



**DLA Piper UK LLP**  
Floor 6 & 7  
Two Chamberlain Square  
Paradise  
Birmingham  
B3 3AX  
United Kingdom  
DX: 13022 Birmingham 1  
T: +44 (0) 20 7349 0296  
F: +44 (0) 121 262 5794  
dlapiper.com

FAO: EMG2 Examining Panel via  
The Planning Inspectorate  
c/o QUADIENT  
69 Buckingham Avenue  
Slough  
SL1 4PN

**Your reference**

**Our reference**

ASY/ASY/335094/111  
UKM/212013853.1

28 April 2026

To the Examining Panel ("ExP")

**Planning Act 2008 – sections 91, 92, 93 and 153**  
**The Infrastructure Planning (Examination Procedure) Rules 2010 – rule 13**  
**Application by SEGRO Properties Limited, for an order granting development consent for a scheme comprising the East Midlands Gateway Phase 2 (EMG2)**

**The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 – regulations 33, 35 and 36**  
**Application by SEGRO (EMG) Limited, for an order making material changes to the previously approved East Midlands Gateway Rail Freight Interchange and Highway Order 2016**

We write in response to the EXP's letter dated 17 April 2026 providing notification of the hearings ("the Notification") to be held in the week commencing 11 May 2026 and in advance of the detailed agendas being set for those hearings.

This is a joint letter from both Prologis UK Limited, Prologis UK 121 Limited (Prologis) and East Midlands International Airport Limited and East Midlands Airport Property Investments (Industrial) Limited ("the Airport").

The Notification states that CAH2 will consider the effects on individual plots and allow affected parties to make oral representations about the compulsory acquisition request. It goes on to state that time limits for individual representations may be set.

It further explains that the hearing will include giving Prologis and the Airport a 10 minute opportunity to provide a single presentation on the Joint Application and "*the benefits they consider it would deliver over and above EMG2*".

We assume that the opportunity for Prologis and the Airport to make oral representations will not be limited to the presentation referred to in the Notification, and that will each be given the opportunity to speak to the effects on individual plots and the compulsory acquisition request more generally. We note the reference to the potential limiting of time for submissions on this issue. Given the importance of the issue to both Prologis and the Airport, the fact that they are the main affected landowners, the proprietary rights and draconian powers at issue, we hope that neither Prologis or the Airport will be curtailed from making their case.

---

DLA Piper UK LLP is authorised and regulated by the Solicitors Regulation Authority (SRA No. 401322).

DLA Piper UK LLP is a limited liability partnership registered in England and Wales (registered number OC307847) which is part of DLA Piper, a global law firm, operating through various separate and distinct legal entities.

A list of members is open for inspection at its registered office and principal place of business, 160 Aldersgate Street, London, EC1A 4HT and at the address at the top of this letter. Partner denotes member of a limited liability partnership.

A list of offices and regulatory information can be found at [dlapiper.com](http://dlapiper.com).

**UK switchboard**  
+44 (0) 20 7349 0296

The ExP will now have the benefit of both the Prologis and the Airport's submissions at Deadlines 1, 2 and, very shortly, 3. In those submissions a number of points have been raised about the proper legal approach to compulsory acquisition, both as a matter of general principle and having regard to the nature of this specific case.

Set against that approach Prologis and the Airport are concerned that the way in which the content of the presentation has been articulated in the Notification risks compounding the errors in the Applicant's approach that we have identified in the above submissions in relation to its approach to compulsory acquisition.

In order to be granted compulsory purchase powers there must be a compelling case in the public interest (see s.122(3) of the PA 2008) to justify the compulsory acquisition of the land sought to be acquired. The burden of proof in this respect is squarely on the Applicant to demonstrate to the Secretary of State that such a compelling case exists.

On the facts here the proper lawful assessment of whether there is a compelling case in the public interest does not effectively comprise a beauty parade between two schemes. Rather, what is required is an assessment of, *inter alia*:

- The extent to which there are alternative means of delivering similar benefits on the land to be acquired;
- The *net* benefits of the Application scheme in relation to the land to be acquired;
- The risks of and/ or impact on the wider economy of use of compulsory purchase powers between private companies seeking to deliver the same sort of development; and
- The private loss of Prologis and the Airport.

And, in light of the above, whether there is a compelling case in the public interest (the test being properly understood as a high hurdle – see ***Prest v Secretary of State for Wales*** [1983] 81 LGR 193, in which Lord Denning MR stated: “*I regard it as a principle of our constitutional law that no citizen is to be deprived of his land by any public authority against his will, unless it is expressly authorised by Parliament and the public interest decisively so demands: and then only on the condition that proper compensation is paid: see *Attorney-General v. De Keyser's Royal Hotel Ltd*. If there is any reasonable doubt on the matter, the balance must be resolved in favour of the citizen” (emphasis added)).*

Prologis and the Airport are grateful for the opportunity to explain the Joint Application and its progress as well as to speak to the benefits of that scheme, but to seek to reduce the section 122(3) issues in this case to a simple comparison of benefits of the whole of the Application with the Joint Application would be to tempt the ExP into legal error.

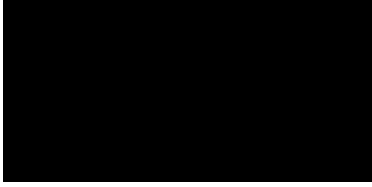
Prologis and the Airport have commented on the inadequacy of the environmental assessment of the socio/ economic and land use impacts of the consequences of granting the DCO (and thereby sterilising the Joint Application and removing its benefits). This is the proper forum in which to understand the impacts of the Application. It is its *net* benefits that are of import.

We write to give the ExP advance notice of our concerns in the spirit of being transparent and with the aim of assisting the efficient and effective examination of the application (including informing the drafting of the detailed agendas).

As such we wish to make it clear that if the formulation of the content of the requested presentation is to be understood as an indication that the ExP are minded to say if the benefits of the whole of the Application are greater than the benefits of the Joint Application there would be a compelling case in the public interest, that would reflect an error in approach.

We look forward to taking the opportunity to give a presentation. It will be focused on the Joint Application's progress, contents and the benefits of that scheme. We will also, separately, be speaking to the impacts of compulsory acquisition on our respective landholdings and the Applicant's case for compulsory acquisition. We reserve the right to speak to other agenda items as necessary.

Kind regards



Senior Vice President, Regional Head  
Prologis UK



Strategic Planning Director  
Manchester Airports Group