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The Planning Inspectorate
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Your reference

Our reference

ASY/ASY/335094/111

By Email Only: emgateway2@planninginspectorate.gov.uk

30 June 2026

Dear Sirs

DEADLINE 5 SUBMISSIONS IN RELATION TO AN APPLICATION BY SEGRO PROPERTIES LIMITED ("SEGRO") FOR A DEVELOPMENT CONSENT ORDER IN RESPECT OF EAST MIDLANDS GATEWAY PHASE 2

OUR CLIENT: PROLOGIS UK LIMITED AND PROLOGIS UK 121 LIMITED ("PROLOGIS")

We refer to the Examining Panel's Rule 8 letter dated 18 March 2026. We write on behalf of our client Prologis in relation to their submissions at Deadline 5 in connection with the above application submitted via the East Midlands Gateway Phase 2 portal.

Documents Submitted

The following documents have been submitted at Deadline 5:

1. Prologis' Deadline 5 Submission (including the Second Report of Mr Peter Roberts);
2. Summary of item 1 above (appended to this letter at Appendix 1).

Please note that the summary is intended to aid the Examining Panel but should not be relied upon as the definitive representation of Prologis' case. For the full statement of Prologis' position on any matter, the Examining Panel is respectfully advised to consult the relevant full document in each instance.

Statement of Common Ground

At 16:02 on 30 June (the date of Deadline 5), the Applicant sent Prologis a copy of the updated tripartite Statement of Common Ground between itself, EMA and the Applicant. This version, which will be submitted by the Applicant at Deadline 5, contains a number of further amendments to the Applicant's Position. Given the time that it was sent, Prologis and EMA have not yet been able to review the additional amendments to the Applicant's position and update their own position respectively.

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As such, Prologis wishes to draw this to the Exp's attention so that they are aware of this potential discrepancy between the two sets of positions. Prologis and EMA reserve their right to update their position once they have been able to further consider the Applicant's amendments and, in any event, will do so by Deadline 6.

Response to SEGRO's Letter of 24 June 2026

In the covering letter to Prologis' Deadline 4 Submission, attention was drawn to the Applicant's submission of without prejudice material in relation to joint response to Action Point 35. A letter in response to this was sent to PINS by Gowlings WLG acting on behalf of the Applicant on 24 June 2026. Prologis' response to that letter can be found in Section 2 of Appendix 1 to its Deadline 5 Submission.

Collaboration with EMA/EMIAL

Prologis notes that it has had sight of the Deadline 5 Submission made by East Midlands Airport Limited and East Midlands Airport Property Investments (Industrial) Limited (together "**EMA**"), and that those submissions have been prepared following collaboration and discussion between Prologis and EMA.

Prologis considers that EMA's submissions are aligned with Prologis' own case. Prologis therefore supports and agrees with EMA's submissions insofar as they overlap with and reinforce the points advanced by Prologis, without seeking to repeat those points in Prologis' own submissions.

AI Declaration

In compliance with the requirement in the Rule 8 letter, Prologis confirms that artificial intelligence tools (Microsoft Copilot and Harvey) have been used to a limited extent in the preparation of the submissions enclosed with this letter. Specifically, AI has been used to assist with select research and proof-reading aspects of the documents. The outputs generated by AI have been reviewed and verified by qualified professionals.

Yours faithfully



DLA Piper UK LLP

Appendix 1 – Summary of Prologis' Deadline 5 Submission

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**

SUMMARY OF DEADLINE 5 SUBMISSION

ON BEHALF OF

PROLOGIS UK LIMITED AND PROLOGIS UK 121 LIMITED

1 Introduction

- 1.1 Prologis's substantive response to SEGRO's viability material, in particular Mr Cottage's response to Mr Roberts, is contained in the Second Report of Mr Peter Roberts FRICS CEnv of DWD appended at Appendix 1 to the Main Submission.

2 Responses to the Rule 17 Letter (and Regulation 20)

- 2.1 SEGRO has wrongly deployed Prologis's statement that the Southern Land issue "is not an EIA issue" which concerned the Southern Land alone as if it had been directed at the assessment of the Joint Application's displacement on the Northern Land. The two points are, and always have been, distinct: the Northern Land displacement effects are likely significant effects requiring assessment under regulation 14, whereas the Southern Land point goes only to weight. This is a plain and material mischaracterisation.
- 2.2 The ExP Response addresses only the second numbered update sought (disaggregating Part 1 and Part 2 effects) and does not engage with the first (amending the baseline to include the Joint Application and assessing the delivery and non-delivery scenarios). That first update plainly requires the assessment of likely significant effects not presently in the Environmental Statement, and is therefore the clearer example of "further information" – directly relevant to a reasoned conclusion and necessary to satisfy regulation 14(2). Receiving this only at Deadline 5 aggravates the procedural disadvantage Regulation 20 is designed to avoid, and Prologis invites the ExP to review the position in the ExP Response.
- 2.3 On disaggregation, outcomes may diverge. The section 104 NSIP works may be acceptable while the section 105 works are not, the benefit of the former cannot render the latter acceptable, and if the section 105 works would not be acceptable but for the section 104 works the question of alternatives is engaged. Proper disaggregation (across the section 105 works, the highway works and the MCO works) is necessary so these questions can be addressed lawfully.

3 Section 35 Direction

- 3.1 SEGRO's position has shifted materially. It first contended that the carbon neutral campus/headquarters was not "integral" to the Direction and need not be secured at all, but now seeks to bring the application into conformity through a requirement. That change is telling. By offering to secure a carbon neutral campus, SEGRO necessarily accepts what it earlier denied, namely that the campus/headquarters is a component the Direction requires and the dDCO must secure. SEGRO's contention that a development "*of a substantial physical size*" remains within scope regardless of correspondence with the Direction is untenable and uses the reasons for the Direction to contradict, rather than illuminate, its words.
- 3.2 The requirement on which SEGRO now relies has still not been produced; the divergence is a matter of jurisdiction that cannot be cured by a requirement. On the Deadline 4 material, the requirement would secure only 10% of the scheme as a carbon neutral campus - not the "very substantial" campus/headquarters occupying around a third of the site that SEGRO itself described - and does not address whether the "co-located head office functions" are a primary Use Class E(g)(i) use. SEGRO's case that any office use is merely ancillary fails to identify the relevant planning unit, and it has not explained how a substantial campus/headquarters could be ancillary to another occupier's warehouse.

4 Reasonable Alternatives

- 4.1 The paragraph 8 duty of the Guidance is expressed in the past tense, alternatives must "*have been explored*" and steps taken after submission cannot retrospectively satisfy it. SEGRO's Deadline 4 response gives no evidence of when, by whom or on what basis any alternative was assessed before the application was made, and the confidentiality of current negotiations does not excuse the absence of documented pre-application decision-making. Each of the five alternatives was proposed

by Prologis, not SEGRO, which repeatedly failed to engage and amended its scheme to reduce compatibility, whereas Prologis amended its own scheme to keep the alternatives open.

- 4.2 Negotiation began late and much early engagement was performative. No substantive negotiation occurred before the DCO Application was first submitted in August 2025, by which stage SEGRO's position was "DCO or nothing". Prologis has not refused disclosure of the without prejudice material but does not consider it appropriate for it all to be made public while reasonable prospects of agreement remain; no adverse inference should be drawn. SEGRO's assertion that the Southern Land is unviable as a standalone development tests only its own scenario, built on its commitment to overpay for the Aldridge Land, and has not assessed the alternatives Prologis identified. There is also an unresolved tension: SEGRO contends co-operation-based alternatives are unrealistic while maintaining it is in genuine continuing negotiation directed at precisely such agreement.

5 Compelling Case Test

- 5.1 SEGRO's dismissal of the additive/attributable distinction as "an artificial construct" is rejected; the distinction is a necessary analytical step in applying section 122(3), rooted in the *De Rothschild* principle, under which only benefits that would be unlikely to arise without the powers can attract weight in favour of acquisition.
- 5.2 On the particular facts, the benefits relied upon can largely be delivered without the powers because Prologis is a willing, capable and funded developer promoting materially the same development on the same land. SEGRO does not engage with Prologis's A453 dualling submissions, and it is not lawfully open to confirm compulsory acquisition over those plots.
- 5.3 SEGRO's contention that it need not assess individual private loss is wrong in principle – the test requires the actual loss to be weighed, not a generic assumption – and reinforces that the Statement of Reasons must be updated.
- 5.4 SEGRO cannot have it both ways on displacement, asserting both that it requires no assessment and that the criticism applies equally to the Joint Application Environmental Statement. The detriment side must also weigh the loss of the policy-compliant Joint Application (up to 135,000 sqm, c. 1,919 FTE jobs, c. £109 million p.a. GVA, a Training Hub, a Transport Hub and a Community Park) and the adverse precedent of private-to-private expropriation. *Sainsbury's* does not impose a different test but requires the decision-maker to give particular weight to the sensitivity of expropriating a rival developer's land.

6 Viability

- 6.1 Prologis's substantive response is in the Second Report of Mr Peter Roberts FRICS CEnv of DWD (Appendix 1), which the ExP is invited to read in full; the conclusions are:
- (a) SEGRO has still provided no appraisal based on a realistic market value of the Prologis/MAG Land;
 - (b) on Mr Cottage's own figures SEGRO cannot both pay market value and achieve its 15% profit hurdle, so the DCO Scheme is marginal at best and, once a realistic value is adopted, unviable;
 - (c) SEGRO has adduced no evidence that development south of Hyam's Lane would be unviable as a standalone or collaborative development, the only appraisal relied upon being an artificial construct;
 - (d) the dDCO itself already effectively compels collaboration, so the powers are not necessary and granting them would make delivery less likely; and

- (e) Mr Cottage does not invite the ExP to conclude that the Prologis scheme is unviable, so SEGRO has not demonstrated on robust market-facing evidence either that its own scheme is viable or that the benefits depend on the powers.

7 Community Park

- 7.1 The further Community Park material does not alleviate Prologis's concern that the claimed benefits are significantly overstated; the park is so constrained in layout and functionality that it cannot deliver the multi-functional benefit claimed, and the benefits must be treated as substantially lower in the compulsory acquisition case.

8 Highways

- 8.1 SEGRO's reliance on the National Highways holding objection of 10 June 2026 is misplaced, a holding objection being a position pending further information rather than a refusal; discussions are progressing, with an updated holding notice submitted on 16 June 2026.
- 8.2 Any highways tie-in for sequential development of the land south of Hyam's Lane could be secured through Traffic Regulation Orders and a section 278 agreement.

9 Conclusion

- 9.1 Prologis invites the ExP:
 - (a) to find that the development sought does not accord with the Section 35 Direction;
 - (b) to treat the first numbered Rule 17 update as "further information" under Regulation 20;
 - (c) to find that SEGRO has not demonstrated that it genuinely explored reasonable alternatives before resolving to seek the powers;
 - (d) to have regard, under section 122(3), to the limited attributable benefits, the absence of any proper assessment of private loss, the public interest harms and adverse precedent, and the reduced Community Park benefits; and
 - (e) to find that SEGRO has yet to demonstrate on robust evidence that its own scheme is viable.

DLA Piper UK LLP

30 June 2026