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 7 SUBMISSION

ON BEHALF OF

PROLOGIS UK LIMITED AND PROLOGIS UK 121 LIMITED

CONTENTS

1 Introduction

1.1 This submission is made on behalf of Prologis UK Limited and Prologis UK 121 Limited ("**Prologis**") in response to the material submitted by SEGRO Properties Limited ("**SEGRO**") at Deadline 6 of the Examination into the East Midlands Gateway Phase 2 Development Consent Order (the "**DCO Application**") and the associated application for a Material Change Order to the East Midlands Gateway Rail Freight Interchange and Highway Order 2016. This submission also contains Prologis's comments on certain matters raised in the Examining Panel's letter of 10 August 2026[1] ("**10 August Letter**") and SEGRO's responses to those matters submitted at Deadline 6a[2].

1.2 Included in this submission is the Third Report of Mr Peter Roberts FRICS CEnv of DWD, appended at Appendix 1 (the "**Third Report**"), which responds to the submissions made in respect of viability in SEGRO's Deadline 6 response to Prologis's Deadline 5 Submission, including through the provision of market evidence of the value of the Prologis/MAG Land, and explains why SEGRO's case on viability remains unsubstantiated.

1.3 On 20 August 2026, the ExP published a letter pursuant to Rule 17 of the Examination Procedure Rules requesting updates to responses to ExQ3 Q1.0.1 to explain how the NPPF 2026 would affect the consideration of the proposed development.[3] Prologis's update is submitted as Appendix 2 of this submission.

1.4 At Deadline 7, Prologis has filed two further documents: (1) a summary and signposting document setting out the areas of disagreement and identifying where Prologis's submissions on each are to be found; and (2) a separate submission on procedural fairness. To avoid repetition, these submissions and Mr Roberts' Third Report cross-refer to each other where relevant.

1.5 Much of SEGRO's Deadline 6 material is repetition and assertion without new analysis. Where that is the case, Prologis identifies the issue but does not repeat its substantive response, instead relying on its previous submissions.

1.6 As detailed further below, much of SEGRO's response simply asserts that no question or issue arises. Where this is the case, that answer is not one that the ExP or the Secretary of State could adopt. A recommendation or decision resting on SEGRO's Deadline 6 material as the answer to Prologis's case would disclose no discernible legal reasoning and would be inadequately reasoned as a matter of law. Prologis therefore hopes that this submission will assist the ExP in identifying where material gaps in SEGRO's case remain, and/or are incapable of being resolved, and in drawing out the wider implications of this for the DCO Application.

1.7 Notwithstanding the points made below, Prologis reserves its position in respect of the final versions of the DCO Application documents due at Deadline 7.

1.8 Terms used in this submission have the same meaning as in Prologis's previous submissions unless otherwise defined.

2 Section 35 Direction

2.1 Prologis has made detailed submissions[4] which demonstrate how and why the development for which consent is sought in the dDCO[5] does not correspond with the description of the Proposed Project to which the Section 35 Direction applies. As a result of that significant mismatch, there is no jurisdiction to make the Order in the form sought.

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1 [PD-032] ExP's Rule 17 Letter dated 10 August 2026

2 [REP6A-001D] SEGRO's Covering Letter for Response to Deadline 6a

3 [PD-033]

4 As developed at paragraphs 2.3–2.33 of its Deadline 2 Submission [REP2-050D] and paragraphs 3.1–3.35 of its Deadline 4 Submission [REP4-084D]

5 [REP6-007D] SEGRO Draft Development Consent Order (Clean) Deadline 6 (DCO 3.1)

2.2 Prologis's criticisms of Requirement 33, as the mechanism said by SEGRO to provide the answer to that objection[6], are set out in detail in its Deadline 6 Submission[7] and can be summarised as follows:

(a) the term "campus" is defined at Requirement 33(4)(a) in terms that would be satisfied by any area of the authorised development combining storage, distribution or advanced manufacturing floorspace with ancillary office use;

(b) by defining "campus" in this way, the requirement fails to differentiate the concept of the campus element of the development from the generality of the B2/B8 development that is proposed on the site – any and every proposed unit, comprised entirely of typical storage, distribution or manufacturing floorspace, would qualify as part of the "campus" as defined;

(c) Requirement 33(1) fixes only a minimum of 10% of total gross floorspace constituting a campus (the total floorspace of any unit which includes some ancillary office use, however small, would count towards the 10% figure – the requirement does not mean 10% of the total gross floorspace must be in office use);

(d) the planning unit by reference to which any office use falls to be judged as ancillary is undefined but would almost inevitably correspond to the individual units instead of the development as a whole; and

(e) all reference to "headquarters" and "head office functions" has been removed from the operative text, surviving only in the heading of the requirement. That reflects and is consistent with the fact that "co-located office functions" is intended simply to mean ordinary ancillary office use. It does not embrace a "headquarters" or an office use including "head office functions" which would go beyond what is ancillary to the use of an individual unit and constitute either a freestanding office use or a mixed B2/B8/office use that would require separate consent, which has neither been sought nor its likely significant effects assessed.

2.3 The combined effect of those points is to render Requirement 33 as drafted entirely meaningless, and plainly incapable of achieving the stated objective of aligning the development for which consent is sought with the description of development to which the Section 35 Direction applies.

2.4 No change was made to Requirement 33 in SEGRO's Deadline 6 material, and therefore no answer is available to any of those criticisms. Prologis's critique of the requirement therefore currently stands unrebutted.

2.5 What SEGRO did say at Deadline 6 confirms the premise on which the above critique proceeds. Its response to ExQ3 Q19.0.1 makes clear that "co-located office function" means ancillary office space only, and its transport material reflects that intention.[8] Office floorspace is put at around 6% of the total and described as ancillary, and trip rates are drawn from the TRICS database and from surveys undertaken at EMG1. What has been assessed is therefore development no different from ordinary B2/B8 development with typical ancillary office use.

2.6 SEGRO's Deadline 6 response therefore serves to confirm that Requirement 33 secures nothing. Every B2/B8 unit would contain at least some ancillary office use and any part of the site containing such ancillary office use would therefore qualify as a "campus" or part of the "campus" as defined. The requirement does not therefore distinguish any part of the authorised development from what would be expected in a standard B2/B8 scheme and is incapable of achieving alignment between the development for which consent is sought and the development to which the Section 35 Direction applies.

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[6] See SEGRO's Deadline 4 response to Prologis's Deadline 2 and 3 Submissions, [REP4-033] Appendix 6, pages 83 to 84, in which it states in terms that the submission that the application fails to correspond with the s.35 Direction is denied "on the basis that delivery of the campus will be secured by Requirement [33]".

[7] [REP6-107] Prologis Deadline 6 Submission

[8] [REP6-043] SEGRO's Response to the Examining Panel's Third Written Questions Deadline 6 (DCO 7.21*)*

2.7 Prologis's specific submissions on the meaning of "co-located", on the absence of any control over how much of the 10% is genuine co-located office, and on the undefined planning unit have not been answered. The requirement as drafted cannot secure the substantial carbon neutral campus/headquarters including co-located head office functions to which the Section 35 Direction applies.

2.8 The remainder of SEGRO's Deadline 6 material on this issue consists of nothing more than assertion. It repeats SEGRO's stance that there is "*no material divergence*" between the DCO Scheme and the development which is the subject of the Direction, that the attempts by Prologis to draw a distinction between the two are "*without substance*", and that the jurisdictional case is misconceived[9]. No authority, no principled reasoned analysis and no engagement with Prologis's reasoning at section 3 of Prologis's Deadline 4 Submission[10] is offered in support of any of those propositions.

2.9 The consequence is that the ExP is left with Prologis's principled reasoned analysis on the one hand and SEGRO's bare denial that there is any issue to be addressed on the other. Three questions of law require an answer:

1. what is the correct approach to determining whether an application falls within the scope of a section 35 direction;
2. how such a direction is to be interpreted; and
3. the correct interpretation of this Section 35 Direction.

2.10 Prologis has answered each of these questions, in its Written Representation[11], Deadline 2 Submission[12], Deadline 4 Submission[13], and in its Response to ExQ2 Q1.0.5[14]. In contrast, SEGRO has not provided clear answers to these questions. Indeed, it has sought to avoid any structured and principled engagement with these issues, asserting either that no jurisdictional question arises at all or, in the alternative, relying on approaches for which no authority and no reasoning is offered such as whether the divergence is "*fundamental*"[15].

2.11 The comparison the ExP must make is between the development which Requirement 33 would secure and the development described in the Section 35 Direction. The headquarters and head office functions are absent from the operative development description, and the term "campus" has been defined (a) to exclude the scope for any such headquarters or head office use, (b) to rob the concept of a "campus" of any meaning that either reflects ordinary usage or might differentiate the development here from typical B2/B8 development, and (c) thereby substantially to diverge from the development as described in the Section 35 Direction and as specified in the qualifying request on which the Section 35 Direction was based. No development corresponding to the description in the Section 35 Direction has been assessed in the Environmental Statement or the Transport Assessment, and no such development is secured by the draft Order.

2.12 It is striking that SEGRO has still not said whether it contends that Requirement 33, as now formulated, satisfies the test of necessity. That silence is unsurprising, because the answer is damaging either way. If the requirement is said to be necessary, the application as submitted was not consistent with the Section 35 Direction and the question arises as to whether Requirement 33 would be effective to address that problem. If it is not said to be necessary, SEGRO's case must be that it should not be imposed. That, however, is inconsistent with its previous explicit statements that

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9 [REP6-042] SEGRO's Response to Deadline 5 Submissions Deadline 6 (DCO 7.20), items 4 and 5, Appendix 2

10 [REP4-084D] Prologis Deadline 4 Submissio*n*

11 [REP1-267D] Prologis Written Representation, paragraphs 3.10–3.17

12 [REP2-050D] Prologis Deadline 2 Submission, paragraphs 2.3-2.38

13 [REP4-084D] Prologis Deadline 4 Submission, paragraphs 3.1-3.35

14 [REP4-082D] Prologis Responses to ExQ2, Q1.0.*5*

15 [REP5-033] SEGRO's Response to Deadline 4 Submissions (DCO 7.17), pages 146 to 148

the requirement provides the answer to Prologis's objections[16] and would require SEGRO to make clear why it says the proposed development would be aligned with the Section 35 Direction in its absence.

2.13 Whichever way SEGRO opts to go on the issue of necessity, the imposition of a requirement of this type cannot operate as a retrospective cure in this case for the reasons Prologis set out at Deadline 4.[17]

2.14 The consequence is that the divergence between the development described in the Section 35 Direction and the development applied for is unresolved, and nothing SEGRO has submitted at Deadline 6 resolves it. The development for which consent is sought in the DCO Application is not one to which the Direction applies, there is accordingly no jurisdiction to grant development consent for it, and none to authorise the compulsory acquisition which depends upon it. The ExP therefore cannot properly recommend the making of the Order as applied for, because it would thereby be recommending that the Secretary of State act in a way that is *ultra vires*. To do so would be unreasonable in the *Wednesbury* sense.

2.15 Even if the *vires* objection could in some way be overcome (which is not possible for the reasons Prologis explained in its Deadline 4 submissions[18]), once the headquarters and head office element is stripped away what remains on the Prologis/MAG Land is a typical B2/B8 scheme indistinguishable from that which Prologis itself proposes. The outcome would be that the section 35 route had been misused to allow one developer to supplant another to deliver typical B2/B8 development on that land through state-supported compulsory expropriation. The proposed headquarters/head office functions featured heavily in the qualifying request in arguing for the Proposed Project to be treated as being of national significance. That was the information and the description of development on which the Secretary of State's decision to make the direction was based, and national significance cannot be assumed for a development which does not include those key distinguishing elements. The benefits of the DCO Scheme carry no greater weight than those of a comparable B2/B8 scheme and the section 122(3) case is diminished accordingly.

3 Regulation 20

3.1 The background to this issue is set by the ExP's Rule 17 letter of 2 June 2026[19] and the correspondence and submissions that followed. This is described in Prologis's Deadline 5 submission[20] at section 2 and is not rehearsed in any detail here.

3.2 In short, Prologis's Deadline 4 submissions[21] explained why the ExP's Rule 17 request to SEGRO to supply an assessment of the likely significant effects of displacing the development proposed in the Joint Application engages Regulation 20.

3.3 The ExP's response to those submissions was provided in its letter of 23 June 2026[22], stating that it did not consider the information it had sought constituted "further information" for the purposes of the EIA Regulations.

3.4 Prologis made further representations to the ExP in relation to this issue at Deadline 5[23] at paragraphs 2.9 to 2.14. Those representations asked the ExP to review the position expressed in its

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16 [REP4-033] SEGRO's Response to Deadline 2 and 3 Submissions (DCO 7.13), Appendix 6, pages 83 to 84

17 [REP2-050D] Prologis Deadline 2 Submission, paragraph 2.21-2.23

18 [REP4-084D] Prologis Deadline 4 Submission, paragraph 3.27-3.32

19 [PD-021] – ExP's Rule 17 Letter dated 2 June 2026

20 [REP5-065D] Prologis Deadline 5 Submission, section *2*

21 [REP4-074D] – Joint Letter from Prologis and EMA/EMIAL in respect of the ExP's 2 June Rule 17 letter, Section 4

22 [PD-025] – ExP's Rule 17 Letter dated 23 June 2026

23 [REP5-065D] – Prologis Deadline 5 Submission

letter of 23 June in light of those representations. The ExP has so far not provided a response to that request.

3.5 In its Deadline 6 submissions, SEGRO has sought to engage with Prologis's Deadline 5 submissions and seeks to argue that, because the issue that Prologis has advanced in respect of the Southern Land point is not an EIA issue, it "*necessarily follows*" that the assessment of the effects on the Joint Application is not one either.[24] That is a non-sequitur and mistakenly conflates the two points in the same way that Prologis identified at Deadline 5.[25] The two points were made in different contexts and for different purposes:

(a) The Southern Land point goes to whether the Southern Land could come forward independently absent the use of compulsory acquisition and is necessarily relevant to forming a judgment as to whether the compelling case for acquiring the Prologis/MAG Land is made out.

(b) The need to assess the effects of displacing the development proposed in the Joint Application arises because this is a likely significant adverse socio-economic effect of the project and therefore requires assessment pursuant to the EIA Regulations. The outcome of that assessment would also be an obligatory material consideration when deciding whether there is a compelling case in the public interest justifying compulsory acquisition, but in this case the legal obligation to undertake the assessment also comes from an additional legislative source.

3.6 The reason SEGRO gives for saying that Regulation 20 is not engaged is simply that the ExP's letters of 19 and 23 June 2026 confirmed that the Rule 17 Letter was not a Regulation 20 request.[26] That does not engage with, let alone meet, the points made by Prologis in its Deadline 5 Submission[27]. What matters for these purposes is whether the information requested meets the definition of "further information" in the EIA Regulations. If it does, the fact that the request was made pursuant to Rule 17 cannot remove the statutory requirements that follow from the fact of the request. In other words, Rule 17 does not allow "further information" as defined to be sought and obtained free of the procedural safeguards set by the EIA Regulations. Furthermore, if as here the reasons given by the ExP for concluding that the information sought is not "further information" demonstrably do not apply to that information, it is not lawfully open to the decision-maker to rely on the ExP's conclusion as the answer to the question raised by Prologis's representations.

3.7 The first update required by the Rule 17 Letter[28] (the revised baseline accounting for the delivery and non-delivery scenarios) is a clear example of further information for the purposes of Regulation 20, being directly relevant to the reasoned conclusion and necessary for the purposes of regulation 14(2).

3.8 However, neither SEGRO nor the ExP has engaged with this reasoning or adequately addressed why the ES updates would not engage Regulation 20. This has implications for the overall fairness of the procedure for Prologis and other Interested Parties as Prologis has noted at paragraph 2.13 of its Deadline 5 submissions and in the Procedural Fairness submission at paragraphs 3.16 – 3.19. Further and in any event, this is a mandatory procedural requirement that has not been complied with.

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[24] [REP6-042] SEGRO's Response to Deadline 5 Submissions Deadline 6 (DCO 7.20), item 1, Appendix 2

[25] [REP5-065D] Prologis Deadline 5 Submission, paragraph 2.4-2.8

[26] [REP6-042] SEGRO's Response to Deadline 5 Submissions Deadline 6 (DCO 7.20), item 2, Appendix 2

[27] [REP5-065D] Prologis Deadline 5 Submission, paragraphs 2.9-2.17

[28] [PD-021] – ExP's Rule 17 Letter dated 2 June 2026

4 Reasonable Alternatives

4.1 In its Deadline 6 submissions, SEGRO has sought to recast the chronology of negotiations around what it describes as "facts that appear not to be disputed", with the short summary provided[29] listing the periods over which engagement took place, offers made to EMA, and select entries in the negotiation chronology. Whether meetings and correspondence occurred has never been the issue. A count of entries is not the assessment that paragraph 8 of the CA Guidance requires, and it proves nothing about the genuine exploration of alternatives.

4.2 The characterisation of what has occurred as six years of joint venture negotiation is not fair or accurate so far as Prologis is concerned. Prologis did not acquire its interest until late 2024, the first meeting between the parties took place on 12 February 2025, and no substantive negotiation preceded the submission of the DCO Application. Nor is it fair or accurate to describe what has occurred in the last eighteen months as proper attempts to agree an alternative to compulsory acquisition.

4.3 As matters stand, no heads of terms for a joint venture have ever been tabled by SEGRO, and every structure Prologis has advanced has been rejected as not financially acceptable. All outstanding actions rest with SEGRO. That pattern is relevant to two distinct points:

(a) on negotiation, whilst SEGRO seeks to point to the *quantity* of engagement over six years, the fact that the parties are materially no closer to agreeing a reasonable alternative and the related fact that SEGRO has so far not even put forward heads of terms is itself evidence of the absence of genuine exploration of the kind the CA Guidance requires; and

(b) on viability, the recurring objection that Prologis's proposals are not financially acceptable to SEGRO is consistent with the evidence before the examination that the margins available on the DCO Scheme are too narrow to permit a commercial arrangement such as a joint venture to be reached on what should be readily agreeable terms.

4.4 A further inconsistency between SEGRO's position on reasonable alternatives and viability is that the land value adopted for the Prologis/MAG Land in its viability appraisals is not a market value at all, but a figure derived from its own 2020 option agreement with Mr Aldridge. SEGRO's answer to any criticism that the real value would be higher is that any higher payment for the Prologis/MAG Land presents no difficulty because its appraisal can be adjusted to absorb it, whilst at the same time every structure Prologis has advanced in negotiation has been rejected as not financially acceptable. If the DCO Scheme carries the headroom SEGRO claims, that same headroom should be available to accommodate a negotiated alternative to compulsory acquisition on reasonable commercial terms. If it does not, the viability case for the DCO Scheme falls away. Either way, SEGRO cannot on the one hand rely on the flexibility of its appraisal to answer the viability case whilst on the other denying that any such flexibility exists when a reasonable alternative is proposed.

4.5 SEGRO's argument that statute does not require alternatives to be explored before the powers are sought fails to reflect the clear intent of paragraph 8 of the CA Guidance, and in any event misses the point. It is evident as a matter of common sense and logic that the draconian step of seeking powers of compulsion should only come after reasonable attempts to explore alternatives. That allows alternatives such as amendments to the scheme to be explored at a time when changes can more readily be achieved. Furthermore, earlier engagement, conducted outside the adversarial setting of an examination when affected persons are defending their property rights from compulsory expropriation, offers a materially better prospect of agreement. That is why paragraph 8 of the CA Guidance is expressed in the past tense and why the work is expected to be done before compulsion is sought.

[29] [REP6-042] SEGRO's Response to Deadline 5 Submissions Deadline 6 (DCO 7.20), item 9, Appendix 2

4.6 As Prologis has repeatedly submitted, that work was not done, and SEGRO's belated attempts to make good the deficiency fall short of what the CA Guidance anticipates as set out in Prologis's Written Representation[30] and Deadline 5 Submission.[31]

4.7 The continuing relevance of an alternative for the purposes of decision-making in a compulsory acquisition case such as this is not affected by SEGRO's failure to adopt it in time. An applicant cannot avoid the implications of an available alternative by sitting on its hands while the window of opportunity to pursue that alternative closes. Nor can SEGRO's contested assertion of good faith negotiation be accepted at face value; it is a matter calling for evidence, and sufficient evidence has not been produced. Prologis's submission is that the ExP cannot lawfully conclude that all reasonable alternatives to compulsory acquisition have been explored, and that the failure goes directly to section 122(3).

5 Viability

5.1 SEGRO's case for compulsory acquisition, as set out in its Statement of Reasons,[32] relied on the proposition that the Southern Land would not be viable or deliverable as standalone development, so that only a single scheme embracing the Prologis/MAG Land would be able to deliver development across the whole site. That proposition is therefore a keystone of its case for compulsory acquisition. Prologis's Relevant Representation[33] identified that no evidence had been provided to substantiate this claim and explained this was a central deficiency going to the heart of the compelling case for compulsory acquisition.

5.2 At CAH1, SEGRO acknowledged that viability was in this case a matter calling for evidence and committed to providing viability evidence at Deadline 1. SEGRO's Deadline 1 Viability Appraisal itself acknowledged that in this case viability was "*an extremely important issue*" (paragraph 9) and that it was "*important to understand*" if developing the Southern Land as a separate phase "*would be independently viable*" (paragraph 10).

5.3 Subsequent submissions made by Prologis at Deadline 3,[34] Deadline 4[35] and Deadline 5[36] all highlighted that the evidence that SEGRO had provided was unable to support this key element of its case.

5.4 SEGRO has now effectively abandoned the effort to fill this significant evidential lacuna and now accepts that development of the Southern Land "*might technically be viable*".[37] That is an acknowledgement that a key element of the case that SEGRO has relied upon in its Statement of Reasons has not been (and will not now be) made out.

5.5 SEGRO has instead recast its case in respect of the Southern Land as one of market perception and uncertainty, submitting that the market's perception of viability "*is not based on a best-case mathematical exercise disregarding all risks*" and pointing to the absence of planning permission, unknown highways costs, unknown third-party land requirements, and the absence of evidence that a landowner would sell.[38]

5.6 This shift in SEGRO's argument, and its significance, should not go unnoticed. Non-viability was the foundation of the case in the Statement of Reasons and of the justification for taking the

30 [REP1-267D] Prologis Written Representation, Section 6

31 [REP5-065D] Prologis Deadline 5 Submission, paragraphs 4.1-4.7

32 [APP-019D] SEGRO Statement of Reasons (DCO 4.1), paragraph 5.57

33 [RR-024D] Prologis Relevant Representation, paragraphs 9.4-9.6

34 [REP3-063] Prologis Deadline 3 Submission, paragraphs 2.2, 2.14-2.19 and Annex A

35 [REP4-084D] Prologis Deadline 4 Submission, Section 3 of Appendix 6

36 [REP5-065D] Prologis Deadline 5 Submission, Section 6, Appendix 1

37 [REP6-042] SEGRO's Response to Deadline 5 Submissions Deadline 6 (DCO 7.20), item 10, Appendix 2

38 ibid

Prologis/MAG Land. SEGRO has not satisfactorily explained how the case for compulsory acquisition survives this change. It has not provided an amended version of the Statement of Reasons to assist Affected Persons and the ExP in understanding the implications for its stated case and thus to respond to the case as it now stands.

5.7 Furthermore, the new position effectively involves an admission that SEGRO did not in fact examine whether independent development of the Southern Land would be commercially viable before claiming in its Statement of Reasons that this was not the case, and seeking powers of compulsory acquisition on that basis. If there had in fact been an earlier assessment of the commercial viability of such independent development that was capable of substantiating the claim made in the Statement of Reasons, the existence and substance of that assessment would have been revealed by now (and should have been disclosed). It is now clear SEGRO has never had any proper basis to advance this key element of its case for compulsory acquisition.

5.8 The point goes further. The logical corollary of the points now advanced by SEGRO is that it has not itself taken any steps to explore the scope for obtaining planning permission, identifying any necessary highway costs and land requirements, or whether the landowner would be willing to sell in order to develop the Southern Land. In other words, SEGRO now invites the Secretary of State to dismiss this obvious alternative to compulsory acquisition on the basis that it has not explored it sufficiently to know if it can be delivered or not. To say that these matters are uncertain is not the same as reporting the outcome of a proper and conscientious appraisal which examines these matters and concludes that the land cannot be developed. It is evidence that no appraisal or assessment of development potential has been undertaken at all. On SEGRO’s own account, therefore, this alternative remains unexplored.

5.9 SEGRO cannot now argue that the decision-maker is still free to discount the independent development of the Southern Land (which SEGRO controls) as a reasonable alternative to compulsory acquisition on the basis that no-one has proved it is viable and deliverable. It is for the applicant to make its case that it needs to take the land of affected persons to deliver development of the site as a whole, not for objectors to demonstrate the contrary position.

5.10 The same recasting appears in relation to the Joint Application. Whereas SEGRO had previously claimed that development pursuant to the Joint Application was unviable,[39] it now says that it is not contending that the Joint Application is unviable, only that its viability is unproven and will remain unproven until Prologis discloses the price it paid and the terms agreed with EMA.[40] The two positions cannot stand together. SEGRO asks the Secretary of State to conclude that its own scheme on this land is viable, whilst simultaneously discounting the Joint Application on the footing that its viability is unproven.

5.11 That leaves the Secretary of State being asked to find one scheme viable and to discount the other (essentially similar development) on the same land on the basis that its viability is unproven – a conclusion which is inherently improbable for the reasons Prologis has explained and for which SEGRO offers no rational basis.

5.12 Two wider implications follow:

(a) SEGRO’s positive case that the Southern Land could not viably come forward as standalone development has now been abandoned rather than evidenced, and the submissions made by Prologis point the other way: the land lies within the Freeport Tax Site, it is proposed for allocation in the emerging Local Plan, need is established and there is an active developer market.[41] It follows that beneficial development of the Southern Land is likely to come forward without the exercise of compulsory acquisition powers, which directly diminishes the benefits properly attributable to their exercise and is central to the section 122(3) balance.

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[39] [REP1-051D] SEGRO's Response to Relevant Representations Deadline 1 (DCO 7.2), Appendix 6, paragraph 3.14

[40] [REP6-042] SEGRO's Response to Deadline 5 Submissions Deadline 6 (DCO 7.20), item 11, Appendix 2

[41] [REP4-074D] – Joint Letter from Prologis and EMA/EMIAL in respect of the ExP's 2 June Rule 17 letter, paragraph 3.4

(b) SEGRO has produced no evidence demonstrating viability against its own 15% profit-on-cost benchmark on a realistic market value for the Prologis/MAG Land, and has elected not to put in any further viability evidence at Deadline 6. The ExP cannot properly fill that gap by surmise or assumption. It follows, first, that the ExP cannot be satisfied that the DCO Scheme will be delivered in full, within the Freeport Window, or at all, which bears directly on the realistic worst case for the purposes of the EIA; and second, that the benefits relied upon in the section 122(3) balance cannot be given the full weight SEGRO invites, because their delivery is not demonstrated to be likely on evidence capable of being tested. A positive plank of the case for the powers accordingly remains unmade.

5.13 Prologis's substantive response to SEGRO's Deadline 6 submissions on viability is contained in the Third Report. The ExP is invited to read that report in full for the detailed underlying analysis. Without repeating the submissions made above, Prologis emphasises the following further matters arising from the Third Report:

(a) SEGRO has submitted no expert evidence in answer to Mr Roberts's Second Report. Mr Cottage has not responded to it, and SEGRO's Deadline 6 submissions contain only a single brief reference to it whilst repeating the points to which the Second Report had already responded in detail. Mr Roberts's evidence on those matters is therefore effectively unchallenged, and the ExP is invited to draw the appropriate inferences.[42]

(b) SEGRO has still not grappled with the fact that its own positive case on viability requires it to identify and justify what it considers to be a robust figure for the market value of the Prologis/MAG Land. Without such a figure, SEGRO's assessment of commercial viability is materially incomplete and cannot properly be relied upon. SEGRO has instead sought to reverse the burden of proof by inviting Prologis to provide a valuation of its own. Mr Roberts has now provided examples of comparable land transactions which are materially above both the [redacted] per acre derived from SEGRO's option agreement with Mr Aldridge and the indicative figure of [redacted] and which demonstrate that the land value assumptions underpinning SEGRO's appraisals are fatally flawed.[43]

(c) Even on SEGRO's own inputs, viability is not demonstrated. Mr Cottage's appraisal produces a profit on cost of 14.98% – below his own 15% minimum hurdle rate – and does so only by assuming that SEGRO would incur no disposal costs at all. Once those costs are added back, the return falls to 12.84%. There is accordingly no evidence before the Examination that SEGRO could viably pay even £[redacted] for the Prologis/MAG Land, still less a market value.[44]

(d) The only appraisal SEGRO has produced to consider the position in which compulsory acquisition powers are refused has been shown to be an artificial construct. It assumes that SEGRO would deliver the whole of the highway works, without any sharing of those costs with Prologis and without renegotiating the terms it has agreed with Mr Aldridge. Both of those matters are within SEGRO's own control and are capable of resolution without compulsory acquisition, such that the viability difficulties SEGRO identifies in those circumstances are of its own making.[45]

(e) SEGRO has still produced no appraisal to address whether the Southern Land could viably be developed independently and has therefore entirely failed to substantiate the assertion made in its Statement of Reasons in respect of that issue.

(f) Mr Roberts's overall conclusion is that the evidence does not merely show the DCO Scheme to be marginally viable; it demonstrates that there are no circumstances in which it could properly be found to be viable. The ExP can accordingly have no certainty that SEGRO

[42] Appendix 1, paragraphs 1.7-1.9, 3.18 and 6.3

[43] Appendix 1, Section 5 and paragraphs 6.4-6.5

[44] Appendix 1, paragraphs 2.17-2.18 and 4.2-4.4

[45] Appendix 1, Section 2

would be able both to deliver the development and to meet its obligations to pay compensation.[46]

6 Precedent and Wider Consequences

6.1 SEGRO's Deadline 6 response to Prologis's submissions about the adverse public interest consequences of the precedent that would be set by this DCO, if made, is that the relevant precedent is simply that of private-to-private acquisition, which has occurred before, and that the position before this Examination is not unusual.[47]

6.2 That does not answer Prologis's point. The highly unusual circumstances here, and the precedent the DCO would set, are that this involves the proposed compulsory acquisition by a commercial rival of land on which essentially the same commercial development is being promoted by an equally capable and funded developer. SEGRO has not pointed to any precedent in which a truly comparable situation has arisen.

6.3 The adverse consequences of the precedent are magnified in this case, where SEGRO has secured the ability to apply for powers of compulsory acquisition on a false prospectus. As Prologis has set out elsewhere,[48] SEGRO's qualifying request under s.35ZA (and the subsequent Section 35 Direction) related to a scheme with specific use characteristics (a substantial headquarters/campus with head office functions) and an intended 'anchor' occupier that were relied on to seek to differentiate the proposed project from typical B2/B8 development. SEGRO has then sought those powers instead to enable it to develop an entirely typical B2/B8 scheme on a commercial rival's land in substitution for the essentially similar B2/B8 scheme that commercial rival is actively promoting. That would be a clear misuse of the section 35 route and if sanctioned by the Secretary of State would encourage others to follow suit, undermining normal commercial competition and with it investor confidence.

6.4 The result is that a decision endorsing the DCO Application would carry significant adverse consequences for security of title and for inward investment beyond this Examination.[49] It would signal that capital committed by an active developer to a policy-supported project may be wasted because the project can be displaced by a commercial rival using state-supported compulsory powers to facilitate its own scheme. This is an important consideration weighing against the grant of the powers, and one which the report to the Secretary of State should address.

7 Compelling Case

7.1 SEGRO's Deadline 6 submission erroneously treats the 'gross' claimed benefits of the DCO Scheme as the relevant comparator to the position that would exist without the use of compulsory acquisition, without identifying which of those benefits have been demonstrated to depend upon the exercise of the powers and would not be likely to come forward in any event.[50]

7.2 As explained in Prologis's Deadline 2 Submission,[51] only those benefits properly attributable to the exercise of compulsory acquisition powers (that is, benefits unlikely to arise without them) can properly be given material weight in the section 122(3) balance. The weighing exercise therefore requires the benefits likely to arise without the powers to be netted off:[52]

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46 Appendix 1, paragraphs 6.5-6.8

47 [REP6-042] SEGRO's Response to Deadline 5 Submissions Deadline 6 (DCO 7.20), item 12, Appendix 2

48 [REP4-084D] Prologis Deadline 4 Submission, paragraphs 3.20-3.28

49 [REP1-267D] - Prologis Written Representation, Appendix 4

50 [REP6-042] SEGRO's Response to Deadline 5 Submissions Deadline 6 (DCO 7.20), item 15, Appendix 2

51 [REP2-050D] Prologis Deadline 2 Submission, paragraphs 4.1-4.13

52 [REP4-084D] Prologis Deadline 4 Submission, paragraphs 4.3-4.5; [REP2-050D] Prologis Deadline 2 Submission, paragraphs 5.3-5.4

(a) On the Prologis/MAG Land, netting off the benefits likely to flow from the Joint Application produces either a net disbenefit, because the Joint Application delivers more development on the same land, or at best neutrality.

(b) On the Southern Land, the decision-maker must form a view on the likelihood of beneficial development coming forward in the absence of the DCO, having regard to need, policy support, the absence of any unacceptable harm (each of which must be assumed to be established if consent is granted for the DCO Scheme) and the existence of an active developer market. Development would therefore be likely to occur, albeit possibly later than under the DCO. Any such delay would in large part be the result of SEGRO's decision not to explore independent development of the Southern Land before seeking the powers, as opposed to anything inherent in terms of policy, need, commercial viability or land ownership. That must be reflected in the weighing exercise and it would be inappropriate for SEGRO's case to gain force as a result of its own failure to explore a reasonable alternative.

7.3 The weight to be given to the benefits relied upon is also affected by the extent to which they can in fact be delivered. SEGRO's Deadline 6 response on the Community Park seeks only to justify its existing position and does not address the substance of Prologis's concerns. Prologis's position is therefore unchanged – the proposed Community Park is so constrained in layout and functionality that it cannot deliver the level of multi-functional use claimed, and the benefits claimed for it are accordingly significantly overstated, for the reasons set out at Section 5 of Prologis's Deadline 5 Submission[53] and not repeated here.

7.4 The netting-off exercise does not stand alone. The compelling case is further diminished by the matters addressed elsewhere in this submission, each of which reduces either the weight properly attributable to the DCO Scheme's benefits or the certainty of their delivery. Against those matters stand the certain and immediate private loss to Prologis and MAG and the public interest harm of frustrating the Joint Application, which crystallises on the making of the Order whether or not the powers are exercised. What remains is incapable of decisively demanding the compulsory acquisition of the land of a willing, capable and funded rival promoting materially the same development on the same land. Prologis therefore invites the ExP to recommend, and the Secretary of State to decide, that the powers sought over the Prologis/MAG Land be refused (notwithstanding the submissions at Section 2), even if it is concluded that there is jurisdiction to grant development consent for the proposed development.

8 Further dDCO Matters

Article 42

8.1 In its Deadline 6 submissions, SEGRO seeks to argue that the operation of Article 42 of the dDCO would not assist with the ability to implement the remainder of the DCO Scheme if the Joint Application scheme were delivered on the Prologis/MAG Land.[54]

8.2 SEGRO's reasoning here is entirely opaque. It is unclear what the intended effect of Article 42 is if it is not to address a potential situation in which the implementation (or continued implementation) of the DCO Scheme would otherwise be prevented due to development delivered on part of the order land pursuant to a planning permission (as per the *Hillside* principle).

8.3 SEGRO's response necessarily gives rise to the following question: what does the article do if it would not operate to allow the remainder of the DCO Scheme to be implemented in those circumstances? If it does not allow a permission on one part of the land to coexist with DCO development on the remainder, its purpose and its intended legal effect are entirely unclear and unexplained. If SEGRO invites the ExP to recommend to the Secretary of State that any DCO made should include Article 42, it must make explicit exactly what legal effect it contends the article has, and its likely practical implications and limits. Without that having been done, SEGRO's claim that

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[53] [REP5-065D] Prologis Deadline 5 Submission, Section *5*

[54] [REP6-042] SEGRO's Response to Deadline 5 Submissions Deadline 6 (DCO 7.20), item 17, Appendix 2

Article 42 would not assist in the scenario contemplated here is incomprehensible and incapable of acceptance.

Requirement 31

8.4 The safeguarding requirement has been deleted from the dDCO, but SEGRO maintains that the land is needed for landscaping and that there is "*no sensible basis*"[55] to decline to acquire the plots in question, whereas LCC continues to maintain its request for safeguarding.[56]

8.5 The two parties' positions cannot both be right. If LCC is correct, there is a need to safeguard the land for dualling in the public interest and that is only possible if that land is not needed to allow for an acceptable level of landscaping for the DCO development. In those circumstances the plots in question must be removed from the scope of the proposed compulsory acquisition for the reasons Prologis has articulated. If SEGRO is correct, it follows that the dualling of the A453 is either not required or that it can be delivered without the use of this land.

8.6 Further and in any event, until recently SEGRO was inviting the ExP to recommend that the former Requirement 31 should be imposed and that to do so would be appropriate having regard to the relevant tests for imposing requirements. It must, therefore, have assessed the implications of the land in question ceasing to be available for landscaping and satisfied itself that the DCO Scheme could be landscaped to an acceptable standard without the use of that land. Had it not engaged with that question and so satisfied itself, it could not properly have adopted its previous position. The factors that are relevant to the making of such a judgment have not changed since SEGRO adopted that position, and SEGRO does not claim that they have. Whether the dualling is in fact required, and whether or when it may come forward, does not affect whether the DCO Scheme can satisfactorily be landscaped without the use of that land. Those matters are immaterial to that question. SEGRO's evident change of stance on this issue is therefore entirely unexplained, unevidenced and unjustified.

8.7 In those circumstances the case for the compulsory acquisition of the relevant land has not been made out.

9 Responses to ExQ3

9.1 ExQ3 Q7.0.3 – On the possible takeover, SEGRO's position is materially the same as that of Prologis, namely that the Examination should proceed and the ExP's report and recommendation should be prepared on the basis that Prologis and SEGRO are two separate entities.

9.2 ExQ3 Q7.0.5 – On the option agreement, there is a common understanding that the release of the Option Agreement confirmed a minimum price of [redacted], subject to inflation, and that its release did not itself alter the outcome of the valuation exercise.

9.3 ExQ3 Q15.0.1 – SEGRO seeks to justify confining its site search for alternatives to the local area in reliance on the Freeport designation and the benefits tied to it. That position cannot be reconciled with its treatment of the non-delivery scenario, in which delivery inside or outside the Freeport Window appears to make no difference to the assessment of socio-economic impact.[57] Either the Freeport Window is critical, in which case SEGRO's assessment of the non-delivery scenario is flawed for failing to reflect that fact, or it is not, in which case SEGRO cannot justify the heavily constrained site search area. SEGRO cannot rationally and consistently adopt both positions, and nor can it properly invite either the ExP or the Secretary of State to do so.

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55 [REP6-042] SEGRO's Response to Deadline 5 Submissions Deadline 6 (DCO 7.20), item 16, Appendix 2

56 [REP6-057] DCO 8.4B Draft Highways and Transport SoCG with Leicestershire County Council (Clean) Deadline 6, 4.8(c)

57 [REP6-107] Prologis Deadline 6 Submission, paragraph 6.3(b)

10 Joint Application Programme Update

10.1 It is now apparent that the Joint Application will not be reported to NWLDC's planning committee before the close of the Examination. This is because of a combination of the following matters:

(a) highways modelling review timescales, supplemental information having been submitted, and the review capacity currently available at National Highways and LCC;

(b) NWLDC and LCC officer absence over the summer, including the LCC officer reviewing the revised modelling and the case officer on the Joint Application;

(c) a policy objection from NWLDC's forward planning officer which has been maintained notwithstanding the emerging Local Plan allocation supporting the development of the site[58]; and

(d) the same authorities, teams and in places the same individuals serve both the Joint Application and the DCO Application, so time has necessarily been divided over the course of the Examination.

10.2 Prologis is confident that there are no in-principle obstacles to the grant of planning permission. The matters which have led to delay are all eminently resolvable and are actively being resolved, or they are matters which will resolve themselves following the summer holiday period and the end of the Examination. In any event, the application is expected to go to committee by November and well before the date on which the Secretary of State's decision must be made.

10.3 In those circumstances the ExP is invited to recommend that a post-examination update be sought by the Secretary of State on the Joint Application, and to address what effect resolution before determination of the DCO application should have. The Secretary of State may seek further information and adjust the timetable accordingly. Whilst it is acknowledged that the ExP will need to prepare its report based on the information available at the close of the Examination as to the likelihood of planning permission being granted, rather than a confirmed position, it would be appropriate for the report to anticipate that the position may well be confirmed by the date of the Secretary of State's decision.

10.4 It is of course a matter for the ExP how it chooses to address the current uncertainty in its reporting to the Secretary of State, but it is respectfully suggested that it may assist the decision-maker to understand how and to what extent the ExP's conclusions and recommendations would be affected depending on the outcome of the Joint Application.

11 Response to the ExP's Letter of 10 August 2026

11.1 On 10 August 2026 the ExP issued a letter pursuant to rules 8(3), 9 and 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 and regulations 29, 30 and 44 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 ("**10 August Letter**").

[58] NWLDC's Planning Policy team issued a consultation response in respect of the Joint Application dated 25 June 2026, its sole residual objection being that the material submitted "is not evidence of an immediate need or demand for the additional floorspace (Policy Ec3(2))". Given the point made, the reference to "Policy Ec3(2)" appears to be an error for adopted Policy Ec2(2), which is engaged only where the need "cannot be met from land allocated in this plan". The Proposed Submission Local Plan 2024-2042 (July 2026) carries the same logic forward (the requirement to show an immediate need being disapplied where allocated land is concerned) at Policy Ec4 and importantly allocates the Prologis/MAG Land within Policy Ec3g. The test is accordingly a route for land which is not allocated, whereas the Joint Application land is allocated by the very policy said to be offended. The Planning Policy team's objection therefore cannot be reconciled with the emerging Local Plan position and accordingly is not considered to be a potential reason for refusal.

11.2 Prologis responded to the 10 August Letter at Deadline 6a. Its Deadline 6a Submission[59] noted that SEGRO had not to that point provided any properly reasoned response to Prologis's existing submissions regarding the Section 35 Direction and the issue of *vires*.

11.3 The substance of SEGRO's response to the 10 August Letter is contained in its covering letter at Deadline 6a[60] ("**SEGRO'S Deadline 6a Response**"). That response is very brief and takes matters no further forward. As such, Prologis does not repeat its earlier submissions below. Instead, it identifies the limitations of what SEGRO has said, the inferences properly to be drawn, and a limited number of further points which it invites the ExP and the Secretary of State to take into account.

Section 35 Direction

11.4 SEGRO's starting position is that there is no material divergence between the DCO Scheme and the Section 35 Direction. No new analysis has been provided on this point, and as such Prologis's previous submissions as to the proper approach for interpreting a Section 35 Direction[61] remain unanswered.

11.5 SEGRO asserts that a conclusion that the DCO Scheme falls outside the scope of the Section 35 Direction would not mean that the DCO Application had to be refused, because it would be open to the Secretary of State to vary the Direction and/or to amend the terms of the dDCO. SEGRO's submissions to that effect go no further than bare assertion. SEGRO does not acknowledge, let alone seek to address, any of the legal obstacles to either course which Prologis identified and explained at Deadline 4[62]. SEGRO is of course well aware of the legal submissions that Prologis made at Deadline 4, and has had ample time and opportunity to consider and respond to them. In those circumstances its failure to take the further opportunity afforded by the ExP's explicit questions on these points is particularly striking. It is reasonable to infer that SEGRO has no effective response to offer.

11.6 As to the possibility of varying the Section 35 Direction, SEGRO's submissions address only whether a variation could be obtained quickly. SEGRO's response fails to acknowledge or address the reasons Prologis has already identified as to why the power cannot lawfully be exercised at this stage. A variation made after the close of the examination would be unlawful, and cannot be used in an attempt retrospectively to confer jurisdiction and thereby make lawful earlier actions taken without jurisdiction. That much is (or should be) obvious as a matter of law, added to which such an approach would also have the effect of depriving Prologis and other Interested Parties of the procedural safeguards identified in Prologis's Response to ExQ2 Q1.0.5.[63]

11.7 As to the option of amending the DCO Application to bring it within the scope of the Section 35 Direction, the without prejudice wording offered by SEGRO simply transposes into the operative provisions of the Order the same formulation used in draft requirement 33 which Prologis has explained secures nothing, and SEGRO has still not engaged with any of Prologis's submissions on the drafting (see paragraph 2.2 above).

11.8 Whilst there are examples of the scope of a development consent in a DCO being narrowed by an amendment made after the close of Examination to facilitate a positive decision, they offer no assistance to SEGRO in this case, where the amendment would need to add substantively to the scope of the development for which consent is sought. In *East Anglia ONE North*, the Secretary of State imposed, at the decision-making stage, a restriction which contracted the area of the offshore array in order to reduce environmental effects.[64] That restriction had not been volunteered by the

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[59] [REP6A-010D] Prologis Deadline 6a Submissio*n*

[60] [REP6A-001D] SEGRO's Covering Letter for Response to Deadline 6*a*

[61] [REP4-084D] Prologis Deadline 4 Submission, paragraphs 3.1-3.7; [REP4-082D] Prologis Responses to ExQ2, Q1.0.5

[62] [REP4-084D] Prologis Deadline 4 Submission, paragraphs 3.29-3.33

[63] [REP4-082D] Prologis Responses to ExQ2, Q1.0.*5*

[64] East Anglia ONE North Offshore Wind Farm, Decision letter, 31 March 2022, para 29.1

applicant during the examination.[65] The change was able to be accommodated post-examination as the effects of the narrower development will necessarily have been assessed and examined as part of the wider development for which consent was sought, and no party is prejudiced by the imposition of a further constraint. Consistently with that, the Secretary of State arrived at the restriction through targeted consultation of the applicant and the statutory nature conservation body on a matter already examined and was able to proceed on the environmental information already before him.[66] No additional or different development was introduced by the change, which simply reduced the area over which the turbines could be installed.

11.9 However, a change which expands the development authorised, or substitutes a materially different development for that examined, cannot be accommodated at the decision-making stage. It is no answer to say that it could be consulted upon. The justification for confining consultation in that way, and for dispensing with re-publicity and re-examination, is the absence of prejudice – and that justification falls away entirely where the development is enlarged. In this case what would be required to bring the DCO Scheme within the terms of the Section 35 Direction has not been assessed in the DCO Application material and accommodation cannot be made for it to be submitted after the close of Examination.

11.10 The position is therefore that SEGRO has now had two opportunities – first at Deadline 5, in response to Prologis's Deadline 4 submissions, and again at Deadline 6a, in response to a direct request from the ExP – to provide a reasoned answer to Prologis's submissions on the legal obstacles that exist to seeking to address the section 35 problem through a variation of the Direction or an amendment of the application, and has on both occasions failed to do so. Had a satisfactory answer been available, it is reasonable to expect that it would by now have been given. The ExP is invited to draw the appropriate inference.

11.11 The practical consequence is that neither the ExP nor the Secretary of State has before it any reasoned analysis from SEGRO on these questions which could properly be adopted as the answer to Prologis's jurisdictional case.

11.12 Furthermore, if jurisdiction to grant development consent is said to depend upon a variation of the Direction or an amendment to the application, the position will be that the application should not have been accepted and examined in the form in which it was made. Those decisions would have been unlawful at the time they were made, and that unlawfulness could not somehow retrospectively be 'cured' at the decision-making stage. Therefore, the costs incurred by Interested Parties in participating in the examination will have been incurred unnecessarily. Submitting and persisting with an application for a DCO which the Secretary of State had no jurisdiction to grant is unreasonable conduct. Prologis accordingly reserves its position as to any application for costs.

Associated Development

11.13 SEGRO's response to the ExP's question on Associated Development consists of a table which asserts, for each of Works Nos. 13 to 21, that there is a direct relationship with the principal development, that the works support its construction or operation or address its impacts, and that they are proportionate in nature and scale. Those criteria are drawn from the Government's guidance on associated development[67] ("**AD Guidance**"). No evidence is provided and no explanation is given as to how any of those conclusions is reached. The AD Guidance makes clear that it is for the Secretary of State to decide, on a case-by-case basis, whether development should be treated as associated development, and in this case the material needed to make that decision has not been supplied. The exercise the AD Guidance requires has been asserted to have been satisfied rather than carried out.

11.14 SEGRO's response is also incomplete. It addresses whether the works are an aim in themselves or a source of additional revenue, but it does not address the requirement in the AD Guidance that

[65] Ibid, paragraphs 17.48-17.55

[66] Ibid, paragraphs 17.50-17.55, 27.9 and 28

[67] "*Planning Act 2008: Guidance on associated development applications for major infrastructure projects*" (Department for Communities and Local Government, April 2013)

associated development should be subordinate to the principal development. That is one of the criteria most obviously engaged here, given the scale of the highway works relative to the principal development, and it is a distinct question both from whether those works are an aim in themselves and from whether they are proportionate to the impacts they are said to mitigate. It remains unaddressed.

DLA Piper UK LLP

1 September 2026

Appendix 1 – Third Report of Mr Peter Roberts FRICS CEnv of DWD

DWD

EAST MIDLANDS GATEWAY PHASE 2

EXAMINATION DEADLINE 7

ON BEHALF OF

PROLOGIS UK LIMITED

AND

PROLOGIS UK 121 LIMITED

EXPERT FINANCIAL VIABILITY

ASSESSMENT

THIRD REPORT OF

PETER ROBERTS FRICS CENV

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CONTENTS

GLOSSARY

Aldridge Land:	Plots 1/1 and 1/2 as detailed on the DCO Land Plan Sheet 1 of 4 Document ref: 2.2A (APP-027D).
Aldridge Option Agreement:	Promotion and Option Agreement dated 31 March 2020 between SEGRO and Mr Aldridge
Applicant:	SEGRO Properties Limited
Compensation Code:	The body of statute and case law and the established practices for the assessment, payment and determination of compensation for compulsory acquisition of land and rights, including the Land Compensation Acts of 1961 and 1973, the Compulsory Purchase Act 1965, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, the Housing and Planning Act 2016 and the Neighbourhood Planning Act 2017, in each case as amended from time to time.
dDCO:	The draft East Midlands Gateway Phase 2
MAG:	Manchester Airports Group
Market Value:	*… the estimated amount for which an asset and/or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's-length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion."*
Prologis:	Prologis UK Limited and Prologis UK 121 Limited
Prologis (Joint) Application:	Planning Application ref: 24/00727/OUTM
Prologis/MAG Land:	Plots 1/3, 1/4, 1/5 and 1/7 as detailed on the DCO Land Plan Sheet 1 of 4 Document ref: 2.2A (APP-027D).
Prologis/MAG Option Agreement:	Promotion, Planning and Option Agreement between Prologis and MAG
SEGRO:	SEGRO Properties Limited (the Applicant)
SEGRO Option:	Promotion and Option Agreement dated 31 March 2020 with Mr Aldridge in respect of Plots 1/1 and 1/2
Viability:	A viability appraisal deducts all the costs of delivering the development from the value that would be released on completion thereof and assesses whether there is a sufficient residual amount left to provide the developer with sufficient profit to incentivise them to accept the risk of incurring those costs and the landowner with a price for their land that provides sufficient incentive for them to transfer their ownership to the developer having regard to the potential for competing offers in the market.

1.0 INTRODUCTION

1.1 The ExP will be aware that SEGRO submitted Viability Appraisal Document DCO 4.5 dated 2 April 2026 as prepared by Mr Cottage at Deadline 1 (REP1-027D) ("**CC First Report**"). I responded to that evidence by way of my Expert Financial Viability Assessment Evidence dated 28 April 2026 (the "**PR First Report**") which comprised Annex A to the Deadline 3 Submission (REP3-063) by Prologis UK Limited and Prologis UK 121 Limited.

1.2 SEGRO responded by submitting a "Response to Peter Robert's Deadline Report 3" dated 16 June 2026 ("**CC Response**") as prepared by Mr Cottage which was attached as Annex L to Document DCO 7.13/MCO 7.13 (REP4-033) as submitted at Deadline 4.

1.3 I set out ten points in conclusion at Section 10 of my Second Report which I summarised, at paragraphs 10.2 and 10.3 of that Report, in the following terms:

"Overall, it is not realistic for Mr Cottage to conclude that the SEGRO scheme is viable, and it is clear that the reverse is true. As things stand, the ExP cannot have any confidence that SEGRO can viably implement their proposed scheme.

In contrast, the Prologis scheme, which does not carry the financial burdens that SEGRO have taken upon themselves, is not only viable in its own right but will also enable viable development of the Aldridge Land to come forward."

1.4 I prepared and submitted, at Deadline 4 (REP4-087D and REP4-088D), Excel viability spreadsheets on the following assumptions:

1. That the dDCO was confirmed in its current form including the grant of compulsory acquisition powers over the Prologis/MAG land
2. That the dDCO was confirmed but excluded the grant of compulsory acquisition powers in respect of the Prologis/MAG land such that SEGRO would be required to negotiate with Prologis/MAG in respect of the development of that land and the securing of access rights through that land to connect with the Southern/Aldridge Land.

1.5 In both scenarios, SEGRO would have the benefit of the Aldridge Option Agreement in respect of the Southern/Aldridge Land. It is my understanding that this agreement precludes the exercise of compulsory acquisition powers in respect of that land. The grant of compulsory acquisition powers is therefore only relevant in respect of the Prologis/MAG land.

1.6 Both these appraisals adopted Mr Cottage's cost and revenue assumptions in full and allow the ExP to test the resultant profit generated on the assumption of a particular Market Value for the

Prologis/MAG land and vice versa. They also allow the ExP to test changes in the assumed inputs to assess the impact on the land and profit outputs.

1.7 In light of the comments made by Mr Cottage in the CC Response it was necessary for me to respond by way of the Expert Financial Viability Assessment Second Report dated 30 June 2026 (the "**PR Second Report**"). This was attached as Appendix 1 to the Deadline 5 Submission on behalf of Prologis UK Limited and Prologis UK 121 Limited (REP5-065D).

1.8 I set out thirteen points in conclusion at Section 8 of my Second Report which I summarised, at paragraphs 8.11-8.13 of that Report, in the following terms:

"In conclusion, Mr Cottage has not, and on the basis of the evidence provided thus far, cannot demonstrate that the SEGRO scheme is viable.

Furthermore, Mr Cottage is no longer providing any evidence in respect of the viability of development relating to the Aldridge land and the evidence that has been provided relates to an entirely hypothetical scheme that does not reflect the provisions of his client's dDCO and would not arise in the real world.

SEGRO's viability arguments are therefore unsupported by the evidence it has provided."

1.9 Mr Cottage has not submitted any Expert evidence in answer to my Second Report and there is therefore no expert evidence challenging my conclusions as set out therein.

1.10 Instead, SEGRO has restricted itself to making various statements within the "Applicant's Response to Deadline 5 Submissions" (Document DCO 7.20/MCO 7.20) (REP6-042) ("**Applicant's Response**") as submitted at Deadline 6.

1.11 It is notable that, although my Second Report addressed all the main points made within these statements in detail, there is only a single brief reference by SEGRO to my Second Report[1] and my comments in respect of these points appear to have been ignored by SEGRO. In effect, SEGRO has merely repeated their previous points without addressing my responses thereto. The evidence I gave in response is therefore unchallenged and I would invite the ExP to draw an appropriate inference about the ability of SEGRO to do so.

[1] SEGRO state "….*paragraph 5.96 of his second report*" at No. 19 of the Applicant's Response

1.12 In light of SEGRO neither engaging with or directly addressing the evidence that I have already provided in response, I have in this document referred the ExP back to the evidence that has already been submitted and sought to clarify matters as appropriate.

1.13 In this regard, the following sections of the Applicant's Response have been drawn to my particular attention:

- Section 2 No. 10 (page 29) of the Applicant's Response – Southern Land
- Section 2 No. 11 (pages 30 and 51) of the Applicant's Response – Viability of the Joint Application Scheme
- Section 2 No. 19 (page 45) of the Applicant's Response – Viability

1.14 I have addressed each of these sections as follows within this Report.

2.0 SECTION 10 OF THE APPLICANT'S RESPONSE– SOUTHERN LAND

2.1 I have broken SEGRO's Deadline 6 Response into sections in order to address each point and assist the ExP in understanding the respective positions as follows:

Applicant's Response – Section 2, No. 10 – First Sentence

2.2 This states:

"It is correct that the appraisal of the Southern Land provided in DCO 4.5 [REP1-027D] reflects its viability in the event that the DCO Scheme were to be consented, but without compulsory purchase powers over the Prologis Land."

2.3 This is the same scenario as described above at paragraph 1.3 (2).

2.4 This statement confirms, in effect, that the appraisal referred to by SEGRO as relating to the development of the Southern/Aldridge land in isolation is the same as their viability assessment of the full dDCO scheme save that it strips out the cost of acquiring and developing the Prologis/MAG land and the resultant value of that development.

2.5 It therefore follows that SEGRO have, in reliance upon the evidence of Mr Cottage, only considered viability in the scenario that they are granted a confirmed dDCO. Mr Cottage, together with SEGRO has completely disregarded all alternative means by which development would come forward. It therefore appears that SEGRO and Mr Cottage have implicitly assumed that development would only come forward if development consent was granted but have not tested whether that is actually the case. This is therefore a significant gap in their justification for the powers of compulsion sought in the dDCO.

2.6 As set out in my previous evidence, there are at least three scenarios that need to be considered:

1. The dDCO is confirmed with the grant of compulsory acquisition powers such that SEGRO would have to pay compensation in respect of the acquisition of the Prologis/MAG Land (**First Scenario**). My evidence is clear that delivery of the dDCO development under this scenario is not viable.
2. The dDCO is confirmed without compulsory acquisition powers in respect of the Prologis/MAG land such that SEGRO and Prologis would bring their sites forward on a co-ordinated basis in accordance with the development consent (**Second Scenario**). My evidence is that this would be viable if SEGRO engaged on a commercial basis with both Prologis and Mr Aldridge.
3. As an alternative to the dDCO separate planning permissions (including the Joint Application) are secured for the development of the Prologis/MAG land and the Southern/Aldridge land

(**Third Scenario**). My evidence is that in that scenario both developments would come forward. Neither SEGRO nor Mr Cottage have presented any evidence in this regard.

2.7 My evidence demonstrates that the **First Scenario** is not viable in any circumstances because there is insufficient profit generated to provide SEGRO with a minimum of 15% (their own stated profit margin) **and** pay market value for the Prologis/MAG land. Mr Cottage has been unable or unwilling to respond to my evidence in that regard and relies, instead, on hypothetical assumptions that do not exist in the real world[2] to present straw man arguments.

2.8 Furthermore, notwithstanding the clear and substantial evidence that the First Scenario is not viable, SEGRO have made no attempt, even if the ExP was to decide otherwise, to demonstrate that the **First Scenario** comprises the only means by which development could come forward. They have not produced evidence to assess the **Second** and **Third Scenarios** or effectively to respond to my evidence about those scenarios.

2.9 Neither SEGRO nor Mr Cottage have provided any commercial viability appraisals relating to the **Second** or **Third Scenarios** i.e. the scope for independent development of the Prologis/MAG and Southern/Aldridge Land with the benefit of the development consent and, alternatively, on the basis of separate Town and Country Planning Act 1990 permissions. Whilst SEGRO's Deadline 6 submission confirms that Mr Cottage's assessment of viability appraises the position on the basis that compulsory acquisition powers are refused, it relies upon entirely unrealistic assumptions in respect of the delivery of the highway works and negotiations with Mr Aldridge that fail to reflect commercial reality.

2.10 Thus, neither SEGRO nor Mr Cottage has provided any evidence in respect of the real alternatives that exist in the real world that would need to be assessed to substantiate SEGRO's case that only the dDCO scheme, including the grant of compulsory acquisition powers, is likely to lead to viable development of the site as a whole.

2.11 This is a critical point because, as I previously pointed out, paragraph 5.68 of the Statement of Reasons (Document DCO 4.1) (REP1-025D) states that:

[2] e.g. that, inter alia 1) Prologis and MAG would be prepared to accept [redacted] land, 2) construction and labour costs remain static or reduce, 3) occupier rents will only increase and 4) investment yields will only improve.

"…the DCO Applicant ***has explored alternative options for the DCO Scheme and has concluded that there are no alternatives to the DCO Scheme***[3] *which will deliver the benefits which are capable of being secured by the DCO Scheme. The alternative of piecemeal development is not a feasible alternative for the reasons set out above."*

2.12 SEGRO has not provided any viability evidence in respect of the alleged alternative options to substantiate this point on which I understand that the justification for compulsory acquisition rests, despite me pointing this omission out in my evidence to which they have had the opportunity to respond. This is not, therefore, a case of SEGRO overlooking the matter but avoidance thereof.

2.13 In addition, paragraph 5.57 of the SEGRO Statement of Reasons states:

"The third-party developer of the northern part of the EMG2 Main Site has applied for planning permission (by planning application reference 24/00727/OUTM made to NWLDC) for development of that part. However, if granted, the planning permission would not facilitate development of the southern part of the EMG2 Main Site because, amongst other reasons, it makes no provision for a compatible vehicular access to be provided to the southern part of the site[4]*. Even if it did make provision for a deliverable vehicular access,* ***development of the southern part of the EMG2 Main Site would not be viable or deliverable as standalone development***[5]*. In addition, even if viability and deliverability issues could be overcome, development of the southern part would be significantly delayed beyond the Freeport window of 2031 because development of the northern part would need to come forward first*[6] *and there is no certainty as to when or if development of the northern part will be achieved*".

2.14 In response to my evidence, SEGRO has now confirmed that the viability evidence that has been provided only considers the viability of the Southern Land as part of the comprehensive dDCO development. There is therefore no evidential basis for SEGRO to state that "… *development of the southern part of the EMG2 Main Site would not be viable or deliverable as standalone development..."* on the basis that the dDCO was not confirmed.

[3] My emphasis
[4] It is important to stress that the scheme has been designed to allow for the provision of access to the Southern/Aldridge Land.
[5] My emphasis
[6] Prologis/MAG are willing to provide access to enable development of the Southern/Aldridge Land.

2.15 It would be reasonable to expect SEGRO to have carried out appropriate viability assessments before making these statements to the Secretary of State in its Statement of Reasons. However, that appears not to have happened and SEGRO have decided to rely on assertions. If such assessments were undertaken, they have not been provided to the ExP and SEGRO has not even attempted to provide evidence to substantiate the assertion in its Statement of Reasons.

2.16 In contrast to SEGRO, I have not relied on assertions but have demonstrated in my evidence that the alternative scenarios are both commercially viable and deliverable.

2.17 With regard to the **First Scenario**[7], the evidence presented by Mr Cottage, once properly tested and scrutinised, confirms that SEGRO could only achieve a return at or in excess of 15% if they acquired the Prologis/MAG land at an artificially depressed price of [redacted] per acre.

2.18 SEGRO and Mr Cottage appear to accept[8] that a figure of [redacted] per acre is not a true assessment of the Market Value and is not therefore a realistic assumption as to the cost of acquiring the Prologis/MAG land. Their appraisals are therefore entirely hypothetical and are of no practicable assistance to the ExP, or indeed SEGRO themselves, in testing the real-world commercial viability of the scheme.

2.19 Mr Cottage has compounded matters by testing viability on the counterfactual assumption that SEGRO will not dispose of any part of the completed scheme and asserts that a return of 14.98% could be secured if they paid a slightly improved but still depressed price of [redacted] per acre for the Prologis/MAG Land. Once the disposal costs are added back in, it is clear that, even at this indicative price for the Prologis/MAG land, their scheme can only deliver a profit of 12.84%[9]

2.20 Mr Cottage therefore relies upon land values of [redacted] per acre and [redacted] per acre, both of which he confirms are below the offers that SEGRO previously felt necessary to submit in the open market and an entirely flawed assumption in respect of disposal costs and yet still fails to demonstrate viability. I fail to understand how such an appraisal can be considered to be representative of the real-world market or of assistance in this matter.

2.21 Against that background, a sensitivity analysis does not provide an adequate answer. If the appraisal is so significantly flawed in the first place, the sensitivity analysis just involves testing an

[7] i.e. development pursuant to the dDCO assuming the full grant of compulsory acquisition powers
[8] See their references to previous offers and comments in respect of being able to afford to pay more than this
[9] As calculated using the Excel spreadsheets that I submitted to the ExP at Deadline 4.

entirely hypothetical viability model by making further hypothetical assumptions in respect of prospective changes such that it moves even further away from the real world.

2.22 My evidence, based on real world assumptions, shows that the dDCO scheme cannot deliver SEGRO a profit of anywhere close to 15% if they are to pay true Market Value for the acquisition of the Prologis/MAG land. No evidence has been forthcoming from SEGRO or Mr Cottage to prove otherwise. In the absence of any evidence to explain why SEGRO consider that Prologis/MAG would accept a price significantly below Market Value for their land the ExP can have no confidence that the dDCO/SEGRO scheme is or will become commercially viable.

2.23 SEGRO's analysis of the **Second Scenario** assumes that the remainder of the works required to deliver the dDCO scheme would be implemented in full by SEGRO regardless as to whether such works are necessary to deliver the development of the Southern/Aldridge Land and without any recovery of the costs for works that would benefit the Prologis/MAG land.

2.24 This assumption is fundamentally flawed, because the dDCO already includes provision to ensure that development of the Prologis/MAG land could not come forward under the dDCO unless the off-site highway infrastructure has first been provided. It is inconceivable that SEGRO would deliver those works and thereby facilitate such development without first coming to a cost-sharing agreement with Prologis/MAG. It is not surprising that, bearing in mind the terms that SEGRO have agreed with Mr Aldridge, such an artificial approach to developing this scheme would not be viable.

2.25 For clarity, Prologis have consistently stated that they are prepared to pay a fair and reasonable proportion of the servicing costs in accordance with usual market practice and are ready and willing to discuss this further as and when SEGRO are prepared to engage.

2.26 SEGRO has not presented any evidence whatsoever that considers the commercial reality that would exist in the real world in the event that the dDCO was confirmed without any compulsory purchase powers in respect of the Prologis/MAG land and has failed to engage with or respond to my evidence in this regard. SEGRO and Mr Cottage have therefore presented "straw man" evidence that considers a scenario that would not exist in an attempt to justify the grant of compulsory acquisition powers for a scheme that is demonstrably not viable or commercially deliverable.

2.27 I addressed the **Second Scenario** in considerable detail at Section 6 of my Second Report and drew attention to paragraphs 5 and 6 of Part 1 of Schedule 2 to the dDCO which refer to the delivery of the "highway works". I then commented at paragraphs 6.6 to 6.8 thereof that:

"It would also be reasonable to assume that, as part of the negotiations in respect of the highway works, an agreement would be reached that would enable SEGRO to connect into the spine road running through the Prologis development to provide access to the Aldridge land. As such, the access premium would form just one part of the overall agreement.

If, therefore, the DCO was to be made without compulsory acquisition powers over the Prologis/MAG land, and the proposed development was both commercially viable and more attractive to the parties than any other option, commercial reality would result in agreement being reached between the landowners and development coming forward in accordance with the DCO.

It is therefore clear that paragraphs 5 and 6 of Part 1 of Schedule 2 to the dDCO remove any necessity for the grant to SEGRO of compulsory acquisition powers to allow for the costs of the highway works to be set against the revenue generated by the order land as a whole."

2.28 Neither SEGRO nor Mr Cottage have addressed this point at all in the material submitted to the ExP.

2.29 Furthermore, in effect, SEGRO and Mr Cottage have assumed that Prologis would refuse to implement any development, which would be contrary to their stated position and commercial reality, and/or would refuse to share with SEGRO in the costs of delivering highway improvements for mutual benefit bearing in mind that the separate development of the Prologis/MAG and Southern/Aldridge Land in accordance with the development consent requires improvements to the highway network.

2.30 For clarity, Prologis remain willing and able to engage with SEGRO on precisely this issue as and when SEGRO are ready to do so. No evidence has been provided by SEGRO to the contrary.

2.31 The concept of different developers of adjoining or nearby land coordinating to deliver separate planning permissions that are part of a wider Masterplan or vision is commonplace in the development market and does not depend upon a single comprehensive grant of development consent or planning permission or the granting of compulsory acquisition powers. As such, despite the lack of evidence from SEGRO or Mr Cottage, it is necessary to test the potential for development of the Prologis/MAG and Southern/Aldridge land coming forward without a confirmed dDCO. This is my **Third Scenario** as described above.

2.32 Neither SEGRO nor Mr Cottage have presented any viability evidence in respect of development of the Aldridge/Southern Land outside of the dDCO development consent. There is also no evidence that they have considered renegotiating the terms of the Aldridge Option Agreement with Mr Aldridge to assist matters.

2.33 As the ExP will be aware, if SEGRO rectified the lack of viability of the dDCO scheme by reducing the price that they are contractually obliged to pay Mr Aldridge if the dDCO was to be confirmed, that same reduced price would also improve the viability of development of the Southern/Aldrige Land as an independent scheme.

2.34 I can only assume, therefore, that SEGRO's silence during the examination proceedings in respect of actual or potential negotiations with Mr Aldridge to reduce the price that they are contractually obliged to pay if the dDCO was to be confirmed is because they are aware that if such negotiations were to become known, their case for the grant of compulsory acquisition powers would be significantly undermined.

2.35 SEGRO are therefore in the position whereby the dDCO scheme is clearly unviable because, to a significant degree, of the contract price to be paid to Mr Aldridge but if they seek to agree a reduced price with Mr Aldridge prior to the confirmation of the dDCO they damage their own case for the grant of compulsory acquisition powers. It is therefore necessary for SEGRO to assert that the dDCO scheme is viable with the Aldridge Option Agreement maintained in its current form although the hard reality of the market clearly demonstrates the lack of commercial viability on the basis of the status quo.

2.36 In any event, neither SEGRO nor Mr Cottage have provided any viability evidence in respect of the viability of the Prologis development under the Joint Application. SEGRO and Mr Cottage have, instead, advised the ExP that, in effect, it is too difficult for them to assess the viability of the development of the Prologis/MAG land and Mr Cottage has declined to offer a view even in response to my evidence as presented in my First Report which demonstrated that on SEGRO's own numbers, development of the Prologis/MAG is eminently viable.

2.37 SEGRO have therefore resorted to further assertions, in reliance on unidentified material, to argue that the development of the Prologis/MAG land in accordance with the Joint Application would be unviable because of the price that would need to be paid to the landowners. However, as I have already demonstrated, the relationship between the developer and landowners is one of working together in partnership for mutual benefit and SEGRO's implied assertion that the landowners would actively undermine the development and deny themselves the opportunity to receive a price substantially in excess of the existing value of the land defies common sense.

2.38 For clarity I am aware that Prologis and MAG have, in light of SEGRO's repeated assertions in respect of the alleged risk to viability of the Joint Application scheme, discussed their respective positions should such an unlikely scenario arise and I can confirm that nothing has been identified that would comprise an insuperable obstacle to continued implementation of development. In any event, SEGRO has not presented any evidence to contradict Prologis and MAG's opinion that that the Joint Application scheme is viable and will meet the minimum land value whilst delivering a full developer's profit.

2.39 SEGRO's case rests upon an entirely speculative assertion that the landowners would prefer to receive no value uplift at all and prevent the development coming forward rather than reducing their expectations to the extent necessary to still receive an uplift in value should market conditions be worse than expected. In my opinion, such a position does not withstand scrutiny or comparison with reality.

2.40 In summary:

a) The viability evidence provided by SEGRO and Mr Cottage only relates to schemes that are dependent upon the dDCO i.e. the First and Second Scenarios

b) The First Scenario (dDCO scheme) is demonstrably unviable

c) The Second Scenario (dDCO scheme in the absence of compulsory acquisition powers) could be viable if SEGRO were prepared to take a commercial approach and renegotiate terms with Mr Aldridge. However, there is no evidence before the ExP of any such renegotiations having taken place.

d) SEGRO have not presented any viability evidence in respect of the independent development of the Southern/Aldridge Land – they have not therefore made good their principal assertion, that "…***development of the southern part of the EMG2 Main Site would not be viable or deliverable as standalone development***."

e) SEGRO's statements regarding viability as set out in the Statement of Reasons (as referred to above) are unsupported by any evidence and do not withstand scrutiny.

2.41 My evidence clearly demonstrates that development of the entirety of the land included within the dDCO without the use of compulsory acquisition powers (**Second Scenario**) or through the Joint Application (**Third Scenario**) would not only be viable, but also commercially desirable such that there is no justification for the grant of compulsory acquisition powers.

Applicant's Response – Section 2, No. 10 – Second Sentence

2.42 This states:

***"It is also correct that development of the Southern Land might technically be viable on the assumption that the many uncertainties and challenges surrounding its development could be overcome in way that is advantageous**."*

2.43 Mr Cottage's position, as stated at paragraphs 61 and 63 of his First Report, was that:

*"…I therefore consider the development of the EMG2 DCO Scheme without the Prologis Land [(i.e. the Southern/Aldridge land only)] **to be unviable**… …. the EMG2 Scheme delivered without the Prologis Land, **which is not viable and would not be brought forward by the market**."*

2.44 He did not provide any calculations within his Response but stated at paragraph 50 thereof that:

*"…An independent development of the Aldridge Lane (separate from the other elements of the DCO, including the Highways Works) **is not something the Applicant is proposing and it is also not directly relevant to the EXP's consideration of whether the DCO Scheme is viable**[10]."*

2.45 It now appears that, following the submission of my evidence that demonstrates that development of the Southern/Aldridge land is viable, SEGRO has moved from Mr Cottage's position, which was presented as a certainty and now accepts that development "*might technically be viable*." However, this position is qualified by reference to unidentified issues and challenges upon which SEGRO appears to have no settled position.

2.46 In effect, SEGRO has moved from a position of certainty to one of uncertainty by reference to matters that had been fully costed and accounted for in their appraisals and in respect of which Mr Cottage has assumed, in carrying out his "sensitivity analysis" would either improve (in respect of value) or remain static (in respect of all construction costs). This is a volte-face.

2.47 Either SEGRO has carried out a proper analysis of all the issues in order to make good its assertion that a dDCO with compulsory purchase powers is the only realistic means of delivering development in comparison to the alternatives or they have not.

2.48 I am informed that development on both the Prologis/MAG and the Southern/Aldridge land would be in accordance with planning policy. Taken together with my evidence of how development could

[10] My emphasis

be delivered and the viability of such development it is clear that the delivery of development is not dependent upon the grant of powers of compulsory acquisition.

2.49 SEGRO is the Applicant and bears the burden of proof to demonstrate that it has properly considered all the reasonable alternatives to compulsory acquisition and to provide robust and reliable evidence in respect of those alternatives. The approach SEGRO now adopts to the deliverability of development on the Aldridge/Southern Land effectively confirms that it has proceeded to seek powers of compulsory acquisition without undertaking any proper analysis of the scope to deliver independent development on the land that it already controls. That is the case despite its awareness that the proposals for independent development of the Prologis/MAG land would present an opportunity to unlock its own site and thereby facilitate development across the entire site.

2.50 In the absence of any reliable evidence from SEGRO assessing the scope for the independent development of the Southern/Aldridge land there is no basis for it to argue that such development is not both viable and deliverable. My evidence demonstrates that such development is clearly both viable and desirable.

2.51 In essence, by its own admission, SEGRO has not carried out the work that would enable it to present considered evidence either way.

Applicant's Response – Section 2, No. 10 – Third Sentence

2.52 This states:

"However, the market's perception of viability is not based on a best-case mathematical exercise disregarding all risks, which appears to be the approach Prologis are saying should be adopted."

2.53 This is a mischaracterisation of the approach I have adopted in preparing my own evidence. I have simply responded to the evidence provided by Mr Cottage adopting his mathematical approach and inputs.

2.54 It has not been suggested to me by Mr Cottage or SEGRO that a different approach should be taken and no evidence has been presented to me to explain or justify such an approach. In essence, I have followed the approach taken by Mr Cottage and to suggest that I have taken a different approach would be incorrect.

2.55 In any event, this statement is more relevant to the approach being taken by Mr Cottage and SEGRO towards the viability of the DCO scheme in that, although it is clear that the DCO scheme is unviable, Mr Cottage and SEGRO assume that costs will remain static (or decrease) whilst revenue increases so that the scheme will meet whatever Prologis/MAG are reasonably entitled to receive as a land value. I have consistently maintained that this is not a realistic approach[11] and it would appear from this statement that it is now common ground between SEGRO and me in light of their confirmation that viability ***"...is not based on a best-case mathematical exercise..."*** SEGRO and I are therefore in agreement that the approach taken by Mr Cottage whereby he has provided a "best-case mathematical exercise" is flawed and the correct approach is that taken by me whereby best and worst cases are considered.

2.56 As I have made clear, for the purposes of my assessment and to avoid undue complexity, I have adopted Mr Cottage's approach in respect of his inputs with the exception of land value but have taken a realistic rather than best-case scenario approach to sensitivity as endorsed by SEGRO.

2.57 Having regard to Mr Cottage's evidence and the position expressed on behalf of SEGRO at Deadline 6, the reasons why the development of the Southern Land without the benefit of compulsory acquisition powers over the Prologis/MAG land is said to be unviable are:

a) The payment proposed to be made by SEGRO to Mr Aldridge is far too high

b) No account has been taken by either SEGRO or Mr Cottage of the potential to negotiate sharing of highway costs with Prologis as set out above.

2.58 Both these matters are capable of resolution without the need for compulsory acquisition.

Applicant's Response – Section 2, No. 10 – Fourth Sentence

2.59 This states:

"The reality is the Southern Land does not have a planning permission and the cost of the highways improvements necessary to accommodate the combined logistics floorspace provided by the Prologis Scheme and the Southern Land in combination is unknown, as is whether it will be necessary to acquire third party land to deliver any development."

2.60 SEGRO has confirmed, in their first sentence, that their appraisal in respect of the Southern Land assumes, in effect, that the dDCO has been granted without the inclusion of compulsory acquisition powers over the Prologis/MAG land. It would therefore clearly be the case that the Southern Land would benefit from the grant of development consent pursuant to the DCO in that scenario. I do not therefore understand why SEGRO assume that, if compulsory acquisition powers were refused,

[11] See paragraphs 5.58 to 5.73 of my Second Report

it should also be assumed that planning permission could not readily be granted in respect of the Southern Land.

2.61 Whilst it is therefore correct that the Southern Land does not currently benefit from planning permission in its own right, it would, in the scenario tested by Mr Cottage whose report SEGRO are relying upon, have development consent.

2.62 I am also advised that, even if the dDCO was refused in totality, there is nothing to suggest that planning permission for development of the Southern/Aldridge land would not be granted having regard to the relevant planning policies and the assessments provided in support of the grant of development consent on that land, including assessments of likely significant environmental effects.

2.63 SEGRO has not sought to advance evidence to suggest that there would be legitimate reasons to refuse planning permission for the independent development of that land. Nor is there any other obstacle that would have prevented (or would now prevent) SEGRO or another developer from taking that route.

Applicant's Response – Section 2, No. 10 – Fifth Sentence

2.64 This states:

"Prologis's approach also assumes that the owner of the Southern Land will sell at whatever price its appraisal suggests should be paid in order for it to be viable (in the absence of compulsory purchase powers), despite there being no evidence that this would be the case."

2.65 SEGRO has not explained the basis upon which the price to be paid by SEGRO to Mr Aldridge in respect of the Southern Land was derived. However, Mr Cottage provided an appraisal for the dDCO scheme, together with supporting text, in his Viability Appraisal Dated 2 April 2026 which generated a profit of 15.91% on the basis of an assumed land value for the combined Prologis/MAG and Aldridge/Southern land of [redacted] per acre.

2.66 I explained at paragraph 5.77 of my Second Report that:

" *It is therefore possible that SEGRO entered into the Aldridge Agreement in March 2020 and agreed to pay Mr Aldridge a price of* [redacted] *acre because they erroneously assumed, on the basis of their experience with these previous schemes, that there was no prospect of alternative development in respect of the Prologis/MAG land and they anticipated that they could therefore agree an equalised price having regard to the SEGRO scheme only*."

2.67 This statement has not been challenged by SEGRO and, in the absence of any evidence to the contrary, I consider that it is entirely reasonable to conclude that SEGRO assessed what they could afford to pay for the land required to deliver their proposed scheme and negotiated accordingly. As such, it is more than probable that the price they agreed to pay Mr Aldridge was entirely derived from a residual appraisal and was based upon what they could afford to pay. On the basis that it is now clear that they cannot afford to pay [redacted] acre it is apparent that their original appraisal was deeply flawed.

2.68 As I have consistently maintained, and even Mr Cottage now appears to accept, the Prologis/MAG land clearly has a value significantly in excess of [redacted] per acre such that SEGRO, for all their attempts to argue otherwise only have two choices if they wish to proceed. They either accept a profit below that which Mr Cottage agrees is acceptable and pay Mr Aldridge [redacted] acre, or they renegotiate with Mr Aldridge.

2.69 I do not agree that Mr Aldridge would accept whatever SEGRO can demonstrate is affordable to them, but I do consider that both Mr Aldridge and SEGRO would have regard to what would be reasonable in the circumstances that allows Mr Aldridge to receive a significant uplift in value comparative to the alternative whilst enabling SEGRO to deliver a scheme that meets their viability requirements such that they would be able to acquire the land in the first place. This is how the market operates.

2.70 SEGRO's statement does not therefore reflect commercial reality and assumes that Mr Aldridge would act entirely unreasonably thereby denying himself the opportunity to receive any payment from SEGRO due to his expectations on value being above what SEGRO can pay. No evidence has been presented by SEGRO to suggest that Mr Aldridge would not act reasonably and in a way that reflects commercial realities in that scenario.

2.71 I would point out that I have seen no evidence that SEGRO has attempted to renegotiate with Mr Aldridge in light of their realisation that the Prologis/MAG land is worth significantly more than [redacted] per acre. As such, there is no evidence before the ExP to dispute my position on this matter.

Applicant's Response – Section 2, No. 10 – Sixth Sentence

2.72 This states:

"Viability is only one of the challenges facing the Southern Land and Prologis' assertion that, if it can be proved to be technically viable, the ExP can be comforted that development will come forward as a certainty is misleading. It is far from certain that the Southern Land would come

forward for development, even if an appraisal could be produced to suggest it might be technically viable in certain (favourable) circumstances."

2.73 It is important to stress that the question of viability in respect of the development of the Southern/Aldridge land was raised by SEGRO as a key plank in its case that development of that land would not come forward unless SEGRO was granted powers of compulsory acquisition in respect of the Prologis/MAG land. It appears from these comments that SEGRO has now realised that it cannot substantiate this argument with evidence such that it is necessary to find other reasons to suggest that such development would not come forward.

2.74 SEGRO is effectively arguing that the owner of land that is capable of attracting a value in the market significantly higher than the value of that land for its existing agricultural use would **not** be likely to sell that land to a developer and such developer would not take the opportunity to make a profit by delivering development.

2.75 I fully accept that if a) the developer of the Southern Land had to pay [redacted] per acre AND b) pay all the highway costs associated with the DCO scheme, it is most unlikely that any development would come forward whether in isolation or together with the Prologis/MAG land. For the reasons I have identified above, however, both issues can and would likely be overcome without the need for compulsory acquisition powers.

3.0 SECTION 11 OF THE APPLICANT'S RESPONSE– VIABILITY OF THE JOINT APPLICATION SCHEME

3.1 I have, again, broken SEGRO's response contained in their Section 11 into individual statements in order to address each point and assist the ExP in understanding the respective positions.

Applicant's Response – Section 2, No. 11 – First Sentence

3.2 This states:

"***This statement appears to confuse the viability of the DCO Scheme with the viability of the Prologis (Joint Application) Scheme*.**"

3.3 This statement has been provided in response to Prologis's statement in its Deadline 5 Submission (REP5-065D) that:

"SEGRO's contention that the Joint Application is not viable is not made out. As Prologis has shown, the Joint Application is, on SEGRO's own inputs, manifestly viable, generating a residual land value materially in excess of the value SEGRO itself assumed for the Prologis/MAG Land in its own DCO appraisal. SEGRO's asserted viability difficulty has not been caused by the Prologis scheme, nor does it arise from anything inherent to the Southern Land itself; rather, it is the product of SEGRO's own contractual commitment to overpay for the Aldridge Land. The substance of that evidence is addressed in the expert report at Appendix 1 and at Section 2 of Prologis's Deadline 3 Submission, and the implications for the compelling case analysis are summarised at Section 6 below."

3.4 The point being made by Prologis was that SEGRO has not demonstrated (or even sought to demonstrate) that the Prologis (Joint Application) scheme is unviable but, in any event, the viability of the Joint Application scheme has nothing to do with the viability of the DCO scheme. SEGRO is incorrect to assert any confusion in this regard.

3.5 It is important to stress that the Market Value of the Prologis/MAG land is not dependent upon the existing commercial arrangements between the landowners. In this regard, the valuation exercise, whether that be for compensation or market purposes, has regard to hypothetical parties such that the personal arrangement, attributes and preferences of the actual landowners are irrelevant.

3.6 It therefore follows that the arrangements between the landowners of the Prologis/MAG land have no bearing on the price that SEGRO will have to pay to acquire the land, whether that be through a voluntary acquisition or payment of compensation.

3.7 It further follows that the viability of the SEGRO scheme will not be impacted by the viability of the Joint Application scheme as assessed by reference to the personal arrangements of the landowners as that has no bearing on the cost to SEGRO of acquiring that land.

Applicant's Response – Section 2, No. 11 – Second Sentence

3.8 This states:

"What the DCO Applicant has agreed to pay for the Southern Land has nothing whatsoever to do with the viability of the Prologis Scheme."

3.9 I entirely agree with this statement. However, this is contrary to the approach taken by Mr Cottage on behalf of SEGRO who has stated that:

*"**On the basis of the option agreement SEGRO has reached with landowners to the south of Hyams Lane**[12]**…** …I have adopted a land purchase cost of circa* [redacted] *per acre for all of the land required to develop the EMG2 Main Site… …and the 102 acres comprising the Prologis Land*[13]*."*

3.10 There is therefore a clear and direct contradiction between the statement made by SEGRO at Deadline 6 and Mr Cottage's assumption that the Prologis/MAG Land should be valued at [redacted] per acre because that is what SEGRO have agreed to pay for the Southern/Aldridge Land.

3.11 SEGRO has not recognised or addressed this contradiction. It may be the case that SEGRO is now no longer relying on this aspect of Mr Cottage's viability evidence. If that is the case, SEGRO's approach would be consistent with my own but contrary to that taken by Mr Cottage.

Applicant's Response – Section 2, No. 11 – Third Sentence

3.12 This states:

"Moreover, the DCO Applicant is not saying that the Prologis Scheme is unviable, just that viability is unproven and will remain unproven until Prologis confirms the price it has paid for the land it owns and the terms of the agreement it has reached with EMA."

3.13 This statement is not correct as evidenced by SEGRO's Response at page 51 of the Applicant's Response to Deadline 5 Submissions (Document DCO 7.20/MCO 7.20) (REP6-042) where they respond to the viability points made by EMA and state:

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[12] My emphasis
[13] Paragraph 28 of Viability Appraisal by Mr Cottage Document DCO 4.5 (REP1-027D)

"The Applicants confirm that it is Mr Cottage's position that it is not possible to determine whether the Prologis Scheme is viable without knowing what Prologis has paid for the land it has already acquired or the terms of its agreement with EMA. Mr Cottage is unaware of those terms.

Mr Booth's position is that, on the basis of what the Applicants understand to be the price paid by Prologis, the Prologis Scheme is not viable.[14]

Those two statements are not incompatible. Mr Cottage is providing an independent expert opinion that the Prologis Land may or may not be viable dependent on the price paid for it. Mr Booth's statement reflects the Applicants' view that, if its understanding of the price that has been (and will be) paid for the Prologis land is correct, the Prologis Scheme is unviable. Unless and until Prologis releases the terms of its acquisitions, whether or not SEGRO's understanding is correct cannot be confirmed."

3.14 It is clear from this that Mr Cottage, in his role as an Expert, does not feel able to make a statement either way in respect of the viability of the Prologis scheme but Mr Booth, who, I understand, does not hold himself out as a viability expert and is acting as an advocate, nevertheless invites the ExP and the Secretary of State to conclude that the scheme is unviable on the basis of alleged and undisclosed information.

3.15 In Section 7 of my Second Report, I consider the viability of the Joint Application/Prologis/MAG scheme in detail. As part of this analysis, I stress the point that Prologis and MAG are working together for mutual benefit and conclude that:

"Overall, as I have set out in this and my previous Report, all the evidence supports the assertion that the Prologis scheme is viable and, due to the relationship between Prologis/MAG, they would be able to robustly respond to any unexpected worsening in market conditions.

In contrast, the SEGRO scheme is already demonstrably unviable and SEGRO are clearly unwilling or unable to work with Mr Aldridge to rectify the position and are unable to generate enough value to pay market value to Prologis/MAG AND bear all the costs of the scheme AND generate 15% profit[15.]"

3.16 The point that Mr Booth and SEGRO continue to ignore, despite the fact that I have pointed this out on a number of occasions, is that Prologis and MAG are both landowners and that they are working together for mutual benefit to bring forward development that will release land value in

[14] My emphasis
[15] See paragraphs 7.14 and 7.15 of my Second Report

excess of agricultural land value. This provides both incentive and scope for flexibility if needed in response to changing market circumstances, to achieve mutual economic benefit.

3.17 By contrast, SEGRO do not own anything other than highway land within the dDCO red-line boundary and it is clear that their relationship with Mr Aldridge is very different from that of Prologis and MAG.

3.18 Whilst the Joint Application development would still have to generate a land value that was acceptable to the landowners contributing towards the scheme, the nature of the parties involved provides significant flexibility in respect of the split of proceeds whether that be through development profit or land payments.

3.19 I do not know what information Mr Booth is referring to but it could, in any event, only reflect matters at a certain point in time and fails to consider the nature of the relationship between the parties. His interpretation thereof relies upon an incomplete understanding such that he misrepresents the actual position.

3.20 SEGRO have not challenged any of my comments in respect of the viability of the Joint Application scheme as summarised at Section 7 of my Second Report but continue to rely on unevidenced assertions without any consideration of the willingness of the landowners to change the existing terms in the unlikely event that it was necessary to do so. Their flexibility stands in stark contrast with SEGRO's apparent inability to take a flexible approach with Mr Aldridge.

3.21 I would therefore invite the ExP to draw the reasonable inference that the essential elements of this part of my analysis are not seriously challenged.

Applicant's Response – Section 2, No. 11 – Fourth Sentence

3.22 This states:

***"Prologis cannot say that the price the DCO Applicant has agreed for the Southern Land and the price it will have to pay for the SEGRO Land are fundamental to an assessment of the DCO Scheme's viability, but the price it will need to pay for the Prologis Land is of no relevance to the viability of the Prologis Scheme**."*

3.23 As a preliminary issue I do not fully understand the reference to "*the price it will have to pay for the SEGRO Land*." I have therefore assumed that this is the land that Mr Cottage refers to at paragraph 28 of his First Report as comprising land close to Junction 24 of the M1 which is required for the implementation of the highway works. As such, this land will not have to be acquired by SEGRO as, according to Mr Cottage, they already own it and, as I have already set out, the use of this land will be permitted under the powers of the Highways Act.

3.24 Notwithstanding this point, this statement fails to account for the very different circumstances that exist between the landowners in respect of the Joint Application scheme and the landowners in respect of the dDCO SEGRO scheme. In the former scenario the landowners are acting collaboratively in a common cause whilst in the latter they are wholly separate entities with different ambitions.

3.25 As I have set out previously, a scheme is considered to be viable **IF** the developer receives sufficient incentive in respect of mitigation against risk (i.e. profit) and the landowner receives sufficient value in exchange for making their land available.

3.26 It is therefore correct that the price that SEGRO as acquiring authority would have to pay in respect of the Prologis/MAG land will be a cost to the development and will therefore impact upon the viability and deliverability thereof. However, the Joint Application benefits from a flexibility that does not apply to the SEGRO scheme.

3.27 In this regard, Prologis and MAG are jointly of the opinion that the Prologis development of the Prologis/MAG land will generate both significant development profit and a land value comfortably in excess of the required level. I proved this point using Mr Cottage's own figures in my First Report. Prologis and MAG are both confident and, in my opinion, are right to be so, that the currently targeted figures as agreed between them will be achieved.

3.28 However, this is not the case with SEGRO who, if the dDCO is confirmed, will be contractually obliged to pay [redacted] acre plus indexation to Mr Aldridge, although the scheme is clearly unviable at that level.

3.29 I have repeatedly made the point that, on the basis of Mr Cottage's figures, SEGRO can only make their scheme viable by renegotiating with Mr Aldridge, but SEGRO do not appear to be willing to do so. As I have already set out above this may well be because this would be an effective admission that the dDCO scheme is unviable and would also undermine the case for arguing that development of the Southern/Aldridge Land would be unviable without the inclusion of the Prologis/MAG Land.

3.30 It therefore appears that the absence of any evidence of engagement between SEGRO and Mr Aldridge is not because SEGRO are confident in the viability of their scheme contrary to all the evidence that has been submitted to the ExP but, because if such negotiations came to light their entire case for the grant of compulsory acquisition powers would be undermined.

3.31 The point is not, therefore, that a different approach should be taken in assessing the viability of the respective schemes but that the circumstances that apply in respect of the Joint Application/Prologis/MAG scheme provide a flexibility to addressing adverse circumstances that does not exist with the SEGRO/dDCO scheme.

4.0 SECTION 19 OF THE APPLICANT'S RESPONSE - VIABILITY

4.1 I have, again, broken down SEGRO's Deadline 6 comments and respond as follows:

Applicant's Response – Section 2, No. 19 – First Sentence

4.2 This states:

In respect to the key points the Applicants note as follows:

(a) Mr Cottage's original appraisal referenced a land value equivalent to [redacted] ***per acre for the Prologis Land, but his Deadline 4 response to*** [redacted] (sic) ***provided a sensitivity analysis that demonstrated a far higher value could be paid, in excess of*** [redacted]

4.3 Mr Cottage tested viability on the basis of an assumed land value for the Prologis/MAG land of [redacted] I have seen no evidence that Mr Cottage assessed viability on the basis of a land value "*in excess of* [redacted]." SEGRO's statement is therefore incorrect.

4.4 As set out at Section 5 of my Second Report, Mr Cottage is forced to make the artificial assumption that SEGRO would not bear any disposal costs in order to accommodate a land value of [redacted] and in any event then he can only generate a profit of 14.98%.

4.5 No evidence has therefore been provided to demonstrate that SEGRO could viably pay [redacted] for the Prologis/MAG land and, even after deducting disposal costs, the profit generated is only 14.98% which is below Mr Cottage's assumed hurdle rate of 15%.

Applicant's Response – Section 2, No. 19 – Second Sentence

4.6 This states:

"Prologis also ignores the fact that SEGRO has previously offered more than [redacted] ***for the Prologis Land***."

4.7 I responded to this comment at paragraph 5.94 of my Second Report where I stated:

"Mr Cottage considers that I have been "ignoring the real-world evidence such as the offers the Applicant has made for the Prologis/MAG land." This is somewhat ironic as he has already confirmed at paragraph 49 that those offers were well above the land values that he now assumes. As such, I would gently suggest that his criticism of me more accurately applies to his own position. I note in this regard, that he does not provide any details of these offers for consideration by the ExP. Again, I can only assume that this is because they would underline the point that none of his appraisals adopt a value anywhere close to the commercial market value that would have to be paid in the marketplace by SEGRO."

4.8 I am surprised that SEGRO has repeated this point, particularly as they would be well aware that those offers were made in entirely different circumstances and that they fundamentally undermine their entire viability case. In this regard, SEGRO has not produced a single appraisal demonstrating that they could viably deliver their development if they were to repeat those offers and Prologis/MAG accepted the proposed terms. The point is not therefore supported by any evidence, let alone evidence that could properly be regarded as reliable and robust.

4.9 In my opinion, the assertion that SEGRO could afford to make certain unspecified offers is of no relevance to this matter if those offers are not on the table and there is no evidence that SEGRO would or could implement development on the basis of the land value assumed in those offers.

4.10 Any suggestion by SEGRO that these offers were affordable to them could only be true if either market circumstances changed significantly in the meantime or their appraisal to the ExP as submitted during this examination is different from their internal appraisal which informed the making of those offers.

4.11 SEGRO has not provided any explanation in this regard but, on the basis that they appear to insist that they can afford to repeat such offers, and there has not been a dramatic change in market conditions, the latter explanation appears to be the most likely. In effect, it appears that SEGRO are making internal decisions on the basis of appraisals that justified the making of certain offers in the open market, and that these appraisals are materially different from those provided to the examination by Mr Cottage which, if they were to be believed, could not rationally support such offers.

4.12 It therefore appears that SEGRO are not making decisions on a basis consistent with Mr Cottage's evidence. SEGRO has not explained why it nevertheless expects the ExP and the Secretary of State to rely on that evidence when judging whether the DCO scheme is commercially viable.

Applicant's Response – Section 2, No. 19 – Third to Fifth Sentences

4.13 This states:

"It is notable that while Prologis says Mr Cottage has not adopted a realistic land value for the Prologis Site, it offers no valuation of its own and [redacted] has provided no independent viability appraisal or sensitivity analysis for the DCO Scheme. If Prologis can confirm its opinion of land value, this could be built into an appraisal and sensitivity analysis. Currently, SEGRO has no value for the Prologis Land from Prologis other than [redacted]. and Prologis' position appears to be that whatever value SEGRO puts on its land, this insufficient and the value must be higher."

4.14 As I am sure the ExP will be aware of by now, the figure of [redacted] is **NOT** my opinion of value.

4.15 SEGRO raises two issues in its response to the Prologis submissions. The first issue is the land value to be assumed whilst the second issue comprises the lack of an "independent viability appraisal."

4.16 I have responded separately to SEGRO's comments in respect of Land Value at Section 5 and have therefore restricted myself, at this point, to responding to the criticisms in respect of the alleged lack of an independent viability appraisal or sensitivity analysis. I addressed this point at paragraph 5.91 of my Second Report and commented that:

"Mr Cottage criticises me for not providing my own independent appraisal. However, it is for Mr Cottage and SEGRO, rather than me, to attempt to satisfy the ExP as to the viability of their proposed scheme and thereby to substantiate the case that SEGRO has advanced to seek to justify the grant of powers of compulsory acquisition. In that context it is entirely appropriate that I should assist the ExP in scrutinising that evidence and primarily focussing my attention on what appears to be the fundamental issue of land value."

4.17 The suggestion that I should have produced alternative appraisals implies that I should have adopted different construction cost and revenue assumptions which, in turn, implies that SEGRO do not have confidence in their own figures on this point. I am, in effect, being criticised for not challenging SEGRO on these points and seeking to assist the ExP by narrowing the issues in dispute by concentrating only on the "big ticket" items i.e. land value and profit.

4.18 I do not consider that to be particularly helpful and do not accept the criticism but, by making these comments, SEGRO is effectively seeking to distract attention from the central point that they cannot demonstrate, on the basis of their own numbers, that the dDCO scheme is viable.

4.19 In fact, their own numbers demonstrate the opposite to be true once realistic market assumptions of land value are made bearing in mind that Mr Cottage has been clear that the Market Value of the Prologis/MAG land is in excess of his assumed figure of [redacted] per acre. However, the question that SEGRO and Mr Cottage have studiously avoided answering is how far in excess of [redacted] acre they consider the Market Value to be.

4.20 This overlooks the fact that it is for SEGRO to produce evidence capable of substantiating the positive case it is seeking to make for powers of compulsory acquisition.

4.21 Once a value in excess of [redacted] per acre (the value adopted by SEGRO) is applied, the scheme cannot generate in excess of 15% profit even on the incorrect and artificial basis of removing disposal costs as advocated for by Mr Cottage.

Applicant's Response – Section 2, No. 19 – Sixth Sentence

4.22 This states:

"b) This misrepresents Mr Cottage's position. The 14.98% profit margin is an illustration reached solely by removing sales costs that will not actually be incurred from his appraisal (something to which attention was drawn in his initial report – paragraph 37),"

4.23 I addressed the position in respect of sales costs at paragraphs 5.42 to 5.50 of my Second Report where I demonstrate that, on the basis of their track record, SEGRO will certainly incur sales costs and, even if they don't sell, they will incur other costs of similar magnitude. In this regard, I stated at paragraphs 5.46 and 5.47.

"His statement therefore runs counter to the approach taken by SEGRO in the market.

I do not consider that it would be appropriate, in the real world, to assess viability on the assumption that SEGRO will not sell the development or transfer any part of it and I do not accept that Mr Cottage's assertion that no associated costs will be incurred, whether they are labelled as Sale and Legal costs or a different label is attached, is realistic."

4.24 I note that SEGRO has not challenged my evidence but merely repeats its previous point which these paragraphs addressed.

Applicant's Response – Section 2, No. 19 – Seventh Sentence

4.25 This states:

"However, this is only part of the story. Mr Cottage's sensitivity analysis in his second report shows that only small improvements in rents and yields (something which he again noted as a consideration in his first report (paragraph 41) and which [redacted] sic) also agrees is possible – paragraph 5.96 of his second report) would make the DCO Scheme viable even if the Prologis land were to cost substantially in excess of [redacted]."

4.26 I note that SEGRO refers to my Second Report and yet does not seek to challenge it or even engage with its analysis, but instead merely repeats the same points which that report addressed.

4.27 The position, which SEGRO has not challenged, remains as set out at paragraphs 5.62 and 5.63 of my Second Report wherein I stated:

"However, Mr Cottage's "sensitivity analysis" assumes that rents will only increase and yields will only decrease (therefore resulting in an increase in the value of the scheme) whilst all costs, including, inter alia, materials, labour, finance and acquisition costs, remain completely static. He then presents this as "proof" that the DCO scheme is and will remain viable.

I do not accept that this is remotely realistic or commensurate with the commercial reality of the market and reasonably anticipated economic conditions. It is plainly not a robust set of assumptions to adopt for the purpose of decision-making. To this end, Mr Cottage has not produced any evidence at all to substantiate his assumption that the costs of the scheme will all remain static. Bearing in mind that it is for SEGRO and Mr Cottage to justify their stance as it is SEGRO that is seeking the grant of compulsory acquisition powers, I will review and respond to any evidence Mr Cottage may produce to seek to justify his position in due course."

4.28 No further evidence has been forthcoming from SEGRO to assist me (and therefore also the ExP and Secretary of State) on this point.

4.29 For clarity, whilst SEGRO refers to my Second Report in seeking support for the principle of rents and yields improving, the point I was making was that they may also worsen. In this regard paragraph 5.96 stated:

*"The actual position is that I agree that they may be better **but, and this is the crucial point, they may also be worse. Both outcomes are possible**[16]. However, the more relevant point is that, even if the ExP were to follow Mr Cottage's suggestions, he is still unable to show that the scheme can deliver a sufficient return for **BOTH** the landowner and the developer."*

4.30 By any measure, it is not possible to declare that a) rents and yields would only improve and b) the DCO scheme would consequentially be viable "*even if the Prologis land were to cost substantially in excess of* [redacted]*.*" To truly believe this statement requires an extraordinary leap of faith that is completely devoid of evidence or a reasonable understanding of the market.

4.31 The fact remains that SEGRO is clearly unable to provide any rational, let alone reliable and robust, viability evidence to demonstrate that, having had regard to the price that would likely have to be paid to acquire all the required land and the need to receive a profit from the implementation of

[16] My emphasis

the development, the ExP can have any expectation that a commercial decision would be made to proceed with the proposed development.

5.0 LAND VALUE

5.1 I have been mindful throughout these proceedings that matters of compensation are not relevant to the ExP examination of the dDCO and this is not the forum for debating such matters. However, it is clearly understood by all parties that land value is a vital component of the viability exercise as the scheme will not progress unless the landowner receives full value for their land and there is sufficient surplus left over for the developer to receive their minimum level of required profit.

5.2 It should also be remembered that paragraph 4.6 of the Funding Statement (Document DCO 4.2) (APP-020D) states:

*"The land acquisition costs have been estimated based on the experience of the DCO Applicant at EMG1 and other projects. It assumes values paid for acquisition of land / rights are similar to the values paid in respect of land / interests already secured voluntarily****. If the value were to be based on principles of compulsory acquisition compensation, then the amount payable could be substantially less[17].*** *It is the DCO Applicant's intention to proceed by agreement wherever possible. Due to the commercial sensitivity of the negotiations, it is not proposed to break the development funding figure down further."*

5.3 In this regard, Mr Cottage has adopted a land value of [redacted] per acre in his effort to demonstrate that SEGRO would, he alleges, receive a minimum profit of 15% but it is notable that he has at no stage suggested (let alone demonstrated) that compensation would be "*substantially less*" as indicated by the Funding Statement but, instead, appears to accept that it could be substantially more[18].

5.4 It is therefore clear that, by his own evidence, the ExP and Secretary of State are being asked by SEGRO to rely on statements made in support of the application that are demonstrably incorrect.

5.5 It is also clear, from the fact that SEGRO has repeatedly drawn attention to the level of its previous offers for the Prologis/MAG land being significantly higher than has been assumed in its viability modelling that, by implication at least, it has accepted that the amount to be paid to Prologis/MAG will be higher than that which their modelling suggests is affordable in viability terms.

[17] My emphasis
[18] See his references to previous offers made by SEGRO

5.6 SEGRO has had ample opportunity to provide the ExP with evidence that would offer reassurance on this issue and address the points that I have made in both of my Reports to date but has declined to do so and now seeks instead to move the burden of proof from itself to Prologis/MAG stating:

"It is notable that while Prologis says Mr Cottage has not adopted a realistic land value for the Prologis Site, it offers no valuation of its own… …. If Prologis can confirm its opinion of land value, this could be built into an appraisal and sensitivity analysis. Currently, SEGRO has no value for the Prologis Land from Prologis other than [redacted]*)* [redacted] *and Prologis' position appears to be that whatever value SEGRO puts on its land, this insufficient and the value must be higher."*[19]

5.7 I addressed Mr Cottage's repeated attempts erroneously to present the figure of [redacted] as my opinion of Market Value at paragraphs 5.31 to 5.33 of my Second Report hence it is concerning that SEGRO continues to repeat this mantra. It is therefore necessary for me to repeat the point again that the figure of [redacted] (which equates to [redacted] acre) is nothing more than an indicative figure demonstrating that, even on SEGRO's figures, the independent implementation of the Joint Application scheme is viable. It has, at no point, comprised my opinion of Market Value.

5.8 With regard to the remainder of the statement, it would appear that SEGRO is responding to paragraphs 5.9 to 5.10 of my Second Report in which I stated:

*"The determination of compensation is of course a matter for the Upper Tribunal Lands Chamber and there is no dispute that it is not for the ExP to decide what that compensation will ultimately prove to be. However, the viability of the DCO scheme **is** a matter (and is agreed to be an important matter) for the ExP and the Secretary of State in this case and **<u>it is an inescapable fact that the only way such viability can adequately be assessed is if a commercial market value assessment is made as to the likely cost of acquiring the Prologis/MAG land. This is the fundamental hole in his evidence that Mr Cottage either refuses or is unable to address[20].</u>***

It is necessary for Mr Cottage to raise a strawman argument in respect of compensation to distract from the fact that he has not provided a commercial market value assessment suitable for the purposes of assessing viability, which is the immediate issue raised by SEGRO's own positive case to seek to justify the granting of powers of compulsory acquisition. The fact that the Secretary of

[19] Applicant's Response – Section 2, No. 19 – Third to Fifth Sentences
[20] My emphasis

State's decision will not (and could not) have the effect of determining the quantum of compensation does not absolve SEGRO from having to address the market value element of the appraisal of viability. ***As Mr Cottage's evidence does not contain an assessment of this issue, it therefore follows that he has not provided anything to the ExP upon which an assessment of viability can made[21]."***

5.9 SEGRO notably does not dispute my position that "*…it is an inescapable fact that the only way such viability can adequately be assessed is if a commercial market value assessment is made as to the likely cost of acquiring the Prologis/MAG land…[22]"* and yet it seeks to place the responsibility for opining on that value upon my shoulders whilst Mr Cottage appears to maintain his position that "*"…It is therefore both premature to enter into a detailed debate into the amount of compensation that might be paid for the Prologis/MAG Land and it is also not an issue which needs to concern the EXP or, as I have illustrated above, is of any great significance to the question of whether or not the DCO scheme is viable[23]."*

5.10 Apart from the clear contradiction between SEGRO's position and that of Mr Cottage, it is apparent that Mr Cottage is unwilling to provide any opinion of Market Value or evidence on behalf of the Applicant and seeks to shift the burden of proof onto me, acting on behalf of an affected party.

5.11 In my opinion this is solely because Mr Cottage is fully aware that market evidence is fully behind me and fatally undermines his evidence and the case that his client is seeking to make. This is why he is unable to depart from his flawed reliance on a land value of [redacted], which his client clearly accepts is wrong, and a figure of [redacted] per acre that has not been derived from any market transactions and was intended for an entirely different purpose.

5.12 I still consider that it is entirely inappropriate to expect me, acting on behalf of an affected person, to set out a full Market Value assessment of the Prologis/MAG land in order to fill a gap in the evidence SEGRO has adduced in an attempt to make out its positive case. However, in view of the clear resistance of Mr Cottage/SEGRO to assist the ExP (to their own detriment), I have provided some information in respect of land transactions.

5.13 This information is intended to assist the ExP in forming its own opinion as to the extent to which the approach taken by SEGRO and Mr Cottage in asserting that the DCO scheme can viably fund the

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[21] My emphasis
[22] See paragraph 5.9 of my Second Report
[23] See paragraph 44 of CC Response

full costs of land assembly is reasonable on the balance of probabilities having regard to the evidence of the actual market.

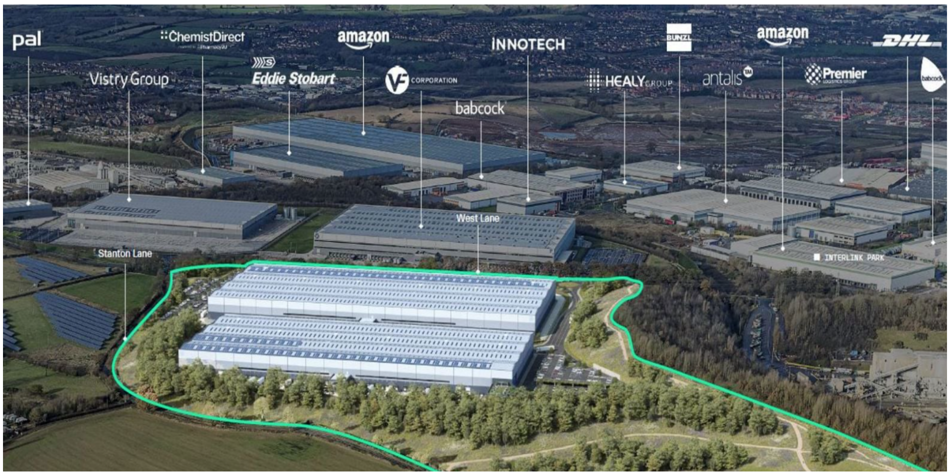
5.14 I have therefore not provided an in-depth analysis of site conditions or planning permission for each site, as would be required if I were presenting expert valuation evidence to the Upper Tribunal Lands Chamber or the courts. Nor have I provided a detailed valuation analysis.

5.15 This information is provided solely for the purposes of this examination and comprises figures which I consider are provided on a "like for like" basis and can therefore be considered by the ExP in forming a view as to the likely realistic range of land values in this case having regard to the comparative location, configuration and access availability of the Prologis/MAG land.

5.16 I have set out my comments as follows:

West Lane Firethorn, Bardon, Coalville

5.17 This site extends to 80.23 acres gross/49.23 acres net and benefits from direct access to Junction 22 of the M1 motorway. I have provided a CGI of the completed development below.



5.18 Firethorn Trust purchased the site from Wood Farm Holdings Ltd on 17 March 2026. The site was marketed with the benefit of detailed planning permission for 2 x B8 logistics units totalling 947,650 ft^2 with all pre-commencement conditions discharged.

5.19 The achieved price analyses to [redacted] gross acre.

Manton Wood, Steward Drive, Worksop, S80 3EG

5.20 This site which is located on the A57 next to DHL circa 2km from the A1 and 16km from the M1 extends to 21.62 acres (gross).

5.21 I have provided an aerial photograph denoting the boundary of the site by a blue line below.

5.22 It was acquired by CapitaLand Ascendas REIT Management Limited from DHL Real Estate (UK) Ltd. on 19 August 2025.

5.23 The achieved price analyses to [redacted] per gross acre.

Enderby Logistics Hub, Leicester

5.24 The site extends to 83 acres (gross) and is located directly adjacent to the M1.

5.25 I have attached a screenshot of the Sale Particulars that denote the site boundaries in red below.

5.26 Royal London Asset Management purchased the land as a serviced site with the benefit of planning permission ref: 23/1066/OUT in Q2 2025.

5.27 The achieved price analyses to [redacted] per gross acre.

Plots B, C and D Tamworth Road, Derby, DE72 2HN

5.28 This site is located circa 3 miles north of the EMG2 DCO site and extends to 66.8 acres (gross). It bounds the A50 (Derby southern bypass) to the south, Tamworth Road to the west and the Aldi Distribution Warehouse to the north. The M1 is located to the east, and the site is accessed from Junction 24A of the M1.

5.29 I have included a plan denoting the site boundaries by means of a blue line below.

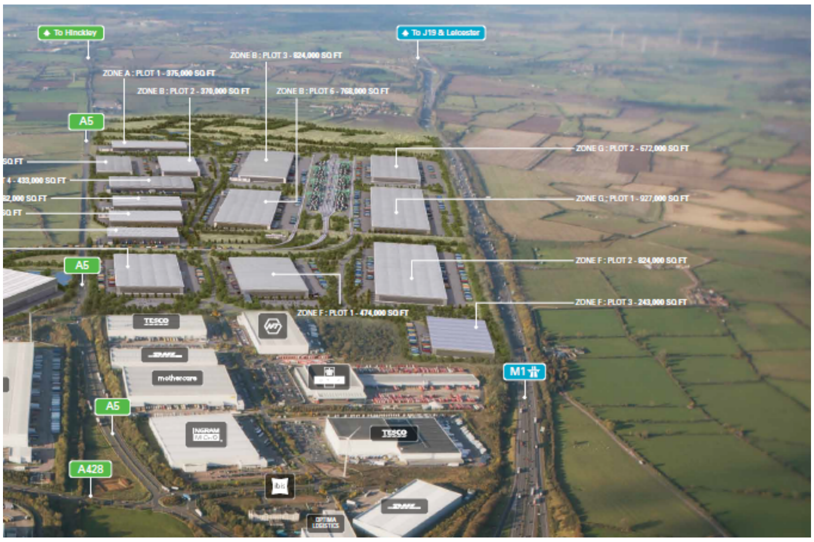
5.30 It was acquired by Project Orange Propco Ltd (Indurent) and PLP from Aldi Stores Limited without the benefit of planning permission on 13 September 2024. Planning permission ref: 24/01200/FULM was subsequently secured on 10 September 2025 for 645,855 ft^2 of B2/B8 development.

5.31 The price analyses to [redacted])

DIRFT 3 Zone F

5.32 This site extends to 28.42 acres (gross).

5.33 I have included a CGI of the wider completed development below:



5.34 The land was purchased by way of a 999-year lease in Q1 in anticipation of the grant of planning permission for 613,423 ft^2 of logistics space.

5.35 The price analyses to [redacted]

Conclusion

5.36 I have set out a table below which places the approach to land value as adopted by SEGRO and Mr Cottage in context against market evidence of land transactions on a "like for like" basis together with a calculation of profit as derived by using the Excel spreadsheet as provided to the ExP by me at Deadline 4 (REP4-087D and REP4-088D) if the achieved land value was applied to the Prologis/MAG land as required by the SEGRO scheme.

5.37 It is important to note that I have not removed the Sale Costs as advocated by Mr Cottage for all the reasons set out above and at paragraphs 5.42 to 5.52 of my Second Report. In any event, it would not sufficiently improve the figures to the extent that Mr Cottage contends as the ExP can test for themselves by using the Excel spreadsheet.

Assessment of Profitability

Assumed value of Prologis/MAG land per Gross Acre	Source	Price per Gross Acre	SEGRO scheme Profit
[redacted]			

5.38 This is not the forum for me to express an opinion as to where, within the range of land transactions, I would expect the Prologis/MAG land to sit other than to make the comment that it benefits from close proximity to the Airport and the M1 in an established location and the Joint Application scheme would deliver a variety of units that would be highly attractive to occupiers.

5.39 Nevertheless, even if the ExP were to assume that the Prologis/MAG Land was comparable to the lower value sites, the position remains that the SEGRO scheme cannot, on the basis of all the inputs assumed by Mr Cottage generate sufficient profit to match or exceed the hurdle rate of 15% as required by SEGRO.

5.40 I agree that it is appropriate to carry out sensitivity analysis but, whereas Mr Cottage assumes that revenue will increase whilst costs remain static, the more likely scenario is that costs will also increase. As such, a sensitivity analysis carried out on a genuinely independent basis would not assist SEGRO nor significantly alter the calculated figures.

5.41 In addition, SEGRO and Mr Cottage continue to refer to a land value of [redacted] per acre as if it was a static figure but, as confirmed by Mr Cottage, that figure is subject to indexation such that it has already increased and will continue to increase, judging by the current economic situation, right up to when the land is drawn down. It is therefore the case that by continuing to rely upon a figure of [redacted] acre, SEGRO and Mr Cottage's appraisals are already out of date.

5.42 In my opinion, this exercise clearly demonstrates why SEGRO and Mr Cottage have refused to provide any opinion as to the true Market Value of the Prologis/MAG land as they are clearly aware that they cannot credibly evidence a value that is sufficiently low to generate a profit of at least 15%.

5.43 In essence, the evidence does not merely demonstrate that the SEGRO scheme is marginal but that it is significantly unviable and the ExP can have no certainty that SEGRO can both deliver development and meet their obligations to pay compensation which, as both SEGRO and Mr Cottage appear to accept by their continued references to previous offers made by SEGRO, will be significantly in excess of the land values adopted in their appraisals. This is before any regard is had to market evidence.

6.0 CONCLUSIONS

6.1 Despite having had ample opportunity to address the deficiencies in the evidence identified by Prologis in its Relevant Representation (RR-024D), and despite Mr Cottage submitting two reports to the examination, SEGRO has still not addressed the fundamental and significant gaps and flaws in its viability evidence and, it would appear, has still not faced up to the reality that the evidence clearly demonstrates that its scheme is not viable.

6.2 I would refer the ExP to Section 8 of my Second Report wherein I set out my conclusions in respect of the insurmountable issues that remain to be addressed by SEGRO. In responding to SEGRO's Deadline 6 submissions, I would now add the following further comments.

6.3 SEGRO has not attempted to provide a substantive reasoned response to any part of my evidence as set out in my Second Report despite having the clear opportunity to do so. I would invite the ExP to draw the appropriate inferences.

6.4 SEGRO has still not grappled with the need to identify a robust and reliable figure for the Market Value of the Prologis/MAG land as an essential ingredient of the appraisal of the viability of the DCO scheme. It has now, instead, sought to reverse the burden of proof on this issue. I have provided the ExP with some examples of land transactions that help to explain SEGRO's reluctance to engage with this point and clearly demonstrate that the assumptions on land value used in its evidence are not realistic let alone reliable.

6.5 Having tested market evidence in respect of the impact land value has on the viability of the SEGRO scheme it is clear that there are no circumstances in which the conclusion could be drawn that the dDCO scheme will be commercially viable. However, SEGRO are unable to be seen to be renegotiating with Mr Aldridge to address the issue of viability. The inference left open by this reluctance is that SEGRO know that doing so would comprise an admission that the dDCO scheme is unviable and undermine its case for the grant of compulsory acquisition powers.

6.6 SEGRO's response is to continue to cast unfounded aspersions in respect of the viability of the Joint Application scheme but, in doing so, it disregards the nature of the collaboration between Prologis and MAG in promoting the Joint Application where both parties will benefit whereas the relationship between SEGRO and Mr Aldridge is a more traditional, arm's length relationship between a purchaser and seller on a conditional basis where, under the terms of the Aldridge Option Agreement, the success of the development is of limited, if any, concern to the land owner.

6.7 In fact, it would appear that SEGRO has not renegotiated with Mr Aldridge and, thus far, no realistic terms have been provided to Prologis or MAG. It will need to pay full market value for the Prologis/MAG land if it acquires that land by compulsion, which will reflect its full independent development potential. The dynamics are therefore very different.

6.8 Overall SEGRO has not provided any evidence upon which it can reasonably be concluded that its dDCO scheme is viable. The market evidence clearly shows that, in reality, the SEGRO scheme is NOT viable by reference to its own tests.

6.9 The evidence presented by SEGRO in respect of the development of the Southern/Aldridge Land under the DCO but without powers of compulsory acquisition is flawed because it takes no account of the DCO mechanism that would effectively compel the sharing of highway costs nor the ability of SEGRO to renegotiate terms with Mr Aldridge. It represents an entirely hypothetical and unrealistic set of assumptions.

6.10 SEGRO and Mr Cottage have not presented any appraisals in respect of the viability, deliverability and expectation of independent development coming forward separate from the dDCO.

6.11 The burden of establishing these key elements of the positive case for compulsory acquisition set out in the Statement of Reasons lies on SEGRO's shoulders. It has not produced evidence capable of discharging that burden. Indeed, in respect of the independent development of the Southern/Aldridge land, the attempt to do so has effectively been abandoned.

6.12 Paragraph 4.6 of the Funding Statement is clearly incorrect as SEGRO would be obliged to pay significantly more than [redacted] per acre to Prologis/MAG in compensation whereas the Funding Statement states the opposite.

6.13 SEGRO's arguments in respect of viability and compensation payments are therefore not only unsupported but actively contradicted by the evidence provided to the ExP. In this regard, the ExP may draw adverse inference from the distinct lack of challenge to or evidence countering what is set out in my Second Report.

7.0 STATEMENTS

7.1 I have set out below the statements required of me by the RICS and Civil Procedure Rules.

7.2 In accordance with the requirements set out at PS 5.4 (P) (i) RICS Practice Statement and Guidance Notice entitled "Surveyors acting as expert witnesses 4th edition" and paragraph 3.3 of Practice Direction 35, I confirm that:

- I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true.
- The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.
- I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

7.3 In accordance with the requirements set out at PS 5.4 (P) (ii) RICS Practice Statement and Guidance Note entitled "Surveyors acting as expert witnesses 4th edition" I confirm as follows:

- I confirm that my report has drawn attention to all material facts which are relevant and have affected my professional opinion.
- I confirm that I understand and have complied with my duty to the Examination as an expert witness which overrides any duty to those instructing or paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.
- I confirm that I am not instructed under any conditional or other success-based fee arrangement.
- I confirm that I have no conflicts of interest.
- I confirm that I am aware of and have complied with the requirements of the rules, protocols, and directions of the ExP.
- I confirm that my report complies with the requirements of RICS – Royal Institution of Chartered Surveyors, as set down in the RICS practice statement Surveyors acting as expert witnesses.'

7.4 In accordance with rules 35.10 (1) and (2) of the Civil Procedure Rules I can confirm that I understand and have complied with my duty to the Examination and also confirm that I am aware of the requirements of CPR Part 35, the Practice Direction 35 and the Guidance for the Instruction of Experts in Civil Claims 2014.

7.5 I can also confirm that I have acted with objectivity, impartially, without interference and with reference to all appropriate available sources of information.

[redacted]

[redacted]

1 September 2026

Appendix 2 – Updated Response to ExQ3 Q1.0.1

Ref	Action	Response
Q1.0.1	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	Following the publication of the National Planning Policy Framework (NPPF) on 17 August 2026, this Response replaces the response to Q1.0.1 submitted at Deadline 6. It addresses the changes in government policy from the December 2024 version of the NPPF, and identifies where the position differs from the draft NPPF published in December 2025. Prologis' earlier submissions on the supportive national policy context for development within the Order Limits, including those in its Written Representation and the accompanying Spawforths Report, remain material and are reinforced rather than displaced by the publication of the NPPF. The August 2026 version of the NPPF replaces the previous December 2024 version and, as of 17 August 2026, is a material consideration in the determination of the proposed developments. The NPPF describes itself as "a material consideration of critical importance" in plan-making and in the making of decisions on development proposals (paragraph 1). Annex A confirms that the policies in the NPPF will be material considerations which must be taken into account in decision-making from the day of its publication (17 August 2026) and that development plan policies which are materially inconsistent with the national decision making policies in the NPPF should be given very limited weight, except where they have been examined and adopted against this latest version of the 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. Annex A also confirms that, for plan-making purposes, the policies in this version of the NPPF apply from 17 August 2026. The NPPF does not provide the primary policy context for the determination of applications for development consent made pursuant to the Planning Act 2008. 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). This is reflected at Paragraph 13 of the 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

	and make submissions accordingly.	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 NPPF is an obligatory material consideration of critical importance 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). The national decision-making policies in the NPPF therefore bear directly and obligatorily on the Joint Application, but on the DCO Application only indirectly. It follows that the more supportive those policies are of freight and logistics development outside settlements, the greater the likelihood that materially the same development could be brought forward on the Prologis/MAG land without the exercise of compulsory acquisition powers. For the reasons summarised below, the policies in the NPPF make the policy context for the promotion of such development under the Town and Country Planning Act 1990 even more supportive than before[68]. This necessarily increases the prospects that planning permission would be forthcoming on the Prologis/MAG land and Southern Land, and is difficult to reconcile with the suggestion that there is no material prospect of further development coming forward on the Southern Land. Within the above context, Prologis consider that the key changes in government policy are: 1. The 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. 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. The NPPF is however a weighty material consideration to be considered in this context.

68 See Prologis Written Representation [REP1-267D], East Midlands Gateway Phase 2 Written Report: Planning (Chapter 4).

		3. The NPPF provides more consistency and clarity in how much weight the government expect a particular consideration to be given. 4. The 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 both an up-to-date development plan and the decision-making policies in this Framework should be approved without delay” (criterion c.). 5. Policy S5 provides that only certain forms of development should be approved outside settlements, as set out in a defined list, but contains a new positive presumption in favour of those forms of development, 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”. Development of the type proposed within the Order Limits falls within that list. 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 physically 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 freight and logistics 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 freight and logistics 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. Policy DM4 provides that weight may be given to relevant policies in an emerging plan according to the stage of its preparation, the extent of unresolved objections and the degree of compliance of those policies with the plan-making policies of the NPPF; the closer the policies in the emerging plan to those in the NPPF, the greater the weight that may be given to them. That is of direct assistance here, because policy E1(1)(c)(ii) now requires development plans, where a need exists or is anticipated, to allocate sites making provision for freight and logistics operations at a variety of scales and in suitably accessible locations which allow for the efficient and reliable handling of goods. The draft employment allocation accords with that direction of national plan-making policy, and weight may be given to it accordingly. This draft employment allocation also confirms (with regard to criterion j) that an application for planning permission for major development for freight and logistics (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. Policy E2(2) sets out the matters to be considered where a development proposal is required to demonstrate whether an unmet need exists, including under policy S5. These are whether market signals indicate an undersupply of specific types of business land or premises; or whether the specific locational requirements of the proposal are met by existing allocations in the development plan, which includes situations where proposals would meet a local, regional or national need for facilities that would result in more efficient, reliable or sustainable handling of goods. Whilst the draft NPPF referred to storage and

		distribution, the adopted version refers to freight and logistics. This change is understood to reflect a move in policy language as the draft version suggests a direct B8 use rather than the broader term of freight and logistics, which includes B8 in addition to the wider movement of goods and logistics operations. That broader description corresponds to the range of uses proposed under the Joint Application and supports a stronger policy weighting to the development proposed at the site. 9. The NPPF includes new national decision-making policies (CC2 and CC3) on climate change which update the previous approach in the December 2024 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 development proposed under the Joint Application. 10. The NPPF includes new national decision-making policies (E2 and E3) on 'building a strong, effective economy', for which there was no direct equivalent in the December 2024 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 NPPF includes new national decision-making policies (DP3 and DP4) on achieving well-designed places which update the previous approach in the December 2024 NPPF. Separately, policy L3(2)(b) introduces a new expectation that, outside settlements, development footprints should make the best use of a site's development potential, which supports development of the scale and form proposed within the Order Limits. 12. The NPPF includes new national decision-making policies (F4 to F9) on managing flood risk and coastal

		change which update the previous approach in the December 2024 NPPF. These reiterate the importance of the sequential test but provide more clarity on its application to development proposals. Taken as a whole, the NPPF makes the national policy context for freight and logistics development on the Order Land under the Town and Country Planning Act 1990 materially more supportive than the December 2024 version. That support attaches to the site and to the land use proposed. It is not contingent on the grant of development consent, or on the exercise of compulsory acquisition powers, and is available to whoever brings forward development of that type on that land.

Spawforths

1 September 2026

P4700-SPA-NT-TP-0044-A – ExQ3 (Q1.0.1 NPPF) Response.