

**PROOF OF EVIDENCE**

**Evidence of:**

**MR BEN GOMEZ-BALDWIN**

**On behalf of:**

**SEGRO (PERIVALE PARK) LIMITED**

**In relation to:**

**THE MAYOR'S OFFICE FOR POLICING AND CRIME (PERIVALE) COMPULSORY PURCHASE  
ORDER 2020**

**Date:**

**20 April 2021**

## **1 DETAILS OF WITNESS, ROLE AND RESPONSIBILITIES**

### ***Personal Introduction and Qualifications***

- 1.1 My name is Ben Gomez-Baldwin. I have been a Director responsible for Greater London for SEGRO since May 2020.
- 1.2 In terms of my professional qualifications, I was awarded a First Class Honours Degree in Real Estate Management from Oxford Brookes University in 2007 and I have been a Member of the Royal Institute of Chartered Surveyors since 2009.

### ***My Career Experience and Current Responsibilities***

- 1.3 I have been employed by SEGRO for my entire 13-year career. Within SEGRO I have worked in various property teams with an exclusive focus on Greater London:
- (a) from September 2007 until May 2011, I was an Asset Surveyor in the Greater London team;
  - (b) from June 2011 until October 2013, I was a Senior Investment Surveyor working within the Greater London Investment Team;
  - (c) from October 2013 until May 2016, I was an Investment Manager working within the Greater London Investment Team; and
  - (d) from May 2016 until May 2020, I was an Investment Director working within the Greater London Investment Team.
- 1.4 In my current role, I focus on the industrial and urban logistics (including last-mile logistics) property sector across London (except for SEGRO's business in the Heathrow area).
- 1.5 My main responsibilities include:
- (a) managing the operational performance of SEGRO's London portfolio (other than SEGRO's Heathrow business which is managed by another team reporting to Alan Holland);
  - (b) overseeing asset management and development opportunities in London (other than Heathrow);
  - (c) broadening, improving and expanding SEGRO's relationship with existing, new and future customers (i.e. SEGRO's tenants); and
  - (d) working closely with stakeholders to improve SEGRO's engagement in the community to deliver sustainable employment space.
- 1.6 I was a core part of the 'deal team' when SEGRO acquired the Perivale Park Industrial Estate in 2020 and I have led the team of surveyors responsible for its asset management since then. I have been the primary liaison with MOPAC and its advisors on behalf of SEGRO.

## ***Introduction to SEGRO Group***

- 1.7 SEGRO plc is a UK Real Estate Investment Trust (REIT), listed on the London Stock Exchange and Euronext Paris, and is a leading owner, manager and developer of modern warehouses and industrial property. SEGRO owns or manages 8.8 million square metres of space (95 million square feet) valued at £15.3 billion, serving customers from a wide range of industry sectors. Its properties are located in and around major cities and at key transportation hubs in the UK and in seven other European countries.
- 1.8 For over 100 years SEGRO has developed warehouses, used primarily for regional, national and international distribution hubs, and urban warehousing located close to major population centres and business districts. SEGRO provides high-quality assets that allow its customers to thrive.

## **2 SCOPE OF EVIDENCE**

- 2.1 My evidence relates to the objection submitted on behalf of SEGRO to the CPO and should be read together with the evidence of Alan Holland.
- 2.2 My evidence seeks to provide more detail regarding SEGRO's grounds of objection to the CPO and in particular the liaison and negotiations between SEGRO and MOPAC.
- 2.3 My evidence comprises the following sections:
- (a) Section 3 describes the Order Land and relevant legal interests;
  - (b) Section 4 describes the background to the CPO;
  - (c) Section 5 describes the relevant law and Government guidance in relation to the making of compulsory purchase orders;
  - (d) Section 6 describes SEGRO's first ground of objection to the CPO, i.e. MOPAC's failure to engage with SEGRO to acquire the Order Land by agreement;
  - (e) Section 7 describes SEGRO's second ground of objection to the CPO, i.e. MOPAC's failure to demonstrate that all the Order Land is required and that there is no alternative site or alternative means of bringing about the objective of the Order;
  - (f) Section 8 describes SEGRO's third ground of objection to the CPO, i.e. the lack of evidence of sufficient funding;
  - (g) Section 9 describes SEGRO's fourth ground of objection the CPO, i.e. the lack of a compelling case in the public interest to acquire the Order Land for the purposes sought by MOPAC; and
  - (h) Section 10 sets out my conclusions.



### 3 THE ORDER LAND AND LEGAL INTERESTS

#### *Perivale Park Industrial Estate*

- 3.1 SEGRO (Perivale Park) Limited is the registered freehold owner of the Perivale Park Industrial Estate ("**Perivale Park**").
- 3.2 Part of Perivale Park is the subject of The Mayor's Office for Policing and Crime (Perivale) Compulsory Purchase Order 2020 (the "**CPO**") made by the Mayor's Office for Policing and Crime ("**MOPAC**"). The land within Perivale Park which is subject to the CPO is known as the "**Order Land**".
- 3.3 SEGRO acquired Perivale Park on 5 June 2020 from Britel Fund Trustees Limited and Postel Properties Limited ("**Hermes**")
- 3.4 MOPAC is a tenant at Perivale Park and occupies a substantial part of the Order Land (shown as plots 1 and 2 on the CPO plan) under two leases dated 21 October 2005, both expiring on 28 September 2021:
  - (a) One lease relates to Unit 16/17 which is used as a forensic testing laboratory for impounded vehicles ("**Unit 16/17**"); and
  - (b) The second lease is of an open 7.8 acre cleared site (known as the "**Bilton Centre**") which is primarily used for parking and storage of impounded vehicles.
- 3.5 Prior to its acquisition of Perivale Park, SEGRO was made aware by Hermes that MOPAC had previously discussed a short term lease renewal in respect of both leases referred to above, of 3 years' term and outside of the security of tenure provisions of the Landlord and Tenant Act 1954. SEGRO was also informed by Hermes that discussions had taken place between Hermes and MOPAC regarding an offer for the freehold as well as a longer term lease of Unit 16/17 and the Bilton Centre.
- 3.6 At the time of its acquisition of Perivale Park SEGRO believed that MOPAC had not formulated a clear strategy as to its intentions for its future occupation of Unit 16/17 and the Bilton Centre.

#### 4 BACKGROUND TO CPO

- 4.1 On 20 July 2020 MOPAC's agent, Knight Frank, sent a letter to SEGRO which included the following:

*"I note you have recently purchased the Estate of which our Land and Unit 16 forms part. I think you were informed and shown by Federated Hermes prior to purchase our offer to purchase the parts of the Estate we occupy. We now wish to extend the offer we made to Federated Hermes to yourselves and to this end, I can confirm that we are in a position to offer, subject to survey the following for the freehold interests:*

*Land: £31.25 million (Thirty One Million, Two Hundred and Fifty Thousand GBP)*

*Unit 16: £6.25 million (Six Million Two Hundred and Fifty Thousand GBP)"*

I have attached a copy of the letter at **Appendix 1**.

- 4.2 In the covering email to me of the same date, Simon Warren of Knight Frank stated:

*"As discussed my clients need to ensure long term service delivery for this core Metropolitan Police function for London. As such my client needs to acquire the freehold interest of the property that it occupies. I attach a copy of the offer previously made to Federated Hermes which my clients have now asked me to extend to SEGRO as new landlord. I look forward to receiving your response."*

and

*"In the meantime as you know we were quite along [sic] way down the road with preparing compulsory purchase proceedings prior to your purchase and you will have recently received a Section 16 notice as a first step in this regard. The timings here are being driven by our contractual lease expiry date in September 2021 and the need to ensure uninterrupted service delivery for this key Police function helping fight crime in London."*

I have attached a copy of the email at **Appendix 2**.

- 4.3 In follow-up conversations between myself and Simon Warren of Knight Frank – and in fact prior to receipt of the formal offer on 20 July 2020, SEGRO was advised that if it did not agree to sell the freehold of, or grant a long lease over, the Order Land then MOPAC would attempt to compulsorily acquire the Order Land. No proper explanation was given then or has been given since as to why MOPAC required ownership of the Order Land in order to discharge its statutory functions.
- 4.4 On 27 July 2020, I emailed Simon Warren of Knight Frank to advise:

*"In relation to the offer, as you know, this falls a long way short of the valuation of the site. We are happy to keep a dialogue going in relation to the site generally of course, and remain committed to trying to find a satisfactory solution for both parties. In the meantime, we'd very much like to take you up on the offer to come and visit the site and learn more about the operation. Could you let us know who we should speak to about organising the logistics of a visit? We'd also be very keen to visit the alternative site at Northolt as it's as helpful to understand what doesn't work, as [well as] what does work from your perspective"*

I have attached a copy of the email at **Appendix 3**.

- 4.5 On 6 August 2020 I received a response to my email from Simon Warren of Knight Frank stating:

*"In terms of the offer made this was based on an independent valuation the Met had commissioned for the site which I was not involved in. However, I am instructed to negotiate a price with you. I note you have recently purchased the entire estate for a purported £202.5 million so you must have a split in the value you attributed to the existing trading estate and the land we occupy. Could you share this with us or at least provide a counter proposal to our offer for the land?"*

I have attached a copy of the email at **Appendix 3**.

- 4.6 On the basis that SEGRO had just acquired Perivale Park (including the Order Land); had development aspirations for Perivale Park; and considered that the offer received from MOPAC was significantly below the open market value for the land (based on its general knowledge of the market at that time), SEGRO declined to provide MOPAC with a counter offer. A figure was submitted to Land Registry to represent a value of the relevant land, however this was an apportionment of the overall purchase price paid by SEGRO for Perivale Park and does not represent the open market value of Unit 16/17 and the Bilton Centre.
- 4.7 On 2 October 2020 the CPO was made by MOPAC. Notice of the CPO was served on SEGRO on 6 October 2020. I have attached a copy of the letter received from MOPAC's solicitors at **Appendix 4**.
- 4.8 SEGRO duly objected to the CPO by way of a letter dated 28 October 2020. I have attached a copy of the letter at **Appendix 5**
- 4.9 On 30 September 2020, MOPAC served Section 26 (Landlord and Tenant Act 1954) Notices requesting new 15-year lease terms for both Unit 16/17 and The Bilton Centre (the "**Section 26 Notices**"). I have attached copies of the Section 26 Notices at **Appendix 6**.
- 4.10 SEGRO served counter-notices, opposing a grant of a new tenancy on ground 30(1)(f) of the Landlord and Tenant Act 1954 on 26 November 2020. I have attached a copy of the counter-notices at **Appendix 7**.

- 4.11 SEGRO is open to the possibility of offering MOPAC a lease of the Order Land and indeed it formerly offered a lease of five years term on 23 March 2021. I have attached a copy of the offer at **Appendix 8** (see further paragraph 6.9).

## 5 RELEVANT LAW & CPO GUIDANCE

### *Acquiring authority powers*

- 5.1 As set out in its Statement of Case, MOPAC is seeking to use statutory powers as a 'principal council' pursuant to sections 120 and 121 of the Local Government Act 1972 (the "**LGA 1972**") (in particular s120(3A)) as well as a 'local authority' under s.44 of the Local Government (Miscellaneous Provisions) Act 1976 (the "**LGMPA 1976**").
- 5.2 MOPAC relies upon sections 120(1)(a) and 121(1) of the LGA 1972 which enable a principal council to acquire land by agreement or compulsorily for the purposes of 'any of their functions under this or any other enactment' upon the authorisation by the Secretary of State for Housing, Communities and Local Government.
- 5.3 The functions of the office of MOPAC upon which it is said to be relying are the statutory duties under section 3(6) of the Police Reform and Social Responsibility Act 2011 (the "**PRSRA 2011**") to "(a) secure the maintenance of the metropolitan police force; and (b) secure that the metropolitan police force is efficient and effective".

### *The Ministry of Housing, Communities and Local Government CPO Guidance*

- 5.4 The Ministry of Housing, Communities and Local Government has published "Guidance on Compulsory Purchase Process and The Crichel Down Rules" (16 July 2019) (the "**Guidance**") to which order confirming and acquiring authorities should have regard.
- 5.5 Section 1 of the Guidance states that
- "Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change" and that "Used properly, they can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life".*
- 5.6 Section 2 of the Guidance under the heading "*When should compulsory purchase powers be used?*" confirms that:
- "Acquiring authorities should use compulsory purchase powers where it is expedient to do so. However, a compulsory purchase order should only be made where there is a compelling case in the public interest".*
- 5.7 The Guidance at section 2 also confirms that an acquiring authority must "*demonstrate*" to a confirming authority "*that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement*".
- 5.8 In addition, section 2 of the Guidance also states that "*Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects*".

5.9 The final subparagraph of section 3 of the Guidance states that:

*"In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant."*

5.10 Finally, in terms of justifying the use of CPO powers in the first instance section 17 of the Guidance states that *"Acquiring authorities are expected to provide evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted"*.

5.11 In terms of showing whether a compelling case in the public interest exists, section 2 of the Guidance states that

*"acquiring authorities and authorising authorities should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. The officers' report seeking authorisation for the compulsory purchase order should address human rights issues."*

5.12 The Guidance also states the following with regard to justification for a CPO at sections 12 and 13:

*"12. How does an acquiring authority justify a compulsory purchase order?"*

*....There are certain fundamental principles that a confirming minister should consider when deciding whether or not to confirm a compulsory purchase order ....*

*A compulsory purchase order should only be made where there is a compelling case in the public interest.*

*An acquiring authority should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention.*

*13. How will the confirming minister consider the acquiring authority's justification for a compulsory purchase order?"*

*The minister confirming the order has to be able to take a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest. The more comprehensive the justification which the acquiring authority can present, the stronger its case is likely to be.*

*However, the confirming minister will consider each case on its own merits and this guidance is not intended to imply that the confirming minister will require any particular degree of justification for any specific order. It is not essential to show that land is required immediately to secure the purpose for which it is to be acquired, but a confirming minister will need to understand, and the acquiring authority must be able to demonstrate, that there are sufficiently compelling reasons for the powers to be sought at this time."*

5.13 In particular section 13 of the Guidance states that if an acquiring authority:

*"cannot show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale it will be difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest, at any rate at the time of its making".*

5.14 With regard to demonstrating sufficient funding, section 14 of the Guidance states:

*"In preparing its justification, the acquiring authority should address:*

*a) Sources of funding – the acquiring authority should provide substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required. If the scheme is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty that the necessary land will be required, the acquiring authority should provide an indication of how any potential shortfalls are intended to be met. This should include:*

- the degree to which other bodies (including the private sector) have agreed to make financial contributions or underwrite the scheme; and*
- the basis on which the contributions or underwriting is to be made*

*b) timing of that funding – funding should generally be available now or early in the process. Failing that, the confirming minister would expect funding to be available to complete the compulsory acquisition within the statutory period (see section 4 of the Compulsory Purchase Act 1965) following the operative date, and only in exceptional circumstances would it be reasonable to acquire land with little prospect of the scheme being implemented for a number of years."*

*Evidence should also be provided to show that sufficient funding could be made available immediately to cope with any acquisition resulting from a blight notice."*



**6 GROUND OF OBJECTION ONE - MOPAC'S FAILURE TO ENGAGE WITH SEGRO TO ACQUIRE THE ORDER LAND BY AGREEMENT**

- 6.1 The Guidance makes clear that the exercise of compulsory purchase powers are to be used by an acquiring authority such as MOPAC only as a measure of last resort, when all other options to acquire the Order Land by agreement have failed.
- 6.2 MOPAC has not demonstrated that it is using its powers of compulsory acquisition as a measure of last resort.
- 6.3 MOPAC started operating from the Order Land in or about 2005 having obtained planning permission and on the basis of a two leasehold interests. During over fifteen years of operations at the Order Land, MOPAC has not owned the freehold of the Order Land and this has not presented MOPAC with any difficulty or impediment in discharging its statutory duties – MOPAC can operate effectively without the freehold.
- 6.4 MOPAC has known since the commencement of its leasehold interests that its leases were due to end and it had a substantial period of time in which to plan for such long-term needs for its VRES operations as may have existed.
- 6.5 SEGRO acquired Perivale Park, including the Order Land approximately four months prior to MOPAC making the Order. Plainly, it was necessary for MOPAC to engage effectively with the new owner of the Order Land. This did not however occur. Within this four month window there was insufficient engagement from MOPAC to demonstrate any true attempt to find alternatives to compulsory acquisition and/or to afford SEGRO a meaningful opportunity to consider the options and to formulate its own preferred strategy. This was a complex matter for SEGRO to consider and evaluate – especially when considering the impact of the Order and the complexity of the solutions which might be appropriate to meet both parties' needs. If MOPAC and SEGRO had had more time between SEGRO's acquisition of Perivale Park and MOPAC making the CPO or if the time which was available had been used to better effect, then SEGRO would have been able to explore alternative options to the freehold acquisition of the Order Land in greater detail.
- 6.6 At paragraph 5.17 of its Statement of Case MOPAC dismisses the prospect of entering into a long lease of the Order Land on the basis that this would not present long-term security for the operation of the VRES at the Order Land. However, MOPAC has occupied Units 16/17 and the Bilton Centre on the basis of a long lease for more than 15 years without impediment – as a result it is unclear why a long lease of the Order Land would not give MOPAC the operational security for its VRES operations that it seeks. If MOPAC could show that it required ownership of land in order to undertake its statutory functions, then the grant of a lease would permit MOPAC sufficient time to search for and secure an alternative site suitable for its needs without resorting to compulsory acquisition powers.



### ***Engagement since the making of the Order***

- 6.7 I set out below a brief summary of material engagement that SEGRO has had with MOPAC or its agents

<b>Date</b>	<b>Comment</b>
5 July 2020	SEGRO acquired Perivale Park
20 July 2020	SEGRO received a letter from Knight Frank as described at paragraph 4.1 above (Appendix 1) under cover email (Appendix 2).
27 July 2020	SEGRO notified Knight Frank that MOPAC's offer fell short of the value of the site as described at paragraph 4.4 above (Appendix 3)
6 August 2020	Knight Frank wrote to SEGRO requesting a counter-offer as described at paragraph 4.5 above. (Appendix 3)
18 August 2020	SEGRO undertook an inspection of Unit 16/17 and the Bilton Centre to better understand MOPAC's operations
October 2020	<p>The CPO was made (Appendix 4) and SEGRO objected to it as described at paragraph 4.7 above (Appendix 5)</p> <p>S26 Notices and Counter-Notices were served as described at paragraph 4.8 and 4.9 above (Appendices 6, 7)</p>
2 December 2020	SEGRO visited MOPAC's Northolt site to explore the possibility of a solution to avoid the CPO by using that site as a means of enabling SEGRO to grant a long lease to MOPAC of Unit 16/17 and the Bilton Centre, with SEGRO acquiring MOPAC's 5-acre site in Northolt
3 December 2020	At SEGRO's visit to Northolt, SEGRO was requested to respond promptly as to whether it was interested in the site. SEGRO responded as requested on a without prejudice basis.
29 January 2021 with a follow-up on 10 February 2021	As a result of not hearing back from MOPAC following SEGRO's inspection of Northolt, SEGRO was concerned that its communications had not been safely received by MOPAC. Accordingly SEGRO contacted Jules Pipe (the Deputy Mayor of London with responsibility for Planning) to enquire if he was able to make contact with relevant decision-makers within MOPAC via the Deputy Mayor of London for Policing. SEGRO received feedback from Jules Pipe that MOPAC had wrongly understood that Northolt was not of interest to SEGRO. SEGRO considered that its message may not have been delivered to the correct decision-makers within MOPAC.

Date	Comment
24 February 2021	<p>MOPAC increased its financial offer to acquire the freehold of the Order Land from SEGRO. I have attached a copy of the letter as <b>Appendix 9</b>. Having recently received advice on valuation of the Order Land, SEGRO considered that MOPAC's offer remained substantially below the open market value of the land.</p> <p>Please note that as a matter of good practice and in order to properly understand the compulsory purchase value of the Order Land, SEGRO instructed CBRE to undertake a valuation of it – SEGRO had previously valued Perivale Park as a whole, rather than on a parcel-by-parcel basis. Based on CBRE's advice, which SEGRO received on 7 January 2021, the offer made by MOPAC on 24 February 2021 was approximately £20 million too low.</p> <p>SEGRO anticipates that the value of the Order Land would have increased further since that date.</p>
23 March 2021	SEGRO made an offer to MOPAC of a five year lease of Unit 16/17 and the Bilton Centre on an open market rent (Appendix 8). The offer was not responded to in open correspondence
26 March 2021	SEGRO and MOPAC held a meeting on a without prejudice basis.

- 6.8 In addition to serving the CPO, MOPAC submitted Section 26 (Landlord & Tenant Act 1954) Notices requesting new 15-year lease terms for both Unit 16/17 and The Bilton Centre. SEGRO objected to these notices on the grounds of redevelopment (Ground F) on the basis of its plans for redevelopment as outlined in the Proof of Evidence of Alan Holland.
- 6.9 As indicated in the chronology, SEGRO has made an offer to MOPAC of a five year lease of Unit 16/17 and The Bilton Centre. SEGRO made such an offer to allow MOPAC additional time to find alternative premises that would meet its requirements. I discuss the advantage to MOPAC in accepting a lease of five years at paragraph 7.24 below.
- 6.10 A five year lease Unit 16/17 and The Bilton Centre would mean that the relevant property would revert to SEGRO and enable it to achieve the benefits expected from its intended redevelopment as described in the Proof of Evidence of Alan Holland. The benefits of SEGRO's redevelopment proposals (both for the community and SEGRO) will be delayed as a result of the lease.

**7 GROUND OF OBJECTION TWO – FAILURE TO DEMONSTRATE THAT ALL THE ORDER LAND IS REQUIRED AND THAT THERE IS NO ALTERNATIVE SITE OR ALTERNATIVE MEANS OF BRINGING ABOUT THE OBJECTIVE OF THE ORDER**

***Alternatives Generally***

- 7.1 In order to confirm the Order, the Secretary of State must be satisfied that MOPAC has demonstrated that the Order Land meets the statutory purposes of the CPO and that there is no alternative site or means of achieving the purpose of the Order.
- 7.2 It is clear that the approach adopted by MOPAC is based on its preference to stay on the Order Land as a matter of convenience as reflected in its comment that relocation lead time is a clear factor (see paragraph 5.17.7.1 of the Statement of Case). However the test that the Secretary of State must adopt as a matter of law is not one of convenience, which itself is insufficient to justify the use of CPO powers.
- 7.3 It is clear that MOPAC is the author of its own predicament. MOPAC has known that its leases of Unit 16/17 and the Bilton Centre were expiring and failed to react with sufficient time or determination to secure an alternative site or alternative arrangements to the compulsory acquisition of SEGRO's land. A short term lease for the Order Land was not requested by MOPAC in order enable a proper search for an alternative site to be conducted. Nonetheless SEGRO has offered such a lease to MOPAC in order to provide it with a solution to this predicament.
- 7.4 MOPAC concludes in the Statement of Case that the VRES cannot be delivered at any alternative site or sites across London. This has not been properly demonstrated.
- 7.5 At paragraph 5.19.4 of its Statement of Case, MOPAC refers to a report commissioned in 2017 by SEGRO called "Keep London Working" (the "**KLW Report**"). The KLW report was designed to demonstrate the value and critical role the industrial sector plays in London's growing economy and ensure it was recognised as a priority in the GLA's emerging Draft London Plan. SEGRO's evidence base highlighted that industrial land was being lost for other uses at a much higher rate than the GLA had forecast, which suggested there was no effective management of industrial land release or remedial action taken when a local authority exceeds its target. The KLW Report also suggests that planning policy is not as effective as it needs to be to protect industrial land supply, in the right locations, from rapid depletion. MOPAC uses the KLW Report as evidence that alternatives sites are difficult to find. The schedules which I refer to below and which I have appended to this Proof demonstrate that there are ample sites and investments available.

***Alternative Site Criteria***

- 7.6 MOPAC sets out the needs for the VRES at the Order Land and not at an alternative site as follows:
- (a) The specialist forensic facilities would have to be replaced;
  - (b) The Order Land is a suitable size for the VRES facilities;

- (c) The Order Land is built out and equipped for the operation of the VRES;
- (d) The Order Land is well located for the Metropolitan Police Service and public needs;
- (e) The location of the Order Land allows a cost effective delivery of the required service levels;
- (f) The Order Land is reasonably accessible by public transport for the public visiting to recover vehicles.

7.7 None of the above requirements is extraordinary or unique to the Order Land. Whilst the Order Land does meet the above criteria, it is not likely to be the only site that is capable of doing so. The illustrative properties referred to in the various schedules annexed to this Proof (see further below) are, or would be, capable of meeting the above criteria. Non site-specific requirements that could be readily developed at a different site (such as the specialist forensic services) should be disregarded as they do not make the Order Land uniquely placed for the VRES.

#### ***Land in MOPAC's Ownership or Control***

7.8 MOPAC has failed to demonstrate that land within its or the Greater London Authority's ownership or control, could not be made available as an alternative site to the Order Land without resort to powers of compulsory acquisition.

#### ***Land not in MOPAC's Ownership or the Greater London Authority's Ownership***

7.9 MOPAC has failed to demonstrate that land outside of its ownership or control, could not be found as an alternative site to the Order Land without resort to powers of compulsory acquisition.

7.10 At paragraph 5.19.3 of its Statement of Case, MOPAC states that

*"MOPAC instructed Knight Frank to identify alternatives sites, in 2018 and 2019. Knight Frank sent out a property search feasibility study to approximately 600 London agents for 6-9 acres of industrial land within/ just outside the M25, suitable for storing vehicles. Knight Frank received only three responses, none of which met the wider brief requirements and two of which were outside the M25 so were not viable. The third site was in east London, too close to the Charlton Car Compound and therefore not suitably located to provide a London wide service. Since these requests, Knight Frank have continued to monitor the market for suitable sites but none have been identified."*

7.11 Knight Frank's search was undertaken two and three years ago, which is insufficient to justify compulsory acquisition in 2021 or beyond as these searches are insufficiently recent. The Statement of Case is vague as to Knight Frank's subsequent informal search – no detail is provided as to the frequency of the search, how it was undertaken, how many agents are contacted, or the findings of the search. The age and scope of the searches conducted by MOPAC are an inadequate base upon which to justify a compelling case in the public interest to compulsorily acquire the freehold of Unit 16/17 and the Bilton Centre.

7.12 Paragraph 5.19.8 of MOPAC's Statement of Case states

*"Moreover, the following alternative strategies have not identified any suitable alternative schemes*

.....

*5.19.8.2 MOPAC engaged with public sector partners regarding opportunities and nothing suitable has been identified"*

7.13 There is no explanation as to the steps that MOPAC took as part of its engagement, when this took place, which bodies it contacted or what criteria it gave them. In short there is no evidence that MOPAC has genuinely undertaken such engagement or more generally conducted a proper search for an alternative site.

#### **MOPAC's Search for Alternative Sites**

7.14 In its Statement of Case, MOPAC states that

*"Despite SEGRO's extensive knowledge of London's commercial property market they do not identify any alternative sites. This further demonstrates the unavailability of suitable sites to provide the VRES Scheme".*

7.15 The above statement appears to reveal a misunderstanding of the CPO process and the duties imposed upon a party seeking compulsory acquisition. It is not for SEGRO as a party whose land is sought by compulsory acquisition, to undertake research and/or provide alternative site suggestions to an acquiring authority. The burden of proof that no alternative sites are or might soon be available lies squarely with MOPAC which cannot rely on the searches conducted by others as a proxy for undertaking its own.

7.16 Notwithstanding the above, SEGRO has instructed Altus Group ("**Altus**"), commercial property advisors, to assist it with understanding the potential for alternative sites being found. Altus provides software and technology –enabled expert services to the commercial real estate industry. Altus acted for SEGRO on its acquisition of Perivale Park in June 2020.

7.17 Altus' core market is industrial and logistics in Greater London and the South East and they specialise in leasing, development and investment from offices in Central London, Heathrow, Dartford and Reigate.

7.18 Adam Coulston (Investment and Development Funding) and Alex Kington (Leasing and Development) are both Chartered Surveyors at Altus, each with over 15 years' experience of the West London market.

7.19 Altus has advised SEGRO since its acquisition of Perivale Park regarding transactions and opportunities which may meet MOPAC's criteria for its VRES operations as undertaken at Unit 16/17 and the Bilton Centre.

7.20 SEGRO instructed Altus to review real estate transactions involving industrial land in the last 3 years; and to search for sites which either are currently, or which may become available in the

near future, against the following criteria which SEGRO believes capture MOPAC's fundamental requirements for VRES operations as described in the Statement of Reasons and MOPAC's Statement of Case. According to the search criteria the alternative site had to:

- (a) be capable of being used or accessed by members of the public;
- (b) be reasonably proximate to public transport (MOPAC's Statement of Case notes that that Order Land is 18min walk from the London Underground; and 5mins from a bus stop);
- (c) be served by either bus, rail or tube but preferably at least two of these;
- (d) be capable of being used and accessed 24 hours a day, seven days a week;
- (e) be located in the North-West area of London;
- (f) be at least six to nine acres of open flat land;
- (g) be close to main road networks;
- (h) have an accessible route from main road networks to the site, which does not pass through residential areas; and
- (i) be physically capable of being accessed by double-decker HGV car transporters on a daily basis.

7.21 In addition, Altus restricted its search to those properties with existing manufacturing, industrial or logistics use.

7.22 The results of the searches undertaken by Altus have been collated and updated over the past six months.

### ***Transactions Search***

7.23 I attach as **Appendix 10**, the results of the search of real estate transactions from 2018-2021 which Altus has prepared – I refer to this as the Transactions Schedule. The Transactions Schedule lists 9 properties and describes:

- (a) the property address
- (b) the purchaser of the property
- (c) its size in acres
- (d) the date of the transaction
- (e) the price paid (per acre)



- 7.24 The final column of the Transactions Schedule includes certain comments on each property and provides a grading of each property against the search criteria in relation to transport and accessibility, where three stars is "excellent"; two stars is "good"; and one star is "poor". A number of the transacted alternative sites could have been suitable for MOPAC's needs.
- 7.25 The Transactions Schedule proves that, whilst land supply is tight in West London there have been numerous sites and investments, some of which would provide short term income, marketed in the last three years that could suit MOPAC's requirements.
- 7.26 If MOPAC were to accept SEGRO's offer of an additional five years' occupation of Unit 16/17 and the Bilton Centre, it would significantly improve MOPAC's chances of finding a site (as evidenced in the Transactions Schedule, where there are 9 transactions listed over 3 years). An additional five years to conduct a search could reasonably be expected to produce fifteen properties which meet MOPAC's criteria.
- 7.27 Its Statement of Case does not make it clear, but MOPAC may have been solely looking for sites for either open land or land with very short tenancies left to run. MOPAC should have considered investment opportunities with mid-term income. A good example of this is the most recent Heritage House Enfield transaction which appears at row 1 of the Transactions Schedule. This is an 11 acre site in Enfield which would be an ideal location for MOPAC's VRES facility based on the criteria listed above. The site would provide just over four years' income from occupational tenants but MOPAC could have acquired that site and taken a 5-6 years lease of the Order Land from SEGRO on Perivale Park whilst MOPAC secured vacant possession of the Enfield site. A proactive strategy such as this would have avoided the need for the use of compulsory acquisition powers.

### **Opportunities Search**

- 7.28 I attach as **Appendix 11**, the results of the search of sites which may become available, which Altus has prepared – I refer to this as the Opportunities Schedule. The Opportunities Schedule lists 7 properties and describes:
- (a) Property address;
  - (b) Area in sq ft and acres;
  - (c) Guide price;
  - (d) Current income; and
  - (e) General comments.
- 7.29 The Current Opportunities Schedule lists sites that could be made available in the future or have been rumoured as being for sale in the past. As with all sales there are no guarantees of their availability of course and as always further opportunities will continue to present themselves in what continues to be a very fluid North West London Industrial / Logistics market. This is further supported by Altus and SEGRO being aware of 50 acres of land in various confidential opportunities that may become available during the course of the next 2-3 years. SEGRO also have in excess of 20 acres that are either optioned or where they have exclusivity

in various locations across West London that could suit MOPAC's requirement should the appropriate planning consents / allocations be forthcoming.

#### **Other Uses Search**

- 7.30 It appears to me from MOPAC's Statement of Case that it focused its search on those sites with manufacturing or industrial use. Given the importance of the search, MOPAC should have considered sites which meet its size and location criteria but which were not used for manufacturing or industrial uses, for example sites with retail use. It is increasingly common for industrial developers to acquire retail/office assets and redevelop them into warehousing sites. It is apparent, however, that MOPAC's search criteria were narrow.
- 7.31 I attach as **Appendix 12**, the results of a search, which Altus has prepared, of recent transactions involving sites which are not currently allocated for warehousing or industrial uses, but which have the potential for a change of use to warehousing/industrial in future. I refer to this as the "Other Uses Schedule". The Other Use Schedule lists 3 properties and describes:
- (a) the property address;
  - (b) the area of the property;
  - (c) the guide price;
  - (d) timing; and
  - (e) general comments.
- 7.32 It is particularly noteworthy that two of the three properties have been purchased by a well-known developer proposing to change the use of the land to warehousing/industrial.
- 7.33 I stress that the results of the search merely serve to illustrate the principle that non-warehousing/industrial sites should be considered as part of a consideration of alternative sites. There would need to be some further development appraisal of the sites in the Other Uses Schedule to fully understand the likelihood of a change of use being granted, however for such a fundamentally important project as MOPAC states that the VRES is, I would have expected MOPAC, through its advisors, to have looked at sites which were capable of being transformed so that they meet MOPAC's requirements.

#### **Wider Geographical Search**

- 7.34 The Statement of Reasons (at paragraph 5.19.8) states that

*"Moreover, the following alternative strategies have not identified any suitable alternative schemes:*

*5.19.8.1 An expanded search to include the Home Counties (ignoring the operational challenges that this would present) and even with this wider search area, no sites were identified.*



- 7.35 In addition to the search results described above, there is a significant number of sites which are located slightly out of the geographical search criteria, but which would nevertheless represent good options to meet MOPAC's needs however these (or similar properties) have not apparently been considered by MOPAC. For example:
- (a) Panattoni Site (AkzoNobel Site) in Slough; a 30 acre site sold in Q3 2020. Access to the site is excellent, with good public transport links; and
  - (b) Park Plaza, Waltham Cross, Jct 25 of M25, a 31.7 acre site, owned by IKEA part of which may come to market soon. The site has excellent road access and good public transport links
- 7.36 Altus did not undertake a thorough search of sites outside of the geographical search criterion, but was nevertheless able to find two sites which ought to have been considered relatively quickly, without a detailed search of sites within the Home Counties. I would expect that a detailed search of this wider area would result in additional sites being found.
- 7.37 Overall, therefore, it is clear that such alternative site searches as MOPAC has carried out have been insufficiently recent, too narrow in their criteria and otherwise inadequate so that it cannot be said that MOPAC has demonstrated a lack of suitable alternatives to the compulsory acquisition of the Order Land.

## 8 GROUND OF OBJECTION THREE – LACK OF EVIDENCE OF SUFFICIENT FUNDING

### 8.1 Paragraph 13 of the Guidance states that

*"If an acquiring authority...cannot show that all the necessary resources are likely to be available to achieve [its idea of how to use the land] within a reasonable time-scale it will be difficult to show conclusively that the compulsory acquisition of the land included in the order is justified in the public interest, at any rate at the time of its making"*

### 8.2 Paragraph 14 of the Guidance states that

*"In preparing its justification, the acquiring authority should address sources of funding" noting that "the acquiring authority should provide substantive information as to the sources of funding available for both acquiring the land and implementing the scheme for which the land is required".*

### 8.3 Paragraph 13 and 14 of the Guidance clearly require MOPAC to provide more than brief or cursory information as to how it will fund the acquisition of the Order Land

### 8.4 To date MOPAC has not provided any substantive information as to the sources of funding available to it for the acquisition of the Order Land. Based upon the offer that MOPAC has made to us for the acquisition of our interests in the Order Land it appears to me that MOPAC does not have a full understanding of the value of the Order Land and therefore how it will fund the acquisition.

### 8.5 Paragraph 7.1 of the Statement of Case states that

*"Sufficient funds have been made available to carry out the compulsory purchase from MOPAC's resources"*

### 8.6 In addition, at Appendix 2 of MOPAC's Statement of Case MOPAC states that

*"VRES is a critical facility for the Metropolitan Police which it cannot afford to lose"*

### 8.7 Finally, MOPAC states that

*"Since almost all of the cost of the CPO process will be paying compensation to SEGRO, there being no other interests affected to any significant degree, the sum approved has not been disclosed because it is commercially sensitive and will impact on the negotiations MOPAC is trying to undertake with SEGRO. The sum approved for MOPAC has been determined by professional valuations and the current situation"*

### 8.8 A bare assertion that an acquiring authority has "sufficient funds" is not sufficient to meet the requirements of paragraphs 13 and 14 of the Guidance.

Explaining that an asset is too important to lose does not meet the specific requirement of the Guidance.

- 8.9 I accept that the most significant costs associated with the Order will be the payment of compensation to SEGRO if the Order is confirmed and exercised. However the Guidance is clear that a compulsory purchase order must be justified in the public interest and to do so, an acquiring authority must provide substantive information as to the sources of funding. The Guidance does not permit an acquiring authority to withhold funding information in order to give itself a 'boost' in negotiations with landowners.
- 8.10 I also accept that there are not likely to be any material costs of implementing the scheme on the basis that MOPAC proposes to continue its existing operations.
- 8.11 MOPAC's Statement of Case only references funding in relation to responding to SEGRO's objection and fails to address the issue substantively.
- 8.12 Without demonstrating sources of funding the CPO cannot be justified as being in the public interest. The Guidance does not allow commercial confidentiality as means of shielding an acquiring authority from providing information regarding funding sources.

**9 GROUND OF OBJECTION FOUR – NO COMPELLING CASE IN THE PUBLIC INTEREST TO ACQUIRE THE ORDER LAND FOR THE PURPOSES SOUGHT BY MOPAC**

- 9.1 The Guidance states at paragraph 2 that “...a compulsory purchase order should only be made where there is a compelling case in the public interest”
- 9.2 There must be clear and compelling evidence provided by the acquiring authority that there is sufficient public benefit from a compulsory acquisition to outweigh the compulsory acquisition of a person's land.
- 9.3 SEGRO recognises that the functions performed by the VRES may be an important part of MOPAC's operation and are important to the wider public for the reasons illustrated by MOPAC in its Statement of Case.
- 9.4 However MOPAC has not put forward a compelling case that the continued provision and operation of VRES is dependent upon the use of compulsory purchase powers. Compulsory acquisition powers should only be used as a last resort, and may not be used as a matter of convenience for an acquiring authority or to correct a defective property strategy.
- 9.5 The consequences of the Order for SEGRO would be the loss of land and therefore an interference with SEGRO's rights under the Human Rights Act 1998 which provides for the protection of property and the peaceful enjoyment of possessions (amongst other things).
- 9.6 SEGRO's own plans for Perivale Park will bring significant public benefit as outlined in Alan Holland's evidence. These public benefits, including current planning policies relevant to Perivale Park, must be taken into account and weighed against the public benefit claimed by MOPAC for the ability to continue to provide its services on this particular site.

## **10 SUMMARY AND CONCLUSIONS**

- 10.1 For the reasons set out above SEGRO strongly resists the confirmation of the Order
- 10.2 MOPAC has failed adequately to engage with SEGRO in order to explore the possibilities of continuing to discharge its statutory function other than by the compulsory acquisition of the Order Land and/or has failed to demonstrate that the CPO is a measure of last resort.
- 10.3 MOPAC has failed to demonstrate that freehold ownership of the Order Land is required in order for it to discharge its statutory functions and/or that there is no other site which could be used as an alternative means of bringing about the objective of the CPO.
- 10.4 MOPAC has failed to show that all the necessary resources are likely to be available to meet the costs of acquisition of the Order Land within a reasonable time-scale.
- 10.5 MOPAC has failed to demonstrate that there is a compelling case in the public interest for the CPO and the interference it would represent to SEGRO's property rights, both for the reasons set out above and summarised in this Summary and Conclusions section but also because of the negative impact to the public interest which would result from the CPO and the consequential loss of those public benefits detailed by Alan Holland in his proof of evidence.
- 10.6 For all of these reasons SEGRO considers that there is insufficient justification for this CPO.

Signed  20 April 2021

Ben Gomez-Baldwin