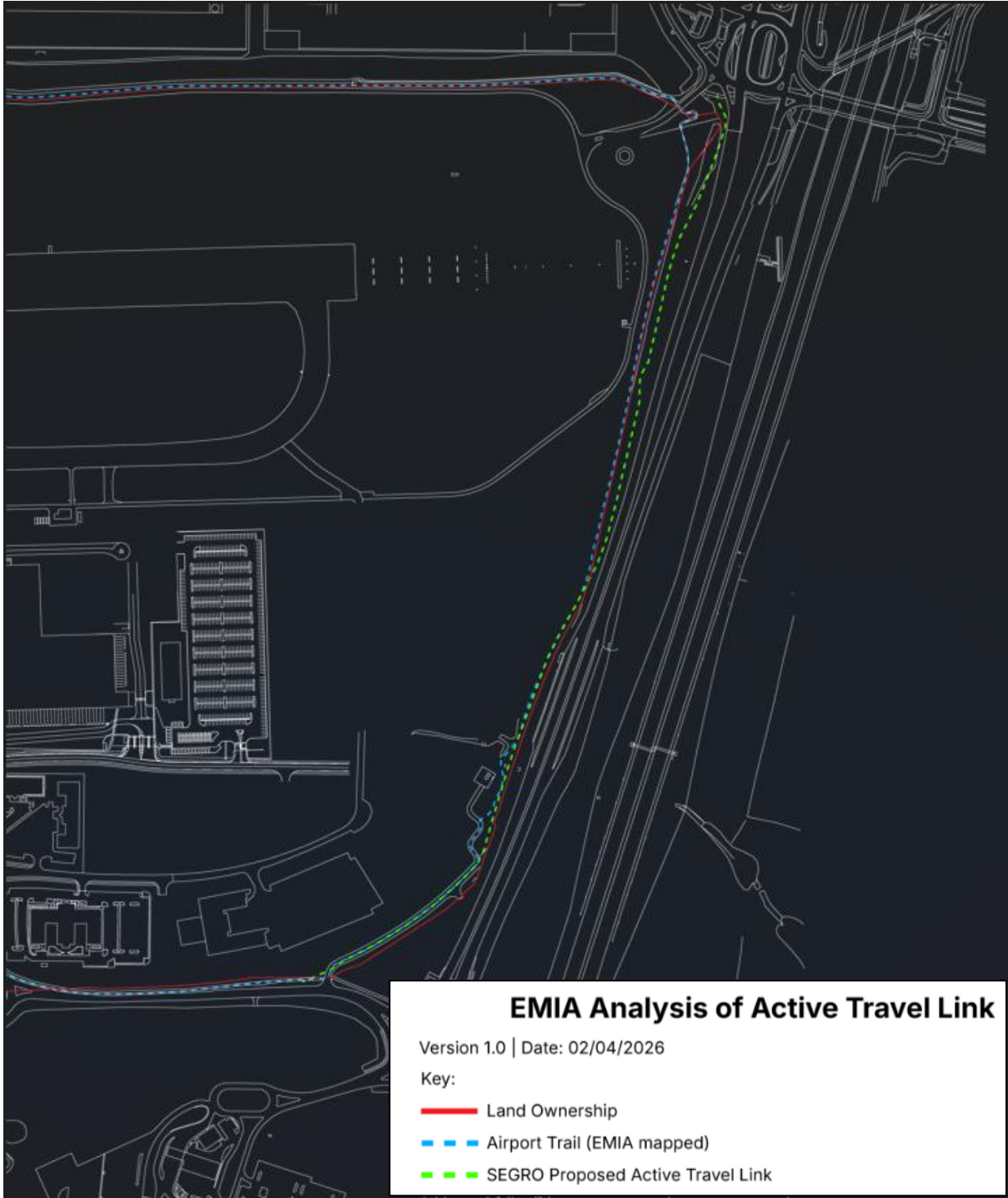
engagement. The draft Protective Provisions, with EMIA amendments is included at Appendix 2. Owing to the extensive differences between the protective provisions as proposed by the applicant and EMA respectively, a tracked changes version was not thought to be helpful to the ExP so has not been provided. Comparable amendments will also be required to the existing Protective Provisions for EMG1 as part of the MCO application.

9. AMENDMENTS TO THE DCO/MCO

- a. EMA's position in relation to protective provisions in both the dDCO and dMCO is set out above.
- b. Similarly, EMA has indicated above that alongside its dialogue with SEGRO it is reviewing the appropriateness of the limits of deviation proposed in the dDCO for Work No 14, given the proximity of that works package to the airport perimeter security fence.
- c. In the event that compulsory acquisition powers are not granted, EMA would have a relevant interest in the land affected by the DCO and should accordingly be included as a consultee in the requirements. EMA requests that the ExP considers this position when reviewing the adequacy of the current consultation arrangements.
- d. Whether or not compulsory acquisition powers are granted, EMA would have relevant interests in the discharge of requirements and issuing of other approvals under articles of the DCO relating to the operation to East Midlands Airport. EMA will provide further comments on these matters in response to published replies to ExQ1 Q8.0.2 (Deemed Approvals) following Deadline 1.
- e. EMA has reviewed the updated dDCO [PDA-004D] and the Schedule of Changes [PDA-008]. EMA supports the points raised in Prologis's Relevant Representations, which the dDCO and Schedule of Changes do not address. EMA has no further comments at this stage and reserves the right to make further submissions in due course.
- f. EMA has reviewed the updated dMCO [PDA-006M] and the Schedule of Changes [PDA-008] and has no comments at this stage. EMA reserves the right to make further submissions in due course.

APPENDIX 1

Plan to illustrate the Existing Route of the Airport Trail and the Proposed Route of the Active Travel Link (Work No 14)



APPENDIX 2

Draft Protective Provisions for the Benefit of East Midlands Airport

Protective Provisions for the protection of the Airport Operator as contained within Schedule 13 Part 6 of the dDCO

1. The undertaker must carry out the authorised development in accordance with the management strategy for the safeguarding of East Midlands Airport (Document DCO 6.20C).
2. The undertaker must produce a bird management plan to minimise any bird hazard impact (such plan to be substantially in accordance with the Bird Strike Hazard Management Plan (Document DCO 6.9K)) covering the design, construction and operation of the main site and obtain approval to the bird management plan from the airport operator prior to the submission of any details for approval under requirement 7 (detailed design approval). The approval of the bird management plan must not be unreasonably withheld or delayed. The approved bird management plan must then be complied with at all times.
3. The prior approval of the airport operator must be obtained by the undertaker for the installation and operation of any radio communication or radio survey equipment (including any such temporary equipment) within the authorised development, such approval not to be unreasonably withheld or delayed.
4. The undertaker must not obstruct or in any way interfere with the existing access (including all emergency access routes) to the airport, other than in accordance with the carrying out of the authorised development, without the prior consent of the airport operator such consent not to be unreasonably withheld or delayed. Any existing access route which is to be diverted as part of the authorised development must not be closed until the replacement route is constructed and available for use.
5. The prior approval of the airport operator (acting as the statutory aerodrome safeguarding authority) must be obtained by the undertaker for the installation of any solar photovoltaic panels or apparatus within the authorised development, such approval not to be unreasonably withheld or delayed. Any request for such approval must be accompanied by a full solar glare assessment and detailed risk assessment.
6. Any difference or dispute arising between the undertaker and the airport operator under this Schedule must, unless otherwise agreed between the undertaker and the airport operator, be determined by arbitration in accordance with article 45 (arbitration).

Suggested Protective Provisions for the protection of the Airport Operator as amended by EMA

Owing to the extensive differences between the protective provisions as proposed by the applicant and EMA respectively, a tracked change version was not thought to be helpful to the ExP so has not been provided. EMA's amended provisions are set out below.

1. Aeronautical Safeguarding Assessment - Framework

(1) No application pursuant to requirement 7 (detailed design approval) is to be submitted until an Aeronautical Safeguarding Assessment has been submitted to the airport operator and approved, such consent not to be unreasonably withheld or delayed however approval may be refused on the grounds of aviation safety at the airport operator's absolute discretion.

(2) The Aeronautical Safeguarding Assessment shall include a framework for the subsequent assessment and approval of matters relating to obstacle limitation surfaces and instrument flight procedure protected surfaces, bird hazard risks, permanent and temporary lighting requirements (including highway lighting), aviation glint and glare, building and structure induced turbulence and such construction activities which may relevant to matters of aeronautical safeguarding.

2. Aeronautical Safeguarding Assessment – Approvals

(1) No component of the authorised development pursuant to any phase approved under requirement 3 is to commence until the airport operator has approved the relevant details of that phase relating to obstacle limitation surfaces and instrument flight procedures which have been submitted to it under the Aeronautical Safeguarding Assessment.

(2) No component of the authorised development pursuant to any phase approved under requirement 3 is to commence until the airport operator has approved a Bird Hazard Management Plan relevant to that phase and which was submitted to the airport operator under the Aeronautical Safeguarding Assessment.

(3) No component of the authorised development pursuant to any phase approved under requirement 3 is to commence until the airport operator has approved the relevant details of that phase relating to permanent and temporary lighting (including highway lighting) which have been submitted to it under the Aeronautical Safeguarding Assessment.

(4) No component of the authorised development pursuant to any phase approved under requirement 3 is to commence until the airport operator has approved the relevant details of that phase relating to aviation glint and glare which have been submitted to it under the Aeronautical Safeguarding Assessment.

(5) No component of the authorised development pursuant to any phase approved under requirement 3 is to commence until the airport operator has approved the relevant details of that phase relating to building and structure induced turbulence which have been submitted to it under the Aeronautical Safeguarding Assessment.

(6) No component of the authorised development pursuant to any phase approved under requirement 3 is to commence until the airport operator has approved the relevant construction activities to be undertaken on that phase insofar as the same may be relevant to aerodrome safeguarding matters and which have been submitted to it under the Aeronautical Safeguarding Assessment.

(7) No approval pursuant to paragraph 2 of this Part may be unreasonably withheld or delayed however approval may be refused on the grounds of aviation safety at the airport operator's absolute discretion.

(8) Where any amendments are made to approved details within a phase which relate to matters relevant to aerodrome safeguarding, the undertaker will re-submit an application for consent under this paragraph of this Part.

3. Surface Access

(1) The undertaker must not obstruct or in any way interfere with the existing access (including all emergency access routes) to the airport without the prior written consent of the airport operator.

(2) No access to the airport may be diverted, closed or in any way restricted until a replacement route is provided and available for use.

4. Radio and Communications

(1) No radio communication equipment or surveillance equipment shall be used within the Order limits or in connection with the construction or operation of the authorised development unless approved by the airport operator.

(2) No approval pursuant to paragraph 4(1) of this Part shall be unreasonably withheld or delayed however approval may be refused on the grounds of aviation safety at the airport operator's absolute discretion.

5. Drones and Unmanned UAS

(1) No drones, or unmanned aircraft systems shall be operated at any time from, on, or in connection with the construction or operation of the authorised development unless approved by the airport operator in writing.

(2) Any approved drone operations pursuant to paragraph 5(1) of this Part shall be carried out in strict accordance with the terms of that approval.

6. Aeronautical Safeguarding Liaison Group

(1) No application pursuant to requirement 7 (detailed design approval) in respect of the main site is to be submitted until the undertaker has established an aeronautical

safeguarding liaison group, comprised of the undertaker, the airport operator, the local planning authority and the local highway authority, to coordinate the sharing of information to satisfy the requirements of the aeronautical safeguarding assessment.

(2) The aeronautical safeguarding liaison group will meet as regularly as is necessary throughout the construction and operation phases of the authorised development to discuss and act on matters which are relevant to the safeguarding of the airport operator's undertaking.

7. Arbitration

Any difference or dispute arising between the undertaker and the airport operator under this Schedule must, unless otherwise agreed between the undertaker and the airport operator, be determined by arbitration in accordance with article 45 (arbitration).