

Document DCO 7.3 / MCO 7.3

# Applicants' Post Hearing Submissions (PM, CAH1, ISH1 and ISH2)

APRIL 2026

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

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

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CAH1, ISH1 AND ISH2)**

**(DOCUMENT DCO 7.3 / MCO 7.3)**

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## **1 Introduction**

- 1.1 This document relates to the applications for a second phase 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 (MC) 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 post hearing submissions in respect of the hearings that took place on 10, 11 and 12 March 2026.
- 1.3 The Applicants' submissions in respect of the Preliminary Meeting (PM) on 10 March 2026 are set out in section 2 of this document.
- 1.4 The Applicants' submissions in respect of the Compulsory Acquisition Hearing 1 (CAH1) on 10 March 2026 are set out in section 3 of this document.
- 1.5 The Applicants' submissions in respect of the Issue Specific Hearing 1 (ISH1) on 11 March 2026 are set out in section 4 of this document.
- 1.6 The Applicants' submissions in respect of the Issue Specific Hearing 2 (ISH2) on 12 March 2026 are set out in section 5 of this document.
- 1.7 Any terms used but not defined in this document shall have the same meaning as in the Glossary accompanying the DCO Application and the MCO Application (**Document DCO 6.1A / MCO 6.1A**) [APP-067].

## 2 PM - Applicants' Post Hearing Submissions

2.1 A summary of the Applicants' submissions to the points arising from the PM are set out in the table below.

2.2 Table of submissions:

Agenda for the PM		Applicants' Submissions
<b>Item 1</b>	<b>Preliminary meeting</b>  The preliminary meeting will formally open at <b>10.00am</b> . The Examining Panel will join, welcome participants and lead introductions.	In attendance for the Applicants (speaking): <ul style="list-style-type: none"> <li>• Alexander Booth KC</li> <li>• Toni Weston, Gowling WLG</li> <li>• Richard Thurling, Gowling WLG</li> </ul> Also, in attendance (non-speaking): <ul style="list-style-type: none"> <li>• Kate Bedson, SEGRO</li> <li>• Ian Rigby, SEGRO</li> <li>• Ben Green, SEGRO</li> <li>• Danny Brown, SEGRO</li> <li>• Morag Thomson, DCO Advisor</li> <li>• Simon Hildtich, BWB</li> <li>• Steve Harley, Oxalis</li> </ul>
<b>Item 2</b>	The Examining Panel's (ExP) remarks about the examination process	N/A
<b>Item 3</b>	Initial assessment of principal issues – <b>annex C</b> to Rule 6 Letter	N/A
<b>Item 4</b>	Draft examination timetable – <b>annex D</b> to Rule 6 Letter	The Applicants' submissions were directed at the dates for the hearings provisionally programmed in May and August. Since those submissions were made the ExP has published the Rule 8 letter ( <b>PD-012</b> ) which confirms the Examination timetable.
<b>Item 5</b>	Procedural decisions – <b>annex F</b> to the Rule 6 Letter	N/A
<b>Item 6</b>	Any other matters	<u>Deferral</u>  An application was made by Prologis supported by East Midlands Airport (the "airport") to defer the start of the examination process.  The Applicants' oral submissions against deferral and made in support of commencing the examination in accordance with the draft timetable identified in the Rule

		<p>6 letter (<b>PD-010</b>), as subsequently updated in the Rule 8 letter (<b>PD-012</b>), are summarised below:</p> <p>The Applicants robustly rejected the suggestion on the part of the airport and Prologis that it is appropriate to defer commencement of the examination. The Applicants made three preliminary points observing:</p> <ul style="list-style-type: none"><li>i. The request was made solely by Prologis and the airport.</li></ul> <p>It was not made nor supported by local authorities, statutory consultees or any other participant in the examination.</p> <p>The Applicants drew attention to the fact that Prologis is a commercial logistics operator and a direct market competitor of the Applicants who is promoting an alternative, smaller inferior development, which will deliver less benefits.</p> <p>Development is promoted by Prologis and the airport within the DCO Order Limits over which compulsory acquisition powers are sought. It is important to note that a planning application was submitted for that proposal by the airport back in May 2024, two years ago. That application has not been determined. Prologis indicate that they expect a determination in 2026 with construction commencing in the fourth quarter of 2026. That assessment has slipped repeatedly. In a response to statutory consultation for the EMG2 scheme dated 17 March 2025, Prologis assured that determination would take place in summer 2025, which did not happen. At the date of the hearing, Prologis' own website stated that determination of the airport planning application will take place in winter 2025 and that has also not happened. We are now in spring 2026 and the most up to date position, as the Applicants understand it, is that there is no immediate prospect of determination. On 6 March 2026, National Highways submitted further holding objection noting that traffic modelling has yet to be completed and agreed by National Highways, and that National Highways has not formally reviewed the proposed scheme mitigation for the SRN or the environmental statement.</p> <p>Prologis and the airport would wish to delay the progress of EMG2 because they wish to give themselves more time to resolve the various issues with their own project whilst EMG2 is held back. The ExP's role is not to protect the commercial interests of Prologis or the airport.</p>
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		<p>The ExP's role is to ensure the applications are examined fairly and expeditiously.</p> <p>ii. The DCO and MCO applications were submitted in October last year and accepted by the Inspectorate (PINS) on 12 November 2025. Acceptance is not a straightforward mechanical process. It's one that involves qualitative scrutiny and judgement. The effect of section 55(3)(f) of the 2008 Act is that the Inspectorate has already determined that the DCO Application is of a standard that the Secretary of State considers satisfactory. There is no equivalent provision for the MCO Application, but no dispute is raised in relation to the MCO Application. The decision to accept both applications has already been taken by reference to the relevant guidance and has been taken correctly. Contrary to Prologis' relevant representation, PINS has confirmed both applications were acceptable as per the s55 PA 2008 checklist and guidance. PINS guidance was issued in April 2024 and paragraph 8 states that a satisfactory standard of application, is one that is internally consistent and proportionate in scale and content to the proposed development, concise, clearly written and well-structured in terms of navigability through the range of documents. PINS' decision to accept both applications was taken cognisant of that guidance.</p> <p>iii. The request for deferral is without precedent. It would involve artificially delaying the close of the preliminary meeting to avoid the commencement of the examination. The Applicants submitted that is not how the mechanism of the PA 2008 is intended to work.</p> <p>Prologis attempted to raise three substantive issues in support of their case for deferral comprising: (1) lack of evidence on viability; (2) lack of analysis in the ES regarding socio economic consequences of the Prologis development not coming forward; and (3) alleged deficiencies in the highway case. None of these points had any substantive merit. Taking each point in turn:</p> <p>1. <i>Viability</i> – The case for compulsory acquisition does point to the comparative viability of the DCO scheme, and the alternative form of development which Prologis proposes. Prologis contend, they should be left to deliver development on land north of Hyams Lane and the Applicants build out land south of Hyams Lane. The DCO scheme is</p>
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		<p>viable but piecemeal development in the form suggested by Prologis, is not viable.</p> <p>In response to the representations made in respect of the applications, the Applicants confirmed they were content to provide its viability analysis to the examination and have provided it at Deadline 1 (<b>DCO 4.5</b> refers).</p> <p>In relation to the suggestion made by Prologis that lack of viability evidence amounted to a reason to defer the examination, the Applicants made three points:</p> <ol style="list-style-type: none"> <li>a. Firstly, there is nothing unusual regarding provision of information requested by a participant in an examination as part of that examination.</li> <li>b. Second, it is not right to say, as Prologis inferred that it is unsighted. The Applicants and Prologis have been in without prejudice discussions for months regarding viability. Neither party is at liberty to refer to the detail of those discussions, but can refer to the fact that those discussions have been taking place. For the avoidance of doubt neither party is waiving prejudice, but the Applicants strongly contend that Prologis will not see anything substantively different when the viability analysis is provided, compared to what they have previously seen.</li> <li>c. The position of the Applicants is that, the Prologis development is likely to be unviable which casts serious doubt on the prospect that the Prologis development will come forward. The Applicants suggested that in addition to the viability evidence to be submitted by the Applicants, the ExP may wish to invite Prologis and the airport to submit viability analysis for its scheme to the examination at Deadline 1. That approach would provide the ExP with all relevant material to inform its decision making.</li> </ol> <p>For all of the above reasons the issues raised by Prologis did not justify deferral. When considered fairly and objectively, Prologis' points were either artificial points or points that fell to be considered by the ExP in the normal course of an examination. The Applicants strongly refuted Prologis suggestion that there would be any</p>
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		<p>procedural unfairness in circumstances where the examination was to proceed. The PA 2008 and supporting regulations do not provide for a rigid and inflexible process, they do provide for an examination which takes up to six months. There will be no undermining of the process.</p> <p>2. <i>Socio-economic</i> – The Applicants unequivocally contend that if the DCO is implemented, there will be no adverse impacts of the Prologis scheme not coming forward. That is because, the benefits of the EMG2 scheme far outweigh those of the Prologis proposals. To the extent, for example, that the Prologis scheme would offer employment and investment, the EMG2 scheme will offer more. The narrow point offered by Prologis, is that if the DCO is granted, that will kill the Prologis scheme in circumstances where the DCO may not be implemented and built out. That is a wholly artificial construct and not the sort that the ExP should entertain. It is a notional scenario with no substance to it. Should development consent be granted, EMG2 will be delivered and the Applicants have a proven track record of delivering DCO schemes including EMG1 and Northampton Gateway<sup>1</sup>.</p> <p>The Applicants also directly responded to correct the following matters:</p> <ol style="list-style-type: none"> <li>a. Prologis asserts that the intention of the Applicants is to frustrate the Prologis scheme. The Applicants' clear and singular purpose is to deliver EMG2. It is a necessary consequence that the two schemes cannot coexist but there is no intention to frustrate;</li> <li>b. The Prologis scheme does not benefit from planning permission. Notwithstanding that the Applicants question the viability of the Prologis scheme, it does not have permission so cannot be frustrated;</li> <li>c. During examination and determination of the EMG2 proposals, part of the consideration by the ExP and the Secretary of State, takes into account the deliverability of the EMG2 proposals. Should the Secretary of State, make the DCO as sought, that will be because they</li> </ol>
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<sup>1</sup> SEGRO Logistics Park Northampton – consented pursuant to the Northampton Gateway Rail Freight Interchange Order 2019 (S.I.2019/1358)

		<p>rightly have confidence that the scheme will come forward.</p> <p>d. Prologis question the viability of the EMG2 scheme. The Applicants have submitted viability evidence (<b>DCO 4.5</b>) at Deadline 1 to support their position that it is in the commercial interests of SEGRO to progress EMG2. The Applicants contend that there is no need to consider the issue that is the loss of the Prologis development because that will only happen in the circumstances where a superior, better scheme will be coming forward which would include the Prologis site.</p> <p>3. <i>Highways</i> – matters are well advanced with both LCC and National Highways. Neither of those bodies sought or supported deferral; albeit Prologis in its representation sought to suggest otherwise.</p> <p>The extent of matters remaining outstanding in highways terms is well within the normal range and will be addressed during the course of the examination. There has not been a transport DCO application which has not had some of these issues or similar to consider; there is absolutely nothing out of the ordinary. The position is very positive, and unusually well advanced. The Applicants anticipate that the position is entirely capable of being resolved within the 6 month examination and may be concluded with both LCC and National Highways by an earlier Deadline.</p> <p>The complaints voiced by Prologis are overstated. By reference to their most recent letter dated 24 February submitted at procedural Deadline A [<b>PDA-019D</b>], the Applicants confirmed the stage 1 Road Safety Audit and design team response has already been completed and will be formally submitted at Deadline 1 (<b>DCO 7.7 and 7.7A</b>). Similarly, Prologis submitted it is necessary to rebuild the assessment on the basis of the PRTM 2023 model. Supplementary analysis on PRTM 2023 has been undertaken, has been endorsed by National Highways and is provided by the Applicants at Deadline 1 (<b>DCO 7.8</b>).</p>
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### 3 CAH1 - Applicants' Post Hearing Submissions

3.1 The Applicants' submissions to the points arising from the CAH1 are set out in the table below.

3.2 Table of submissions:

Agenda for the CAH1		Applicants' Submissions
<b>Item 1</b>	<p><b>Compulsory acquisition hearing</b></p> <p>The compulsory acquisition hearing will formally open at <b>2.00pm</b>. The ExP will join, welcome participants and lead introductions.</p>	<p>In attendance for the Applicants:</p> <ul style="list-style-type: none"> <li>• Alexander Booth KC</li> <li>• Toni Weston, Gowling WLG</li> <li>• Richard Thurling, Gowling WLG</li> <li>• Kate Bedson, SEGRO</li> <li>• Ian Rigby, SEGRO</li> <li>• Ben Green, SEGRO</li> <li>• Danny Brown, SEGRO</li> <li>• Morag Thomson, DCO Advisor</li> <li>• Simon Hilditch, BWB</li> <li>• Steve Harley, Oxalis</li> </ul>
<b>Item 2</b>	<p><b>General case</b></p> <p>The ExP will ask the applicants to present and justify its case for Compulsory Acquisition (CA) and Temporary Possession (TP) and will wish to address the following matters:</p> <p>(a) to review the statutory and policy tests relevant to CA and/ or TP under the Planning Act 2008 (PA2008) and DCLG Guidance.</p> <p>(b) to review human rights and equality considerations.</p> <p>(c) to consider the structure and content of the Book of Reference.</p> <p>(d) to consider the structure, content and up-to-date position of the</p>	<p><b><u>(a) To review the statutory and policy tests relevant to CA and/ or TP under the Planning Act 2008 (PA2008) and DCLG Guidance.</u></b></p> <p>In seeking compulsory purchase and temporary possession powers, the DCO Applicant has had regard to the conditions in section 122 of the Planning Act 2008 and to the requirements of the compulsory purchase guidance (Planning Act 2008 – Guidance related to procedures for the compulsory acquisition of land [September 2013]).</p> <p>Section 122 of the Planning Act provides that a DCO which includes compulsory purchase powers can only be made if the conditions in subsections (2) and (3) of section 122 are met. The conditions are:</p> <p style="padding-left: 40px;"><i>(2) that the <u>land is required for the scheme</u> to which the DCO relates or is required to facilitate or is incidental to the scheme or is replacement land required to be given in exchange; and</i></p> <p style="padding-left: 40px;"><i>(3) that there is a <u>compelling case in the public interest</u> for inclusion of powers of compulsory acquisition.</i></p> <p>The compulsory purchase guidance provides further guidance on the factors that the Secretary of State will have regard to when deciding whether to authorise compulsory acquisition in a DCO:</p> <ul style="list-style-type: none"> <li>• The applicant should be able to demonstrate that all reasonable alternatives to compulsory acquisition</li> </ul>

	<p>Funding Statement.</p> <p>(e) to consider the structure and content of the Statement of Reasons.</p> <p>(f) to consider any impending legislative changes.</p> <p>The ExP will invite submissions from Affected Parties (APs) who wish to raise matters of general application in relation to items (a) to (e) listed above.</p> <p>However, any site-specific submissions should be reserved to the specific CAH later in the examination that will be allocated to individual APs to have their cases heard.</p>	<p>(including modifications to the scheme) have been explored.</p> <ul style="list-style-type: none"> <li>• The applicant should be able to demonstrate that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate.</li> <li>• The applicant must have a clear idea of how they intend to use the land which it is proposed to acquire.</li> <li>• The applicant should be able to demonstrate that there is reasonable prospect of the requisite funds for acquisition becoming available.</li> <li>• The Secretary of State must be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected.</li> </ul> <p>As regards the conditions in section 122(2):</p> <ul style="list-style-type: none"> <li>• The land is required for the development to which the DCO relates i.e. <i>the SoS will need to be satisfied that the land is no more than is reasonably required for the development</i></li> <li>• The land is required to facilitate or is incidental to the proposed development i.e. <i>the SoS will need to be satisfied that the scheme can only be delivered to a satisfactory standard if the land is acquire, that the land is no more than reasonably required for the purpose and is proportionate</i></li> <li>• The land is replacement land which is to be given in exchange under sections 131 or 132 of Planning Act 2008 – albeit this does not apply to the EMG2 scheme.</li> </ul> <p>The public benefits of the scheme should outweigh the private loss that would be suffered by those whose land is acquired.</p> <p>The DCO Applicant has had regard to these issues as set out in sections 2 and 5 of the Statement of Reasons [APP-019D].</p> <p>In particular:</p> <p>On the first point – land is <u>needed</u> – see sections 3 and 5 (paragraphs 5.7 to 5.11) of the Statement of Reasons</p>
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	<p>[APP-019D]. Appendices 1, 2 and 3 set out why each parcel of land is needed to deliver the scheme.</p> <p>On the second point – scheme can only be delivered if land is acquired – again the Statement of Reasons sets out why the land is needed. Without the land, the scheme cannot be delivered.</p> <p>On the third point – the benefits of the scheme are set out in section 5 from paragraph 5.23 of the Statement of Reasons (local, regional and national economic growth; strategic highway improvements; local community benefits (community park, PRoW and HGV Park, bus interchange, measures to reduce anti-social behaviour on Hyam's Lane); and environmental benefits) and the DCO Applicant is satisfied that these outweigh the loss which will be suffered by those whose land is to be acquired.</p> <p>The DCO Applicant is therefore:</p> <ul style="list-style-type: none"> <li>• Satisfied that the land subject to compulsory purchase and temporary possession is proportionate and justified; and</li> <li>• That there is a compelling case in the public interest for the acquisition</li> </ul> <p><u>Compelling case in the public interest</u></p> <p>The compelling case for the public interest is set out in section 5 from paragraph 5.12 of the Statement of Reasons [APP-019D].</p> <p><u>Attempts to acquire by agreement</u></p> <p>The DCO Applicant has contacted landowners and occupiers with a view to acquiring their land interest by agreement. See Pre-Application Land and Rights Negotiations Tracker [DCO 4.4] and more recent history of negotiations referred to in responses to the airport relevant representations and the Prologis relevant representations [Document DCO 7.2 Appendix 5 and 6 respectively].</p> <p>The DCO Applicant is engaging with major landowners:</p> <ul style="list-style-type: none"> <li>• To acquire by agreement; or</li> <li>• To address concerns raised by them with a view to resolving them and moving forwards with an agreement.</li> </ul> <p>The DCO Applicant will continue to negotiate with landowners but recognises that it will not be possible to acquire all interests by agreement. The DCO Applicant</p>
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	<p>considers therefore that the Scheme is unlikely to be capable of being delivered without compulsory acquisition powers.</p> <p><u>Alternatives</u></p> <p>Compulsory acquisition guidance:</p> <p><i>"The applicant should be able to demonstrate to the satisfaction of the Secretary of State that <b>all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored.</b> The applicant will also need to demonstrate that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate"</i></p> <p>Statement of Reasons - As explained in Chapter 4: Assessment of Alternatives of the Environmental Statement (Document DCO 6.4), the DCO Applicant has explored alternative options for the DCO Scheme and has concluded that there are no alternatives to the DCO Scheme which will deliver the benefits which are capable of being secured by the DCO Scheme. The alternative of piecemeal development is not a feasible alternative for the reasons set out in the Statement of Reasons.</p> <p><b><u>(b) To review human rights and equality considerations.</u></b></p> <p>In preparing the DCO Application, the DCO Applicant has had regard to the European Convention for Human Rights and the Human Rights Act 1998.</p> <p>Section 7 of the Statement of Reasons [<b>DCO 4.1</b>] considers how the Scheme complies with this legislation notwithstanding any infringement of the private rights of those whose interests in the land may be affected by the exercise of powers of compulsory acquisition and temporary possession.</p> <p>Specifically, the DCO Applicant is mindful that, if made, the DCO may interfere with the human rights of persons with an interest in land. Whether this interference is justifiable is determined having regard to the following two factors:</p> <ul style="list-style-type: none"> <li>• Whether the interference is proportionate; and</li> <li>• Whether there is a compelling case in the public interest for the compulsory acquisition – in other words, do the public benefits of the scheme outweigh the harm to the individual affected by compulsory acquisition?</li> </ul>
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		<p>The compelling case for compulsory acquisition is set out in the Statement of Reasons.</p> <p>Where compulsory acquisition is proposed in respect of residential property, a higher level of justification is normally required. No residential properties are proposed to be acquired for the Scheme.</p> <p>The DCO Applicant considers that any infringement of the ECHR rights of those whose interests in the land might be affected by the exercise of powers of compulsory acquisition would be proportionate and legitimate, would be in the public interest and would be in accordance with national and European law. The DCO Applicant therefore considers that it would be appropriate and proportionate for the Secretary of State to make the draft DCO (Document DCO 3.1) including the grant of compulsory acquisition powers.</p> <p><b><u>(c) To consider structure and content of the Book of Reference.</u></b></p> <p>Follows the format in compulsory purchase guidance (Planning Act 2008 – Guidance related to procedures for the compulsory acquisition of land [September 2013]) at Annex D.</p> <p>Five parts –</p> <ul style="list-style-type: none"> <li>• Part 1 – names and addresses for service of each person in Categories 1 and 2</li> <li>• Part 2 – names and addresses for service of each person in Category 3</li> <li>• Part 3 – names and address of those entitled to enjoy easements or other private rights where these would be extinguished, suspended or interfered with</li> <li>• Part 4 – Crown land</li> <li>• Part 5 – special category land</li> </ul> <p><b><u>(d) To consider structure, content and up to date position of Funding Statement.</u></b></p> <p>Planning Act 2008 – Guidance related to procedures for the compulsory acquisition of land [September 2013] –</p> <p><i>"Any application for a consent order authorising compulsory acquisition must be accompanied by a statement explaining how it will be funded. This statement should provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required. It</i></p>
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		<p><i>may be that the project is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty about the assembly of the necessary land. In such instances, the applicant should provide an indication of how any potential shortfalls are intended to be met. This should include the degree to which other bodies (public or private sector) have agreed to make financial contributions or to underwrite the scheme, and on what basis such contributions or underwriting is to be made.</i></p> <p><i>The timing of the availability of the funding is also likely to be a relevant factor. Regulation 3(2) of the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010 allows for five years within which any notice to treat must be served, beginning on the date on which the order granting development consent is made, though the Secretary of State does have the discretion to make a different provision in an order granting development consent. Applicants should be able to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the order being made, and that the resource implications of a possible acquisition resulting from a blight notice have been taken account of".</i></p> <p>Structure of funding statement –</p> <ul style="list-style-type: none"> <li>• Introduction</li> <li>• DCO Applicant – <ul style="list-style-type: none"> <li>○ Describes DCO Applicant as a wholly owned subsidiary of SEGRO PLC, entirely funded by its shareholders and no external borrowings. SEGRO PLC is a FTSE 100 listed REIT.</li> <li>○ References 2024 accounts but 2025 accounts published on 20 February 2026.</li> <li>○ Assets under management increased from £20.3 billion to £22 billion and net assets of £17.8 billion increased to £18.9 billion. Pre-tax profit of £509m in 2025.</li> <li>○ Funds available to the SEGRO Group (including its share of joint ventures) at 31 December 2025 totalled £1,894 million (31 December 2024: £2,125 million), comprising £68 million in cash and short-term investments and £1,826 million of undrawn credit facilities. Funds available increases to £1,978 million (31 December 2024: £2,337 million) including tenant deposits and uncommitted credit facilities, which total £84 million. Cash and cash equivalent balances, together with the Group's</li> </ul> </li> </ul>
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		<p>interest rate and foreign exchange derivatives portfolio, are spread amongst a strong group of banks, all of which have a credit rating of 'A-' or better.</p> <ul style="list-style-type: none"> <li>• Land and rights acquisition – Describes extent of acquisition by reference to the Book of Reference and Statement of Reasons.</li> <li>• Development and funding costs (including land acquisition costs) – <ul style="list-style-type: none"> <li>○ DCO Scheme will be funded by resources of SEGRO PLC.</li> <li>○ Usual funding mechanisms used for a commercial project of this nature.</li> <li>○ Total development costs estimated to be £420m.</li> <li>○ 46 acquisition plots. A guarantee will be provided in respect of compensation, see article 21 of draft DCO (<b>DCO 3.1</b>).</li> </ul> </li> <li>• Conclusion</li> <li>• Appended latest published accounts of DCO Applicant and SEGRO PLC. The Applicant</li> </ul> <p><b><u>(e) To consider the structure and content of Statement of Reasons.</u></b></p> <p>Structure –</p> <ul style="list-style-type: none"> <li>• Introduction</li> <li>• Preparation of the statement – context, structure and defined terms</li> <li>• Compulsory acquisition – scope of compulsory acquisition, main compulsory acquisition powers, temporary possession, compensation and other powers of compulsory acquisition</li> <li>• Land interests – Category 1, 2 and 3, referencing, negotiations to acquire by agreement</li> <li>• Case for compulsory acquisition – statutory conditions, need for the land, compelling case in the public interest, reasonable prospect of funding, consideration of alternatives, acquisition by agreement (also reference Pre-Application Land and Rights Negotiations Tracker [<b>DCO 4.4</b>])</li> </ul>
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		<ul style="list-style-type: none"> <li>• Special considerations – no Crown land, no National Trust land, special category land – open space (see below), statutory undertaker land (see below)</li> <li>• Human rights</li> <li>• Other information for those affected by DCO acquisition powers</li> </ul> <p><b><u>(g) To consider any impending legislative changes.</u></b></p> <p>Planning and Infrastructure Act 2025 –</p> <ul style="list-style-type: none"> <li>• S108 - GVDs – expedited procedure – potentially reduces the time for vesting from 3 months to 6 weeks where land is unoccupied, unfit for ordinary use or no person with an identifiable interest can be found</li> <li>• S109 – GVDs – would permit early vesting by agreement</li> <li>• S112 – Temporary possession – creates a general statutory power for temporary possession but it is noted that this does not apply to DCOs</li> </ul>
<p><b>Item 3</b></p>	<p><b>Statutory undertakers</b></p> <p>The ExP will ask the applicants to update it as to the latest position in respect of operational land of statutory undertakers, as to whether it has obtained agreement for the land to be acquired and whether there are, and if so what, any outstanding matters to be resolved.</p> <p>The ExP will seek to differentiate, where appropriate, between operational land held by statutory undertakers and non-operational land held by statutory undertakers.</p>	<p>Incumbent statutory undertakers are:</p> <ul style="list-style-type: none"> <li>• National Grid Electricity Distribution (Protective Provisions in Part 3 of Schedule 13 of the draft DCO)</li> <li>• UK Power Distribution Limited (Protective Provisions in Part 7 of Schedule 13 of the draft DCO)</li> <li>• Cadent Gas Networks (Protective Provisions in Part 8 of Schedule 13 of the draft DCO)</li> <li>• Severn Trent Water (Protective Provisions in Part 4 of Schedule 13 of the draft DCO)</li> <li>• Openreach (Protective Provisions in Part 5 of Schedule 13 of the draft DCO)</li> </ul> <p>No relevant representations have been received from the above save for a late submission from National Grid Electricity. The DCO Applicant is engaging with them with a view to clarifying the extent of their assets within the Order Land and agreeing the above Protective Provisions / a SoCG as required.</p> <p><b><u>Permanent acquisition of statutory undertaker's land</u></b></p>

	<p>At the CAH1 hearing, East Midlands Airport (EMA) and National Highways (NH) each undertook to complete a review of their operational land.</p> <p>Since the hearing, the Applicants have liaised with East Midlands Airport and been advised that EMA has identified a potential overlap with its operational land in one location where the active travel link passes close to an EMA carpark. Subject to EMA's submission at Deadline 1, the Applicants understand this is a technical mapping issue and will work with EMA to achieve a suitable resolution.</p> <p>Post hearing, the Applicants provided NH with the shapefiles they requested and will review any updated response they submit.</p> <p>Subject to the above, the Applicants maintain that no permanent acquisition of statutory undertaker's land (operational or non-operational) is required to deliver the DCO Scheme, so section 127(3) of the Planning Act is not engaged.</p> <p><b><u>Acquisition of new rights over statutory undertaker's land</u></b></p> <p>If made, the draft DCO will authorise the compulsory acquisition of new rights over statutory undertaker's land, being Plot 3/10 as described in the Book of Reference (<b>DCO 4.3</b>) [<b>APP-021D</b>] and shown on Sheet 3 of the Land Plans (<b>DCO 2.2C</b>) [<b>APP-029D</b>]. This land comprises an electricity distribution site at EMG1 which is leased to UK Power Distribution Limited for the purposes of carrying out its statutory undertaking. Subsections 127(5) of the Planning Act is therefore engaged.</p> <p>Adequate protection for statutory undertakers' assets is however included within the protective provisions in Schedule 13 to the draft DCO (<b>DCO 3.1</b>) [<b>PDA-004</b>]. This includes in favour of UK Power Distribution Limited in Part 7 of Schedule 13. The DCO Applicant notes that no relevant representation has been submitted by UK Power Distribution Limited and can confirm that discussions are well advanced. The DCO Applicant considers that UK Power Distribution Limited will not suffer serious detriment to the carrying on of their undertaking because of the compulsory acquisition of rights over their land. The tests set out in section 127(6) of the Planning Act are therefore satisfied.</p> <p><b><u>Acquisition of land in which statutory undertakers have apparatus</u></b></p> <p>Various statutory undertakers and owners of apparatus (including UK Power Distribution Limited, National Grid</p>
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<p><b>Item 4</b></p>	<p><b>Special category land</b></p> <p>The ExP will ask the applicant to set out its position as respects</p>	<p>As indicated in Part 5 of the Book of Reference (<b>DCO 4.3</b>) [<b>APP-021D</b>] and shown on the Land Plans (<b>DCO 2.2 A to D</b>) [<b>APP-026D to APP-030D</b>] and Special Category Land Plan (<b>DCO 2.15</b>) [<b>APP-057D</b>], the DCO seeks powers of</p>

	<p>open space land taking into account sections 131 and 132 of the Planning Act 2008.</p>	<p>compulsory acquisition over land to which section 131 the PA 2008 apply.</p> <p>The Order Land includes land which falls within the category of 'open space' land being Plots 2/19 to 2/24 as shown on sheet 2 of the Land Plans (<b>DCO 2.2B</b>) [<b>APP-028D</b>] and on the Special Category Land Plan (<b>DCO 2.15</b>) [<b>APP-057D</b>], and comprising:</p> <ul style="list-style-type: none"> <li>• 382 square metres of land to be permanently acquired (Plots 2/20 and 2/23); and</li> <li>• 871 square metres of land required for temporary possession (Plots 2/19, 2/21, 2/22 and 2/24).</li> </ul> <p>It is necessary to acquire interests in this land to undertake works and to upgrade public footpath L57 to a public cycle track (Work No. 19 as described in Schedule 1 of the draft DCO (<b>DCO 3.1</b>) [<b>PDA-004</b>]). Plots 2/20 and 2/23, being the land on which the public cycle track will be situated, will be permanently acquired. Plots 2/19, 2/21, 2/22 and 2/24 will be temporarily used to facilitate the carrying out of the works before being reinstated at the end of the works.</p> <p>The DCO Applicant has considered the exemptions in section 131 and applied them to each of the special category land plots. No rights are proposed to be acquired over the special category land plots and therefore section 132 is not engaged.</p> <p>Section 131 is however engaged and the DCO Applicant has identified that one of the exemptions applies to each plot meaning that the DCO Application should not be subject to Special Parliamentary Procedure (SPP). An extract from the Statement of Reasons is provided at <b>Appendix 1</b> which provides full details for each plot. In summary, plots 2/19, 2/21, 2/22 and 2/24 are to be acquired temporarily and benefit from the exemption at section 131(4B). Plots 2/20 and 2/23 are to be acquired permanently but benefit from the exemption within section 131(5).</p> <p><u>Conclusion</u></p> <p>Whilst special category land comprising open space land is proposed to be subject to compulsory acquisition powers pursuant to the draft DCO (<b>DCO 3.1</b>) [<b>PDA-004</b>], at least one of the exemptions set out in section 131 applies to each part of that land. The DCO Application should therefore not be subject to SPP.</p>
<p><b>Item 5</b></p>	<p><b>Any other matters</b></p>	<p><u>Third Party Rights on land not owned by the DCO Applicant</u></p>

	<p>The Applicants amended Article 24 (private rights) as part of the updates to the dDCO submitted at Procedural Deadline A. Article 24 was amended in response to a query raised by the ExP in the Rule 6 letter [PD-010] at Annex E(i) under reference R6D23. The amendment made was to clarify that the power to extinguish private rights and restrictions over land applied not only to land owned by other parties and acquired by the Applicants by agreement or compulsory acquisition but also to land already owned by the Applicants.</p> <p>The ExP sought clarification that the exercise of such a power over land already owned by the Applicants would not extend the powers of compulsory purchase and engage the procedure for the acquisition of additional land contained in the Infrastructure Planning (Compulsory Acquisition) Regulations 2010. The Applicants note that those Regulations only relate to the acquisition of "additional land" which is defined as "<i>means land which it is proposed shall be subject to <b>compulsory acquisition</b> and which was not identified in the book of reference submitted with the application as land</i>" (see regulation 4) and not to the extinguishment of private rights and restrictions.</p> <p>Post hearing the Applicants have reviewed the land to which the amendment to Article 24 would apply and have identified ten plots. Of those 10 plots, 3 are shown as being limited to temporary acquisition and 7 are identified as being subject to permanent acquisition. Of those 7 plots, all are required for highway works (Works Nos. 9, 13 and 19) save for plot 3/9 which is required for the substation works (Works No. 20).</p> <p>All known persons with an interest in the 10 plots are identified in the Book of Reference [APP-021D] and were served with notice of the acceptance of the DCO Application. The Applicants do not consider therefore that such persons have suffered any prejudice from the amendment of Article 24.</p> <p>The Applicants are further content that the procedure for the acquisition of additional land would not be engaged for the following reasons:</p> <ol style="list-style-type: none"> <li>1. Article 24 is concerned with the acquisition of private rights and restrictions over land which do not fall within the definition of "additional land" for the purposes of engaging the Regulations.</li> <li>2. The affected plots are already included in the Book of Reference [APP-021D]. No new land or new landowners are being introduced after acceptance.</li> </ol>
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		3. Article 24 in any event only grants a power to extinguish rights which are inconsistent with the rights permitted by the dDCO, which in this case will be the upgrade of the substation and highway works.
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#### 4 ISH1 - Applicants' Post Hearing Submissions

4.1 The Applicants' submissions to the points arising from the ISH1 are set out in the table below.

4.2 Table of submissions:

Agenda for the ISH1		Applicant's Submissions
<p><b>Item 1</b></p> <p><b>Issue specific hearing</b></p> <p>The issue specific hearing will formally open at <b>10.00am</b>. The ExP will join, welcome participants and lead introductions.</p>	<p>In attendance for the Applicants:</p> <ul style="list-style-type: none"> <li>• [REDACTED] KC</li> <li>• [REDACTED]</li> </ul>	
<p><b>Item 2</b></p> <p>Purpose of the issue specific hearing</p>	N/A	
<p><b>Item 3</b></p> <p><b>Legal basis of determination of applications</b></p> <p>The Examining Panel (ExP) will ask the applicants and other interested parties as to their understandings as to the operation of sections 104 and 105 of the Planning Act 2008 in respect of the legal basis of determination of the applications. This will also include the relationship between Parts 1, 2 and 3 of schedule 1 of the draft Development Consent Order (dDCO).</p> <p>There will need to be discussion as to the structure of the environmental statement when compared with that of the dDCO and the</p>	<p>Under the Planning Act 2008 (PA2008), the basis for decision making is different for applications where a National Policy Statement (NPS) has effect (s104), and an application for development consent where no NPS has effect (s105).</p> <p><i>s104 – The Secretary of State (SoS) must have regard to: any NPS in relation to development of the description to which the application relates; LIR; and any matter SoS thinks is important and relevant to their decision. Unless an exception applies which would make that decision unlawful (breach of international or legislative obligations OR adverse impacts outweigh the benefits.</i></p> <p><i>s105 – The SoS must have regard to: any LIR; any matters prescribed in relation to development of the description to which the application relates; and any matter SoS thinks is important and relevant to their decision</i></p> <p><b>EMG2</b></p> <p>By reference to Parts 1, 2 and 3 of the dDCO [<b>PDA-004</b>], the EMG2 DCO Application is for:</p> <ul style="list-style-type: none"> <li>• Part 1 Commercial and Business Development - Logistics and advanced manufacturing development located on the EMG2 Main Site</li> </ul>	

<p>implications of those documents for the determination of the two applications.</p>	<p>south of East Midlands Airport and the A453, and west of the M1 motorway. The development includes HGV parking and a bus interchange.</p> <ul style="list-style-type: none"> <li>• Part 2 Alternations to Existing Highways - Works to the highway network: the A453 EMG2 access junction works (referred to as the EMG2 Access Works); significant improvements at Junction 24 of the M1 (referred to as the J24 DCO Works Nos. 6 to 19 including 5 Improvements), works to the wider highway network including the Active Travel Link, Hyam's Lane Works, A6 Kegworth Bypass/A453 Junction Improvements and Finger Farm Roundabout Improvements.</li> <li>• Part 3 Associated Development – Works at the EMG1 access junction and provision of an uncontrolled crossing, active travel and footpath improvements together with facilitating works to upgrade to the EMG1 substation and provision of a Community Park.</li> </ul> <p><u>Part 1</u></p> <p>The SoS issued a s35 Direction dated 21 February 2024 [APP-068] confirming that this element of the proposed development is a nationally significant <b>business and commercial project</b> and directed that the proposed development be treated as a development for which development consent is required. [i.e. the business and commercial element is to be treated as though it was an NSIP]. There is no NPS for business and commercial projects and, as such, this element must fall to be determined under <b>s105 PA 2008</b>.</p> <p><u>Part 2</u></p> <p>The Highway Works within part 2 of the dDCO comfortably meet and exceed the threshold for the alteration of a highway within section 22 PA 2008. The calculations are included at Appendix 2 to the Guide to the DCO Application [APP-005]. The Highway works are therefore an NSIP for the purposes of the PA 2008. The <b>Highway works</b> satisfy the requirements for an NSIP and the National Networks NPS relates to transport projects. As a result this element must be determined under <b>s104 PA 2008</b>.</p> <p><u>Part 3</u></p> <p>The SoS s35 Direction dated 21 February 2024 [APP-068] confirmed that an application for development consent may include <b>ancillary matters and</b></p>
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	<p><b>associated development.</b> Insofar as this element supports the delivery of the business and commercial project in Part 1, this element should be determined under <b>s105 PA 2008</b>. However, insofar as associated development relates to Part 2, then it falls to be determined under <b>s.104 PA 2008</b>. Specifically, Works No.16, relates to the Highways NSIP, should be determined by reference to s104 PA 2008.</p> <p><b>EMG1</b></p> <p>The EMG1 Application is for a material change to East Midlands Gateway Rail Freight Interchange and Highway Order 2016 (the EMG1 DCO). If permitted it will provide Additional warehousing development on Plot 16 together with works to increase the permitted height of the cranes at the EMG1 rail-freight terminal, improvements to the public transport interchange, site management building and the EMG1 Pedestrian Crossing.</p> <p>The EMG1 DCO contained x3 NSIPs comprising:</p> <ol style="list-style-type: none"> <li>1. A strategic rail freight interchange (SRFI) and rail served warehousing;</li> <li>2. Construction of an all purpose trunk road; and</li> <li>3. Alternation to an all purpose trunk road.</li> </ol> <p>The proposed alterations to the part of the original SRFI site would not constitute an NSIP on their own because they are below the threshold set out in section 26(2) PA 2008 for alterations to a rail freight interchange. The NPSNN expressly uses the term Rail Freight Interchange to refer to development which falls below the PA 2008 threshold (paragraph 1.1 footnote a). Paragraph 4.81 of the NPSNN refers to applications to extend and upgrade RFI's to SRFIs. The EMG1 application concerns works to extend and upgrade an existing SRFI and the applicant contends it is uncontroversial that in the circumstances where the NPSNN applied to the development permitted under the EMG1 DCO, it should continue to apply to the EMG1 material change application.</p> <p>It is submitted that the <b>EMG1 material change application</b> should be determined in accordance with <b>section 104 of the PA 2008</b>.</p> <p>Should the ExP take a different approach to that set out by the Applicant above, they and the SoS are invited to set out their decision in the alternative. That is, they are invited to set out their analysis and decision both by reference to s.104 and s.105. This approach is</p>
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		consistent with the decision of the High Court in Net Zero Teesside <sup>2</sup> and the decision of the SoS taken on 16 February 2024.
<b>Item 4</b>	<p><b>Interoperability between the Planning Act 2008 and the Town and Country Planning Act 1990</b></p> <p>The ExP will ask the applicants and North West Leicestershire District Council questions about the interoperability and interconnectedness of the two planning regimes. It will also seek the parties' legal positions in respect of the granted planning permission relating to height of the container stacks and the original Development Consent Order (DCO).</p> <p>The ExP would particularly like to discuss:</p> <ul style="list-style-type: none"> <li>• legal methods of amending DCOs (see section 153 and schedule 6 of the Planning Act 2008 (PA2008))</li> <li>• sections 160, 161 and 162 of the PA2008</li> <li>• the implications of any planning permission in light of the Supreme Court judgement in Hillside Parks Ltd v Snowdonia National Park Authority [2022] UKSC 30</li> </ul>	<p>The Applicants acknowledge the legal methods for amending an existing DCO as identified by the ExP and which form the foundation of the MCO Application.</p> <p>In relation to consideration of section 161, 162 and 163 PA 2008, which relate to offences and breaches of development consent orders, the Applicants directed the ExP to Article 5(2) of the EMG1 DCO which confirms <i>"It does not constitute a breach of the terms of this Order, if, following the coming into force of this Order, any development, or any part of a development, is carried out or used within the Order limits under planning permission granted under the 1990 Act"</i>.</p> <p>The Applicants note that the ExP has addressed questions to North West Leicestershire District Council in respect of the planning permission granted for increase in the permitted height for the stacked containers (ExQ1-1.2.7); and the Applicants in relation updating the planning history for the site in the Planning Statement (ExQ1-1.2.2). As part of the Applicants' response to ExQ1-1.2.2, details of all planning permissions for the EMG1 site and surrounding area have been provided at Annexure 1A to the Applicants' Response to Examining Panel's First Written Questions (<b>DCO 7.5 / MCO 7.5</b>).</p> <p>Article 5(2) of the EMG1 DCO ensures that the planning permissions granted on the EMG1 site, do not constitute a breach of the EMG1 DCO which would otherwise potentially cause conflict and or trigger the possibility of enforcement action.</p> <p><b><u>Implications of the Hillside judgement</u></b></p> <p>The planning permissions granted on the EMG1 site are limited to changes in height for stacked containers, lighting columns, the rail terminal building and two warehouses on plots 2 and 12. The Applicants' position is that none of those changes give rise to a situation where the difficulties contemplated by the Supreme Court in the Hillside case would apply. The Hillside case has been widely reported and subject to much commentary such that the details of the case are not repeated here at length. Save that it is important to note that the facts of Hillside concerned a full planning permission in Snowdonia National Park dating back to 1967 which was subsequently amended by a number</p>

<sup>2</sup> R (Dr Boswell) v. (1) Secretary of State for Energy Security and Net Zero (2) Net Zero Teesside Power Ltd. (3) Net Zero North Sea Storage Ltd. [2024] EWHC 2128 (Admin)

	<p>(Hillside) on the original DCO and thus the draft MCO</p> <p>the implications of any grant of planning permission on the northern part of the EMG2 main site</p>	<p>of subsequent full permissions which deviated from the approved master plan with roads and dwellings built in different positions to those shown on the master plan. The changes permitted by the later planning permissions rendered it physically impossible to complete the development permitted by the original 1967 permission. Paragraph 69 of the Hillside judgement warns against taking the principle too far and only where a departure amounts to a material departure will the principle be engaged.</p> <p>That position is in direct contrast to the EMG1 DCO and the permitted TCPA planning permissions. The Applicants observe that the changes approved in the TCPA planning permissions did not conflict with the development approved by the EMG1 DCO. The increases in height could not be described any stronger than an inconsistency and do not begin to approach the test in Hillside of demonstrating physical impossibility between two overlapping permissions. Development under the EMG1 DCO has not been compromised and does not alter the legitimacy of the amendments proposed in the draft MCO.</p>
<p><b>Item 5</b></p>	<p><b>Relationship between the application for the DCO and that for the MCO</b></p> <p>The ExP will ask the applicants questions about the relationship between the two applications as well as with the originally granted DCO for EMG1.</p> <p>The ExP will ask the applicants about those parcels of land that lie within both application sites and the implementation of any consents.</p> <p>The ExP would particularly like to discuss:</p> <ul style="list-style-type: none"> <li>the implications of the Hillside judgement of the EMG2 proposals on the original DCO and thus the draft</li> </ul>	<p><b><u>Implications of the Hillside judgement</u></b></p> <p>The notes on the Hillside judgement in the preceding item apply. In addition, Hillside only causes an issue where a later planning permission has been implemented which, in the context of the scheme as a whole, results in a physical impossibility rather than a mere inconsistency and the developer wishes to continue to build under the original planning permission.</p> <p>The Applicants address each area identified by the ExP in turn and explain that no such physical impossibility is created within the areas of overlap as explained below:</p> <p><b>Area of the entrance to EMG1 site</b></p> <p>The MCO and DCO highway works do not overlap in terms of physical alterations to the carriageway or footway. The DCO Order Limits includes the entire junction to allow for alterations to signs and signals in connection with the DCO highway works and hence the overlap with the MCO Order Limits.</p> <p><b>Area of north end of rail terminal</b></p> <p>There is an overlap between the MCO and DCO as the DCO Order Limits include temporary land to be used for the construction of the DCO Highway Works (Works</p>

	<p>Material Change Order (dMCO)</p> <ul style="list-style-type: none"> <li>the area of the entrance to the EMG1 site</li> <li>the area of the north end of the rail terminal</li> </ul> <p>the substation site and its environs</p>	<p>No.9). Following completion of those temporary works there will be no conflict.</p> <p><b>Substation site and its environs</b></p> <p>The substation permitted by the EMG1 DCO has been constructed. Sheet 3 of the Land Plans (<b>DCO2.2C</b>) [<b>APP-029D</b>] for the EMG2 proposals show the original substation coloured green (no acquisition) and adjacent land required for the extension and improvement of the substation coloured pink. Sheet 3 of the Works Plans (<b>DCO2.3C</b>) [<b>APP-034D</b>] show the original substation and adjacent land collectively for Works No.20 because the works to extend and improve the substation may include works for connecting into the original substation.</p>
<p><b>Item 6</b></p>	<p><b>Need and alternatives</b></p> <p>The ExP will ask the applicants to outline their case as to the need for the proposed development and the alternatives considered. The ExP will then ask questions of the applicants and interested parties present. The ExP will ask the applicants to set out their justification for Works No. 19 in Schedule 1 of the dDCO. The ExP intends to conduct the item in accordance with the following detailed structure:</p> <ul style="list-style-type: none"> <li>Freeport <ul style="list-style-type: none"> <li>applicants' overview of the need to locate the proposed development in the freeport and the contended benefits of doing so</li> </ul> </li> </ul>	<p><b>Freeport</b></p> <p>The Applicants have separately responded to ISH1 Action Point 12 regarding designation of the Freeport in the Applicants' Response to Hearing Action Points (<b>DCO 7.4 / MCO 7.4</b>) submitted at Deadline 1.</p> <p>The EMG2 Main Site forms part of the East Midlands Airport and Gateway Industrial Cluster (EMAGIC), which is one of the designated Special Tax Sites within the East Midlands Freeport. This designation confers Freeport tax status on EMAGIC and enables occupiers within the site to access the suite of Freeport tax incentives, subject to meeting qualifying criteria. Further details are provided under each sub-heading below:</p> <p>Tax Incentives Available at EMAGIC</p> <ul style="list-style-type: none"> <li>Business Rates Relief: Up to 100% relief on business rates for eligible new businesses or expansions into the tax site for up to five years from first occupation. During the relief period, Government compensates the local authority for the foregone rates, ensuring the retained rates growth is preserved and available for reinvestment through the Freeport. Employer National Insurance Contributions (NICs) Relief: A zero rate of secondary Class 1 NICs on qualifying new employees' earnings up to the Freeport Upper Secondary Threshold, for up to 36 months per employee.</li> <li>Enhanced Structures and Buildings Allowance (SBA): An enhanced 10% per annum allowance for qualifying non-residential building expenditure.</li> </ul>

	<ul style="list-style-type: none"> <li>○ any criteria for leveraging freeport benefits</li> <li>○ deadlines for leveraging freeport benefits, including construction programme</li> <li>○ operational benefits of locating EMG2 near the EMG1 strategic rail freight interchange and East Midlands Airport</li> </ul>	<ul style="list-style-type: none"> <li>• Enhanced Capital Allowances: 100% first-year allowance for qualifying expenditure on plant and machinery primarily used within the tax site.</li> <li>• Stamp Duty Land Tax (SDLT) Relief: Relief from SDLT on qualifying acquisitions of land and property within the designated tax site.</li> <li>• Further information on the Freeport Tax Incentives can be found on the Freeport website: <a href="https://www.gov.uk/guidance/freeports">https://www.gov.uk/guidance/freeports</a></li> </ul> <p>How Retained Business Rates Works within Freeports</p> <ul style="list-style-type: none"> <li>• Retained business rates (RBR) arise from the growth in rateable value within the designated Freeport tax sites, including the EMAGIC (East Midlands Airport &amp; Gateway Industrial Cluster) tax site.</li> <li>• Baseline set at designation (March 2022): When the EMAGIC tax site was formally designated in March 2022, a business rates baseline was established based on existing rateable value (as agricultural land) within the site boundary.</li> <li>• New development creates additional rateable value: As new qualifying buildings are delivered and occupied (such as those at EMG1) they generate new rateable value above that baseline.</li> <li>• Growth is retained locally for 25 years: The incremental uplift in business rates (above the baseline) is retained locally for 25 years by the relevant billing authorities within the Freeport area (principally North West Leicestershire District Council in respect of EMAGIC).</li> <li>• Rates growth is channelled into the Freeport programme: The retained growth is pooled and directed, through the East Midlands Freeport governance structure, to fund infrastructure and investment aligned with the Freeport business case.</li> </ul> <p>Qualifying Criteria for Occupiers</p> <ul style="list-style-type: none"> <li>• The premises must be wholly located within the designated Special Tax Site boundary.</li> <li>• The occupier must operate a qualifying logistics, advanced manufacturing, or other</li> </ul>
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		<p>approved commercial activity aligned with the Freeport's strategic objectives from the site.</p> <ul style="list-style-type: none"> <li>• For NIC relief, employees must be newly hired and spend at least 60% of their working time within the tax site.</li> <li>• Business rates relief requires active occupation and qualifying commercial use of the premises.</li> <li>• Enhanced capital allowances and Structures and Buildings Allowance (SBA) apply only to qualifying expenditure incurred within the applicable availability window.</li> <li>• Further information on qualifying criteria for occupiers can be found on the East Midlands Freeport webpage: <a href="https://www.emfreeport.com">https://www.emfreeport.com</a></li> </ul> <p>Deadline for Construction and Occupation</p> <ul style="list-style-type: none"> <li>• Under current Government policy, Freeport tax reliefs in English Special Tax Sites are available until 30 September 2031. Key requirements include: <ul style="list-style-type: none"> <li>○ Enhanced capital allowances and enhanced SBA apply to qualifying expenditure incurred on or before 30 September 2031.</li> <li>○ New employment qualifying for NIC relief must commence on or before 30 September 2031.</li> <li>○ Business rates relief must be first claimed by 30 September 2031 (with relief available for up to five years thereafter, subject to qualification).</li> </ul> </li> <li>• In practical terms, in order for occupiers to benefit fully from the Freeport tax incentives, units will need to be constructed, completed and occupied by 30 September 2031, so that qualifying expenditure is incurred, and reliefs are validly claimed within the statutory window.</li> <li>• The Applicants have separately responded to ISH1 Action Point 13 and provided a note detailing the proposed construction programme for EMG2 at Appendix 2 of Applicants' Response to Hearing Action Points (<b>DCO 7.4 / MCO 7.4</b>) submitted at Deadline 1.</li> </ul>
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		<p><b>Operational benefits of co-location</b></p> <p>The operational benefits of locating EMG2 close to EMG1 and the existing rail freight interchange are set out in paragraphs 5.32 to 5.39 of the Statement of Reasons (<b>DCO 4.1</b>) [<b>APP-019D</b>].</p> <p>The Applicants have also provided a written note in response to ISH1 Action Point 14 detailing the operational synergies between the existing rail freight interchange and East Midlands Airport in the Applicants' Response to Hearing Action Points (<b>DCO 7.4 / MCO 7.4</b>) submitted at Deadline 1.</p>
<p><b>6 cont..</b></p>	<ul style="list-style-type: none"> <li>• EMG2 works <ul style="list-style-type: none"> <li>○ applicants' overview of the need case for the EMG2 works</li> <li>○ establishing the need case in light of the s35 Direction</li> <li>○ securing the carbon neutral campus in light of the s35 Direction</li> </ul> </li> </ul>	<p><b><u>EMG2 Works</u></b></p> <p><b>Overview</b></p> <p>The fundamentals of the Applicants' case are set out in Section 5, paragraphs 5.1.5 to 5.1.47 of the Planning Statement (<b>DCO 5.4/MCO 5.4</b>) [<b>AS-018</b>] and the Industrial and Logistics Need Assessment (<b>DCO 5.5/MCO 5.5</b>) [<b>APP-223</b>]. As an overview, the need for the EMG2 scheme is based around three inter-related but discrete fundamental elements; these are set out below.</p> <p style="text-align: center;">1. <u>Strategic Context</u></p> <p>There is a clear and compelling strategic policy and economic context for the EMG2 proposals. The policy context is set out in Section 4 of the Planning Statement (<b>DCO 5.4/MCO 5.4</b>) [<b>AS-018</b>]. In addition to the 'in principle' support and recognition of the need for an expanded network of SRFIs established by the policies of the NPS, and the 'significant weight' attached to supporting economic growth and productivity in the NPPF (and explicit recognition of the importance of the freight and logistics sector), the EMG2 Main Site specifically has a key role as part of the East Midlands Freeport.</p> <p>The Freeport designation (in 2022) seeks to capture the potential for significant economic growth and investment, including at the EMG2 Main Site. The Freeport followed other regional or local strategies and policies which recognised the strategic context and strengths of this area around Junction 24. They identified the 'Leicestershire International Gateway' area, focussed in and around East Midlands Airport and EMG1, as a key and important strategic growth location. Key earlier strategies of relevance include the Midlands Engine Strategy (March 2017), the Leicester and Leicestershire Strategic Growth Plan (September 2018) and the Leicester and Leicestershire</p>

		<p>Economic Growth Strategy (November 2021), all of which promoted additional strategic infrastructure investment and economic growth in this area.</p> <p>Most recently, NWLDC has confirmed its intention to include the EMG2 site in the emerging new local plan as a strategic employment site allocation.</p> <p>2. <u>Opportunity and locational strengths</u></p> <p>The site is at what the Planning Statement (Exec Summary and Section 4) [AS-018] describes as ‘a nexus’<sup>3</sup> of economic activity, infrastructure and policy objectives, and refers to relevant physical sites or features in the local context, including:</p> <ul style="list-style-type: none"> <li>• Key junctions on the strategic road network including the M1, A42, A50, A6 and A453. <ul style="list-style-type: none"> <li>○ The now fully occupied nationally significant EMG1 SRFI, and other major industrial and logistics sites (including the former Ratcliffe Power Station site).</li> <li>○ East Midlands Airport (a major freight hub).</li> <li>○ the ‘EMAGIC’ area within the Freeport, which includes the EMG2 Main Site.</li> </ul> </li> </ul> <p>As set out under point 1 above, the strategic opportunities created by these locational strengths has been recognised for some time, and is a clear part of the justification for the East Midlands Freeport. The Freeport designation offers a unique opportunity for growth and reinvestment, but these benefits are dependent on early delivery of strategic sites within the Freeport area (where the benefits and incentives specifically apply). Freeport aside, the connectivity of this area was a key part of the ‘case’ for EMG1, and remains relevant to the case for EMG2.</p> <p>EMG2 will effectively operate as an extension to EMG1, and deliver operational efficiencies to allow further use of EMG1. This maximises the opportunity for the additional floorspace proposed to directly support greater rail freight capacity and further use of rail freight (with economic as well as environmental benefits). This location provides an opportunity for competitive, low-carbon logistics offer that cannot be replicated elsewhere in the sub-region.</p> <p>3. <u>Market need and demand</u></p> <p>There is clear evidence of significant market need and demand for additional strategic sites for distribution</p>
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<sup>3</sup> EMG2 Planning Statement, Exec Summary page 3, and Section 4, paragraph 4.11 – 4.13.

		<p>warehousing. EMG2 responds directly to this need and is uniquely positioned to address it where close proximity to the EMG1 rail terminal will enable further, efficient use of rail freight.</p> <p>Key sources of this evidence include, but are not limited to that prepared on behalf of the Applicant:</p> <ul style="list-style-type: none"> <li>• The comprehensive Industrial and Logistics Need Assessment prepared by Savills (Document DCO 5.5/MCO 5.5) [APP-223] demonstrates a significant shortfall of industrial and logistics (I&amp;L) floorspace across North West Leicestershire and the wider region.</li> <li>• Savills conclude that the sector’s economic potential is being inhibited by a lack of supply and there are clear indications of an immediate need for new I&amp;L floorspace. Savills concludes there is a significant need across the FEMA, and in the order of 455ha in North West Leicestershire alone (minimum) over the coming 16 year period.</li> <li>• Since the Savills work was undertaken for the Applicant, the Leicester and Leicestershire Local Authorities published additional evidence by ICENI<sup>4</sup> to inform local plan preparation. This work (independent of the Applicant) concludes there is a gross need for 3,969,400 sq.m of additional floorspace for strategic B8 development over the 23 year forecast period. The apportionment included in the Report is weighted towards North West Leicestershire and identifies a residual unmet need in excess of 1 million sq.m in NWLDC alone (considerably in excess of the up to 300,000 sq.m. footprint proposed at EMG2, and the up to 26,400 sq.m. at Plot 16 on EMG1).</li> </ul> <p>Importantly, the scheme is expected to be anchored by Maersk (a named occupier in the application), which intends to establish a UK headquarters and carbon-neutral inland logistics operation. This specific occupier commitment demonstrates both immediate demand and long-term strategic confidence in the EMG2 site.</p> <p><b>Section 35 Direction</b></p>
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<sup>4</sup> Leicester & Leicestershire: Strategic Distribution Floorspace Needs Update and Apportionment’, Final Report, Icen Projects on behalf of Leicester & Leicestershire Planning Authorities, October 2025.

		<p>The Section 35 Direction (<b>DCO 6.1B/MCO 6.1B</b>) [<b>APP-068</b>] which confirmed the EMG2 project as being of national significance is considered directly linked to the context provided by the fundamental issues identified above. The Section 35 Direction explicitly recognised the likely scale and extent of the economic benefits of the scheme, including its contribution to the outcomes of the Freeport.</p> <p><b>Carbon Neutral Campus</b></p> <p>The Applicants have submitted a written response to ISH1 Action Point 15 addressing the Applicants' approach to a carbon neutral campus, including suggested wording for an additional requirement in the Applicants' Response to Hearing Action Points (<b>DCO 7.4 / MCO 7.4</b>) submitted at Deadline 1.</p>
<p><b>6 cont..</b></p>	<ul style="list-style-type: none"> <li>• Highway works <ul style="list-style-type: none"> <li>○ applicants' overview of the need case for the highway works, both those which might be an NSIP and those which might be associated development</li> <li>○ NNNPS policy and the need for a business case for those highway works that might be an NSIP</li> <li>○ strategic importance of the highway works that might be an NSIP</li> <li>○ justifying Works No. 19 as part of the DCO scheme</li> </ul> </li> </ul>	<p><b><u>Highway Works</u></b></p> <p><b>Overview</b></p> <p>The Applicants have submitted a Joint Position Statement between the DCO Applicant and National Highways relating to the SRN Mitigation Scheme (<b>DCO 8.1 / MCO 8.1</b>) at Deadline 1. That joint statement confirms that Junction 24 of the M1 motorway is at times operating over capacity and that, without significant highway interventions, traffic on the strategic road network will encounter increased congestion. The statement explains how the Highways Works are supported by National Highways and compliment a package of measures to support the operation of the strategic road network and provide wider benefits enabling additional capacity to accommodate traffic arising from planned growth / development.</p> <p>The Applicants have also submitted PRTM 2023 Sensitivity Test Technical Note (<b>DCO 7.8 / MCO 7.8</b>) at Deadline 1. An assessment of the residual impact on the local road network is included at Appendix 12 (electronic page 230) of that Technical Note.</p> <p><b>NNNPS policy and the need for a business case:</b></p> <p>For the EMG1 DCO the Applicant explained that SRFIs were excepted from providing a business case in accordance with Treasury Green Book guidance and WebTAG principles. The Highway Authority agreed that WebTAG analysis was not required on the basis that the highways proposals were not being publicly funded. The ExA was satisfied that the Transport Assessment submitted in support of the EMG1 DCO provided much of the material normally expected as part of a WebTAG appraisal and concluded that the</p>

	<p>environmental analysis of the impacts of the highways NSIPs were adequately set out and assessed (ExA Report 4.245-56, 5.18). The SoS expressly considered and endorsed that approach at paragraph 13 of the decision letter dated 12 January 2016.</p> <p>Paragraph 4.5 of the revised 2024 NNNPS confirms that SRFIs continue to be excepted from the usual requirements to be supported by a business case prepared in accordance with Treasury Green Book principles based on the Department for Transport Business Case guidance and WebTAG guidance. In this instance the highways NSIP is required to support the proposed business and commercial DCO which is not within the field of national networks. However, as with the EMG1 DCO, the highways works are to be privately not publicly funded and a Transport Assessment [<b>APP-080 to 083</b>] has been provided to assess the environmental impacts of the highways NSIP. The approach adopted by the Applicant is therefore entirely consistent with that previously approved by the SoS when favourably determining the EMG1 DCO.</p> <p><b>Strategic importance of the Highways Works</b></p> <p>The Applicants have submitted a written response to ISH1 Action Point 16 providing technical analysis regarding the highways mitigation works and the extent to which those works would be strategically important and support wider cumulative economic growth. See the Applicants' Response to Hearing Action Points (<b>DCO 7.4 / MCO 7.4</b>) submitted at Deadline 1.</p> <p><b>Works No. 19 – Footpath L57</b></p> <p>Works No. 19 relate to an upgrade of the existing footpath L57 running westwards from EMG1 to Castle Donington to deliver commuter cycle connectivity. The most direct route from Castle Donington to EMG2 is via footpath L57. Figure 9 of the TA (electronic page 61 [<b>APP-080</b>]) shows the active travel isochrones from EMG2 and the 5km cycle isochrone covers the eastern and southern parts of Castle Donington within the catchment for cycling trips. The route from L57 ties in with the wider cycle improvements on the A453 between EMG1 and EMG2.</p> <p>An upgrade was previously planned in connection with delivery of EMG1. Despite money being paid by the MCO Applicant for that upgrade, the works were not completed and the money has been repaid to allow the works to be delivered in connection with the EMG2 proposals.</p>
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<p><b>6 cont..</b></p>	<ul style="list-style-type: none"> <li>• EMG1 works <ul style="list-style-type: none"> <li>○ applicants' overview of the need case for the EMG1 works</li> <li>○ original purpose of plot 16 land under the DCO for EMG1</li> </ul> </li> </ul>	<p><b><u>EMG1 Works</u></b></p> <p><b>Need case for the EMG1 Works</b></p> <p>The need case for the EMG1 Works mirrors the need case for the EMG2 Works set out in the response above.</p> <p><b>Original purpose of plot 16 land</b></p> <p>The Applicants have provided an explanation of the original purpose of Plot 16 including its relationship with HS2 in response to ISH1 Action Point 17. That response can be found at Appendix 4 to the Applicants' Response to Hearing Action Points (<b>DCO 7.4 / MCO 7.4</b>) submitted at Deadline 1.</p>
<p><b>6 cont..</b></p>	<ul style="list-style-type: none"> <li>• Alternatives <ul style="list-style-type: none"> <li>○ applicants' overview of the alternatives considered, including potential for a multi developer approach to delivering the EMG2 main site</li> <li>○ consequences of not maximising the freeport designation if only the Prologis and East Midlands Airport joint application was delivered</li> <li>○ consequences of not providing the highway works if only the Prologis and East Midlands Airport joint</li> </ul> </li> </ul>	<p><b><u>Alternatives</u></b></p> <p><b>Overview</b></p> <p>The main alternatives that have been considered by the Applicant are set out in Chapter 4 of the Environmental Statement [<b>AS-028</b>] and include:</p> <ul style="list-style-type: none"> <li>• 'Do nothing' option;</li> <li>• Alternative locations for the proposed development; and</li> <li>• Alternative scale, site layout and approaches to scheme design.</li> </ul> <p><b><u>'Do Nothing'</u></b></p> <p>The 'do nothing' option, that is the possibility of not carrying out the proposed development, is not considered to provide a reasonable alternative as it would not fulfil the aspirations of national, regional and local economic strategies and would result in the loss of the substantial social and economic benefits arising from the EMG2 Project.</p> <p><b><u>Alternative Locations</u></b></p> <p>With regard to alternative locations, the assessment has only considered alternative sites for the EMG2 Works. Alternative sites for the Highway Works are not considered as the works comprise highway improvements to parts of the existing network and mitigate the EMG2 Works. Regarding the MCO Scheme, there is no need to consider alternative sites as permission can only be sought for a material change to the EMG1 DCO.</p>

	<p>application was delivered</p>	<p>The approach to considering alternative locations has taken account of:</p> <ol style="list-style-type: none"> <li>1. Other Freeport sites – this was dismissed as all three Freeport sites (EMAGIC, Ratcliffe-on-Soar and EMIP) are required to come forward to realise the Freeport’s ambitions of delivering significant investment and creating thousands of new job opportunities.</li> <li>2. Sites contiguous with EMG1 – expanding EMG1 on immediately adjacent land was discounted as the land available is not of a strategic scale to accommodate a development of the size and type proposed</li> <li>3. Sites in close proximity to EMG1 – only one option within 3km of EMG1 was identified that would be of a strategic scale, Land to the south of Kegworth Bypass. A review of available information, in particular the site-specific assessment undertaken by NWLDC for its Local Plan Review, revealed that this site does not offer any advantages in terms of its location or site characteristics. The EMG2 Works by contrast benefit from the Freeport designation and have other advantages such as a greater potential for access by sustainable transport modes.</li> </ol> <p><u>Alternative Development Scheme</u></p> <p>The following matters have been considered:</p> <ul style="list-style-type: none"> <li>• Alternative land use – local and regional strategies and policy documents have identified land in and around the East Midlands Airport and EMG1 as a strategic location for employment growth</li> <li>• Alternative development scale – only bringing part of the EMG2 Works forward instead of the whole site identified as part of the Freeport designation would not enable the full benefits of the Freeport to be realised</li> <li>• Alternative Design and layout – the chosen EMG2 Project successfully balances a range of environmental and operational considerations based on the constraints and opportunities presented by the application sites. The EMG2 Project has evolved through an iterative process and measures have been embedded into the design to ensure that any adverse</li> </ul>
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		<p>environmental impacts are minimised whilst maximising the benefits of the proposals.</p> <p><b>Multi-developer Approach</b></p> <p>The Applicants have provided responses to the Relevant Representations submitted by East Midlands Airport and Prologis in Appendices 5 and 6 of the Applicants' Response to Relevant Representations (<b>DCO 7.2/MCO 7.2</b>) submitted at Deadline 1. The Applicants have also submitted viability evidence (<b>DCO 4.5</b>) in support of its position at Deadline 1. These responses set out the reasons why a multi developer approach in these circumstances is not a reasonable alternative and would result in at best only 1/3<sup>rd</sup> of the Freeport site being delivered and potentially no development proceeding.</p> <p><b>Consequences of not developing the Freeport</b></p> <p>The Freeport identified the socio-economic benefits of delivering the EMG2 Main Site and the EMG2 Project in its relevant representation [<b>RR-014</b>]. In that representation the Freeport acknowledged that the EMG2 Main Site represents a significant proportion of the overall EMAGIC tax site and is of critical importance to the Freeport and achieving the objectives of its full business case. The Freeport concluded that failure to deliver the EMG2 Main Site, which would include the loss of the strategic highways solution, would have significant detrimental impacts on growth in the region.</p> <p><b>Consequences of not providing the Highway Works</b></p> <p>The Applicants have submitted a written response to ISH1 Action Point 16 providing technical analysis regarding the highways mitigation works and the extent to which those works would be strategically important and support wider cumulative economic growth. See the Applicants' Response to Hearing Action Points (<b>DCO 7.4 / MCO 7.4</b>) submitted at Deadline 1.</p> <p>The Applicants have also submitted at Deadline 1, a Joint Position Statement between the DCO Applicant and National Highways relating to the strategic road network (SRN) Mitigation Scheme (<b>DCO 8.1 / MCO 8.1</b>). That joint statement confirms that without the Highways Works. Safety and congestion concerns will persist on the M1 Mainline and at Junction 24, which can be expected to act as a constraint on future development.</p>
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<p><b>Item 7</b></p>	<p><b>Traffic and Transport</b></p> <p>The ExP will ask the applicants and IPs matters relating to:</p> <ul style="list-style-type: none"> <li>• traffic modelling</li> <li>• the relationship between Parts 1 and 2 of schedule 1 of the dDCO and with other proposed developments in the vicinity</li> <li>• departures from highway standards</li> <li>• road safety audits</li> <li>• the Sustainable Transport Strategy</li> <li>• Framework Travel Plan</li> </ul> <p>The ExP would particularly like to discuss:</p> <ul style="list-style-type: none"> <li>• the use of the proposed mezzanine floors</li> </ul>	<p><b><u>Traffic modelling and mezzanine floors</u></b></p> <p>The ExP raised specific questions in relation to Tables 12 to 15 in the Transport Assessment (TA) [<b>APP-080 to 083</b>]. The Applicants have submitted an updated TA at Deadline 1 to address the points raised at the hearing.</p>
<p><b>7 cont..</b></p>	<ul style="list-style-type: none"> <li>• traffic flows between the rail terminal and the EMG2 main site</li> </ul>	<p>The Applicants have submitted a written response to ISH1 Action Point 18 providing technical analysis regarding the highways modelling, including how traffic flows between the rail freight terminal and the EMG2 Main Site have been accounted for. See the Applicants' Response to Hearing Action Points (<b>DCO 7.4 / MCO 7.4</b>) submitted at Deadline 1.</p>
<p><b>7 cont..</b></p>	<ul style="list-style-type: none"> <li>• the traffic modelling for the material change proposals.</li> </ul>	<p>The Applicants have submitted an MCO Note – Transport Technical Note with further assessment of Plot 16 impact (<b>MCO 7.10</b>) at Deadline 1. That note responded to a request for further assessment from National Highways.</p>
<p><b>7 cont..</b></p>	<ul style="list-style-type: none"> <li>• PRTM 2019 and PRTM 2023</li> <li>• specific outputs from the traffic modelling</li> <li>• the justification for the highway works and when they</li> </ul>	<p>PRTM 2023 modelling has been undertaken in line with an agreed methodology and the results confirm that the proposed mitigation scheme continues to provide the correct strategic solution to ensure the EMG2 Project has no unacceptable impacts. This has been agreed with National Highways and is set out in the supplementary PRTM 2023 Sensitivity Test Technical Note (<b>DCO 7.8 / MCO 7.8</b>) submitted at Deadline 1.</p>

	would be required to be completed	The Applicants have also submitted at Deadline 1, a Joint Position Statement between the DCO Applicant and National Highways relating to the strategic road network (SRN) Mitigation Scheme ( <b>DCO 8.1 / MCO 8.1</b> ). That joint statement confirms how the Highways Works compliment a package of measures to support the operation of the SRN and provide wider benefits enabling additional capacity to accommodate traffic arising from planned growth / development. The Applicant confirmed its intention to complete the highway works prior to first occupation.
<b>7 cont..</b>	<ul style="list-style-type: none"> <li>potential dualling of the A453 to the north of the main EMG2 site</li> </ul>	The Applicants have submitted a written response to ISH1 Action Point 21 confirming that although the TA does not trigger the need for dualling, arrangements for safeguarding were discussed and agreed with LCC. See the Applicants' Response to Hearing Action Points ( <b>DCO 7.4 / MCO 7.4</b> ) submitted at Deadline 1. The safeguarding plan agreed with LCC ( <b>DCO 2.17</b> ) has also been submitted at Deadline 1. A corresponding safeguarding requirement which has been agreed with LCC will be included in the updated draft DCO to be submitted by the Applicants at Deadline 2.
<b>7 cont..</b>	<ul style="list-style-type: none"> <li>how the proposed highway works more generally would relate to other proposals for development in the area</li> </ul>	<p>The Applicants have prepared a written note to ISH1 Action Point 16 providing technical analysis regarding the highways works and the extent to which those works would be strategically important and support wider cumulative economic growth. See Appendix 3 to the Applicants' Response to Hearing Action Points (<b>DCO 7.4 / MCO 7.4</b>) submitted at Deadline 1.</p> <p>The Applicants have also submitted at Deadline 1, a Joint Position Statement between the DCO Applicant and National Highways relating to the strategic road network (SRN) Mitigation Scheme (<b>DCO 8.1 / MCO 8.1</b>). That joint statement confirms how the Highways Works compliment a package of measures to support the operation of the SRN and provide wider benefits enabling additional capacity to accommodate traffic arising from planned growth / development.</p>
<b>7 cont..</b>	<ul style="list-style-type: none"> <li>the implications of any departures from highway standards (see appendices 26 and 27 of the TA)</li> <li>the latest position relating to road safety audits</li> </ul>	<p>The stage 1 road safety audit has been submitted at Deadline 1 (<b>DCO 7.7 / MCO 7.7</b>). The road safety audit response report, signed on behalf of the Applicants, NH and LCC has been issued at Deadline 1 (<b>DCO 7.7A / MCO 7.7A</b>).</p> <p>The agreed actions arising from the road safety audit required several minor amendments to the highway design and the Applicants have issued updated Highway Plans at Deadline 1 along with updated Transport Assessment Appendices 26 and 27 which contain more detailed highway design drawings. The</p>

		updated versions of all documents are recorded in the Application Document Tracker ( <b>DCO 1.8</b> and <b>MCO 1.7</b> )
<b>7 cont..</b>	<ul style="list-style-type: none"> <li>sustainable travel, including between the EMG1 and EMG2 sites and the duration of any requirement relating to travel plans</li> <li>the effectiveness of sustainable travel options at the EMG1 site and implications for the EMG2 site</li> <li>quantum and funding of the Framework Travel Plan</li> </ul>	<p><b><u>Sustainable travel and effectiveness of sustainable travel</u></b></p> <p>The Applicants have prepared a written notes to ISH1 Action Points 23 and 24, raised by the ExP during the hearing which were directed at car sharing and the Framework Travel Plan.</p> <p>The written note on car sharing and provision of the latest 2025 figures is included at Appendix 5 of the Applicants' Response to Hearing Action Points (<b>DCO 7.4 / MCO 7.4</b>) submitted at Deadline 1.</p> <p>The written note providing an update on the Framework Travel Plan including clarification on the duration of travel plans and the approach to changes in occupiers, is included at Appendix 6 of the Applicants' Response to Hearing Action Points (<b>DCO 7.4 / MCO 7.4</b>) submitted at Deadline 1.</p> <p><b><u>Quantum and funding of the Framework Travel Plan</u></b></p> <ul style="list-style-type: none"> <li>Two ring-fenced funds are to be established for the delivery of the EMG2 Sustainable Travel Strategy (STS) and Framework Travel Plan (FTP): <ul style="list-style-type: none"> <li>The EMG2 Travel Plan Fund will be for £850,000, indexed linked (<b>DCO 6.6C</b>, FTP, para 5.6, bullet 1) [<b>APP-085</b>]</li> <li>The EMG2 Bus Fund will be £1.4m, indexed linked (<b>DCO 6.6C</b>, FTP, para 5.6, bullet 2) [<b>APP-085</b>]</li> </ul> </li> <li>The fund values have been calculated based on the 'per-employee' investment made in sustainable transport measures at EMG1 and applied to the anticipated headcount at EMG2 Main Site (<b>DCO 6.6C</b>, FTP, para. 5.7) [<b>APP-085</b>].</li> <li>The funds values have been verified, by calculating the delivery costs of the FTP measures by year and employee headcount on-site to ensure the fund is sufficient to cover these measures and for the Bus Fund, discussions with operators to understand the outline costs of improvements to key services to validate these could be covered by the fund.</li> </ul>

		<ul style="list-style-type: none"> <li>• Para 5.6 (<b>DCO 6.6C</b>, FTP) [<b>APP-085</b>] sets out what the Travel Plan Fund can be used for.</li> <li>• STS Appendix A, para 6.3 (<b>DCO 6.6B</b>, STS) [<b>APP084</b>] sets out the criteria for investments made from the Bus Fund.</li> <li>• Both Funds will be held by the DCO Applicant the duration of the Sustainable Travel Strategy and Framework Travel Plan delivery periods (10-years). Adherence to the STS and FTP is secured through Requirement 4 of the draft Development Consent Order.</li> <li>• Approval to draw on the two Funds will be via the voting members of the EMG2 Sustainable Transport Working Group (<b>DCO 6.6C</b>, FTP, para 5.8) [<b>APP085</b>].</li> <li>• Members of the EMG2 STWG will be the same as EMG1 except for the addition of National Highways as a voting member. Added on their request given the link with the strategic road network.</li> <li>• Voting members will comprise the Applicants, local transport authorities and national highways</li> <li>• Site Wide Travel Plan Coordinator will host meetings with the EMG2 Sustainable Transport Working Group every six months to report progress towards targets and annually regarding spend against the funds (<b>DCO 6.6C</b>, FTP, para, 6.4) [<b>APP-085</b>].</li> <li>• The Site Wide Travel Plan Coordinator for EMG1 has been in post since 2019 and commented that <i>"the MCO Applicant, public sector stakeholders and end-occupiers have worked together to review performance of the travel plan, make funding allocations from the ring-fenced funds and co-fund improvements to bus services to maximise the impact of investments from the Funds. This approach is an effective example of joint working and investment from all stakeholders and one which is an exemplar from similar employment-focused Travel Plans"</i>.</li> </ul>
Item 8	Next steps	N/A

## 5 ISH2 - Applicants' Post Hearing Submissions

5.1 The Applicants' submissions to the points arising from the ISH2 are set out in the table below.

5.2 Table of submissions:

Agenda for the ISH2		Applicant's Submissions
<p><b>Item 1</b></p> <p><b>Issue specific hearing</b></p> <p>The issue specific hearing will formally open at <b>10.00am</b>. The ExP will join, welcome participants and lead introductions.</p>	<p>In attendance for the Applicants:</p> <ul style="list-style-type: none"> <li>• [REDACTED] KC</li> <li>• [REDACTED], Gowling WLG</li> <li>• [REDACTED], Gowling WLG</li> <li>• [REDACTED], SEGRO</li> <li>• [REDACTED], DCO Advisor</li> <li>• [REDACTED], BWB</li> </ul>	
<p><b>Item 2</b></p> <p>Purpose of the issue specific hearing</p>	N/A	
<p><b>Item 3</b></p> <p><b>Overall structure of the dDCO</b></p> <p>The applicants will be asked to explain its overall a-approach to the drafting of the dDCO and clarify what matters are to be secured by alternative methods, such as Planning Obligations and other forms of agreement.</p>	<p>The Applicants confirmed that the dDCO had been drafted using statutory instrument templates, having regard to made DCOs and model provisions. Particular regard has been had to the EMG1 DCO and Northampton Gateway DCO, which were both promoted by the Applicants and made by the Secretary of State.</p> <p>The draft DCO is in <b>six parts</b> and has 16 schedules.</p> <p><b>Part 1</b> sets out when the DCO will come into effect and contains the defined terms used in the DCO.</p> <p><b>Part 2</b> sets out the principal powers which include:</p> <ul style="list-style-type: none"> <li>• The grant of development consent for the Scheme</li> <li>• The power to maintain the Scheme</li> </ul> <p>It also sets out the limits of deviation for the Scheme to allow for lateral and vertical deviations from the lines and situations shown on the works plans and engineering drawings and sections respectively.</p> <p><b>Part 3</b> of the DCO deals with streets including:</p> <ul style="list-style-type: none"> <li>• How the New Roads and Street Works Act 1991 applies to the works</li> <li>• How new, altered or diverted streets will be constructed and maintained</li> <li>• The classification of roads on completion of the DCO Scheme and speed limits of roads</li> <li>• Powers for stopping up of streets, public rights of way and private means of access</li> </ul>	

		<ul style="list-style-type: none"> <li>• Powers to make, modify and revoke traffic regulation orders</li> </ul> <p><b>Part 4</b> of the DCO is headed supplemental powers. It contains provisions relating to the discharge of water and powers for the DCO Applicant to enter on land to carry out surveys and investigative works.</p> <p><b>Part 5</b> of the DCO contains the powers which the DCO Applicant will have to acquire land and rights by compulsory acquisition, including how long those powers are available and what restrictions apply to them.</p> <p>It also sets out the DCO Applicant's powers to take temporary possession of land for carrying out and maintaining the Scheme. And special protections for statutory undertakers where their land and apparatus is affected by compulsory acquisition.</p> <p><b>Part 6</b> of the DCO deals with various powers and matters, most notably:</p> <ul style="list-style-type: none"> <li>• For the DCO Applicant to fell and lop trees and remove hedgerows.</li> <li>• The application of landlord and tenant law</li> <li>• Defence to statutory nuisance claims</li> <li>• Certification of documents – being the documents that will be certified by the Secretary of State and which set out how the DCO Applicant must carry out the Scheme</li> </ul> <p>The <b>schedules</b> to the DCO are referenced in the main body of the DCO but are:</p> <ul style="list-style-type: none"> <li>• Schedule 1 which sets out a description of the works which will be authorised by the DCO</li> <li>• Schedule 2 which sets out the requirements – similar to planning conditions - which the DCO Applicant will need to comply with when carrying out the Scheme. This includes the process for discharging the requirements</li> <li>• Schedules 3 to 9 deal with highways matters raised in Part 3 as already outlined</li> <li>• Schedule 10 to 12 deal with compulsory acquisition matters as set out in Part 5 as already outlined</li> <li>• Schedule 13 which sets out the protective provisions in favour of statutory undertakers including NH and LCC</li> </ul>
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		<ul style="list-style-type: none"> <li>• Schedule 14 details proposed changes to various legislative provisions, necessary to enable the DCO Scheme to be built and used</li> <li>• Schedule 15 sets out the arrangements for the sustainable transport working group</li> <li>• Schedule 16 identifies which documents will be certified documents</li> </ul> <p>No planning obligations are proposed at this time</p>
<b>Item 4</b>	<p><b>ExP's questions on the dDCO</b></p> <p>The ExP will ask questions about the dDCO and seek observations from IPs present. Noting that this hearing is in the earliest stages of the examination, the primary purpose of this Agenda item will be for the ExP to raise its own initial questions. Other IPs will be welcome to participate but will not be expected to frame their own detailed positions until the submission of their Written Representations, Local Impact Reports and participation in a DCO ISH later in the Examination.</p> <p>The ExP would particularly like to discuss:</p> <ul style="list-style-type: none"> <li>• those items set out in Annex E(i) of the Rule 6 letter [PD-010]</li> </ul>	<p>The ExP discussed the DCO Applicant's responses to Annex E(i) of the Rule 6 letter contained in the Schedule of Changes to the Draft DCO [PDA-008D]. The DCO Applicant confirmed that a revised dDCO will be submitted in accordance with the Examination timetable at Deadline 2.</p>
<b>Item 5</b>	<p><b>Overall structure of the dMCO</b></p> <p>The applicants will be asked to explain its overall approach to the</p>	<p>Article 1 deals with citation and commencement</p> <p>Article 2 sets out the amendments to the EMG1 DCO including:</p>

	<p>drafting of the dMCO and clarify what matters are to be secured by alternative methods, such as Planning Obligations and other forms of agreement.</p>	<ul style="list-style-type: none"> <li>• Changes to existing definitions</li> <li>• Introducing new defined terms</li> <li>• Amendment to article 4 to introduce reference to the additional parameters plan i.e. plot 16</li> <li>• Amendment to article 5 to refer to the new works which are then added to schedule 1 of the EMG1 DCO</li> <li>• Make provision within article 12 for the diversion of a public right of way – this is necessary to allow plot 16 to come forward. There are consequential amendments to schedules 4 and 5 of the EMG1 DCO which are also detailed in the draft MCO</li> <li>• Amendment to article 39 to provide for certain additional drawings e.g. additional parameters plan, to be certified documents</li> <li>• Amendment to Schedule 2 to: <ul style="list-style-type: none"> <li>○ Insert new requirement 5A to require the pedestrian crossing works – works no. 8A – to be completed prior to occupation of plot 16</li> <li>○ Amend requirement 6(1) to provide that it will not apply to plot 16. This is because a new requirement 6(1A) is introduced to deal with approval of details of plot 16</li> <li>○ Amend requirement 8, 10, 14 and 17 to make provision for plot 16 to be delivered in accordance with the MCO documents and not the EMG1 DCO documents which have been superceded</li> <li>○ Replace requirement 16 with a new requirement which deals with flood risk for plot 16</li> <li>○ Introduce a new requirement 27 to provide for an occupier specific travel plan for plot 16</li> </ul> </li> </ul> <p>Small changes to schedule 19 – NH protective provisions – to ensure that they apply to the pedestrian crossing works, work no. 8A</p> <p>Planning obligation dated June 2015 relating to EMG1 DCO – obligations include (1) community fund contribution, (2) employment scheme, (3) participation in East Midlands Enterprise Gateway Group, (4) formation of Community Liaison Group, (5) bus and shuttle bus services, (6) bus interchange, (7) footpath L57</p>
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<p><b>Item 6</b></p>	<p><b>Exp's questions on the dMCO</b></p> <p>The ExP will ask questions about the dMCO and seek observations from IPs present. Noting that this hearing is in the earliest stages of the examination, the primary purpose of this Agenda item will be for the ExP to raise its own initial questions. Other IPs will be welcome to participate but will not be expected to frame their own detailed positions until the submission of their Written Representations, Local Impact Reports and participation in a MCO ISH later in the Examination.</p> <p>The ExP would particularly like to discuss:</p> <ul style="list-style-type: none"> <li>• those items set out in Annex E(ii) of the Rule 6 letter [PD-010]</li> </ul>	<p>The ExP discussed the MCO Applicant's responses to Annex E(ii) of the Rule 6 letter contained in the Schedule of Changes to the Draft MCO [PDA-010M]. The MCO Applicant confirmed that a revised dMCO will be submitted in accordance with the Examination timetable at Deadline 2.</p>
<p><b>Item 7</b></p>	<p><b>Next steps</b></p>	<p>N/A</p>

**APPENDIX 1**

**RESPONSE TO CAH1 ITEM 4 - EXTRACT FROM STATEMENT OF REASONS**

<b>Plot no.</b>	<b>Description</b>	<b>Category of land</b>	<b>Work no.</b>	<b>Extent of acquisition</b>	<b>Application of section 131</b>
2/19	315 square metres, or thereabouts, of recreational land and open space situated to the south of 2 Charnwood Avenue, Castle Donington	Open space land	Work No. 19	Temporary possession	Section 131(4B) The land is only being compulsorily acquired for a temporary purpose
2/20	250 square metres, or thereabouts, of public footpath (L57), scrubland and open space situated to the south of 2 Charnwood Avenue, Castle Donington	Open space land	Work No. 19	Permanent acquisition	Section 131(5) The land is required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and the giving in exchange of other land is unnecessary whether in the interests of persons, if any, entitled to right of common or other rights or in the interests of the public
2/21	164 square metres, or thereabouts, of recreational land and open space situated to the south of 2 Charnwood Avenue, Castle Donington	Open space land	Work No. 19	Temporary possession	Section 131(4B) The land is only being compulsorily acquired for a temporary purpose
2/22	168 square metres, or thereabouts, of recreational land and open space situated to the south of 2 Charnwood Avenue, Castle Donington	Open space land	Work No. 19	Temporary possession	Section 131(4B) The land is only being compulsorily acquired for a temporary purpose
2/23	132 square metres, or thereabouts, of public footpath (L57), scrubland and open space	Open space land	Work No. 19	Permanent acquisition	Section 131(5) The land is required for the widening or drainage of an existing

	situated to the south of 2 Charnwood Avenue, Castle Donington				highway or partly for the widening and partly for the drainage of such a highway and the giving in exchange of other land is unnecessary whether in the interests of persons, if any, entitled to right of common or other rights or in the interests of the public
2/24	224 square metres, or thereabouts, of recreational land and open space situated to the south of 2 Charnwood Avenue, Castle Donington	Open space land	Work No. 19	Temporary possession	Section 131(4B) The land is only being compulsorily acquired for a temporary purpose