

Document DCO 4.1

Statement of Reasons

July 2025

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

CONTENTS

Section		Page
1.	Introduction <ul style="list-style-type: none"> • EMG2 Project • Consenting strategy • Compulsory acquisition 	4
2.	Preparation of this Statement of Reasons	6
3.	Compulsory acquisition <ul style="list-style-type: none"> • Scope of compulsory acquisition • Main compulsory acquisition powers • Temporary possession • Compensation • Other powers of compulsory acquisition 	7
4.	Land interests <ul style="list-style-type: none"> • Category 1 and 2 persons • Category 3 persons • Contact referencing • Negotiations to acquire by agreement 	9
5.	Case for compulsory acquisition <ul style="list-style-type: none"> • Statutory conditions • Need for the land • Compelling case in the public interest • Consideration of alternatives • Reasonable prospect of funding • Acquisition by agreement • Conclusions 	12
6.	Special considerations <ul style="list-style-type: none"> • Special category land forming part of a common, open space, fuel or field garden allotment • Statutory undertaker land 	16
7.	Human rights <ul style="list-style-type: none"> • Protected rights • Fair compensation • Conclusions 	22
8.	Other information of interest to those affected by the DCO	24
Appendix 1 – Land to be acquired permanently		25
Appendix 2 – Land to be temporarily occupied and new rights to be acquired permanently		26
Appendix 3 – Land to be used temporarily only		27

Appendix 4 – Status of negotiations	28
Appendix 5 – Statutory undertaker's land	29

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1 Introduction

- 1.1 This Statement of Reasons accompanies the application made by SEGRO Properties Limited ('the DCO Applicant') to the Secretary of State pursuant to Part 5 of the Planning Act 2008 ('PA 2008') for a Development Consent Order ('DCO') for a second phase of its East Midlands Gateway Logistics Park ('EMG1') which is a Strategic Rail Freight Interchange ('SRFI') located to the north of East Midlands Airport.

EMG2 Project

- 1.2 EMG1 is a nationally significant infrastructure development comprising a rail freight terminal and warehousing. It was authorised by The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 (SI 2016/17) ('the EMG1 DCO') and is substantially complete.
- 1.3 This second phase is referred to as 'East Midlands Gateway 2' or 'EMG2' or the 'EMG2 Project' and comprises the following main components:

Main Component	Details	Works Nos.
DCO Application / DCO Scheme		
EMG2 Works	Logistics and advanced manufacturing development located on the EMG2 Main Site south of East Midlands Airport and the A453, and west of the M1 motorway. Together with an upgrade to the EMG1 substation and provision of a community park.	DCO Works Nos. 1 to 5 as described in the draft DCO (Document DCO 3.1). DCO Works Nos. 20 and 21 as described in the draft DCO (Document DCO 3.1).
Highway Works	Works to the highway network: the A453 EMG2 access junction works; significant improvements at Junction 24 of the M1 (referred to as the J24 Improvements) and works to the wider highway network including active travel works.	DCO Works Nos. 6 to 19 as described in the draft DCO (Document DCO 3.1).
MCO Application / MCO Scheme		
EMG1 Works	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 access works.	MCO Works Nos. 3A, 3B, 5A, 5B, 5C, 6A and 8A in the draft MCO (Document MCO 3.1).

- 1.4 A more detailed description of the EMG2 Project can be found in Chapter 3 of the Environmental Statement submitted with the application (**Document DCO 6.3 / MCO 6.3**).

Consenting Strategy

- 1.5 Two applications will be made concurrently for the EMG2 Project.
- 1.6 The first application, the applicant for which is the DCO Applicant, is for a DCO (referred to as the 'DCO Application') for the EMG2 Works component and the Highway Works component. The DCO Application is made pursuant to section 37 of Part 5 of the Planning Act 2008 ('PA 2008') and:
- 1.6.1 In respect of the EMG2 Works, is made pursuant to a direction made by the Secretary of State ('SoS') under section 35 of the PA 2008 and dated 21 February 2024 ('s35 Direction') (**Document DCO 6.1B**); and
 - 1.6.2 In respect of the Highway Works, the works to the strategic road network are an NSIP in their own right and the application is made pursuant to section 22 of the PA 2008. The works to local highways are associated development.
- 1.7 The second application, the applicant for which is SEGRO (EMG) Limited, is for a Material Change Order to the existing EMG1 DCO (referred to as the 'MCO Application') for the EMG1 Works component. The MCO Application is made pursuant to section 153 and schedule 6 of the PA 2008.

Compulsory acquisition

- 1.8 The DCO Application for the EMG2 Works and the Highway Works, if made, will authorise the compulsory acquisition of interests and rights in, on or over land to facilitate delivery of the proposed development. In those circumstances, Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 requires the application to be accompanied by a statement of reasons.
- 1.9 The MCO Application for the EMG1 Works does not seek to secure powers of compulsory acquisition in respect of any of the land interests. SEGRO (EMG) Limited, the applicant for that order, controls all of the necessary land interests to deliver the EMG1 Works.
- 1.10 This Statement of Reasons relates therefore only to the proposed DCO Application.
- 1.11 A glossary of the main defined terms used in this Statement can be found at Appendix 1 to the Guide to the Applications (**Document DCO 1.3**).

2 Preparation of this Statement of Reasons

- 2.1 This Statement of Reasons has been prepared to satisfy the requirement in Regulation 5(2)(h) and should be read alongside the other application documents including the Land Plans (**Document DCO 2.2**), the Special Category Land Plan (**Document DCO 2.15**), the Book of Reference (**Document DCO 4.3**) and the Funding Statement (**Document DCO 4.2**).
- 2.2 It has also been prepared taking account of the guidance set out in the document titled 'Guidance related to procedures for the compulsory acquisition of land' issued by the then titled Department of Communities and Local Government in September 2013 ("the Guidance").
- 2.3 The Guidance states, in respect of statement of reasons, as follows:
- " 32. *The statement of reasons should seek to justify the compulsory acquisition sought, and explain in particular why in the applicant's opinion there is a compelling case in the public interest for it. This includes reasons for the creation of new rights.*
33. *When serving a compulsory acquisition notice under section 134 of the Planning Act, applicants should also send to each person they are notifying a copy of the statement of reasons and a plan showing how that person's land is affected by compulsory acquisition proposals."*
- 2.4 Accordingly, this Statement of Reasons explains why it is necessary and justifiable for the DCO to contain compulsory acquisition powers which relate to the land. In particular:
- 2.4.1 Section 3 details the scope of compulsory acquisition and the various compulsory acquisition powers set out in the draft DCO (**Document DCO 3.1**). It further details the land subject to those powers and sets out the DCO Applicant's purpose in seeking to acquire land, rights and to extinguish rights over land including brief details of the wider scheme for which the DCO is sought.
- 2.4.2 Section 4 sets out the land interests that are necessary to carry out the DCO Scheme.
- 2.4.3 Section 5 details the case and justification for the compulsory acquisition powers sought in the draft DCO (**Document DCO 3.1**).
- 2.4.4 Section 6 deals with special category land.
- 2.4.5 Section 7 sets out the justification for seeking powers of compulsory acquisition including reference to how regard has been given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights together with details of the national needs for the development.
- 2.4.6 Section 8 contains any other information which may be of interest to persons who are or may be affected by the DCO.

3 Compulsory acquisition

Scope of compulsory acquisition

- 3.1 The land required for the development, as illustrated on the Land Plans (**Document DCO 2.2**) and described in the Book of Reference (**Document DCO 4.2**), is situated in North West Leicestershire District and extends to approximately [] hectares ('the Order Land'). All of the Order Land is required to enable the DCO Applicant to construct, operate and maintain the DCO Scheme.
- 3.2 Section 122 of the PA 2008 provides that an order granting development consent may include provision authorising compulsory acquisition of land. To the extent this is sought, the decision maker (the Secretary of State) in respect of the application must be satisfied that certain conditions are met. The way in which the DCO Scheme meets these conditions is considered in Section 5 of this Statement of Reasons.
- 3.3 In addition to the powers of compulsory acquisition, Section 120 of the PA 2008 provides that a DCO may make provision relating to, or to matters ancillary to the development in respect of which a DCO is sought. The matters in respect of which provision may be made includes (but is not expressly limited to) matters listed in Schedule 5 of the PA 2008, including:
- 3.3.1 the acquisition of land, compulsorily, or by agreement (paragraph 1);
 - 3.3.2 the creation, suspension, extinguishment of, or interference with, interests in rights over land, compulsorily, or by agreement (paragraph 2);
 - 3.3.3 the abrogation or modification of agreements relating to land (paragraph 3);
 - 3.3.4 the payment of compensation (paragraph 4).

Main compulsory acquisition powers

- 3.4 The main powers authorising the compulsory acquisition of land, or interests in, or rights over land, are contained in Articles 22 (compulsory acquisition of land) and 23 (compulsory acquisition of rights) of the draft DCO (**Document DCO 3.1**).
- 3.5 Appendix 1 of this Statement of Reasons provides a description of the land subject to the powers of outright acquisition in terms of Article 22. The purpose for acquiring this land is to enable to the DCO Applicant to construct the permanent works on the land and other elements described in that Appendix.
- 3.6 Appendix 2 of this Statement of Reasons provides a description of the land subject to the powers to acquire new rights over land as contained in Article 23 of the draft DCO (**Document DCO 3.1**). This allows flexibility in approach and a reduction in the impact on persons with an interest in the affected land. These new rights are necessary for the purposes of constructing the DCO Scheme and the maintenance of the DCO Scheme thereafter.
- 3.7 Other compulsory acquisition powers are sought in the draft DCO (**Document DCO 3.1**) (identified below), and these similarly relate to land and will, or may, interfere with property, rights and interests.

Temporary possession

- 3.8 In addition, powers are sought in Article 32 of the draft DCO to enable the temporary possession and use of land. Article 33 of the draft DCO empowers the DCO Applicant to enter onto land and take temporary possession of it during the maintenance period for the purposes of maintaining the DCO Scheme.
- 3.9 Appendix 3 of this Statement of Reasons provides a description of the land subject to the powers of temporary possession and use of land

Compensation

- 3.10 Where land is being acquired, new rights are being imposed or land is subject to temporary possession and use then the owner of the land, or the interest or right in the land, may be entitled to compensation.

Other powers of compulsory acquisition

- 3.11 Article 24 provides for the extinguishment of all existing private rights over land from the earlier of the date of acquisition of the land or the date on which the DCO Applicant enters the land.
- 3.12 The Article further provides that, where new rights are being compulsorily acquired or restrictive covenants are being imposed on land then any existing private rights or restrictive covenants which that land is subject to shall be extinguished to the extent that continuing those private rights or restrictive covenants would be inconsistent with the new right acquired or restrictive covenant imposed.
- 3.13 With regard to land that the DCO Applicant may take temporary possession of under the draft DCO, Article 24(4) provides that all private rights over that land will be suspended and unenforceable for as long as the DCO Applicant is in lawful possession of the land.
- 3.14 The power to extinguish or suspend existing rights is required to ensure that such rights do not interfere with the construction and operation of the DCO Scheme.
- 3.15 The Article provides that any person who suffers loss caused by the extinguishment or suspension of rights (pursuant to the exercise of the power in Article 24) is entitled to compensation.

4 Land interests

- 4.1 In preparing the DCO application, the DCO Applicant has carried out diligent inquiry in order to identify all persons with an interest in the Order Land as defined in Section 44 of the PA 2008. Those persons who were identified by the DCO Applicant are listed in the Book of Reference (**Document DCO 4.3**) and have been consulted about the application in accordance with section 42 of the PA 2008 as described in the Consultation Report (**Document DCO 5.1**).
- 4.2 Diligent inquiry to identify affected landowners and occupiers, those with other types of land interests, and those with a potential claim for compensation was undertaken by the DCO Applicant's expert land referencing supplier. The categories of persons identified and the methods used to identify them are described below with reference to the categories in the Book of Reference (**Document DCO 4.3**).
- 4.3 Land referencing has been undertaken throughout the pre-application period to ensure any changes in interest or new interests have been identified, consulted and subject to engagement. Land referencing will continue to be undertaken as appropriate during the making of the DCO and beyond to implementation to ensure that any changes in ownership are identified and any new owners are consulted and subject to engagement. Any changes will also be recorded and updated in the Book of Reference (**Document DCO 4.3**).

Category 1 and 2 persons

- 4.4 Identification of Category 1 and 2 persons, as defined in section 44 of the PA 2008, was undertaken at the early stages of development of the DCO Scheme in order to inform the design of the DCO Scheme and the preparation of the DCO Application.
- 4.5 A shapefile of the search area, being the anticipated land requirements, was submitted to the Land Registry so that a search could be completed of the index map in [] 2024 [and again in [] 2025]. Ongoing Land Registry refresh searches have been used to ensure that any changes in title were identified. The official copies of the registered titles and plans were examined to identify all land interests, a process known as desktop land referencing. On completion of the desktop land referencing exercise, the extent of unregistered land interests became known. To establish ownership of unregistered land that falls within the proposed land requirements, public sources of information were used, [including site visits, the posting of site notices, Companies House website, the relevant Highways Authority, records held by Statutory Undertakers, Lexis Nexis Trace IQ and online resources]. A land charges search was also carried out.

Category 3 persons

- 4.6 Category 3 persons are those with potential claims under the above legislation should the DCO Scheme be delivered. They mainly relate to those whose land may be injuriously affected (i.e. its value would be diminished) as a result of interference with a right or interest as a result of the DCO Scheme, although the land in question is not acquired outright.
- 4.7 Identification of Category 3 persons, as defined in section 44 of the PA 2008, was undertaken at the early stages of development of the DCO Scheme, in order to inform the design of the DCO Scheme and preparation of the DCO Application.
- 4.8 [In order to identify potential Category 3 persons who may have a claim pursuant to Section 10 of the Compulsory Purchase Act 1965, a desk-based assessment was

carried out to identify properties with a potential claim. In addition, site visits were used in order to assess properties that the team may not have been aware of from their desk-based assessment.]

- 4.9 The information obtained from the above exercises was used to populate the Book of Reference (**Document DCO 4.3**).

Contact referencing

- 4.10 Letters, land interest questionnaires (LIQs) and plans were distributed to all Category 1, 2 and 3 persons identified during the desktop land referencing stage. This step was essential for confirming the correct information is held and for uncovering any additional interests that may not have surfaced in the initial desktop searches.
- 4.11 [Where LIQs were not promptly completed and returned by the interested parties, the DCO Applicant's Land Referencing supplier-initiated follow-up actions, including the issuance of chaser letters and subsequent phone calls, emails and the offer of a face-to-face meeting. These proactive measures increase the likelihood of obtaining a response from the interested parties. This comprehensive approach, known as contact land referencing, plays a crucial role in ensuring a thorough and diligent inquiry process.]

Negotiations to acquire by agreement

- 4.12 As well as consulting all persons with an interest in the Order Land about the DCO Scheme proposals in accordance with section 42 of the PA 2008, the DCO Applicant is aware of the requirement (paragraph 25 of the Guidance) to seek to acquire land by negotiation wherever practicable. The power to acquire land compulsorily should only be sought if attempts to acquire by agreement fail.
- 4.13 At the same time, the DCO Applicant notes that the Guidance also recognises that where were it is proposed to acquire compulsory acquisition of multiple plots of land then it may not be practicable to acquire each plot by negotiated agreement. As the Guidance states, *"Where this is the case, it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset."*
- 4.14 The DCO Applicant has engaged with all landowners and occupiers with a view to acquiring their land interest by agreement by writing to them to inform them of the DCO Applicant's willingness to negotiate to acquire the Order Land by agreement, and to invite dialogue on this point. As a result, the DCO Applicant is in the process of engaging with certain landowners regarding the acquisition of land by agreement and negotiations with this objective will be ongoing throughout the DCO process. The status of such negotiations is set out in Appendix 4 of this Statement of Reasons.
- 4.15 Notwithstanding the above, the DCO Applicant is aware that it may not be possible to acquire all land interests necessary to deliver the DCO Scheme. [There are further parcels of land in unknown ownership where it is not possible to locate the owner, and which therefore cannot be acquired by agreement.]
- 4.16 The DCO Applicant has therefore concluded that the DCO Scheme is unlikely to be capable of being delivered, and therefore the benefits of the DCO Scheme will not be realised, without compulsory acquisition powers.

- 4.17 Land already owned by the DCO Applicant is included in the DCO Application and subject to compulsory acquisition powers in case there are unknown third-party interests or rights, which might impede delivery of the DCO Scheme.
- 4.18 The DCO would permit only the DCO Applicant to exercise powers of compulsory acquisition in respect of land and interests sought within the DCO to support the delivery of the EMG2 Works and the Highway Works.
- 4.19 More detail of the purpose for which the land/rights may be acquired can be found in Schedule 1 of the draft DCO (**Document DCO 3.1**) which describes the Works in detail. And full details of each plot of land proposed to be subject to powers of compulsory acquisition are set out in the Book of Reference (**Document DCO 4.3**).

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5 Case for compulsory acquisition

Statutory conditions

5.1 Section 122 of the PA 2008 provides:

“(1) An order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that the conditions in subsections (2) and (3) are met:-

(2) The condition is that the land:-

(a) is required for the development to which the development consent relates,

(b) is required to facilitate or is incidental to that development, or

(c) is replacement land which is to be given in exchange for the order land under Section 131 or 132.

(3) The condition is that there is a compelling case in the public interest for the land to be acquired compulsorily.”

5.2 The Guidance (paragraph 11) states that *"the applicant should be able to demonstrate to the satisfaction of the Secretary of State that the land in question is needed for the development for which consent is sought. The Secretary of State will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development"*.

5.3 In the case of land required to facilitate or which is incidental to the proposed development and using landscaping land as an example, the Guidance states that *"the Secretary of State will need to be satisfied that the development could only be landscaped to a satisfactory standard if the land in question were to be compulsorily acquired, and that the land to be taken is no more than is reasonably necessary for that purpose, and that is proportionate"*.

5.4 In order to comply with the condition contained in section 122(3), it must be shown that there is a compelling case in the public interest for the compulsory acquisition. The Guidance (paragraph 13) states:

"For this condition to be met, the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired. Parliament has always taken the view that land should only be taken compulsorily where there is clear evidence that the public benefit will outweigh the private loss."

5.5 The Guidance (paragraphs 14 – 16) goes on to state that:

"In determining where the balance of public interest lies, the Secretary of State will weigh up the public benefits that a scheme will bring against any private loss to those affected by compulsory acquisition.

In practice, there is likely to be some overlap between the factors that the Secretary of State must have regard to when considering whether to grant development consent, and the factors that must be taken into account when considering whether to authorise any proposed compulsory acquisition of land.

Where may be circumstances where the Secretary of State could reasonably justify granting development consent for a project, but decide against including in an order the provisions authorising the compulsory acquisition of the land. For example, this could arise where the Secretary of State is not persuaded that all of the land which the applicant wishes to acquire compulsorily has been shown to be necessary for the purposes of the scheme. Alternatively, the Secretary of State may consider that the scheme itself should be modified in a way that affects the requirement for land which would otherwise be subject to compulsory acquisition. Such scenarios could lead to a decision to remove all or some of the proposed compulsory acquisition provisions from a development consent order"

5.6 Paragraphs 8 to 10 of the Guidance are also relevant, setting out a number of general considerations to be taken into account by the applicant in seeking compulsory acquisition powers:

- *"That all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored.*
- *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.*
- *That the applicant has a clear idea of how they intend to use the land which is to be acquired.*
- *That there is a reasonable prospect of the necessary funds for acquisition becoming available.*
- *That the purposes for which the compulsory acquisition powers are included in the application are legitimate and sufficiently justify interfering with the human rights of those with an interest in the affected land."*

Need for the land

5.7 Section 3 of this Statement of Reasons demonstrates that the land as shown on the Land Plans (**Document DCO 2.2**) and the proposed acquisition as detailed in the Book of Reference (**Document DCO 4.2**) is required in order to carry out the development to which the DCO relates.

5.8 The DCO Applicant has considered each plot of land carefully and is satisfied that compulsory acquisition powers are sought in respect of no more land, or rights over land, than is required to construct and thereafter operate the DCO Scheme.

5.9 Each plot of land as shown on the Land Plans (**Document DCO 2.2**) is further identified and described in Appendices 1 to 3 of this Statement of Reasons and further sets out the purpose for which that plot of land is required by reference to the works numbers as set out in Schedule 1 of the draft Order (**Document DCO 3.1**).

5.10 No part of the Order Land is required for replacement land given in exchange under sections 131 or 132 of the PA 2008.

5.11 The DCO Applicant is content that section 122(2) of the PA 2008 is therefore complied with.

Compelling case in the public interest

- 5.12 The DCO Applicant is further satisfied that the condition in section 122(3) of the PA 2008 is met, namely that there is a compelling case in the public interest for the compulsory acquisition of land.
- 5.13 Without compulsory acquisition powers, the DCO Applicant will not be able to secure the use or acquisition of the land it needs to construct the DCO Scheme at all or in a way that is both proportionate and in the public interest by reducing environmental impacts and mitigating the impact on land interests.
- 5.14 The DCO Applicant further considers that the public benefits that would be derived from compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired
- 5.15 The compelling case in the public interest is explained in the wider documentation that accompanies the DCO Application, including the Planning Statement (**Document DCO 5.4**).

Consideration of alternatives

- 5.16 As explained in Chapter [] of the Consultation Report (**Document DCO 5.1**), Chapter 4: Assessment of Alternatives of the Environmental Statement (**Document DCO 6.4**) and Section [] of the Planning Statement (**Document DCO 5.4**), 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.

Reasonable prospect of funding

- 5.17 The DCO Applicant is content that there is a reasonable prospect of the necessary funds for acquisition being available for the reasons set out in the Funding Statement (**Document DCO 4.2**).

Acquisition by agreement

- 5.18 The DCO Applicant is mindful that the authority to acquire land compulsorily should only be sought if attempts to acquire by agreement fail. However, the DCO Applicant notes that the Guidance recognises that, in some cases, it may not always be practicable to acquire each plot of land by agreement. Where this is the case, the Guidance confirms that it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset. It also recognises that in some cases it may be preferable, or necessary, to acquire land compulsorily rather than by agreement.
- 5.19 The DCO Applicant sets out in Appendix 4 of this Statement of Reasons the discussions it has had with landowners and occupiers to acquire the Order Land by agreement.
- 5.20 It is satisfied that compulsory acquisition and temporary possession powers are required to ensure that the DCO Scheme can be delivered in a reasonable timescale and in the event that it does not prove possible to acquire all of the Order Land by agreement.

Conclusions

- 5.21 The DCO Applicant is satisfied that the conditions in section 122 of the PA 2008 are met and that the tests in the Guidance are satisfied.

- 5.22 All of the Order Land subject to compulsory acquisition and temporary possession powers is necessary to construct, operate, maintain and mitigate the DCO Scheme necessary to achieve the objectives of the DCO Scheme. The extent of the land sought is reasonable and proportionate.
- 5.23 There is a compelling case in the public interest to include the compulsory acquisition powers sought by the DCO Applicant in the draft DCO (**Document DCO 3.1**). The exercise of the compulsory acquisition powers that are sought is shown throughout this Statement of Reasons to be necessary and proportionate to the extent that interference with private land and rights is required. In the absence of compulsory powers, the DCO Applicant considers that it would not be possible to proceed with the DCO Scheme, therefore the public benefits of the DCO Scheme will not be realised.

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6 Special considerations

Special category land forming part of a common, open space, fuel or field garden allotment

- 6.1 Section 131 of the PA 2008 applies to the compulsory acquisition of any land forming part of a common, open space or fuel or field garden allotment. Section 132 of PA 2008 applies to the compulsory acquisition of any rights over land forming part of a common, open space or fuel or field garden allotment. They make provision for Special Parliamentary Procedure ('SPP') to apply where a DCO authorises the compulsory acquisition of or rights over such land unless the exemptions in those sections apply.
- 6.2 For the purposes of sections 131 and 132 of the PA 2008, open space, common land and fuel or field garden allotment are defined as having the same meaning as in section 19 of the Land Acquisition Act 1981.
- 6.3 The Acquisition of Land Act 1981 in turn defines these terms as follows:
- 6.3.1 '*common*' includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882, and any town or village green;
- 6.3.2 '*fuel or field garden allotment*' means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act; and
- 6.3.3 '*open space*' means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground.
- 6.4 The Order Lands include land which falls within the category of 'open space' land comprising Plots 2/12, 2/13, 2/19, 2/20, 2/21 and 2/22.

Exemptions

- 6.5 The exemptions where SPP does not apply are:
- 6.5.1 Section 131:
- (a) Replacement land has been or will be given in exchange for the order land and the replacement land has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the order land (section 131(4)); or
 - (b) For open space land only, replacement land in exchange is not available or would only be available at a prohibitive cost and it is strongly in the public interest for the development for which the order grants consent to be capable of being begun sooner than is likely to be possible if the order were to be subject (to any extent) to SPP (section 131(4A)); or
 - (c) For open space land only, the land is only being compulsorily acquired for a temporary (although possibly long-lived) purpose (section 131(4B)); or
 - (d) The land to be acquired does not exceed 200 square metres in extent or 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 (section 131(4)).

6.5.2 Replacement land is defined for the purposes of section 131 as follows:

"replacement land" means land which is not less in area than the Order land and which is no less advantageous to the persons, if any, entitled to rights of common or other rights, and to the public.

6.6 Section 132:

6.6.1 Section 132 relates to the acquisition of rights over open space, common land, fuel or field garden allotment and broadly follows the same approach as section 131.

6.6.2 Replacement land is defined for the purposes of section 132 as follows:

"replacement land" means land which will be adequate to compensate the following persons for the disadvantages which result from the compulsory acquisition of the order right-

- (a) the persons in whom the Order land is vested,*
- (b) the persons, if any, entitled to rights of common or other rights over the Order land, and*
- (c) the public.*

6.7 It is noted also that paragraph 5.194 of the NPSNN (Department for Transport, 2024) sets out that:

where Sections 131 and 132 of the Planning Act apply, any replacement land provided under those sections will need to conform to the requirements of those sections.

The DCO Scheme

6.8 As shown in Part 5 of the Book of Reference (**Document DCO 4.3**) and the Special Category Land Plan (**Document DCO 2.15**), the DCO Application seeks powers of compulsory acquisition over land to which sections 131 and 132 of the PA 2008 apply.

6.9 The open space land that is impacted by the EMG2 Project comprises:

6.9.1 Plots 2/19 and 2/21 to be permanently acquired; and

6.9.2 Plots 2/12, 2/13, 2/20 and 2/22 required for temporary possession.

6.10 All of the above plots are required to undertake works and to upgrade public footpath L57 to a cycle track (Works No. 19).

6.11 The table below sets out the special category land plots within the Order Limits and which of the subparagraphs under section 131 apply. The acquisition of new rights is not proposed and therefore section 132 is not engaged.

Plot no.	Description	Category of land	Works no.	Extent of acquisition	Application of section 131

2/12	315 square metres, or thereabouts, of public footpath (L57), scrubland and open space situated to the south of Pegasus Business Park, Castle Donington	Open space land	Works no. 19	Temporary possession	Section 131(4B) Temporary purpose only
2/13	168 square metres, or thereabouts, of public footpath (L57), scrubland and open space situated to the south of Pegasus Business Park, Castle Donington	Open space land	Works no. 19	Temporary possession	Section 131(4B) Temporary purpose only
2/19	250 square metres, or thereabouts, of public footpath (L57), scrubland and open space situated to the south of Pegasus Business Park, Castle Donington	Open space land	Works no. 19	Permanent acquisition	Section 131(4) Required for the widening or drainage of an existing highway and the giving in exchange of other land is unnecessary
2/20	164 square metres, or thereabouts, of public footpath (L57), scrubland and open space situated to the south of	Open space land	Works no. 19	Temporary possession	Section 131(4B) Temporary purpose only

	Pegasus Business Park, Castle Donington				
2/21	132 square metres, or thereabouts, of public footpath (L57), scrubland and open space situated to the south of Pegasus Business Park, Castle Donington	Open space land	Works no. 19	Permanent acquisition	Section 131(4) Required for the widening or drainage of an existing highway and the giving in exchange of other land is unnecessary
2/22	224 square metres, or thereabouts, of public footpath (L57), scrubland and open space situated to the south of Pegasus Business Park, Castle Donington	Open space land	Works no. 19	Temporary possession	Section 131(4B) Temporary purpose only

Conclusion

- 6.12 The DCO Application seeks powers to compulsorily acquire open space land which can be subject to SPP. However, the DCO Application should not be subject to SPP because at least one of the subparagraphs set out in section 131 of the PA 2008 applies as set out above.

Statutory undertaker land

- 6.13 The draft DCO (**Document DCO 3.1**) will authorise the permanent compulsory acquisition of land and rights of statutory undertakers and asset owners comprising multiple plots as described in the Book of Reference (**Document DCO 4.3**) and shown on the Land Plans (**Document DCO 2.2**). This land is held by various statutory undertakers for the purposes of carrying out their statutory undertakings.
- 6.14 A list of these statutory undertakers and the relevant land plots can be found in Appendix 5 of this Statement of Reasons.

- 6.15 Section 127(3) of PA 2008 provides that a DCO may only authorise the compulsory acquisition of statutory undertaker land where a representation has been made by the statutory undertaker objecting to the acquisition if the Secretary of State is satisfied that:
- 6.15.1 The land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
 - 6.15.2 If purchased, the land can be replaced by other land belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the undertaking.
- 6.16 Section 127(5) of the PA 2008 provides that a DCO may only authorise the compulsory acquisition of rights over statutory undertaker land where a representation has been made by the statutory undertaker objecting to the acquisition if the Secretary of State is satisfied that:
- 6.16.1 The rights can be acquired without any serious detriment to the carrying on of the undertaking; and
 - 6.16.2 Any consequential detriment to the carrying on of the undertaking can be made good by the undertaker by the use of the land belonging to or available for acquisition by the undertaker.
- 6.17 Adequate protection for statutory undertakers' assets will be included within the protective provisions in Schedule 13 to the draft DCO (**Document DCO 3.1**) and/or in asset protection agreements between the parties. Accordingly, the DCO Applicant considers that the statutory undertakers will not suffer serious detriment to the carrying on of their undertaking as a result of the compulsory acquisition of the land or as a result of the acquisition of rights over land. The tests set out in sections 127(3) and 127(6) of the PA 2008 are therefore satisfied.
- 6.18 Various statutory undertakers and owners of apparatus have a right to keep equipment (in connection with their undertaking) on, in or over the land. Statutory undertakers and other apparatus owners that are known to have equipment on, in or over the land are included in the Book of Reference (**Document DCO 4.2**).
- 6.19 Section 138 of the PA 2008 applies if a draft DCO authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a 'relevant right', or there is 'relevant apparatus' on, under or over the land.
- 6.20 For the purposes of section 138:
- 6.20.1 'relevant right' means a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land which is vested in or belongs to statutory undertakers for the purpose of carrying on their undertaking, or which is conferred on a telecommunications code operator.
 - 6.20.2 'relevant apparatus' means apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or electronic communications apparatus kept installed for the purposes of an electronic communications code network.

- 6.21 A DCO may only include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the draft DCO relates (subsection 138(4)).
- 6.22 The draft DCO (**Document DCO 3.1**) includes provision to authorise the extinguishment of a relevant right, or the removal of relevant apparatus belonging to statutory undertakers, in connection with the delivery of the DCO Scheme. The exercise of such powers will be carried out in accordance with the protective provisions contained in Schedule 13 to the draft DCO (**Document DCO 3.1**). The protective provisions will be agreed with the relevant statutory undertakers and electronic communications apparatus owners and will accordingly set out constraints on the exercise of the powers in the draft DCO (**Document DCO 3.1**), with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests, whilst enabling the DCO Scheme (i.e. the development authorised by the DCO) to proceed. The DCO Applicant therefore considers that the test set out in section 138 is satisfied.
- 6.23 A number of existing utility services are located within the Order Limits and would be affected by the DCO Scheme. In this case it is proposed to either protect or divert statutory undertakers' apparatus to accommodate the DCO Scheme. Provision for the carrying out of such diversions has been included within the works comprising the authorised development (as set out in Schedule 1 to the draft DCO (**Document DCO 3.1**)). It is not proposed to remove any statutory undertakers' apparatus or extinguish any statutory undertakers' rights without a diversion being provided.
- 6.24 Discussions with relevant statutory undertakers are ongoing (as set out in Annex B of this Statement of Reasons) to ensure as far as possible that the works proposed do not cause serious detriment to their undertaking. The DCO Applicant will continue these discussions, and it is hoped that private agreements can be achieved. The DCO Applicant will continue to progress agreements and is confident that these will be agreed during the examination of the DCO Application.

7 Human Rights

Protected Rights

- 7.1 The Human Rights Act 1998 incorporated into domestic law the provision of the European Convention on Human Rights (ECHR). The ECHR includes provisions in the form of Articles, which aim to protect the rights of the individual. The relevant Articles can be summarised as follows:
- 7.1.1 Article 1 of The First Protocol – protects the rights to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest.
 - 7.1.2 Article 6 – entitles those affected by compulsory powers to a fair and public hearing.
 - 7.1.3 Article 8 – protects the right of the individual to respect for his private and family life, his home and his correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.
- 7.2 Paragraph 10 of the Guidance sets out how applicants should take into account human rights: *“The Secretary of State must ultimately 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. In particular, regard must be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of acquisition of a dwelling, Article 8 of the Convention.”*
- 7.3 The draft DCO (**Document DCO 3.1**), if made, may infringe the human rights of persons with an interest in land. This infringement is authorised by law provided that:
- 7.3.1 There is a compelling case in the public interest for the compulsory acquisition powers included within the draft DCO, and that proper procedures are followed.
 - 7.3.2 Any interference with a human right is proportionate and otherwise justified.
- 7.4 The DCO Applicant recognises that the DCO Scheme may have an impact on individuals but considers that the significant public benefits that will arise from the DCO Scheme are set out in this Statement of Reasons (**Document DCO 4.1**) and the Planning Statement (**Document DCO 5.4**) outweigh any harm to those individuals.
- 7.5 In relation to both Article 1 and 8 of the ECHR, the compelling case in the public interest for the compulsory acquisition powers included within the draft DCO (**Document DCO 3.1**) has been demonstrated in this Statement of Reasons (**Document DCO 4.1**) and in the Planning Statement (**Document DCO 5.4**). The land over which compulsory acquisition powers are sought as set out in the draft DCO is the minimum necessary to ensure the delivery of the DCO Scheme. In this respect the interference with human rights is both proportionate and justified.
- 7.6 In relation to Article 6, the DCO Applicant is content that the proper procedures have been followed for both the consultation on the DCO Scheme and in determining the compulsory acquisition powers included within the draft DCO (**Document DCO 3.1**). Throughout the development of the DCO Scheme, the DCO Applicant has given

persons with an interest in the land a full opportunity to comment on the proposals, both in a statutory and non-statutory capacity, and the Applicant has endeavoured to engage with landowners. The Applicant has had regard to feedback in both the initial design of the DCO Scheme and in iterative design changes throughout the life of the DCO Scheme. Examples of any design changes are provided within the Consultation Report (**Document DCO 5.1**).

- 7.7 Furthermore, any individuals affected by the draft DCO (**Document DCO 3.1**) may submit representations by way of an objection to the application in response to any notice given under section 56 of the PA 2008, the examination of the application by the examining authority, any written representations procedure which the examining authority decides to hold and in particular, any compulsory acquisition hearing held under section 92 of the PA 2008, at which each affected person is entitled to make oral representations about the compulsory acquisition request.
- 7.8 If the draft DCO (**Document DCO 3.1**) is made, a person aggrieved may challenge the DCO by judicial review in the High Court if they consider that the grounds for doing so are made out pursuant to section 118 of the PA 2008.
- 7.9 No residential properties are proposed to be acquired as part of the DCO Scheme.

Fair compensation

- 7.10 Any person affected by the exercise of compulsory acquisition powers or by the exercise of temporary possession, may be entitled to compensation. This entitlement to compensation is provided for by the existing compensation code and Articles 22, 23, 24, 25, 31, 32 and 33 and Schedule 6 to the draft DCO (**Document DCO 3.1**). The Applicant has the resources to pay such compensation and has demonstrated in the Funding Statement (**Document DCO 4.2**) that these resources are available.
- 7.11 Any dispute in respect of the compensation payable may be referred to the Upper Tribunal (Lands Chamber), an independent tribunal, for determination.

Conclusions

- 7.12 For the reasons set out above, 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.

8 Other information of interest to those affected by the DCO

- 8.1 Further information about the application can be found on the DCO Applicant's website dedicated to the proposals – <https://www.segro.com/countries-repository/united-kingdom/segro-logistics-park-east-midlands-gateway-2>
- 8.2 Owners and occupiers of any of the Order Land who wish to discuss matters relating to the negotiation of agreements should contact [] of [] on [] or by email to [].

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APPENDIX 1

PERMANENT ACQUISITION OF ALL INTERESTS IN LAND

[To be completed]

Plot No. on Land Plans	Purpose for which land/right is acquired	Relevant Works No. in Schedule 1 of draft DCO (Document DCO 3.1)

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APPENDIX 2

LAND TO BE USED TEMPORARILY AND NEW RIGHTS TO BE ACQUIRED PERMANENTLY

[To be completed]

Plot No. on Land Plans	Purpose for which land is to be used and new rights are to be acquired	Relevant Works No. in Schedule 1 of draft DCO (Document DCO 3.1)

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APPENDIX 3

LAND TO BE USED TEMPORARILY ONLY

[To be completed]

Plot No. on Land Plans	Purpose for which land/right is to be used	Relevant Works No. in Schedule 1 of draft DCO (Document DCO 3.1)

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APPENDIX 4
STATUS OF NEGOTIATIONS

[To be completed]

No.	Owner	Type of interest	Extent of acquisition	Plot No. on Land Plans	Status of negotiations

APPENDIX 5
STATUTORY UNDERTAKERS LAND

[To be completed]

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