PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

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

DEADLINE 4 SUBMISSION

ON BEHALF OF

PROLOGIS UK LIMITED AND PROLOGIS UK 121 LIMITED

Executive Summary

This Deadline 4 Submission on behalf of Prologis UK Limited and Prologis UK 121 Limited advances three central propositions:

1. SEGRO's failure to provide essential evidence with its application continues to compromise the fairness of the examination process. Three months into the six-month examination, evidence central to the compulsory acquisition case remains outstanding. Key stages of the examination have passed without Prologis having sight of the material necessary to understand and respond to the case being made to justify the taking of its land. The belated provision of this information will not cure the procedural disadvantage already suffered. Further, Prologis respectfully requests that the ExP convene further compulsory acquisition and viability hearings to allow for more detailed scrutiny of SEGRO's case.

2. The DCO Application as made does not correspond to the development specified in the Section 35 Direction. The Direction was granted for a project including a "substantial carbon neutral campus/headquarters" that was presented as integral to the scheme's national significance. SEGRO has since stripped out that defining feature and now proposes a conventional logistics development with, at most, ancillary office provision. This fundamental mismatch raises a vires barrier to the lawful grant of the DCO in its current form and a further issue with the sufficiency of the Environmental Statement.

3. The compelling case test for compulsory acquisition is not satisfied. It is important to identify those benefits truly attributable to the exercise of compulsory acquisition powers when applying that test. The vast majority of benefits claimed by SEGRO would be likely to accrue regardless of whether compulsory powers are granted.

Content relating to the vires issue and the Section 35 Direction, the Joint Application's highways mitigation and the implications of the Rule 17 Letter, has been addressed in full in Prologis' responses to ExQ2 and its joint submission on the Rule 17 Letter (available at Appendix 6 to this Submission). Those responses should be read alongside this Submission.

1 Introduction

1.1 This submission comprises the submission of Prologis UK Limited and Prologis UK 121 Limited as at Deadline 4 of the Examination into the East Midlands Gateway Phase 2 DCO and the East Midlands Gateway Rail Freight Interchange and Highway Order 2016 MCO ("**Submission**"). At Appendix 1 to this Submission, Prologis has identified where individual Action Points have been addressed within the main text and has provided separate responses to other Action Points.

1.2 This Submission is interim in nature in relation to certain respects. At CAH2 and ISH3 SEGRO indicated that it would bring forward, at Deadline 4, both a revised requirement directed at the need to bring its application into alignment with the Section 35 Direction and a substantial written response to the viability evidence of Mr Peter Roberts FRICS CEnv of DWD[1] (the "**DWD Report**"). As at the date of this submission that material has not been provided to Prologis. Prologis therefore further reserves its position in respect of this material and reserves the right to respond to both at a later date. Prologis notes that it has been required repeatedly to do so owing to the failure of SEGRO as applicant to provide information or carry out assessments which should have been made available from the outset of the process.

1.3 The ExP has issued a Rule 17 letter dated 2 June 2026 ("**Rule 17 Letter**") which contains a number of determinations and requests that are highly material to Prologis' case. The ExP's letter seeks to

[1] Please see Annex A of Prologis' Deadline 3 Submission

address some of the lacunae that Prologis has identified. Prologis and EMA have provided a separate joint submission in response to the Rule 17 Letter, which addresses the ExP's reasoning and the procedural and substantive implications of its requests in detail. A copy of this submission is available at Appendix 6 to this Submission. As to SEGRO's eventual updates to the Environmental Statement, which are due to be received by Deadline 5 (30 June 2026), Prologis anticipates that it will be able to consider and subsequently respond no sooner than Deadline 6 , but this is subject to the procedural points that it has made in response to the Rule 17 letter and will only be able to confirm its position when it has sight of the anticipated submissions by SEGRO.

1.4 There are inevitable overlaps between the subject matter of these submissions, Prologis's responses to ExQ2 and its response to the ExP's Rule 17 Letter. Cross-references to those responses are provided where relevant.

1.5 Terms used in this Submission have the same meaning as set out in Prologis' previous submissions unless otherwise defined. Nothing in this submission should be taken as acceptance of any matter not expressly addressed.

2 Procedural fairness

2.1 Prologis has consistently raised substantial concerns as to the overall fairness of the examination process in this case. It did so in the Relevant Representations submitted before the decision was made to start the examination, in written and oral submissions ahead of and at the Preliminary Meeting, and in its Written Representations. Those concerns are not rehearsed in any detail here, but the ExP will be aware that in many respects they stem from the patent and substantial shortcomings in the material produced by SEGRO in support of its application for powers of compulsory acquisition over the land held by Prologis and EMA, and the consequential adverse effects on the efficacy of the inquisitorial examination process as a means of defining, scrutinising and testing the case being made in support of that application.

2.2 Those concerns remain and have been further exacerbated by the continued lack of adequate information and evidence, much of which is still awaited after three months of the six-month examination.

2.3 The efficacy of a time-limited inquisitorial examination under the Planning Act 2008 depends critically on adherence to the principle of a 'front-loaded' process which enables Interested Parties and Affected Persons to understand, assess and respond to the Applicant's full case before the examination commences, and to deploy their full response at a time when this can inform the way the inquisitorial examination is run. That allows the parties a fair opportunity to make effective use of the formal stages provided by the process to set out their case in writing and orally, and in turn enables the ExP to deploy the procedural tools at its disposal to probe and test the evidence.

2.4 Where a private commercial developer seeks to acquire compulsorily the land of another private commercial developer, the Supreme Court in *R (Sainsbury's Supermarkets Ltd) v Wolverhampton City Council* has confirmed that a stricter approach to the assessment of the public interest case is required. That heightened standard places a corresponding emphasis on rigorous examination, which in turn requires that Prologis and other parties are afforded sufficient time to test the evidence adduced in support of the compulsory acquisition case, and that assertions unsupported by tested evidence cannot be permitted to stand in for the evidence itself.

2.5 Regrettably, throughout this examination[2] Prologis has been required to respond to an application that has been accepted and then proceeded through examination with evidence central to the CA case outstanding. This was demonstrated by the events of the CAH2 and ISH3 hearings which took place between 12 - 14 May (the "**May Hearings**"). In those hearings, SEGRO indicated that further and revised material was to come, including a revised campus/headquarters requirement and its

[2] As summarised at paragraphs 1.6 – 1.7 of Prologis' Deadline 3 Submission

substantive viability response. The ExP has itself had to issue a number of further requests for information through the subsequent hearing action points.

2.6 The information that SEGRO has yet to provide should all have been submitted as part of its application. As the joint response to the Rule 17 Letter explains in detail, the material SEGRO has now been asked to supply at Deadline 5 (30 June) is fundamental to the case being advanced in support of the application for powers of compulsory acquisition and will require consequential revisiting of and amendments to its Statement of Reasons. Prologis should have been given the opportunity to review and respond to this material and a properly comprehensive Statement of Reasons reflecting that material when preparing its Relevant Representations and Written Representations. That in turn should have been available to inform the ExP's decisions on how the application should be examined, its first two rounds of written questions and the two weeks of hearings (including Compulsory Acquisition Hearings) undertaken so far (noting that no decision has yet been made as to whether any further hearings will be held). All of these key stages of the examination process have now passed and still essential information needed to understand the case being made for compulsory acquisition (and for satisfying the Secretary of State that he has *vires* to make the order sought) remains outstanding. As explained further in Prologis' joint response to the Rule 17 Letter, this essential information constitutes further information for the purposes of Regulation 20 of the EIA Regulations and the examination must be paused to allow proper consideration of that information when it is available.

2.7 As explained in more detail in Prologis' Deadline 3 Submission, the belated provision of viability, transport and socio-economic material will not therefore cure the procedural disadvantage Prologis has suffered in preparing and presenting its case. That disadvantage is ongoing. It continues to affect Prologis' ability to provide complete responses, to participate fully in hearings, and to respond to the case being made compulsorily to acquire the land it is actively seeking to develop.

2.8 The absence of key information has not only adversely affected Prologis's ability to provide a comprehensive and timely written articulation of its full case, it also serves to undermine its ability to make effective use of its statutory right to make oral representations about the compulsory acquisition request through Compulsory Acquisition Hearings (section 92(3) and (4)).

2.9 CAH1 and CAH2 took place in the absence of that key information. They did not therefore provide Prologis with an opportunity to make oral representations on and in the light of that material, and nor could the ExP use those hearings to probe and test that material and its implications.

2.10 CAH1 was in any event a relatively brief hearing, arranged for half a day and primarily directed to affording SEGRO an opportunity to provide an overview of the main elements of its case and other matters such as the position of statutory undertakers and special category land. In the Rule 6 letter, Affected Persons were informed that they were welcome to attend and to raise matters of general application, but that the intention was to hold a second CAH later in the examination to deal with any site-specific matters raised by Affected Persons.

2.11 The Compulsory Acquisition Hearing within the May Hearings provided very limited opportunities for Prologis and EMA to advance and develop their case through oral representations. CAH2 was time constrained as a result of an Open Floor Hearing being scheduled on the same day, and therefore only commenced at 11.40am. The specific cases for Affected Persons were dealt with under item 3, but in the event, it was not possible to complete all of the matters identified under item 3.2 within the day and two important points under item 3.2 had to be deferred to written submissions. Prologis has addressed those two matters in its response to the Rule 17 Letter (from which it will be apparent that the ExP would have benefited from hearing oral submissions on those points at CAH2 had time permitted). Although Prologis and MAG have made extensive written submissions on compulsory acquisition across their Relevant Representations, Written Representations, Deadline 2 and Deadline 3 Submissions, the opportunity to make oral representations at CAH2 was tightly constrained – a single ten-minute presentation on the Joint Application and a combined sixteen minutes shared with MAG to summarise the entire compulsory acquisition case across multiple plots. The remaining time was dedicated to questions from the ExP. The limited time available for these

questions and the short time[3] in which the ExP had to digest the viability evidence belatedly presented by SEGRO inevitably constrained the degree to which it was possible to probe the issues raised by the DWD Report.

2.12 Only a limited degree of scrutiny was possible of the incomplete viability material available at the May Hearings. SEGRO's response to Prologis's evidence on viability had not been provided, because of the late stage at which SEGRO's own viability evidence was submitted. In this way the failure by SEGRO to supply essential material with the application was directly prejudicial to the efficacy of the oral hearing to which Prologis is entitled. To make matters worse, Prologis's ability to interrogate and respond to SEGRO's belated viability evidence had been hampered by the failure of SEGRO to supply its cashflow analysis – a matter Mr Roberts explained in his expert report. At CAH2 SEGRO indicated that it had decided to withhold this material despite it being requested, and would only provide its cashflow analysis on terms that Prologis first disclose its own confidential cashflow material. As Leading Counsel for Prologis explained in the CAH, that is not a position of equivalence. It is SEGRO that seeks compulsory acquisition powers over Prologis' land in reliance on viability considerations, and it is therefore SEGRO that bears the burden of making out its case and of providing the evidence necessary to enable that case to be tested. It is wholly inappropriate for the disclosure of an essential part of SEGRO's evidence in support of its application for powers of compulsory acquisition to be made contingent upon the affected person first surrendering commercially confidential information.

2.13 The consequence of these constraints – not merely the absence of cashflow material, but the broader failure to provide viability evidence at the outset and the unresolved questions that remain– is that there has been very limited consideration of viability within the examination to date, and no proper opportunity for Prologis to probe and test what has been said by SEGRO on this central issue. These deficiencies go to the heart of the compulsory acquisition case. Without properly tested viability evidence, the ExP cannot be satisfied that the scheme is likely to be delivered, or that development of the Southern Land is only likely if compulsory acquisition is authorised.

2.14 Prologis has subsequently seen and welcomes the ExP's second written questions (ExQ2) which enables progress towards the level of interrogation required of SEGRO's case for CA.

2.15 Prologis agrees with and endorses the concerns raised in section 4 of EMA's Deadline 4 submission relating to procedural fairness.

2.16 Prologis requests that this submission, and its wider case, be read in that context – as submissions made in the course of an examination which has not yet achieved the rigorous standard of scrutiny that a private-to-private compulsory acquisition case demands. To that end, and to ensure that the compulsory acquisition case and the viability case are subjected to the scrutiny their importance and the findings of the Courts demand, Prologis respectfully requests that the Examining Panel convene a further compulsory acquisition hearing and a separate hearing dealing specifically with viability to fully and properly interrogate SEGRO's viability evidence. Prologis cannot, at this stage and before sight of SEGRO's Deadline 4 viability response, say whether the cross-examination of witnesses will ultimately be necessary; it reserves its position on that question and will make any request for cross-examination at Deadline 5, once it has been able to consider SEGRO's further material.

3 Section 35 Direction, Vires, and Campus Headquarters

3.1 As section 2 of Prologis' Deadline 2 Submission explains, any application made in reliance on a section 35 direction must correspond with the project specified in that direction. If it does not, the making of that DCO would be ultra vires. A different project would obviously be outside the direction, whereas a lesser project would not be that which justified the finding as to national significance that was made by the Secretary of State. Those detailed submissions are not repeated here, but the ExP is asked to revisit them to see the full context for the submissions that follow.

[3] Being just 7 days from SEGRO's submission of the evidence and the publication of the CAH2 agenda

3.2 The principle that flows from this is that the development consented must not merely be capable of falling within (i.e. being a sub-set of) the Section 35 Direction for the DCO Application, but must match the development for which the Direction has been made, both in terms of what is sought to be approved in the application and what is secured on the face of the DCO. The DCO Application and the DCO must deliver the development to which the Section 35 Direction applies. To permit otherwise would be to allow the Section 35 Direction to operate as a pretext, using the nationally significant status conferred upon the development specified in the application which secured it as a vehicle to consent a development materially different from, and/or less significant than, that which the Secretary of State directed.

3.3 Underpinning this is the separation between the two statutory processes of making a direction and determining a DCO application, which Prologis addresses more fully in its response to ExQ2 1.0.5. Once made, a Section 35 Direction fixes the jurisdictional gateway and cannot be reshaped at the decision stage. As further submitted in that response, if the development changes beyond the scope of the underlying section 35 direction, the proper course is to seek variation under section 233 PA 2008 before making the application.

3.4 Determining whether a variation should have been sought prior to Examination in the present case involves answering two questions of law (1) what is the meaning and scope of the Section 35 Direction, properly interpreted, and (2) what development is SEGRO in fact seeking consent and compulsory acquisition powers for? Once both questions are answered it will be necessary to compare the two answers and determine whether the latter corresponds with the former and therefore whether the granting of the DCO would be lawful.

3.5 In approaching that exercise, it is important to recognise that the Section 35 Direction represents the exercise by the Secretary of State of a statutory function with important jurisdictional consequences and consequences for the human rights of those affected, including – critically – the ability of the developer to seek powers of compulsory acquisition. Furthermore, it is also important to keep in mind, as explained in Prologis's Deadline 2 submissions, that it is a statutory function that is exercised in response to an application that must 'specify' the development to which it relates (s.35ZA(11)).

3.6 As per Prologis' response to ExQ2 1.0.5, that is all reflected in the fact that section 35 Directions always draw the attention of the applicant to the need to revisit the direction should the description of the development change. Parliament has provided an express power for the Secretary of State to revoke or vary a direction which provides the appropriate and exclusive route for dealing with such circumstances (s.233).

Section 35 Direction Analysis

3.7 To date, SEGRO has not demonstrated that the development being promoted corresponds with the development for which the Section 35 Direction was granted.

3.8 The Section 35 Direction was granted in respect of (emphasis added):

> "*a logistics and manufacturing hub, including a substantial carbon neutral campus/headquarters including co-located head office functions*".

The legal meaning of those words is a matter of construction. In its submissions since, SEGRO has sought to contort the Section 35 Direction against the natural meaning of its words. The resulting claim being that what was envisaged by and in the mind of the Secretary of State is very different to what the ordinary meaning of the words of the Section 35 Direction would lead one to believe. A few propositions which SEGRO has sought and may further seek to rely upon in this respect should be closed off:

Campus

3.9 The proposition relates to what is required by a 'campus/headquarters'. Prologis submits that a campus, on any ordinary understanding of the word, connotes (as a minimum) multiple buildings arranged around a landscaped setting, not a single distribution unit with an integrated ancillary office.

On any proper construction of the Direction, the term “campus/headquarters” carries this ordinary meaning.

3.10 This position is supported by the Section 35 Application documents which specified the development to which the application related, describing the campus/headquarters as comprising "*both logistics warehousing and co-located head office functions*" requiring "*a high quality, comprehensively master planned environment*". The Section 35 Application documentation envisaged a headquarters of the kind that a major commercial occupier like Maersk would require – indeed the application specifically referenced the ambition "*to bring together its UK operation to create a carbon neutral inland port with access to rail, road and air*". The whole was to be "*set within a high quality and attractive landscape setting*" including "*a 28 ha (70 acre) landscaped community park*". These descriptions further reinforce an image of multiple buildings across multiple functions coming together in a cohesive masterplan including an attractive landscape.

3.11 The Vision Document (Appendix 4 to the Section 35 Application) presented this masterplan[4] with genuinely campus-like components: a standalone office building distinct from the warehouse provision (Unit 3b) served by car parking spaces, a two-storey hub (Unit 3c) with associated sports facilities, a chilled warehouse with two-storey offices and a separate transport office (Unit 3a); and a plot expressly named "Plot 1 – Campus Development" consisting of a warehouse and multiple offices. Taken together, those elements occupied roughly a third of the s35 Direction site and conveyed something materially more than a conventional logistics scheme and more akin to the number of corporate campuses found around the country, where a large company of strategic importance draws together disparate functions on a single landscaped site so as to benefit from the synergies of co-location.

3.12 An example of such campus/headquarters is provided by the recently approved Frasers Group headquarters campus at Rugby. That scheme is arranged around a central "Campus Heart" and combines an office headquarters and supplier hub, logistics warehousing, research and development facilities, a learning and development academy and leisure facilities amongst other functions. This comparator is offered as illustrative of the concept the application for the Section 35 Direction was describing and therefore what the Direction itself contemplated when using that term. That is recognisably a campus and is akin to what was proposed in SEGRO’s Section 35 Application documentation.

Ancillary Offices

3.13 The Section 35 Direction requires the campus headquarters to include “co-located *head* office functions” (emphasis added). The term “head office” carries a specific connotation. It denotes the principal administrative centre of a business which has multiple other subordinate offices, the place from which the organisation is directed and controlled. In planning terms, a head office use of that character falls within Use Class E(g)(i) as a primary use, not as an element ancillary to the use of an individual warehouse or distribution unit.

3.14 However, at the May Hearings, SEGRO’s counsel submitted that the head-office element could be limited to an ancillary use of an individual warehouse unit rather than having the status of a primary Use Class E head office. No coherent explanation was offered as to how a use that is, by definition, subordinate and incidental to the use of an individual warehouse unit could satisfy the Section 35 Direction’s requirement for “co-located *head* office functions”. That reticence is telling. The position is difficult to explain because it requires the words of the Section 35 Direction to be read against their natural meaning and the established principles of ancillary use.

3.15 Before considering the matter in detail, it is necessary to stand back and consider the overall position by reference to the Application for the s.35 Direction, the Direction itself, and the statutory context of a determination that the development specified in the Application “is of national significance”. When that is done, it is simply not credible to argue that the specific inclusion in the description of the development to which the Direction applied of the words “*a substantial carbon neutral campus/headquarters including co-located head office functions*” was describing a typical ancillary

[4] Please see Appendix 5

office within and serving a typical warehouse/distribution unit. That is plainly not what the Application or the Direction was contemplating, and as a purely ancillary use it would (a) not need to have been mentioned at all in the Direction and moreover (b) not have been worthy of mention in identifying a development of national significance.

3.16 As Lord Denning explained in *Brazil*[5] when setting out what constitutes an ancillary use: a store may use part of its premises for offices and for packing articles for dispatch, but the character of the whole is determined by its primary use as a shop. In other terms, uses that are subordinate and incidental to the primary use can correctly be considered as ancillary. Here, the term "headquarters" is given equal status with the campus, with head office functions being part of that development.

3.17 The established case law confirms that a use which is not itself tied to the operations of the primary use of the relevant planning unit cannot be characterised as ancillary. Prologis understands that SEGRO intends to develop its position on this issue in its forthcoming submissions. Prologis reserves its position until it has had the opportunity to consider those submissions and will respond in due course.[6]

3.18 Notwithstanding the need to see SEGRO's full position, it is important to record that the courts have emphasised that the ancillary use principle must not be deployed to circumvent planning control over substantial commercial functions. As Schiemann LJ put the point in policy terms, planning is concerned with "*avoiding the opportunity to bypass a careful scrutiny of activities which do impact severely (or can do) on neighbours*"[7]. Where a secondary use has grown in scale, or where it is not operationally dependent on the primary use in the sense described above, it ceases to be ancillary and falls to be treated as a primary use in its own right.

3.19 On any fair reading of the Direction, the "co-located head office functions" contemplated are of a scale and character that would contribute to the national significance of the proposed development and constitute a primary Use Class E(g)(i) use, not a subordinate incident of the logistics operations of a typical individual warehouse unit. Such a description at least describes the free-standing office function at the proposed development that was shown in the plans accompanying the request for a section 35 direction. No reasonable construction of the Direction permits a diminished interpretation.

The meaning of 'substantial'

3.20 At the May Hearings, SEGRO contended that "*substantial*" qualifies only the carbon-neutral element of the directed development and does not attach to the campus/headquarters element. That reading is untenable. The placing of "substantial" qualifies the entire concept that follows. On any natural reading, the adjective "substantial" governs both "carbon neutral" and "campus/headquarters" and does not attach exclusively to the carbon neutral element. The language leads to only one sensible construction: the development is to be a substantial campus and substantial headquarters that in each case is also carbon neutral.

3.21 That natural construction of the words used in the Direction is confirmed by the context of the Section 35 Application to which it responded, which (as per the above analysis) envisages a headquarters of material scale and significance, not merely an ancillary office function that is *substantially* carbon neutral. The word "substantial" was plainly intended to convey that the campus and the headquarters elements would be significant components of the development in its own right. Had that not been intended, it would have been necessary to qualify the term "headquarters" in case the word "substantial" was taken to apply to it.

3.22 The practical consequence of this construction is that the development must include a headquarters/campus of material scale – one that is recognisably "substantial" in ordinary parlance having regard to the statutory context (i.e. a determination that the development as specified in the Application is of national significance). By its very nature, the Section 35 Direction required

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5 *Brazil (Concrete) v Amersham RDC* (1967) 18 P. & C.R. 396, page 399

6 *Harrods Ltd v Secretary of State for the Environment, Transport and the Regions* [2002] EWCA Civ 412 ("**Harrods**")

7 *Harrods* [22]

something that would contribute to the national significance of the project. A campus/headquarters of sufficient scale, character and independence to warrant the conferral of nationally significant status.

3.23 Therefore, drawing the three threads together, the Section 35 Direction, properly construed and within the ordinary meaning of its words, envisages a substantial, recognisable campus/headquarters including head office functions of the kind described in the Section 35 Application documentation and to be expected when considering the size and economic importance of the company being envisaged as potential occupiers. First, “substantial” governs the campus/headquarters as a whole, and not the carbon-neutral characteristic alone. Second, the “co-located head office functions” are a primary Use Class E use, not an element ancillary to an individual warehouse. Third, “campus” carries its ordinary meaning of multiple buildings in a landscaped setting. Taken together, those points describe a development of real scale, character and independence – indeed the very features relied upon in the Application to confer national significance.

Current Proposal

3.24 There is a clear and substantial divergence between the development that is specified in the Direction and the development for which SEGRO seeks development consent.

3.25 SEGRO has indicated in oral submissions that its position will be developed through a further requirement and accompanying written submissions at Deadline 4. Prologis echoes the ExP's anticipation in seeing exactly how SEGRO seeks to justify its stance, and will respond in more detail once this has been done.

3.26 In the meantime, it is instructive to compare the masterplan provided to the Secretary of State in the Section 35 Application documentation (see paragraph 3.11 above) with the masterplan that now underpins SEGRO’s viability material. The latter has stripped out the very features identified in the Direction.[8] The standalone offices, the hub and the sports facilities have been removed and replaced with two standard warehouse units, leaving only a single unit carrying the (unexplained and apparently arbitrary) label "Plot 1 - Campus Development". However, this unit is described as comprising a warehouse, gatehouse and offices – the same three functions shared by every other unit illustrated on the masterplan, and indeed on masterplans and planning permissions for many other typical/standard logistics developments around the country. It is therefore unclear how this configuration of units differing in size but of the exact same functions can be regarded as the nationally significant corporate campus and free-standing headquarters described in SEGRO's s35 submission and the s35 Direction.

Reconciling the Section 35 Direction and the DCO Application

3.27 As explained above, this exercise first requires two legal questions to be resolved. The scope for the decision-maker to exercise judgment as to whether what is proposed does or does not match the development specified in the Direction is correspondingly and necessarily limited in nature. It is constrained not only by the legal meaning of the terms of the Direction and the simple nature of the exercise of comparing that with the description of development sought and secured, but also by the public law requirements to act reasonably, rationally and consistently with the legislative objectives. It is not open to the decision-maker to form the judgment that the two correspond if, on any reasonable reading of the materials, they plainly do not.

3.28 In the present case, there is no reasonable basis on which the Secretary of State could form the judgment that the development as applied for corresponds with the development to which the Direction applies. What was relied upon in the Application and the Direction to justify designating the scheme as nationally significant has fallen away. What SEGRO is in fact applying for is a conventional logistics development with, at most, ancillary office provision and some manufacturing capability. On any reasonable reading of both sets of documents, the gulf between them is too wide to bridge by the exercise of the nature of the judgment identified above. The decision-maker cannot

[8] A comparison of these masterplans is available at Appendix 5.

reasonably form the view that what is proposed fits the legal meaning of what the s35 Direction describes

Consequences of divergence

3.29 SEGRO could, and should, have revisited the Direction before making its application and, if it thought the development it intended to apply for was also nationally significant, invited the Secretary of State to exercise his power under s.233 to vary the Direction accordingly. It chose not to do so. As Prologis explained at paragraph 2.24 of its D2 submissions, this is not a matter than can be addressed through the use of a requirement. SEGRO has only two potential options available to address the jurisdictional issue:

(a) It could seek to amend the application to bring it within the scope of the section 35 Direction (supported by any additional assessments that may be required as a result); or

(b) It could withdraw the application.

3.30 No other viable option has been identified.

Lack of assessment

3.31 The form the proposed development would take if amended to satisfy the Section 35 Direction has not yet been identified by SEGRO. Nor has any such development been properly assessed (either for the purposes of the EIA Regulations or more generally). There is no traffic assessment for a headquarters use that is more than an ancillary office, and the Environmental Statement does not assess the traffic, environmental or other effects of the substantial head-office function the Section 35 Direction contemplated – and that the request for the s35 Direction illustrated. The viability evidence likewise has not assessed a scheme that includes a substantial head office function with associated facilities reflecting the changes to the net developable areas that such a scheme would entail. As already submitted in Prologis' Deadline 2 Submission at paragraph 5.2(b), neither the ExP nor the Secretary of State can properly evaluate the public benefits or environmental effects of a development that has not been assessed.

3.32 The consequence is that the Secretary of State is faced with a stark choice. If the DCO is to be granted for the development as applied for it cannot lawfully be granted pursuant to the Section 35 Direction, because that development does not correspond to what was directed. If, on the other hand, the DCO is to be granted for a form of development as described in the s35 Direction and the submission that requested it, that form of development has yet to be defined either in the dDCO or otherwise and there is no environmental assessment before the Secretary of State that evaluates such development. In either case, there is a fundamental obstacle to the lawful grant of the DCO in its current form or, if amended, as described in the s35 Direction.

Case for compulsory acquisition

3.33 Finally, even if SEGRO were able to demonstrate that what is proposed could fall within the scope of a "substantial carbon neutral campus/headquarters" it is not a development of the significance contemplated by the Section 35 Direction. In weight terms it would be no different from any other similarly sized B8 distribution scheme – such as those which Prologis would deliver under the Joint Application. That has direct consequences for SEGRO's CA case. As already submitted in Prologis' Deadline 2 Submission at paragraph 5.2(a), the Section 35 Direction is the foundation for the claim that delivery of this development attracts particular weight because of the specific description of development that resulted in the classification as of national significance, and if the development as proposed does not in truth carry meet that description, the compelling case in the public interest required for its delivery in the section 122(3) balance is correspondingly diminished.

Draft Requirement

3.34 The draft Requirement 32 and Article 5 as they stood at Deadline 1 do not and could not cure the vires difficulty relating to the mis-match between the DCO Application and the s35 Direction. As already submitted in Prologis' Deadline 2 Submission at paragraphs 2.21 to 2.33, the requirement is

purely contingent: it applies only if a campus comes forward, and it does not secure the delivery of the element that was integral to the Section 35 Direction.

3.35 At the May Hearings, SEGRO indicated that it now proposes to bring forward a different and more onerous requirement, which Prologis has not yet seen. Once again, Prologis reserves its position on that revised requirement and will respond once it has been able to consider it. For present purposes, the essential point stands: until the divergence between the development as directed and the development as applied for is resolved, there is no jurisdiction to grant the DCO, and consequently none to authorise the compulsory acquisition that depends upon it.

4 Compulsory Acquisition Test

4.1 At the May Hearings, SEGRO sought to downplay the implications of what was said by the Courts in the *Prest* and *Rothschild* cases (see Prologis's Deadline 2 Submissions[9]) by characterising the granting of CA powers and hence satisfaction of the tests as commonplace. That argument is entirely devoid of any substance or logical force. The simple fact that in another case (or any number of other cases) an acquiring authority has been able to demonstrate through its case-specific evidence that the demanding tests set by Parliament are met on the facts of that case proves nothing for the purposes of this case. It cannot indicate that the nature of the test is anything other than has been described by the courts, because that is a matter of law. Nor can it assist the ExP or the Secretary of State in applying the test to the facts and the evidence in this specific case. In short, it is an irrelevance.

4.2 SEGRO's reliance upon *London Borough of Bexley v Secretary of State*[10] does not advance its case in any material way either. In the *Bexley* case, compulsory acquisition powers were sought for an urban regeneration scheme in which a public authority took the lead and one developer is preferred over another. Reliance on that case does not materially assist SEGRO in the present case for three reasons:

(a) The CA powers in *Bexley* were available only to a public authority, namely the local planning authority. The fact that an authority may then partner with a commercial developer does not alter the essential point - it is the public authority, acting in the public interest, that holds and exercises the power, in discharge of its public functions, not the developer. A local planning authority will have selected a developer – in all likelihood by open, competitive means. That is very different to circumstances in which a private developer itself seeks compulsory powers against a commercial rival to achieve a competitive advantage it failed to achieve through normal open market competition. As Prologis submitted in its Deadline 2 Submission that distinction attracts a stricter approach to the assessment of the public interest.

(b) Further, *Bexley* does not provide any response to the case that Prologis has advanced. The court held that achieving a better scheme was "*potentially capable*" of justifying interference with property rights[11], but in itself that is unsurprising. Whether that is the case in any individual set of circumstances requires the decision-maker to weigh the degree of improvement of the compulsory-purchase-dependent scheme over what could be achieved without those powers, against the extent of the interference, and to ask whether the means are proportionate. That is the exercise to which Prologis's extensive written submissions and the oral submissions it has made so far have been directed. In other words, Prologis's case already assumes and reflects the principle endorsed in *Bexley*.

(c) Third, the *Bexley* case turned on its own facts – the Council owned the majority of the site and was committed to the rival scheme by legal agreement, it was unclear how the benefits of the scheme could be obtained without the compulsory purchase order and the objector had itself engaged in surreptitious land acquisition through a nominee company. None of

[9] Please see paragraphs 4.10 – 4.13 of Prologis' Deadline 2 Submissions

[10] *London Borough of Bexley v The Secretary of State for the Environments Transport and the Regions [2001] EWHC Admin 323 ("***Bexley***")*

[11] *Bexley* [36]

those features is present here. On the contrary, Prologis is a willing, capable and funded developer that can deliver materially the same benefits on land it already controls, so the degree of improvement said to flow from compulsory acquisition is, at most, marginal.

Far from assisting SEGRO, *Bexley* confirms that a comparative and proportionate assessment is required - and that assessment goes against the DCO sought.

4.3 In Prologis' Deadline 2 and Deadline 3 Submission (paragraphs 5.3-5.4 and 4.3-4.4 respectively), a distinction has been drawn between benefits which are merely additive (i.e. benefits that would be likely to accrue regardless of whether compulsory acquisition powers are exercised) and those which are properly attributable to the exercise of compulsory acquisition powers (i.e. benefits that could only be achieved through the use of those powers). SEGRO's response has gone no further than to state that this distinction is not established by any decisions of the courts. That point is devoid of substance. The distinction is based in logic and follows from the nature of the section 122(3) test. Either the logic is sound or it is not – and the fact that no court has yet been required to rule on the point in a contested case is a neutral factor. In this respect it is telling that SEGRO has chosen not to grapple with the substance of the point.

4.4 However, the essential underlying principle can be seen reflected in the case law. For an example of this, see the *De Rothschild* dictum that:

> "*no reasonable Secretary of State would confirm a compulsory purchase order, imposing a purchase on an unwilling landowner, if that same landowner was willing to sell to the acquiring authority land which would be seen to serve equally well for the same purpose after all relevant considerations, including of course cost and delay, have been taken into account."* [12]

This formulation necessarily requires the decision-maker to ask: what is the purpose for which the land is said to be required, and can that purpose be achieved without compulsory acquisition? If the purpose can be achieved without compulsory acquisition, then the interference with the landowner's property rights is not justified, the land is not "required" within the meaning of section 122(2)(a), and the compelling case test under section 122(3) is not met. The corollary is that, when assessing whether the public interest compellingly justifies compulsory acquisition, only those benefits that are attributable to the exercise of compulsory acquisition powers – that is, benefits that could not be achieved without those powers – can properly be placed in the balance. Benefits that would accrue regardless of whether compulsory powers are exercised are not benefits that could properly justify the use of those powers.

4.5 The additive/attributable distinction is thus a necessary step in the reasoning required to apply the section 122(3) test correctly. The question is not whether the DCO Scheme delivers more benefits than the Joint Application, but whether the additional benefits can be delivered *only* through the exercise of compulsory acquisition. In the present case the vast majority of those benefits cannot, and those that remain do not justify the interference with private property rights for the reasons already provided by Prologis in its previous submissions.[13]

5 Likelihood and Delivery of Benefits

5.1 This section responds to the ExP's request (at AP31, and as developed in the Rule 17 Letter) to clarify the meaning of "likely" under the EIA Regulations, and to address whether the displacement of the socio-economic benefits of the Joint Application should be assessed as a likely significant effect. The point is central to Prologis' wider case. If those effects are likely, they must be assessed against the future baseline and carried through into the section 122(3) balance, for the reasons below.

The meaning of "likely" and the displacement of the Joint Application's benefits

[12] *R. v Secretary of State for Transport Ex p. De Rothschild* [1989] 1 All E.R. 933, pg 341

[13] See for example paragraph 4.4 of Prologis' Deadline 3 Submission

5.2 For the purposes of the EIA Directive and the EIA Regulations, "likely" connotes a real risk rather than a probability. As confirmed in *R (An Taisce (National Trust for Ireland)) v Secretary of State for Energy and Climate Change*, a real risk is one which is more than a bare possibility, but which does not require proof that the effect will probably occur. In any given case a number of different outcomes may each be "likely," such that each falls to be assessed. Prologis welcomes the ExP's express acceptance of that test, and of its application, in the Rule 17 Letter.

5.3 It follows, and the ExP has now determined, that the displacement of the socio-economic and environmental benefits of the Joint Application upon the grant of the DCO with compulsory acquisition powers (the "delivery scenario") is a likely significant effect that the Environmental Statement must assess against the future baseline. That conclusion vindicates the position Prologis has advanced since before the commencement of examination in its Relevant Representation, and which SEGRO itself effectively conceded at CAH2 when it accepted that implementation of the DCO scheme would displace the Joint Application's benefits and described that displacement as "*extremely probable*"[14].

The realistic possibility of non-delivery of the DCO Scheme

5.4 The non-delivery scenario also clearly satisfies the “likely” threshold for the reasons Prologis has given in its Written Representation at paragraphs 4.7 – 4.16.

5.5 Prologis therefore welcomes the ExP's determination (in the Rule 17 Letter) that the non-delivery of the DCO scheme (the "non-delivery scenario") is a likely significant effect that must be assessed, and that the absence of physical works does not take that scenario outside the definition of a project for EIA purposes.

The consequences for the compelling-case test

5.6 The realistic possibility of non-delivery, partial delivery or delayed delivery of the DCO scheme feeds directly into the application of the compelling-case test, and the ExP's Rule 17 determinations have brought that point into even sharper focus. Now that the ExP has rightly determined that there is a real risk of non-delivery and consequential sterilisation of the Joint Application's benefits, that risk must also be carried into the section 122(3) balance. As explained in more detail in the joint response to the Rule 17 Letter, SEGRO must accordingly revisit and revise its Statement of Reasons, which is unfit for purpose because it misunderstands the section 122(3) test and misappraises the elements (most notably the assessment of alternatives) that feed into it.

Southern Land

5.7 As explained in the joint response to the Rule 17 Letter, the way the ExP framed this issue in the agenda for CAH2 and addressed it in the Rule 17 Letter does not reflect how Prologis has expressed this part of its case.

5.8 The submissions and evidence as to the likelihood that development of the Southern Land would come forward in a no-CA/no-DCO scenario have not been advanced on the basis that this should form the baseline for that land in an EIA context.

5.9 What Prologis has said about EIA is directed towards the Prologis/EMA land, where the issue raised by the question in the CAH2 agenda and picked up in the Rule 17 Letter does not apply.

5.10 In respect of the Southern Land, the issue is raised squarely in the context of what would happen if no CA powers were granted. It concerns the exercise of judgment as to the prospects of development of a similar nature to that proposed coming forward in those circumstances. That is not a concern about EIA baseline but is instead a necessary step to properly evaluate the claimed benefits said to derive from the exercise of CA powers. If the judgment is formed that there are good prospects that

[14] Please see 36:50 of Hearing Transcript – Recording of CAH2 (Part 2)

the Southern Land would be likely to be developed absent the use of CA powers, that necessarily diminishes the weight that can attach to the benefits claimed for the exercise of CA powers.

5.11 It is a point made, therefore, as to how the CA/compelling case should be approached and what needs to be considered as part of that exercise, not as an allegation that the EIA is inadequate.

6 Viability

6.1 The single joint Excel spreadsheet prepared in response to AP35 (the "**Viability Spreadsheet**") , setting out the respective valuations side by side with formulae retained, is submitted separately by reason of its format.

6.2 It is important to be clear as to the status of the figures contained in the joint spreadsheet. They are a reworking of SEGRO's and Mr Cottage's own assumptions. They are a snapshot in time and are subject to the appropriate health warnings noted therein. They are not alternate valuations proposed by Prologis. Again, Prologis reserves the right to update the spreadsheet at Deadline 5 in the light of SEGRO's Deadline 4 viability response, and to probe further inputs that SEGRO may still disclose. There are two essential points to be drawn out of the Viability Spreadsheet:

(a) Firstly, on SEGRO's own costs and revenues, once a realistic market land value is paid for the Prologis/MAG Land at the 15% profit on cost that SEGRO itself identifies as the minimum acceptable return, the DCO Scheme does not achieve the 15% profit on cost hurdle rate which SEGRO accepted as the minimum. As already submitted in Prologis' Deadline 3 Submission at paragraph 2.2(b), SEGRO's Viability Appraisal[15] records a profit on cost of only 15.91% so that the scheme is, on SEGRO's own figures and before any of the deficiencies identified in the DWD Report[16] are factored in, only marginally viable. Whilst Mr Cottage may wish to suggest that values could increase and certain sales costs might not be incurred – which would improve the apparent viability of the scheme – such assertions must be supported by robust evidence rather than represent self-serving adjustments to the model. In any event, there is no evidence that such changes would enable SEGRO to generate sufficient value to pay market value to Prologis/MAG. In this regard, whilst Mr Cottage may argue that viability would be improved by altering the inputs, there is no evidence that such improvement will be of sufficient magnitude to render the scheme viable overall. Furthermore, if SEGRO now seeks to vary or add to the inputs in its model, then the reliability of those inputs must be in question – Prologis has done no more than to use SEGRO's own approach and demonstrate its shortcomings. The ExP would be entitled to treat with scepticism any self-serving adjustments made by SEGRO to its own figures at this late stage with the intention of improving the apparent viability of its scheme.

(b) Secondly, a central tenet of SEGRO's Viability Appraisal is the use of the £225,000 per acre figure (for the Prologis/MAG land), derived from SEGRO's agreement for the Aldridge Land, as a fixed land-value input – when a credible viability appraisal must instead reflect what the market would actually pay. The same approach should be taken to the Aldridge Land itself, the question being what the market would pay, not what SEGRO has contractually committed to pay. Prologis understand that SEGRO accepts that Mr Cottage's adoption of £225,000 per acre in respect of the Prologis/MAG land is too low but neither SEGRO nor Mr Cottage have expressed what they consider to be a realistic price for that land. It is therefore the case that, whilst Mr Cottage may say that the inputs to his appraisal could be altered or deleted to improve viability, he offers no evidence as to whether the resultant increase in value generated by the SEGRO scheme would be sufficient to enable SEGRO to acquire the Prologis/MAG land. This is a substantial omission. The ExP therefore has no basis upon which it can consider whether or not, having taken into account the true cost of acquiring the Prologis/MAG land, the scheme will be considered to be commercially viable and therefore deliverable. If a realistic (and lower) market value were adopted for the Aldridge Land, SEGRO would be able either to pay a proper market value for the Prologis/MAG Land or to

[15] DCO 4.5 Viability Appraisal Deadline 1

[16] Please see Annex A of Prologis' Deadline 3 Submission

bring forward the Southern Land independently, and in both cases deliver the relevant benefits – the latter in particular enabling many of the reasonable alternatives already identified by Prologis. However, this is the value that SEGRO has selected and which now appears to be excessive for the development that they are proposing. It is not admissible for it to change its position because its own evidence does not suit its case.

6.3 The viability difficulty in respect of the land south of Hyams Lane in isolation is one of SEGRO's own making. As the DWD Report explains, SEGRO's case on viability is not driven by any deficiency in the Prologis scheme or in the Southern Land - it is driven by SEGRO's own contractual commitment to overpay for the Aldridge Land, which means it must assume a significant underpayment for the balance of the land it must assemble. In effect, SEGRO are seeking a DCO to assist them in addressing their own decision to overpay. That points to a recourse driven by SEGRO's own commercial predicament, not by any compelling case in the public interest.

6.4 With regard to the DCO scheme, at CAH2, Mr Cottage (SEGRO's viability expert) accepted that the £225,000 per acre figure for the Prologis/MAG Land was adopted for the purpose of illustrating the viability of the scheme, and that the true valuation of that land might be higher. In reality, the true value of the Prologis/MAG land is significantly higher than £225,000 per acre and of such magnitude that the prospect of the scheme becoming viable by artificially tweaking the inputs is remote. The scheme can only be considered to be marginally viable if Prologis/MAG can be made to accept the same figure as that contracted by SEGRO to be paid to Mr Aldridge for its own land, which in that case is a *below market* figure. In effect, Mr Aldridge receives a significant windfall which SEGRO expect to be funded by Prologis/MAG accepting an artificially reduced price. No evidence has been provided by SEGRO to substantiate the basis for this expectation on their part.

6.5 At the May Hearings, SEGRO suggested that a viability assessment in the B2/B8 context differs in kind from a residential viability assessment. The implication being that the established approach to viability (and, in particular, the mandatory RICS Professional Standard *Financial viability in planning: conduct and reporting*) does not apply with the same rigour. That suggestion should be rejected. The core disciplines of a credible appraisal are not peculiar to residential schemes. As already submitted in Prologis' Deadline 3 Submission at paragraphs 2.9 to 2.11, and as explained in the DWD Report, a market-based land value, a sensitivity analysis, and the disclosure of the underlying cashflows and electronic models are the means by which any appraisal, in any sector, is made capable of being tested. The asserted distinction provides no warrant for departing from the RICS Professional Standard, nor for withholding the material needed to scrutinise SEGRO's case or failing to be fully transparent. SEGRO has now, belatedly provided the underlying Argus appraisal files. That is welcome, but late disclosure does not cure the difficulty - the absence of a market-based land value (as opposed to relying on a 'what SEGRO can afford to pay' land value irrespective of market value) and a sensitivity analysis remains, and those are the very features that render an appraisal capable of being thoroughly tested.

7 Highways

7.1 Three highways points raised orally by Prologis' transport advisers at the May Hearings were, by agreement, deferred to be dealt with in writing at Deadline 4, and are addressed here.

Highways mitigation

7.2 A specific question was put to Prologis as to whether the "pink package" referred to by SEGRO[17] reflects the mitigation proposed in the Joint Application. Both the pink package and Joint Application mitigation appear to aim to address a similar issue (i.e. alleviate capacity issues at Finger Farm roundabout). There is limited detail available regarding the pink package however it would appear to not include the free-flow left turn provision from A453 West to A453 North as included in the Joint Application proposals. It is noted that the pink package includes dualling to Pegasus Business Park

[17] As set out in Appendix 3 of SEGRO's Response to Hearing Action Points (DCO 7.4)

whereas the Joint Application scheme includes safeguarding for dualling on the A453 to the Pegasus Business Park and beyond to the West to the approach to the EMA Airport access.

7.3 The mitigation therefore represents an equally valid alternative contribution to the same package of long-term strategic needs, and SEGRO cannot demonstrate that its own scheme is the only means by which meeting those needs can be progressed. In this regard, Prologis wishes to draw the ExP's attention to Prologis' response to ExQ2 19.0.18 wherein it has highlighted the error in seeking to draw such comparisons between the highways mitigation in the Joint Application and the DCO Scheme.

Dualling Arrangements

7.4 Please refer to the submissions made in relation to draft Requirement 31 within Prologis' Written Summary of Oral Submissions at ISH3.

Sustainable Transport

7.5 Third, the sustainable transport proposals for the Joint Application include:

(a) The site design includes the provision of a new on-site Transport Hub. The facility will include a passenger interchange building which will provide passenger shelter and travel information, in addition to boarding/alighting bays and lay-by/designated waiting areas for both public services buses and an Electric Vehicle (EV) shuttle bus. There will also be electric vehicle charging available.

(b) An EV shuttle bus is proposed to facilitate movement around the site and facilitating seamless integration with existing public transport services. As well as the on-site bus interchange facility, several bus stops will be provided at key locations across the site, close to unit access and egress points for ease of use. It is the intention that the EV shuttle bus will serve the on-site bus stops (as well as the on-site interchange facility).

(c) A new signalised crossing is proposed on the A453, west of the existing A453 / Beverley Road roundabout. This will facilitate movements between the application site and the public transport facilities on Beverley Road, in addition to facilitating movements between the villages of Castle Donington and Kegworth. The crossing is intended to provide direct connectivity to on-site pedestrian and cycle routes. In addition, a second signalised crossing is proposed on the A453 between the existing A453/Beverley Road roundabout and Finger Farm roundabout to support PRoW users to cross the road and provide connectivity with existing infrastructure to the north of the carriageway

(d) The permanent diversion of existing PRoW L45/1 to ensure that access via this route is maintained. There will be a minor diversion of the PRoW in the north-eastern corner of the site.

(e) Cycle and pedestrian routes will be provided across the application site and will be segregated from vehicular routes where possible. Finalised pedestrian and cycle access arrangements will be determined once the proposed layout is fixed with the intention to segregate from vehicular routes where possible. In order to facilitate/encourage active travel, the application site is proposed to have secure, on-site cycle parking and shower/changing facilities.

(f) Improvements to walking and cycling infrastructure are proposed on Beverley Road as well as new uncontrolled crossing facilities at the new primary vehicle junction off the A453, to support crossing of the A453.

(g) Discussions regarding service diversions of existing bus services are ongoing with local bus operators in order to facilitate transport via public transport to the application site.

DLA Piper UK LLP

16 June 2026

Appendix 1 – Responses to Action Points

AP No.	Action	Prologis Response
28.	The applicant and any relevant IPs are requested to identify the legal authorities relied upon in support of the proposition, referred to in written submissions, that it is settled 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 an alternative scheme advanced by an objector that would not require compulsory acquisition. Please provide references to relevant case law, including full citations, Where any such authorities are not readily accessible via publicly available sources (for example, BAILII), copies of those decisions should be provided.	Please see section 4 above.
29.	To provide a written note to explain "PARKlife" term.	PARKlife is Prologis' long-established customer experience and occupier support programme, designed to create logistics parks that operate as high-quality employment destinations and communities, rather than simply locations for industrial and logistics warehouse buildings. It reflects Prologis' approach to long-term stewardship, active park management and occupier engagement, with a focus on supporting employee wellbeing, occupier success and wider social value outcomes. A selection of images illustrating this approach is available at Appendix 7 PARKlife is a registered trade mark of Prologis, reflecting an established and identifiable approach to logistics park development focused on customer amenity, wellbeing, sustainability and community infrastructure, which has been implemented across Prologis developments in the UK and internationally. The PARKlife programme combines physical infrastructure, community initiatives and operational management to create attractive, sustainable and people-focused logistics environments. Key components of the programme include: • High-quality landscaping, green infrastructure and outdoor amenity spaces – Prologis parks are designed with extensive landscaping, ecological

		enhancements, walking routes, seating areas and outdoor amenity spaces to improve the working environment for employees and visitors. This includes the integration of green corridors, biodiversity areas and high-quality public realm intended to support wellbeing, encourage outdoor activity and create a more attractive and sustainable employment environment. • Wellbeing, fitness and employee engagement initiatives – PARKlife delivers regular wellbeing and fitness activities across Prologis parks, including organised running clubs, fitness classes, health and wellbeing events and seasonal activities. These initiatives are intended to promote employee wellbeing, improve workplace satisfaction and support occupiers in attracting and retaining staff within a highly competitive logistics labour market. • Food, leisure and community-focused events – The programme regularly hosts food markets, pop-up vendors, charity events and community activities designed to activate the park environment and create opportunities for interaction between occupiers, employees and the wider community. This helps foster a stronger sense of place and contributes to parks functioning as active employment communities rather than isolated industrial estates. • Skills, training and employment support initiatives – PARKlife supports training, skills and employment opportunities through partnerships with occupiers, local authorities, education providers and employment agencies. This includes support for apprenticeships, employability programmes, construction skills initiatives and sector-specific training designed to connect local communities with employment opportunities generated by logistics development. • Customer engagement and occupier collaboration – Prologis actively manages relationships with occupiers through networking events, customer forums and ongoing engagement with businesses located on its parks. This allows operational issues, workforce challenges and opportunities for collaboration to be identified and addressed proactively, supporting long-term occupier retention and investment.

		• Environmental sustainability and biodiversity enhancements – PARKlife supports wider sustainability objectives through biodiversity management, habitat creation, tree planting, sustainable drainage systems and initiatives aimed at improving environmental performance across parks. These measures contribute to the creation of greener logistics environments and support wider corporate sustainability commitments. • Long-term estate management and on-site support services – Unlike developer-trader industrial development models, Prologis retains an active long-term management role within its parks. This includes ongoing maintenance, estate management, customer support and the delivery of events and initiatives through the PARKlife programme, ensuring that parks continue to evolve in response to occupier and community needs over time. In the context of the Joint Application proposals, the PARKlife approach forms part of a wider vision to deliver a genuinely integrated employment and logistics destination. The Joint Application focuses on much more than the delivery of floorspace, creating a high-quality, sustainable and actively managed advanced manufacturing and logistics park capable of generating long-term economic, social and environmental benefits. Under the Joint Application approach, PARKlife would support the creation of a thriving people-focused employment destination incorporating high-quality green infrastructure, employee wellbeing facilities, skills and training opportunities, community engagement initiatives and long-term estate management. This would complement the proposed Training Hub and wider employment initiatives, ensuring that the development delivers meaningful place-based benefits for both occupiers and surrounding communities. Importantly, the Joint Application approach is underpinned by Prologis' proven track record of delivering and operating similar initiatives successfully elsewhere, including at RFI DIRFT, where Prologis has demonstrated the ability not only to develop strategic logistics infrastructure, but also to curate and actively manage successful long-term employment environments.
30.	Further explanation of "substantial" in relation to the carbon neutral campus/headquarters including co located	Please see section 3 above.

	head office which was part of the SoS's s35 direction for the business and commercial NSIP. In particular, when properly understood, whether the s35 direction requires a head office under Class E rather than merely ancillary office space and whether the environmental statement assesses this and the dDCO is drafted in such a way that enables this to be delivered. (Post Hearing Note: See also Action Point 65 from ISH3)	
31.	To clarify the definition of "likely" under the EIA Regulations and to explain whether the asserted displacement of socio-economic benefits associated with the joint application, arising from delivery of the DCO Scheme "the delivery scenario", should be assessed as a likely significant effect in the Environmental Statement. To provide case references and copies of those decisions where relevant.	Please see section 5 above.
32.	To provide a short explanatory note, preferably in table format, identifying DCOs 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 also clarify whether this matter should be addressed within the Environmental Statement as a likely significant effect 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.	Please see Appendix 2.
33.	To submit representations covering the two outstanding bullet points from agenda item 3.2: • whether in light of the discussions, and if it is determined that further socio economic assessment is required for the delivery and non-delivery scenarios, the applicants must then re-	Please see section 5 above.

	visit and update their approach to the compelling case test in their Statement of Reasons in the context of justifying compulsory acquisition powers? • whether the counterfactual position advanced by Prologis that development on the Southern Land would come forward under a planning application, and therefore provides the correct baseline with which to assess the DCO scheme's socio-economic effects, is too speculative and contingent to be given any more than limited weight? For example, whilst the land is part of a draft allocation in the emerging local plan, the ExP notes Planning Inspectorate's guidance on cumulative effects, which categorises development identified in emerging development plans as tier 3 development and the least certain to come forward.	
34.	To clarify the assumption that the Southern Land is land-locked and whether, in theoretical terms, access could be achieved through a reconfiguration of the motorway service area, noting that such access has not been modelled, and set out what the implications of this would be in relation to the respective viability analyses.	There is no realistic basis on which such access could be achieved, even if it could be demonstrated to be physically possible, as it would be in direct conflict with Government policy. Circular 01/2022 '*Strategic road network and the delivery of sustainable development*' is the policy document of the Secretary of State in relation to the Strategic Road Network and it provides the specific planning guidance for Roadside Services including Motorway Service Areas. Paragraph 8 of the Circular notes that it is relevant to making decisions on planning and development proposals under the Town and Country Planning Act and that "*The policies may also be considered important and relevant to decisions on nationally significant infrastructure projects (NSIPs) in the absence of a stated position in the relevant national policy statement*". Paragraphs 71 – 112 and Annex A relate to Roadside Services (which includes Motorway Service Areas ("**MSA"**)). It notes in paragraph 71 that the primary function of roadside facilities is to support the safety and welfare of road users.

		Paragraph 86 confirms that to be an Off-line MSA, it must share a common boundary with the highway at a junction of the Strategic Road Network. In relation to '*access to the strategic road network'* paragraph 91 states "*The suitability of connections to roadside facilities from the local road network will be considered on a case-by-case basis by the relevant local planning authority as part of the planning process. However, there must be no route through a roadside facility or its access link between the local road network and the SRN*" and paragraph 92 confirms "*Access to other developments through a roadside facility or from its connection to the SRN is not permitted. Furthermore, where a new connection is agreed for a proposed roadside facility, the company will expect any subsequent change in the permitted land use to be in accordance with paragraph 22 of this circular*". The Moto Donington Park Motorway Service Area (MSA) has a single access off the Finger Farm roundabout that is solely for the MSA. As shown on the Leicestershire County Council Highway Record Enquiry available at Appendix 3 (Ref NDI/HRE/2501159) Finger Farm roundabout is a Trunk Road under the control of National Highways and hence it forms part of the Strategic Road Network. The Moto Donington Park Service Area is therefore an Off-line MSA and the above Circular advice applies to it. If the SEGRO development were to be accessed from the MSA access (off Finger Farm roundabout) then in order to comply with paragraph 91 of the above Circular there could be no vehicular link between the Strategic Road Network (Finger Farm roundabout) and the Local Road Network (A453). This is to ensure that there is "*no route through a roadside facility or its access link between the local road network and the SRN".* However, to comply with paragraph 92 of Circular 01/2022 (in order to protect the importance of the primary function of the Motorway Service Area which is to support the safety and welfare of road users), the Circular is clear that access to other development through such a Motorway Service Area "*is not permitted*". In this case, therefore an access from Finger Farm roundabout to an employment development by SEGRO through the Moto Donington Park MSA would not be permitted.

		Prologis therefore consider that an access through the Moto Donington Park Motorway Service Area to an employment development by SEGRO cannot be achieved even in theoretical terms as it would be in direct conflict with the clear requirements of the Circular (which is the Secretary of State's policy document on such matters).
35.	To prepare a single joint Excel spreadsheet setting out their respective valuations side by side, using consistent cost headings, clearly identifying areas of agreement and disagreement. All formulas should be retained (not replaced with values). Where different methodologies are used, these should be shown alongside the other valuer's figures and commentary.	Due to its different format, this has been submitted separately. It should be noted that these spreadsheets have been prepared by DWD on behalf of Prologis. Despite requests to SEGRO for cooperation in preparing the joint spreadsheet as directed by the ExP, Mr Cottage indicated that he would not be contributing to this exercise. DWD has therefore prepared the spreadsheet unilaterally, using consistent cost headings and retaining all formulae as requested, setting out both parties' respective assumptions side by side to assist the ExP in understanding the areas of agreement and disagreement.
36.	To clarify whether Plot 1/2 (Hyam's Lane) on Land Plan Sheet 1 [APP-027D] would need to be acquired to enable 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 compulsory acquisition powers would be relied upon.	The Leicestershire County Council Highway Record Enquiry available at Appendix 3, confirms that Hyam's Lane is adopted unclassified highway. As adopted highway, the surface vests in the highway authority, and it would be within the powers of the highway authority to approve any new road crossing of Hyam's Lane to provide north–south access between the northern land and the Southern Land, notwithstanding that the Book of Reference identifies the subsoil ownership as unknown. Hyam's Lane itself would not, therefore, constitute a ransom strip. Prologis does not consider that compulsory acquisition of Hyam's Lane would be necessary to enable development of either the northern land or the Southern Land. The mechanism for achieving such a crossing would be through the highways consent process.
37.	To provide the letter from the Trent Barton bus operator.	Please see attached at Appendix 4 the Joint Position Statement which has been agreed with the Trent Barton bus operator and submitted as part of the Joint Application's Sustainable Transport Strategy (May 2026). Having reviewed its previous submissions and transcripts of the March and May Hearings, Prologis cannot find any previous reference it made to a 'letter from the

		Trent Barton bus operator'. Within Prologis' Deadline 3 Submissions at paragraph 4.18 reference was made to ongoing discussions with Trent Barton, but no formal document recording these discussions was referred to. Nevertheless, Prologis trusts that the attached Joint Statement will assist the ExP in understanding the nature of those discussions and the current position between the two parties.
39.	Provide case law, examining authority recommendation report and Secretary of State decision references as part of post hearing submissions relating to agenda item 3.1 on the lawful determination of the DCO application.	Please see the appendices to Prologis' Written Summary of Oral Submissions at ISH3.
49.	To provide an update as to the current situation in relation to highways for the joint application, particularly where outstanding matters remain.	An amended Transport Assessment, Travel Plan and Sustainable Transport Strategy was submitted in May 2026 which included revised PRTM outputs and VISSIM modelling along with revisions to reflect previous comments received from National Highways and Leicestershire County Council. Prologis are working collaboratively with National Highways and Leicestershire County Council to address residual matters and are aware of correspondence from Leicestershire County Council dated 5th June 2026 and from National Highways dated 10th June 2026. Updated correspondence has been shared by National Highways on 16th June 2026 and discussions are ongoing to draw matters to a conclusion.
65.	To reconsider the article 5 and requirement 32 in relation to “a campus / headquarters including co located head office functions”. (Post Hearing Note: see also action point 30 from CAH2)	Please see section 3 above.

Appendix 2 – Response to Action Point 39

The DCOs listed in the table below have been found by Prologis in conjunction with EMA and as such it is anticipated that there will be overlap with their own response to this Action Point.

Name	Details	Comments
Immingham Green Energy Terminal	Green energy terminal and hydrogen production facility to produce green hydrogen from imported ammonia – promoted by ABP and Air Products. DCO granted on 6 February 2025	Expected to deliver over £4.5 billion in economic value and create 1,400 jobs. Air Products subsequently cancelled the project in summer 2025 citing an absence of firm policy support and financial backing from the UK government.
North Killingholme Power Project	Gas-fired generating station at North Killingholme promoted by C.GEN Killingholme Ltd. DCO granted on 11 September 2014	Generating station has not been implemented despite the passage of more than a decade. Subsequent amendment orders have been made to extend the time limit for commencement from October 2021 to October 2026, grant the benefit of the Order to Uniper UK Limited, and further amendments to the project required by Uniper prior to implementation. The latter of which was granted on 2 April 2026.
Keadby 3 Carbon Capture Power Station	Gas-fired CCGT power station with carbon capture (up to ~910MW), promoted by SSE Thermal and Equinor. First power CCS project in the UK to receive a DCO. DCO granted on 7 December 2022	Under the DCO, Development must commence by 7 December 2029. Currently no updates as to its construction/implementation. SSE's own website notably does not commit to its delivery stating that "*Keadby 3 could be operational towards the end of the decade*".
Tidal Lagoon Swansea Bay	Proposed tidal lagoon power project of approximately 320 MW in Swansea Bay, promoted by Tidal Lagoon (Swansea Bay) plc, intended as the UK's first tidal lagoon scheme. DCO granted on 9 June 2015.	Following financial strain with government funding being pulled the project was never lawfully commenced. Survey and preparatory works were held not to amount to "material operations" under s.155 PA 2008, and the Court of Appeal confirmed in 2022 that the DCO

		lapsed when development did not commence within the applicable time limit.
Manston Airport	Promoted by RiverOak Strategic Partners Ltd. Sought to reopen and develop Manston Airport into a dedicated air freight facility able to handle at least 10,000 air cargo movements per year (multi-million sq ft B8 potential). DCO granted on 18 August 2022 (redetermined after being originally granted 9 July 2020 and quashed in February 2021)	No substantive on-site implementation has taken place – time limit for commencement being 18 August 2027

The table above is not advanced as a comprehensive survey of all DCOs. It is a non-exhaustive and illustrative selection. Its purpose is to demonstrate that the grant of a DCO, even one with strong policy support, an experienced promoter with strong market presence and access to considerable funds and favourable prevailing market conditions, carries no guarantee of delivery. The Immingham Green Energy Terminal is a clear example of a consented scheme whose promoter subsequently withdrew funding. The evidence informs the assessment of likelihood as a proxy indicator: it confirms that non-delivery is a real-world outcome. The assessment of whether non-delivery is "likely" is, however, ultimately a fact and case specific question. The point is reinforced, not undermined, by the particular characteristics of this scheme the viability of which is strongly contested by Prologis (on SEGRO's own figures).

The Strategic Rail Freight Interchange schemes on which SEGRO relies are distinguishable: the delivery of one SRFI does not establish that business and commercial development of this kind will be delivered. Taken with the viability evidence before the Examination, the evidence establishes that non-delivery, partial delivery or delayed delivery of the DCO Scheme is at least a realistic possibility, and therefore "likely" within the meaning of the EIA Regulations. The ExP has reached the same conclusion in the Rule 17 Letter and Prologis welcomes that.

As to whether the matter should be addressed within the Environmental Statement, Prologis' primary position is that the sterilisation of the socio-economic benefits of the Joint Application in the non-delivery scenario is a likely significant effect that must be assessed within the Environmental Statement against the future baseline. That is the conclusion the ExP has reached in the Rule 17 Letter, applying the broad and precautionary purpose of the EIA Regulations and treating the non-delivery scenario as falling within the definition of a project notwithstanding the absence of physical works. The DCO, including the compulsory acquisition powers that are intended to enable and are inextricably linked to the development, comprises a single project for EIA purposes, and the effects flowing from the decision to grant consent fall to be assessed whether or not the development is implemented.

For completeness, if and to the extent the matter was considered to fall outside the scope of the EIA Regulations, Prologis' alternative position is that these effects are in any event an obligatory material consideration to which the Secretary of State must have regard. The Secretary of State cannot be sure that the DCO Scheme would be implemented; on the evidence, non-delivery, partial delivery and delayed delivery are each at least a realistic possibility. A decision to grant the DCO as applied for, without taking account of the sterilisation of the Joint Application's benefits in a non-delivery scenario, would be unlawful for failure to take account of an obligatory material consideration.

Either way, an assessment of this issue is essential, and the realistic possibility of non-delivery must be carried through into the section 122(3) compelling-case balance, which requires the Applicant to revisit and revise its Statement of Reasons.

Appendix 3 – Leicestershire County Council Highway Record Enquiry

N

Not To Scale

L45

L46

L47

Key

Highway Status

Extents

- Adopted: Classified Route
- Adopted: Unclassified Route
- Trunk Road (National Highways)
- Motorway (National Highways)

Public Rights of Way

- Footpath

NOTES

The highway records are not definitive, but are based on currently available supporting information and are given without warranty.

If roadside ditches are present, the legal presumption without evidence to the contrary is that these do not generally form part of the publicly maintainable highway.

This plan has been produced in response to the enquiry shown in the title address and should not be used for any other purpose, since its accuracy cannot be guaranteed.

If a scale has been provided, measurements scaled from this plan may not match measurements between the same points on the ground.

Leicestershire County Council

ENVIRONMENT AND TRANSPORT DEPARTMENT

On Behalf Of
Ann Carruthers, Director

Highway Record Enquiry

Location

Land to the South of East Midlands Airport

Reference	NDI/HRE/2501159
Drawing No.	100/A
Date Produced	12/03/2025

Highway Record Enquiries
County Hall, Glenfield, LE3 8RJ
0116 305 7189 | hre@leics.gov.uk

Appendix 4 – Joint Position Statement

C. Trentbarton Joint Statement

To whom it may concern,

Prior to submission and throughout the planning application determination period, Prologis UK Ltd (Prologis) and Manchester Airports Group (MAG) have held a series of discussions with trentbarton in relation to the outline planning application for development proposals concerning Land South of A453, East Midlands Airport (EMA) - 24/00727/OUTM.

Regular dialogue has taken place between the Applicant's project team and trentbarton colleagues including the following:

- **March 2024** – Initial discussion regarding existing bus operations, current services and existing infrastructure supporting bus travel in the area.
- **February 2025** – Follow-up discussion focusing on the potential for bus service diversions, identified public transport constraints within the local network and applicant proposals for a Transport Hub and improvements to the Beverley Road stops.
- **August 2025** – Further discussion regarding potential service diversions into the site, including the My15 service, existing public transport constraints, and the proposed Sustainable Transport Strategy (STS) for the application site.
- **March 2026** – Update discussion covering recent service changes, emerging development proposals, the updated Sustainable Transport Strategy, and potential opportunities for bus service diversions into the application site.

These discussions have considered existing bus services in the area, supporting facilities, and how both parties can work collaboratively to promote and facilitate bus access to and from the site.

We have discussed the nature of bus services in this area, the importance of maintaining the express nature of the Skylink services to and from East Midlands Airport and the reluctance to introduce diversions that will increase journey time. Discussions were held regarding which bus stops would most likely be used by staff, and it was concluded that the Beverley Road bus stops adjacent to the Pegasus Business Park would negate the need to divert Skylink services and are likely to be well utilised. These stops are currently well served by a range of high-frequency and strategic services, including the Skylink services.

As a result of our discussions, a key strategy for the proposed development is to enhance connectivity to the existing Beverley Road bus stops adjacent to Pegasus Business Park in order to connect with the bus service provision. Proposed measures include enhancements to pedestrian routes between the site and the bus stops, including new pedestrian crossings on the A453 and improved crossing facilities on Beverley Road. In addition to providing access to bus services for staff, these measures will also deliver wider benefits for the local community.

The potential diversion of existing services into the application site to serve the proposed on-site Transport Hub accessed from the A453 has also been discussed. Recognising operational constraints on the Skylink services, both parties are committed to continuing to explore opportunities for service diversions where feasible, in order to support travel by bus without adversely impacting existing service provision.

Following our engagement, the proposed development masterplan incorporates a passenger interchange building, spaces for the development shuttle bus and a public service bus plus

additional lay-over stands for the shuttle bus and a further lay-over space for a public service bus. These facilities have been designed on the basis of our discussions and will help service the development site and alleviate constraints in the wider area, most notably at the East Midlands Airport bus interchange. Electric charging facilities will also be provided.

Opportunities to display real time information for passengers at the application site have also been discussed.

In summary, Prologis, MAG and trentbarton have worked collaboratively through the development of proposals for the site, all parties commit to maintaining a collaborative working arrangement throughout the planning application determination period, during the build-up to site completion, and post-opening as part of the delivery and monitoring of the Travel Plan.

Engagement between Prologis, MAG and trentbarton will continue following the opening of the site as part of the Travel Plan monitoring process.

Appendix 5 – Masterplans

MASTERPLAN

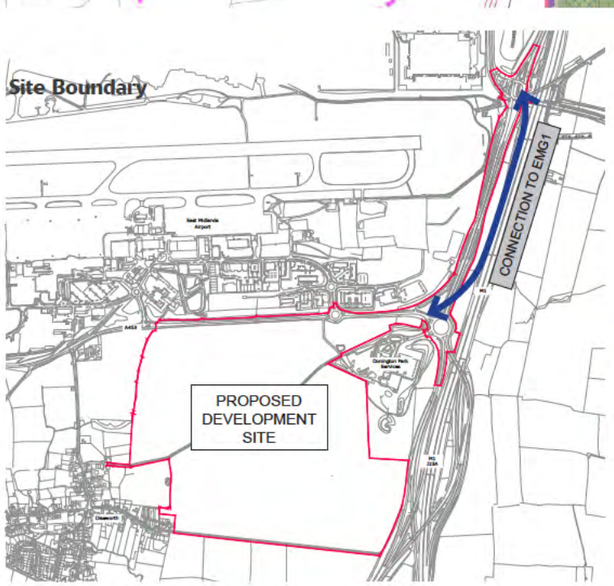
Capital investment circa £310 million

Total economic output circa £900 million

Create at least 4,000 direct jobs

Circa 20,000 total potential jobs across the economic cluster of East Midlands Gateway and East Midlands Airport

Circa £250 million of Gross Value added annually



Illustrative Masterplan
Scale 1:2,500

Key

- EMG2 DCO order limits
- Land not in order limits within which existing telecom mast retained
- Existing Public Right of Way
- Proposed/Diverted Public Right of Way
- Proposed pedestrian routes
- Existing Vegetation Retained
- Existing Trees Retained
- Existing Hedgerow Retained
- Indicative location of proposed SUD's within open land/landscaping
- Area for development signage for upto 4 signs
  Sign Board - max size (including supporting frame) 7.5m High x 18.3m, Wide x 1.3m Deep
  Totem Sign - max size (including supporting frame) 15.5m High x 4.0m, Wide x 4.0m Deep
- Area within which estate road will cross Hyams Lane
- Point of restriction to Hyam's Lane -No public access for motor traffic east of this point
- 74.10m — Fixed spot heights in metres above ordnance datum, identified along the ridge-line of each length of strategic mitigation mounding +/- 0.5m.
- 74.10m / 75.40m — Between any two consecutive spot heights marked o the ridge, the height of the bund at its ridge will be n lower than the lower of the two spot heights and no higher than the higher of the two spot heights.

50m SCALE 1:2500

- Dimensions are in millimeters, unless stated otherwise.
- Scaling of this drawing is not recommended.
- It is the recipients responsibility to print this document to the correct scale.
- All relevant drawings and specifications should be read in conjunction with this drawing.

Schedule of Accommodation

Total GIA	-	**2,937,200 ft²**	**(272,873 m²)**
Unit 1			
Warehouse Area	-	766,700 ft²	(71,228 m²)
Office Area (incl. GF core)	-	25,000 ft²	(2,323 m²)
Transport Office's	-	10,000 ft²	(929 m²)
Gatehouse	-	300 ft²	(28 m²)
Unit 1 GIA	-	**802,000 ft²**	**(74,508 m²)**
Unit 2			
Warehouse Area	-	190,500 ft²	(17,698 m²)
Office Area (incl. GF core)	-	10,000 ft²	(929 m²)
Transport Office	-	5,000 ft²	(465 m²)
Gatehouse	-	300 ft²	(28 m²)
Unit 2 GIA	-	**205,800 ft²**	**(19,119 m²)**
Unit 3a			
Warehouse Area	-	366,300 ft²	(34,030 m²)
Office Area (incl. GF core)	-	19,200 ft²	(1,784 m²)
Transport Office	-	5,000 ft²	(465 m²)
Gatehouse	-	300 ft²	(28 m²)
Unit 3a GIA	-	**390,800 ft²**	**(36,306 m²)**
Unit 3b			
Warehouse Area	-	178,000 ft²	(16,537 m²)
Office Area (incl. GF core)	-	9,300 ft²	(864 m²)
Transport Office	-	5,000 ft²	(465 m²)
Gatehouse	-	300 ft²	(28 m²)
Unit 3b GIA	-	**192,600 ft²**	**(17,893 m²)**
Unit 4			
Warehouse Area	-	290,200 ft²	(26,960 m²)
Office Area (incl. GF core)	-	15,200 ft²	(1,412 m²)
Transport Office	-	5,000 ft²	(465 m²)
Gatehouse	-	300 ft²	(28 m²)
Unit 4 GIA	-	**310,700 ft²**	**(28,865 m²)**
Unit 5a			
Warehouse Area	-	347,700 ft²	(32,302 m²)
Office Area (incl. GF core)	-	18,300 ft²	(1,700 m²)
Transport Office	-	5,000 ft²	(465 m²)
Gatehouse	-	300 ft²	(28 m²)
Unit 5a GIA	-	**371,300 ft²**	**(34,495 m²)**
Unit 5b			
Warehouse Area	-	308,600 ft²	(28,670 m²)
Office Area (incl. GF core)	-	16,200 ft²	(1,505 m²)
Transport Office	-	5,000 ft²	(465 m²)
Gatehouse	-	300 ft²	(28 m²)
Unit 5b GIA	-	**330,100 ft²**	**(30,667 m²)**
Unit 6			
Warehouse Area	-	312,200 ft²	(29,004 m²)
Office Area (incl. GF core)	-	16,400 ft²	(1,524 m²)
Transport Office	-	5,000 ft²	(465 m²)
Gatehouse	-	300 ft²	(28 m²)
Unit 6 GIA	-	**333,900 ft²**	**(31,020 m²)**

Rev	Date	Details of issue / revision	Drw	Rev
P15	18.08.25	Titleblock amended	LM	MS
P14	30.07.25	Boundary amended	LM	MS
P13	16.07.25	Key amended	LM	MS
P12	16.07.25	Layout amended to latest highways	LM	MS
P11	15.07.25	Boundary amended	LM	MS
P10	10.07.25	Secondary access option removed	LM	MS

ISSUES & REVISIONS

SEGRO

THE EAST MIDLANDS GATEWAY PHASE 2 AND HIGHWAY ORDER 202[ ]

Drawing Title

ILLUSTRATIVE MASTERPLAN

Scale	1:2500	Drawn	LM
Size	A1	Reviewed	MS

Regulation: **5(2) (o)**

Document: **2.6**

Drawing Status: **SUBMISSION**

Drawing No.: **EMG2-UMC-SI-01-DR-A-0089**

Revision: **P15**

Appendix 6 – Rule 17 Joint Submission

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SL1 4PN

Your reference

Our reference

ASY/ASY/335094/111
UKM/212828556.1

16 June 2026

To the Examining Panel ("**ExP**")

Planning Act 2008 – sections 91, 92, 93 and 153
The Infrastructure Planning (Examination Procedure) Rules 2010 – rule 13
Application by SEGRO Properties Limited, for an order granting development consent for a scheme comprising the East Midlands Gateway Phase 2 (EMG2)

The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 – regulations 33, 35 and 36
Application by SEGRO (EMG) Limited, for an order making material changes to the previously approved East Midlands Gateway Rail Freight Interchange and Highway Order 2016

1 Introduction

1.1 This is a joint letter from both Prologis UK Limited, Prologis UK 121 Limited ("Prologis") and East Midlands International Airport Limited and East Midlands Airport Property Investments (Industrial) Limited ("EMA"). In this letter Prologis and EMA are referred to collectively as "**the APs**".

1.2 We write in response to the ExP's letter dated 2 June 2026 issued under rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 ("**the Rule 17 Letter**").

1.3 The APs welcome the Rule 17 Letter and in particular the ExP's decisions as to the inadequacy of the structure and content of the Environmental Statement ("ES") in its current form.

1.4 The APs are engaging with the Rule 17 Letter now, at Deadline 4, rather than awaiting the Applicant's response, for three reasons:

(a) There are elements of the ExP's reasoning in respect of the Prologis/EMA Land and the Joint Application which go beyond what has been submitted on behalf of the APs that we wish to address, and other elements in respect of the Southern Land which appear to indicate that written submissions made on behalf of the APs have been

misunderstood and therefore remain to be addressed. It is considered helpful to draw these points to the ExP's attention at the first available opportunity so that this can be considered further.

(b) There are procedural consequences of the ExP's request (in particular under Regulation 20 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("**EIA Regulations**")) which now need to be addressed.

(c) In addition to the identified need for the Applicant to revise the ES, the consequences of the ExP's decision include a need to revise the Statement of Reasons. The APs consider that it would be appropriate for this to be done at the same time as publication of the revised ES.

1.5 The third of those points is straightforward and was already anticipated by the ExP in the fourth bullet point under agenda item 3.2 for CAH2: "*whether in light of the above, and if it is determined that further socio-economic assessment is required for the delivery and non-delivery scenarios, the applicants must then suitably revisit and update their approach to the compelling case test in their Statement of Reasons in the context of justifying compulsory acquisition powers*". It is also explained in the Prologis deadline 4 submissions and we do not therefore elaborate on it further in this response. The APs draw attention to it here because of the need to consider and address the timetabling consequences that flow from it at the earliest opportunity.

1.6 The substantive consequences of the ExP's determinations for the compelling case test under section 122(3) of the Planning Act 2008 ("PA 2008") are also addressed in the DL4 Submission and are not repeated here.

2 The Prologis/EMA Land and the Joint Application

2.1 The APs welcome the ExP's conclusions that:

(a) in the absence of the DCO there is a sufficient degree of likelihood that the development proposed in the Joint Application would occur such that it should be taken into account in the ES;

(b) the contended displacement and sterilisation of the environmental effects associated with that development would therefore be likely significant effects of the DCO project and should be assessed as such in the ES pursuant to Regulation 14 of the EIA Regulations; and

(c) the Joint Application provides sufficient environmental information to enable those likely significant effects to be assessed.

2.2 The APs welcome the ExP's conclusions, which in many respects reflect their own submissions. However, the APs consider that the correct analysis is simpler than the ExP's reasoning suggests and requires no more than the three conclusions set out in the previous paragraph. In particular, the APs do not consider it necessary to rely on paragraph 3 of Schedule 4 of the EIA Regulations and the concept of the likely evolution of the baseline (which concerns "*natural changes from the baseline scenario*"). The ExP's Rule 17 request is clearly correct: once the ExP concluded that the Joint Application's displacement is "likely" in EIA terms, the request for further assessment followed logically and no additional legal justification is needed to support it.

3 The Southern Land

3.1 The Rule 17 Letter states that the "counterfactual baseline" of a hypothetical future planning application coming forward on the Southern Land cannot be included as part of the EIA future

baseline as it is too speculative and contingent (being tier 3 development within the context of PINs guidance). This has been characterised as the submission advanced by Prologis during the examination.

3.2 Prologis's submissions on the Southern Land are not concerned with the EIA baseline; they go solely to the weight to be given to the benefits SEGRO relies upon to justify compulsory acquisition. The Rule 17 Letter's characterisation does not reflect how Prologis has expressed this part of its case. As explained in Prologis' Deadline 4 Submission, the same misunderstanding was reflected in the CAH2 agenda. The time scheduled for CAH2 did not allow for those points to be discussed and the parties were asked to address them in written submissions at Deadline 4. The APs have not therefore had the opportunity to correct this apparent misunderstanding before the Rule 17 Letter was published.

3.3 Prologis' submissions about the prospects of development of the Southern Land coming forward absent compulsory acquisition have not been advanced as an EIA baseline point. The point is much simpler than that and goes solely to the approach to be taken to the benefits relied upon by SEGRO to seek to justify compulsory acquisition.

3.4 To assist the ExP, the following references identify where this issue has been addressed in Prologis's written submissions:

(a) Relevant Representation – sections 8 and 13 (qualitative cross-analysis of the two schemes' benefits and conclusion that no materially additional benefits exist that are exclusively contingent on CA);

(b) Written Representation:

(i) paragraphs 5.26–5.31 which reject SEGRO's presentation of a false binary (see below), explaining that in a realistic counterfactual scenario the Southern Land would come forward through a separate Town and Country Planning Act 1990 application;

(ii) paragraphs 5.33–5.39 which expressly invite the Examining Authority to place the public interest harm of frustrating the Joint Application on the detriment side of the s.122(3) balance

(iii) Spawforths Planning Report (Appendix 1) paragraphs 5.69–5.73 which address the adverse consequences if the Joint Application is frustrated

(c) Deadline 2 Submission:

(i) paragraphs 3.21-3.22 which address SEGRO's responses to Prologis' submissions on the Southern Land.

(ii) paragraphs 5.3–5.7 addressing the binary-counterfactual point and emphasising that the public interest harm of frustrating the Joint Application must be placed in the balance under s.122(3);

(d) Deadline 3 Submission:

(i) paragraphs 4.1–4.29 which explain that the correct comparator is not the DCO Scheme versus no development at all, but the DCO Scheme versus the realistic two-developer alternative scenario;

3.5 SEGRO's own case is that development of the Southern Land "*is not viable as a separate development*"[1]. When this is combined with their additional assertion that the Prologis/MAG Land is *"integral to the viability of the overall EMG2 DCO Scheme development*"[2] the conclusion they invite the Secretary of State to reach is that the benefits from development on the Southern Land cannot come forward absent compulsory acquisition and are therefore benefits in favour of compulsory acquisition.

3.6 As was put in Prologis' Written Representation, this presents the ExP with a *'false binary'* wherein the choice is presented as being between:

"*the full DCO Scheme – with all its claimed benefits delivered comprehensively, on time and within the Freeport Window – and a world in which nothing further happens. However, that is not a realistic or honest characterisation of the counterfactual…In the no-DCO world, nothing prevents SEGRO, any other developer, or the landowner from promoting a planning application under the Town and Country Planning Act 1990 for the development proposed (or something similar) on the Southern Land."*[3]

3.7 Therefore, if, contrary to SEGRO's contention there is a reasonable prospect that the Southern Land would be developed absent compulsory acquisition powers, the weight that can be attached to the claimed benefits in the compelling case balance is correspondingly diminished.

3.8 Prologis has provided substantive evidence and submissions which demonstrate that there are at least reasonable prospects that development of the Southern Land would come forward in the absence of the DCO. This includes evidence as to need and demand for such development and the commercial drivers and incentives in play[4], the significant locational advantages of the site[5], the supportive policy position[6] and the likely viability of such development[7]. Moreover, there is no reason to believe that a suitable highways solution could not be achieved for such development; SEGRO has simply not modelled or assessed what mitigation would be required, and the ExP is therefore not in a position to conclude that highways considerations would preclude development of the Southern Land in isolation.

3.9 Hence, Prologis's case in respect of the Southern Land is, and has always been, that the ExP and the Secretary of State must consider whether in the light of the evidence there is a reasonable prospect that development of that land would come forward in the absence of the DCO and if so the implications of that conclusion for the application of the compelling case test. That is not an EIA issue and is not therefore a matter that falls to be assessed and analysed through the lens of the EIA Regulations and guidance directed to that legislation and its specific requirements (as has been done in the Rule 17 letter).

3.10 The ExP's analysis of this part of Prologis's case is therefore directed to a different and distinct issue which Prologis has not raised. It follows that the issue that Prologis has in fact raised remains undetermined.

3.11 The APs suggest that it would be expedient for the ExP to revisit this issue in light of the submissions set out above, and to do so during the examination rather than waiting until the report-writing stage. That is because if the ExP does form the view that there is a reasonable prospect that development of that land would come forward in the absence of the DCO, it may

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[1] Paragraph 3.75, Appendix 6 – DCO 7.2 Applicant's Response to Relevant Representations Deadline 1

[2] Paragraph 3.8, Appendix 6 – DCO 7.2 Applicant's Response to Relevant Representations Deadline 1

[3] Paragraph 5.27

[4] Please see paragraphs 4.6-4.9 and 4.19-4.20 of the DWD Report at Annex A of Prologis' Deadline 3 Submission

[5] Paragraphs 6.14-6.17 of the DWD Report

[6] Paragraphs 2.15-2.28 of the Spawforths Report at Appendix 1 of Prologis Written Representation

[7] Paragraphs 9.35-9.41 of the DWD Report

well wish to ask for further information and/or submissions about that issue during the examination. This could include, for example, seeking updates to the Statement of Reasons.

4 Regulation 20: "Further Information"

4.1 The revisions to the ES the ExP has now requested constitute "further information" within the meaning of the EIA Regulations. This engages Regulation 20, which mandates that consideration of the application must be suspended pending publication of, and consultation on, the further information. The APs draw this to the ExP's attention because the Rule 17 Letter does not address these procedural requirements, which must now be built into the examination timetable.

4.2 Under the EIA Regulations, 'further information' is defined by reference to two limbs which must both be satisfied (in the view of the ExP/Secretary of State):

(a) additional information which is directly relevant to reaching a reasoned conclusion on the significant effects of the development on the environment; and

(b) additional information which is necessary to include in an environmental statement or updated environmental statement in order for it to satisfy the requirements of regulation 14(2)

4.3 The information requested by the ExP satisfies both of these limbs.

4.4 As to limb (a), the ExP would not have taken the step of issuing a Rule 17 request had it not concluded that the information sought was directly relevant to reaching a reasoned conclusion on the significant effects of the development on the environment. The direct relevance of the information sought is clearly articulated in the Rule 17 Letter itself and is not therefore repeated here.

4.5 As to limb (b), the additional information that the ExP has sought falls squarely within sub-paragraphs (b) and (f) of Regulation 14(2). It includes both descriptions of the likely significant effects of the proposed development on the environment (sub-paragraph (b)) and additional information specified in Schedule 4 relevant to the specific characteristics of the particular development and to the environmental features likely to be significantly affected (sub-paragraph (f)).

4.6 The Rule 17 Letter does not itself address the procedural implications of the requests made by reference to the EIA Regulations. These are set out in regulation 20(1), which provides that where the ExP or Secretary of State requires further information, consideration of the application must be suspended until the requirements of paragraphs (3) are met regarding the publication and consultation on the further information including (under Reg 20(3)(b)(x)) a period of not less than 30 days allowing for representations on the further information.

4.7 It is important, therefore, that the ExP confirms how and when these mandatory procedural requirements will be addressed. In particular, the APs invite the ExP to confirm: (i) that consideration of the application will be suspended until the Regulation 20 requirements are met; and (ii) that Interested Parties will be afforded the minimum 30-day period to review and respond to the further information before the examination resumes.

5 Resolution of Outstanding Matters

5.1 In light of the matters set out above, the following sequence of procedural events should naturally follow:

(a) The Applicant should provide the further information at Deadline 5 (30 June 2026) as already requested.

(b) The Statement of Reasons must be updated to properly reflect the assessed effects of the project. The ExP should therefore confirm when it will require the Applicant to provide an amended Statement of Reasons reflecting the further assessment.

(c) Pending compliance with the Regulation 20 requirements, consideration of the application must be suspended. This is a mandatory requirement under Regulation 20(1), not discretionary. The Applicant must comply with the publication requirements in Regulation 20(3), and Interested Parties (including Prologis/EMA) must be afforded the minimum 30-day period to review and respond to the further information before consideration of the application can resume.

(d) Following the consultation period, the ExP should consider the representations received and determine whether a further hearing (or hearings) should be arranged to examine and test the further information and the responses to it.

(e) The ExP is invited to reconsider the Southern Land issue (in particular, whether SEGRO's assertions as to viability and deliverability have been properly assessed) so that it can determine whether additional evidence, submissions and/or documentation may be required in respect of it during the examination.

Yours sincerely

[redacted]

DLA PIPER UK LLP

On behalf of Prologis

[redacted]

On behalf of EMA

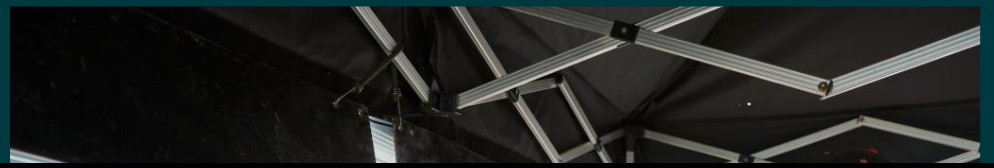
Appendix 7 – PARKLife

PARK*life*™

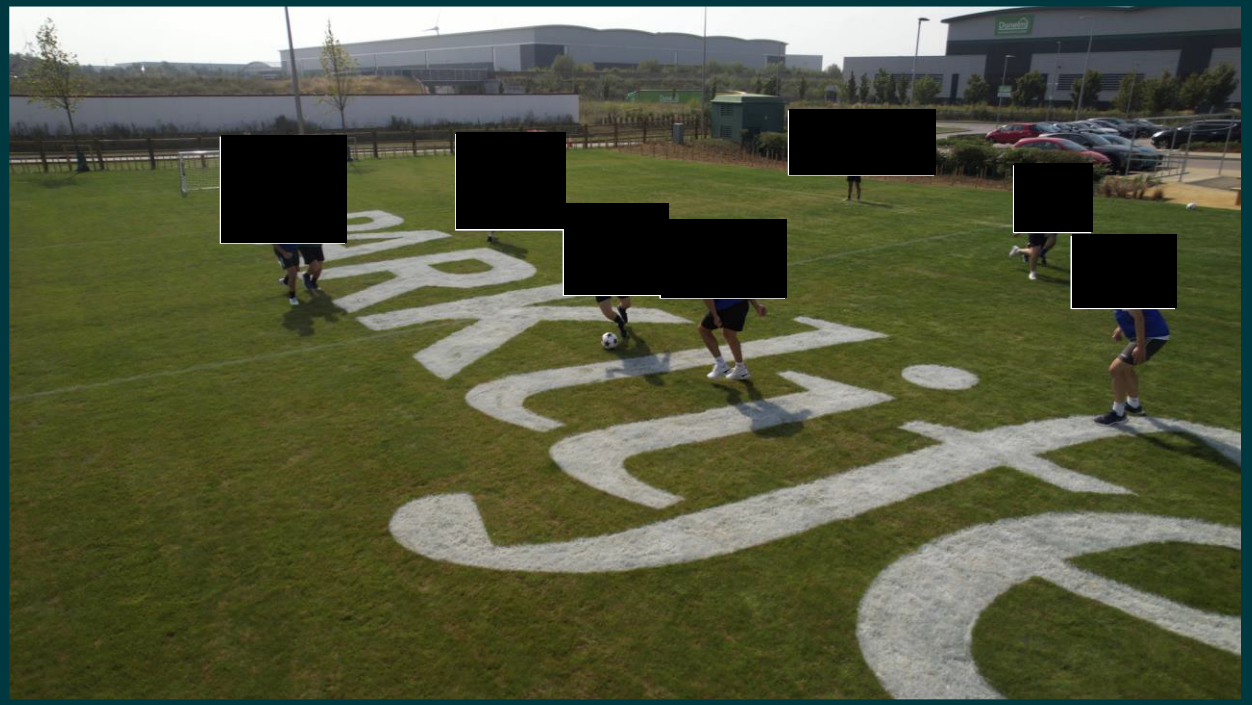

PARKlife


Activity Trail

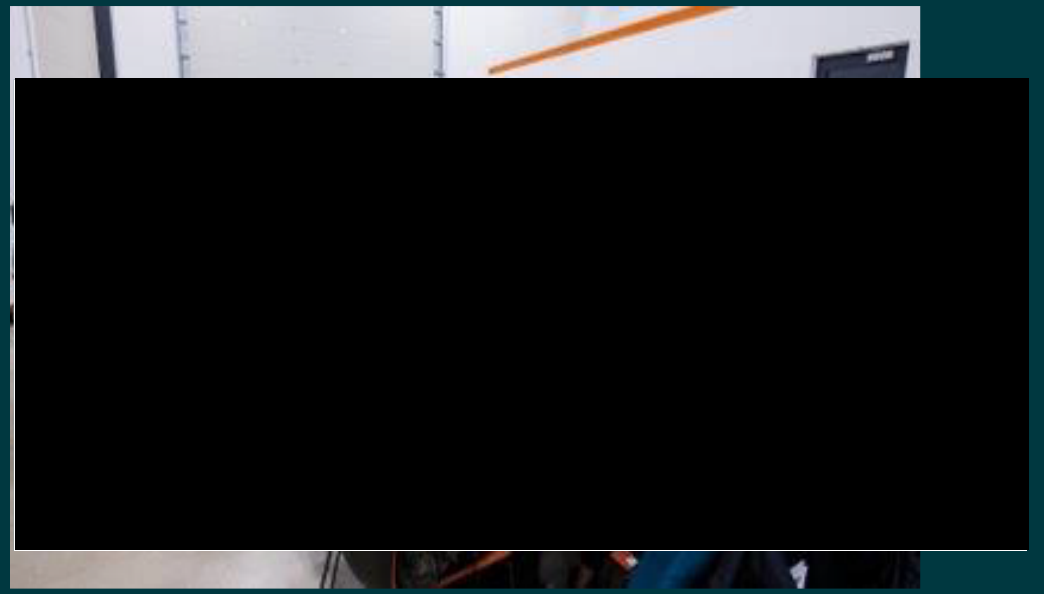

theHUB
at DART




The Canal
and its vital link to the brick industry




PARKlife

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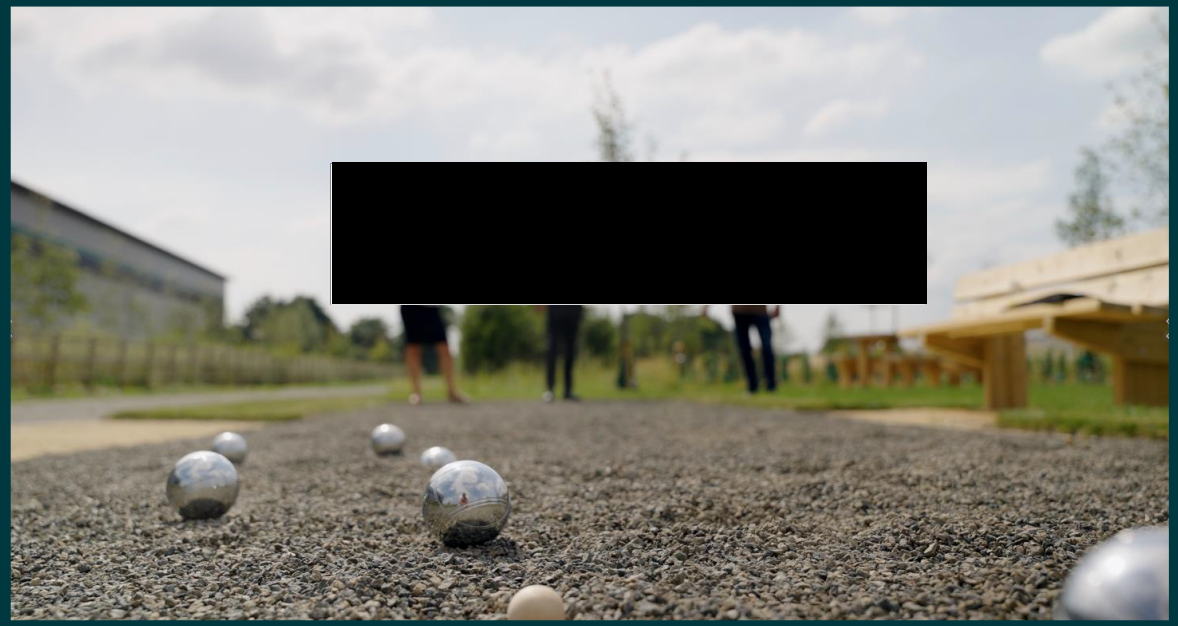
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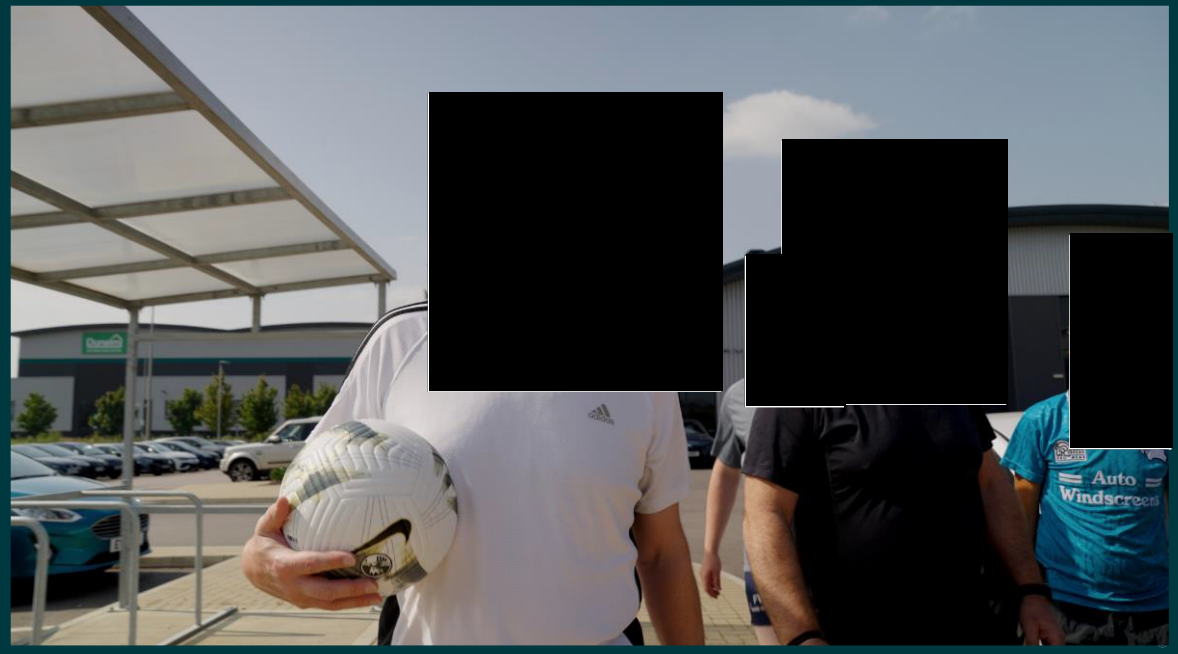
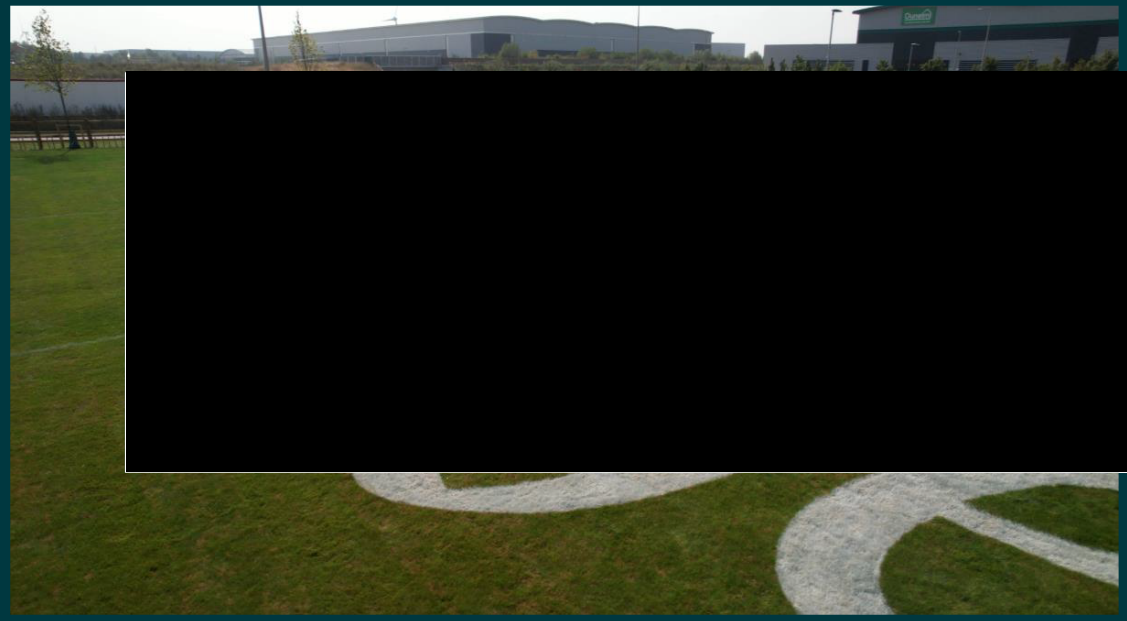
PARKlife


[redacted]
Auto
Windscreens


AKUMA


PARKlife™



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