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

RESPONSES TO EXQ3

ON BEHALF OF

PROLOGIS UK LIMITED AND PROLOGIS UK 121 LIMITED

Q1.0.1 – National Planning Policy Framework

All parties are requested to consider the draft National Planning Policy Framework published in December 2025 and set out if and how any changes in government policy from the December 2024 version of the National Planning Policy Framework, if the December 2025 version were published, would affect the consideration of the proposed developments. If an updated National Planning Policy Framework is published after the issue of ExQ3 but before deadline 6, then please consider the updated framework and make submissions accordingly.

Response:

The draft National Planning Policy Framework (NPPF) was published in December 2025. At the time of writing this Response, the final updated NPPF has not been issued.

The draft NPPF can be considered a material consideration in the determination of the proposed developments but the weight to be attached to its contents is reduced due to its draft status.

Annex A confirms that the policies in the final NPPF will be material considerations which must be taken into account in decision-making from the day of its publication and that development plan policies which are in any way inconsistent with the national decision making policies in the final NPPF should be given very limited weight, except where they have been examined and adopted against the final NPPF. It further notes that other development plan policies should not be given reduced weight simply because they were adopted prior to the final publication of the NPPF.

The NPPF does not provide the primary policy context for the determination of applications for development consent made pursuant to the Planning Act 2008. This principle applies both to the current version and the replacement, once published in its final form. It will, however, be capable of being considered both important and relevant by the Secretary of State for the purposes of sections 104(2)(d) and 105(2)(c).

That is reflected in the text of the draft NPPF which confirms that it does not contain specific policies for nationally significant infrastructure projects. These remain to be determined in accordance with the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include this NPPF). National policy statements may, where relevant, be a material consideration in preparing plans and making decisions on planning applications.

The final version of the NPPF will, however, be an obligatory material consideration of significant weight in the determination of any application for planning permission made pursuant to the Town and Country Planning Act 1990. Accordingly, the Secretary of State will need to have regard to its contents when forming a view as to the likelihood of planning permission being granted for similar development within the Order Limits (i.e. on the Prologis/MAG land and the Southern Land).

At this stage the contents of the draft NPPF provide the best indication of the policies likely to be contained in the final version.

For the reasons summarised below, the policies in the draft NPPF make the policy context for the promotion of such development under the Town and Country Planning Act 1990 even more supportive than before. This necessarily increases the prospects that planning permission would be forthcoming on the Prologis/MAG land and the Southern Land.[1]

Within the above context, Prologis consider that the key changes in government policy are:

1. The draft NPPF sets out clear policies (rather than solely guidance) for plan-making and separately for decision-making. This now includes national decision-making policies which will need to be taken into account when determining applications for planning permission made under the Town and Country Planning Act 1990.

[1] See the Spawforths Report appended to Prologis's Written Representation, at paragraphs 5.68 to 5.73, which addresses the supportive policy context for development on the Southern Land.

2. The plan-led nature of the planning system is unchanged as is the presumption that planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. As noted above, the final NPPF will be a weighty material consideration to be considered in this context.

3. The draft NPPF provides more consistency and clarity in how much weight the government expect a particular consideration to be given.

4. The draft NPPF contains a 'presumption in favour of sustainable development' (Policy S3) which confirms that 'outside settlements policy S5 should be applied' (criterion b.) and "In all locations, development proposals that accord with an up-to-date development plan and also the decision-making policies in this Framework should be approved without delay" (criterion c.).

5. Policy S5 contains a new positive presumption in favour of certain forms of development outside settlements stating they "should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework". Of specific relevance are:

    - criterion i. "The development of land allocated for that purpose in the development plan (where this lies outside settlements)"; and

    - criterion j. "Development which would address an evidenced unmet need….and where the development would:

        i. be well related to an existing settlement (unless the nature of the development would make this inappropriate) and be of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure; or

        ii. comprise major development for storage and distribution purposes which accords with policy E3."

6. "In applying this policy, the circumstances in which the benefits of approving development proposals are likely to be substantially outweighed by adverse effects include, but are not restricted to, situations where the development proposal would fail to comply with one of the national decision-making policies which state that development proposals should be refused in specific circumstances"

7. Policy S5 is therefore highly relevant to any decision on whether to grant planning permission for similar development within the Order Limits as it is a new policy approach to provide a positive presumption in favour of major developments for storage and distribution purposes where they would address an evidenced unmet need, can be accommodated by the availability of infrastructure and do not fail to comply with other national decision-making policies that would dictate refusal of planning permission.

8. In this case, with regard to criterion i, the Regulation 19 draft North West Leicestershire Local Plan is the subject of a current consultation (until 11th September 2026) and it includes the land within the Order Limits as an employment allocation. This draft employment allocation also confirms (with regard to criterion j) that an application for planning permission for major development for storage and distribution purposes (made pursuant to the Town and Country Planning Act 1990) on the Order Land would address an evidenced unmet need and that it is a suitable employment site taking account of the nature of the proposed development and the availability of infrastructure.

9. The draft NPPF includes new national decision-making policies (CC2 and CC3) on climate change which update the previous approach in the published NPPF. The criteria set out within these policies would be directly relevant to the consideration of the Joint Application. These criteria are capable of being achieved through the specific locational characteristics of the Order Land site along with the nature and form of the proposed development schemes.

10. The draft NPPF includes new national decision-making policies (E2 and E3) on ‘building a strong, effective economy’ which update the previous approach in the published NPPF. Policy E2 reiterates and confirms the government’s commitment to support business growth and they confirm that ‘substantial weight’ should be given to the economic benefits of commercial development which allow businesses to invest, expand and adapt, especially where this would support the economic vision and strategy for the area and support improvements in freight and logistics. Policy E3 is specific for freight and logistics and provides greater clarity on the need to support the effective and efficient movement of goods and the criteria that need to be addressed in considering development proposals for freight and logistics uses and associated infrastructure.

11. The draft NPPF includes new national decision-making policies (DP3 and DP4) on achieving well-designed places which update the previous approach in the published NPPF.

12. The draft NPPF includes new national decision-making policies (F4 to F9) on managing flood risk and coastal change which update the previous approach in the published NPPF. These reiterate the importance of the sequential test but provide more clarity on its application to development proposals.

13. The draft NPPF sets out clear policies (rather than solely guidance) for plan-making and separately for decision-making. This now includes national decision-making policies which will need to be taken into account in the determination of applications for planning permission.

Q7.0.2 – Revised guidance on the compulsory purchase process

On 17 June 2026 MHCLG published updated Guidance on the compulsory purchase process. The applicant and all affected persons are invited to make comment on the changes between that and the previous January 2025 version insofar as they relate to the proposed development and the associated request for compulsory acquisition.

Response:

Prologis has reviewed the updated Guidance on the Compulsory Purchase Process published by MHCLG on 17 June 2026 (the “Updated Guidance”) and compared it against the previous version published in January 2025 (the “2025 Guidance”).

As a preliminary observation, the Updated Guidance, like its predecessor, is directed to the making and confirmation of compulsory purchase orders under the Acquisition of Land Act 1981 regime, and not specifically to requests for compulsory acquisition powers made within an application for development consent under the Planning Act 2008.

The Government has recently published new National Infrastructure Planning Guidance but has decided not to make any changes to the relevant guidance here, namely Planning Act 2008: procedures for the compulsory acquisition of land (the CA Guidance). The CA Guidance is not expected to be reviewed until 2027. The submissions made on behalf of Prologis have consistently been directed to the application of the CA Guidance and that will continue to be appropriate unless and until that guidance is replaced. In those circumstances, the changes identified in the Updated Guidance are unlikely to have a material difference to the outcome in this case.

Nonetheless, the fundamental principles articulated in the Updated Guidance – in particular that compulsory acquisition should only be pursued where there is a compelling case in the public interest, and where reasonable efforts have been made to acquire the land by agreement – are common to both regimes, are substantially unchanged from the 2025 Guidance, and remain directly material to the ExP’s consideration of SEGRO’s request for compulsory acquisition powers in this case.

The changes between the two versions that are of potential relevance to SEGRO’s request for compulsory acquisition powers are, in summary, twofold. First, the characterisation of compulsory purchase as a measure “*intended as a last resort*”, which appeared at paragraph 2.8 of the 2025 Guidance, has been removed; the Updated Guidance instead describes compulsory purchase at paragraph 2.8 as “*intended to secure the assembly of all the land needed for the implementation of projects where attempts to acquire the* *land by agreement have failed*". That change of language does not indicate any substantive dilution of the underlying requirements of the compelling case test and does not make any material difference in this case. The first point to observe is that the phrase is not used in the CA Guidance and the change does no more than align the Updated Guidance with the guidance that continues to apply here. Second, the substance of the expectation – that an order should only be made where there is a compelling case in the public interest and meaningful efforts have been made to acquire the land by agreement – is retained, and indeed the Updated Guidance continues to require the acquiring authority to demonstrate that it has taken reasonable steps, through direct engagement, both to understand the impact on affected parties and to attempt acquisition by agreement.

The change of language is not accompanied by any removal or dilution of the substantive requirements that are reflected in the CA Guidance and which led to compulsory purchase being characterised in that way. For example, the requirement to have negotiated genuinely and to have explored alternatives before resorting to compulsion remains; it presupposes that attempts to acquire by agreement have been made and have failed, which is not the position here.

As to the substance of the engagement expectations, the Updated Guidance carries forward the requirement, unchanged from the 2025 Guidance, that an acquiring authority take reasonable steps, through direct engagement, both to understand the impact of the exercise of compulsory acquisition powers on affected owners and occupiers and to attempt to acquire the relevant land and rights by agreement. It continues to make clear that the reasonable steps required will depend on the circumstances, that a single attempt to engage an affected party without eliciting a response is unlikely to be sufficient, and that engagement should be undertaken early and sustained throughout the process. These expectations reflect and reinforce the duty under the CA Guidance on which Prologis has consistently relied. For the reasons set out in Prologis's earlier submissions, SEGRO's engagement with Prologis has not met that standard: it has not been genuine, informed, open-minded or timely, and no substantive negotiation took place with Prologis before the DCO Application was made.

The Updated Guidance also continues to confirm, consistently with the 2025 Guidance, that where landowners or others have put forward their own proposals for the use or development of land included within an order, the confirming authority will consider whether the purpose for which the land is sought could be achieved by other means, including the appropriateness of any alternative proposals and whether they are capable of being implemented in a timely manner. This underlines the materiality of Prologis's case that SEGRO has failed to explore, or genuinely to engage with, the reasonable alternatives to compulsory acquisition that Prologis has advanced – including the Access Option and a Joint Venture – and has not discharged the duty to explore all such alternatives.

The Updated Guidance also reiterates, again consistently with the 2025 Guidance, that the purposes for which an order is made must justify the interference with the human rights of those affected, with particular reference to Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8. Consistent with Prologis's submissions, the private loss to Prologis – which crystallises upon the grant of compulsory acquisition powers rather than only upon their exercise – must be given full weight in the public-interest balance the Secretary of State must strike.

In summary, the changes introduced by the Updated Guidance do not assist SEGRO's case and its continued emphasis on early, genuine and sustained engagement, on the proper consideration of alternatives, and on deliverability reinforces the deficiencies in SEGRO's case for compulsory acquisition that Prologis has consistently identified.

As the ExP will be aware, the Government has recently published new National Infrastructure Planning Guidance on a number of different matters.

Prologis draws the ExP's attention to relevant content in the new guidance, "Planning Act 2008: Guidance on the examination stage of an application", which applies to the examination of development consent orders. That guidance helpfully distinguishes between the different types of hearing available during an examination and, at paragraph 3.23, expressly recognises that "*a compulsory acquisition hearing is typically a more formal and structured event*" than other types of hearing which "*allows a systematic consideration of objections made to the proposed compulsory acquisition of land or of an interest in or right over land*". That acknowledgement of the different approach typically adopted in compulsory acquisition hearings is significant and reflects both the fact that affected persons are entitled as a matter of law to be heard in this way, and the points Prologis made in its earlier representations concerning the limited nature of the opportunities so far afforded to it through the first two compulsory acquisition hearings in this examination. For the reasons articulated in Prologis's Deadline 4 Submission at paragraphs 2.9 to 2.13, those hearings were in practice conducted in a manner largely indistinguishable from issue-specific hearings, led by the Panel and constrained to the points, approach and limited duration specified in the agenda which was set unilaterally by the Panel. They did not allow for or facilitate a "systematic consideration" of Prologis's objection. Prologis invites the ExP to have regard to that guidance in its approach to any further compulsory acquisition hearing in this examination, enabling objections to the compulsory acquisition of the Prologis/MAG Land to be considered systematically (i.e. allowing the affected person to present its case and the evidence in support of that case in an organised and structured way of its own choosing).

Q7.0.3 – Possible take over of SEGRO PLC by Prologis Inc

The ExP is aware that Prologis Inc has made a bid to take over SEGRO PLC, and thus the two applicant companies, which has been, at least initially, rejected by the SEGRO PLC board. The ExP also understands that under UK Stock Market Takeover Rules, a formal bid has to be made by 22 July 2026 at the latest.

(a) Prologis and the applicants are asked to confirm the situation on 28 July 2026, setting out the position of the parties, along with the timeframe for any bid.

(b) Prologis and the applicants are asked to set out, as far as they are able, their positions in respect of the application for development consent, including compulsory acquisition and funding, and whether this bid amends their positions in any way. If so, they are also asked to set this out as fully and clearly as possible.

(d) Prologis and the applicants are asked, as part of their submissions at deadlines 7 (1 September 2026) and 8 (9 September 2026) to set out the legal situation of the two applicant companies at those dates (should this change on 10 September 2026 this should also be supplied to the ExP) and to update the ExP as to any implications for the consideration of the applications, including compulsory acquisition and funding.

(f) NWLDC, EMIA and Prologis are also asked to confirm the situation as regards the Joint Application as of both 28 July and 9/10 September.

Response:

Prologis responds to the parts of Q7.0.3 directed to it below. This response is limited to information that is in the public domain as Prologis are subject to significant restrictions arising from the City Code on Takeovers and Mergers and the UK Market Abuse Regulation on the information they are able to disclose in relation to the Potential Merger.

(a) On 22 July 2026, Prologis announced a best and final offer for the entire issued and to be issued share capital of SEGRO ("**Potential Merger**"). On the same date, the Board of SEGRO announced that it would be minded to recommend the offer to shareholders should a firm intention to make an offer pursuant to Rule 2.7 of the City Code on Takeovers and Mergers be announced by Prologis on such financial terms. The Takeover Panel has consented to an extension of the deadline by which Prologis must either announce a firm intention to make an offer under Rule 2.7 or announce that it does not intend to make an offer under Rule 2.8 to 12 August 2026. Any takeover would be subject to merger clearance by the Competition and Markets Authority and the European Commission, a process expected to take several months from any Rule 2.7 announcement. Implementation of any offer would not affect the Secretary of State's decision on the present applications unless and until control of SEGRO PLC has changed.

(b) The Potential Merger does not change Prologis's position in respect of the application for development consent, compulsory acquisition or funding. Prologis's position remains as set out in its previous submissions: it does not oppose logistics and employment-led development in this location in principle, but it maintains its objection to the grant of compulsory acquisition powers over the Prologis/MAG Land because SEGRO has not demonstrated a compelling case in the public interest for those powers. Unless and until any takeover has completed and resulted in a change of control of SEGRO PLC and the applicant companies, the Potential Merger has no bearing on the consideration of the applications. In any event, Prologis understands that any takeover process would not be completed or become effective before the anticipated decision on the applications, such that the ExP and the Secretary of State should determine the applications on the basis of the evidence and parties as they presently stand.

(d) As requested, Prologis will update the ExP at deadlines 7 and 8 on the public legal situation of the applicant companies at those dates, insofar as there has been any relevant public change since Deadline 6. At present, and subject to any public announcement to the contrary, Prologis does not understand there to have been any change in the legal situation of the two applicant companies or in the identity of the parties promoting the applications. Prologis will keep the position under review and will update the ExP if a change occurs that has implications for the consideration of the applications, including compulsory acquisition and funding.

(f) As at the date of this submission:

1. An amended Environmental Statement (“ES”) incorporating an amended transport assessment, framework travel plan, sustainable transport strategy and air quality, noise and vibration and greenhouse gas emissions technical notes was submitted to NWLDC on the 21st May 2026.
2. A response in relation to comments provided by NWLDC’s Planning Policy team was also submitted on the 21st May 2026.
3. This amended information is currently subject to re-consultation with the consultation period which expired on the 3rd July 2026.
4. The applicants remain in discussion with LCC (as the Highways Authority) and National Highways (“NH”) in relation to the highway impacts of the development, with NH providing further comments on the application, the most recent of which were received on 1 July 2026.
5. Subject to a resolution being reached with LCC and NH around the relevant highway impacts and appropriate mitigation, Prologis anticipate that the application could be reported to NWLDC’s Planning Committee in late summer/early autumn.

For further detail on items (a) and (b) above, the ExP are respectfully referred to the Joint Letter regarding to CAH3 submitted by Prologis and EMA at Deadline 6.

Q7.0.4 – Prologis Land

In paragraph 27 of Annex L to the ‘Applicants’ Response to Deadline 2 and 3 Submissions’ [REP4-033] it is stated that the applicant was an “underbidder” for the Prologis Land. Could EMIA confirm whether the applicants were ‘underbidders’ in the full sense of the term, that is at a lower price than that paid by Prologis. The ExP is not interested in the amount, rather whether it was less than the applicants’ bid, or whether it was in different terms, and if so, the nature of those terms.

Response:

The reference to “Prologis Land” in the question requires clarification. Prologis’s freehold land was acquired from the Jarrom family, not from EMA or EMIAL. The MAG/EMIA/EMIAL land was the subject of a structured process under which MAG selected Prologis as its preferred development partner in May 2024, with contracts exchanged in October 2024. That position is consistent with the summary previously provided in Prologis’s response to ExQ1 7.0.7 and with EMA/EMIAL’s previous submissions identifying the Joint Application land as comprising land held by EMA, EMIAL and Prologis and referring back to EMA/EMIAL’s Relevant Representation for the land transaction background.

Prologis understands that SEGRO was an unsuccessful bidder in that process. Prologis does not understand the position to be properly reduced to a simple comparison of headline price alone. Rather, the process involved wider commercial terms and deliverability considerations, and Prologis was selected as the preferred development partner. This understanding is supported by EMIA’s own response to this question of which Prologis has had sight and to which the ExP is respectfully referred to for more detail.

Q7.0.5 – Viability

In Annex 7A to the ‘Applicants’ Response to Examining Panel’s Second Written Questions’ [REP4-036] in the entry for 9 March 2026 it is noted that the applicants’ suggested a meeting to update Prologis “on *progress in getting landowner consent to release terms of its Option Agreement". Given how the sentence is drafted, the ExP assumes that this relates to land in which the applicants have an interest. Could the applicants confirm whether this interpretation is correct. The entry also "suggests a meeting", but it is not clear whether this took place. Could all three parties confirm. Finally, assuming the ExP's interpretation of the sentence is correct, it is reasonable that this will affect the £225,000 (with inflation) per acre utilised in the applicants' valuation exercise. Could the applicants set out the implications of this in this regard.*

Response:

This question concerns an entry in the Applicants' own negotiation log, the Applicants' Option Agreement, and the £225,000 per acre figure used in the Applicants' valuation exercise. The definitive explanation of the entry, and of any implications for that valuation input, is therefore a matter for the Applicants. Prologis addresses the question so far as it is able below.

Prologis considers that the relevant entry has been misread. The reference to obtaining "landowner consent to release terms of its Option Agreement" appears to have been understood by the ExP as a proposal to reopen or renegotiate the Applicants' option, or to secure the landowner's agreement to release the Applicants from its terms. Prologis understands the phrase to mean something different: the obtaining of the landowner's consent to disclose the existing terms of the Option Agreement – that is, to make those terms visible to Prologis – rather than consent to vary those terms or to be released from them.

Whilst meetings regarding the Option Agreement have taken place (including a brief discussion during the Examination on the 9 March which cannot accurately be characterised as a formal meeting) and limited information regarding the Option Agreement has been shared by SEGRO on a without prejudice basis (further supplemented by paragraphs 28 and 49 of Mr Cottage's Viability Appraisal dated 2 April 2026 (Document DCO 4.5)), the Applicant has yet to advise Prologis as to whether the landowner has withheld or granted consent for the Applicant to provide Prologis with a copy of said Agreement. In any event, no copy of the Option Agreement has been provided by the Applicant. This continues the theme of negotiations with the Applicant often doing the minimum in terms of form of negotiations so as to be seen to be making progress, but without providing any substance on which meaningful progress can actually be made.

On that understanding, the premise underlying the final part of the question falls away. If the entry refers only to consent to disclose existing option terms, it involves no change to those terms and so carries no implication for the £225,000 (plus RPI indexation) per acre figure used in the Applicants' valuation exercise. In any event, the correct meaning of the entry, and the basis and reliability of the £225,000 per acre figure (prior to the addition of RPI indexation), are for the Applicants to confirm; Prologis's position on the viability of the Applicants' scheme is as set out in the evidence of Mr Roberts and is not repeated here.

Whilst Mr Cottage, on behalf of SEGRO, has confirmed that the figure of £225,000 per acre is subject to RPI indexation, he has not advised as to the date at which the figure of £225,000 per acre applied so that the ExP and Prologis can calculate the RPI indexation that should be applied since that figure was calculated. It is clear from the Office of National Statistics that the RPI index continues to climb markedly such that this cost will have increased even since the date of his Report and is likely to continue to do so for the foreseeable future. In the absence of any evidence that the Applicant has negotiated a reduction in the land value payable under the Option Agreement, it is clear that the increases in the RPI will only further undermine the viability of the Applicant's scheme.

Q19.0.1 – Co-located office functions

The applicants are asked to explain demonstrate how a "co-located office function", which could be, within an eventual individual planning unit (please refer back to earlier discussion on "substantial completion") part of a mixed use also incorporating storage and distribution uses or advanced manufacturing uses or a combination of all three, has been considered in relation to the traffic generation assessment of the proposed development. NH and LCC are also requested to comment on this.

Response:

Prologis notes that Q19.0.1 is directed to the Applicants, National Highways and Leicestershire County Council. However, the question raises the same issue Prologis addresses in section 7 of its Deadline 6 Submission, in particular in relation to Article 5 and Requirement 32 of the dDCO. Prologis therefore invites the ExP to refer to paragraphs 7.1 to 7.13 of its Deadline 6 Submission which provides its response to the issues raised by this question.