



## Hearing Transcript

<b>Project:</b>	East Midlands Gateway Phase 2
<b>Hearing:</b>	Recording of Compulsory Acquisition Hearing 2 (CAH2) – Part 3
<b>Date:</b>	12 May 2026

**Please note:** This document is intended to assist Interested Parties.

It is not a verbatim text of what was said at the above hearing. The content was produced using artificial intelligence voice to text software. It may, therefore, include errors and should be assumed to be unedited.

The video recording published on the Planning Inspectorate project page is the primary record of the hearing.

# Compulsory Acquisition Hearing 2 - 12\_5\_26 15\_35

Tue, May 12, 2026 3:35PM 1:25:54

## SUMMARY KEYWORDS

Compulsory acquisition, viability analysis, valuation errors, traffic modelling, highway works, hurdle rate, professional standards, development contributions, affordable housing, sensitivity analysis, land value, compulsory purchase compensation, access rights, statutory undertakers.

## SPEAKERS

Speaker 8, Speaker 9, Speaker 7, Speaker 5, Speaker 6, Speaker 4, Speaker 3, Speaker 1, Eventurous AV Team, Speaker 2, Speaker 12, Speaker 10, Speaker 11

---

 00:02

Okay, welcome back. The time is now turning about so we've just had a quick discussion in the break we're running quite behind on time. So we'd like to resume the final two bullet points I was going to deal with is that they dealt with in writing, and we will move on to discussion regarding viability with Mr. Jackson. Will circle back counter factual. Jackson, thank

 00:54

you. Are various questions about viability analyses, but they will need some may need some, mainly, some questions from the people. But before we come to that, in seeking to compare and contrast between the two valuation exercises, I bet there's a number of what I've been used to be typographic errors in the DWD report, paragraph 310, and then sub two, two weeks and paragraph 815, each of two obvious ones. Whilst I'm very happy to report from the consider a report on the arguments, whatever those arguments may be, arithmetic doesn't need to be accurate things. It makes my life more impossible if I could ask Prologis to have a look at that report and ensure it hasn't got me to the typos. There may well be others also those. Please,

 01:54

sir, on behalf of the applicant, if there are typos and other areas in the report. Obviously would be happy to correct those and identify if anything's worse than we can do

 02:06

with it.

 02:08

That's That's my need to say the most

 02:10

Thank you. And obviously, if we were discussing earlier, the traffic

 02:16

modelling

 02:17

from the joint application has yet to be agreed, and therefore it's not physically possible to say what mitigation is going to be required. From what I've heard today, my implication is that the works of joint application provide the purple works, those on the on the scheme, which essentially is the roundabout. You can find a roundabout.

 02:45

First sentence, you're currently slightly puzzled. Looks behind you, sir, can I suggest that when we have Mr. Mark Taylor from Mark McDonald's here tomorrow, he will be able to provide you with more accurate appraisal of those words.

 03:02

But the point is, the fundamental points, you don't, as you sit here today, know what those works going to be, and therefore you can't have cost

 03:09

well. So as matters stand, I'm

 03:12

going to have to go to the influence question of inspectors for years. Can it be yes or no? Part as much

 03:20

as we sit here, we have not

 03:22

yes or no. Mr. Philpott,

 03:25

well, so the answer is that

 03:26

we yes or no. That's the first word of your answer. Can you repeat the question as we're sitting here today? Have you got a definitive figure for those highway works, not the right volunteers? So on that basis, the analysis in the DWP report has to be my best guess. I'm going to pass on

 03:51

to the author of that report to answer that question. Which figure you actually think? Sorry, there was a

 03:59

figure in there for highway works associated with your scheme. Outside highway works,

 04:08

announce the appraisals, the Prologis by clerks, yeah, yeah.

 04:21

So I've taken an instruction of this my understanding,

 04:24

I'll be corrected if I'm if I'm

 04:26

mis transcribing. This is that the highway works have been costed, and that is the figure that is been supplied. So it's

 04:36

a get, but it's the best guess, because, because they haven't been signed off by the highway authorities. Well,

 04:42

in that case, I don't think it's fair to describe them as a best guess. It's true to say they have not been signed off, but the level of work that has been done in order to generate that figure is not a guess.

 04:56

I'll rephrase it a best estimation.

 05:00

Best estimation based on where we are, where we believe the analysis needs us. That's a fair science.

 05:08

Conversely, looking at the comments from the appraisal from the applicant, the whole of highway costs of the DCO in their in your analysis of the northern land, all those tile works have been put on the on the

 05:31

southern land, correct? So I think the answer is yes. I just want to properly understand the question. I didn't quite get that. Sorry. Alexander booth, for the applicant, in terms of it's right to say that, in the context of our notional southern only developed, we assume that the

 05:50

green

 05:51

package of development, highway works, junction 24 works, high. Junction 24 works, because would be delivered by us, because, in our scenario, Mr. Cottage assumes planning permission is granted for the joint application on the basis of the notional works which they are proposing to undertake, not include the rep packet. And of course, those works, though, as you rightly note, aren't yet agreed, so we don't know what they are still that's what they cost. But in simple terms, the applicants can control about three fifths of the main site. Prologis about two fifths. It doesn't quite work

 06:29

this high end D lane. And there's various other bits about these simple terms I'd like to have discussion about the applicant describes as hurdle rate, which has been given a 15% some commentators, I know will describe that rate as excessive. I'm also aware of the PPG which are linked to read our paragraph, 1001 920190509, which state quotes for the purpose of plan making, my nuclear exorcist an assumption on 15 to 20% gross development and value of GDP may exist a suitable firm return to developers in order to establish the fire legacy of plan policies, plan makers may choose to apply alternative figures where there is evidence to support this according to type, scale and risk profile of Planned development, a lower figure may be more appropriate to consideration development delivery of affordable housing in circumstances where this guarantees an end sale at known value and reduces risk. Alternative figures may also be appropriate for different development types. End quote, so PPG, the 15 to 20% return on GDP, may be considered suitable in the plan making stage. Firstly, I may ask different people then proposition, their response to propositions that doesn't necessarily mean that it's applicable elsewhere in the decision making process, for example. So the proposition goes, this would then allow flexibility as economic conditions change over a plan period, or as that's normally for housing development, where we have commercial development as here I'll repeat the last sentence of that paragraph. Alternative figures may also be appropriate for different development types. So what I'm looking at is for different some comparators, whether any elsewhere should be considered. I think it's not easy, like residential development work about whether they're easy to find. But are there any other comparators of rate of return that have been used in other similar development set developments?

 08:55

Alexander booth, so in a very short moment, I'm going to turn to Mr. Cottage and have no system with the hurdle rate. But before we do that, I think it is quite important to pick up on what you effectively assume in the question, because we say that it's not quite the right basis on which to start from. We say this is one of the errors that Mr. Roberts is guilty of. Mr. Roberts has had regard to the risk professional standard evaluation and development property, but he has also had regard to two other Rick's professional standards, financial viability and planning, conduct and reporting and assessing viability and planning under the national planning policy. So this links into your point about PPG, those last two professional standards, and indeed, the PPG have no application here, and it is, it is a fundamental error on Mr. Roberts part, and he relies upon those. Are professional standards which go to feas in a planning context. That is, use this as a broad brush term planning contributions and affordable housing provisions. That's how you work out how much develop, how much affordable housing a particular housing development fees. That's not what we are concerned here. It's not relevant in the context of the assessment of commercial development liability tackles that's the key question that you're concerned with here is, is this development final? IE, the DCO is granted? Will it be delivered? So I make that initial point, and accounts to Mr. Cottage.

 10:43

So Colin Cottage for the applicant. So really, just to echo what Mr. Booth there are, just to give you, just to stand back and give you an overview in terms of professional standards. Evaluation of professional property standard is an overarching professional standard set by the RSS. So far as carrying out appraisals of valuation, appraisals, evaluation of all types needs to adhere to. Then within that, there is a subset, commonly called financial liability assessments, two other professional standards booth referred to Mr. Roberts takes issue that I adhered to apply to a narrow subset of work, which is assessing the ability of development to bear planning contributions and affordable housing. So they come in two planning making stages. And if you read, if you read PPG, if you read a PPF, and if you read the professional standards, this becomes very clear. In fact, actually just if you allow me to, it's set very succinctly at the parallel 2.44 of the viability professional statement and FDA should determine whether developments capable of providing levels of development contributions the complete policy in both emerging plans, more specifically, an FDA estimates where the planned developments with policy compliant levels of developed contributions are able

 12:30

to provide a minimum,

 12:31

reasonable return to the land owner. And importantly, it's said to do defined as a UV plus premium. And I'll explain it's also complex. Land value. A

 12:43

suitable

 12:44

return to the different bank. The reason you use the benchmark is, what you're trying to see is what value is created by the grants, planning permission that can be captured for planning contributions. I've carried out many FDA in the past. The difference between this exercise and the exercise that we're taking, which is a highly commercial assessment viability. So when vPg does talk about 15 to 20% as being a suitable level of profit to determine that is purely in that planning context, purely in the context of considering how much most common application is how much affordable housing can sustain. This comes in both the plan making stage, so when plans were being set, FDA is undertaken to area wide assessments of how much affordable housing there is. And then when application planning applications are made, if the developer wishes to depart from policy in terms of planning contributions or affordable housing, they will submit an FV eight demonstrate why their skin cannot. So that's that's what the PPG relates to. That's what professional standards Mr. Roberts refers to apply to. They do not apply to this exercise. And in answer to your initial question about why 15% Well, 15% this is very few things. Mr. Prologis and I do agree is an appropriate level of commercial return. And effectively, it's that level of return is set by the developer that's they will decide is a suitable level of return for that particular development, and it may vary for development. Development. Some developments may have required a higher return from a particular developer because they see it having higher risk. Other developments may require a lower level of return because it's seen as being more

 15:01

straightforward. Do you have any comments on those two points?

 15:05

It

 15:05

is concerning to you. Mr. Cottage maintenance comments. I have actually been acting on behalf of the RCS and disciplinary proceedings and concerning viability matters where this approach has been taken past. It is true that the precise outline of those documents being referred to, obviously cannot be applied in full in this situation because he's not ultimately in planning appeal,

 15:29

but

 15:29

nevertheless, our RCS members are at the very least expected to follow those rules unless there is good reason for departing from them. So I'm afraid I do not accept the proposition from forward, and it's quite concerning, as a fellow of the RCS putting that to one side, also like to clarify the profits you mentioned. So the 15 to 20% profit you referred to initially, that for residential would typically be on gdv gross development value and affordable housing, as you correctly say, is typically assessing 6% selecting the lower cost profits and requirements of a nonprofit, RP or RSL. With regard to this scheme, it has been suggested that the market, as in the industrial sector, would require 50% on cost. Important, to make that clear, we're not talking 50% on GDP. We're talking 50% on cost. Now, it is not often the case that industrial schemes come up for the viability. Evidences required industrial schemes, I've provided evidence of the past on what are called pump priming schemes, where, for example, I think stores come forward to deliver industrial seeking would otherwise be deliverable. But it's not, not something. But what, Mr. Cottage put forward suggestion that SEGRO would want to pay a return upon profit of 15% I do not consider that unreasonable, so that we are not in disagreement on that point, though I wholly reject that, at least

 17:15

if we work your policy on the same one, while you do agree on, because the best things I'm going to have a look at as we go through, obviously, the comparison sale, purchase price, again, is interesting. I'm wondering looking at the other end of the telescope now, the EMG one scheme will have been valued for SEGRO accounts. There will be a figure in the in the market, somewhere in those accounts, for what that is currently worth. And I was wondering that might assumes a fair comparison to what we've got here. And I was wondering, therefore, whether it would actually be possible to work it out backwards, using that as the start, that's what the value on in the SEGRO counts, and whether you would therefore get the numbers to work out as a different way of working. The same, essentially calculation. But the other other end,

 18:20

Alexander booth on behalf of, the applicant. So just to be clear, in terms of the calculation that you're positing, I appreciate you're saying, let's take the value of the existing EMG one facility as written down in the accounts. Is it possible, you say, to extrapolate fact from that? I'm sorry, identify more so,

 18:43

and that's identify whether the 15% that had achieved 15% or whether or not it had achieved 3% or 23% and that's whether or not it had been because it because the point being that if it achieved a much lower figure, then it may well be that actually, whilst with the greatest respect you're with both good sales, you said 50 degree 15% actually in the real world, SEGRO actives, we took it on a 3% or 23% was, was the figure, sir. I mean, I, I'm obviously not the valuer, and I'll pass to Mr. Cottage in a moment.

 19:30

I suppose. What I'm what I would imagine is this, is that, in terms of what the ultimate out was, I, even if one were able to undertake the calculation that you anticipate, and if that were to lead to a figure of, say, 25% or 5% high or low, I'm not sure that would necessarily assist in departing from Mr. Roberts and Mr. Cottage has agreed to figure a 15% because whatever the ultimate outcome was that might not have been what was anticipated the outset. And I think I'm going to pass to Mr. Cottage.

 20:08

And I agree with that. And I've just, I've been told that actually the one EU actually won the target 50% so Mr. Booth is right. So when a development is started, there is a target rate, what might end up it may be that during the course of the development, because inputs into residual appraisal change over time, we've already discussed using the rest of us, and that's that's that's correct with all residual protocols. And in fact, that's why we talk about risk analysis. I know Mr. Roberts sensitivity analysis, but again, is with an FDA if you read the evaluation property as it talks about risk analysis, which sensitivity analysis. So the reason you look at sensitivity analysis and risk analysis is because during the course of the project, costs values may grow up, for example, with the EMG to development, because Prologis is now in discussions with some occupants one other businesses, it is now firming up a position, which, with years that CBOE provided for my exercise will now be too high. You could look at a lower yields, because we're now firming up, getting rid of some of the risk. So what we will be doing, or deadline for, is providing a risk analysis, part of which will be a sensitivity analysis, which I think might help you in that it's not it does not one single truth, and there are elements of risk, and some elements of risk are higher than others. Just to put in context, when I talk about risk, Mr. Roberts talks about potentially 8 million pounds, 8.3 million pounds more having to be paid for the Prologis land, which may or may be correct, but if it is correct, that is Lane million pound extra cost risk, but this is a 400 million pound development, so it's a certain 2% cost risk in the scheme of things, it's not, it's actually not a big deal. And there are, and there are other potential benefits which influences 2% potential cost increase. It's very, very easily. And the developer would not say, I'm not going to do this development cost increase. If we did that, nobody will ever build anything. So I think you've got to consider in that context,

 23:17

Mr Roberts for Prologis, I think there's three main points there. First, is very different to market value. So I'm not just sure. I'm not sure what book value would help you tends to be. Can

 23:29

you explain that a bit more to a late person,

 23:32

book value is what it's held for an account. It's an accounting function. It's an accounting value that, very often is just increased by RPI and CPI and ongoing difference. So part of it depends upon when the value, original valuation was actually done. I mean, I have a number of cases where properties have been transferred and the Defence has been transferred in the book value. When you actually look at it, the book value bears no resemblance to the actual market value. So it's an accounting if you think of book values accounting exercise. So I think that's the first point. I mean, just to be clear on the 15% that is the figure that Mr. Cottage just said that SEGRO requires a minimum in order to proceed with their developments. So we can test 8% or any other figure. But this is one of the areas where the accusation was made against me earlier. Don't hold water, because I'm not here for a plan against size. I'm here testing the assertion that they will be able to deliver a 50% profit so but to me, that isn't widely accurate. If they've come and tested 9% of a certain No, come on. You know, the sensitivity analysis I've provided that as best as I can, but as I've asked the electronic appraisals from SEGRO on more than one occasion, for whatever reason, they decline to provide those so I'm able to test them. I find this comment an 8 million pack reasons problem, slightly surprising, but no doubt I can test that. If I have electronic

 25:00

appraisals and give you The covers. I'm just looking at various things. I site, obviously, you did your analysis based on the same purchase for the on base of your land to be on the same purchase price as I understand, the land on the south side is an option agreement. So the purchase price, the option, should have included the uncertainty of that and the fact there's no consent in place, and also development costs associated with delivering that. Whilst you put the same figure on to the normal land, which for these purposes wouldn't have the uncertainty of an option agreement, because there would be a DCO in place, there would and things like that. So why do you think the 225 should be the person cap valuation should be the same, given the uncertainties on Southern which wouldn't exist all at all. So

 26:25

again, Sir Alexander booth, for the applicant, I'm just going to jump in first and then defer to Mr. Cottage. It's important to understand that in circumstances where company collection house are granted and it is not possible to reach agreement with Prologis. Those the compensation payable to Prologis will be determined by the attraction of assumes the compensation code. And of course, that will not be on the basis of the world as we see it now, that compensation, compensation entitlement, will be determined in a no sleep world. So it's it's not simply as straightforward as saying, Well, why use the two to five that you've already got effectively on that southern land? The position will be more certain have a DCA, that DCA will be disregarded for the purposes of determining compensation. I just make that one initial observation before I pass to Mr. Cottage. The further, the only further point I make is that, as regards this question of it's notable, I suppose that Prologis and Mr. Roberts haven't identified what they say the land value is one of the reasons, I think perhaps they've not done that is because the rents and yields, which Mr. Roberts must be itching to go to, if he identifies the news, they will improve the liability for asking also. So in those circumstances, we don't know what that number is, and we are using what we think is a broad proxy, but we're not stating in terms that it must be two to five, and it would be two to five as determined in the context of any latitude proceeding. What Mr. Cottage has also does indicate,


 28:21


demonstrate that even


 28:24


a small change, alteration in terms of rents on what typically yields would more than swallow 8 million. That's identified as being the difference between our valuation, current valuation of the Prologis standard, just over 22 million, and the figure that Mr. Roberts utilises a theoretical residual value at close to 32 million, Mr. Cottage, Colin cottage. So the reason I adopted 225,000 pounds for the audition is because that is contract. Prices have been agreed, and what I imagine is viability this scheme, delivery of this, I see price that has been agreed. Mr. Aldridge is important for that because if I did a lower value, I could be reasonably criticised for saying costs. I then agree absolutely that the price to be paid logist fund is the amount that would have to be paid in the applicable purchase. Now, one thing I was conscious of, and I think is probably different on its interest, is that what we don't necessarily want here as a proxy rehearsal of future lands chamber case in terms of arguing about what compulsory purchase compensation. So I adopted the figure of two to five for the purpose of illustrating the reliability of the scheme. I accept that the valuation may be more than that, and indeed, my understanding is that the SEGRO has already offered not to Prologis, but historically, to the land members, has offered substantially more than. 125,000 pounds AV, which demonstrates that clearly it's viable at a higher value, the scheme is viable do that. But what I did to say, what I don't think we really want to do, we start arguing in detail about what compulsory purchase market searching might be, because that's not really a matter of this particular hearing. So I think what we need to look at is illustrative indications of what potentially use I hear, what Mr. Robert says about the context of 400 million pounds fee, a 2% increase doesn't


 31:05  
really


 31:07  
have a material impact, just as a broad indication

 31:10  
of why they

 31:12  
say that, I've said, said in my report

 31:17  
That

 31:18  
Prologis sorry and SEGRO will be holding the development. It won't be settled by another of this reflected notional sale costs. Those notional sale costs are 7 million pounds. So actually, I could just say, well, not those offers. We're not getting those costs. That 8 million pounds, 7 million is already covered without even adjusting anything else. So the numbers are large, and 2% increase in costs is not fast. Mr. Roberts home sensitivity exercise puts ranges of up to 9% above and below the levels of value and levels of profit. So his sensitivity analysis, this is an entirely normal range, shows potential viability within a range of 9% above and below. So doesn't and other pounds of compensation does not

 32:30  
speak the in on page 62 that the PDF Prologis critique. I was trying to work out the figures. Some of the figures been counted. I suspect it's straightforward. It can be AV, rep 3061, and its PDF, page 62, I think it's just it should be straightforward, but perhaps it works. You say you undertook a video visit. It allows this, but I haven't got it. If you have to adjust, you can have this.

 33:02

So just

 33:03

give you Sorry. It's

 33:06

on PDF. It's on page 62, of the PDF, 303306, it's I

 33:30

think if I can come back to that for one second, number one, appraisals are not my figures.

 33:39

No, I appreciate

 33:40

that. They are reworking of Mr. Cottages figures, yeah, so, so 714, what? What I've simply done, I've moved rents out by 20 5p Yes, and I've moved out for construction costs by two pounds a square foot. So that, what's that simply showing is, is there's reduction in construction costs and revenue. What was off the person, if they increase?

 34:07

I was trying to work out what the other number in the calculation was

 34:15

here with me

 34:18

completely. Clearly, 1075, per square foot at 68 pounds per square foot equals does not equal 31 million terms. It

 34:32

doesn't degrade. So that is the, that is the land value. Yeah, I

 34:36

was trying to, I was trying to work out how, how they really help, because I don't try to create an update to ask at the end, it's the two of you to sit down and

 34:48

create a

 34:49

single spreadsheet how you've done it.

 34:56

Okay, so on that spreadsheet, I've made an assumption that's 15% profit and those are then tested sensitivity of that. So 50% profit and the cost that Mr. Cottage has used, and the value is the out there up they are average, by nature, the answer on land values, 31, 2315, so that simply shows what the impact on land value would be keeping profit of 15 cents, or changing, in that case, rent and construction costs. The table underneath takes Mr. Cottage's value of 20 sorry, 22, 902329. Which is what he says. Our land is the Prologis land, sorry, is worth. And I've done the same exercise at this time working out what the impact on profits would be. So if I assume Mr cottages land value, and make the amendment set out 21.65 as opposed to points Nine, one based

 36:11

on his

 36:15

numbers.

 36:18

Thank you for the applicant. Could I just make a point here, just to just so you're aware and to clarify, no, you say you want us to look at these numbers.

 36:30

This is Mr. Roberts

 36:34

appraisal of the joint application. It's not

 36:38

DC of skin bearing him against you, against in your case.

 36:45

But the important thing you need to remember, you need to bear in mind when we're looking at testing of the viability, of viability appraisal of the joint application scheme is Mr. Mr. Roberts has adopted the amount of money, he is saying that SEGRO would have to pay compulsory purchase compensation. But of course, that is not the test for the viability the Prologis scheme. The test for Prologis scheme is how much Prologis is paying. What SEGRO are paying for the land is absolutely and totally immaterial. So Mr. Robertson is not judging the viability

 37:25

of the

 37:27

Prologis scheme on the same basis he's doing the DCO scheme. We can't judge the viability of the Prologis scheme unless we know what the Prologis is paying for the land, what is agreed with the airport,

 37:39

etc, Alexander booth for King Castle, for the applicant. This is fundamental to what is said about the Prologis development, because, of course, in circumstances where the Prologis development is going ahead, that is because the DCO hasn't been granted, or we don't have compulsory acquisition of hours. So in those circumstances, there is no receipt for there is no income to Prologis by the value of their land, on what they say to their compensation, we're not paying them anything. Then, because this is the secondary question for you to consider, after whether or not our development is viable. In determining whether or not their development is viable. The key input is, what have they paid for the land already? And as Mr. Cottage says, using our this theoretical residual land value of 31 million as a proxy is wholly misleading, because they know what they've paid. They've not told the examining panel until such time as they do, there isn't any clarity. Can't be any clarity. And Prologis responses exactly is the same as it converse, because they don't have the sense of the option agreement from themselves.

 38:55

Is that fair? Mr.

 38:56

Brooks, on behalf of

 38:58

Prologis. So I'm going to make a couple of short points, and then I'll hand and then I'll add them to Mr. Roberts. The first point just coming back because we didn't get an opportunity to respond to some of the points Mr. Cottage made earlier, before he moved on to the second point, the reference to taking the two to five per acre as the contract price. And it's important to remember that the viability assessment put forward by the applicant is to deal with two matters which are fundamental to making its compelling case, the first is, in the event that the DCO is granted compulsory acquisition plans. But there is a second one as well, that is absent DCO, absent compulsory acquisition plan. Acquisition powers, could the southern land be developed viably, in other words, without pairing it with the land. The assertion is, it can't be that, if you take as a starting point for that assertion the price it has been agreed to be paid for the southern land on the assumption that the DCO would come forward. You start obituating the wrong proposition, because someone seeking to obtain an interest in that land without the benefit of acquisition, without the benefit of the DCO coming forward, would be calculating the price of that on a different basis. The second point is this, and we all, of course, are very mindful of the need to avoid turning this into a proxy for the up driving process. But we've explained in our written material, in the event that the compulsory acquisition order is confirmed, the number that will ultimately go into the spreadsheet, as it were, that will determine how much is to be paid will be the number that comes out as a result of the application compensation case. We can't ignore it completely. We can't fix what it is an input that therefore needs to be considered. The third point before I hand over to Mr. Roberts is this, it's important to step back and think about the reality of this. The northern land that is the land that we seek to develop is going to be developed under both schemes for essentially similar type of development. There's more floor space on that land that we promote, but it's essentially similar, similar, similar, but not so it's exactly similar, but not safe. But in terms of the commercial floor space to be generated, we're, we are someone that I am. The southern land, you said, can't be developed by AV. When you combine it with the northern land, it can be notwithstanding the additional overheads that come with developing the whole my clients want to develop just the northern land without the same levels of overhead. For that, I'm going to take on the southern it's unlikely in those circumstances, just as a matter of common sense, the development of the northern land on sale would not be vulnerable. The development of the northern land and the southern land less profitable taking on it just doesn't stack up as a lack of concept. But against this point, I'm going to hand over to Mr. Roberts.

 42:47

Thank you. Peter Robertson Prologis, I think it's important to go back to first principles. A viability appraisal has two parties to it has what the landowner will release their land for and what the developer requires as a return for their taking the risk of development, we've established that we're in agreement that, in this case, SEGRO are not being unreasonable and wanting 50% and Mr. Cottage reminded you with a viability assessment that says 225,000 pound land value generating profits of feedbacks milestone, as I understand it, SEGRO are obliged to pay two to 5000 plus RPI on southern land, whatever happens regards our NASA DC, of course, is refused. Regardless of northern land, and it's important to stand back and assess. I don't want to get drawn into compensation here. But is it a serious proposition that the market not talking about the lodges here? We're talking about the market pay for northern land. We say it is beyond doubt that the market would pay more than 225,000 pounds per AV, sorry, on Mr. Cottages appraisal, they not deliver 15% if they pay more than that. Now he hasn't provided me with electronic files, and he hasn't provided me sensitivity, so I can't tell you what the margins are as regards the proposition that Prologis and Mac would not deliver the development of the northern land, there's a difference here in that Prologis and Mac, our landowners control the land already. It is irrelevant. What's gone on in the past, it is completely irrelevant. And it still comes down to SEGRO off asking you, sir, to believe that development of that land would not lease a value in excess of agricultural land value. That's basically what they're asking you to believe. And I am of the view that has is completely bonkers and that it doesn't have any credibility. Thank you.

 45:00

Thank you very much, sir. Alexander booth on behalf, sorry. Alexander booth on behalf of the applicant, again, I made a pass to Mr. Cottage in just a second, but I just need to come back shortly on, I think three points. Firstly, sir, what you said a moment ago in answer to proposition like what you was that? Well, you say this, but they will say that. To be clear, these aren't apples and apples, again, it's the question of the pear and the orangutan also That is because they know that what our exposure is in terms of the land price for the southern land, it's 225,000 pounds that's established. It's not in dispute. We do not know what the equivalent figure is. They have not told us, if they've not told you, everything is silent on that point. So it's not a comparable position in terms of establishing that second what's said by Mr. Roberts is that it's beyond doubt that the market will pay more than 225,000 pounds an AV for the northern land. Now, so to be clear, Mr. Cottage is Who told you a moment ago, doesn't die in a ditch on that figure, and indeed, he says it might be more. He uses the 8,000,031 plus million figure instead of 22.9 million figure. And that Mr. Roberts has gone to so we can only use the numbers that we've got. We're not We're not hiding away from any number. But in fact, it's notable that Mr. Roberts, Mr. Roberts, Mr. Roberts, nor Prologis, will actually tell us what they think the valuation is, because then they have to explain it, and then the rents and the yields will inform our valuation in the same way they inform theirs. So that is a problem. That is a problem for their analysis. The third point is this, what's said by Mr. Roberts is that he's asked for sensitivity now sensitivity analysis, and it's been refused. So that's not right. The request has been for cash flows, and it's not that those have been refused. Position is that they sent over as yet, what we would like to see, I'm sorry, that's childish. In the extreme, what we would like to see is exchange of information, and we are very content to provide that exchange based exchange. If that is refused, we will volunteer our material in any event, and we're content to provide that. But ultimately, where we get to is what I said a moment ago, which is that we're going to be providing our sensitivity analysis in advance deadline Mr. Cottage, and that's the point I'd like Mr. Cottage to speak to. Is Mr. Roberts case that the valuation that we are speaking to, I think last

 47:58

Colin Cottage for the applicant. I forgive me, but I didn't quite get the point about agricultural. Yeah, I didn't quite understand it. But if it's able to do Mr. Roberts, repeat the point.

 48:16

Mr. Roberts for Prologis,

 48:20

I

 48:21

go back to the basic premise of viability. Is willing landowner, what would landowner require to release their land, and what would the development require? We agreed the development require profit to 25% or sorry, 15% sorry, another parallel universe there the question mark for that scheme to go ahead, that scheme has to be capable of delivering a land value which is sufficient to entice the landowner to release their lands. Now your assumption is, as you said in your report, the planning commission is assumed not to be granted in which case the only use could be achievable, that land has considered to be agriculture, felt agricultural and farming, basic liability, appraisals, if the land owners receive a price sufficiently excessive agricultural, it can be assumed that he releases land and the scheme is viable.

 49:14

So can you don't recognise in my report where I said, planning permission can't be assured. Can you tell

 49:23

me what conservation Well, we can do this if the panel wishes it, but they're back

 49:29

and forth given the time we've given. We want to

 49:31

stop the five o'clock. And there's other things

 49:33

we want to discuss. The discounted cash flow means, my assumption was that use a discounted cash flow depends on the length of the time of the project, and that you haven't provided on You short term with stock, was the hard stop date for people to 2031 and you, you said, Well, 2531 is too far, therefore you need to do a constructed cash flow if there's another reason. Well, fine, but that's that. That was the reason I was assuming that there's a point between yourself, because I had an answer in my head. Is that fair

 50:09

for the applicant passing to Mr Cottage I mean, the position is that we are cash flow analysis in any event, further say, what we suggest is that there be exchange, rather than us continually just provide the material to the to the objectives, that is to say, who wish to see the objectives, capture them access in relation to the development on the Prologis stuff, which they claim to buy. But, I mean, there's, there's going to be no vision.

 50:37

There is no issue at all with Exchange, exchanging passwords, or even Prologis will not exchange. Must remember it is the applicant deceiving powers of compulsory position over my client. They must demonstrate their case, and my client must have a fair opportunity to interrogate the evidence on which that was based. If they wish to make submissions about the extent to which we paid our case, they can do so. If we choose to put things forward, we can do so. It doesn't excuse them making their case and making the evidence available the idea that they might withhold evidence of an examination into their application for compulsory acquisition powers until the effective person reveals commercially sensitive information on theirs is, if I may say so, entirely inappropriate. And we'll wait to see what they come back with in terms of it on the terms in deadline three, and we'll judge what to put in. But it can't be presented as a position of equivalence. It's clearly not.

 51:51

I didn't take what I've said. They weren't. I think now the one thing I do want to quick look at first that is a question on whether the southern land is, in fact, landlocked. I to the bridge. It involves a second, third party access which hasn't been marked in any way, shape or form. But I was wondering if it was, whether it was theoretically possible to reconfigure the motorway service area so that access to southern land could be achieved through there and gain access to southern land through the motoway service are as It makes a difference to whether the land is landlocked or not. So Alexander Booth

 52:27

on behalf of the applicant. So, I mean, that may be something that we need to take away and come back to with writing that's not an issue that I've grappled with. What I might suggest for a second is that if you move on to another matter. I can try and take instructions on the point. We can try and go from there to assist the panel now, but I'm sorry that's not something that I sought to verify in advance. The reasons

 52:50

being is that there's you then get into a different scenario, whether there's a monopoly access and Ransom strip or whether this because obviously, you've made a comment about 50% 30% Later and 30% if it's got two alternative access points, what the what? How that works out in reality?

 53:18

Yes, if you're, if you please.

 53:23

Robert Prologis, just to be clear, I haven't really considered the point, because I know at last hearing the applicant was kept trying to give the impression of the lodge slash mark schemes dependent on receipt for ransom payment and what I was setting out my report say, No, we are not but if there is a ransom position, then it is only fair that that should be assessed to the degree that it exists. And if it doesn't exist, there's no value, then so be it. I just, very briefly, I just want to clarify one point, the value of our land does not depend upon the outcome of an appraisal. Everybody. There's various competing bidders in the market have their own appraisals. And again, as I set out my report, the upper tribunal is very clear that it comes down to land transaction evidence, not just what a single development they wish to do, said,

 54:22

for

 54:27

when we get to the to an

 54:30

issue where we are actually debate about the Prologis land because it's compulsory acquisition, it's quite clear, and again, going back to the correct thing, yes, valuation development property makes you look at both residual proposals. And so that's, that's, as I said, one more thing I would like, if it was at all possible for two members to get together and let on a single spreadsheet. Can be a lot. There's more tax than you like, but so I've got all the numbers on a single spreadsheet, an Excel spreadsheet, which has got the numbers in where you agree but you disagree, and with the calculations left before we was left in. So I don't want nothing, but yeah, NPV equal. NPV gives you the formula I need. Those left in so that I can actually so I can follow through how the numbers will work under the different scenarios.

 55:37

Alexander booth, in the app can, so that's all. I mean, we're certainly keen to assess, and I'm sure Mr. Robertson, his team will do likewise. But it's just to understand what is it that you are seeking in terms of valuation. There, is that a question of DCO scheme, or is it a Prologis scheme, or is it both schemes?

 55:55

All of us at the DCO scheme, that's the one which I wanted to know whether it's going to be the question is, that viable?

 56:02

Yes, sir. Am I right in understanding that you don't want to understand the viability position as regarding prologis And the reason I flag that I note what Mr. Philpott said previously. And of course, the case is asked to make. We're seeking ca powers. But you would understand also, sir, that what's said against us is that there's no need for CA powers here. This will develop in any event. And at the moment, we say that there's been no evidence before as to viability of it. Again, if Mr. Philpot doesn't choose to put that in, that's a matter for him. But we say it's not there. If you're asking, if you're not asking for that, that's fine, but I just

 56:40


flag it nonetheless. It's not right to say we've not put in evidence. What we've done, seen this at deadline three, is we've taken the figures so far as we're able to just take them from the capital facing that the development is viable. You've also heard today from Mr. Roberts, why, if you look at the matter in its factual context, where you have land owners, people control the land sat for you. They both wanted the development to go ahead. And therefore in circumstances where it's said on behalf of the applicant, that means viable overall, and that includes similar development on the northern land with greater costs, the two active and experienced developers promotional land here, you've got plenty of evidence to say it's hard on that it's up to us. Once we've seen the response to, we put in the deadline three to make a judgement as to whether more evidence might help you in order to reach a judgement on whether we're likely to come ahead in the absence of the DCO or acquisition of hours. But it's not right to say there's no evidence. Thank you. I now want to move on if I possibly land plan sheet one, A, W, O, 27, d2, blocks. I want to

 58:25

could you go, that's that's fine. The two blocks, while doing not limited is 1.2 which is Highhams Lane, which is the second line between the prints, between the two sides, right under the terms of this commodity acquisition, while some known interests, they will relate to sub soil fronting various pieces of adjacent land. My book, reading a book of reference, is the main ownership of these quote, unquote, unknown earlier, I'm wondering, therefore, whether to develop over the north and south, both north and south areas, either individually or together, whether we're together with access from north to south, the land would need to be acquired by somebody, and I was just wondering whether, given it is unknown, after the inquiry, that would have to necessarily involve some sort of question.

 59:26

Alexander booth kings Council on behalf of the applicant. So just to ensure I've got your point correctly, so what you're saying is that in circumstances where the ownership of Highhams Lane is currently underhead, were the development to come forward either side or certainly across, across the development it would be necessary in order for that development to happen, for you have to acquire that interest or acquire a right to cross answers where That's the owner isn't known, so there's no negotiating possible. Is compulsory acquisition. The only I have to say, I'm not a property law specialist, I would be loath to say that this is the only way to skin that particular cat. So that might be something. It may be that Gowling persists on that, or it may be that we have to go away and come back to you, but I'm not sure that's something under the system. And I think also so I'm reminded that we need to take instructions, because whichever way one looked at it, be a risk, presumably, because in circumstances where one doesn't know we have to take instructions On plot one

 1:00:59


six, which is owned by Moto hospitality, where Moto hospitality written the relevant representation, D which supports the application of the DCO questions. It's from Prologis in East Midlands Airport, and for the applicant, but in a slightly different way, is, do you need to acquire that? Have you got a category scheme without that? And given that moto said they're supporting the DCO don't need to do don't go across it. I'm not the public. Get the I'm going to move on to number four, which is statutory undertakers. Yeah, just give us one query. We do have links to the active Travel Link, my reading submissions is that the applicant is thinking of amending the application slightly to create a larger gap between the active Travel Link and the airport perimeter fits. Is that correct

 1:02:15

for the applicant? Service is a happy instance of ourselves and the airport wearing a different hat, having reached an agreed position in broad terms, and I'll be put right if I'm wrong, the situation is that the active Travel Link, as proposed, cut a corner, brushed A corner, and the airport sought that we revise the route ever so slightly to ensure that that didn't happen. We've agreed a plan with the airport, and I'm aware that the county council have also agreed, and national highways have indicated their agreement with that revised arrangement. So so far as the act of travelling is concerned, everything is agreed in relation to the routing. I think there's a further point, which is that the airport is keen that the land actually not be the subject of compulsory acquisition. We are in discussions with the airport about this, because whilst we're not wedded necessarily to ownership through compulsory acquisition, what we do need to be able to secure is dedication of the landless highway, and we can only do that either by way of our own or by way of, effectively, a binding agreement the airport undertakes to facilitate, enable, deliver, the dedication of that landless highway. So we're going to, I think that meeting is planned. I can't quite remember when that is, whether it's next week or the week after, but the meeting is planned to discuss that point, and point. I'm sure Mr. Westman Smith can assist you if I've got anything wrong Westman,

 1:04:09


thanks to Mark Westman Smith for the airport. Now I think that fairly reflects the position, as Mr. Green said, as originally drawn the active channel link to clip operation land. That wasn't intention. It's agreed in principle. I think there is a look around next week to check that the revised plans work. He is also correct to report that we want to retain ownership of the land, and we have, in our submissions, said that the compulsory purchase case isn't made out in relation to both need and alternatives. It's the alternatives we're discussing. We're having construction talks and looking at a solution, as Mr. Booth has described, which would be of an agreement for us to dedicate. Is

 1:05:05


it anticipated? Amended

 1:05:06

plan should revise

 1:05:08


route Alexander

 1:05:10

Booth for the applicant? Yes, that's right. Can I think I think that landed in my in tray today, so it'll be provided to the panel as soon as possible. Well, I'm told that's his deadline four

 1:05:20

I'm assuming deadline for and I'm assuming that what I've heard is that won't involve mastery, acquisition purpose. So therefore the CA regs won't be you can roll back. You just can't roll forward. There are two more land rights other statutory makers. Sorry, tomorrow, don't worry. There's better, more to talk about tomorrow in the development d2 submission, national highway says it was stated, national highways has only identified minor discrepancies in land issues which are part of the applicant. Can you help me as to where you are between, between the two? There's and have you sorted out between your good selves?

 1:06:10


I'm Alexander booth

 1:06:14

for the applicant. Its probably best Ms westman apparently, I've been calling with Miss Watson this morning, Westman assist

 1:06:26

national highways. Remember one of the previous deadlines, there was a request that we provide shape our national highways, which we duly did, and they've interrogated those. They've then provided us with a spreadsheet showing some discrepancies that they've identified, and we've passed those over to our land, referencing specialist request, and if we did catch up with them, they're in the process of working through those changes.

 1:06:58

What's the nature of discrepancies? National Highways, it's more time. , what I'm trying to know there is what, what the likely resolution is going to be. Is it going to be again? It's what I'm interested in whether it's going to involve more like seeking further rights on land, or whether it's a matter that's going to be able to resolve through protected provisions.

 1:07:22


Right? I've got national highways. Thank you, sir. So the discrepancies are minor in nature. So there's discrepancies between the plans the applicant and the internal mapping system that national highways has so just seen clarification of boundaries. There's also minor queries on ownership very small parcels, so we're not expecting any major

 1:07:51


updates. That's my understanding. It's what I

 1:07:57

did. What I was concerned about is whether you need to go to be able to change the lands, in particular, if the answer that is no, although clearly you will need to be careful in case of changing if, if his discrepancies, in the sense that somebody else was thought to Whether they know if you're asking if you're putting somebody's name on a new parcel, and they weren't aware whether or not that would involve the CA ranks if you were seeking a right, somebody weren't, weren't previously involved, and that's what I won't need to have clarified and fairly quickly as well. So if that is going, if there is going to have to be a change request later, because the whole process would have to run through together, obviously, if you did go down with that, we'd have by the end of September.

 1:08:59

I

 1:08:59

think from what I understand, we should have a resolution of those when we come back to you on the compulsory position of the other points. So we talked about the 26th of May this morning. So we'll try and come

 1:09:11

back. A

 1:09:34

time that's the only outstanding one on capacity Opposition. Well, are there any government given by one national highways and Leicestershire county council. Are all the rest of your lack compulsory tank acquisition issues? Do you believe capable of resolution through protected provisions? Start with national highways on behalf of national high risk. Thank you, sir. Yes, we do think that our standing projections can be resolved to protect provisions for current drafts. Is the applicant scheme that progress is being made behind the scenes, and we're hoping to resolve shortly.

 1:10:13

This is

 1:10:16

record Leicestershire county council has any land subject to compulsory opposition, but we do concern about provisions. That's

 1:10:28

That's probably from that leader Thursday, rather North West especially, do we do have a piece of land today? What? Least you have got interested who runs across the public areas to District Council. That is something I'm going to have to introduce as in

 1:10:56

relation to the project. Something I'm going to have, if you

 1:11:08

can give us, we're now just not called for two we haven't finished by at five o'clock. We just need five minutes to go to check the action points from today. If you you will stay We're adjourned for five minutes. You'll stay here. We'll just go out, and then We'll be back. Screen, Oh, yea

 1:16:28

thank you, everybody. The hearing is resumed, and Dr Joshi is going to roll through the action points if there's anything you disagree with and or please shout

 1:16:39

Thank you, Mr. Jackson, before I run through the list of action points, I would like to reconvene party and that we can that the examining panel issuing the continuous numbering of the Action Fund starting from the first compulsory admission hearing. So moving on from that list, we'll begin with the action point 27 but please note that this numbering remains provisional until the final final list is published. So probably sometime next week, the examining panel may access the sequence or Re number, any quantity added or subdivided. So let's start with the Jackson point 27 to give the

 1:17:21

to give further thought on on the to

 1:17:28

give further thought to the issue of compulsory AV acquisition in relation to further rights added at procedural deadline, a and to provide The written confirmation from all persons with affected interest that they are content for the rights to be executed such that the requirement advertisement, representations and hearing under the CA regulations would not be necessary. This action is by the applicant. By deadline for action, point number 28 the applicant and any relevant interested party are requested to identify the legal authorities relied upon in support of the proposition referred to in written submissions, that is federal law, that the use of compulsory acquisition powers may be properly justified in order to facilitate a scheme of development in the public interest, which is preferable to be an alternative scheme advanced by an objective that would not require compulsory AV ration, please provide the references to relevant case law, including full suggestions where any such authorities are not readily accessible via public available sources. For example, mainly, e, a, i, L,

I, I, the copies of those decisions should be provided. This is for the applicants and all the interested party for the lane, for the action point 29 to provide a written note to explain the part, like part in capital letters done. This is the action for the Prologis for the deadline for the action, point number 30, further explanation of substantial imports in relation to the carbon neutral campus headquarters, including co located head office, which was part of the Secretary of State's section 35 directions for the business and commercial landscape in this particular event, properly understood whether the section certified direction requires a head office or a headquarter under Class E, rather than merely ancillary office space, and whether the environment statement assesses this and draft development consent order is drafted in such a way that enables this to be delivered. This is for Americans and Prologis and East Midland airports by Midland four, Jackson point number 31 to clarify the definition of import and unquote likely under the EIA regulations. And to explain whether the asserted displacement of socio economic benefits associated with the joint application arising from the delivery of the DCO scheme, the delivery scenario imports should be assessed as a likely significant event in the environment statement, and to provide the case references and copy of those decisions were relevant, this is for the applicants and Prologis and discretion effort by the land for action point number 32 to provide a short explanatory note, preferably in table format, identifying the issues that have been granted but not subsequently delivered, and to explain whether and how this evidence informs the assessment of whether the non delivery scenario is likely. The note should be like the note should also clarify should be addressed within the environmental statement as a likely significant event or by other means, if considered outside the scope of the EIA regulations, but nonetheless deemed important and relevant to the Secretary of State's decision. This action is for the applicants, Prologis and East midlands Airport by deadline four and one more action point number 33 to cover of the two outstanding bullet points on the agenda. Item 3.2, if relevant parties can cover up that response in writing by the deadline for the action point number 34 to clarify the assumption that the southern land is landlocked, and whether, in theoretical terms, access could be achieved through a big configuration of the motorway service area, noting that the such access has not been modelled. This is for the applicants 20 plan four action point number 35 to prepare a single joint Excel spreadsheet setting out their respective valuation side by side using consistent trainings, clearly identifying areas of agreement and disagreement. All formulas should be retained, not replaced with the values where different methodologies are used, that should be shown alongside the other value figures and the commentary, this is for the applicants, Prologis and East Midland Airport, where they land for the action point number 36 which is the last one to clarify whether the plot one by two as Lane land plan sheet, One, AV, P, 02, 7d would need to be acquired to enable the development of the northern and or southern land, including any north south access. And to explain how this would be addressed, given the Book of reference identifies the primary ownership as unknown, including whether ca powers could be relied upon. This is for the applicant by deadlne four These are the list of actions. Is there any other Action Fund which any other this

 1:23:15

is Rebecca Council. Apologies if I missed it, sir, but I think you must first comment on Trentbarton letter that's yet to be provided, and therefore that was an action point. Prologis, I believe, to provide the Trent will modify the action point

 1:23:37

any other Yes,

 1:23:40

just two small points on action point 36 it may be, if you anticipated, we might want to respond to that too. I think it does relate to part of our case. Therefore we will anticipate responding to it, whether you ask which or not second point is an action point today by the spreadsheet. Just want to be clear before we all complete the room. My understanding is that the essential point is it covers the DCO scheme, but that if the parties want to include it, include southern land in isolation, which both parties so it makes sense to cover that, and also it could cover prologisable parties agree to it first, it would be obviously reflective of what we've got already. And this one is clarified to make sure that we understand before we go off

 1:24:48

and start talking about it, the short answer is yes, please. What we've said there is the minimum, yes, essentially,

 1:24:59

we'll

 1:25:00

work. We'll work on the basis of certainly covering

 1:25:07

the first entities. Thank you Mr. Thank you. Thank you everybody. It is exactly five o'clock, so I think we've actually done quite well. Yes, we have to miss out some things. Thank you all for your attendance today. Thank you participation. I suspect more or less all of

 1:25:29

everybody at 10 o'clock tomorrow morning, when we will have the meaning of the issues, so just a very unique one, so that, unfortunately, I will not be able to attend

 1:25:39

tomorrow, but I think the panel is already aware of that. Okay? That the hearing is now just you.