

Document DCO 7.29 / MCO 7.29

Applicants' Response to Deadline 7 Submissions

SEPTEMBER 2026

The East Midlands Gateway Phase 2
and Highway Order 202X and The East Midlands Gateway
Rail Freight and Highway (Amendment) Order 202X

**The East Midlands Gateway Phase 2 and
Highway Order 202X and The East Midlands
Gateway Rail Freight and Highway (Amendment)
Order 202X**

**APPLICANTS' RESPONSE TO DEADLINE 7
SUBMISSIONS**

(DOCUMENT DCO 7.29 / MCO 7.29)

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1 Introduction

- 1.1 This document relates to the applications for a second phase of development at East Midlands Gateway Logistics Park (EMG1), being an application for a Development Consent Order (DCO) made by SEGRO Properties Limited (DCO Applicant) and an application for a Material Change Order (MCO) made by SEGRO (EMG) Limited (MCO Applicant). The DCO Applicant and the MCO Applicant are together the "Applicants".
- 1.2 This document has been prepared by the Applicants to set out their response to the submissions made by interested parties submitted to the Examining Panel (ExP) at Deadline 7 together with the Deadline 6 submission by Protect Diseworth (Transport Report). This document is submitted at Deadline 8 of the Examination.
- 1.3 Where a response refers to an annexure, this can be found at the end of this document. Annexures are numbered using letters (A, B, C, etc.).
- 1.4 Further, in the interests of efficiency, it should be noted that:
 - (a) the Applicants have not sought to respond to every point made by every interested party at Deadline 7. Some of the points repeat earlier points or do not require a response;
 - (b) where the same or similar points are raised in multiple instances, the Applicants do not repeat the same response; and
 - (c) where the same point has been made in previous submissions, the Applicants refer to their previous responses, rather than repeating them again in this document.

2 Applicants' Response to North West Leicestershire District Council (NWLDC) [[REP7-067](#) to [REP7-070](#)]

National Planning Policy Framework 2026

- 2.1 The Applicants note the response.
Design Approach Document (DAD)
- 2.2 NWLDC's Deadline 7 response refers to the ongoing dialogue regarding, and review of, detail within the DAD. At Deadline 7 the Applicants submitted a revised DAD which followed discussions with NWLDC, specifically focused on the Design Code (which forms Section 7 of the DAD). NWLDC had provided very detailed suggested wording changes, and NWLDC also asked the Applicants to include increased use of precedent images, and to insert appropriate cross-references in the DAD Design Code to NWLDC's adopted 'Good Design Guide' SPD.
- 2.3 All NWLDC's detailed wording changes were incorporated into the revised DAD by the Applicants. The Applicants also increased the use of precedent images as requested and references to the SPD were included in appropriate parts of the Design Code. While the SPD is primarily focused on residential development, the Applicants consider there is a very good degree of alignment between the principles and objectives of the SPD where it relates to 'business park' and commercial development, and the cross-references made to it are considered to have strengthened the Design Code.

- 2.4 The Applicants believed that they had addressed all comments, but NWLDC provided additional comments on 8 September 2026, the day before Deadline 8 and two days before the end of the examination, leaving the Applicants with no time to address the same. Some of the additional comments raised entirely new points and/or very detailed overly prescriptive comments which the Applicants do not consider it appropriate to include in the DAD. The position of the Applicants and NWLDC is recorded in the updated final Planning Policy Statement of Common Ground (DCO 8.3B) submitted at Deadline 8. Notwithstanding the late additional comments received from NWLDC, the Applicants note and welcome NWLDC's confirmation that "*the 'principles' of the DAD are acceptable to NWLDC*". The draft DCO (DCO 3.1 and [\[REP7-010D\]](#)) and draft MCO (MCO 3.1 and [\[REP7-012M\]](#)) require the detailed design to adhere to the now agreed principles in the DAD following the grant of consent and for the detailed design of EMG2 to be approved by NWLDC. It is unnecessary therefore for an overly prescriptive approach to be taken at this stage.
- 2.5 As NWLDC will be well aware, the Applicants have always worked well and collaboratively with NWLDC. For example, in relation to the design of 6m sq. ft. of floorspace at EMG1, the Applicants and NWLDC met to discuss NWLDC's feedback on design matters and the Applicants always endeavoured to take onboard that feedback where possible. This meant that every application made in respect of EMG1 was determined positively by NWLDC.

SoCGs

- 2.6 The Applicants note the response and agree with the latest position stated as regards the SoCGs.
- 2.7 In terms of the one outstanding SoCG relating to Planning Policy, the final matter under discussion relating to the 'Approach to Design' (point 4.11 for the DCO and point 5.7 for the MCO) has now been agreed as 'not agreed' following the changes to the DAD submitted at Deadline 7. See paragraphs 2.2 to 2.2 above.
- 2.8 The items listed (and replicated below) as 'not agreed' are noted and reflected in the final SoCG:
- (a) Safeguarding of land for the dualling of the A453 (point 4.13 for the DCO);
 - (b) Compliance with Local Plan Policy Ec2(2) (point 4.14 for the DCO);
 - (c) Compliance with Local Plan Policy Ec2(2) (point 5.8 for the MCO); and
 - (d) Final acceptance of the DAD (point 4.11 for the DCO and point 5.7 for the MCO).

Long Whatton and Diseworth Neighbourhood Plan

- 2.9 The Applicants note the response.

Determination of Application Reference 24/00727/OUTM

- 2.10 The Applicants note the response.

3 Applicants' Response to Leicestershire County Council (LCC) [\[REP7-071\]](#)

Traffic Modelling

- 3.1 The PRTM 2023 Sensitivity Test report [\[REP1-058\]](#) issued at D1 compared base traffic flows in PRTM 2019 and PRTM 2023 confirming that traffic flows on the local road network are higher in PRTM 2019. It therefore concluded that the Transport Chapter of the Environmental Statement was produced on a robust basis and did not need updating as a result of the PRTM 2023 modelling.
- 3.2 The Applicants submitted the PRTM 2023 Consolidated Note [\[REP6A-002D\]](#) at D6a which concluded *"there is nothing arising from the PRTM 2023 Sensitivity test or VISSIM mezzanine assessment that would change any of the conclusions of, or require any changes to be made to, the ES"*.
- 3.3 NH have confirmed in their SoCG [\[REP7-058\]](#) that they are in agreement with the PRTM 2019 modelling and the proposed highway works derived using PRTM 2019 outputs. NH remain in agreement following 2023 sensitivity testing and agree that the impact of the proposed development on the SRN has been established and unacceptable impacts upon road safety, notably at M1 junction 24, have been mitigated through the DCO process to NH's satisfaction.
- 3.4 There is no basis upon which LCC can take a different view and no technical justification has been produced by them.

Traffic in Kegworth and Castle Donington – implications for population and human health

- 3.5 The Applicants submitted document at D6 providing a comprehensive assessment of the residual impacts of the EMG2 development through Kegworth and Castle Donington [\[REP6-045D\]](#) and a further consolidated note provided at D6a [\[REP6A-002D\]](#) which confirmed:

"The PRTM 2023 sensitivity test gave rise to two possible impacts which LCC has suggested require mitigation – High Street Castle Donington and Derby Road Kegworth.

These possible impacts were further addressed in [\[REP6-045D\]](#) which concluded:

- Improved signage at Castle Donington to direct drivers to the bypass would be proportionate and reasonable; and

- More detailed VISSIM modelling and journey time analysis demonstrated that no mitigation was justified in Kegworth."

- 3.6 There is no technical justification put forward by LCC to contradict the conclusions of [\[REP6-045D\]](#). Without prejudice to that position the Applicants provide comments on the draft requirement put forward by LCC.
- 3.7 The first point to note is that the requirement itself demonstrates that LCC have not engaged with the technical detail of [\[REP6-045D\]](#). With respect to Kegworth, the issue of traffic through Kegworth arising from the PRTM 2023 Sensitivity test which was examined in [\[REP6-045D\]](#) is not related to traffic from the development but is related to background traffic reassignment as a result of the J24 highway improvements.

Accordingly, the proposal in LCC's draft requirement to monitor and identify "*a schedule of mitigation measures to be implemented to deter traffic from the development from routing through the villages*" makes no sense in respect of Kegworth. The traffic being monitored would not be development traffic and it would not be clear what had caused its displacement.

- 3.8 In addition, LCC have provided no technical response explaining why in their view the proposed signage scheme to direct drivers to the Castle Donington relief road would not be an appropriate form of mitigation.
- 3.9 The above betrays LCC's failure to properly consider the technical analysis put forward in [\[REP6-045D\]](#) and its decision to simply maintain a position notwithstanding evidence to the contrary.
- 3.10 The draft LCC requirement simply delays the whole issue for consideration post approval but, importantly, is proposed as a pre-commencement requirement and has the potential to cause delay in commencement at a point when there cannot possibly be any impact from development traffic.
- 3.11 There will be changing influences on traffic flows through Kegworth and Castle Donington which will not be a consequence of EMG2 which result from planned growth in the area together with more extensive highway works at J24 which are in contemplation. As shown on the EMG2 Context Plan (Appendix 1 of Appendix 3 of [\[REP1-053\]](#)), there are the various significant developments coming forward in the vicinity of the EMG2 development that could impact traffic flows in Kegworth and Castle Donington and they will rely on further mitigation measures at M1 Junctions 23A and 24 (Appendix 11 of [\[REP4-035\]](#)).
- 3.12 Since it is clear from the technical analysis in [\[REP6-045D\]](#) that the concerns of LCC are not well founded it is difficult to know what a strategy directed at monitoring and mitigating would be and how impacts from the EMG2 development could be differentiated from other traffic from both existing and future development.

Summary and signposting

- 3.13 The Applicants note the response and confirm that it aligns with their understanding of the matters not agreed.
- 3.14 The Applicants set out their position on the safeguarding of land at [\[REP7-054\]](#) and the assessment of impacts on population and human health at [\[REP7-055\]](#). The Applicants note that NWLDC have agreed that, in contrast to LCC on population and public health, there is no residual impact on noise and air quality as set out in the signed SoCG with them ([\[REP7-051\]](#) and [\[REP7-052\]](#)).
- 3.15 The Applicants' position on the impact of the proposed development on Kegworth and Castle Donington is set out at [\[REP6-045D\]](#) and [\[REP6A-002D\]](#) and paragraph 3.5 – 3.12 above.

4 Applicants' Response to National Highways (NH) [[REP7-078](#)]

Traffic Modelling

- 4.1 The Applicants note the response.

Protective Provisions

- 4.2 The Applicants confirm that the Protective Provisions in favour of NH have been agreed and a formal agreement to this effect has been completed.

Summary

- 4.3 The Applicants note and welcome NH's support for the proposed works on the strategic road network.

5 Applicants' Response to Environment Agency (EA) [[REP7-072](#)]

The Applicants note the response that, subject to the updates to the Water Framework Directive Screening document ([\[REP7-040\]](#)) and the Construction Environmental Management Plan (CEMP) [\[REP7-036D\]](#), which were submitted at Deadline 7, all matters are raised in the EA's relevant representations are resolved. The final and signed SoCG to this effect will be submitted at Deadline 8.

6 Applicants' Response to Natural England (NE) [[REP7-077](#)]

The Applicants note the response relating to the revised NPPF and welcome the updated Risk & Issues Log and reconfirmation that all outstanding items are resolved. The final and signed SoCG was submitted at Deadline 7 [\[REP7-059\]](#).

7 Applicants' Response to Historic England (HE) [[REP7-075](#)]

The Applicants note HE's response.

8 Applicants' Response to Prologis UK Limited and Prologis UK 121 Limited (Prologis) [[REP7-082](#)]

Section 35 Direction

- 8.1 The suggestion that the DCO Scheme does not correspond with the proposed project identified in the Section 35 Direction [\[APP-068\]](#) (the Direction) is without merit. The Direction identified its subject development as "*a logistics and manufacturing hub, including a substantial carbon neutral campus/headquarters including co-located head office functions*". The DCO Scheme is precisely that, incorporating the campus element secured by Requirement 33.
- 8.2 Under the statutory mechanism under section 35 an applicant submits only limited documentation, and the Secretary of State (SoS) must decide within 28 days with no consultation. A section 35 direction is therefore concerned with the principle, and broad outline of development, not its minutiae. It cannot reasonably be suggested that an applicant is bound to every letter of its application documentation.
- 8.3 The Direction itself contemplates evolution: the SoS stated that "*if the details of the Proposed Project change, before submitting any application to the Planning*

Inspectorate, the Applicant may wish to seek confirmation from the Secretary of State that the development which is to be the subject of the proposed application is the same as that for which this Direction is given". This necessarily envisages details changing whilst remaining within the Direction's ambit.

- 8.4 For the vires argument to succeed, Prologis / EMA must demonstrate that the DCO Scheme is so different from the form of development identified in the Section 35 Direction that the latter does not provide a valid jurisdiction for the grant of development consent. They have not discharged that burden. The proper approach is to have regard to the Direction itself and determine whether, on a fair, objective reading, the DCO Scheme sits within its ambit.
- 8.5 The contention that Requirement 33 is "meaningless" is unfounded. Requirement 33 in Part 1 of Schedule 2 of the draft DCO secures delivery of the campus element and is an entirely appropriate mechanism to ensure delivery of the 'campus', to the extent that element of the proposed development is identified in the Section 35 Direction.
- 8.6 The specific drafting criticisms do not withstand scrutiny (Prologis' items (a) to (e) at paragraph 2.2 have been grouped to remove repetition):
- (a) "Campus" definition: Requirement 33 secures a "substantial carbon neutral campus including co-located office functions". The omission of the word "head" before "office functions" does not represent a material change to the DCO Scheme.
 - (b) Office development: The proposed development is a commercial logistics hub in which warehousing often entails ancillary office accommodation. The office floorspace will not extend beyond that properly characterised as ancillary in the context of the very significantly greater logistics floorspace.
 - (c) Planning unit: The planning unit will be identified pursuant to the discharge of Requirement 33. This is a standard approach in outline DCO applications adopting the Rochdale Envelope methodology.
- 8.7 Critically, the Direction itself imposed no material specificity regarding the campus element: no detail on the extent of the facility (save that it should be "substantial"), no particularity as to the identity of the occupying party, no detail on the meaning of "carbon-neutral", and no detail on the nature of the facility beyond the overarching description. If the SoS did not prescribe such specificity, it is not open to objectors to retrospectively impose a level of detail that was never required.
- 8.8 All three questions — the approach to whether an application falls within a direction, how a direction is interpreted, and the interpretation of this Direction — have been addressed comprehensively across the examination record, including [\[REP1-053\]](#) pages 18–21, [\[REP4-033\]](#) pages 81–93 and 119–126, [\[REP5-033\]](#) pages 140 and 145–158, and [\[REP6-042\]](#) pages 15–22.
- 8.9 Even if the ExP or SoS were to conclude that the DCO Scheme does not fall within the Direction, it would be open to the SoS to vary the direction pursuant to section 233(2) of the PA 2008 within the determination timescales. Alternatively, delivery of the campus element could be secured in Schedule 1 through minor amendments to article 5 and Work 1(b), rather than relying on Requirement 33 in Schedule 2.
- 8.10 The argument that Requirement 33 is either unnecessary (and therefore cannot cure the vires defect) or necessary (and therefore the scheme without it falls outside the Direction) presents a false dilemma. The question is not whether the requirement is

"necessary" in the abstract, but whether the DCO Scheme, taken as a whole and with its requirements, falls within the ambit of the Section 35 Direction. It plainly does. Requirements are a standard feature of DCOs designed to secure delivery of specific scheme elements; Requirement 33 operates in precisely that way.

- 8.11 Finally, the characterisation of EMG2 as merely a "typical B2/B8 scheme" carrying no greater weight should be rejected. The DCO Scheme includes Highway Works at M1 Junction 24 that constitute an NSIP in their own right under section 22 of the PA 2008, sits within the East Midlands Freeport, and benefits from the increased weight now given by the NPPF 2026 to the economic benefits of commercial development. These are not characteristics of a routine B2/B8 scheme, and the attempt to strip the development of its distinctive features for the purposes of the section 122(3) analysis is misconceived.

Regulation 20

- 8.12 The Applicants' position, as set out in their summary and signposting document ([\[REP7-045\]](#) paragraphs 11.12 to 11.19), is clear: the ExP's letters of 19 and 23 June 2026 confirmed that the Rule 17 letter was not a Regulation 20 request. The ExP was entitled to reach that conclusion and Prologis's continued disagreement with it does not render that conclusion unlawful.
- 8.13 Prologis's Deadline 7 Submission at paragraph 3.5 seeks to argue that the Applicants have mistakenly conflated the "Southern Land" viability point with the Regulation 20 point. However, it is Prologis that has persistently sought to characterise what are properly compulsory acquisition and planning judgment matters as EIA issues. The Southern Land point — namely whether the Southern Land could come forward independently absent compulsory acquisition — is not an EIA issue, and it necessarily follows that the request for an assessment of effects on the Joint Application is not one either. Prologis's assertion that these are distinct points made in different contexts does not establish that the latter engages the EIA Regulations as a matter of law.
- 8.14 The Applicants remain strongly of the position that the information requested by the ExP in its Rule 17 letter is not necessary to satisfy the requirements of regulation 14(2) of the EIA Regulations. The speculative "displacement" effects relied upon by Prologis and EMA do not warrant the additional assessment exercise contemplated in the Rule 17 letter. Furthermore, the Rule 17 letter was issued prematurely, in advance of the Deadline 4 submissions, and without affording the ExP the opportunity to have regard to the material that the Applicants and other parties were due to submit at that deadline.
- 8.15 Prologis contends at paragraph 3.8 that the failure to comply with Regulation 20 has implications for procedural fairness and represents a mandatory procedural requirement that has not been met. However, where the SoS finds that the alleged "sterilisation" and "displacement" effects did not require assessment under the EIA Regulations, the consequence of a suspension of the examination pursuant to Regulation 20 would not follow. The premise of Prologis's procedural fairness argument accordingly falls away.
- 8.16 Notwithstanding their position that such assessment is unnecessary, the Applicants have assessed the delivery and non-delivery scenarios in their updated ES Chapter 4 (consideration of alternatives) [\[REP5-021\]](#) and its appendices [\[REP5-023\]](#) and [\[REP5-024\]](#). Appendix B explains that there is a very high probability that the DCO Scheme will be implemented, based on the Applicants' track record and the significant investment already made. This assessment demonstrates that there are no "likely" environmental effects arising from the non-delivery scenario, and that in the delivery

scenario, all of the benefits reported in the original ES will be realised, significantly exceeding the benefits associated with the Joint Application.

- 8.17 Prologis contends at paragraph 3.7 that the first update required by the Rule 17 letter — the revised baseline accounting for the delivery and non-delivery scenarios — is a "clear example of further information" for the purposes of Regulation 20. That characterisation is not accepted. The Applicants have comprehensively assessed the likely significant effects of the proposed development on the environment in the ES, together with all further environmental information submitted during the examination. Whether a decision-maker has sufficient information for the purposes of an EIA is a matter of judgment, subject only to review on Wednesbury grounds.
- 8.18 Prologis's submissions on Regulation 20 do not advance the position beyond the points it has previously made at Deadlines 4 and 5. The ExP has considered the characterisation of the Rule 17 request and concluded that it does not engage Regulation 20. The Applicants have in any event provided the assessment requested, which demonstrates that the delivery and non-delivery scenarios do not give rise to likely significant effects requiring assessment under the EIA Regulations. The ES and the examination material therefore provide an adequate basis for the ExP's recommendation and the SoS's decision. Prologis's Regulation 20 point accordingly provides no basis for any finding of procedural unfairness or non-compliance with mandatory requirements.

Reasonable Alternatives

- 8.19 Prologis' representation is centred around the engagement between the Applicants and EMA and, more recently, Prologis. No new points are raised, and, in the Applicants submission, the representation demonstrates the limited likelihood of an agreement being reached that is acceptable to all parties, reinforcing rather than reducing the need for compulsory purchase powers to ensure delivery of the nationally significant EMG2 Scheme. The Applicants summarised the relevant legal tests for compulsory acquisition in its summary and signposting document [\[REP7-045\]](#) (see paragraphs 7.1 to 7.5 inclusive). Specifically, paragraph 7.4(i) summarises the Applicants' position on the approach to consideration of reasonable alternatives.
- 8.20 The Applicants have provided evidence of extensive engagement with both Prologis and with EMA prior to Prologis acquiring an interest in the site ([\[REP7-45\]](#) at paragraph 9.3). Notwithstanding its limited ability to comment fully on negotiations with EMA prior to acquiring its interest, Prologis seeks to brush aside all engagement prior to it acquiring an interest in the DCO Site. Prologis neglects to record that at the point when Prologis acquired its interest, the SoS had issued the Section 35 Direction [\[APP-068\]](#) and that Prologis bought with full knowledge of proposed promotion of the land for development consent. Prologis also seeks to deflect from the level of engagement offered by the Applicants by reiterating complaints about viability (which is addressed in the next section below) and protesting that negotiations conducted during the examination are less likely to be successful. Nonetheless, the Applicants provided a further chronology of engagement with Prologis since it acquired an interest in the DCO Site at Annex A to [\[REP7-044\]](#).
- 8.21 The statement that "*no heads of terms for a joint venture have ever been tabled*" by the Applicants (see paragraph 4.3 of [\[REP7-082D\]](#)) is strongly refuted. The Applicants also refute any suggestion that the engagement has not been material or meaningful. All proposals tabled by Prologis have been genuinely considered and significant attempts have been made to try and reach an agreement on financial terms which would enable

viable and deliverable development. The Applicants consider that all outstanding actions rest with Prologis. See the updated chronology at Annex A of [\[REP7-044\]](#).

- 8.22 The Applicants reinforce its position that when properly considered, there is no credible alternative and encourage the ExP to consider the conclusions provided in paragraph 27.8 of [\[REP7-045\]](#).

Viability

- 8.23 In relation to the Southern Land, Prologis contends that the DCO Applicant has recast its case from one of viability to uncertainty (para 5.5). However, the two issues are inextricably linked. Development viability cannot be confirmed if delivery of the proposed development and the cost of that delivery is unknown or uncertain. Prologis criticises the Applicant for not fully investigating the risks that surround development of the Southern Land (para 5.8), but it does not dispute the fact that the risks exist. Prologis' adopts the convenient position that the Applicant must demonstrate conclusively, without information being shared by Prologis, to demonstrate that the Southern land is not deliverable, but there is no requirement for Prologis to prove that it is deliverable (paragraph 5.9). That is to misrepresent the position. The Applicants have demonstrated reasons why it is very likely that development of the Southern Land in isolation is not viable / deliverable; it does not need to establish this as a matter of certainty. In this regard, the significant challenges to development of the Southern Land are self-evident. Prologis has elected not to provide information on a reciprocal basis and relies on the absence of that information to criticise the Applicants approach.
- 8.24 Prologis invites the SoS to disregard, as inherently improbable (paragraph 5.11), the conclusion that one scheme is viable (i.e. the DCO Scheme) and another scheme on the same land should be discounted on the basis that viability is unproven. However, this is exactly what Prologis is arguing in reverse. That is, Prologis are arguing that the Joint Application is deliverable despite its viability being unproven and that the DCO Scheme is not viable. This difficulty continues with Prologis' approach to acquisition costs. Prologis appears content to dismiss acquisition costs as irrelevant for assessing the viability of the Joint Application but contends they are fundamental to the DCO Scheme which it says (which is not accepted by the DCO Applicant) is unviable because of the purchase cost agreed with the landowner. The references at para 5.13 to the DCO Applicant's viability case are deliberately selective and do not consider the case as a whole, reflecting the sensitivity analysis that has been provided at Annex L of [\[REP4-033\]](#) (pages 365 – 404).

Peter Roberts' Third Report

- 8.25 This report is largely a reprise of what Mr Roberts has said previously.
- 8.26 By way of initial observation, the Applicants respectfully submit that Mr Roberts does not adopt a responsible approach as regards his duties as an expert; suggestions like the one he makes at paragraph 1.11 in terms of how the ExP should deal with evidence are not appropriate. Further, it is clear that he lacks the objective impartiality required of such an expert and appears to advocate for Prologis on various occasions (e.g. paragraph 2.30).
- 8.27 Further, and notably, Mr Roberts still fails to provide his own viability assessments; all of his scenarios import Mr Cottage's appraisal inputs. Thus, despite the numerous exchanges in this area, Mr Roberts (and Prologis) have elected not to adduce any positive, substantive case (either in respect of the viability of the Joint Application or the DCO Scheme). The Applicants contend that this is due to the fact that Prologis

knows that whilst the DCO Scheme is viable as the Applicants contend, scrutiny of actual costs/values embedded in the Joint Application mean that it is not in fact a viable proposition. In this regard, referring to his "evidence," all Mr Roberts' reports do is seek to criticise Mr Cottage's approach and then import that approach into various scenarios that he says should be considered. The Examination still does not have an independent appraisal from Mr Roberts, reflecting his own opinion on the correct inputs, or on anything else. In the following paragraphs, the Applicants note further deficiencies in Mr Roberts' third report (Appendix 1 of [\[REP7-082\]](#), by reference to the text of the 'Applicants' Response to Deadline 5 Submissions [\[REP6-042\]](#)' at Appendix 2 (which Mr Roberts refers to as "Section 2"). For example:

- (a) Mr Roberts misrepresents both Mr Cottage's and the Applicants' position in section 2, no. 10, second sentence, in a way that is unhelpful and does not constructively assist the ExP. It is respectfully suggested that such approach demonstrates a lack of impartiality.
- (b) Mr Roberts helpfully confirms that he has "*simply responded to the evidence provided by Mr Cottage*" (section 2, no. 10, third sentence). As noted above, at no point has Mr Roberts provided his own appraisal/analysis to demonstrate a positive case in respect of either the DCO Scheme, development of the Southern Land, or the Joint Application.
- (c) The Applicant notes that Mr Roberts mischaracterises Mr Cottage's response as a concession that the Southern Land *is* viable (section 2, no. 10, sixth Sentence). The point raised by Mr Cottage is that there are multiple issues facing development of the Southern Land and the market reality is that they would deter a prospective developer and or reduce the value of the land to an unacceptable level for the landowner.
- (d) Mr Roberts does not address the point made by Cottage – namely that Mr Roberts had confused the viability of the DCO Scheme with the viability of the Joint Application (Appendix 2, Item No. 11 [\[REP6-042\]](#)), see section 2, no. 11, fourth sentence, but his ultimate conclusion appears to be that while different approaches should not be taken as between the DCO Scheme and the Joint Application viability assessments, the agreement between Prologis and EMA could be renegotiated and so provide greater flexibility. The Applicants contend that this is a spurious contention and also ignores the fact that Prologis has already bought the land it owns so cannot renegotiate the price.
- (e) Mr Roberts avoids the fact, see section 2, no. 19, third to fifth sentences, that his approach to assessing the value of the Prologis/MAG land is not consistent with his approach to assessing the viability of the DCO Scheme. By not submitting his own appraisal of the DCO Scheme, Mr Roberts avoids the very clear conflicts in his approach. Notwithstanding that deliberate omission, if it is assumed (which is not accepted) that Mr Roberts is correct and the DCO Scheme is not viable, then the value of the Prologis/MAG land would be similarly reduced below the level claimed by Mr Roberts. Logically, where the Prologis/MAG land benefits from a value well in excess of £31.25 million, this would require the assumption of higher unit sales values, which would make the DCO Scheme viable.
- (f) Mr Roberts position is inconsistent in section 2, no. 19, seventh sentence, contending that rents and yields may worsen for the DCO Scheme but assumes they will only improve for the Prologis Scheme. Mr Roberts fails to engage with Mr Cottage's position that only minor improvements in values would make the DCO Scheme clearly viable.

Precedent and Wider Consequences

- 8.28 Prologis contends that the DCO would set a "highly unusual" precedent, involving 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". Prologis further alleges that the Applicants have secured the ability to apply for compulsory acquisition powers on a "false prospectus", on the basis that the qualifying request under section 35ZA related to a scheme with specific use characteristics — a substantial headquarters/campus with head office functions and an intended anchor occupier — which the Applicants have then abandoned in favour of what Prologis characterises as an "entirely typical B2/B8 scheme". Prologis asserts that the result would carry "significant adverse consequences for security of title and for inward investment beyond this Examination", signalling 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.
- 8.29 The DCO regime expressly provides for private-to-private compulsory acquisition. The PA 2008 was deliberately extended to commercial and business projects to allow such projects of national significance to benefit from the advantages of the DCO process, a key advantage being compulsory acquisition powers. No additional or heightened tests apply because the powers of compulsory acquisition are sought by a private rather than a public body. Prologis itself acknowledges this, having recognised the benefit of the DCO process — including compulsory acquisition powers — in its own application for a section 35 Direction at Daventry International Rail Freight Terminal (DIRFT). The fact that the acquiring party is a commercial developer, and that the affected landowner is also a developer, does not of itself give rise to any adverse precedent. It is precisely the situation that the statutory framework was designed to address.
- 8.30 Prologis's characterisation of the DCO Scheme as "essentially the same" development is misconceived. The DCO Scheme delivers benefits that are attributable to the comprehensive, single-developer approach and which can only be achieved through the exercise of compulsory acquisition powers. These include, but are not limited to, the delivery of the Highway Works (NSIP) at Junction 24 of the M1; the integrated approach to sustainable transport across EMG1 and EMG2; the comprehensive Community Park; the integrated power, drainage and site management infrastructure; and the ability to bring forward the entire EMG2 Main Site in a coordinated manner within the Freeport window. These are benefits of a coordinated, comprehensive project which cannot be replicated through piecemeal or uncertain alternative delivery. Prologis's characterisation of the DCO Scheme as indistinguishable from a typical B2/B8 scheme fundamentally fails to acknowledge these distinguishing features.
- 8.31 The "false prospectus" allegation is without foundation. The Section 35 Direction was not challenged, and its validity is not in issue. The SoS determined to issue the Direction on the basis of the significant economic impact of the proposal, its importance in driving growth, its impact across a wider area, the substantial physical size and scale of the project, and its contribution to delivering Freeport outcomes. There is no suggestion, nor could there credibly be, that these findings do not apply in respect of the DCO Scheme. The DCO Scheme falls within the Section 35 Direction on a fair and objective reading of that document, and Requirement 33 secures delivery of the carbon neutral campus element. Prologis's suggestion that the Applicants obtained the Direction on one basis and then pursued a materially different scheme is simply not borne out by the evidence.
- 8.32 The allegation of misuse of the section 35 route does not withstand scrutiny. The Section 35 mechanism is, by its nature, a high-level assessment of the broad form of

development proposed. The SoS expressly envisaged in the body of the Direction that details of the proposed project may change whilst remaining within its ambit. The Applicants have at all times proceeded transparently and in accordance with the statutory framework. To characterise the legitimate use of a statutory mechanism designed for precisely this purpose as a "misuse" is unfounded.

- 8.33 The alleged consequences for investor confidence and security of title are overstated and speculative. The PA 2008 deliberately provides for the use of compulsory acquisition when cooperation has failed so that such failure does not prevent the delivery of a project of national significance. The compensation code ensures that all landowners will receive full market value for their land, and the private loss alleged by Prologis is financial in nature and is fully addressed by the compensation regime. There is no basis upon which to conclude that the proper and lawful exercise of compulsory acquisition powers, in accordance with the statutory tests and subject to the payment of full compensation, would undermine investor confidence or security of title. The statutory framework provides the very protections that Prologis claims are absent. Investors in development land have always operated against the background of potential compulsory acquisition, and the existence of a statutory compensation regime exists precisely to address the concern Prologis raises.
- 8.34 Prologis's entry into the market with knowledge of the DCO Application is significant context. Prologis knew of the Section 35 Direction and the proposed DCO Application, and therefore the potential for compulsory acquisition powers being sought, prior to signing their option with EMA and prior to acquiring the freehold of the Jarrom land. Prologis therefore invested in knowledge of the risk now complained of. It is not open to Prologis to characterise the exercise of a power, the possibility of which it was fully aware of before it committed its capital, as an unprecedented or unfair interference with its interests.
- 8.35 The compelling case in the public interest is made out. The public interest benefits of the DCO Scheme decisively outweighs the private loss. These benefits include approximately 5,720 operational jobs, £137 million GVA per annum, £11.4 million in annual business rates, strategic highway improvements including the nationally significant M1 Junction 24 works, the Community Park, active travel connectivity, significant biodiversity net gain, and the wider economic and trade benefits of the Freeport location. The DCO regime was designed precisely for projects of this kind: nationally significant commercial and business projects for which comprehensive delivery depends on securing the necessary land and overcoming failed cooperation.
- 8.36 Prologis's submissions on precedent and wider consequences amount to an attempt to overlay the statutory framework with a non-statutory test that private-to-private compulsory acquisition should not be permitted where the affected party is itself a developer promoting similar development. No such test exists in the PA 2008, in the compulsory acquisition guidance, or in the case law. The DCO Scheme delivers substantial benefits that go well beyond those which could be achieved through piecemeal development, the statutory tests for compulsory acquisition are satisfied, and the compensation code fully addresses the private loss. The precedent that would be set is no more than the proper operation of the legislative framework as Parliament intended. Prologis's attempt to characterise that outcome as carrying adverse consequences for investor confidence is speculative and unsupported by any evidence.

Compelling Case

- 8.37 Prologis's contention that the Applicants' Deadline 6 submission "erroneously treats the 'gross' claimed benefits of the DCO Scheme as the relevant comparator" is

misconceived and has no material substance. The Applicants' position remains as previously stated: the approach advanced by Prologis as regards "additive" and "attributable" benefits is an artificial construct without foundation in statute, guidance or caselaw. Prologis appears to accept that there is no case law, statutory provision or guidance which underpins its approach; certainly, none has been cited in its submissions.

- 8.38 As regards the substantive issue before the ExP, the position is far less complicated than Prologis seeks to make it. The scenarios with which the ExP and the SoS must grapple are what is likely to happen if the DCO is granted in the form sought (i.e. containing compulsory purchase powers) – "Scenario A"; and what is likely to happen if the DCO is not so granted – "Scenario B". The Applicants have demonstrated the outcome in the event of Scenario A, which entails the delivery of significant manufacturing and logistics development within the Freeport designation and within the designation window. The ExP can be confident of that delivery having regard to the significant track record of the Applicants in delivering such development, including at two SRFI developments previously authorised under the PA 2008, the significant financial resources of the Applicants, and the fact that, following grant of the DCO, the Applicants will require no further authorisation or permission to deliver development.
- 8.39 Prologis's assertion that "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" is rejected. Prologis is fundamentally mistaken insofar as it seeks to characterise the DCO Scheme and the Joint Application as being essentially "the same"; they are not. These are two materially different schemes, which have materially different prospects of proceeding, and which will deliver two very different sets of public benefits.
- 8.40 At the heart of Prologis's proposition is that it assumes as a certainty that Prologis will deliver development of the "northern land" currently within its control. This is despite the fact that there is as yet no planning permission for that development (notwithstanding multiple assurances that permission would be granted by particular dates, all of which have now passed), there is still an outstanding objection from National Highways in respect of that development, and no highways mitigation package has yet been identified for that development. These matters sit quite apart from the fact that there has been no demonstration to the ExP that the Prologis scheme comprises commercially viable development, nor could there be in circumstances where the highway works have not been identified and so necessarily have not been costed.
- 8.41 Moreover, the benefits of delivering only the Joint Application are obviously and necessarily inferior as compared to those resulting from delivery of the DCO Scheme. The commercial floorspace provided pursuant to the Joint Application would be far less than in the DCO Scheme, the "purple package" of highway works proposed (but not agreed by NH) would not deliver comparable benefits to the Applicants' Green Package, there would not be the same synergy with EMG1 and its rail terminal, nor would a comparable community park be delivered.
- 8.42 Prologis's contention that "the decision-maker must form a view on the likelihood of beneficial development coming forward in the absence of the DCO" on the Southern Land is a correct and reasonable proposition; however, its assertion that development would therefore be likely to occur, is not. Rather, such assertion is wholly rejected and the Applicants respectfully state that there is no evidential basis on which such assumption could reasonably be made. That is, there is no realistic prospect of development coming forward on the Southern Land in the absence of the DCO and compulsory purchase powers. As Mr Cottage's analysis has demonstrated, there is no

scheme before the Examination relating only to the Southern Land; further, there is no material prospect of any such scheme being prepared, promoted and delivered within the Freeport window.

- 8.43 Mr Cottage has demonstrated that, were the Southern Land to come forward on its own as a free-standing development, it would not remotely be capable of funding delivery of the infrastructure necessary to mitigate highway impacts (the Green Package), or to provide the necessary infrastructure to provide power to the Southern Land. In circumstances where both LCC and NH concur that the Green Package is necessary to mitigate the impacts of the EMG2 Main Site, it is simply not credible to maintain that delivery of both the Joint Application and a notional "Southern Land" development would not also require delivery of the Green Package.
- 8.44 Further, the suggestion that any delay in developing the Southern Land "would in large part be the result of the Applicants' decision not to explore independent development of the Southern Land before seeking the powers" is rejected entirely. The Applicants have explored alternatives and sought to negotiate with Prologis and EMA for the acquisition of the land by agreement. The alternatives advanced by Prologis and EMA do not provide realistic, deliverable or sufficiently certain substitutes for the powers sought through the DCO.
- 8.45 The Applicants reject the proposition that all discussion of alternatives has been prompted by Prologis, and that the impetus for engagement has been lacking on the part of the Applicants. The extensive chronology of engagement, from November 2024 to date, demonstrates that the Applicants have proactively and consistently driven the timetable for discussions, proposing meetings, sharing viability information on an open-book basis, and putting forward concrete commercial proposals including acquisition and joint venture options. As indicated above under the 'Reasonable Alternatives' heading, the statement that *"no heads of terms for a joint venture have ever been tabled"* by the Applicants (see paragraph 4.3 of [\[REP7-082D\]](#)) is strongly refuted. The Applicants also refute any suggestion that the engagement has not been material or meaningful. All proposals tabled by Prologis have been genuinely considered and significant attempts have been made to try and reach an agreement on financial terms which would enable viable and deliverable development. The Applicants consider that all outstanding actions rest with Prologis. See the updated chronology at Annex A of [\[REP7-044\]](#).
- 8.46 It is further misleading to say, as Prologis do, that they were *"notified of the DCO in January 2025 through public consultation"* (negotiations chronology at page 15 of [\[REP7-083D\]](#)) as they were aware of the proposed DCO application much earlier than that. Indeed, it is difficult to accept (indeed it is not accepted by the Applicants) that they did not know of it when in discussion with EMA for acquisition of their interest in the land which would have revealed the Section 35 Direction dated 21 February 2024 [\[APP-068\]](#).
- 8.47 Further, as regards the consideration of alternatives, neither the statutory provisions nor the compulsory acquisition guidance requires an applicant to anticipate and exhaustively document every hypothetical delivery structure that an affected landowner might later formulate in opposition to the application. The relevant exercise is a practical one, directed to whether there is a reasonable alternative to the compulsory acquisition powers sought which would enable the objectives of the DCO Scheme to be delivered with sufficient certainty.
- 8.48 Prologis's assertion that "the proposed Community Park is so constrained in layout and functionality that it cannot deliver the level of multi-functional use claimed" is rejected.

As set out in the Planning Statement [\[REP7-034\]](#) and the Design Approach Document [\[REP7-030\]](#), the function of the Community Park is to create a buffer between the employment park and Diseworth, to provide ecology, drainage and visual mitigation, as well as to serve the local community. Its design has been developed with that in mind.

- 8.49 The contention that the compelling case is "further diminished" and that what remains is "incapable of decisively demanding the compulsory acquisition" of the Prologis/EMA Land is rejected in the strongest terms.
- 8.50 The Applicants stand by their analysis as to the existence of a compelling case, which is conclusive and definitive on the facts, in particular having regard to the relative benefits which would be delivered by the DCO Scheme and the Joint Application respectively, and the relative likelihood of the DCO Scheme being delivered in the event of the DCO being granted as sought, as compared to the likelihood of the Joint Application being delivered. The DCO Scheme delivers benefits which are attributable to the comprehensive, single-developer approach that can only be achieved through the exercise of compulsory acquisition powers, including but not limited to: the delivery of the Highway Works (NSIP) at Junction 24 of the M1, the integrated approach to sustainable transport across EMG1 and EMG2, the comprehensive Community Park, the integrated power, drainage and site management infrastructure, and the ability to bring forward the entire EMG2 Main Site in a coordinated manner within the Freeport window.
- 8.51 As to Prologis's assertion of "certain and immediate private loss" and "public interest harm", the grant of compulsory purchase powers pursuant to the DCO will not result in public harm as asserted by Prologis, or at all. The harms Prologis identifies are not "certain" as alleged; given the manifest uncertainty as regards whether the Joint Application can or will ever be delivered, the alleged harm is necessarily notional and lacking in substance. Any land compulsorily acquired will be subject to compensation pursuant to the compensation code, which means that all landowners will receive full market value for their land. The private loss alleged by Prologis and EMA is financial in nature and is fully addressed by the compensation regime.
- 8.52 The compulsory acquisition powers sought by the DCO Applicant are necessary, proportionate and justified by a compelling case in the public interest. The public interest benefits decisively outweigh the private loss. The Applicants do not accept that the Joint Application promoted by Prologis and EMA is likely to secure consent, could viably be delivered, or that it would deliver comparable benefits. Even in the unlikely event that planning permission is granted and the Joint Application can viably be delivered, there remains a compelling case in the public interest for the compulsory acquisition of land to facilitate the delivery of the proposed development. The DCO regime was designed precisely for projects of this kind: nationally significant commercial and business projects for which comprehensive delivery depends on securing the necessary land and overcoming failed cooperation.

Further draft DCO Matters

Article 42

- 8.53 With regard to paragraphs 8.1 to 8.3 of [\[REP7-082\]](#), Prologis has misunderstood the comments made by the Applicants in [\[REP6-042\]](#) item 17 appendix 2.
- 8.54 The Applicants do not dispute that Article 42 is intended to address certain consequences flowing from the Supreme Court's decision in *Hillside Parks Ltd v Snowdonia National Park Authority* [2022] UKSC 30. Article 42 ensures that

enforcement action is not taken in respect of implementation or continued implementation of the DCO Scheme where development has been delivered on part of the land subject to the DCO pursuant to a different planning permission.

- 8.55 What Article 42 does not do — and cannot do — is resolve the practical and physical question of whether the remainder of the DCO Scheme is capable of being implemented on the ground if a different planning permission has been implemented and a different development has been implemented on part of the land. It is the Applicants' position that the remainder of the DCO Scheme cannot be physically or viability delivered on the Southern Land alone if the land north of Hyams Lane was to be developed pursuant to a different planning permission. It is therefore wrong for Prologis to assert that Article 42 would assist with the ability to implement the remainder of the DCO Scheme in those circumstances, because the article does not address the underlying question of physical and viable implementation.

Requirement 31

- 8.56 The Applicants have clearly set out in the DCO Application that the land along the A453 frontage of the EMG2 Main Site is needed for delivery of the DCO Scheme. LCC states that the land is needed for future dualling of the A453 but no justification / evidence for their assertion has been provided. The ExP has consequently determined, see [\[PD-027\]](#), that the requirement for safeguarding of the land should be deleted from the draft DCO and the Applicants agreed and deleted the provision at Deadline 6 [\[REP6-044\]](#).
- 8.57 Prologis are wrong to suggest at paragraph 8.6 of [\[REP7-082\]](#) that, by agreeing to safeguard the land, the Applicants were indicating that the land was not required for the DCO Scheme. The requirement proposed by the Applicants was very limited in scope, see page 52 of the draft DCO submitted at Deadline 5 [\[REP5-008D\]](#), and would not in any way have prevented the land being used for the landscaping of the DCO Scheme. Nor would it have required the land to be provided for the dualling scheme. The dualling scheme would have been subject to its own assessment and consenting processes.

Responses to ExQ3

- 8.58 The Applicants note Prologis' response in respect of ExQ3 Q7.0.3 and Q7.0.5, which confirm alignment with the Applicants' earlier responses.
- 8.59 In relation to ExQ3 Q15.0.1, Prologis' complaint is that the socio-economic benefits of the land north of Hyams Lane are afforded insufficient weight in the Applicants' assessment of the non-delivery scenario. The ExP will be aware that the Applicants' primary position that it has a proven track record of delivery including EMG1 and Northampton Gateway and that 100% of all approved rail freight DCOs have been delivered (see the written response at electronic page 15 and Annex 2 to Appendix 1 at electronic page 239 of [\[REP4-034\]](#)).
- 8.60 Notwithstanding the Applicants' primary position, it also made the practical observation that in a hypothetical scenario where EMG2 is consented and not delivered, the reasons preventing delivery of EMG2 are likely to apply to the Joint Application such that no benefits will be delivered.
- 8.61 Without prejudice to the Applicants primary position, the difference between Prologis and the Applicants is the irrefutable position that EMG2 delivers greater benefits which eclipse the socio-economic benefits of the Joint Application. The Joint Application cannot deliver the full Freeport allocation. As a result, the benefits that would be

attributable to a partial delivery of the Freeport allocation must be counterbalanced and reduced by the loss of the benefits resulting from the non-delivery of EMG2 development.

Joint Application Programme Date

- 8.62 The Applicants note that Prologis's timescales for resolution of the Joint Application have consistently slipped during the course of the Examination and there have been no submissions made to NWLDC to demonstrate that the significant outstanding issues in relation to traffic modelling and impact notably at the EMG1 access junction and M1 J24 (Annexes A, B and C of [\[REP6-042\]](#)) have been, or are at all close to being, resolved. It is also noted that, as yet, the traffic modelling for the Joint Application makes no allowance for any mezzanines. It is the Applicants' experience that in schemes such as this, a significant number of operators will require mezzanine. The failure to include such an allowance will either delay the identification of the highway solution because further modelling will be necessary or significantly restrict the attraction of the site to potential operators.
- 8.63 As noted previously [\[REP6-042\]](#) once the traffic modelling is resolved the design of the mitigation works will need to be agreed by LCC and NH as appropriate and on the NH network any departures from standard have to be approved which itself is a time-consuming detailed process. Based on this and the Applicants' considerable experience in resolving such matters on the EMG2 scheme the Applicants are sceptical that a decision on the Joint Application will be made prior to the date on which the SoS's decision must be made for the EMG2 DCO.
- 8.64 Despite EMA's reference previously to the SPD relating to highway contributions potentially enabling a contribution from the Joint Application to works at M1 J24 – the ExP is reminded that the SPD [\[REP6-078\]](#) is a skeleton document which is reliant on further work including the identification of the works to which it relates; the identification of the sites from whom contributions will be sought; the basis on which the contributions are to be calculated and most importantly how the works are to be delivered and by whom. This is all as set out in paragraph 5.28 of Appendix 12 in the Applicant's response to Deadline1 Submissions of Prologis [\[REP2-032\]](#).
- 8.65 Whilst the SPD was adopted by the local authorities by the 30 June 2026 deadline it remains a skeleton document and nothing in respect of the further work which is required to make it an effective mechanism has changed. If the Joint Application intends to address its impacts on M1 J24 through a contribution under the SPD then that poses additional questions as to the deliverability of the Joint Application – both in terms of timing of ascertaining a contribution and the question of whether such a contribution affects the viability of the Joint Application.

Response to 10 August Letter

- 8.66 The representations from Prologis under this heading are directed at the Section 35 Direction, which to avoid unnecessary repetition have been addressed under the sub-heading at the start this section 8 above, and Associated Development.
- 8.67 The Applicants' presentation in [\[REP6A-001D\]](#) of a clear table summarising each element of associated development and how it satisfies the tests in the Planning Act 2008: Guidance on associated development applications for major infrastructure projects, inevitably draws criticism from Prologis. The complaint raised is that associated development should be subordinate to the principal development and must not be an aim in itself and must be proportionate to the principal development. Works

Nos. 13 to 21, listed in the Applicants associated development table which was incorporated into the explanatory memorandum at [\[REP6-009D\]](#), are all works which plainly support the delivery of the EMG2 development and cannot sensibly be described as an aim in themselves or disproportionate in nature or scale. None of the works would come forward on their own without the EMG2 development.

8.68 Prologis' complaint appears to be a re-casting of an earlier misdirected claim that the Highways NSIP should be identified as associated development and a claim that it would not be subordinate to the principal development. The Applicants have already responded to this erroneous position, see:

- (a) The Applicants' responses to Relevant Representations [\[REP1-051D\]](#) which explained Works Nos. 8 – 12 are an NSIP and not associated development (paragraph 2.14 at electronic page 269);
- (b) Additional clarification on regarding the need for compulsory acquisition of land for Works Nos. 8-12 together with any associated development was provided in response to ExQ1 Q7.0.5 [\[REP1-054\]](#) (electronic page 85);
- (c) The Applicants' post hearing submissions [\[REP1-052\]](#) provided further information regarding the Highway Works and associated development (item 6 on electronic page 35); and
- (d) The Applicants' position on the treatment of associated development was set out in response to Action Point 8 in [\[REP1-053\]](#) (electronic page 10), in the Applicants' Post Hearing Submissions [\[REP4-034\]](#) (item 3.1 on electronic page 21) and in the Applicants' Response to Rule 17 Letter – Disaggregation of Highways NSIP and Commercial and Business Development [\[REP5-035D\]](#).

Procedural Unfairness

8.69 Notwithstanding the joint submission of Prologis and EMA that procedural unfairness must be considered by the ExP in preparing its report, the substance of the submission should be rejected as being entirely without merit. The document appears to be an attempt to push the ExP and/or the SoS into recommending refusal of/refusing the application for development consent, because of the threat of legal challenge grounded in an allegation of procedural unfairness.

8.70 Such allegation is misconceived. Indeed, the levelling of the allegation serves to show that Prologis and EMA recognise that they have lost the substantive debate regarding the question of whether or not compulsory purchase powers should be authorised by the SoS when granting development consent for the second phase of EMG2. Having failed to undermine the merits of the DCO Applicant's case seeking the confirmation of compulsory purchase powers, Prologis and EMA now seek to fall back on procedural complaint.

8.71 This response to Prologis and EMA's allegation of unfairness does not seek to address every detail of the complaint as raised; rather it addresses the key aspects of the submission. However, by way of overarching observation, the Applicants note that Prologis and EMA have in fact sustained no material prejudice. In this regard the Applicants make the following submission (reference to paragraphs in Prologis and EMA's Submissions by way of annotations 'para**'):

- (a) Prologis and EMA (at para 2.2), as they have done throughout the Examination, seek to assert (1) a particular status as parties against whom compulsory purchase

powers are being sought by a commercial rival, and also (2) seek to equate their development proposals with those of the DCO Scheme. Such summary of the context is misleading. In particular:

- i. As has previously been noted by the Applicants (see the Applicants' response to Action Point 28 in [\[REP4-035\]](#)), it is in no way unusual for compulsory purchase powers to be confirmed in respect of privately owned land, in a scenario where those powers will be utilised by another private party (often a commercial rival).
 - ii. In the event the DCO is granted as sought, the Applicants will have all necessary powers and consents to deliver its scheme of development. That development would deliver a multiplicity of benefits over and above those offered by the Joint Application promoted by Prologis and EMA (see the summary of benefits at paragraph 7.4 [\[REP7-045\]](#)). Further, the Joint Application does not benefit from planning permission and has not been the subject of viability evidence demonstrating it to be viable. Therefore, whilst the EMG2 proposals have been shown to be deliverable, Prologis and EMA's proposals essentially comprise of 'aspirations' which would – even if delivered – result in materially less public benefit than the DCO Scheme.
- (b) Thus, Prologis and EMA level their procedural complaint whilst misrepresenting the context in which it falls to be considered, and the basis on which the ExP/SoS are entitled to regard the compulsory acquisition of their interests in land as justified.
- (c) Prologis and EMA note (para 2.3) that they are entitled to have their objections (regarding the proposed compulsory acquisition) considered at an oral hearing. In particular:
- i. In the course of the Examination, the ExP has not only given detailed consideration to compulsory acquisition through the written process (see for example ExP written question series 7 (compulsory acquisition) in [\[PD-015\]](#), [\[PD-022\]](#) and [\[PD-028\]](#)), but has also held not one but two compulsory acquisition hearings ("CAHs") (10 March 2026 and 12 May 2026). Thus, the statutory entitlement 'to be heard', has manifestly been afforded to both Prologis and EMA who were each legally represented at all hearings.
 - ii. Further, insofar as Prologis and EMA imply (again para 2.3) that the CAHs were inadequate in terms of format because they did not provide "...an effective opportunity to the party concerned to provide a formal, structured and systematic oral presentation of its case" such complaint is without merit. The criticisms levelled are rejected; the CAHs comprised substantial opportunities on the part of both Prologis and EMA to raise their concerns individually and jointly; it does not follow that the hearings were deficient because they were not able to succeed in their arguments.

8.72 As regards the specific areas of concern flagged by Prologis and EMA, the Applicants make the following observations.

Relevant Representations & Written Representations

- 8.73 Whilst the Applicants acknowledge that, in the ordinary way, directed and specific additional materials were provided to the ExP and affected parties during the course of Examination, that resulted in no material prejudice to Prologis or EMA, or any other party. Further, the fact of the holding of the two CAHs meant that insofar as the Prologis and EMA wished to raise matters not discussed in their relevant and written representations, they had full opportunity to do so. This is not the first DCO examination Prologis and EMA have attended and as was made plain by the ExP throughout the process, the examination is predominately a written process. Prologis and EMA did, on a number of occasions, raise the issue of procedural fairness (para 2.6), however, in each instance the complaint made has been misconceived, and the suggested procedural remedy unjustified.
- 8.74 By way of illustration, such position is true of the complaint levelled regarding the ExP's decision to commence the Examination. In this regard Prologis and EMA allege (paras 3.2 - 3.3) that the ExP's decision to commence the examination was flawed, given an (alleged) deficiency of materials available at the date of the Preliminary Meeting. It is right Prologis and EMA raised the allegation of deficient materials at the Preliminary Meeting (having raised the issue previously in correspondence), and leading counsel on behalf of both Prologis and EMA was afforded the opportunity to make oral submissions to that effect. However, following submissions made in response by leading counsel for the Applicant, the ExP determined to commence the examination, giving reasons for its decision. In this regard, the Applicants assert that the decision of the ExP was not only legally justified but entirely correct. In particular, the material(s) on whose absence Prologis and EMA relied:
- (a) Were not central to the case for compulsory acquisition;
 - (b) Were (in two cases) made available to Prologis and EMA by the first deadline, Deadline 1 (7 April 2026); and
 - (c) Was (in the third case) not a matter which justified the holding of a further CAH.
- 8.75 By way of further illustration, EMA complained of an absence of information and submitted the table of purported outstanding information (Appendix 3 of [\[REP3-059\]](#)). The Applicants responded at Deadline 4 (Annex E of [\[REP3-059\]](#)) signposting to the relevant documentation. It is clear that EMA and Prologis chose to not engage with the Transport Assessment at the point of Application and had they done so they would have been aware that there were no fundamental gaps, that the PRTM 2023 assessment was agreed as a sensitivity test, and, by means of a more detailed example, that documents such as the walking cycling and horse riding assessment and review (WCHAR) had been provided as part of the Application and were not 'outstanding'. Indeed, there have been no fundamental changes to the highway works since the Application was made.
- 8.76 Both EMA and Prologis have had ample opportunity during the Examination process to make representations as they deemed appropriate. The Applicants have responded and engaged positively including, for example, by submitting a change request [\[AS1-001\]](#) in relation to the Active Travel Link on the basis of EMA's representations made during the examination (but could have been made sooner had EMA raised their concerns earlier). The fact that EMA and Prologis have not been prejudiced during the examination is demonstrated by EMA and Prologis's acknowledgement that there is only one issue outstanding in relation to traffic and highways matters which is that relating to M1 J24 and the Applicant's position on the M1 J24 mitigation is set out at Annex K of [\[REP4-033\]](#).

- 8.77 The complaint (para 3.6) as to the absence of a revised Statement of Reasons (SoR) is wholly without merit, for the reasons stated at ([[REP5-001](#)] and Item 1 Appendix 4 [REP7-044](#)). The ExP (and ultimately the SoS) understand the case justifying the award of compulsory purchase powers to deliver the DCO Scheme, and the attempt of Prologis and EMA to contend that such case cannot properly be understood absent a further iteration of the SoR is not tenable.
- 8.78 Insofar as the complaint levelled (para 3.7) is one that the case in support of the DCO Scheme has been supplemented during the course of the Examination by further documents/analysis required by the ExP, then such criticism fails to recognise that it is entirely orthodox/typical for an applicant seeking development consent to be required to submit further materials (limited in the present case) or analysis/justification during the course of an examination. There has been no prejudice caused to Prologis, EMA or any other party and the ExP has structured the timetable to ensure a fair right to consider and comment on submissions made by all parties at each examination deadline.

Viability Evidence

- 8.79 The Applicants reject Prologis and EMA's assertions that the viability evidence in support of the DCO Application was inadequate or late in its submission. In this regard, following receipt of the relevant and written representations, the DCO Applicant volunteered at CAH1 – i.e. at the very outset of the Examination – to provide viability evidence. That evidence was provided at Deadline 1 and was the subject of extensive discussion at CAH2. Thus, whilst Prologis and EMA may (mistakenly) dispute its cogency, there can be no doubt that they were provided with sufficient opportunity to test and scrutinise it.
- 8.80 Further, Prologis and EMA fundamentally misrepresent the Applicants' case in respect of the viability evidence as submitted ([REP1-027D](#)), and the submissions made in respect of it (Annex L [REP4-033](#), Action Point 35 [REP5-051](#), Appendix 2 [REP6-042](#) and see paragraph 7 [REP7-045](#)). In particular:
- (a) The DCO Applicant continues to represent that the DCO Scheme is viable, in reliance on the analysis of Mr Cottage (Arden) [REP1-027D](#);
 - (b) The DCO Applicant continues to represent that a development of the 'Southern Land' in isolation would not be viable, again in reliance on the analysis of Mr Cottage [REP1-027D](#) and Annex L of [REP4-033](#);
 - (c) The DCO Applicant continues to contend that Prologis and EMA have failed to submit a coherent study demonstrating that their own development would in fact be viable. In this regard the DCO Applicant cannot demonstrate that such development is unviable, because the necessary inputs to such assessment have not been made available on an open basis. However, the DCO Applicant is of the provisional view that Prologis and EMA Scheme is not viable, and in the absence of evidence from Prologis and EMA to demonstrate viability, invites the ExP to regard such viability as 'non proven'.
- 8.81 Insofar as Prologis and EMA complain that there was not 'oral testing' of the viability evidence, that assertion is wholly misconceived having regard to the extensive oral discussion of the materials at CAH2. Further, neither at CAH2 or otherwise was there any application by Prologis or EMA to cross-examine either Mr Cottage or anyone else of the DCO Applicant's team.

Late and Inadequate EIA

- 8.82 The Applicants maintain that the ES submitted with the DCO Application and MCO Application is not in any way inadequate. The Applicants' response to the criticism made by Prologis and EMA is set out at length in Appendix 1 to [\[REP4-034\]](#), in [\[REP5-001\]](#) and in [\[REP5-035D\]](#).

Content and conduct of CAHs, and refusal to hold a further CAH

- 8.83 The Applicants do not accept the assertions made by Prologis and EMA for the reasons set out at paragraph 8.71(c) above. The examination of a DCO application is a predominately written process as Prologis and EMA, who are well versed in such matters and advised by a team of professional experts, will be aware. The ExP had regard to the complaints made by Prologis and EMA regarding the content, conduct and number of CAHs, and made it clear that a representation made in writing carries equal weight to any submissions made orally. Therefore, the suggestion that Prologis and EMA were disadvantaged because they could not make their submissions orally, only in writing, is without merit.

Effect on the APs

- 8.84 The effect on Prologis and EMA is overstated as is demonstrated by the examples given above regarding how information relating to highways was available from the outset but overlooked, and information concerning viability was volunteered by the Applicants at the earliest opportunity. The Applicants have provided viability information openly and transparently despite such information including obviously commercially sensitive data. The fact that Prologis and EMA do not agree with the information provided is hardly surprising but does not result in unfairness as alleged. Prologis and EMA have not reciprocated and instead protest that there is no requirement on them to do so, whilst using the absence of the information they hold to allege deficiencies in the Applicants' case. Such an approach is plainly inequitable, especially where a complaint of procedural deficiency is subsequently made in an obvious attempt to construct a platform to derail the decision-making process either during the determination period or post consent.

Implications for the ExP and/or the SoS

- 8.85 For the reasons set out above, the complaint of procedural unfairness is entirely without foundation. The Applicants urge the ExP to not allow itself to be swayed by the thinly veiled threat of future legal action. The Applicants would consequently encourage the ExP and the SoS to carefully follow the correct compulsory acquisition legal framework as summarised in section 7 of the Applicants' signposting document [\[REP7-045\]](#) to ensure any pre-meditated claim is shown to be totally without merit.

9 Applicants' Response to East Midlands International Airport Limited and East Midlands Airport Property Investments (Industrial) Limited (EMA) [\[REP7-073\]](#)

A453 / EMG2 site access / Beverley Road Junction

- 9.1 EMA's acknowledgement that there are no capacity issues at the junction once the development is operational is welcomed. The Applicants do, however, note that the information provided at Deadline 6 [\[REP6-042\]](#) was in direct response to the request made by EMA at Deadline 5 [\[REP5-060D\]](#).

A453 / The Green Junction

- 9.2 The Applicants' position on the A453 / The Green junction is set out at Item 16 of DCO 7.17 Applicants Response to Deadline 4 Submissions [\[REP5-033\]](#) and remains unchanged. LCC agree with our position as confirmed in the SoCG [\[REP7-054\]](#). This position confirms that mitigation at this junction is not required. As set out previously ([\[REP4-036\]](#) and [\[REP6-042\]](#)) the advanced manufacturing use has been modelled within the B2 element of the development and both NH and LCC are in agreement as confirmed in the relevant SoCG [\[REP7-058\]](#) and [\[REP7-054\]](#) and requirement 27 does not need to be retained for this purpose.
- 9.3 This is another example of the Applicants' concern that EMA are seeking to raise objections based on a specific concern – in this case highway impact – when the actual objective is to secure a more favourable position for EMA as landowner. The highway authorities are clear that there is no need for mitigation around the A453/The Green junction. The land around that junction is owned by EMA and the Applicants' concern is that the reference to the junction may be influenced by a desire that the land be required for the delivery of EMG2 rather than any highway concerns which have been shown to be unfounded.

Position of NH and LCC

- 9.4 SoCG are now finalised with both NH and LCC [\[REP7-058\]](#) and [\[REP7-054\]](#) and all matters are agreed save for the specific points noted within the LCC SoCG.

Active Travel Link (Plot 2/6) and part of Works No. 19 (Plot 2/25)

- 9.5 The Applicants' position on the need and demand is set out in [\[REP2-032\]](#).
- 9.6 The Applicants are surprised that EMA are maintaining its position that the need for the Active Travel Link is not made out given:
- (a) that it would provide a much-improved link between EMA and Kegworth which is a longstanding objective of local stakeholders; and
 - (b) EMA as airport operator recognise that such an improved link is of benefit to EMA's sustainable transport objectives which state that: *"The local cycle network is restricted because of the major roads in the area, especially the A453 and the M1. The development of the East Midlands Gateway and the Kegworth By-Pass have resolved the historic severance created by the M1 by providing a cycle route across the M1 into Kegworth. There are potential opportunities to develop this link and to run into the airport"* (EMA Sustainable Development Plan 2026 page 63 found at Annex A).
- 9.7 The Applicant, aside from noting that it was EMG1 which resolved the historic severance created by the M1 and A453, considers EMA's position to be presented in the light of them as landowner and joint promoter of the Joint Application rather than as airport operator where it is clear that they recognise the importance of improving active travel.

Protective Provisions

- 9.8 EMA is incorrect at paragraphs 5.12 to 5.13 of [\[REP7-073\]](#). The proposed protective provisions set out in Part 6 of the draft DCO [\[REP7-010D\]](#) are based on those proposed

by EMA in respect of the Joint Application and at Isley Woodhouse (see Annex D of DCO 713 / MCO 7.13 and [\[REP4-033\]](#)), not on those included in the EMG1 DCO.

- 9.9 EMA asserts that it requires bespoke protective provisions to reflect "modern standards and the unique nature of the EMG2 development as applied for" (paragraph 5.14 of [\[REP7-073\]](#)). However, EMA does not set out how EMG2 may give rise to different or greater risks to the airport than the Joint Application scheme or Isley Woodhouse.
- 9.10 The protective provisions sought by EMA are materially more prescriptive and onerous than those it has proposed in respect of the Joint Application or at Isley Woodhouse. EMA has sought to justify those provisions, but the Applicants do not accept that justification, for the reasons set out in their response in DCO 7.27 / MCO 7.27 [\[REP7-044\]](#). The Applicants consider that the protective provisions contained in Part 6 of Schedule 13 of the draft DCO are sufficient to safeguard the operation of the airport.
- 9.11 EMA suggests at paragraph 5.16 of [\[REP7-073\]](#) that their proposed protective provisions are not materially different to those proposed for the Joint Application and Isley Woodhouse. That is not correct. It is also not correct to say that there will be no further opportunities for consultees to consider details at a later stage of the development process. Requirement 7 of the draft DCO [\[REP7-010D\]](#) requires the detailed design of the development to be approved by the local planning authority and such detailed design will be informed by the protective provisions in favour of EMA.
- 9.12 The ExP must consider whether EMA's demand for bespoke protective provisions is proportionate to any genuine safeguarding need. In particular, the ExP may wish to consider whether the cumulative effect of EMA's approach — combining a maintained objection, non-standard protective provisions, challenges to compulsory acquisition, and the simultaneous promotion of a competing scheme — is to delay or impede the DCO process in furtherance of EMA's own competing development interest. The disproportionate nature of EMA's response is underscored by the fact that EMG1 is situated closer to the airport than the EMG2 Main Site, yet the protective provisions sought in respect of the EMG2 Main Site are materially more onerous than those which have operated satisfactorily in relation to EMG1 (see plan at Annex B of DCO 7.27 / MCO 7.27 [\[REP7-044\]](#)).
- 9.13 If the ExP considers the protective provisions in Part 6 of Schedule 13 of the draft DCO to be insufficient to protect the operation of the airport and prefers some or all of the EMA's proposed provisions, the Applicants have put forward an amended set of protective provisions at Annex C of DCO 7.27 / MCO 7.27 [\[REP7-044\]](#). Those amended provisions address a number of the matters raised by EMA whilst also seeking to address the conflict of interest that arises from EMA's dual role as airport operator and as a competing developer. In particular, the amended provisions propose that the local planning authority, rather than EMA, should serve as the discharging authority for the protective provisions. In circumstances where a reasonable apprehension of bias arises, it would not be appropriate for EMA to act as the discharging authority for the protective provisions, and that the local planning authority should assume that role instead.
- 9.14 It is the Applicants' submission that EMA is seeking to deploy its statutory function as airport operator to prevent or delay the authorised development from proceeding. The disparity in EMA's treatment of the Applicants as compared with the Joint Application is a material consideration in this regard. Furthermore, EMA has not engaged in any meaningful detail with the aerodrome safeguarding material that has been submitted as part of the DCO Application and MCO Application. The disparity in approach is further underscored by EMA's public endorsement of the Junction 24 works and

acknowledgement of their importance to the future operation of the airport (see Annex G of DCO 7.20 / MCO 7.20 and [\[REP6-042\]](#)), a position that sits uncomfortably with its objections to the scheme.

10 Applicants' Response to Fulcrum Pipelines Limited (Fulcrum) [\[REP7-074\]](#)

The Applicants note the response.

11 Applicants' Response to Royal Mail [\[REP7-089M\]](#)

The Applicants welcomes Royal Mail's position that they are in broad agreement with the measures set out in the CTMP (CEMP Appendix 3 [\[REP7-036D\]](#)).

12 Applicants' Response to the Deadline 6 submission by Protect Diseworth (Transport Report) [\[REP6-099D\]](#)

The Applicants' response to PD's Transport Report is set out in Annex B, with relevant text of PD's Transport Report set out for ease of reference.

Annex A

Extract from EMA Sustainable Development Plan 2026

EAST MIDLANDS AIRPORT SUSTAINABLE DEVELOPMENT PLAN 2026

Our long-term plan for sustainable growth



Active Travel

EMA is in a relatively rural location; some distance from the cities and the large towns in the East Midlands. This means that cycling and walking as a mode of access to work is only viable for those who live relatively close to the airport site. However, EMA is part of a network of local footpaths and bridleways that provide connectivity and a recreational resource for local people.

There are several cycle paths in the local area. EMA is on the National Cycle Network Route 15 that is planned to connect Route 6 at Belton near Shepshed with Route 1 in Lincolnshire via Nottingham, Grantham, and Sleaford. Route 15 in the EMA area provides a link between EMA, Diseworth and Long Whatton. EMA is also accessible using local roads from National Cycle Route 6, which is a long-distance national route running north to south through England. In the local area, Route 6 runs through Breedon-on-the-Hill, to the east of Melbourne, to Swarkestone, Chellaston and Derby.

The local cycle network is restricted because of the major roads in the area, especially the A453 and the M1. The development of the East Midlands Gateway and the Kegworth By-Pass have resolved the historic severance created by the M1 by providing a cycle route across the M1 into Kegworth. There are potential opportunities to develop this link and to run into the airport.

We will continue to advocate and support a local road network, including the roads within the EMA site, that is friendly for cyclists. We will also improve the cycle parking and changing facilities in our buildings and will work with other businesses on the EMA site to encourage cycling as a mode of staff and visitor access. We will also work to promote cycling at EMA and in the local area, that could include Bike Breakfasts, cycle buddies (to show new starters the best routes), cycle maintenance services, cycle hire and cycle loan schemes. MAG also supports the national cycle to work scheme which allows staff to obtain a new bicycle and essential accessories.

Because of EMA's location, walking to the airport is impractical for most staff and passengers. However, there is a valuable network of local footpaths that are used by residents and visitors to the area. We recognise the recreational, health and wellbeing benefits of walking and access to the countryside, and we will continue to maintain and where appropriate upgrade the Airport Trail to encourage and promote walking around the airport.

AIMS

- We will work with local partners to provide improved cycle connections to EMA.
- When roads within the EMA site are upgraded or developed, they will be designed with the needs of cyclists in mind.
- We will continue to promote the cycle to work salary sacrifice scheme and encourage more businesses to offer it to their staff.
- We will continue to maintain and where appropriate, upgrade the Airport Trail to encourage and promote walking around the airport.
- We will maintain the EMA Sustainable Transport Fund to support sustainable access and sustainable commuting, including discounted travel for colleagues, facilities for cycling and walking, and car share schemes.
- We will promote cycling as a mode of staff access to EMA and provide cycle facilities in our buildings and we will use the EMA Sustainable Transport Fund to support this work.



Annex B

Response to PD's Transport Report

PD's Transport Report Queries	Applicants' Response
Paras 2.2 to 2.5 - the reliability of the traffic modelling may be undermined by the decision to base modelling on actual flows rather than demand flows. The former exclude latent demand/unreleased trips (i.e. trips that do not appear in the models because the network has insufficient capacity to accommodate them).	Actual flows are typically provided as an output from the strategic model. The differences between the demand flows and actual flows is set out below: • Demand flows represent the flows generated by the PRTM strategic model assignment, irrespective of when those vehicles arrive at a particular link or junction. • Actual flows represent the number of vehicles that reach a particular link or turn during the specified simulation period. Given the scale and extent of the strategic model traffic may enter the model network some distance from the junction being assessed. For example, a vehicle may take approximately 20 minutes to travel from its point of entry into the model to the junction. Consequently, the actual flow provides a more realistic representation of the traffic arriving at a particular junction within the assessment period. Flows arriving outside the defined peak hour period will be captured within the model's cool down period. The strategic model is run for a total of three hours, comprising a one hour warm up period, one hour peak assessment period and one hour cool down period. It should also be noted that the VISSIM microsimulation includes a 30 minute warm up and 30 minute cool down period.

	The use of actual flows, together with the furnishing methodology, was agreed with the TWG and therefore forms a suitable, and agreed, basis of the flow development approach adopted for the VISSIM assessment.
Paras 2.6 to 2.13 - Scrutiny of the number of trips within the VISSIM model in the various scenarios reveals unexplained inconsistencies and apparent errors in the way proposed development flows, Local Plan development flows and the effects of mitigation affect the network. These inconsistencies have been reported to BWB but there has been no response.	The Applicants have engaged with all relevant stakeholders which form the TWG over a number of years to review and agree the traffic flow inputs used within the model. The traffic flow inputs and methodology have been reviewed and agreed with the TWG as a result. The key parameters used to assess network performance include Vehicles Arrived and Latent Demand, with the definitions provided below: • Vehicles Arrived: The number of vehicles that have reached their assigned destination within the modelled period. • Latent Demand: The number of vehicles unable to enter the highway network as a result of congestion and the resulting capacity constraints. To provide a comparison of total traffic flows between the scenarios, an additional VISSIM parameter, "Vehicles Active", has also been considered. This represents the number of vehicles that entered the VISSIM highway network however have not yet reached their assigned destination at the end of the assessment period. A summary of the Without Development and With Development flows, now including Vehicles Active within the network, has therefore been provided in Annex 1. The Annex 1 Total Traffic Flow tables demonstrate that the total traffic flow in the With Development scenario is greater than in the Without Development scenario, reflecting the additional traffic generated by the proposed development. The Scenario Comparison table (Annex C) demonstrates that the Scenario B flows are lower than those represented by Scenario A. Based on the above, and tables provided in Annex C, it is concluded that there are no inconsistencies between the modelled scenarios.

Paras 2.14 to 2.25 - The methodology for furnishing traffic flows at junctions leads to significant differences between modelled and observed turning movements at the Finger Farm roundabout.	The VISSIM base model was subject to the thorough National Highways (NH) audit process (undertaken on behalf of the TWG) and was agreed as being fit for purpose for future year modelling. The differences in flows noted to and from the M1 South are attributable to the convergence of the model and the resulting assignment of traffic within the network. A comparison of the total observed flows against the total modelled flows, based on the observed data and the flows presented in Appendix 1 of the LMVR (TA Appendix 46 [REP1-041]), summing the total observed and modelled flows, equates to the following: <table><tr><th>Survey Flow</th><th>VISSIM Flow</th><th>Difference (Veh)</th><th>% Difference</th><th>GEH</th></tr><tr><td>14585</td><td>14798</td><td>-213</td><td>-1%</td><td>1.76</td></tr><tr><td>13921</td><td>13758</td><td>163</td><td>1%</td><td>1.39</td></tr></table> The above comparison demonstrates that the modelled flows are generally within 2 GEH* (DfT criteria for validation: GEH<5) of the observed flows, providing an appropriate representation of the observed traffic conditions. As noted previously, the use of actual flows, together with the furnishing methodology, was agreed with the TWG and therefore forms a suitable, and agreed, basis of the flow development approach adopted for the VISSIM assessment. Furthermore, each forecast modelling scenario has been individually converged, with the convergence results and associated model outputs provided to NH for review. The forecast models have subsequently been agreed with NH and the TWG. *The GEH statistic is explained in the VISSIM LMVR (TA Appendix 4 [REP6-023]).	Survey Flow	VISSIM Flow	Difference (Veh)	% Difference	GEH	14585	14798	-213	-1%	1.76	13921	13758	163	1%	1.39
Survey Flow	VISSIM Flow	Difference (Veh)	% Difference	GEH												
14585	14798	-213	-1%	1.76												
13921	13758	163	1%	1.39												
Paras 3.1 to 3.3 - Scrutiny of the applicant’s projections of future traffic flows on the A453 between the site access roundabout and the Finger Farm roundabout indicates that the link, in its current configuration (7.3m single carriageway) would not have the capacity to accommodate future traffic levels with the proposed development in some	The traffic flow information presented in Table 1 of PD’s Transport report [REP6-099D] comprises strategic modelling link flows and not VISSIM modelling outputs. It should be noted that strategic models are primarily designed to represent network wide demand, and trip distribution and route choice, rather than to replicate traffic flows on individual links.															

scenarios. The evidence suggests that this would be the case whether or not Local Plan development (Isley Woodhouse etc.) is taken into account. The mitigation strategy increases traffic flows on this section of the A453	Strategic models are therefore particularly effective at forecasting the change in traffic between scenarios, which is why the agreed furnishing methodology has been adopted to apply the growth in traffic forecast by the strategic model, between the base and forecast years, to the observed base traffic flows. This provides a more robust representation of traffic flows for the microsimulation model by retaining the observed base traffic conditions while incorporating the forecast growth identified by the strategic model. The resulting flows are lower than those presented in the strategic model because the observed flows on the A453 are lower than the corresponding flows in the strategic base model. Applying the strategic modelled growth to the observed flows therefore results in lower forecast flows than those obtained directly from the strategic model. A copy of the traffic flows used in the assessment for the A453 between the EMG2 site access roundabout and Finger Farm roundabout, at the Toucan crossing, is provided in Annex D. The traffic flows illustrates that the nominal capacity of the A453 would not be exceeded.
Paras 3.4 to 3.13 - The provision of a Toucan crossing on the A453 between the Finger Farm roundabout and the site access roundabout; a key element of the site's sustainable access strategy increases the degree to which the link is shown to operate over capacity. There is a risk that vehicles would queue back to the Finger Farm roundabout leading to serious highway safety concerns.	Detailed VISSIM modelling of the junctions, including the Toucan crossing, had been undertaken. This was subsequently reviewed in detail by NH and agreed with both them and LCC. The modelling results demonstrate that Finger Farm Roundabout, and the Toucan crossing, all operate satisfactorily. In particular, the simulation shows no traffic blocking back onto the Finger Farm Roundabout, and the operation of the junctions and crossing remains satisfactory (and hence safe) under the assessed scenario.
Paras 4.1 to 4.7 – Impact on Diseworth (A453/The Green junction)	The Applicants' position remains unchanged from its response at Item 16 of DCO 7.17 Applicants Response to Deadline 4 Submissions [REP5-033] and Item 5 of Appendix 1 – SCP Technical Note DCO 7.20 Applicants' Response to Deadline 6 Submissions [REP6-042].

Paras 4.8 to 4.12 – Impact on Diseworth (Journey Times)

The Applicants refer to their response at Item 16 of the Applicants' Response to Deadline 4 Submissions [[REP5-033](#)], which confirms that journey times along the A6 Kegworth Bypass will be improved as a result of the EMG2 development and associated mitigation. This would make this route more attractive in comparison to the 'Without Development' scenarios, and further justifies the Applicants position as to why development traffic travelling to the site from the east would route this way rather than via Diseworth. The following figure also confirms that a typical journey time at 08:30am (middle of the morning peak hour) would be quicker along Kegworth Lane and the A6 Kegworth Bypass rather than via Diseworth.



Traffic originating from further east of Long Whatton would route via London Road and the A6. Whilst we accept that the route via The Green is longer than via Grimes Gate, the Applicants disagree that traffic will use these routes and instead should avoid Diseworth entirely because it will be quicker and more appropriate

	to use other more strategic roads, that are being improved as part of the EMG2 development. For these reasons, there should not be any unacceptable traffic impacts through the centre of Diseworth.
Paras 5.1 to 5.6 – Failure to Assess Worst Case Situations (Existing Late Afternoon Congestion on A453)	The Applicants refer to their response at Item 19 of the Applicants' Responses to Deadline 4 Submissions [REP5-033] which summarised the ATC survey data and confirmed that traffic on the A453 across the site frontage and in the vicinity of East Midlands Airport is highest during the traditional peak period of 8-9am in the morning. In the evening, the A453 accommodated 1,122 vehicles between 4-5pm and 1,113 vehicles between 5-6pm, which is only 9 vehicles different. At all other times the traffic was significantly lower. The assessments undertaken in the TA have therefore been undertaken during the worst-case conditions when traffic flows are at their greatest. Nevertheless, the mitigation being proposed by EMG2, in particular the M1 northbound to A50 westbound free flow link, will reduce traffic on the A453 by transferring it to the M1, as confirmed by the PRTM modelling, thereby improving capacity at Finger Farm and making the A453 more attractive. These improvements will be seen across all times of the day but the benefits have been evidenced during the busiest times of the network.
Paras 5.7 to 5.9 – Failure to Assess Worst Case Situations (Airport Growth)	The Applicants refer to their response at Item 16 of the Applicants' Response to Deadline 4 Submissions [REP5-033]. The forecast growth assumptions at East Midlands Airport were agreed with NWLDC and other stakeholders prior to the modelling starting and reflected the growth aspirations up to 2028 and 2038 future years, in line with the assessment years for the transport modelling. Whilst there could be further growth over a longer period of 15-20 years, this is outside the timeframe of the modelling, which has been completed in line with current guidance and in any case would require its own Transport Assessment and mitigation that will be determined at the appropriate time. It should also be noted that the EMG / Prologis Joint Application has also adopted the exact same airport growth assumptions as the EMG2 DCO.

Paras 5.10 to 5.12 - Failure to Assess Worst Case Situations (Major Local Events)	The Applicants refer to their response to ExQ2 Q19.0.1 [REP4-036] .
Paras 6.1 to 6.7 – Travel Plan (ambition of travel plan targets)	The Applicants refer to their response at Item 15 of [REP4-094D] . The targets seek to reduce single occupancy vehicle trips from 80% to 56%, which is an ambitious target agreed with NH and LCC.
Paras 6.8 to 6.13 – Travel Plan (Pedestrian and Cycle Crossing of A453)	The 240 second cycle time for the Toucan crossing reflects the demand and level of usage averaged over a one-hour period. This is based on the pedestrian/cycle person trip generation calculations presented in Table 21 of the Transport Assessment [REP6-023]. It does not mean that a pedestrian or cyclist will wait 240 seconds once they active the crossing but instead reflects the amount of time that the crossing is likely to be called on average per hour. The total red time incurred when the Toucan crossing is activated is 21 seconds. This consists of a 5 seconds intergreen, followed by 8 seconds crossing time and then a further 8 seconds intergreen. Evidence of how this has been modelled was included in Annex C of the Applicants' Response to Deadline 4 Submissions [REP5-033].

Annex C

VISSIM total traffic flows

AM						
	Scenario		Vehicles Arrived	Latent Demand	Vehicles Active	Total Vehicles
2028	A	WoD	21027	4	2730	23761
		WD	21598	48	3141	24787
	B	WoD	21336	0	2171	23507
		WD	21761	4	2854	24619
2038	A	WoD	21974	150	3858	25982
		WD	22360	373	4383	27116
	B	WoD	21514	502	3128	25144
		WD	21984	726	3497	26207

PM						
	Scenario		Vehicles Arrived	Latent Demand	Vehicles Active	Total Vehicles
2028	A	WoD	21253	15	2406	23674
		WD	22163	44	2656	24863
	B	WoD	21255	11	2350	23616
		WD	22145	66	2615	24826
2038	A	WoD	22275	484	2892	25651
		WD	22872	906	3147	26925
	B	WoD	22299	252	2862	25413
		WD	23177	382	3102	26661

VISSIM flows scenario comparison

Year	Scenario		Total Vehicles	
			AM	PM
2028	A	WoD	23761	23674
		WD	24787	24863
		WoD - WD	1026	1190
	B	WoD	23507	23616
		WD	24619	24826
		WoD - WD	1112	1210
	A - B	WoD	254	57
		WD	167	37
2038	A	WoD	25982	25651
		WD	27116	26925
		WoD - WD	1134	1274
	B	WoD	25144	25413
		WD	26207	26661
		WoD - WD	1064	1248
	A - B	WoD	839	238
		WD	909	263

Annex D

A453 flows between EMG2 site access roundabout and Finger Farm

2023 PRTM Data (2038 Assessment Year)				
Scenario	AM		PM	
	Eastbound	Westbound	Eastbound	Westbound
WoD	915	977	499	888
WD, inc. 100,000sqm GFA mezz, but exc. mitigation	949	1446	1067	1107
WD, inc. 200,000sqm GFA mezz, but exc. mitigation	Not Assessed			
WD, inc. 100,000sqm GFA mezz & inc. mitigation	1097	1432	1513	1041
WD, inc. 200,000sqm GFA mezz & inc. mitigation	1065	1518	1661	1069

2023 PRTM Data (2028 Assessment Year)				
Scenario	AM		PM	
	Eastbound	Westbound	Eastbound	Westbound
WoD	817	932	582	652
WD, inc. 100,000sqm GFA mezz, but exc. mitigation	881	1452	1179	926
WD, inc. 100,000sqm GFA mezz & inc. mitigation	1019	1423	1289	949

The following should be noted when reviewing the above tables:

- i) WoD = without development, WD = with development.
- ii) The WD excluding mitigation but including full 200,000sqm mezzanine scenario has not been assessed in 2038, and nor has the 200,000sqm mezzanine scenario been assessed in 2028 (because 2038 provides a worst-case assessment of the two years).
- iii) A robust, worst-case assessment has been undertaken on the mezzanine assessments, whereby 100% of B8 trips have been attributed to the mezzanine floor space.