



Report to the Secretary of State for Communities and Local Government

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**an Inspector appointed by the Secretary of State for
Communities and Local Government**

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Town and Country Planning Act 1990
Bexley Council and Dartford Borough Council
Applications by
ProLogis Developments Ltd
Howbury Park Railfreight Interchange

Inquiry opened on 24 April 2007

Land adjacent to South Eastern Trains Depot, Slade Green, Bexley

File Refs: APP/T2215/A/05/1185897 & APP/D5120/A/05/1198457

File Ref: APP/T2215/A/05/1185897

Land adjacent to South Eastern Trains Depot, Slade Green, Bexley

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by ProLogis Developments Ltd against the decision of Dartford Borough Council.
- The application Ref DA/04/00803/OUT, dated 9 August 2004, was refused by notice dated 8 February 2005.
- The development proposed is a rail freight interchange with dedicated intermodal facility and rail-linked warehousing.
- The inquiry sat for 20 days on 24 April to 1 June 2007.

Summary of Recommendation: That the appeal be allowed and planning permission granted, subject to the conditions set out in Appendix E.

File Ref: APP/D5120/A/05/1198457

Land adjacent to South Eastern Trains Depot, Slade Green, Bexley

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by ProLogis Developments Ltd against the Council of the London Borough of Bexley.
- The application Ref 04/04384/OUTEA is dated 9 August 2004.
- The development proposed is a rail freight interchange with dedicated intermodal facility and rail-linked warehousing.
- The inquiry sat for 20 days on 24 April to 1 June 2007.

Summary of Recommendation: That the appeal be allowed and planning permission granted, subject to the conditions set out in Appendix E.

CONTENTS

1. Introduction and Procedural Matters.....	3
2. The Site and Surroundings	7
3. The Proposal.....	9
4. Common Ground.....	12
5. Planning Policy	18
6. The Case for ProLogis Developments Ltd.....	27
7. The Case for Bexley Council	58
8. The Case for Dartford Borough Council.....	93
9. The Case for Kent County Council.....	96
10. The Case for Slade Green Community Forum.....	100
11. The Case for Bexley LA21 Natural Environment Focus Group.....	106
12. The Case for The London Wildlife Trust.....	110
13. The Case for Individual Objectors to the Proposal	111
14. Written Representations	114
15. Conclusions.....	120
16. Recommendation.....	169
APPENDIX A – Appearances.....	170
APPENDIX B - Documents.....	172
APPENDIX C - Plans	184
APPENDIX D - Abbreviations	186
APPENDIX E - Conditions.....	189

1. INTRODUCTION AND PROCEDURAL MATTERS

- 1.1 The inquiry opened on 24 April 2007 and sat for 20 days before adjourning on 1 June. The adjournment was at the request of ProLogis to allow time for a revised visual impact analysis and photomontages to be prepared, taking account of changes to restoration levels on the adjacent landfill site which were found during the course of the inquiry not to match those surveyed in 2004 and used to prepare the visual impact analysis contained in the Environmental Statement (ES), or indeed those permitted by the planning permission for the landfill. This information was produced and a Supplementary ES was published in July 2007 (PDL/0.17). It was advertised and sent to all consultees, with a request that any representations on the material supplied be sent to the Planning Inspectorate (PINS) (INQ6). This was followed up by a letter from PINS to all participants at the inquiry setting a deadline for responses of 24 August 2007 and asking if anyone wished to be heard at the resumed inquiry (INQ7). Eight responses were received (INQ8), none of which requested that the inquiry resume sitting.
- 1.2 Following receipt of the responses, a letter was sent by PINS (INQ9) on my behalf asking the landscape witnesses for ProLogis and Bexley Council to meet and, if possible, agree common ground with regard to differences in the montages presented in the Supplementary ES and Bexley Council's response thereto (LBB2.11). A response was duly received (CD7.10). In a second letter to the Rule 6 parties (INQ10) I formally set out my position with regard to the changes to the design shown on the drawings included with the Supplementary ES (see paragraph 1.14 below), and the need for changes to one of the agreed conditions (without prejudice). One response was received agreeing to my proposals (PDL/0.18).
- 1.3 By 7 September it was clear to me that no useful purpose would be served if the inquiry were to resume sitting on the date arranged. I accordingly arranged for PINS to notify the parties in writing that the inquiry was closed (INQ11).
- 1.4 During the course of the inquiry I made accompanied visits to the site and the surrounding area with the landscape witnesses on Monday 14 May. On Tuesday 29 May I made a further accompanied visit to the site and the surrounding area with representatives of ProLogis and Bexley Council. This visit took in Howbury Farm, parts of Crayford Marshes and Slade Green and Dugdale Wharf. The following day I made accompanied visits to the rail freight terminals at Barking and Willesden, again with representatives of ProLogis and Bexley Council. Before the inquiry opened, I visited the Daventry International Rail Freight Terminal (DIRFT) with representatives of Bexley Council, ProLogis and the Highways Agency. I also made several unaccompanied visits to Slade Green, the footpaths about the site and other features referred to in the evidence.
- 1.5 The application site straddles the boundary between the London Borough of Bexley and the Borough of Dartford. In August 2004 identical planning applications were submitted to Bexley Council and Dartford Borough Council. They were each described as being for:

“A rail freight interchange with dedicated intermodal facility and rail-linked warehousing.”

- 1.6 Both applications were in outline with design, external appearance and landscaping reserved for future consideration. They were accompanied by an ES, a planning statement, design statement, landscape design statement, rail report, alternative sites report, public consultation report, flood risk assessment and transport assessment.
- 1.7 Information supplied on the application forms gave the site area as 63.83ha. The area of rail-linked warehouses proposed was given as 198,000m². The main access to the site was shown as being from the roundabout at the junction of Bob Dunn Way, Thames Road and Burnham Road, via a lifting bridge over the River Cray. A secondary pedestrian and cycle route was shown connecting the site to Moat Lane, Slade Green.
- 1.8 In February 2005, Dartford Borough Council refused planning permission for that part of the development within the Borough of Dartford.
- 1.9 In June 2005 Bexley Council requested further information, under Regulation 19 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (the EIA Regs). In response a revised ES was submitted, together with revised drawings and a number of reports (the November 2005 submission). The appeal against Bexley Council’s failure to determine the application was lodged in March 2006.
- 1.10 Bexley Council considered the application at Committee on 1 August 2006 (CD1.1). At that meeting it was resolved that, in the absence of the appeal, the Council would have been minded to refuse planning permission for 15 reasons. Of these, 8 reasons referred to a lack of sufficient information to enable the authority to fully assess the application.
- 1.11 At the pre-inquiry meeting in January 2007, ProLogis advised that a revised planning application and accompanying ES was being prepared and would be submitted by the end of the month (INQ1). The amendments were considered to be minor and the changes to the ES were primarily intended to address the alleged shortcomings identified in Bexley Council’s report to Committee. A plan was circulated showing the revisions proposed to the red line boundary and electronic copies of the revised ES were given to those requesting them. The changes proposed included changes to the warehouse roof design to incorporate sections of green roof and photovoltaics, a revised drainage strategy, provision of an access road for buses to the site from Moat Lane, revisions to the proposed roundabout at Thames Road/Bob Dunn Way to allow for the Thames Road dualling works, and provision of access tracks to the banks of the River Cray for the Environment Agency.
- 1.12 The revised ES was advertised and copies placed on deposit in accordance with the procedural requirements laid down for the submission of further environmental information under Regulation 19 of the EIA Regs. Subsequently, in February 2007 ProLogis proposed that the works to the banks of the River Cray should be extended,

following further comments from the Environment Agency. The site application boundary plan was amended, as was the plan showing the proposed profile of the riverbed.

- 1.13 On opening the inquiry, I announced the revisions and asked if everyone was content that the inquiry should proceed (and the Secretary of State should reach her decision) on the basis of the revised plans. No one objected.
- 1.14 The plans were further revised on submission of the Supplementary ES in July 2007. The revisions were, to my mind, minor and in a letter dated 29 August 2007 (INQ10) PINS wrote to ProLogis, the two planning authorities and the Rule 6 parties formally proposing that I should complete my report, and the Secretary of State should reach her decision, on the basis of the proposals presented in the Supplementary ES. No one objected.
- 1.15 At the inquiry two Section 106 (S106) Unilateral Undertakings were submitted, executed by ProLogis and the landowners (PDL/0.15 and PDL/0.16).
- 1.16 The first of these (PDL/0.15) covers non highway obligations and provides, amongst other matters, for various measures to encourage the take up of rail use. These include undertakings to complete the intermodal terminal and other rail infrastructure before any of the rail-served warehouses are occupied and to provide rail sidings to each of the warehouses before they are brought into use. £3,000,000 is to be set aside in a rail subsidy fund to provide lift subsidies for users of the intermodal terminal in the first three years of operation and to secure a regular train service between the site and an appropriate rail freight hub. There is provision in the undertaking to increase this funding to £4,000,000 if necessary and to apply the money to alternative measures to encourage rail use if that is agreed to be appropriate. Further funding is provided to support the work of the Thames Gateway Sub-Regional Freight Quality Partnership, and to finance the appointment of a Rail Officer at Transport for London (TfL). A rail freight plan is required to be submitted containing specific actions to encourage rail freight with the aim of building the amount of goods arriving at the warehouses by rail to at least 25% by weight by the end of the first 10 years of operation. The undertaking also requires that a second rail chord be provided at the entrance to the site (to allow a train to enter the site whilst a second train is waiting to depart) as soon as traffic exceeds 24 trains per week, or within 10 years from commencement of development, in any event. Gantry cranes are required to be provided in the intermodal terminal within the same timescale.
- 1.17 On nature conservation, the obligation provides for the submission of a plan for the management and maintenance of the Marshes Trust Land, the extent of which is defined in the agreement. The land is to be transferred for a nominal consideration to a trust set up to maintain and manage the land. An endowment¹ is to be provided to

¹ Inspector's note. The body to whom the land will be transferred is not specified in the undertaking; neither is the amount of the endowment given. The expectation, however, is that the London Wildlife Trust would take

secure this. The Grade II listed tithe barn is to be refurbished and transferred to the same body to whom the Marshes Trust Land is transferred.

- 1.18 On public transport, the undertaking provides for £180,000 to be paid to extend the No 89 bus route into the site, or alternative measures to maximise the use of public transport by persons employed at the development. Money is also required to be paid to provide noise insulation to five houses on Moat Lane, to improve local footways and cycleways, to improve Slade Green Station and to fund employment and training initiatives. A local liaison group is required to be established to monitor the implementation of the development.
- 1.19 The second undertaking (PDL/0.16) covers highway obligations. It provides for a travel plan co-ordinator to be appointed to secure the implementation of the Framework Employee Travel Plan/Freight Management Plan (PDL/5.21). It provides for employee travel patterns to be monitored and for measures to be taken to achieve a car mode share for employees of no more than 70% of inbound and outbound trips between 07.00 and 10.00 and 16.00 to 19.00 within 2 years of occupation. Ultimately it aims to reduce the equivalent car mode share to 56% of trips. It further provides for up to £500,000 to be paid for works to increase the capacity of M25 Junction 1a and for goods vehicles leaving the site to be monitored and, if necessary, controlled to specified levels in the morning and evening peak periods. A series of remedial actions are specified if the number of goods vehicles is found to exceed that allowed, culminating in the installation of traffic signals to restrict the number of goods vehicles leaving the site to the permitted levels.
- 1.20 As noted above, an Environmental Statement was submitted with the application (CD1.6). Further environmental information was supplied with the proofs of evidence and during the course of the inquiry, including a Supplementary ES (see paragraph 1.1 above). In reaching my conclusions and recommendations, I have taken this environmental information into account.
- 1.21 Chapter 2 of this report contains a description of the site and the surrounding area. This is followed by chapters briefly describing the proposal; setting out those matters which are common ground between the parties; and summarising the relevant planning policies. The following chapters set out the gist of the cases made by each of the inquiry participants, case by case. The main points made by those who submitted written representations are also recorded. The final chapters contain my conclusions and recommendations.
- 1.22 A list of those appearing at the inquiry is contained in Appendix A. Documents and plans submitted to the inquiry are listed in Appendices B and C. Appendix D contains a list of abbreviations used in this report.

on responsibility for the management and maintenance of the land and that an endowment of some £2 million would be provided to secure this (LWT3).

2. THE SITE AND SURROUNDINGS

Inspector's Note. An oblique aerial photograph of the appeal site and parts of the surrounding area can be found in the Design Statement (Planning Statement, Volume 1, Section 3, p3). The boundary of the application site is shown on Drg 2144/PL/52C. The topography is shown graphically on a plan in the ES, Volume 5a, Appendix B, Figure B2.

- 2.1 The application site has an area of approximately 64ha. It comprises mainly open, gently undulating, grassed fields used in part for the grazing of animals. The Grange stands near the centre of the site. It was built and originally used as a dwelling house, but is now in commercial use. A group of mature trees stand within the curtilage of the Grange, but otherwise the site is open, with the exception of hedgerows alongside Moat Lane and close to the site's northern boundary.
- 2.2 The southern section of the main body of the site, to the north of the River Cray, is currently a landfill site, but this is expected to be landscaped and restored by 31 December 2007 (LBB0.3). To the south of the River Cray a corridor of land approximately 50m wide extends across open marshland to a roundabout on the A206 at the junction of Bob Dunn Way, Thames Road and Burnham Road. A second spur from the main body of the site runs between the Grosvenor Waste Depot and part of Southeastern's Slade Green Depot to connect to the North Kent rail line.
- 2.3 Existing ground levels on the main body of the site range from a maximum of 13.5m AOD at the Grange to approximately 5.0m AOD at the northern site boundary.
- 2.4 As to the surroundings, the south-western boundary of the site runs parallel to Southeastern's depot buildings and sidings, beyond which is the North Kent rail line. A strip some 50m wide would remain between the depot and the site boundary, however, which has been reserved to accommodate a possible future depot for Crossrail rolling stock. To the south of the train depot, the buildings and yard occupied by Grosvenor Waste abut the site boundary.
- 2.5 The southern boundary of the main body of the site follows the line of the footpath and cycleway which runs along the northern bank of the River Cray eastwards towards the River Darent. A former landfill site, now restored to grassland, occupies the land between the eastern boundary of the site and the River Darent.
- 2.6 The northern boundary of the site follows the line of Moat Lane. This road, which is unmade where it abuts the site boundary, is open to traffic for a distance of some 200m east from the junction with Hazel Road, beyond which it continues as a footpath and cycleway out to the River Darent. A pair of houses (Nos 71 and 73 Moat Lane) front this road and face the appeal site, and three further houses sit slightly to the north, close to Howbury Farm and Moat (Nos 1, 2 and 3 Moat Farm Cottages). Howbury Moat (LBB2.3, DrgDH1, photo DHA5) is a scheduled ancient monument. To the north of the cottages, a substantial Grade II listed tithe barn dominates the small group of farm buildings.

- 2.7 The main body of Slade Green lies to the north and west of the site, with Slade Green Station some 250m from the north-west corner of the site. At this corner, houses on Moat Lane and Oak Road lie close to the site boundary, many of which are in a conservation area (PDL/3.9). Houses at the southern end of Hazel Road are only marginally further from the site. Further to the north, some of the houses on Leycroft Gardens and other roads on the fringes of Slade Green look out over playing fields towards the site.
- 2.8 To the north of Moat Lane, east of Howbury Moat, there is open marshland (the Crayford Marshes) which extend out to the Rivers Darent and Thames. The Darent Industrial Estate (also known as the Crayford Ness Industrial Area) sits at the junction of these two rivers. On the opposite side of the River Darent there is further marshland (the Dartford Marshes) which extends east to the edge of Dartford.
- 2.9 There are no public footpaths or other rights of way within the site boundary except for a short length of path along the northern bank of the River Cray, which lies within the site boundary where the river crossing is proposed (see paragraph 3.8 below).
- 2.10 Settlements surrounding the site include Dartford, to the east and south and Crayford to the south and west. Erith lies beyond Slade Green to the northwest.
- 2.11 The main road serving the site is the A206, which leads from Junction 1a of the M25 westwards towards Erith, Belvedere and Thamesmead. This is a dual carriageway from the M25 to the Bob Dunn Way/Thames Road roundabout and at the time of the inquiry works were in progress to dual the “missing” section of Thames Road. These works, however, no longer include replacement of the railway bridge which crosses the road some 200m west of the Bob Dunn Way/Thames Road roundabout, and the carriageway will be reduced to a single lane in either direction at this point.
- 2.12 The boundary between the London Borough of Bexley and the Borough of Dartford follows the line of the River Cray through the appeal site.

3. THE PROPOSAL

Inspector's Note. The applications were made in outline, with all matters reserved for future consideration except access and siting. Notwithstanding this an agreed condition would require the development to be carried out substantially in accordance with the principles illustrated on the Development Parameters Plan - Drawing No 2111/PL/49D - i.e. substantially in accordance with the scheme considered in the Environmental Statement (PDL/0.15, Condition 4).

- 3.1 The proposal is for a strategic rail freight interchange comprising an intermodal rail freight area and four rail-linked warehouses with an aggregate floor area of 198,000m².
- 3.2 The site would be linked by road via a new lifting bridge over the River Cray to a replacement roundabout on the A206 at the junction of Bob Dunn Way, Thames Road and Burnham Road. By rail it would be linked to the North Kent Rail Line via an existing, disused connection through Southeastern's Slade Green Depot. A secondary road access to the site would connect the site to Moat Lane, but use of this access would be restricted to pedestrians, cyclists and public service or other buses specifically authorised to use the access.
- 3.3 The rail-linked warehousing would be provided in four separate units (see Development Parameters Plan). Unit A would be the largest, with a floor area of approximately 106,250m². Unit B would be 46,650m². Units C and D would be 31,150m² and 13,950m² respectively. All units would be of similar design, with roofs supported by cables. The maximum ridge height of the warehouses would be 14.7m above finished floor level. The height of the columns supporting the cables would be 24.0m. The finished floor level of all the warehouses would be 9.1m AOD.
- 3.4 Railway lines would be provided along one side of each of the warehouses. The other side would have docking bays for heavy goods vehicles (HGVs). Ancillary offices would be provided within the warehouses, with nearby car parking at the northern and southern ends of the site. In total 1,167 car parking spaces are proposed. The main parking area for HGVs would be within the service yards between Unit A and Units B and C.
- 3.5 Three rail sidings would be provided in the intermodal area. Each of these would be capable of holding trains of 420m to 460m in length, but longer trains (up to 775m) could be brought to the site if required, and split on arrival (PDL/6.17). Initially it is proposed that containers passing through the intermodal area would be handled using reachstackers, but as traffic builds these would be replaced by gantry cranes. Initially the sidings would be connected to the North Kent Line via a single chord which would accommodate incoming and outgoing trains, but the design allows for this chord to be doubled as traffic increases.
- 3.6 The main road serving the site would connect to the A206 at the junction of Bob Dunn Way and Thames Road. This would then pass around the eastern boundary of the site before turning westwards to reach the main service yards situated between the warehouses. This route is designed to avoid the road having to cross the railway

- tracks. A connection from the southern end of the yard, would link the road system to Southeastern's Depot and the land safeguarded for Crossrail. Another connection from the main access road would lead to the Grosvenor Waste site.
- 3.7 The yard serving the intermodal area would measure some 3.4ha. It would be used for the handling and storage of containers, swap bodies and other intermodal units. The height of containers stored on the site would be limited by condition to a maximum of 12m.
- 3.8 Pedestrian and cycle routes would be provided on the site alongside the main vehicle routes. Further routes would be provided through the landscaped areas linking through to Moat Lane. The existing public footpath and cycle route which runs along the north bank of the River Cray would remain on its present alignment, passing under the new access roadway bridge approach structure. Vehicular access for the Environment Agency to both banks of the River Cray would be provided.
- 3.9 Non-operational areas at the southern end of the site and between the access roadway and the eastern site boundary would be landscaped. Alongside the northern boundary, mounding would screen the activities on site from users of Moat Lane. This would be planted with groups of trees on the upper slopes and would wrap around the north-west corner of the site to provide screening to Oak Road. A wetland ecological area would be provided near the Moat Lane boundary and hedgerow.
- 3.10 An acoustic fence would top the mounding at its narrowest point (see plan) and further acoustic fencing would be provided close to the railway line at the north-east corner of Unit A.
- 3.11 A public pocket park is proposed on land at the north-west corner of the site.¹
- 3.12 At the main entrance to the site the existing roundabout at the junction of Bob Dunn Way, Thames Road and Burnham Road would be replaced with a larger roundabout. This would incorporate a pelican crossing on the Thames Road arm.
- 3.13 As to the design of the buildings, this would be a reserved matter. It is envisaged, however, that the buildings would be built to a high specification and would incorporate a range of measures to increase their sustainability. These are detailed in the Design Code (ES, Volume 5a, Section A) and would be secured by an agreed condition (PDL/0.13, Condition 6). They include the provision of some 28,240m² of green roof and 6,285m² photovoltaics and other measures to reduce CO₂ emissions. Rain water from the roofs would be collected and used to reduce on-site water consumption, whilst run-off from other parts of the site would be directed via

¹ Inspector's Note. Whilst a public pocket park is proposed in the (amended) planning application, at the inquiry both Bexley Council and Slade Green Community Forum voiced concerns regarding its provision (see LBB0.2 and para 10.17 below). The suggested conditions allow for it to be deleted (see para 6.19 below).

- treatment ponds to swales and infiltration trenches, with multiple controlled connections to the Crayford Marshes.
- 3.14 The site would operate around the clock. External lighting would be provided to illuminate the working areas, roads, car parks etc. Asymmetrical floodlights on 18m high columns would be used in the intermodal area and service yards, with baffles if required to control light spill and glare. Car parks and roads would be lit with conventional full cut off road lanterns.
- 3.15 As noted in paragraph 1.1 above, a Supplementary Environmental Statement (ES) was submitted during the course of the inquiry. This was necessary to take account of inconsistencies, discovered during the course of the inquiry, between the (“as constructed”) restoration levels of the adjoining landfill surveyed during the course of the inquiry and those previously surveyed in 2004 on which the ES was based. Amended application plans and illustrative plans accompanied this Supplementary ES (see Appendix C). These show how the design of the access road and its earthworks would be adjusted to tie in to the as constructed levels of the landfill (Scheme 2). Further illustrative plans were also provided showing how the design would be adjusted should the adjoining landfill be re-profiled to match the restoration levels for which planning permission was granted (Scheme 1).
- 3.16 In the context of the scale of the scheme, the changes are minor and are essentially confined to the area of earthworks between the access road and the eastern site boundary. With Scheme 1, the embankment slopes would be less steep than originally assumed (Supplementary ES, Figures B3 and B4, Sections D1, E1 and F1). With Scheme 2, a 90m length of gabion wall would be introduced at the foot of the cutting to the east of the access road, and the adjoining cutting slopes would be steepened (ibid, Figures B5 and B6). Both schemes would also involve minor adjustments to the earthworks on the northern side of the proposed bridge over the River Cray.
- 3.17 As part of this revision, ProLogis also proposed filling and re-profiling the area of land lying in the north-east corner of the site between the access road and the eastern site boundary. This was done in response to suggestions made at the inquiry in order to enhance the screening of the development, and particularly the intermodal area, from viewpoints located to the north-east of the site.

4. COMMON GROUND

Inspector's Note. A statement of common ground covering planning matters (CD7.2) was agreed between ProLogis, Bexley Council and Dartford Borough Council. Further statements covering air quality (CD7.4), noise (CD7.5 and CD7.8) and lighting (CD7.7) were agreed between ProLogis and Bexley Council. A Statement of Common Ground with the Environment Agency (CD7.1) sets out the parties agreed positions on surface water drainage, flood risk, the River Cray crossing and ecological/nature conservation matters. Below I set down the gist of those matters included in the statements that are not covered elsewhere in this report.

Planning

- 4.1 The statement of common ground on planning (CD7.2) contains a description of the site and surrounding area (see Section 2 above) and a description of the proposed development (see Section 3 above). The planning history of the appeal site is set out, together with the history of the planning applications, now subject to the appeals. Section 6 of the document lists the national, regional and local planning guidance and policies which the parties agree to be relevant to the consideration of the appeal proposals (see Section 5 below).
- 4.2 The final section of the planning document records the policy designations covering all or part of the application site as:
1. Metropolitan Green Belt;
 2. Area of Archaeological Search;
 3. Site of Borough Importance for Nature Conservation (Grade II – the Crayford Landfill Area);
 4. Site of Metropolitan Importance for Nature Conservation (the River Thames and Tidal Tributaries);
 5. Heritage Land; and
 6. Primary Employment Area (Thames Road Employment Area).
- 4.3 Policy designations applying to land adjacent to or near the application site are listed as:
1. Scheduled Ancient Monument (Howbury Moat);
 2. Site of Metropolitan Importance for Nature Conservation (the Crayford Marshes); and
 3. Site of Nature Conservation Interest (the Dartford Marshes).

Air Quality

- 4.4 It is agreed that there is potential for dust and PM₁₀ impacts from construction activities at receptors less than 200m away from the source, but that the mitigation measures proposed in the air quality chapter of the revised ES are reasonable and proportionate to control these emissions (CD7.4, Section 5). It is further agreed that an Environmental Management Plan would be prepared for the construction phase of the development which would have regard to the Londonwide Best Practice Guide for minimising the generation of dust and particulate matter (ibid).
- 4.5 Once the development is operational, it is agreed that the air quality impacts for NO₂ and PM₁₀ would range from minor adverse to insignificant. Traffic associated with the development is not predicted to result in exceedances of the current statutory objectives for annual average and daily average PM₁₀ concentrations. It is further agreed that any increase in NO₂ concentrations close to the main transport routes would have only a minor impact. Accordingly, Bexley Council has no objection to the proposed development on air quality grounds (CD7.4, para 5.6).

Noise

Baseline

- 4.6 It is agreed that the baseline noise data used in the ES is generally representative of the existing background and ambient noise levels in the closest residential areas to the north and north-west of the site. Notwithstanding this, data from a survey undertaken in February 2007 recorded significantly lower background noise levels for a short period during a weekend day and night when the wind direction was northerly. It is accordingly agreed that there would be occasional periods when background noise levels at residential properties that would be affected by noise from the development would drop below those used in the ES. However, these will be associated with particular wind directions that vary from the prevailing conditions and which are not favourable to the propagation of noise from the site towards these properties (CD7.5, paras 4.1 to 4.5).

Construction Phase

- 4.7 It is agreed that emissions of noise and vibration are an unavoidable consequence of construction activities but that their generation can be successfully reduced by mitigation measures. It is further agreed that the mitigation measures set out in the ES for the construction phase are reasonable and appropriate. Bexley Council accepts the results and conclusions of the construction phase impacts set out in the ES (CD7.5, paras 4.7 to 4.10).

Operational Phase

- 4.8 It is agreed that noise from traffic using the access roads on the site would result in the noise levels at the south-east façades of 1, 2 and 3 Moat Farm Cottages and the south façades of 71 and 73 Moat Lane with the windows open exceeding the WHO

Community Noise Guideline Level of 30dB $L_{Aeq,8h}$ for inside a bedroom at night. It is further agreed that, notwithstanding that the existing noise level would exceed that limit by a similar margin, it would nonetheless be appropriate to offer the occupiers of those properties double glazing and sound attenuating mechanical ventilation (CD7.5, paras 4.11 to 4.15).

- 4.9 As to noise from vehicles, plant and other activities on the site, it is agreed that, with mitigation, operational noise levels at houses on Oak Road, Moat Lane and Leycroft Gardens would be such that, when assessed in accordance with BS4142 against the background levels contained in the ES, the impact would be of “*less than marginal significance*” if the noise levels are assumed to be the mean noise levels calculated using the CONCAWE methodology (CD7.5, p58). However, if 5.7dB is added to these levels (representing the 95% confidence limit for the CONCAWE methodology) the night-time levels at Oak Road and Moat Lane would lie between values that are of “*marginal significance*” and a “*positive indication that complaints are likely*” (ibid, para 4.23 and p59).
- 4.10 With regard to noise from trains, it is agreed that a shunting locomotive standing or operating at the northern end of the proposed siding to the west of Unit A would result in significant noise impact without mitigation at the south façade of properties towards the east end of Oak Road, particularly at night. However, this could be mitigated by an appropriate acoustic screen at the north-west corner of Unit A, which would achieve at least 15dB(A) attenuation (CD7.5, paras 4.27 to 4.29).
- 4.11 As to the cumulative impact of the individual noise sources, it is agreed that there is no all encompassing method that reconciles the different ways in which different noise sources are perceived. However, if the methods employed in the ES are used, daytime impacts are in all cases assessed to be “*slight*”. At night the impacts are assessed as “*slight*” at all locations except 71/73 Moat Lane, where the impact would be “*moderate*”. This assessment is based on external noise levels, however, and it is agreed that residents in insulated bedrooms would experience little, if any, noise impact from the development (CD7.5, paras 4.30 to 4.36 and p65).
- 4.12 At Oak Road the cumulative noise levels from the development are not predicted to exceed the appropriate WHO guideline, and external noise levels due to road traffic noise from the access road would be 1.5dB below the guideline. However, measured existing noise levels at 36 Oak Road already exceed the level that would ensure a “*good*” standard in bedrooms at night and the contribution of the development overall would result in a 1.6dB(A) increase (CD7.8).

Lighting

- 4.13 It is agreed that in terms of light trespass, glare and sky glow the scheme, with the mitigation proposed, would comply with the guidance outlined in the ILE *Guidance Note for the Reduction of Obtrusive Light*. General light levels would fall to below 1 lux well within the site boundary and 40m from the nearest property on Moat Lane. If permission is granted, conditions are recommended to ensure that lighting used during both the construction and operational phases is appropriate (CD7.7).

Environment Agency Matters

- 4.14 By letter dated 31 March 2006 to Bexley Council,¹ the Environment Agency registered three objections to the proposed development. These related to:
1. An absence of sufficient detail of the works proposed in the vicinity of the River Cray, coupled with a concern that the proposal could prejudice flood defence interests and restrict the Agency's access to the watercourse.
 2. The encroachment into the River Cray and the potential consequences for the hydrology of the river and the stability of nearby river banks and flood defences.
 3. The need for the drainage strategy to more fully incorporate sustainable drainage systems in the design and the need to demonstrate that surface runoff from the development would not adversely affect the Crayford Marshes and the River Cray.
- 4.15 Guidance on how these objections might be overcome was set out in the letter. The letter further noted that flood risk and ecological impacts and mitigation were key issues for the Environment Agency for the proposal.
- 4.16 In response to this, ProLogis and their consultants submitted revised drawings for the River Cray crossing, showing how access to the river banks would be provided for the Agency. The surface water drainage strategy for the site was refined and further information supplied. Several studies and reports from specialist consultants were also commissioned to address the Agency's key concerns. A dialogue with the Agency was established culminating in the Statement of Common Ground (CD7.1). This confirms, amongst other matters:
1. That the Agency is satisfied with the proposals detailed on the additional drawings showing works in the vicinity of the River Cray and that the detailed design of the access routes to the riverbanks is a matter that can be dealt with by condition (CD7.1, para 2.3).
 2. That the Agency is satisfied with the work undertaken in the fluvial geomorphology survey, bridge scour assessment, contaminated sediment survey, fish population data review and the River Cray flood embankment stability assessment (CD7.1, paras 3.10, 3.16, 3.21, 3.27 and 3.33) and that details of the fendering arrangements for the bridge piers can be dealt with by condition (ibid, para 3.2).
 3. That the concerns relating to the impact on the Crayford Marshes have been addressed (CD7.1, para 4.35) and the revised drainage proposals for the site would accord with the Agency's requirements such that their

¹ A copy of this letter can be found with the questionnaire.

objection could be removed, subject to the imposition of conditions (ibid, paras 4.7, 4.28 and 4.57).

4. That fluvial flood risk is not significant in relation to the risk posed by a breach in the River Thames defences (CD7.1, para 5.29). Furthermore, since the tidal defences are recently constructed and well maintained, it is considered that the chances of such failure are extremely remote and of a much lower probability than 0.1% (ibid, para 5.31). The risk posed by flood defence failure, failure in defence structure operation and the combination of flood generating process is less significant than that resulting from a breach in the tidal defences (ibid, para 5.32).¹
5. That loss of flood plain storage volume consequent upon the development would be negligible and would be more than offset by the compensation storage provided in the pocket park (ibid, para 5.34).
6. That there are no sites statutorily designated for their nature conservation interest within the zone of influence of the development (CD7.1, para 6.12).
7. That the area of the Crayford Landfill Site of Borough Importance Grade II within the appeal site boundary is of limited nature conservation value and any loss as a result of the proposals will be replaced by new habitats of increased biodiversity value (CD7.1, para 6.14). Other habitats within the appeal site are of limited nature conservation interest and their loss would not be of particular significance (ibid, para 6.20).
8. That measures undertaken within the appeal site would ensure that the hydrology of the Crayford Marshes Site of Metropolitan Importance would not be compromised. Future management of the marshes would represent a significant gain for biodiversity (CD7.1, para 6.16).
9. That losses to reed bed habitat at the proposed River Cray crossing in the River Thames and Tidal Tributaries Site of Metropolitan Importance would be mitigated by the creation of new reed beds and the riverbank set back. The new tidal pond to be created in the south of the appeal site would offer new habitat for fish, plants, birds and invertebrates (CD7.1, para 6.18).
10. That the area represents good habitat for bats, but activity levels are low, maybe due to the lack of good roost sites. New roosting opportunities provided at the proposed bridge over the River Cray would represent a significant gain for this group (CD7.1, paras 6.25 and 6.26).

¹ At the time the Statement of Common Ground was prepared, the flood risk assessment had not been updated to take account of the revised guidance in PPS25.

11. That evidence of water voles was recorded in a channel in the south of the appeal site in 2005, but not subsequently; a check survey would be undertaken for this species and mitigation agreed if appropriate. Also, that the important water vole population in the Crayford Marshes would benefit from the proposals (CD7.1, para 6.26).
12. That birds recorded on the appeal site, which included two Wildlife and Countryside Act Schedule 1 birds and a number of Red and Amber list species of conservation concern, do not rely on the appeal site. Measures proposed in the form of new habitats and enhanced nesting opportunities would mitigate for the losses (CD7.1, para 6.27).
13. That habitats to be provided for reptiles, amphibians, fish and invertebrates would mitigate for any losses in habitat for these species and in some cases offer significant gains (CD7.1, paras 6.28 to 6.34).
14. That the surveys were sufficient to address the Agency's concerns (CD7.1, para 6.35).
15. That the baseline ecological impact assessment is sound and the mitigation measures appropriate for the impacts identified (CD7.1 para 6.36).
16. That the development would safeguard the River Cray and Crayford Marshes, and put in place mitigation and enhancement where appropriate (CD7.1, para 6.37).
17. Accordingly, the Environment Agency has withdrawn its objection on ecological grounds, subject to the attachment of suitable planning conditions to any consent granted (CD7.1, para 6.38).

5. PLANNING POLICY

Inspector's Note. The Statement of Common Ground on Planning (CD7.2) lists those policies in the development plan and other planning guidance which the Appellant and Council agree are relevant to the appeal. In this chapter of the report I set out those policies in the development plan and related documents which I consider to be the most relevant to the proposal. Relevant passages of Government policy statements and guidance can be found in the cases put by ProLogis and the Councils.

The Development Plan

- 5.1 The development plan for the area includes the *Regional Planning Guidance for the South East* (RPG9) and the *Regional Planning Guidance for the Thames Gateway* (RPG9a). At local level, the development plan for the main part of the site includes the *London Plan* (CD3.3) and the *Bexley Unitary Development Plan* (UDP) (CD3.5). For the part of the site to the east of the River Cray, it comprises the *Kent and Medway Structure Plan* (CD3.4) and the *Dartford Local Plan* (CD3.6).

The Regional Planning Guidance for the Thames Gateway (RPG9a)

- 5.2 *RPG9a* notes the Thames Gateway's importance for the distribution/logistics sector. Local authorities are encouraged to identify suitable sites to meet the sector's needs. Adequate size and location are noted as "critical". Sites which facilitate multi-modal handling of goods and which are close to the M25 should be considered first (para 5.2.7).
- 5.3 On environmental improvement, the strategy states that the overall approach should be to promote an improvement in the quality of the environment offered by the Thames Gateway. Attention should be paid to the design of buildings and how they relate in their surroundings (para 5.4.10).
- 5.4 At Erith Reach, the guidance notes that the town of Erith and the adjoining riverside is a community undergoing regeneration and that there are significant opportunities for the creation of new jobs in the Erith-Belvedere Employment Area (para 6.6.1). The area's accessibility is noted as having improved with the opening of the Dartford Northern Bypass¹ (para 6.6.4).

The London Plan

- 5.5 The Spatial Development Strategy for London - the *London Plan* – (CD3.3) was adopted in February 2004.
- 5.6 The Mayor's objectives are set out in the introduction to the plan. They include accommodating London's growth within its boundaries, without encroaching into open spaces (Objective 1); making London a better place for people to live in (Objective 2); making it a more prosperous city with strong and diverse economic

¹ i.e. the A206 Bob Dunn Way between the M25 and the site.

growth (Objective 3); promoting social inclusion and tackling deprivation and discrimination (Objective 4); improving London's accessibility (Objective 5) and making London a more attractive, well-designed and green city (Objective 6).

- 5.7 Sustainability criteria set out in policy 2A.1 include optimising the use of previously developed land; ensuring that development occurs in locations that are, or are planned to be, accessible by public transport, walking and cycling; and taking account of the impact that development will have on London's natural resources and environmental assets.
- 5.8 Policy 3B.5 promotes Strategic Employment Locations (SELs) as London's reservoir of industrial capacity. Outside the SELs, boroughs should identify employment sites having regard, amongst other matters, to the Mayor's locational strategy and their accessibility to the local workforce.
- 5.9 Policy 3C.4 requires UDP policies to ensure the provision of sufficient land and appropriately located sites for the development of an expanded transport function to serve the economic, social and environmental needs of London. Amongst other matters, the policies should take account of interchange and freight transport improvements which require additional land by identifying sites for these purposes within UDPs.
- 5.10 Policy 3C.5 records that the Mayor will work with strategic partners to improve and expand London's international and national transport links for passengers and freight; to support London's development; and to achieve the spatial strategies of the plan, especially growth in the Thames Gateway.
- 5.11 Policy 3C.22 states that the Mayor, in conjunction with the boroughs, will seek to ensure that on-site car parking at new developments is the minimum necessary and that there is no over-provision that could undermine the use of more sustainable non-car modes. UDP policies should adopt policies that encourage access by sustainable means of transport and adopt the maximum parking standards set out in Annex 4 of the London Plan.
- 5.12 Policy 3C.24 states that the Mayor will promote the sustainable development of the full range of road, rail and water-borne freight facilities in London. He will seek to improve integration between the modes and between the major rail interchanges and the centres they serve. The development of a London rail freight bypass route is supported. UDP policies should implement the spatial aspects of the Mayor's transport strategy, seek to locate developments that generate high levels of freight movement close to major transport routes, and ensure that suitable sites and facilities are made available to enable the transfer of freight to rail and water through the protection of existing sites and the provision of new sites.
- 5.13 Policy 3C.25 states that the Mayor will, and the boroughs should, support the provision of strategic rail-based intermodal freight facilities. Each proposal will be considered on its own merits and in the context of wider policies in the plan. The explanatory text following this policy (para 3.218) notes that the SRA's *Freight*

Strategy identifies a requirement for three or four large multi-modal freight facilities on or close to the periphery of London, with smaller facilities in the urban area. It records that, at the time the plan was prepared, no specific proposals were available and that more detailed consideration of the proposal will be contained within the *Land for Transport Functions SPG* and work on the *East London Sub-Regional Development Framework*. Any site promoted as a suitable location must meet operational and strategic planning objectives and should be located wholly or substantially on previously developed land.

- 5.14 Policy 3D.8 states that the Mayor will and the boroughs should maintain the protection of the Green Belt. There is a general presumption against inappropriate development in the Green Belt, and such development should not be approved except in very special circumstances.
- 5.15 Policies 3D.12 and 3D.13 seek to ensure that a proactive approach is taken to the protection, promotion and management of biodiversity. Planning of new development should have regard to nature conservation and biodiversity and opportunities should be taken to achieve positive gains for conservation. Sites of Metropolitan Importance for Nature Conservation should be given strong protection and sites of Borough or Local Importance should be afforded a level of protection commensurate with their borough or local significance. Where, exceptionally, development is permitted that would cause significant harm to nature conservation, appropriate compensation should be sought. Boroughs should support schemes for cross-boundary and urban fringe management.
- 5.16 Policy 4A.7 promotes energy efficiency and renewable energy. Land use and transport policies should be integrated and reduce the need to travel by car and energy efficient and renewable energy technologies should be included in new developments, where feasible. Light lost to the sky should be minimised. The drive for greater energy efficiency and for energy to be derived from renewable sources are given further weight in policies 4A.8 and 4A.9.
- 5.17 World-class architecture and sustainable design and construction are promoted in policies 4B.2 and 4B.6 respectively. Policy 4B.11 requires boroughs to ensure the protection and enhancement of historic assets, based on an understanding of their special character.
- 5.18 Policy 5C.1 sets out the strategic priorities for East London. These include delivering the London element of the Government's priority for the Thames Gateway. The policy notes that the Mayor will work with sub-regional partnerships to develop a coherent Sub-Regional Development Framework for East London.

The Bexley UDP

- 5.19 The *Bexley UDP* (CD3.8) was adopted on 24 April 2004. General strategy and part one policies in the plan seek, amongst other matters, to protect, maintain and improve the quality of the built and natural environment for the economic well being of the Borough whilst making efficient use of the Borough's land resources (G1).

- Development should be of a high standard and relate sympathetically to and be in scale with the existing built and natural environment (G7). The Council will support the promotion of the Thames Gateway initiative (G10).
- 5.20 On Green Belt, policy G12 follows the guidance in *PPG2* and the *London Plan* with a strong presumption against development other than that which accords with policies ENV2 and ENV3.
- 5.21 Policy G16 aims to contain, and in the longer term reduce, traffic growth in the Borough and policy G23 states that the Council will co-ordinate parking in the Borough in order to, amongst other matters, promote sustainable transport choices. They will ensure that no more parking spaces are provided as part of a development than justified by a transport assessment or prescribed by the Council's parking standards.
- 5.22 Policy G24 states that, subject to other policies, the Council will promote the Borough as a centre of industrial and business growth by encouraging the provision of modern accommodation and modern workspace for expanding small and medium businesses.
- 5.23 Policy G26 builds on and amplifies policy G1's objective of protecting and conserving those features of the natural and built environment which contribute to the special character of London. These are noted as including Conservation Areas, the Thames Marshes, the River Cray and Sites of Nature Conservation Importance.
- 5.24 In the plan's environment section, policies ENV1 to ENV3 define the extent of the Green Belt and, following closely the policy guidance in *PPG2*, set out a general presumption against new building in the Green Belt (except for the limited range of purposes specified) and other development which would not maintain openness or conflict with the purposes of including land in the Green Belt. Policy ENV13 states that the Council will seek to protect the visual amenities of the Green Belt by opposing proposals for development that are conspicuous from it or visually detrimental by reason of their siting, materials or design.
- 5.25 Policy ENV23 records that the Council will resist development that would damage or destroy habitats in the Crayford Marshes and River Thames and Tidal Tributaries Areas of Metropolitan Importance for Nature Conservation.
- 5.26 Policy ENV39 deals with the built environment and requires proposals to be compatible with the character of the surrounding area, not prejudice the environment of the occupiers of adjoining property, and be appropriately landscaped. Development should not have any unreasonable effect on the surrounding area by reason of emissions to land, air or water; should make adequate provision for parking in accordance with Council's parking standards; and take into consideration important local and strategic views, particularly where the proposed development is one which significantly exceeds the height of its surroundings or is located on a prominent skyline ridge.

- 5.27 Policy ENV41 notes that the Council will have regard to national and local air quality standards in seeking to ensure that development does not compromise air quality objectives.
- 5.28 Policy ENV58 sets out a presumption against any development that would adversely affect any scheduled ancient monument or its setting.
- 5.29 Policy E1 records that proposals for industrial and commercial uses will be resisted unless certain conditions are met, including the avoidance of material adverse effects on occupants of residential areas or neighbouring properties.
- 5.30 In the transport section of the plan, policies T1 and T2 require applications for major development to be accompanied by travel plans and transport assessments. Policy T3 requires significant generators of traffic to be located in town or district centres or other locations accessible by, or capable of being made accessible by, a range of transport modes, especially public transport, walking and cycling.
- 5.31 Policy T6 states that the Council will normally refuse proposals that would either cause local traffic flows to rise above the design flow for a road, or would generate additional traffic on a road where flows are already considered to exceed the design flow, unless improvements to the affected road are programmed or the applicant is prepared to undertake the required improvements.
- 5.32 Policy T17 states that applicants should make provision for off-street car parking spaces in their developments up to the maximum levels of parking prescribed in Annex 1, unless a transport assessment indicates the need for higher levels of parking.
- 5.33 Policy T24 deals with freight. It states that the Council will, subject to environmental and other policy considerations, encourage proposals that support the carriage of freight by rail or river transport.

The Kent and Medway Structure Plan

- 5.34 The *Kent and Medway Structure Plan* (CD3.4) was adopted in July 2006.
- 5.35 Policy SP1 in the plan defines the primary purpose of Kent's development and environmental strategy as being to protect and conserve the environment and achieve a sustainable pattern of development. This will be done by, amongst other matters, protecting the countryside and wildlife, reducing reliance on greenfield sites to accommodate development and using and re-using land more efficiently, reducing the need to travel, encouraging high quality development, supporting employment and responding to climate change by advancing the conservation and prudent use of energy, water and other natural resources, minimising pollution and assisting the control of greenhouse gas emissions.
- 5.36 Paragraph 2.11 of the plan notes that Kent is the UK's main gateway to Europe. The volume of freight passing through the county has risen greatly since the Channel Tunnel was opened, and further growth is expected. Freight travelling on the county's

- motorways results in significant environmental pollution. Promoting alternative routes outside Kent, together with a shift to less environmentally damaging methods of transport – such as rail – would help to relieve pressure on the county’s trunk roads and communities.
- 5.37 Paragraph 2.17 of the plan and policy SS1 identifies the Thames Gateway as one of the “*main priorities for development and investment in Kent*”. Re-use of previously developed land is noted as a “*priority*” but the plan recognises that there will be a continuing need to release some greenfield land.
- 5.38 Policy SS2 defines the Green Belt in Kent and sets down a general presumption against inappropriate development and new building in it, except where it accords with *PPG2*.
- 5.39 Environmental policies in the plan seek to protect and conserve Kent’s countryside (EN1) and to enhance, protect and conserve its landscape, wildlife habitats and biodiversity (EN3 and EN8). To assist in promoting a high quality of life in the county, development should be well designed (QL1). Local authorities should establish and extend green space networks and protect and improve open space and public rights of way (QL17). Proposals for development should incorporate sustainable development techniques and demonstrate that their design contributes to the conservation and prudent use of energy, water and other natural resources (NR1).
- 5.40 Priorities set by the plan’s transport strategy include promoting a pattern and form of development that reduces the need to travel, making efficient use of the existing transport network and providing travel choice and alternatives to the private car (TP1). Policy TP2 states that proposals for enhancing the transport network in Kent and Medway will be assessed according to their transport, economic and environmental effects with particular regard to, amongst other matters, the contribution towards achieving a more sustainable pattern of development, the impact on the environment, the effects on air quality and carbon dioxide emissions, the contribution to movement of freight by rail, the need to concentrate traffic on the most suitable routes, and the ability to enhance the environment for local communities. Paragraph 8.16 of the plan notes that major development of the rail network is needed to encourage rail travel and reduce pressure on the road network. Strategic Rail schemes identified in policy TP5 include increasing the rail capacity through and around London for freight and passengers, and schemes at Dover Docks, Sheerness Docks and Thamesport to promote transfer of freight from road to rail.
- 5.41 Policy TP13 states that development which will encourage the transfer of freight from road to rail will be permitted unless there is overriding conflict with other planning and environmental considerations. Paragraph 8.52 of the plan notes that the *Ports White Paper* and *Regional Transport Strategy* together provide criteria for developing major freight distribution and transport uses. This includes making best use of existing infrastructure, encouraging the movement of freight by rail, and developing intermodal interchange facilities.

- 5.42 Paragraph 8.54 states that cross-Channel rail freight is currently at a severe disadvantage because trains have to be assembled at Willesden in North London; new interchanges to alter this situation need to be well located in order to prevent increased traffic on inappropriate roads. The draft *South East Plan* is noted as proposing a small number of such facilities in the region, which, if well located, could help increase the volume of freight carried by rail. The text continues by cautioning that locating these facilities outside urban areas may conflict with strategic policies to protect the countryside and adversely impact on the highway network. It concludes by advising that “*proposals in Kent will be weighed against their environmental and transport impacts together with the need for the development and its viability. There will need to be firm evidence that rail facilities at such sites will be used.*”
- 5.43 Policy TP23 supports proposals which encourage the transfer of freight from road to rail, road to air or road to water. Several possible locations for such proposals are listed (not including Howbury Park or any similar location in west Kent). Elsewhere proposals for major distribution or transshipment centres will only be supported where, firstly, the site is easily accessible to the trunk road system and served by rail sidings and/or water; secondly, strong evidence is provided that the proposal is necessary and viable and would not have any significant adverse impact on the local highway network; and finally, the proposal would have no significant adverse effects on the local economy, countryside character or the environment.

The Dartford Local Plan

- 5.44 The *Dartford Local Plan* (CD3.6) was adopted in 1995.
- 5.45 Green Belt policies in the plan (GB1 and GB2) define the extent of the Green Belt in the Borough and set down a strong presumption against permitting development other than that which accords with *PPG2* or the Kent Structure Plan.
- 5.46 Policies C13 and C16 state that proposals for development at or near Sites of Special Scientific Interest or the National Nature Reserve, which would materially harm the special interest will not be permitted. The protection of sites and features of nature conservation value, not formally protected, will be encouraged.
- 5.47 On the built environment, policy B1 is a general policy which seeks to ensure that all new development in the Borough is carried out to a high standard. Policy B3 requires proposals to incorporate appropriate hard and soft landscaping. For development in the countryside these requirements are reinforced by policies C1 and C2.

Emerging Plans

- 5.48 Whilst Dartford Borough Council issued an amended *Second Deposit Draft Local Plan* in April 2004, the plan did not proceed further. Notwithstanding that the plan is used in Dartford for development control purposes, the Council accepts that it carries less weight than the adopted local plan (DBC1, para 4.11).

- 5.49 In London, *Draft Further Alterations to the London Plan* (CD3.12) were issued in September 2006. At the time of the inquiry they had not been subject to Examination in Public; accordingly the weight the alterations currently carry is limited.
- 5.50 In the plan, the key policy dealing with strategic intermodal freight facilities (3C.25 – see para 5.13 above) is expanded to include sites which would enable the potential of the Channel Tunnel Rail Link to be exploited for freight serving London and the wider region. The explanatory text in paragraph 3.218 following the policy is altered to include a reference to the *Land for Transport Functions SPG*. The requirement for any strategic rail-based intermodal freight facility site to be wholly or substantially on previously developed land is deleted and replaced with a requirement that new locations for intermodal facilities “*should meet strategic planning and environmental objectives*”.
- 5.51 A draft *South East Plan* was published in March 2006 (CD3.16). Policies on freight seek generally to safeguard facilities and sites that are, or could be, critical in developing the capacity of the transport system to move freight by rail, to safeguard sites for new intermodal facilities and rail related industry and warehousing (T11). They seek to develop the railway system to carry an increasing share of freight movements (T12). On intermodal interchanges, policy T13 states that the Regional Assembly should work with a range of other bodies to identify broad locations within the region for up to three intermodal interchange facilities. These should be well related to road and rail corridors, the proposed markets and London. Paragraph 1.32 in the explanatory text links this to work undertaken by the SRA which identified the need for between three and four intermodal interchange terminals to serve London and South East England.

Other Local Planning Guidance

- 5.52 Other local planning guidance referred to at the inquiry included *The Mayor’s Transport Strategy*, the *East London Sub-Regional Development Framework* (CD3.8), adopted in May 2006 and the *Land for Transport Functions SPG* (CD4.16), published in March 2007. A consultation draft *London Freight Plan* (CD4.12) was published in September 2006.
- 5.53 *The Mayor’s Transport Strategy* was prepared in advance of the *London Plan* and along with TfL’s *London Rail Freight Study* (CD4.11) served to inform the *London Plan* policy.
- 5.54 The *East London Sub-Regional Development Framework* (CD3.8), paragraph 242, notes that freight and distribution make a significant contribution to the East London economy and stresses the importance of efficient and economic freight services to sustainable development. Paragraph 246 states that it is “*vital that freight access from the trunk road and main rail networks is improved to increase the efficiency of distribution and support economic development.*” Action 2F (vii) states:

“The Mayor will encourage the provision of two inter-modal freight facilities in the sub-region, one north and one south of the Thames. In determining

applications for such facilities, boroughs should have regard to the forthcoming London Freight Strategy and weigh economic benefit against strategic and local impacts.”

5.55 The draft *London Freight Plan* (CD4.12) under the heading “*Rail Freight Challenges*” (Section 2.1.1.2) notes that London’s population and employment growth will generate significant additional demands on the London rail network in terms of both freight and passenger services. Eurotunnel is recorded as estimating that the Channel Tunnel could attract between 6m and 14m tonnes of freight, compared to 2m today. Planning of passenger and freight capacity needs to be integrated and the solution is likely to include route enhancement and co-operation to gain agreement for timetable solutions.

5.56 On rail freight sites the guidance states:

“It is estimated that a further three to four strategic rail freight sites around the M25 could be required if rail freight is to help London minimize its environmental footprint. Additional smaller sites for rail terminals in London, particularly those needed to supply construction materials, are needed, but problems continue to be experienced in gaining planning permission. It is important that an appropriate balance is struck between local and strategic issues in such cases.....”

5.57 The *Land for Transport Functions SPG* (CD4.16) deals with rail freight in Section 12. It notes that the *Mayor’s Transport Strategy* and the *London Plan* support the Government’s objective of increasing rail’s share of the freight market and delivering a modal shift from road to rail (paras 12.1 and 12.2). Boroughs are urged to encourage development of rail freight in appropriate locations and protect existing or proposed rail freight sites. Paragraph 12.7 states:

“Required capacity from rail freight growth in London and the South East would be met by three or four strategic RFIs in the region, supplemented by smaller locations within the M25 ring.....suitable sites are likely to be located where key road and rail radials intersect with the M25.”

5.58 The following paragraph sets out the characteristics of a RFI and notes that they are such that “*there is a very limited range of suitable sites in the London/South East England area.*” Paragraph 12.10 notes that detailed guidance and advice on strategic RFIs can be found in the SRA’s *Strategic Rail Freight Interchange Policy*. Paragraph 12.12 states:

“When planning applications are submitted for new rail freight sites, or for enhancements to existing RFIs.....As a general premise, the potential of rail freight sites to deliver sustainable transport objectives should be afforded considerable weight by boroughs determining the planning application”

6. THE CASE FOR PROLOGIS DEVELOPMENTS LTD

Introduction

- 6.1 By virtue of *PPG2* it falls to ProLogis to persuade the Inspector and/or the Secretary of State that the harm caused by reason of the proposed Strategic Rail Freight Interchange (SRFI) being inappropriate development in the Green Belt, and any other harm, is outweighed by very special circumstances.
- 6.2 Whether the benefits of any particular scheme would outweigh the harm that it would cause – even where there is a strong presumption against development as there is in the Green Belt – must always be a decision on the individual merits of the case in hand. The way in which the balance should fall in the case of ProLogis’s SRFI proposal has not and could not have been pre-determined either by previous local plan and appeal decisions (which dealt with very different proposals) or by the First Secretary of State’s decision in the London International Freight Exchange (LIFE) case. No previous case has involved the consideration of the unique and unprecedented circumstances of the proposed SRFI at Howbury Park.

Harm to the Green Belt and Landscape Impact

- 6.3 ProLogis accepts that the proposed development would have a substantial impact on the openness of the Green Belt; that is inevitable given its scale. However, the impact has to be weighed against the very special circumstances present in this case (see below). These very special circumstances include the lack of any suitable alternative site to Howbury Park, and the acceptance by the Mayor of London of the difficulty of finding appropriate sites within or near London for a SRFI (CD1.2 para 47 and CD1.7, para 14) such that it is almost inevitable that they will be in the Green Belt (PDL/1.4, Appendix 1).
- 6.4 Moreover, a distinction needs to be made between the impact the development would have on the appeal site on the one hand and the wider marshes on the other.
- 6.5 Whilst there is agreement that the development would have a substantial effect on the openness of the Green Belt, there is disagreement as to the extent of the impact that it would have on the other purposes of the Green Belt. ProLogis accepts that the proposals would contribute to urban sprawl but disagrees with the suggestion that such sprawl would be unrestricted. If planning permission is granted it will be because the Inspector and/or the Secretary of State are satisfied that there are sufficiently weighty very special circumstances in this particular case. Plainly, therefore, permitting this development could not act as a precedent for other future proposals in the Green Belt.
- 6.6 Contrary to Bexley Council’s case, the proposed development would not result in Slade Green (as part of Greater London) merging with Dartford (in Kent), even though it would reduce the amount of open land in this part of the Green Belt; nor would it detract from the protection of historic towns or regeneration of the existing urban area (PDL/1.1, paras 7.7 to 7.12).

- 6.7 Bexley Council, through their landscape witness Mr Huskisson, placed significant reliance on a suggestion that the appeal site might become part of a potential regional park as referred to in the Mayor of London's emerging Green Grid Framework. However, the *Consultation Draft East London Green Grid SPG* (CD3.23) identifies a process for including land as part of a regional park through the development plan. Both Mr Huskisson and the Council's planning witness, Mr Bryant, accepted in cross-examination that:-
1. no land has been so allocated in any existing or emerging development plan document (CD3.23, p8);
 2. there is no delivery plan for a regional park (ibid p9);
 3. much of the land is privately owned;
 4. no one has any idea how much it would cost to bring about a 400ha park; and
 5. there is no existing or draft policy under which money could be collected to purchase, improve and manage the land as part of a regional park and no money has been collected so far.
- 6.8 Accordingly, as things currently stand, the idea that the appeal site might become part of a wider regional park is at most an aspiration and in reality is an unfunded and vague idea which has not been thought through. It should be given little, if any, weight in the consideration of ProLogis's proposals.
- 6.9 Importantly, the Mayor was fully aware of his own draft policy document when he considered the Howbury Park proposals and decided not to object to them on the basis that the Green Grid would be prejudiced (CD1.7, para 75).
- 6.10 Similarly, ProLogis submits that little if any weight can be attached to the Thames Gateway Interim Plan which sets out similar aspirations. It too requires framework and delivery plans to be prepared (LBB2.3, Appendix 2, paras 5.4 and 5.5); but Mr Huskisson accepted in cross-examination that this work has not been done to date.
- 6.11 ProLogis also accepts that the proposed development would have a substantial impact on the landscape from certain viewpoints (PDL/3.6 and Supplementary ES). However, the impact would be largely restricted to views from the north-west to the north-east of the site and the existing landfill would provide a screening effect for views from the east and south-east. Moreover, the development has to be seen in the context of the wider landscape which includes existing examples of significant industrial development (CD5.1, para 4.3). Managing the Marshes also recognises that significant engineered bunds are a characteristic feature of the landscape (CD5.2, para 5.1).
- 6.12 ProLogis has sought to reduce the impact of the development from these views by the proposed bund along the northern edge of the site and around the north-east corner.

Although Mr Huskisson criticises the effect of the bund on Moat Lane, the Council accepted that the bund would reduce the impacts “*to something more sensitive to the lines and broad vistas of the landscape*” (CD1.1, p79). English Heritage considered that the bund would go some way to reducing the visual impact on the listed tithe barn and Howbury Moat (which is a scheduled ancient monument) such that their settings would not be harmed (ibid, p25).

- 6.13 Mr Huskisson plainly has a different view of the effect of the bund to the Council but it remains unclear what he would wish to see done to the bund. He does not appear to favour any reduction in the height of the bund. He accepted in cross-examination that “[ProLogis’s landscape witness] Mr Chinn has done only what is possible in the circumstances” and was unable to say whether a reduction in the height of the bund could be achieved. Rather, he put reliance on the possibility of reducing the height of the development platform (see below). If there is any substance in the point, his concern that the proposed planting would introduce alien woodland into the landscape would be addressed by the agreed landscaping condition.
- 6.14 Whilst Mr Huskisson’s position appears to be that he would wish to reduce the impact further by lowering the development platform by 2.4 metres, the Greater London Authority (GLA) recognises that it would not be possible to screen the development altogether (CD1.7, paras 65 and 66). Indeed, the landscape strategy has been developed to reflect to some extent the GLA’s wish that there should be views of the proposed buildings with the contrast between contemporary buildings and heritage assets being celebrated rather than diffused (CD1.2, para 87). It should not be forgotten that the proposed buildings would be at the forefront of warehouse design. They would not be traditional distribution “sheds” but leading edge buildings in terms of their appearance and sustainability (PDL/7.1, para 3.8).

Reduction of the Development Platform

- 6.15 Mr Huskisson suggested that the development platform could be lowered. This was his only positive suggestion for further mitigating the impact of the scheme not already proposed by ProLogis. When giving evidence he said “everything flows from lowering the level of the platform”. He contended that the platform should be 2.4m lower than proposed.
- 6.16 However, it is difficult to see what advantage there would be in adopting his suggestion as he states that lowering the development platform would not make the proposals acceptable and would only reduce the visual impact “*to a small degree*” (LBB2.2, para 6.4). Notwithstanding this, he continued to argue for a reduction of the development platform as a possible means of mitigating the development further and suggested that the additional material could be used to re-profile the existing landfill to the east of the appeal site.
- 6.17 ProLogis has considered Mr Huskisson’s suggestion and has decided not to pursue it for a number of good reasons. First, the proponent of the idea considers that the benefit of adopting it would be “*small*”. Second, a planning application would have to be made for waste development. Third, the additional material would have to be

deposited on land outside the red line of the application site. Fourth, the restored landfill (which would be disturbed and re-contoured) has been identified as being of borough-wide importance to nature conservation. Fifth, the majority of the material which would be produced by lowering the platform would have to be taken off site, which would generate a significant number of additional HGV movements (56,000 if all the material is taken off-site – PDL/2.2, p5).

- 6.18 Notwithstanding this, ProLogis accepts that construction of a bund within the application site boundary at the north-east corner of the site would enhance the screening of the development at that point. Proposed contours for this minor alteration to the submitted application plans are shown on the development parameters plan included with the Supplementary ES (Drg 2144/PL/49D). The change is commended to the Secretary of State.

Pocket Park

- 6.19 The “pocket park” at the north-west corner of the site is shown on the Development Parameters Plan (Drg 2144/PL/49D) and was included at the suggestion of the GLA. However, Bexley Council and Slade Green Community Forum (SGCF) do not support it because of their concerns that it might be abused and become a focus for anti-social behaviour (LBB0.2). It can be deleted from the scheme by condition (PDL/0.13, Condition 4, as amended). This amendment, read with the associated landscaping condition (ibid, Conditions 1 and 8), would not prevent the area being laid out and managed for its wildlife interest as suggested by SGCF (SGCF/18, 1st paragraph).

Masts/Cable Stays

- 6.20 Mr Huskisson was critical of the visual effect of the masts and cable stays. That criticism is not one that was ever expressed by the Council; nor is it one shared by anyone else. The masts and stays are proposed in order to reduce substantially the height of the proposed buildings, and Mr Huskisson accepted in cross-examination that they would have that beneficial effect. He did not put forward any alternative means of achieving the reduction in height and confirmed that he would rather have the masts than higher buildings.

Green Walls/Roofs

- 6.21 Although critical of the proposed green walls and roofs, Mr Huskisson confirmed in cross-examination that he was not asking that they should be removed from the scheme.

River Crossing

- 6.22 Mr Huskisson agreed that if the Secretary of State accepts that there are very special circumstances for the proposed SRFI, then the proposed river crossing would be acceptable. Mr Parkinson, for Dartford Borough Council, accepted that there was no better place for the crossing and that, if the Secretary of State were to be satisfied that very special circumstances exist for the proposed rail-linked warehouses and

intermodal area, then permission for the access, including the proposed bridge, should follow. This is reflected in Dartford Borough Council's closing submissions (DBC0.2, para 3).

Inter-Tidal Pond

- 6.23 Mr Huskisson looked at the impact of the inter-tidal pond purely from a landscape point of view, although it is there for ecological reasons. He stated in cross-examination that planting a woodland block might be a more acceptable landscape solution.

Eastern Edge Footpath

- 6.24 Although critical of the alignment of the footpath along the eastern edge of the site and its proximity in certain places to the access road, Mr Huskisson was unable to put forward any alternative to what is shown on the Illustrative Public Access Plan (Drg 2144/PL/518), save to suggest that there might be a wider boundary margin and localised re-grading with appropriate landscape treatment.

Lighting

- 6.25 The concerns expressed by Mr Huskisson in relation to the effects of lighting on Moat Lane and the area to the west of the site are not well founded. The impact of the lighting on the land surrounding the site would be controlled by the use of asymmetrical light fittings in the intermodal area, which would prevent upwards spill of light and significantly reduce the effects of glare and light spill to neighbouring receptors. The lanterns used to light the roadway and car parks in the vicinity of Moat Lane would also be a full cut off type, with flat glass. Tilt would be limited to 5 degrees to prevent light spill or glare to neighbouring receptors, particularly properties along Moat Lane (PDL/11.3).

Generally

- 6.26 Generally, Bexley Council's case on the landscape impacts of the development was entirely critical but when challenged in cross-examination Mr Huskisson was unable to suggest what else could be done to improve the scheme (apart from lowering the development platform). This is a reflection of the Council's unwillingness to engage with ProLogis in the development process in stark contrast to the other authorities who, through their active participation, have significantly influenced the design of the buildings and the mitigation strategy presented to the inquiry.

Other Harm

- 6.27 The only other harm relied on by Bexley Council is the noise impact of the development on the amenity of residents. This is the subject of a Statement of Common Ground with the Council (CD7.5) from which it is evident that only five properties would be impacted in such a way as to justify mitigation measures being taken (i.e. Nos 71/73 Moat Lane and Nos 1, 2 & 3 Moat Farm Cottages). That so few

properties would be adversely affected shows the care taken with the location of the buildings and the effectiveness of the bund and acoustic measures proposed. Moreover, the Inspector and Secretary of State can attach very significant weight to the position agreed with, the Council's noise witness, Mr Fiumicelli, that:

1. the BS4142 night-time assessment of operational noise with the mitigation proposed, but an additional 5.7dB(A) to reflect the CONCAWE 95% confidence limit, is only of *marginal significance* (CD7.5, Appendix H, p59); and
2. the revised March 2007 assessment of cumulative noise impact is only of moderate significance for the Moat Lane properties (CD7.5, Appendix J, Tables 39 and 41).

6.28 ProLogis's planning obligation secures funds to install acoustic double glazing, should the owners of those properties wish (PDL/0.15, Schedule 1, 1.18 and 1.19).

Highways

6.29 The impact of the proposed development on both the strategic and local highway network has been the subject of very considerable assessment by ProLogis, much of it on an agreed basis with statutory bodies with a direct interest in the network. This resulted in the Highways Agency, Kent County Council and Transport for London (TfL) withdrawing their objections. Bexley Council is the only authority objecting to the development on highway related grounds.

6.30 The importance of the highway issues was recognised at an early stage by ProLogis who through its consultants sought to engage with the relevant authorities from the outset. The development of the scheme and the degree of agreement as to how ProLogis should assess the impact of the proposals on the highway network is evident from the agreed notes of the Transport Forum (PDL/0.7). This was set up in March 2006 with the express purpose of "*...monitoring and assessing the transport implications of the application*" (PDL/0.7, Meeting on 2 March 2006, para 1.2).

6.31 It is plain from the Transport Forum meeting notes that the Highways Agency, Kent County Council, TfL and Bexley Council all agreed that:-

1. trip generation would be assessed using survey data from the Daventry International Rail Freight Terminal (DIRFT);
2. a sensitivity test assuming an all road-based operation would use an average of the trip generation for the largest seven warehousing sites in the TRICS database;
3. the GB Freight Model would be used to distribute HGV trips and the Special Workplace Statistics to distribute non-HGV trips;
4. the Kent Thameside Model (KTS) would be used to model the impact of the development traffic; and

5. the SATURN UFS files were available for any party to consider if they wished (but no-one other than the Highways Agency requested a copy).
- 6.32 It is also evident from the meeting notes that representatives of Bexley Council attended all the Transport Forum meetings and agreed with the approach set out above, save only that they considered that the data for the “*second worst ATC weekday*” should be used to assess trip generation instead of the average of the DIRFT ATC data. It is equally plain that the Council’s reservations about using the average were not shared by the other authorities even though the issue of trip generation was a matter of interest to all of them.
- 6.33 It was clear from the evidence presented by Bexley Council’s highways witness, Mr Edwards, that the Council’s primary concerns relate to the impact of the development on the junctions on the A206 (i.e. the Site Access, Crayford Way and Perry Street junctions) and arise from Mr Edwards’ evidence as to how the trip generation has been assessed, how the generated traffic has then been distributed, and what impact that traffic would have on the junctions.

Trip Generation

- 6.34 How much traffic Howbury Park is likely to produce was assessed with the agreement of all the parties (including Bexley Council) by surveying DIRFT as set out in Technical Notes 7 and 9 (CD4.29 and 4.30) and using an average of the survey data. However, Mr Edwards suggested at the inquiry that the trip generation for Howbury Park should be derived from the TRICS database and applying an 85th percentile. That approach is not supported by the Transport Forum, and is plainly wrong for four reasons. First, the TRICS sites relied on by Mr Edwards are the same as those that the Transport Forum agreed should be used for the all road sensitivity test. Second, the use of TRICS for assessing the trip generation from Howbury Park was considered by the Transport Forum but not pursued except in relation to the all road sensitivity test. Third, none of the TRICS sites are for rail-connected warehouses and are not therefore comparable to the proposed development. Fourth, all the sites are substantially smaller and older than the proposed development.
- 6.35 Mr Edwards’ approach of applying an 85th percentile to the TRICS data is equally flawed. The approach was not one suggested by Bexley Council at the Transport Forum, even in relation to the all road sensitivity test, and is subject to the “health warning” for data sets of less than 20 survey days (LBB4.6, para 11.6). Moreover, undertaking a cross-testing exercise as recommended in the TRICS Good Practice Guide (ibid, para 11.7) demonstrates that for the pm peak there is a significant variation (28%) between the median and the mean and reinforces the inadvisability of using 85th percentiles calculated from limited data sets.
- 6.36 The use of an 85th percentile instead of the average of the DIRFT survey data has no support from any of the parties at the Transport Forum. Also, whilst the Council suggested the use of the 2nd worst ATC day, no evidence has been produced to justify its use; neither were traffic generation figures produced showing what the impact would be if it were to be used. Contrary to Mr Edwards’ assertion that the application

of an 85th percentile is supported by the DfT's new guidance for Transport Assessments, that guidance plainly refers to data from a number of different sites and not from a single site (CD4.40, para 4.62).

- 6.37 In many respects the debate about traffic generation is academic because of ProLogis's agreement through the Highways Unilateral Undertaking (PDL/0.16) to install traffic lights at the site access to control commercial vehicle departures from the site if the predicted traffic levels for the development in the peak hours are regularly exceeded. The effect of those signals would be to limit the amount of traffic able to enter onto the local road network to the predicted levels.

Trip Distribution

- 6.38 All the parties agreed without qualification to the use of the GB Freight Model for the purposes of distributing the HGV trips generated by the proposed development, with the assignment of those trips onto the local road network done by the KTS. Insofar as Mr Edwards had a criticism of the way in which traffic had been distributed and assigned, it appears to be no more than a wish for a sensitivity test to be done in the event that permission is granted for the Thames Gateway Bridge. Whilst Mr Findlay shows how HGV Howbury Park traffic might reassign to travel west in the peak hours if the bridge were built (PDL/5.3, Figure 5.3-11) there has been no assessment of what the effect of the new bridge would be on traffic patterns in the area, although it is reasonable to assume that it would have a far wider effect than the additional traffic generated by Howbury Park. This analysis was reasoned, in contrast to Mr Edwards' "sensitivity test" (LBB4.2, Table 9.1) which he accepted in cross-examination used entirely arbitrary 50/50, 30/70 and 70/30 east-west splits for HGV traffic leaving the site.

Site Access Roundabout

- 6.39 Bexley Council has no interest as a highway authority in the site access roundabout which is in Dartford Borough (and therefore the responsibility of Kent County Council as highway authority for Dartford Borough - who do not object) save to the extent that any queues at the junction might impact on that part of the A206 Thames Road to the west of the junction which is within Bexley.
- 6.40 The junction assessment of the site access roundabout uses demand flows taken from the KTS model. ARCADY analyses, with the agreed roundabout geometry and traffic from the Grosvenor Waste site reassigned to the site access roundabout, demonstrates that the junction would operate acceptably in 2025 with only small queues (PDL/5.4, Table 3.5). It is accepted that this analysis shows that the predicted ratio of flow to capacity (RFC) in the am peak hour would be greater than 0.85 on the Thames Road arm in 2025 (PDL/5.4, Table 3.5). However, RFC values above 0.85 in congested urban areas like London are not unusual, and Mr Findlay's view is that it is more important for the road network capacity to be balanced, with RFCs broadly the same, than that they should each be no more than 0.85. Indeed, improving a junction to achieve an RFC of 0.85 would be likely to cause traffic to reassign to that junction from more congested parts of the network.

- 6.41 However, should the Inspector and/or the Secretary of State conclude that it is necessary and desirable to achieve an RFC of 0.85 at the site access roundabout, both Mr Edwards and Mr Findlay agreed in their evidence that minor changes to the proposed design could be made which would achieve this value. Indeed, Mr Findlay produced a scheme (albeit not yet agreed) which would address the Council's concerns (PDL/5.19).

Thames Road Bridge

- 6.42 A further concern of the Council concerns the capacity of Thames Road and the possibility of westbound traffic queuing back along Thames Road from the Crayford Mill rail bridge to the site access roundabout. This possibility only arises because the Council dropped the replacement of the rail bridge from the Thames Road Dualling Scheme currently being implemented. As a consequence, a single lane pinch point will remain in what will otherwise be a dual carriageway road. During his cross-examination, the Council's highways and parking witness, Mr Able, advanced the proposition, not canvassed before, that, unless ProLogis were to pay for a replacement bridge, Howbury Park (or indeed any other development which would increase the traffic flow on to this section of the A206) should not be allowed by virtue of policy T6 of the *Bexley UDP*.

- 6.43 There is no basis for this demand for the following reasons:-

1. The improvement of the A206, including the replacement of the rail bridge, has for some time been and remains Bexley Council's "number 1 priority" and the probability is that by 2025 it will have been replaced.
2. There is no published policy to support Mr Able's position that there is a moratorium on any development in the Thames Gateway which would add traffic to Thames Road until the rail bridge is replaced.
3. Replacement of the rail bridge is necessary, even without further development, as part of a scheme to improve the regeneration prospects of Bexley. Its replacement is not triggered by Howbury Park.
4. Mr Able relied on the technical evidence of Mr Edwards to provide an evidential base for his position. However, his proof does not do this (LBB4.2, paras 10.11 and 10.13).
5. A requirement for ProLogis to write a (blank) cheque to fund the entire cost of replacing the rail bridge, estimated at £7.7m, cannot conceivably be related in scale and kind to the proposed SRFI and its traffic effects. The requirement therefore fails the tests in Circular 05/2005.
6. No attempt has been made by Bexley Council to identify what proportion of the (unknown) total costs would be fairly related to Howbury Park (if any).

7. Mr Able subsequently agreed that there was a possibility that some part of the proposed development could be brought forward before the rail bridge was replaced. However, he had not assessed how much.
- 6.44 The position adopted by Mr Able, that the development of Howbury Park should be conditional on ProLogis funding the estimated, but otherwise unknown, costs of a replacement rail bridge had the appearance of being made up on the spot. This appearance was corroborated by Mr Edwards who in cross-examination was unable to give any satisfactory answer as to whether and/or when he was made aware that his evidence would be relied upon to provide an evidential base for the Council's position.
- 6.45 In any event, the asserted difficulties in 2025 created by Bexley Council dropping the replacement rail bridge from the Thames Road Scheme arise because Mr Edwards assessed the capacity of the Thames Road as being 1,800 PCUs each way (LBB4.2 & 4.3, Appendix JME-4). To the extent that it is necessary to determine this issue, ProLogis submits that Mr Findlay's evidence is plainly to be preferred. His assessment of the effect of retaining the rail bridge was sent to Bexley Council in March 2007 (Technical Note 14 (TN14) - PDL/5.4, Appendix A). It was not criticised by the Council or Mr Edwards until he gave his evidence, during which he submitted a single manuscript sheet (LBB4.5). TN14 undertook an analysis of the effect of retaining the rail bridge using a capacity of 2,000 PCUs each way derived from Jacobs (the KTS modellers and Bexley Council's modellers for the Thames Road scheme) who re-ran the SATURN model with the rail bridge as a pinch point. Jacobs' capacity figure was then cross-checked by Mr Findlay using a calculation based on RR67 (TN14, para 2.1.7).
- 6.46 Although Mr Edwards sought to criticise Jacobs' use of 2,000 PCUs and suggested that a micro-simulation model should have been used instead of a SATURN model (LBB4.5), there is no logic in the criticism because the capacity of a link is an input into both a SATURN and a micro-simulation model, and not an output. Mr Findlay's RR67 calculation was not challenged. As to support for Mr Edwards' assessment of the capacity of the pinch point, Bexley Council were unable to inform the inquiry what figure they had assumed when they decided to drop the bridge from the Thames Road widening scheme. Indeed, their failure to produce any analysis of the consequences of this decision, despite the specific interest shown by the Inspector in the matter, was surprising. It suggests that no analysis was done, which sits uncomfortably with the Council's written confirmation that, with the bridge omitted, "*the performance of the highway network along this section of Thames Road will be no worse than the current situation*" (PDL/0.8).

Crayford Way Roundabout

- 6.47 The junction assessment as originally run used the ARCADY model provided by Bexley Council's consultants. However, it subsequently became apparent that the geometry of the roundabout had changed since the data was provided. Using the new geometry, the analysis shows that in the 2025 base year the RFCs for Thames Road will exceed 0.85 during both the am and pm peaks (PDL/5.4, Table 3.4). In other words, the Council is presently constructing the Crayford Way roundabout in the

knowledge that the RFCs on Thames Road will exceed 0.85 without any traffic from Howbury Park. In 2025, the Howbury Park traffic is assessed to increase the RFCs on Thames Road by a minor amount. Whilst the queues would increase in length, they could easily be accommodated (PDL/5.4, Table 3.6 and para 3.6.10).

- 6.48 During cross-examination, Mr Edwards suggested that the Council was seeking mitigation for the Crayford Way junction such that its operation would be no worse with Howbury Park than without it (“nil detriment”). Mr Findlay stated that nil detriment could be achieved by minor alterations to the entry widths and this was subsequently demonstrated (PDL/5.20). However, the point he made in evidence (which was shown to be good by PDL/5.20) is that the ARCADY capacity assessments are theoretical and very susceptible to small changes in geometry. In his view there would be little sense in digging up a newly completed roundabout, with the disruption that would cause, for small theoretical improvements to the RFCs. Nonetheless, the scheme analysed in PDL/5.20 would mitigate the impact to nil detriment if that is considered necessary.

Perry Street Gyrotory

- 6.49 At the Perry Street junction the TRANSYT runs show that there would very little difference in the saturation flows and queues in 2025 with and without Howbury Park traffic (PDL/5.1, Tables 6.9 and 6.10). At the inquiry Mr Edwards accepted in cross-examination that the Council had no real concern about the operation of the Perry Street Gyrotory.

Other Matters

- 6.50 Mr Edwards’ concern about the validity of the models used in the assessments is overstated. The Thames Road Traffic Model (TRTM) is the Council’s own validated model, whilst the 2005 KTS is an update of an earlier validated model which all the parties agreed should be used (PDL/0.7). It is correct that as a matter of fact the KTS has not been validated by a Local Validation Report, but that is because current road works at Junction 2 of the M25 make it impossible for accurate journey times to be surveyed in order to validate the model. There is no reason to think that the use of the model is uncertain or inappropriate.
- 6.51 Similarly, there is no substance in the Council’s concern that demand rather than actual flows should have been used for the assessments of the Crayford Way roundabout and Perry Street junction. These flows were supplied by the Council’s consultants and Mr Findlay confirmed there was no concern about the use of actual flows expressed at the time. The use of actual flows is explained in PDL/5.4 paragraph 3.2.1 et seq and TN15 (PDL/5.11). This latter note drew together the various analyses that had been done to understand what effect Howbury Park traffic and re-assignment by the KTS model would have on other parts of the network. It was not criticised by the Council. Ultimately, Mr Edwards appeared not to suggest that demand flows should have been used instead of actual flows but said that they should have been used as a sensitivity analysis.

- 6.52 Bexley Council's concerns about the impact on the local road network must also be put in context. TfL, although not the highway authority, retains a statutory responsibility in relation to and an interest in the A206 because of its designation as a Strategic Road. TfL was fully involved in the Transport Forum and advised by its own highways consultants. They did not object to the proposed development on highways grounds.

Parking

- 6.53 Bexley Council's position in cross-examination was that 1,000 spaces would be the correct amount of car parking. This compares to ProLogis's proposal, which is for 1,167 spaces. Thus, the difference between the parties as to the appropriate amount of car parking is 167.
- 6.54 At 1,167 spaces the car parking provision would be some 52% of the maximum permitted by the *Bexley UDP* and the *London Plan* for a Class B8 development of 198,000m². The number is substantially less than the 2,000 or so spaces that the inquiry was advised ProLogis would normally seek for a development of this size. The company representative, Mr Woodbridge's, evidence is that reducing the number of spaces further would make the warehouses difficult to let in a competitive market.
- 6.55 Reducing it further would also run the very real risk that employees who travel by car would be unable to find a space and would park off site in the residential streets of Slade Green. That risk would be most acute at 14.00 when the afternoon shift arrives and the parking demand would be greatest (CD4.31). The potential consequence is that parking spaces in Slade Green that would otherwise be available to residents returning home in the evening would be filled by employees' cars until they come off shift at 22.00. In this connection it should be noted that the residents of Slade Green are known not to want a controlled parking zone in their area.
- 6.56 Suggestions by the Council that spaces should be dug up and removed if they are unused would create significant practical problems because of changes in contract lengths, different users over time, and seasonal changes in operations in the warehouses all having different parking requirements. The key to making the development successful is to make it attractive by retaining sufficient flexibility to meet the needs of occupiers over time and not to constrain it in such a way that it becomes commercially unattractive to them.
- 6.57 So far as HGV parking is concerned, it would all be contained between the buildings. Accordingly, there would be nothing to be gained from limiting HGV parking in terms of reducing the impact of the scheme on the Green Belt.

Third Party Objections

Natural Environmental Focus Group

- 6.58 The Bexley LA21 Natural Environment Focus Group's (NEFG's) concerns relate to landscape impacts, flooding/drainage and ecology. The landscape impacts are

addressed in paragraphs 6.3 et seq above. So far as flooding and drainage are concerned, the Environment Agency has withdrawn all its objections in the light of the further work that has been done (CD7.1; PDL/4.1, Section 5; PDL/4.3, Annex; INQ5, letter 16 and PDL/12.1).

- 6.59 As regards the ecological impact, there is no objection from Natural England, the London Wildlife Trust or from any of the local authorities. Moreover, NEFG's primary concern, that development of the site would prevent a managed retreat of the marshes and its flora/fauna in the event that they are allowed to flood, is unreal, especially within any timescale that the planning system is capable of grappling with. As ProLogis's witness dealing with ecology, Mr Goodwin, explained, the topography and habitat on the appeal site is not suitable for marsh species and could not be made suitable without human intervention on a massive scale.
- 6.60 Mr Goodwin also did not accept the proposition put to him that the development would result in fragmentation (the phrase "*Encroaching Fragmentation*" was only introduced in NEFG's closing submissions). On the contrary, his evidence was that the habitat creation associated with the proposal, on land which is otherwise of low ecological value, would extend the wildlife corridor.
- 6.61 Similarly, NEFG's concern about the salinity of the water in the marshes being altered has no substance. Rather, the drainage scheme, which has been accepted in principle by the Environment Agency, is intended to be sufficiently flexible to preserve the existing situation.
- 6.62 Overall, NEFG's concern about the development hindering some process of "managed retreat" at some indefinite time in the future misses the point. The benefit recognised by all other parties, including the Mayor of London, Natural England and the Wildlife Trust, is that through the development a substantial area of marshes would be put into trust with a significant endowment which would ensure that the present ecological interest in the marshes would be preserved and enhanced in a way that is otherwise unlikely. The objections that these bodies might otherwise have had to the proposal were removed because they saw greater benefit in the long term management of the marshes.
- 6.63 As to NEFG's continuing concerns about TE2100, this has no relevance to the merits of the appeal proposals. The appeal site is not on the marshes and managed retreat to the appeal site is not a realistic option (see above). Any future decision by the Environment Agency to abandon the current flood defences would have no impact on the appeal site.

Slade Green Community Forum

- 6.64 The matters raised by the Slade Green Community Forum (SGCF) are largely addressed by the responses to the Council's and NEFG's objections. However, one specific issue of concern to SGCF is the extension of the No. 89 bus into the site via Moat Lane. In this connection, Mr Findlay accepted some of the points made by the SGCF chairman, Mr Hillman, and explained in his rebuttal evidence how it was

anticipated that the service would operate (PDL/5.10). In addition, ProLogis recognised the benefits of making the S106 Undertaking as flexible as possible and the final undertaking (PDL/0.15) would allow the Moat Lane access to be used by private buses if it were to be decided that a private shuttle bus to Slade Green Station would be a preferable option to extending the route of the No 89 bus into the site.

Individual Residents and Other Objectors

- 6.65 The planning issues raised by third party residents (noise, impact on landscape, traffic and rail operations) were all addressed in ProLogis's evidence to the inquiry.
- 6.66 As to the alternative site on land next to Plumstead Sidings suggested by Mr Rodmell, this site was not originally assessed in the alternative site assessments submitted with the applications. Notwithstanding this the site is not of sufficient size at 19ha and is some 13km from the M25 (PDL, paras. 7.42 to 7.44 and PDL/0.4).

Very Special Circumstances

Policy Framework

- 6.67 It is of vital importance to understand and fully to take into account the policy basis that has laid the ground, first, in overarching terms for the desirability of transferring freight from road to rail, and second, more specifically, for the provision of three or four SRFI around London. It is only with this policy framework in mind that due consideration can be given to the strength of the justification for the Howbury Park proposals.

Government Policy Statements

- 6.68 *PPG13*, paragraph 45, states that *Sustainable Distribution: A Strategy* sets out Government policy on freight. This policy document echoes the previous year's White Paper, *A New Deal for Transport*. The policies set out in *Sustainable Distribution* promote the greater use of rail for freight in no uncertain terms; rail is more fuel-efficient, reduces congestion and has a better safety record than road; it is under-exploited and less damaging to the environment (CD4.3, pp 3, 4, 5, 19, 27, 28 and 32).
- 6.69 *Sustainable Distribution* specifically recognises the benefits of intermodal terminals in integrating road and rail (para 5.11). The term "Strategic Rail Freight Interchange" had not been coined at the time when *Sustainable Distribution* was published; the Government referred to "Major Freight Interchanges" instead and gave warehouses at ports, and DIRFT as examples of what it had in mind (ibid, pp29-32).
- 6.70 Bexley Council rely upon the exhortation in paragraph 5.17 of *Sustainable Distribution* to re-use existing facilities where suitable as if it places an embargo on providing new facilities until existing facilities are used fully. However, there is no such embargo either here or anywhere else in Government policy. Indeed, such an embargo would be inconsistent with later statements of Government and development

plan policy which envisage the provision of three to four SRFI around London (see below).

- 6.71 ProLogis accepts that it would be eminently sensible, as well as being consistent with the Government's cross-cutting preference to re-use previously developed land, to re-use an existing rail-connected site rather than develop on greenfield land in the Green Belt. But this proposition can only hold good where the existing brownfield site is suitable, viable and likely to be made available within a reasonable period of time to meet the need which Howbury Park would address – namely for one of the three or four SRFI provided for in the London Plan. This fundamental point must be recognised.
- 6.72 In *Transport 2010* the Government reaffirmed its aim to significantly increase the use of rail by freight (CD4.4, paras 6.9, 6.22 and 8.5). The subsequent statement by the Secretary of State for Transport in July 2005 (CD4.44), which cautioned against treating the aspiration to grow rail freight by 80% over ten years as a target, did not water down the Government's commitment to significantly increase rail freight.
- 6.73 *PPG13* was published in 2001. It reiterated the theme developed in *A New Deal for Transport, Sustainable Distribution* and *Transport 2010* that rail freight should be promoted (*PPG13*, paras 4 and 45). All of these publications state Government policy. Bexley Council seek to draw a distinction between statements of Government transport policy on the one hand and Government planning policy on the other. In ProLogis's view, both are equally relevant in a case in which the issue in hand concerns facilitating the transport of goods by rail. But if there is any significance in the distinction, it is plain that *PPG13* is a statement of planning policy and by virtue of the cross-reference in *PPG13* so too is *Sustainable Distribution* (see para 6.68 above). *PPG13*, paragraph 45, also draws attention to the role of the (now former) Strategic Rail Authority (SRA) in advising on rail freight sites.

SRA Statements

- 6.74 The SRA's *Strategic Agenda*, published in 2001, focussed on switching non-bulk intermodal traffic from road to rail. It saw the need to provide intermodal transfer facilities generally and noted that new interchanges were particularly needed in the South East (CD4.7, pp22, 42, 43, and 61).
- 6.75 These themes were elaborated in the SRA's *Freight Strategy*, also published in 2001, which explained that in order to grow rail freight a substantial increase in rail-connected warehouses and intermodal handling capacity is required (CD4.8, p4). In it the SRA drew attention to the public interest benefits of transferring freight to rail by virtue of reduced road congestion, accidents and emissions, which it saw as being particularly important in the South East (CD4.8, p9).
- 6.76 All of these publications by the Government and the SRA pre-date the First Secretary of State's decision in the LIFE case which was delivered in August 2002 (CD8.1).

- 6.77 The LIFE decision has been much relied upon by Bexley Council, but this reliance is based upon a misinterpretation of its significance and its terms, and upon a mistaken belief that the decision is to be read as stating a generally applicable and onerous test of need which in some way negates or qualifies the policies set out in all these prior publications. It does no such thing.
- 6.78 These points are elaborated elsewhere in these submissions but, whatever the proper meaning and effect of the LIFE decision, it is important to pay close attention to the policies which were published after the decision. These policies are of vital significance to determining the Howbury Park proposals because they include the SRA's detailed policies for SRFI, the Government's endorsement of these policies, and their incorporation into the statutory development plan – the *London Plan* – and associated supplementary planning guidance.
- 6.79 As ProLogis's planning witness, Mr Gartland, explained in his evidence in chief, his firm (Nathaniel Litchfield & Partners) was commissioned by the SRA to advise it upon how to pick up the pieces and move forward after the LIFE decision. He explained how, in accordance with his advice, the decision caused the SRA to commission copious research to underpin a specific and detailed policy statement on SRFIs (CD4.10, Appendix H; PDL/6.6, Appendix 1 and PDL/6.7).
- 6.80 In his closing submissions, Counsel for Bexley Council submitted that the SRA's *Freight Strategy*, was taken into account by the Secretary of State in the LIFE decision (LBB0.8, para 6.7). He specifically asserted that the advice on page 25 of the document, which refers to a strategy for an interchange at Colnbrook and in addition two or three major interchanges to serve London, was considered by the Secretary of State in arriving at the decision. The point was not made before, either in evidence by the Council's witnesses or in cross-examination of PDL's witnesses.
- 6.81 The point is anyway a poor one. The *Freight Strategy* was published in 2001, after the LIFE inquiry closed. Thus it was not referred to in the Inspector's report. In the decision letter it is mentioned only once; but not in relation to the idea that there should be three or four SRFIs around London (CD8.1, para 15). The relevant passage in the *Freight Strategy* (CD4.8, p25) moreover makes it clear, firstly, that at the time of publication the research that the SRA had commissioned was underway and not completed; and secondly, that the need for two or three major new facilities in the London region in addition to Colnbrook was an "*emerging conclusion*".
- 6.82 The tentative nature of these references contrasts sharply with the detailed and firm conclusions reached in the SRA's later *Strategic Rail Freight Interchange Policy*. The list of research set out in Appendix H of this document refers to 11 research studies – only one of which (the first) "*formed the basis for the Interchange Strategy contained within the SRA Freight Strategy May 2001*" (CD4.10, Appendix H). Accordingly, the point which Counsel for Bexley Council sought to make is a poor one.
- 6.83 As to the SRA's *Strategic Rail Freight Interchange Policy (SRFI Policy)*, this was issued in 2004. It sets out the critical importance of a network of SRFI to achieving higher levels of rail freight (CD4.10, paras 4.2 to 4.4, 5.13, 6.3, 6.8, 7.1 and p65) and

that three to four SRFI are required in London and the South East (ibid, paras 6.9 and 6.10). The policy explains the scale of facilities required for a SRFI which generally points to a site of at least 40ha (ibid, para 4.28). It emphasises that the combination of intermodal facilities and rail-linked warehouses found in a SRFI enables businesses to change over time, either to introduce the use of rail or to increase its use in their operations (ibid, paras 4.5, 4.8, 4.16 and 4.17). The policy draws attention to the lower emissions of carbon dioxide by rail compared to HGV road freight (ibid, para 5.10).

- 6.84 By letter dated 24 June 2005 the SRA confirmed that the Howbury Park proposals met its *SRFI Policy* and expressed support for them (PDL/6.3, Appendix C).

DfT Statements

- 6.85 At the time of its publication, the SRA's *SRFI Policy* was not a statement of Government policy in itself. However, since the demise of the SRA, the DfT has explained its status noting that "*the interchange policy was based on the Government's existing policies for transport, planning, sustainable development and economic growth, and much of chapters 4, 5, 6 & 7 is still relevant.*" It further states that the document will be retained on the DfT's website "*as a source of advice and guidance*" (CD4.14). In this connection the term "*still relevant*" appears to have been used to distinguish those parts of the SRA's publication which had become irrelevant with the demise of the SRA (e.g. an explanation of the role of the SRA) from those parts which remain relevant as a source of advice and guidance (e.g. the advice concerning the importance of SRFIs and the requirement for three or four in London and the South East).

- 6.86 Any uncertainty about the continuing relevance and status of the SRA's *SRFI Policy* was dispelled decisively by the DfT in January 2007 when it submitted its *South Eastern Regional Planning Assessment for the railway*. In this document, which covers south-east London, the DfT explains that (CD4.5, pp48 & 49):

1. the Government encourages the development of SRFIs;
2. the SRA's *SRFI Policy* is broadly endorsed by Government; and that
3. the outcome for the London region is foreseen to be three to four major strategic sites around the M25 ring.

- 6.87 Bexley Council emphasise that the statements made by the DfT do not amount to expressions of Government planning policy. Strictly speaking (and provided that one treats the Government's transport and planning policies as distinct) this is correct. However, this seems a somewhat esoteric point given: (a) the breadth of the DfT's statements that the Government encourages the provision of SRFIs and broadly endorses the SRA's *SRFI Policy* including the provision of three or four SRFIs around London, and (b) that the development plan specifically incorporates that requirement (see below).

The Development Plan and Other Local Planning Guidance

- 6.88 As to the development plan, the *London Plan* (CD3.3) was adopted in 2004. The *Draft Further Alterations to the London Plan (Draft Alterations)* were published for consultation in September 2006. Policy 3C.24 promotes the provision of rail freight facilities and improved integration between freight modes. Apart from introducing a specific cross-reference to TfL's *London Freight Plan* the *Draft Alterations* do not propose amendments to this part of the *London Plan*. The supporting text to the policy seeks to foster the progressive shift of freight from road to rail because rail is more sustainable, and the *Draft Alterations* do not propose to change this (CD3.12, para 3.215).
- 6.89 The Howbury Park proposals are entirely consistent with, gain support from and would help to deliver this part of the *London Plan*.
- 6.90 Policy 3C.25 specifically supports the provision of strategic rail intermodal freight facilities and the supporting text explicitly incorporates the requirement identified by the SRA for three or four SRFIs around London. The *Draft Alterations* do not propose to amend these aspects in any material way, nor did Bexley Council suggest any changes to them in its consultation response (LBB1.3, Appendix 7).
- 6.91 In response to a question asked by the Inspector, Mr Gartland provided a written explanation (PDL/1.8) which demonstrates that the *London Plan's* explicit support for three or four SRFIs around London stems from the Mayor's response to the Panel's report. This report recommended that the policy should be strengthened in its terms and should be more specific. The cross-reference to the SRA's policies came about as a result of representations made by the Government Office for London to this effect. In other words, these aspects of the *London Plan* did not arise fortuitously but rather following deliberation and analysis.
- 6.92 It is significant that the Mayor of London, as the strategic planning authority for London and the custodian of the *London Plan*, supports the Howbury Park proposals (CD1.2 and CD1.7) as does the neighbouring county planning authority, Kent County Council.
- 6.93 There is one aspect of paragraph 3.218 of the *London Plan* that the Howbury Park proposals are inconsistent with, namely the aspiration that SRFIs should be located wholly or substantially on previously developed land. In view of this, the Inspector and/or the Secretary of State will need to determine whether, having regard to all the circumstances of this case, material considerations indicate that the appeal should be determined otherwise than in accordance with the plan, in applying Section 38(6) of the Planning and Compulsory Purchase Act 2004 to the letter of this part of the development plan.
- 6.94 ProLogis relies upon the rail freight case which it puts forward to demonstrate sufficient very special circumstances to allow inappropriate development in the Green Belt as being sufficiently powerful to outweigh the aspiration in the *London Plan* that SRFIs should utilise previously developed land. It must follow, as a matter of logic,

that if the Secretary of State is convinced that there are sufficient very special circumstances present here to allow a major development in the Green Belt, that normally would not be contemplated, these same circumstances must also outweigh the reference to previously developed land in the *London Plan*.

- 6.95 As to this matter, the statement in the *London Plan* concerning previously developed land was written at a time when the realism or otherwise of this proposition could not be tested as no specific proposals had come forward for SRFIs (CD3.12, p156). It is telling how the Mayor of London's attitude to this aspect has changed as specific proposals have come forward and been tested by the Mayor and his agencies and advisors. The Mayor moreover jealously guards London's Green Belt in his role as strategic planning authority and needs a great deal of persuasion to sanction development within it – his support for the Howbury Park proposals should be seen as highly significant especially in view of this.
- 6.96 Secondly, the recognition by the Mayor that his original aspiration that SRFIs should use previously developed land is unrealistic is seen in the *Draft Alterations* which propose its deletion and substitution with the words “*New locations should meet strategic planning and environmental objectives.*” Whilst this phraseology is plainly intended to represent a departure from the previously stated aspiration to use previously developed land, it would still militate against the use of a site in the Green Belt for a SRFI. However, the Mayor is plainly alive to this and specifically addresses the point in his Stage 2 report in which he acknowledges it and concludes that there are very special circumstances in the case of the Howbury Park proposals (CD1.7, para 47).
- 6.97 Bexley Council has objected to this change in the policy and suggested that the policy should additionally require SRFIs to be located within Strategic Industrial Locations (LBB1.3, Appendix 7). The Panel appointed to examine the *Draft Alterations* programmed a session on 5 July to consider, amongst other things, the implications of SRFIs for the Green Belt (LBB1.5). The outcome of their deliberations will be known by the time that the Secretary of State makes her decision on the Howbury Park proposals.
- 6.98 Thirdly, the Mayor of London and the agencies of and advisors to London Governance have had to consider the strength of ProLogis's case that there are very special circumstances to justify permitting the Howbury Park proposals in the Green Belt.
- 6.99 In the Mayor's Stage 1 Report (July 2006) following detailed and careful analysis, the conclusion is reached that there is a clearly recognised need for several SRFI around London (CD1.2, paras 33 to 41); that there is a lack of suitable alternative sites to Howbury Park to meet the identified need (*ibid*, paras 42 to 48) and that given the identified need and the lack of alternative sites, there is a strong case to override Green Belt policies (*ibid*, para 49).
- 6.100 Later that year, the Mayor wrote to St. Albans City & District Council concerning the proposals for a SRFI in the Green Belt at Radlett setting out his conclusion that in

order to accommodate such a large facility the use of Green Belt land is almost inevitable (PDL/1.4, Appendix 1).

- 6.101 These conclusions are strengthened in the Mayor's Stage 2 Report (February 2007) in which it is concluded that ProLogis's alternative sites assessment (which demonstrates that there is a dearth of such sites) is robust (CD1.7, para 14) and that the need for SRFI sites is accepted (ibid, para 15); TfL draw attention to the consequences should the Howbury Park proposals be refused (ibid, pages 5-10), namely that objectives of the *London Plan* and the *London Freight Plan* would not be achieved, and state that the proposals present a real opportunity which is very much supported from the rail perspective (ibid, paras 25 and 40); GLA Economics advise that the need is well acknowledged and that there is more than enough evidence as to the benefits of the scheme (ibid, para 49). The Mayor's overall conclusion is that the lack of alternative sites is accepted and that the case to use Green Belt land is very strong (ibid, para 108).
- 6.102 These are powerful and weighty conclusions drawn by London's strategic planning authority in relation to the use of part of London's Green Belt to meet a strategic need for a SRFI. It is highly unlikely that the parochial authority in which a potential site lies – here the London Borough of Bexley – would ever support the use of Green Belt in order to meet a need which is strategic and which resonates far beyond the horizons of the local authority in question. In such circumstances, the support of the Mayor of London is particularly significant. It is also worthy of note that Bexley Council has not sought to engage with the Mayor to persuade him otherwise in relation to these key matters.
- 6.103 The conclusion reached by the Mayor that ProLogis's alternative sites assessment is robust is important. It is key to this to grasp that the SRA's *SRFI Policy* sets out the benefits of SRFIs – a strategic combination of intermodal terminal facilities and rail-linked warehouses – and what was required in order to provide a SRFI. These points are elaborated in the more recent *Land for Transport Functions SPG* (see below). There is no realistic scope to disaggregate the intermodal area from the rail-linked warehouses as this would run counter to the policy framework to provide three to four SRFIs around London as well as failing to respond to market forces (PDL/1.12).
- 6.104 Further support for the principle of providing a SRFI at Howbury Park is found in the draft *London Freight Plan* which reiterates that three to four SRFIs are required around London to help to minimise London's environmental footprint and urges that it is important that an appropriate balance is struck between local and strategic issues in such cases (CD4.12, p26).
- 6.105 The recently adopted *Land for Transport Functions SPG* supplements the *London Plan*. It discusses SRFIs in depth. The SPG draws attention to the requirement for rail-linked warehouses (CD4.16, para 12.2); distinguishes between the need for three or four SRFIs around London and the complementary role of smaller rail freight interchanges (ibid, para 12.7); states that there is a very limited range of potentially suitable sites (ibid, para 12.8) and indicates a likely minimum site size of some 40ha (ibid, para 12.9). It also draws attention to the need to provide large distribution units

which meet modern requirements within a SRFI (ibid, para 12.8); recognises how occupiers can evolve to take up and to increase their take up of rail freight (ibid, para 12.10); cross-refers to the SRA's *SRFI Policy* (ibid, para 12.10), and indicates that a site's potential to provide rail freight facilities and thereby to deliver sustainable transport objectives should be accorded considerable weight in determining planning applications (ibid, para 12.12). This is a critically important planning policy statement in the context of considering ProLogis's case.

- 6.106 The SPG is undoubtedly a planning policy document. Bexley Council made no representations regarding its contents during its consultation stage. It should be given significant weight.
- 6.107 The Howbury Park proposals are entirely consistent with, gain support from, and would help to deliver the objectives of both the draft *London Freight Plan* and the recently adopted *Land for Transport Functions* SPG.

Conclusions

- 6.108 ProLogis submit that it is beyond argument that there is a sufficiently detailed policy framework in place to enable the proper consideration of the Howbury Park proposals and that, save for the Green Belt status of the site, all of the policies discussed above provide clear support for the proposals at every level.
- 6.109 The strategic planning authority for London, the Mayor, is convinced that a strong case of very special circumstances has been made good, as is Kent County Council. At the inquiry the County's witness described the case to use Green Belt land for the Howbury Park SRFI as founded upon an "*inescapable logic*" (KCC1, para 10.4).
- 6.110 Meanwhile a range of documents continue to be produced which either set out the urgent importance of addressing climate change through sustainable development and/or encourage the transfer of freight from road to rail in order to reduce greenhouse gases. Since the LIFE decision there have been more than 30 such publications (see PDL/1.9) including the recent Planning White Paper (*Planning for a Sustainable Future*) and the Energy White Paper.
- 6.111 The requirement for three or four SRFIs to serve London has been advocated for at least three years. ProLogis argue that the time has come to move from deliberation to delivery, from laying the ground, to provision on the ground. The Howbury Park proposals are supported by the Mayor of London and objections once lodged by the Highways Agency, Kent County Council and the Environment Agency have been withdrawn. The proposal represents a unique opportunity to deliver the first of the three or four SRFIs required to serve London. If permission is not granted then the reality is that the strategy set out in, amongst other places, the *London Plan* and the *Land for Transport Functions* SPG will not be delivered either in the foreseeable future or at all.
- 6.112 It is for these reasons that reference was made in ProLogis's Opening Submissions to it being "put up or shut up time" for the planning system, this being a less elegant but

more direct way of submitting that the circumstances are ripe here for oft-repeated aspirations to become reality. The concept is also linked to the Inspector's reference at the inquiry to the "chicken and egg" analogy - namely that one needs to provide rail freight facilities in order to obtain the benefits of having done so.

- 6.113 A good example of this is DIRFT which was originally planned to handle Channel Tunnel freight exclusively. Problems with Channel Tunnel freight did not lead to DIRFT failing. Rather, it has become a significant and successful intermodal facility for other forms of freight traffic. As Mr Gartland put it when giving his evidence, if DIRFT had not been there, none of this could have been achieved.
- 6.114 The simple fact of the matter is that, unless SRFIs are provided as these policies envisage, the planning system will continue to do no more than pay lip service to the desirability of transferring freight from road to rail.

Carbon Dioxide Emissions

- 6.115 Underlying the policy imperative to move freight from road onto rail are the carbon dioxide (CO₂) savings that such a shift would entail. Exactly how much CO₂ is likely to be saved is a matter of some dispute, although it is hard to treat seriously Mr Fox's fleeting claim on behalf of Bexley Council that the proposed development would result in an increase in the amount of CO₂. Savings are now estimated by both ProLogis and Bexley Council (PDL/6.23). Whilst it is difficult to be precise, ProLogis's estimate is consistent with the savings publicised by Tesco and Stobarts in relation to the freight train services which they run between DIRFT and Grangemouth, and it is evident that Bexley Council's estimate has been driven down by Mr Fox adopting an incorrect conversion ratio for the number of containers per train, and the number of equivalent HGV trips per train (PDL/6.22, paras 1.5 to 1.17).

The LIFE Decision

- 6.116 It has been fundamental to Bexley Council's case to contend that the LIFE decision sets some form of test or hurdle which applies generally, namely that there must be a "*situation requiring relief*" before permission can be granted (CD8.1: IR para 13.48 and decision para 17). This, so it is said, must be something more than and different from a mere "*policy need*". Thus (so the argument continues) compliance with policies which seek to transfer freight from road to rail is insufficient and the presence of disused or less than fully used old railway sites (such as Willesden and Barking) demonstrates that there cannot be a "*situation requiring relief*."
- 6.117 In fact, the LIFE decision does not state any generally applicable principles and does none of the above. It is simply a decision on its own merits (or lack of them). Mr Bryant agreed in cross-examination that, read in its proper context, the finding that there was not a situation requiring relief in that case was simply a conclusion reached by the Inspector (and agreed with by the First secretary of State) on the evidence in that case and not a gloss on the very special circumstances test in *PPG2*, which contains no such requirement. *PPG2* does not state or imply that a case can only be

made where there is a situation which requires relief, nor does the LIFE decision purport to say that it does.

6.118 Further, the policy framework in the case of Howbury Park (unlike that at the time of the LIFE decision) does a great deal more than make generalised statements in favour of transferring freight from road to rail. Now there is specific *London Plan* and SPG support for the provision of three to four SRFIs around London, and the DfT acknowledges this as the outcome of the SRA's *SRFI Policy*, which it broadly endorses. This policy framework contrasts with that at the time of the LIFE decision.

6.119 It would be wrong, as a matter of first principles, to dismiss compliance with specific policies which recognise the need for SRFIs around London as merely being a "*policy need*" (whatever that means). The point is that a carefully researched and thought-through sequence of policies, adopted by the SRA and then enshrined in the *London Plan* and associated SPG, and now broadly endorsed by the Government, has laid the ground for the delivery of SRFIs such as the Howbury Park proposals.

Other Industrial and Warehouse Sites

6.120 In their evidence, Bexley Council drew attention to the supply of (non rail-connected) industrial and warehouse sites and to the planned release of some of this supply for other uses. They suggested that the appeal proposals might "divert" investment and undermine regeneration in other parts of the Thames Gateway (LBB1.2, para 9.8.2). These points have no relevance to the Howbury Park proposal, which is for rail-connected warehouses and an intermodal facility.

The Practicality of Need

6.121 The need case is founded upon the overarching policies reviewed above which seek to move freight from road to rail and, crucially, the specific set of policies that there should be three to four SRFIs around London. Notwithstanding this, it is relevant to consider whether the proposal would be likely to attract occupiers who would use the rail infrastructure. In other words, does the policy case (which supports these proposals) marry up with practical reality?

6.122 Mr Woodbridge tackled this point in his evidence to the inquiry. He advised that ProLogis is the largest provider of logistics space in the world and has the largest market share in the UK. The company has a five year business plan to deliver SRFIs nationwide. It has acquired the rail sites at DIRFT and Corby and the proposed site at Parkside (Warrington). It has its own Rail Freight Strategy. It is very significant that such an important developer in the distribution market has invested so much time, effort and money in pursuing the rail sector and this particular rail-linked scheme. ProLogis should be encouraged to develop this strategy. Also, the distribution sector is watching the progress of the Howbury Park proposals and permission would instil confidence into a market where many developers have been deterred by their perception of the LIFE decision.

- 6.123 ProLogis’s commitment to delivering rail freight is shown by the unprecedented rail incentives scheme which is tied into the proposals by ProLogis’s planning obligation. It is also evident in the layout of the buildings (with road access on one side only) which is custom made for rail-served warehouses. To build in such a way for occupiers who are interested solely in road access would, as Mr Woodbridge graphically put it, be “commercial suicide”. Such occupiers would not consider Howbury Park because of this (PDL/7.4).
- 6.124 As to the type of occupiers likely to be attracted to the rail-served warehouses and intermodal facilities, there is clear evidence that the intermodal area would be taken up by the market with both EWS and ABP keen to run the facility (PDL/6.3, Appendix E and PDL/7.7). Notwithstanding this, the S106 Undertaking provides that the terminal would be run on an “open access” basis (PDL/0.15, Schedule 1, para 1.14).
- 6.125 The rail-linked warehouses would provide a unique offer.
- 6.126 At the inquiry, Bexley Council made the point that Unit A would be larger than any existing warehouse unit in London and the South East and that the total floorspace of the scheme would also be uniquely large.¹ In any event, the point merely serves to illustrate one of the strengths of the proposal; if indeed the largest warehouse and the largest warehouse scheme in London and the South East would be rail-linked, this amounts to a huge vote of confidence by ProLogis in the sector.
- 6.127 Also, as Mr Woodbridge explained, ProLogis would not need many occupiers to let the four buildings proposed; indeed one party could well take the entire scheme. The London and South East market which would be served by the likely occupiers of the scheme is huge. The importance of the Corporate Social Responsibility agendas to major companies such as Tesco must not be lost sight of. Reducing greenhouse gas emissions – and being seen to take action to do so – is an important feature of the contemporary market for rail freight services and facilities. Practical and realistic examples of occupiers who would be likely to take units within the scheme include large retailers (Tesco, Argos and Morrisons); third party logistics operators such as DHL, Wincanton and Eddie Stobart; companies such as MFI and IKEA who operate in the “bulks and furniture” sector; and drinks wholesalers/retailers such as Threshers and Oddbins.
- 6.128 At the inquiry Mr Woodbridge also explained the role that rail currently plays for companies such as Asda, Tesco and M&S and the way in which Howbury Park would provide them with significant opportunities. He also suggested that DHL, or another similar company, could sensibly run a large building on the site for a number of customers who in their own right might not have enough demand to receive a direct train.

¹ Subsequent to this evidence being given, planning permission was granted for the Shellhaven (London Gateway) proposal. This scheme would provide 5 times as much floorspace – 10 million square feet - as ProLogis’s proposals and could provide a series of individual buildings each as large as Unit A (PDL/7.8).

- 6.129 One example that Mr Woodbridge gave should be particularly noted. Whirlpool ran six trains per week with 12 containers per train of white goods to a unit that they occupied at Paddock Wood. That building was destroyed in a fire. Whirlpool was unable to find a rail-connected warehouse in London and the South East to take its place. If Howbury Park had been available, Mr Woodbridge anticipated that Whirlpool's interest in taking a unit would have been exceptionally keen. As it is, they now occupy a non rail-connected warehouse in Aylesford.
- 6.130 Currently there is a fundamental problem in that there are no modern rail-connected warehouses to serve London. Given this, it is hardly surprising that there is a carefully formulated policy basis moving from the SRA's *SRFI Policy*, through the Government's endorsement of it, to the *London Plan* policies which support the provision of three or four SRFIs around London – the practical need and the policies both support ProLogis's case.

The Lack of Suitable Alternative Sites

- 6.131 Bexley Council's case that there is a suitable alternative site to Howbury Park for a SRFI is not supported by the Mayor of London or Kent County Council as strategic planning authorities. The Council's concerns in relation to the Nathaniel Lichfield and Partners (NLP) Alternative Sites Report (Planning Statement, Volume 2, Section 6) stand in stark contrast to the Mayor's view that the site selection and consideration of alternatives is robust (CD1.2, paras 42 to 48 and CD1.7, para 14).
- 6.132 The Council's principal criticism of the Alternative Sites Report was that it had applied an "arbitrary" minimum size of 40ha. ProLogis rejects that criticism. Far from being arbitrary, the 40ha criterion is founded in detailed research commissioned by the SRA which led to the guidance that the area of land likely to be required for an SRFI is between 40 and 400ha. Subsequently, the Mayor in his *Land for Transport Functions* SPG adopted a minimum site area for a SRFI of 40ha. During the consultation stage for this SPG, Bexley Council neither objected nor made representations on this matter. Thus the NLP criterion – which is in fact the SRA's and London Governance's criterion - is firmly based on thorough research and planning policy.
- 6.133 As regards the suggestion that there is a suitable alternative site to Howbury Park, the Council's case has been schizophrenic. Following the pre-inquiry meeting on 19 January 2007, ProLogis sought to ascertain whether the Council was relying on the existence of alternative sites as a reason for refusal. At that time the Council's position was that it would critique the NLP Alternative Sites Report and argue that elements of the proposed development could be located on adjacent smaller sites (i.e. that the proposed development could be disaggregated). Subsequently, when the proofs were delivered, the Council's witness dealing with rail matters, Mr Niblett, no longer argued that the development could or should be disaggregated and instead referred to a number of alternative sites which he claimed were suitable alternative sites to Howbury Park for a SRFI.

- 6.134 Later in cross-examination it became clear that the Council were only really concerned with promoting Barking as a suitable alternative to Howbury Park, even though Mr Niblett accepted in cross-examination that he had only considered the suitability of that site and not its viability or availability. Indeed, having put forward a number of criteria against which he contended that alternative sites should be assessed, Mr Niblett then failed to apply his own criteria in his assessment.
- 6.135 The inherent unsuitability of Barking, and the difficulties concerning viability and availability of the site are fully addressed in the NLP Alternative Site Assessment Report (CD1.4), Mr Gartland's rebuttal on alternative sites (PDL/1.5) and a further paper prepared by ProLogis's rail witness, Mr Gallop (PDL/6.18). There are several reasons why a site at Barking is unlikely to be developed for a SRFI in the foreseeable future with a significant amount of rail-linked warehousing. Of particular note, the shape of the site constrains the developable area and the costs of the rail and road infrastructure would be very significant. The local planning authority is also resistant to warehousing and plans significant housing and mixed use development in close proximity to the site.
- 6.136 In this connection it is extremely important to note that TfL sees Barking as a unique opportunity to serve as a CTRL freight terminal which it distinguishes from the three or four SRFI facilities which it advocates around London. The *Land for Transport Functions* SPG clearly makes this point (CD4.16, paras 12.14 to 12.18).
- 6.137 In his evidence Mr Woodbridge drew attention to the real and practical difficulties which would stand in the way of developing rail-served warehouses at Barking. As well as the planning issues and the need for major enabling works, a significant number of land ownerships would need to be brought together and CPO procedures would inevitably be required to assemble the site. This would give rise to significant compensation payments and delay.
- 6.138 ProLogis's case is not to say that it would be impossible to deliver development at Barking, but rather that it would take a considerable period of time and concerted effort to overcome these issues. In other words, Howbury Park and Barking should not be seen as competitors either in terms of their respective potential roles (Howbury Park as one of the three or four SRFIs required for London; and Barking as a CTRL related facility) or the timescales for their delivery. Rather, they should be regarded as complementary facilities (PDL/6.18 and KCC8, para 15).
- 6.139 In any event, refusing Howbury Park on the basis of the potential to redevelop Barking would be utterly futile – there is no evidence to suggest, let alone to substantiate, that the Howbury Park proposals have inhibited the bringing forward of proposals for the Barking site.
- 6.140 There are echoes of the LIFE decision in the case put by Bexley Council. At LIFE, the Inspector relied upon perceived opportunities to use Willesden and Barking as a reason for recommending against the proposals. Some seven years after that inquiry, the decision to refuse the LIFE proposals has had no effect whatever on bringing these sites into fuller use; indeed they are less used now than they were then.

- 6.141 The reality is that the rail freight market that would be well served by a SRFI at Howbury Park is not going to rush to Barking in the absence of a facility at Howbury Park.
- 6.142 What the market wants is a critical mass of high quality rail-connected warehouses (with a private road network) and an intermodal area which combines good road and rail access to serve the London and South East market. This would be provided by Howbury Park which would be the first of London's three or four SRFIs. The market needs all of this now; a hope that with massive investment and years of planning something might happen at Barking is of no use to the market that ProLogis and the SRA's *SRFI Policy* aim to address.
- 6.143 Even if it is assumed that Barking could be developed as a rail freight interchange without prejudicing its role as the only available site for a CTRL freight terminal, the development of Howbury Park as an SRFI would not prejudice its development for that purpose (PDL/6.18, paras 5.1 to 5.3).
- 6.144 Although Bexley Council has not said in terms that Willesden should be considered as a suitable alternative to Howbury Park, repeated references were made during the inquiry to it and its under-use. ProLogis can only assume that these references have been made in order to re-run the argument that appealed to the Inspector in the LIFE case, namely that there is not a situation which requires relief because there is a disused site elsewhere. This argument is addressed above. Also, it is telling that the market has shown no interest in Willesden since the LIFE inquiry – this only goes to show how simplistic and naïve it is to imagine that if a site such as Howbury Park (which the market would take up and which has the backing of a major player like ProLogis) is refused, the demand would be displaced to a site in which the market has shown very little interest.
- 6.145 In any event, the policy basis is for a ring of three or four SRFIs around London. The Howbury Park SRFI would be the first of these. When examining this proposal it is of no relevance to refer to a site which is in a wholly different sector. The reality is that there is no suitable, viable and available site to address that part of the policy framework and practical need which the Howbury Park proposals would meet.

Operational Matters

Gauge

- 6.146 Bexley Council's concern is that because Howbury Park is on the W8 gauge rail network, it would be at a disadvantage and unattractive to freight operators as intermodal containers increase in height.
- 6.147 This matter is addressed in the technical note on loading gauge agreed between Mr Niblett and Mr Gallop (PDL/6.15). Being on W8 gauge is a theoretical rather than a real drawback. The practical loss of capacity under W8 loading gauge over W10 loading gauge, in terms of the number of containers per train, is in the 2% of the global equipment fleet accounted for by 45' x 9'6" high containers, where for an

average 420m length train, 14 could be carried on Lowliner wagons compared to 20 on standard flat wagons. Using Megafret wagons under W8 loading gauge, 22 x 45' containers can be carried up to a maximum of 9'2" high (PDL/6.15, Executive Summary, para k).

Train Paths/Timetable

- 6.148 Although there has been concern as to the number of train paths that would be available for freight trains to and from Howbury Park on a part of the network where (as is common in London) there is high demand for passenger trains, it is plain that there are three paths for the start up phase and that future paths are likely to be made available as and when required (PDL/6.16 and PDL/6.24). That there is no guarantee from Network Rail that all the paths that might be required in the future will be available is unsurprising and reflects their normal practice. But Network Rail is supportive of the Howbury Park proposals and between May 2006 and May 2007 wrote four letters saying so (PDL/6.3, Appendices D and F; PDL/6.6, Appendix 2 and PDL/6.13). EWS's experience is that "... *most pathing requests can be catered for...*" (PDL/6.3, Appendix E). Accordingly, the Secretary of State can be confident that the required train paths would be available for trains to access Howbury Park at the commencement of operations and as the facility develops.
- 6.149 Without a planning permission, the Howbury Park proposals can only be assessed in outline by Network Rail in their consideration of the 2009 timetable. Should permission be granted, Network Rail and the DfT would then be in a position to advance not only the start up path requirements but also to take a strategic view in developing the 2009 timetable and the 2012 Integrated Kent Franchise. The important point is that, with permission granted, ProLogis would be a stakeholder in this process.
- 6.150 It is highly regrettable that Bexley Council, through Mr Niblett, should have sought to suggest that Network Rail's position was something other than that set out by Barbara Barnes by deliberately omitting a paragraph from an e-mail he solicited from Paul Harwood (LBB3.4, Appendix A). The full version (PDL/6.21) casts a quite different complexion on the contents of that e-mail than he sought to give it.

Operational capacity

- 6.151 In response to a request from the Inspector, Mr Gallop produced a note detailing the rail operations on the site. This demonstrates that Howbury Park would have the capacity to handle the nine intermodal trains (and three conventional trains) per day which are forecast to use the facility (PDL/6.17).

Breakeven Distances

- 6.152 Like other evidence produced by the Council, Mr Niblett's evidence on breakeven distances relied on the theoretical and not the actual. Moreover, the spreadsheets and explanation of the methodology supporting Mr Niblett's breakeven figure are incomprehensible. ProLogis prefer the real world and the evidence is that there are a number of examples of freight operators running rail services on routes that are below

Mr Niblett's so called "breakeven" distance, including one service on a route only 57km long (PDL/6.19).

- 6.153 There is also a common sense point to be made in relation to this issue and the other rail issues namely, would ProLogis really be investing tens of millions of pounds in developing a SRFI unless it was confident that it would be attractive to occupiers wishing to use rail? At the inquiry Mr Woodbridge gave evidence as to the types of occupiers that were likely to be attracted to Howbury Park (see para 6.127 above). Both he and Mr Gallop stressed the increasing significance of the corporate social responsibility agenda. These, together with worsening road congestion, the ageing profile of HGV drivers, escalating fuel costs, and the possibility of road pricing all demonstrate that the equation is going one way – in favour of rail freight.

The Rail Incentive Package

- 6.154 ProLogis is confident that Howbury Park would be attractive to rail freight users. Nonetheless, concerns were expressed by Bexley Council that the occupiers of the units would not use the rail facilities. The point was put in colourful language by their witness dealing with CO₂ emissions, Mr Fox, in an e-mail to Melanie Hobson (AEA) which betrays a good deal about the Council officer's thinking on the subject - "*In order to squeeze the proposal through the planning process, it has been billed as a rail freight interchange.*" (LBB7.5, e-mail dated 20 March 2007).
- 6.155 However, the key to making the proposed development a successful SRFI is not, as the Council suggest, to shackle and constrain its operation by imposing restrictive conditions and penalties if rail share targets are not met ("sticks") but to provide flexibility and incentives ("carrots") to encourage and ensure the take up of the rail facilities.
- 6.156 The carrots being offered by ProLogis have rightly been described as unprecedented and are detailed in the planning obligation. They comprise a suite of measures designed to encourage occupiers to use rail including initial lift subsidies, the funding of a rail promotion officer and ensuring the rail infrastructure to be provided remains accessible and available (PDL/0.15, Schedule 1, paras 1.1 to 1.14).
- 6.157 In contrast, the only effect of sticks is likely to be a commercially unviable and unlettable development as Mr Woodbridge explained by reference to practical and real issues concerning pricing, resilience, contract lengths/alienation and investment value.

Other benefits

Sustainability

- 6.158 There are two aspects to the sustainability of the proposed development that ProLogis would particularly draw attention to. First, the design of the buildings incorporates a considerable number of features that would reduce the amount of embedded energy, their energy requirements and impact on the environment (PDL/10.1). Examples are the lower height of the buildings, the use of photovoltaic cells and green roofs. As a

consequence 30% less steel would be required in the construction of the warehouses, the energy demand for the proposed buildings would be 85% of a good practice typical UK distribution warehouse, 10% of its energy requirements would come from renewable sources, and rainwater would be collected and recovered for use within the development. All these features and the resulting carbon savings are welcomed by the Mayor (CD1.7, paras 50 to 54) and not criticised by Bexley Council (CD1.1, pp88-89).

- 6.159 Critically, the Government's and the strategic planning authorities' sustainability agenda would also be supported by encouraging the move of freight from road to rail (see above).

Socio-Economic, Regeneration and Other Benefits

- 6.160 There is no dispute that Howbury Park would bring a substantial number of jobs to an area which shows signs of deprivation (PDL/1.1, paras 7.50 to 7.74). This is a factor which evidently would be welcomed by many of the residents (SGCF7).
- 6.161 The development would bring other significant environmental and biodiversity benefits. In particular, the majority of the Crayford Marshes (50ha) would be put into trust together with a significant financial endowment (circa. £2million) to ensure their long term preservation and maintenance. The benefits of this are recognised by the Mayor of London, Natural England, the London Wildlife Trust and Bexley Council. The scheme would also result in the restoration and beneficial use of the tithe barn and the creation of new areas of habitat within the appeal site, including an inter-tidal pond.
- 6.162 Bexley Council's response to this is that Howbury Park is not needed for regeneration to occur - there are lots of sites for warehousing in the Borough. However, the number of additional jobs created in the last few years has been modest (LBB1.4, para 4.5) and a fraction of those that Howbury Park would generate. The fact that there is a very significant surplus of (non rail-linked) warehousing sites in the area (a 20 year supply in south-east London – see LBB1.6) is nothing to the point.

Conditions and Unilateral Undertakings

- 6.163 The suggested conditions (PDL/0.13) reflect the comments of both the Inspector and the parties (including the comments made by Slade Green Community Forum) where agreed by ProLogis and where they satisfy the tests of Circular 11/95. The S106 Obligations are in the form of Unilateral Undertakings and divided into Highway and Non Highway Undertakings (PDL/0.14 and 0.15 respectively). The Highway Undertakings are agreed with the Highways Agency, TfL and Kent County Council. The Non Highway Undertakings include the rail incentive package agreed with and endorsed by TfL and Kent County Council (KCC8, para 11).

Overall Conclusion

- 6.164 ProLogis's keynote message is simple and clear. Here is a unique combination of circumstances in which there is a detailed policy framework which requires the provision of three or four SRFIs around London and lays the ground for Howbury Park; where all the strategic authorities and consultees either support the proposals (e.g. the Mayor of London, Kent County Council and Network Rail) or have withdrawn their objections (e.g. the Highways Agency and the Environment Agency); where the world's leading provider of logistics floorspace would facilitate a massive investment and vote of confidence in delivering rail freight, the success of which would send a vitally important message to the logistics industry that the Government takes seriously the delivery of its core ambition to transfer freight from road to rail.
- 6.165 It is time to recognise that if this unprecedented set of circumstances is not considered sufficient to enable the grant of planning permission for this SRFI, then the practical reality is that the *London Plan* strategy to deliver SRFIs would be dealt a fatal blow.
- 6.166 Granting permission for the Howbury Park proposals is the right thing to do, it makes sense and the benefits of doing so would more than outweigh the impacts.
- 6.167 It is time to make a seminal decision to deliver a cutting-edge development that would make a huge and positive difference to rail freight logistics. ProLogis accordingly ask the Inspector to recommend and the Secretary of State to allow the appeals.

7. THE CASE FOR BEXLEY COUNCIL

Introduction

- 7.1 The hallmark of a good case in planning is one that follows weighty mainstream national planning policy and the adopted development plan. The hallmark of a bad case is one which starts with a document produced by non-policymakers who are set up for an entirely different purpose and does not get much further. The appeal proposal, if allowed, would do serious harm to one of the most fundamental planning policies that is as important now as it was at the inception of the planning system in the 1940s. The Green Belt is protected at all levels of policy. There is no national planning policy in favour of the proposal and it is contrary to the development plan. The policy on Strategic Rail Freight Interchanges (SRFIs) in the emerging London Plan will be discussed at the forthcoming Examination in Public. Clearly, before examination the policy can attract very limited weight. All levels of policy are against putting warehouses which are not needed on this greenfield Green Belt site.
- 7.2 That is the contrast between a good planning case and a bad one. Looking at the contrast between harm and benefits, the position is stark. The appeal proposal would inflict very significant, certain and irreversible harm. By contrast, what it would offer is much less significant, unsecured and uncertain and could largely be provided on a nearby brownfield site which is all ready to go and awaiting customers.
- 7.3 The Secretary of State has already reached a clear judgment on where the balance lies between certain destruction of the Green Belt and unsecured, uncertain, possible benefits from increasing rail freight in London in the London International Freight Exchange (LIFE) decision (CD8.1). The Appellant's position on this important decision of the Secretary of State is bizarre. First, they tried to ignore it. Second, they tried to say a lot has moved on since the decision. But with Green Belt policy the same and Government policy on freight the same, they tried to rely on some shift in the Strategic Rail Authority's (SRA's) position as justifying it. That is unlikely to be a good point, but in any event the Secretary of State took into account the Strategic Rail Authority's (SRA's) freight strategy in the LIFE decision. They then tried to rely on the London Plan. However, the adopted plan seeks any site that is promoted to be wholly or substantially on previously developed land. Then they argued that the LIFE decision of the Secretary of State is putting off similar developments. But if it puts off similar developments, with massive destruction of the Green Belt in exchange for paltry benefits, as judged by the Secretary of State, is that a bad thing? In any event, the development industry is known to be promoting sites in Kent and at Radlett. In addition there are suggestions of a site serving London in the East of England Plan in addition to Shellhaven and of Colnbrook coming back.
- 7.4 What is argued is that the lion's share of this Green Belt application site should be lost to provide warehouses. This is in the context of no need in the identified adopted plan policies for warehouses. In fact, overall industrial land in Bexley is being encouraged as, a matter of policy, to be transferred to other uses. So what is the stated reason for this? ProLogis's case is that the warehouses, which would have a gross floor area of

198,000m², need to be built because some of the goods to them may or may not arrive and depart by rail. The need case falls wholly short of what would be required in order to do irreparable permanent damage to the Green Belt in Bexley.

Green Belt Policy

- 7.5 The Government attaches great importance to Green Belts which have now been an essential element of planning policy for some five decades (*PPG2*, para 1.1). The development control policies set out in 1955 remain valid today with very little alteration (*ibid*). Thus Green Belt policy is one of the most successful and long standing planning policies. It has assisted in preventing English cities sprawling with disfigured urban fringes with severe urban deprivation as has occurred in so many other parts of the world. In the recent White Paper the Government unsurprisingly stated (para 7.62):

“The Government is committed to the principles of the Green Belt and will make no fundamental change to planning policy as set out in PPG2.”

- 7.6 The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open (*PPG2*, para 1.4). The essential characteristic of Green Belts is their permanence and their protection must be maintained as far as can be seen ahead (*ibid*, para 2.1). This part of the Green Belt has been maintained and kept open since the inception of the planning system, despite it being a vastly valuable site to develop and there being numerous attempts to develop it under different pretexts.
- 7.7 To be allowed to develop inappropriate development in the Green Belt is, of course, an extremely stringent test to pass. The harm by inappropriateness and any other harm must be clearly outweighed by other considerations. The Secretary of State will attach considerable weight to the harm to the Green Belt (*PPG2*, para 3.2).

Regional Policy

- 7.8 At the regional level, *London Plan* policy 3D.8 follows the stringent test in national guidance. The plan notes the valuable role that the Green Belt performs in preventing urban sprawl. It notes that the Green Belt is a permanent feature. It also states that the quality of land within the Green Belt is not a reason for excluding land from the Green Belt or allowing development (CD3.3, para 3.247).

Local Policy on Green Belt

- 7.9 The *Bexley Unitary Development Plan* (UDP) describes the Green Belt as a “*long standing and essential element of planning policy to which the Government has attached great importance*” (CD3.5, para 4.35). The functions of the Green Belt set out in the *UDP* are to check unrestricted sprawl, to prevent the merging of settlements, to safeguard an area of mainly open countryside around London for the enjoyment of its residents and to assist in urban regeneration. In Bexley the *UDP* states that the Green Belt is “*particularly important in maintaining the break between the outer edge of London’s built-up area and the settlements of Joyce Green, Dartford ..*” (*ibid*). The

Government's intention is noted as being "*to strictly restrain development within the Green Belt*" (ibid) and this is reflected in policies G12 and ENV2 which create a strong presumption against permitting the construction of new buildings in the Green Belt and set out the very special circumstances test.

The Particular Vulnerability of the Green Belt in Bexley

- 7.10 In the vicinity of the appeal site, the Green Belt is particularly vulnerable, narrow and in need of protection. It is narrow by comparison to the extent of the Green Belt to the north and south (LBB1.3, Appendix 8A). It is one of the narrowest areas around London. PDL1/13 shows that this part of the London Green Belt is literally the most vulnerable shown. It is also narrow by reference to what the Government seek for Green Belts. PPG2, para 2.9 states:

"wherever practicable a Green Belt should be several miles wide, so as to ensure an appreciable open zone all round the built-up area concerned."

- 7.11 If the proposed development proceeds, the remaining section of Green Belt would be only 1,100m wide, measured from east to west. In the north to south direction Slade Green would be almost joined up with Dartford (LBB1.3, Appendix 8). The proposal would thus cause a large part of the Green Belt in a most vulnerable location to vanish forever.

- 7.12 An attempt was made to take this land out of the Green Belt at a previous local plan inquiry in 1983, which the Inspector rejected. That Inspector concluded that the boundaries as currently drawn along the industrial area to the south are firm (LBB1.3, Appendix 2, para 1.58). He concluded that (ibid, paras 1.63 and 1.65):

"Of overriding and fundamental importance however, is the matter of the Green Belt....."

However the Green Belt is very much concerned at Slade Green, and to my mind development on the scale indicated would noticeably alter its characteristic open nature and effectiveness."

- 7.13 He accordingly went on to recommend the deletion of this proposed change to the Green Belt.

- 7.14 A further appeal was determined by the Secretary of State in 1988. There, the Inspector concluded that development of this land would seriously weaken the Green Belt function in this particular area. He stated (LBB1.3, Appendix 3, p24):

"In contrast south of Moat Lane the Green Belt wedge is at its narrowest and the open space concept at its most vulnerable. Its further reduction... would in my opinion seriously weaken the Green Belt function in this particular area."

.....development of... the southern area would be sufficiently damaging to the Green Belt function in the area for the Proposal to be rejected."

- 7.15 The Inspector's report and judgments were accepted by the Secretary of State both as to his findings of fact and his conclusions drawn therefrom (ibid, para 5).
- 7.16 Thus the site comprises a heavily protected area which has been successfully and correctly protected from development since the Second World War in the public interest. Twice inspectors have come to the rescue of this land south of Moat Lane to continue its protection.

Harm to the Green Belt

- 7.17 The appeal proposals, by developing a very high, very prominent, giant series of warehouses and associated rail infrastructure on the site, would clearly conflict with the fundamental aim of Green Belt policy of preventing urban sprawl by keeping land permanently open. In fact it was revealing that, following a question from the Inspector, no-one at the inquiry could find a building, or series of buildings, as large to view in London. Building A, if permitted, would be the largest warehouse in London. In the LIFE inquiry, the Inspector considered descriptions of the impact of the buildings proposed there as being "huge" or "massive" as "apt" (CD8.1, para 13.115). That would also be the case here.
- 7.18 The proposal would severely compromise the purposes of the Green Belt.

Effect on Openness

- 7.19 There is no dispute that the landscape of the site is sensitive. The *Managing the Marshes: Landscape Character Assessment* identifies the site as being within character area CA3 - higher grazing land in keeping with CCA81 (CD5.2, Section 6). It notes (ibid, para 3.2):

"The marshes..... demonstrate many of the key characteristics outlined in the Countryside Agency's document, as follows

- *Extensive open spaces, dominated by the sky, in a predominantly flat, low lying landscape."*

- 7.20 This description is picked up in *Managing the Marshes* (CD5.1, para 4.3). In cross-examination ProLogis's landscape witness, Mr Chinn, agreed that the character of extensive open spaces and low lying landscape is particularly sensitive to development.
- 7.21 In addition to the sensitivity derived from the character of the land, the site is on a plinth. On three sides, there is higher ground at a distance from which it is possible to look across the site (ES, Volume 5a, Figure B). The topography of the site adds to its sensitivity and would serve to exacerbate the effect of development.
- 7.22 Bexley Council's landscape witness, Mr Huskisson, accurately assessed the scale of the buildings. His conclusions on the effect on openness were as follows (LBB2.2, para 8.2):

“This wall of development which, discounting the cable stay roof structure and floodlighting would be about 3.5m higher than the railway depot building, will limit inter-visibility and be a dominant and, from many locations, overpowering form”

- 7.23 He categorised the impact on openness as *“materially adverse, locally very damaging and irreversible”* (LBB2.2, para 8.11).
- 7.24 The views of the 3D model illustrate just how disproportionate in scale the giant sheds would be with existing development in Slade Green (LBB2.3, Drg DH2).
- 7.25 The photomontage from viewpoint 9, on the marshes near to the River Darent, shows how the current perception of depth and expansiveness of views would be lost (CD7.10, Fig B.7A). Mr Huskisson noted that if one were to continue to walk from that point back towards Slade Green along Moat Lane the open expansive view would be replaced by a wall of development. In the Environmental Statement (ES) Mr Chinn concluded that the effect from viewpoint 9 would be substantial, based on his original analysis (ES, Volume 5a, Figure B31). Subsequently the photomontages were corrected to remove the “tilt” (PDL/3.6, Viewpoint 9) and additional screening was introduced at the north-east corner of the site. Notwithstanding this, the Supplementary ES acknowledges that the impact would remain substantial and adverse.
- 7.26 From viewpoints to the north of the site, on the edge of housing in Slade Green, Mr Huskisson’s evidence was that the development would again cause a substantial loss of openness. An open view would be replaced with one of industrial warehouses (LBB2.3, Drg DH4). He classified the impact as at “the top end of substantial”. Mr Chinn accepted that the impact would be substantial in year 1 (ES, Volume 4, Chapter B, p44).
- 7.27 It stands to reason that the closer views are also very adversely affected in terms of openness. From viewpoint 2, close to Howbury Grange, the corrected photomontage reveals that these high sensitivity long views would be shut off by a wall of development 100m or so away from the viewer (PDL/3.6, Viewpoint2). Although the ES described the impact as moderate, Mr Chinn did not stand by that and in evidence with the benefit of the new montages described the development as having substantial impact. Mitigation would not reduce effect on openness.
- 7.28 In summary Mr Chinn having done the visual assessment albeit on the basis of montages which underplayed the development concluded *“it will from the majority of viewpoints have a substantial impact”* (PDL/3.1, para 9.1). Mr Huskisson’s position is that, from many viewpoints, including those to the south and east of the site, the visual impact would be more severe than assessed by Mr Chinn (LBB2.11 and CD7.10).
- 7.29 As to mitigation for loss of openness, the correct position is that openness cannot be reinstated or mitigated by planting (LBB2.2, para 8.12). This is a matter which the

LIFE Inspector addressed noting that “*Hiding urban development from view does not make it acceptable.*” (CD8.1, para 13.112).

- 7.30 Thus in terms of openness the clear conclusion is that there would be substantial harm to openness which cannot be mitigated. This was accepted in cross-examination by ProLogis’s planning witness, Mr Gartland.
- 7.31 The trust land provided does not in any way mitigate for the destruction of 64ha of Green Belt. It is Green Belt land in its own right and a prospective SSSI so the prospects of developing it are remote. It is currently managed under a S106 Agreement, albeit for a shorter period.

Conflict with the Purposes of the Green Belt

To Prevent Urban Sprawl

- 7.32 The first purpose of the Green Belt with which there is clear conflict is that designed to prevent unrestricted urban sprawl of large built up areas. It is accepted by all that this massive development in the Green Belt is urban sprawl of London. Indeed, Mr Gartland said (PDL/1.1, para 7.5):

“The proposals do, of course, involve development on land beyond the existing urban boundary of Slade Green and as concluded by the GLA in their Stage II report will result in urban sprawl.”

- 7.33 Having concluded that the proposal would result in London sprawling by a further 64ha the point that Mr Gartland went on to take was that the boundaries may be better and so it is all okay. The point has no merit.
- 7.34 The reality is that south of Moat Lane the Green Belt boundary has been fixed since the Kent Development Plan of 1958. It has been maintained without loss. It is a boundary that the local plan inspector described as “*firm*”. The idea that a boundary to one side of the access road is really preferable to the one that has survived for 40 years is absurd; if anything it would help to cause the spread of development to the other side of the access road.

To Prevent Neighbouring Towns Merging

- 7.35 Paragraph 4.35 of the *Bexley UDP* explains that the Green Belt in the Borough is particularly important in maintaining the break between the outer edge of London and Joyce Green and Dartford.
- 7.36 This site is beside Slade Green and the continuous development of London on the one side and Dartford and Joyce Green on the other. It clearly serves an important function of preventing London merging with these settlements.

To Assist in Safeguarding the Countryside from Encroachment

- 7.37 It is accepted by all, including ProLogis's landscape witness, that the proposed development would be encroachment in the countryside (PDL/3.1, para 8.8).

To Assist in Urban Regeneration

- 7.38 Government policy, the *London Plan* and the *Bexley UDP* all seek to put development of warehouses on brownfield sites and in industrial areas (see paras 7.48 to 7.52 below). There is a surplus of industrial land in Bexley. Allowing warehouse development on a greenfield site would undermine the regeneration of existing brownfield sites.

Landmark Projects and Regional Park

- 7.39 *PPG2*, paragraph 1.7 states:

"The purposes of including land in Green Belts are of paramount importance to their continued protection, and should take precedence over land use objectives."

- 7.40 However, it should not be forgotten that the Government attribute considerable importance to improving the Thames Gateway's environment. The DCLG's *Thames Gateway Interim Plan* provides that (LBB2.3, Appendix 2):

"5.2 We intend to do that by transforming the environment in a way that creates a new identity for the Gateway as the Thames Gateway Parklands....."

5.4 To make this a reality, we will create a Parklands Framework that starts from existing environmental assets and the Green Grid plans....."

5.5.....Communities & Local Government will provide co-ordination and the team will need to include a range of organisations with the right spread of expertise. The team will also need to consider what sources of funding are available and what the priorities are for spending....."

- 7.41 The Government are thus alive to the importance of the environment to the success of the Thames Gateway and the hopes they have for it. On the site they have in mind a landmark project in their Thames Gateway Parklands (ibid, Figure in para 5.3).

- 7.42 The Mayor of London's *Consultation Draft East London Green Grid Framework* notates the site as an area for a Regional Park Opportunity (LBB2.3, Appendix 1). In a similar vein, Bexley Council's vision and strategy document *Managing the Marshes* states (CD5.1, p6):

"Together with the Lea Valley and Cross River Park, the Crayford/Dartford marshes and Rainham Marshare identified as one of three major open space opportunities in the London Thames Gateway with strategic importance."

- 7.43 Following this, the text confirms that “*The marshes are viewed as having the potential to be flagship multifunctional sites ..*” (ibid, p7).
- 7.44 ProLogis argue that the funding is not yet in place and the initiatives will fail. But, if the Green Belt is protected in the long term and permanently it will assist in bringing about these plans. Landowners will become more realistic about development potential and the plans will have the chance to come to fruition.
- 7.45 Alongside the policy arguments, it should be remembered that the people of Slade Green, and the future generations in this part of the Gateway who seek relief from urban development, will have an appreciation and love of their local environment in an area where it is rare to have such an expanse of open green land with such potential. As Mr Hillman put it for Slade Green Community Forum, the community would suffer a loss of amenity in a place where they go to get away from their problems, to think or just relax. To the local people, and those that do and will enjoy this landscape, this relief from endless development would be destroyed permanently and irrevocably by the proposed SRFI.

Planning Policy

Warehousing

- 7.46 The major part of the development proposed (over 60ha) would comprise warehouses and associated development. It is thus relevant to see whether the warehouses are themselves contrary to policy. The short answer is that at all levels of policy warehouses in this area are not needed in planning terms, because other uses are needed more, and they are certainly not wanted on a greenfield Green Belt site.
- 7.47 The warehouses on the site would be worth in excess of £200million to ProLogis. They would clearly cost vastly less to build, even allowing for the land acquisition costs, accepted by ProLogis’s company witness, Mr Woodbridge, to be £42million (less an ability to deduct £5m for S106 Obligations). The construction costs are estimated at £73million (ES, Volume 4, Chapter J, para 3.3).

National Policy

- 7.48 It is an important theme of Government policy to make prudent use of natural resources which of course involves using brownfield land rather than using non-renewable greenfield land (*PPSI*, paras 4, 24 and 27(viii)). This is reflected in *PPG4* which seeks the re-use of land “*once used for industrial purposes but now under-used or vacant*”.
- 7.49 Thus Government policy favours using brownfield land in preference to greenfield for industrial purposes. For Green Belt land the presumption against its use in preference to brownfield land is even stronger.

Regional Policy

- 7.50 It is the Strategic Employment Locations that the *London Plan* treats as London's reservoir of industrial capacity. Outside of those areas the *London Plan* seeks the release of surplus land for other uses (CD3.3, p92 and policy 3B.5). The appeal site is not a Strategic Employment Location (ibid, list at Annex 2).
- 7.51 At the London level the decline in demand for industrial land is sufficient to justify a release of 30-50ha per annum (CD6.4, para 5.5). The draft SPG goes on to advise boroughs in the position of Bexley to have policies for the managed release of industrial land (ibid pp15-16). The Borough of Bexley is in the category of boroughs which it recommends to have the most permissive approach to transfer - "*Managed Transfer*". Thus the guidance is recommending that Bexley should have a policy allowing managed release of some of its current industrial land. It most certainly is not recommending having more industrial land in the Green Belt. The amount of industrial land that it is suggested is released in Bexley between 2001 and 2016 is 25-26ha (CD3.8, p37).

The Bexley UDP

- 7.52 As part of the careful preparation and scrutiny of the *UDP* a review of the supply of industrial land was performed. This shows that the land allocated and available for industrial use is (CD3.5, para 4.17):

"sufficient to meet the needs of industry and commerce in the Borough"

Freight Interchanges

- 7.53 It is telling that the Appellant's evidence failed to consider at all the Government's policy framework on freight set out in *Sustainable Distribution: A Strategy*. This document is given high billing in *PPG13* where in the opening lines on freight it says (para 45)

"The Government has set out its policy framework on freight in its 'Sustainable Distribution Strategy'"

- 7.54 The extant Government policy is set out in *Sustainable Distribution: A Strategy*. It is a document produced by the DETR, expressly referred to as setting out the Government's policy in *PPG13*, and with a foreword by the Secretary of State. This national statement of Government policy stands in stark contrast to documents produced by organisations set up for a particular purpose such as promoting the use of the railway.
- 7.55 Under the heading "*A Strategy for Major Freight Interchanges*" the document advises (CD4.3, para 5.17):

"The framework which the Government proposes has four key objectives:

.....to encourage full and efficient utilisation of existing interchange facilities in preference to expansion in cases where suitable spare capacity exists or can be created, for example by improving access or by encouraging regeneration of under-used sites to minimise new land take”.

7.56 Thus a very familiar and very important theme of Government policy, namely to make prudent use of natural resources, which includes using brownfield land in preference to using greenfield land, is applied to major freight interchanges. *PPSI* makes it clear that the loss of greenfield land is a matter the Government treats seriously (see para 7.48 above). It is also reflected in the Government’s housing policy.

7.57 In the LIFE report and decision the Inspector and Secretary of State took proper account of extant Government guidance on freight. The Inspector reported the following, which the Secretary of State accepted (CD8.1, IR para 13.377):

“One of the objectives in the Government guidance in “Sustainable Distribution – A Strategy” is to encourage full use of existing interchanges to minimise new land take. In my view the LIFE proposal would not meet this objective and I see that as a distinct disadvantage, especially bearing in mind the general desirability of making the most effective use of urban land before allowing development in the countryside. The LIFE scheme is clearly not directly comparable with the Willesden terminal, but there would be some overlap of function and catchment area; and to my mind it would not be right to encourage development in the Green Belt while land designated for freight exchange use at Willesden is so under-used that the operator has found it necessary to seek other short-term occupiers.”

7.58 Substitute Howbury Park for LIFE and Barking for Willesden and the same logic applies. Thus the whole central plank of Government guidance applied to major freight interchanges in *Sustainable Distribution: A Strategy* points quite clearly away from allowing development of a greenfield Green Belt site when there is a brownfield site already built which overlaps in function and catchment area. At Howbury Park, the overlap would be with Barking, which is an intermodal facility 14 miles away by road. It has the same intermodal capacity as proposed at Howbury Park, where ProLogis predict that three quarters of the trains will be intermodal. The proposal to provide warehouses on the site, and the limited amount of traffic that would go to them, does not undermine this conclusion. In any event the Inspector at LIFE and the Secretary of State had that case made to them and still thought that intermodal only facilities were highly relevant. The SRA policy supporting the Colnbrook and two or three major new facilities to serve the London region was in any event considered by the Secretary of State in the LIFE decision (CD8.1, SoS letter, para 15 and CD4.8, p25).

7.59 Mr Gartland had nothing to say in either cross-examination or re-examination to undermine the application of this policy.

The Absence of National Planning Policies in Favour of SRFIs

- 7.60 It is important to realise the critical differences between the SRA documents and National Planning Policy.
- 7.61 It was accepted by Mr Gartland in cross-examination that the SRA do not give planning guidance and do not have to balance harm to the Green Belt for example with train matters. They said in the response to the application that (letter of 25 June 2005 to Bexley Council, penultimate paragraph):
- “The SRA has looked only at rail policy considerations and presents no view on other land use planning issues. These are properly to be reviewed by planning authority.”*
- 7.62 The SRA was set up as a non-departmental body, sponsored by the Department for Transport, and their purposes were to “*Promote the use of the railway network for the carriage of passengers and goods*” (CD4.10, para 2.1). Their functions did not include promoting Government policies, let alone Government planning policies. That was a proposition that Mr Gartland replied “naturally not” to. It is thus clear that SRA documents should not be treated as Government policy.
- 7.63 Further weight to this conclusion comes from the SRA’s *Strategic Rail Freight Interchange Policy* (CD4.10). Paragraph 3.1 of the document records that the SRA are a body that were required to have regard to Government policies. Accordingly they clearly did not make Government policy. The SRA’s *Strategic Rail Freight Interchange Policy* clearly did not start its life as national Government planning policy, or indeed any other form of national policy. Neither has it somehow been transformed since.
- 7.64 The Department of Transport’s letter of 14 October 2005 (CD4.14) says the Department will retain the document on the website. This did not elevate its status, as Mr Gartland accepted. The document did not thereby become something which it was not originally.
- 7.65 ProLogis’s case that the SRA’s *Strategic Rail Freight Interchange Policy* in some way became national transport policy in the Regional Planning Assessment is not to be found in any of their written proofs of evidence. It is an absurd proposition and Mr Gartland accepted in cross-examination that there was “No change in national policy as a result of [the policy contained in the *South Eastern Regional Planning Assessment for the railway* – CD4.5]”.
- 7.66 There are several points that would militate against the Regional Planning Assessment (CD4.5) being taken as Government national transport guidance.
- Firstly it is called a “*Regional Planning Assessment for the railway*”.
 - The purposes of the document are set out in paragraph 1.1. They do not include setting out Government transport policy.

- The RPA programme was commenced by the SRA (CD4.5, para 1.1) who did not have policy making functions (see above). It would be bizarre if in handing over the programme to the DfT it would assume a wholly different purpose of setting out national policy.
- In any event, the passages on which ProLogis rely are from Chapter 5 which is described in paragraph 1.3 as “*the baseline description of the RPA area and its transport networks, and the passenger rail and rail freight markets today*”.
- It is manifestly unlikely that Government would set out its new transport policy in the part of the RPA where the current baseline is being described.

7.67 The place in the document where Government policy is discussed is in Chapter 7 where there is a heading of “*Planning Objectives*”.

7.68 To build so much of the case on the SRA document as ProLogis has done, whilst ignoring real Government planning guidance, is to build a case on shaky foundations. This is especially so as much of even the SRA document has been ignored; namely paragraph 7.11 which refers to Government advice in *Sustainable Distribution*.

7.69 In this regard it is relevant also to note the origin of the three to four SRFI which the SRA argue for. The SRA tell us that the origin of the requirement is the Radical Study (CD4.10, para 6.10). This study was done before the SRA’s 2001 *Freight Strategy* was published and that is why the 2001 *Freight Strategy* had a very similar requirement, namely two or three facilities in addition to Colnbrook (CD4.8, p25). Appendix C of the SRA’s *Freight Strategy* has further information on the Radical Study. In that it is said that the “*rail costs are adjusted to force the modal shift forecast by the SRA*” - i.e. the model is not forecasting the future proportion of goods to be carried by rail; rather, it is adjusted to make it come up with an outcome that fits other forecasts. Appendix B further advised that the freight model used to inform the target for growth was not capacity constrained and worked on a “*series of actions that could be taken by Government or the rail industry to improve the rail offer.*” In any event it was a point that was before the Secretary of State who expressly considered the SRA’s *Freight Strategy* in the LIFE decision (see para 7.58 above).

Very Special Circumstances

7.70 It is for the applicant to show very special circumstances. This is set out in *PPG2* and in numerous legal authorities. Even when there was a presumption in favour of development, the Court of Appeal found that it was for the developer to prove their case *Pehrsson v Secretary of State 61 P & CR 266*. This is now enshrined in the words of *PPG2*, paragraph 3.2 which provides that:

“*It is for the applicant to show why permission should be granted.*”

7.71 Furthermore, the test is a stringent one. In the case of Chelmsford BC v First Secretary of State and Draper (LBB0.9), Mr Justice Sullivan set out some important points as to the meaning of the very special circumstances test.

“54 ... However, I do not accept.....that, if the decision taker concludes that a particular factor outweighs the harm to the Green Belt, that factor can therefore be described as a very special circumstance. To accept that submission would be to rewrite paragraphs 3.1 and 3.2 of PPG2, and to strip the words "except in very special circumstances" of any effective meaning.

...

57. The submission advanced on behalf of the first defendant strips very special circumstances of any independent objective meaning in paragraph 3.1, and effectively rewrites the second sentence in paragraph 3.2 as follows:

"Very special circumstances to justify inappropriate development will exist if the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations."

58. It is no accident that the second sentence in paragraph 3.2 is not worded in this way. The combined effect of paragraphs 3.1 and 3.2 is that, in order to justify inappropriate development in the Green Belt, (a) there must be circumstances which can reasonably be described not merely as special but as very special, and (b) the harm to the Green Belt by reason of inappropriateness and any other harm must be clearly outweighed by other considerations. Those other considerations must be capable of being reasonably described as very special circumstances. If they are capable of being so described, whether they are very special in the context of the particular case will be a matter for the decision maker's judgment.

59. It was open to those formulating Green Belt policy in PPG2 to formulate the guidance, omitting any reference to very special circumstances, as follows:

"Inappropriate development will not be permitted unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations."

They did not do so. Every aspect of the policy in paragraphs 3.1 and 3.2 must be given its full force and effect.

.....

61. The need to demonstrate very special circumstances to justify what would now be described as inappropriate development in the Green Belt goes back to the very first Central Government Policy Advice on Green Belts: Ministry of Housing and Local Government Circular 42/55. For nearly 50 years Central Government Policy has been that what would now be described as inappropriate

development should not be approved in the Green Belt "except in very special circumstances". Those words mean precisely what they say.

70 ... An approach which in effect defines very special circumstances as any circumstances which in the decision taker's view clearly outweigh the harm to the Green Belt, would potentially drive a coach and horses through Green Belt policy which, as PPG2 explains, has been an essential element of planning policy for some four (now nearly five) decades: see paragraph 1.1 of PPG2.

72 ... The Secretary of State may choose to depart from his policies, including those in PPG2; he may choose to publish revised policy guidance in relation to gypsy caravan sites in the Green Belt if the problem is perceived to be a more general one; but if he purports to determine an application in accordance with PPG2, he must abide by its terms. Accordingly, this application succeeds on ground (2) and the decision is quashed."

- 7.72 The justification the applicant gives in the case of Howbury Park must be scrutinised very carefully indeed. It is not for the local planning authority to show the absence of very special circumstances, but for the developer to prove them.
- 7.73 The justification that ProLogis makes for the inappropriate and damaging development on the marshes is related to providing some rail infrastructure and the possibility that some of the goods will arrive and depart by rail. Even at what is held up as the most successful comparator, the Daventry International Rail Freight Terminal (DIRFT) only a small percentage of the goods travel by rail (see paras 7.86 to 7.89 below). The Secretary of State has previously decided at LIFE, in the context of very similar planning policies¹ and very similar alleged benefits, that no very special circumstances exist. To take a different decision now would need the most careful of all justifications.
- 7.74 There is one matter that is of such little weight that it adds practically nothing to a very special circumstances case. This is the so-called regeneration point. It was conceded it did not amount to very special circumstances in its own right.
- 7.75 In virtually any part of the Green Belt, if it were developed for industrial purposes some jobs could be created. The amount of jobs that would arise at the SRFI are unexceptional; indeed they would be lower than most other employment areas of equivalent size. The very local wards are prayed in aid, but it is the Boroughs of Bexley, Greenwich and Dartford that are defined as the primary catchment area (PDL/1.3, Appendix 5, Table 5.3). It is quite obvious from any sensible analysis of the employment catchment area that most of the employees will not come from the local wards. Whilst Mr Gartland said in his proof that he considered the socio-economic and regeneration benefits "*in themselves to be very special circumstances*

¹ The *London Plan* is different but that provides that any site should be on wholly or substantially previously developed land (page 129). National Planning Policy is the same. Even SRA policy (which anyway has little weight) was to all intents and purposes the same from May 2001.

justifying the appeal proposals in the Green Belt” (PDL/1.1, para 7.51) he subsequently conceded that this was not the case.

7.76 As to the unemployment rate, the evidence is that in the primary catchment area unemployment is 3.0% by comparison with 3.2 % in London (PDL/1.3, Appendix 5, Table 5.3). To give much weight to this argument as amounting to some of the very special circumstances would, in the words of Mr Justice Sullivan, drive a coach and horses through the policy which has been a pillar of our system for five decades (see above).

7.77 As to the very special circumstances test, this was manifestly not misapplied in the LIFE case. In his decision the Secretary of State concluded that (CD8.1, SoS letter, para 19):

“these matters are not of sufficient weight as to constitute very special circumstances that would justify allowing inappropriate development in the Green Belt.”

7.78 On route to that decision the Secretary of State noted that there was no clear or compelling need for the LIFE development in the sense of a situation requiring relief and that some aspects of Argent’s “need” case were unconvincing (ibid, para 17). It cannot be that an unclear and unconvincing need case should be able to be very special circumstances and outweigh the massive harm that would be done to the Green Belt. To so conclude would amount to driving a coach and horses through Green Belt policy.

Noise

7.79 It has been agreed that there would be a serious adverse effect on Moat Lane Cottages. With windows open the World Health Organisation guideline level of 30dB inside a bedroom would be exceeded (CD7.5, para 4.15). Working on the basis of traffic generated by a 185,800m² development, and generation equivalent to rates observed at DIRFT as opposed to the higher rates that would come from application of the TRICS database, the noise increase at Nos 71 and 73 Moat Lane would be +3.2dB L_{Aeq} (ibid, p64).

7.80 As a general proposition it was agreed between the experts that if you increase the noise when existing baseline noise levels are above the guidelines, the effect is more serious than would be the case for an equivalent noise increase with a baseline level below the guideline (LBB6.2, paras 7.40 to 7.43). Accordingly, at Moat Lane and Moat Farm Cottages, where there are already exceedances of the WHO guidelines, the proposed development would make matters significantly worse. Whilst mitigation is proposed through the S106 Undertaking, there is no obligation on individuals to take up an offer of artificial ventilation and/or double glazing.

7.81 There is no dispute that the noise climate experienced by walkers on the currently tranquil footpath to the marshes would be radically altered by the HGVs which would use the access road which is proposed to run close to the northern boundary of the site.

- 7.82 The reality is that the design of these proposals was not noise centred. The sequence followed was not that set out in BS8233. There was no noise assessment of any other designs in 2004 before the design before the inquiry was formulated.
- 7.83 At the 95% confidence limits of the CONCAWE predictions, the rating level calculated using the BS4142 methodology would be 8dB. Accordingly, complaints would be likely at night (LBB6.1, paras 2.1.1 to 2.1.8).
- 7.84 Also, under conditions of low background noise, the BS4142 assessment is such that it would be close to complaints being likely, even without taking the 95% confidence levels of the CONCAWE predictions. At the Oak Road properties, the Statement of Common Ground sets out that there would be a night-time rating level of 2.3dB (CD7.5, p58). That calculation assumes a background of 38.3dB L_{A90} (ibid). But the background noise level measured by the Council's noise consultant, Mr Fiumicelli, on Saturday night was 29.6dB L_{A90} (ibid, p21). At the inquiry Mr Fiumicelli gave evidence that the propagation of noise from the development at Oak Road would be less affected by a change in wind direction than background noise, because the source would be closer. The difference between the background noise level measured on the Saturday night (29.6dB L_{A90}) and that assumed in the BS4142 assessment (38.3dB L_{A90}) is 8.7dB. If this is added to the rating level of 2.3dB, the rating level becomes 11dB (or 16.7dB if allowance is included for the CONCAWE confidence level). Thus if climatic conditions reduced the background noise levels, the rating level obtained would signify that complaints were likely at Oak Road and neighbouring properties.

The Rail Case

- 7.85 Bexley Council approaches ProLogis's rail case on the basis that it is this on which they hinge the very special circumstances which they must prove to justify the proposal.

The Warehouses

- 7.86 On any sensible view the warehouses at Howbury Park would not attract a high percentage of goods by rail. The best information on this was provided by Bexley's rail witness, Mr Niblett. Within the survey cordon at DIRFT¹, data analysis showed that 5.8% of goods to the warehouses were rail hauled (LBB3.2, paras 3.1.7 to 3.1.9). Thus in the area at DIRFT for which most data is available, only 5.8% of goods arrive or depart by rail, either by conventional wagons or through the intermodal terminal. Whilst it is true that not all the warehouses in the survey cordon are rail-linked, the majority, some 70,420m², are (PDL/6.25).
- 7.87 In comparison with Howbury Park, DIRFT has several advantages with regard to the attractiveness of the rail offer. It is W10 gauge, with relatively very free access to the mainline. It is a larger site with vastly more train storage. It is also in a much better

¹ Inspector's note. It is my understanding that the survey cordon at DIRFT covered "DIRFT South" – i.e. buildings 10 to 15 on PDL/6.25.

location to be a national distribution centre and attract traffic from the ports (LBB3.2, para 3.1.10).

- 7.88 At Howbury Park the volume of conventional wagon rail traffic is expected to be much smaller than that which would use the intermodal terminal. Thus if at DIRFT only 5.8% of the goods using the warehouses are rail hauled, it is reasonable to assume that this would be the upper limit for the proposed development at Howbury Park. In the Council's submission, such a small percentage could not amount to very special circumstances justifying inappropriate development in the Green Belt. Indeed, at LIFE the Secretary of State described a much larger percentage as being small. He said (CD8.1, para 16):

".. only a small proportion of goods (25%) in to and (8.2%) out of the warehouses would be carried by rail and a high proportion of the warehouse space would actually be used for road-to-road distribution purposes."

- 7.89 Another feature of the proposal is that the warehouses would not support the intermodal terminal to any great degree. At DIRFT 6% of the goods passing through the intermodal terminal go to or from the warehouses in the cordoned area (CD4.29, para 5.2.1). In the cordoned area at DIRFT the area of warehousing is of the order of 110,000m². Howbury Park would be bigger and, if it is assumed that the volume of goods increases pro rata to the area of warehouses, around 11% might be expected at Howbury Park. However, bearing in mind the large catchment area that an intermodal terminal at Howbury Park would serve (Planning Statement, Volume 3, Figures 11 and 12) and the substantial amount of warehousing in Bexley (670,000m²) and Barking (781,000m²), the percentage at Howbury Park is not likely to be higher than this.

The Intermodal Terminal

- 7.90 At Howbury Park some 75% of the rail use that is predicted is from the intermodal terminal and that has very little interplay with the warehouses. It is interesting to note that at LIFE it was argued that an integrated facility was required, with an intermodal terminal and warehousing on one site (CD8.1, Inspector's Report para 13.22). That view was rejected and both the Inspector and the Secretary of State viewed intermodal only facilities as relevant to policy set out in *Sustainable Distribution: A Strategy* and more generally to need. At Howbury Park, ProLogis said that the SRA did some analysis behind closed doors. No documents that they relied upon were presented. A case that is not presented or tested by a former body, who amongst other things chose to rely upon the most misleading of all figures on CO₂ and seemed to take very little cognisance of the Secretary of State's view in LIFE, should not be given great weight. This is especially the case as figures are now available showing what actually happens at DIRFT which were not available to or considered by the SRA.
- 7.91 The market is, in any event weak. This was illustrated by Mr Woodbridge's answers to the Inspector's questions on the subject. Mr Woodbridge said in his proof that ProLogis believes that *"changes in global trade and specifically the growth of goods from the Far East in the form of containerised traffic via ports underpin the use of rail for the movement of freight"* (PDL7.1, para 4.5). There is no dispute that this is by far

the largest market for intermodal freight in the UK but it is conspicuously unlikely to come to Howbury.

7.92 The amount of maritime containers at the moment dwarfs the amount of domestic intermodal by about 20 times (CD4.36, p124). That position of maritime being the main intermodal traffic will continue. If one looks at the bottom up forecast, which is the one based on evidence from the rail industry, it shows that maritime will continue to be vastly bigger by a factor of 8 times in 2014/15 (ibid, p35).

7.93 One of the key problems that would prevent Howbury Park capturing much of this port traffic is that the site is a relatively short distance from the UK's main ports by road. As Ove Arup put it (CD4.11, p60):

“The key problem is that the distance between London and the ports is not long enough for rail to compete with road.”

7.94 It is 130km from Howbury to Felixstowe and 160km to Southampton (Planning Statement, Volume 2, Rail Technical Report, Figure 4). Mr Niblett's evidence is that the breakeven distances is around 190km for port traffic and 400 to 500km for non port traffic (LBB3.2, paras 3.3.2 and 3.3.3). These were not criticised in the evidence of ProLogis's rail witness, Mr Gallop and no rival figures were supported by him.

7.95 Furthermore, his analysis accords with what actually happens in the real world. In the rail statement accompanying the planning application, ProLogis gave two examples of intermodal services that run at shorter distances than Mr Niblett's breakeven calculation would suggest is viable. These were Southampton to Barking and Thamesport to Willesden (Planning Statement, Volume 2, Rail Technical Report, para 4.21). But Mr Gallop accepted that both have subsequently ceased to run. As to the new short services that Mr Gallop put in the day before he gave evidence (PDL/6.19), they do not show a materially different position. Mr Gallop was unable to confirm or otherwise whether the very short service from Grangemouth to Elderslie is linked in with a longer service from DIRFT. The Immingham to Selby service is conventional, not intermodal traffic and thus not relevant. It was accepted that the Wilton to Leeds service had ceased. As to the Southampton to Wentloog service, the distance by road is 137 miles (219km) according to the AA route planner, and the 106 mile (171km) route assumed by Mr Gallop, whilst available, is not recommended. Thus the shortest intermodal service that is known to be running, that does not connect with another service, is from a port to a destination 171/219km away. This confirms Mr Niblett's view that in general goods would not be transported by rail for the short distances from Southampton and Felixstowe/Harwich to Howbury. Shellhaven, of course, would be even closer to Howbury Park than either Southampton or Felixstowe/Harwich.

7.96 This conclusion also is consistent with the average distances travelled by intermodal rail traffic which can be derived from data in the Route Utilisation Study (RUS) as 460km, most of it is either to or from a port (CD4.36, p19 – 4,000/8.7).

- 7.97 The gauge disadvantages of the Howbury Park site are also palpable. The RUS predicts that by 2023 68% of containers at deep sea ports, which is and will be the bulk of intermodal traffic, will be “high cube” 9ft 6in high boxes (CD4.36, pp 58 and 59). High cube container wagons require W10 gauge.
- 7.98 What ProLogis tried to rely upon was a low platform wagon option in their proofs and notes. But would the rail industry be spending vast sums of money upgrading to W10 if there was such an easy solution? Clearly not. When pushed Mr Gallop acknowledged that, if there was no other alternative, low platform wagons would be the solution.
- 7.99 It is quite obvious that Network Rail have considered other solutions, but regard them as inferior. They say in the RUS on the topic of low platform wagon options that (CD4.15, p61):
- “this reduction in productivity efficiency explains why freight train operators have not invested in significant numbers of well wagons and favour gauge clearance....”*
- 7.100 The routes to the major ports in terms of volumes, namely the Haven ports and Southampton, are either already cleared to W10 gauge, or doing so is the highest priority.
- 7.101 Tellingly, only 4% of the intermodal wagon fleet can carry 9ft 6in boxes on W8 gauge (Planning Statement, Volume 2, Rail Technical Report, Table 2). But none of these wagons are currently being made and each type has shortcomings (LBB6.4, paras 6.1.4 to 6.1.7). The RUS confirms that the “lowliner” wagons are *“presently more expensive to purchase and maintain”* (CD4.15, p62). With wagons generally lasting around 20 years in the view of Network Rail (CD4.15, p62), their use as a long term solution for Howbury Park would not be attractive.
- 7.102 The reality is that Network Rail would not be putting forward very expensive gauge enhancement, if a low platform wagon solution were better. They put forward Nuneaton to Peterborough at a cost of £132.8 million as being easily justified in terms of net present value (CD4.15, p77). Also Southampton to the West Coast Main Line at a cost of £61million (ibid, p79).
- 7.103 For all the above reasons it can be concluded that port traffic is unlikely to come to Howbury Park.

European Traffic

- 7.104 ProLogis’s need case also relies on three trains coming from Europe to Howbury Park. In this connection the conclusions of the LIFE Inspector, which were endorsed by the Secretary of State, repay close inspection. They were prescient. He did not think that it was likely that costs would reduce through the tunnel (CD8.15 Inspector’s Report, para 13.32 et seq). This was accepted by the Secretary of State.

- 7.105 The reality of what has occurred has born the Inspector out to be realistic about European freight. In fact international rail freight has halved between 2000 and 2005 (CD4.36, p19). That was before the charges increased substantially in January 2007, which caused the intermodal train at DIRFT to cease running in February, even though it was clearly going further than would be the case for a terminal at Howbury Park. The case that ProLogis put has not been adapted at all since they made their original case and they have not revised their forecasts down. They effectively assume that Eurotunnel will substantially reduce charges for freight trains through the tunnel, whereas the reality is that they have increased.
- 7.106 As to domestic traffic, the reality is that if there were demand, or need, for domestic intermodal freight services, these would have come to Willesden or Barking, or could do so in the future.
- 7.107 There is no dispute that the existing terminal at Barking has broadly the same intermodal capacity as that proposed at Howbury Park. It has capacity to handle 10 to 12 trains per day at the moment (PDL/6.4, para 2.22). It currently has plenty of free capacity, gantry cranes and a loading gauge of W10. The absence of warehouses on the site is not really the problem, with 781,000m² in Barking, 670,000m² in Bexley and obviously millions of square metres of warehousing in the catchment area assumed for the transport assessment.

Rail is not Needed in Terms of a Situation Requiring Relief

- 7.108 There are of course genuine, real and pressing needs for many things in planning, for example housing. How then can the lack of demand for rail capacity at Howbury Park amount to very special circumstances to permit inappropriate development in the Green Belt, when real cases of need have to be resisted if the Green Belt is to survive?
- 7.109 At the LIFE inquiry, the Inspector found (CD8.15, para 13.42):
- “The site at Willesden cannot be compared directly with LIFE but it is relevant to the question of need and alternative sites.”*
- 7.110 It was, in other words, relevant to consider intermodal only facilities as part of the need and alternative sites consideration. The Inspector then went on to consider other sites including DIRFT, Willesden and Hams Hall before concluding that this was not an industry struggling to meet demand. He concluded (CD8.15, para 13.48):
- “I have not found a clear and compelling need in the sense of a situation requiring relief.”*
- 7.111 That was a conclusion that was adopted by the Secretary of State who wrote in August 2002, after having considered the SRA Freight Strategy, that (CD8.15, letter, para 17):
- “.... there is not a clear or compelling need in the sense of a situation requiring relief.....”*

- 7.112 The Inspector’s conclusions in LIFE on this issue were formed on the basis of the then current, and still current, Government guidance. At paragraph 13.377 in the overall balancing evaluation exercise, the Inspector said that the proposal would not meet the objective of *Sustainable Distribution: A Strategy* because in essence there was another brownfield site that overlapped in function and catchment area, namely Willesden. So his conclusion on this issue of no need in the sense of a situation requiring relief was based on a central theme of Government guidance applied particularly to specific policy on major freight interchanges.
- 7.113 It is interesting that Transport for London (TfL) since the publication of the SRA’s Interchange Policy in “*Freight on Rail in London*” in a section entitled “*Terminals – the SRA’s Interchange Policy is not enough*” said (LBB3.3, Appendix 1, Section 7):
- “... LIFE, near Heathrow, was turned down at planning consent stage by Government, to protect a green belt area, which was entirely consistent with national planning policy.*
- However the SRA’s response in publishing its Interchange Policy is disappointing.....”*
- 7.114 Since the LIFE decision, traffic at Willesden has declined. Traffic at Barking ceased altogether and the site is now used at nothing like capacity for handling waste containers. DIRFT has not seen an increase in traffic so as to justify investment in gantry cranes. The same logic that the Inspector and Secretary of State applied previously at the LIFE inquiry applies today. It cannot possibly be right to allow a new intermodal facility 14 miles away in the Green Belt when there is a brownfield intermodal terminal with the same capacity and better gauge all ready to take traffic if it were to materialise and when the policy of the Government is to use brownfield sites first.
- 7.115 ProLogis’s argument that in some way their facility would be complementary to Barking is not convincing. Mr Gallop conceded in cross-examination that Howbury Park would not assist Barking. What it does is to take potential traffic which Barking could have captured. The problem at Barking is too little traffic, not too much, and there is no reason why Barking could not take domestic intermodal traffic as well as traffic from the Channel Tunnel Rail Link. The normal rules of competition would apply and there is no reason why having a facility at Howbury Park would assist Barking get more traffic.
- 7.116 ProLogis also tried to put forward a reason to go against the impeccable logic of the LIFE Inspector and the Secretary of State by relying on “the chicken and the egg”. But there are several problems with this analysis. In particular:
1. There is no national Government planning policy that seeks SRFIs. There is not even any national Government policy that supports them (see above).

2. The national policy on major freight interchanges seeks to use brownfield sites first to minimise land take (see above).
3. The Secretary of State has applied that policy on the basis that existing intermodal terminals should be used before new greenfield SRFI sites are allowed having considered the SRA research on the matter (see above).
4. The current regional policy expressly wants sites to be on wholly or exclusively brownfield land, thus ruling out the site (see above).
5. At Howbury Park, the best evidence is that the warehouses would take about 11% of the intermodal traffic and overall would probably receive around 5.8% of the goods by rail (see above). Accordingly, they are not significant in the very special circumstances case. ProLogis submitted no evidence that the warehouses would make a large contribution that could be tested or scrutinised.
6. Even the SRA do not think that SRFIs will make that much difference to the amount of rail freight carried. Their predictions are that the vast majority of their expected increase in non-bulk rail traffic is predicted to occur without additional rail-connected warehouses (from 2.5 million tonnes per annum in 2002 to 11.7 million tonnes per annum in 2015 in the South East - CD4.10, p64). After that, 200,000m² of rail-linked buildings are predicted to increase the non-bulk volume of goods to 16.5 million tonnes per annum in 2015, with diminishing returns thereafter (ibid).
7. The gauge serving the terminal would be substandard (see above).
8. The paths to the terminal are extremely uncertain (see below).

7.117 The chicken and egg analogy is thus an analysis that does not start with weighty policy. Rather, it would result in certain destruction of the Green Belt for speculative demand, which the evidence suggests would be weak.

Rail Paths

7.118 Notwithstanding the above, there is absolutely no certainty that sufficient rail paths would be available should, contrary to Bexley Council's case, the demand for trains to serve the site which ProLogis anticipate actually materialise.

7.119 In an e-mail to ProLogis's rail witness, EWS identify only two paths to serve the site, one arriving and departing via Sidcup and one arriving and departing via Barnehurst. They observe that, based on the current timetable (PDL/6.3, Appendix E):

"...the majority of paths would be available overnight subject to agreement with Network Rail. Other paths may emerge..."

7.120 Thus EWS have looked at the timetable and can tell us about only two paths. One of these is via the Sidcup line and would involve running round in the Slade Green Depot, which Southeastern would not allow (PDL/6.20, Comment 8).

7.121 Network Rail were given the timetable analysis. All they are able to say was (PDL/6.3, Appendix F):

“We believe there is theoretical capacity to accommodate three trains (each way) per day in the short term subject to the following caveats:”

7.122 The caveats are important. First, the view is based on today’s timetable, notwithstanding that the passenger trains on the relevant line are likely to increase (CD4.5, pp80 and 81). The second caveat is:

That the time of day for running trains is an issue and that it is extremely unlikely that there would be any capability for freight to enter or leave [the site] during the passenger trains’ peak hours.

7.123 The principal route planner Paul Harwood in his e-mail to Mr Niblett said quite clearly (PDL/6.21) that:

“My own view would be that, despite the pressure coming off the network in certain locations, the chance of many more paths becoming available is limited. This is because of the growth in demand that we are predicting for passenger journeys and the fact that however we address the growth it will certainly mean more movements through Slade Green Depot.....I cannot see the quantum available for rail services to and from Howbury Park increasing in any significant way in the medium term.”

7.124 Mr Harwood has to make the trains run safely on the network, so his view carries some weight.

7.125 Mr Gallop’s technical note on timetabling (PDL/6.16), which was presented shortly before he gave evidence, does not take the matter much further. It relies upon the timetable study of 2005 which was submitted to Network Rail for validation but not validated. Why was this? ProLogis’s case does not make sense and is internally inconsistent. The note’s usefulness is also limited because it was drawn up without taking the timetable changes that will come about when the Eurostar and some Southeastern service changes come in (PDL/6.16, para 1.6). Also, whilst the analysis of the 2007 timetable looked at three routes, the northern route (via Plumstead) is W6 gauge and the southern route (via Sidcup) would involve running around in the Slade Green Depot, which Southeastern will not accept.

7.126 For the 2009 timetable, the analysis assumed that the number of off peak passenger trains on the Barnehurst line would remain at four trains per hour (PDL/6.16, para 2.8). This was on the basis of an undisclosed document. But the *Regional Planning Assessment for the railway* states that there will be two additional trains per hour on the line through Bexleyheath and Barnehurst in the off-peak period (CD4.5, pp80 and

- 81). Thus the bulk of the paths shown on the last page of PDL/6.16 would be affected by the two extra passenger trains.
- 7.127 After all the evidence was presented, a new document was handed in from the timetable consultants (PDL/6.24). An explanation followed (PDL/6.26), but there was no explanation as to why the consultants had taken the wrong number of passenger trains when they prepared their original analysis and no real explanation as to why this had not been looked at before.
- 7.128 As to this further analysis, there are problems insofar as, first, the two additional trains per hour assumed in the 2009 timetable for passenger trains along Bexleyheath line are not evenly spaced. This is unlikely to be acceptable to the train operators. Second, certain current freight trains are not included in the timetable used for the study, for example aggregate trains between Angerstein Wharf and south London.
- 7.129 Third, there is no indication as to how the study has interpreted Network Rail's rules regarding timetabling of services, particularly the requirement to provide some gaps between trains running at the minimum headway on the route in order to ensure reliability. The minimum headways are 2.5 minutes between fast trains or 3 minutes between slow trains; but after every fourth train there should be a further gap of 2 minutes. Also, there is no indication that the paths identified in the analysis would match available paths for trains from places beyond London, e.g. from Scotland via the West Coast Main Line.
- 7.130 Finally, and most importantly, the study only examined train paths in each direction along a particular line of route - i.e. from Factory Junction to Howbury Park and vice versa. This route contains several flat junctions where trains to other destinations have to cross the path of those going to or from Howbury Park. Examples are at Peckham (Crofton Road Junction), Nunhead, Lewisham, Blackheath and Slade Green. At each of these junctions a 3 minute gap is required between conflicting movements, and these conflicting movements have not apparently been studied. At the most congested location, Lewisham, it appears that there may not be sufficient capacity to accommodate the claimed train paths to and from Howbury Park. This position will worsen in the future.

The Capacity of the Intermodal Terminal

- 7.131 PDL/6.17 examines the theoretical capacity of the proposed intermodal terminal. It assumes that train paths between the main line and the SRFI would be available as required (PDL/6.17, para 1.1), notwithstanding that ProLogis's Rail Technical Report assumes that only a 16 hour window would be available each day for access to the main line (CD1.5, para 3.14). The document also makes other questionable assumptions, such as cranes and reachstackers operating at the same time on the same train, which would clearly not be safe unless they were operating on different parts of the train. It also assumes that more than two reachstackers would service a train, which is unlikely to occur in practice.

- 7.132 Even if this is put to one side, the study misses a fundamental point - the site would lack the flexibility to do what the customer wants. At DIRFT trains often stay at the terminal for 8 to 14 hours. The Felixstowe train arrives at 23.59 and leaves at 08.05 (PDL/6.12, Table 2). The Southampton train arrives at 04.50 and leaves at 19.10 (ibid). The Grangemouth train arrives at 03.38 and leaves at 21.30 (ibid). The reality is that DIRFT has operational flexibility and enough storage so that trains can do what the customer wants and operate on the network within the paths available there. The way of operating found to be most effective and actually operated at DIRFT would not be possible at Howbury Park. This would have a serious effect on the ability of this site to find any customers.

The Lack of a Mechanism to Secure the Claimed Rail Benefits

- 7.133 There is no mechanism that ProLogis brings forward to secure the train benefits they argue would occur. Their uncertainty is manifested in their unwillingness to put serious money at risk and agree to Bexley's suggestion that an undertaking should be offered by which financial payments would be made into a fund to promote rail use, should defined targets not be met (LBB0.5, p3 and PDL/0.10).
- 7.134 The importance of cross-docking for warehouses served by road was exaggerated by Mr Woodbridge. It cannot be seen as a guarantee of the train benefits. The Inspector's conclusions at LIFE, having heard evidence on the point was (CD8.1, para 13.52):

“On that basis a high proportion would be entirely road-to-road. Thus it seems to me that Argent are not expecting the building layout to put off road-only use significantly.....Although some companies favour having double-sided road access, the evidence suggests that this is not crucially important.”

- 7.135 Mr Woodbridge in his proof said that for warehouses with a floor area over 45,000m² the normal practice is to cross-dock (PDL/7.1, para 6.12). But at Howbury Park Units C and D would both be less than 45,000m². The area of Unit B would only slightly exceed Mr Woodbridge's guideline figure and Unit A could be subdivided. Even if the warehouses perform like DIRFT, there can be no credible suggestion that more than 5.8% of the warehouses' goods would arrive or depart by train (see para 7.86 above). Of this, the goods arriving or departing via the intermodal terminal would use the road side of the warehouses. Given that the major share of the traffic through the warehouses would be road-to-road in any event, it is hardly likely that they would be designed not to satisfactorily accommodate this.
- 7.136 Equally, the S106 Highway Undertakings (PDL/0.16) would not secure rail use. All it does is to put forward a cascade of steps on long averages which could, if there were massive persistence and no action to comply with the limits specified, eventually lead to goods vehicles leaving the site being restricted at certain times. But the restricted times are not the times which are the peak times for HGV movements from the site; rather they correspond to the peak hours on the local road network. The restriction was designed not to secure the rail benefits, but to limit the traffic at M25 Junction 1a.

It would not secure the long term use of the rail facility as called for in policy TP23 of the Kent and Medway Structure Plan.

- 7.137 ProLogis also declined to agree to a suggestion that the construction of the warehouses should be phased, with later phases tied to rail use of the initial phases (LBB0.6, Additional Condition E).
- 7.138 Also, one has to be careful about placing too much reliance on what one company who owns the site says in corporate documents. There would be nothing to prevent ProLogis selling the site to another company. There would be nothing to prevent another company, with different motivations taking over ProLogis. Planning is not personal, and there are no hard documents that would operate to secure the rail use anticipated by ProLogis.
- 7.139 The history of Birch Coppice is testament to how careful one has to be of allowing a development on the basis of unsecured benefits. There a condition to secure the use of rail at the site was removed on appeal, following which rail use ceased (CD8.3).

Carbon Dioxide (CO₂) Emissions

- 7.140 The Council's witness on CO₂ emissions, Mr Fox, produced evidence that even if 12 trains per day were to run to Howbury Park, contrary to the Council's case above, then the saving in CO₂ emissions for the part of the journey from rail head to rail head would represent a difference of 2,582 tonnes per annum (PDL/6.23). However, for a fair comparison, the trip end mileage from the rail terminal would have to be added in for over half of the journeys. Also, trains have less flexibility to pick up a backload and this would have to be factored in. The position is thus around neutral between train and HGV in total.
- 7.141 On CO₂ emissions there are two key differences between Mr Fox and, ProLogis's witness who gave evidence on CO₂ emissions, Mr Gallop. On both the evidence of Mr Fox is preferable.

Train Emission Rates

- 7.142 Both Mr Fox and Mr Gallop originally used the same emission rates for the Class 66 locomotive which it was agreed was the correct locomotive to use. The figure used, 19,147gm/km CO₂, came from the SRA's Rail Emission Model (LBB7.4, Appendix 1, p11). This model was constructed by AEA Technology so as to "...allow rail emissions to be compared to displaced road emissions..."(ibid, p1).
- 7.143 It was subsequently confirmed that the consultants advising ProLogis originally used the same source and figure.¹

¹ See PDL/6.5, Appendix 1, pp2-3. This gives emissions for the locomotive as 5262.6 gm/km CO₂ as carbon, equivalent to 5262.6x (44/12) CO₂ = 19,296 gm/km CO₂. Orally it was confirmed at the inquiry that the figure originally came from AEA.

- 7.144 At the inquiry, ProLogis tried to distance themselves from this figure on the basis that the trains may have been pulling an (unknown) heavier load. But data subsequently provided by GB Railfreight showed that the trailing weight of the train does not make a large difference to its fuel consumption – their advice was that fuel usage for a fully loaded train is around 9 litres per mile, compared to 7 litres per mile for the same train with empty containers (LBB7.5, e-mail from Paul Taylor, dated 15 May 2007). The same e-mail confirmed that the company’s financial model was based on a consumption of 9 litres per mile which Mr Taylor stated “...is a good average across the range of [intermodal] services operated.”
- 7.145 This works out to be a rate of 5.6 litres per kilometre, equivalent to 16,184 gm/km CO₂ (PDL/6.23). It is in the same ball park as the figure used by AEA, which both sides relied on to start with.
- 7.146 Subsequently, EWS presented a figure to the Eddington Study, published on the DfT website. This quoted a figure of 13 litres per mile (LBB7.8, p27). This is equivalent to 23,481 gm/km CO₂. It is in the same ballpark, albeit the train is heavier.
- 7.147 In stark contrast to these figures submitted to Eddington, produced by AEA and sent in an open e-mail from GB Railfreight, ProLogis relied on a figure derived from a press release by Stobarts. It is around half that used by the AEA model and half that used by GB Railfreight. It was questioned when produced, but no audit trail or other data was produced to support it. This is revealing. Mr Fox’s evidence on emissions from the train should be preferred.

Number of Containers per Train

- 7.148 Another factor that influences the potential savings in CO₂ emissions, is the assumptions made regarding the number of containers carried on a train. The Council’s figures for this were set out in Mr Niblett’s proof (LBB3.2, para 3.6.7).
- 7.149 Mr Niblett set out his assumption for the number of containers on intermodal trains in his original proof (LBB3.2, para 3.6.7). This used the number of containers handled over a whole year at DIRFT to arrive at the average number of containers on a train – 20. His figures were not seriously challenged and are plainly more reliable than the method used by Mr Gallop in PDL/6.15, table 2. In any event, the average if one looks at the inland (i.e. non-port and non-international) routes in Mr Gallop’s table is in the low 20s.
- 7.150 With up to two thirds of the containers on the railway being 20ft, it would certainly be possible for some of those to go by road with two containers on a single HGV. They will not necessarily be too heavy. The assumptions made by Mr Fox to derive the equivalent number of HGV trips per train are very reasonable (LBB7.5, p2).

Trip ends

- 7.151 Mr Niblett’s calculation for the average trip end distance of 74.915km was derived from data in ProLogis’s Traffic Assessment (LBB3.8). Furthermore, it is obvious

from the map showing HGV origins and destinations that most of the journeys would have a shorter journey by road if coming from, say, Scotland. For those journeys hauling containers to Howbury by train and then taking them back by HGV it would clearly waste fuel. Including this factor would easily be enough to neutralise any benefits.

Empty Running

- 7.152 Trains are inherently less flexible than HGVs and consequently are less able to attract “backloads” i.e. to run loaded in both directions (LBB3.2, para 3.5.2). It is a point which Argent frankly acknowledged in their evidence at LIFE (LBB7.6). In calculating the potential CO₂ savings, some allowance for this needs to be made.

Conclusions at LIFE

- 7.153 The conclusion reached by the inspector at LIFE was that (CD8.15, para 13.192):

“For CO₂ emissions, the effect of the development is difficult to predict with any certainty. It could be beneficial or harmful, but would certainly not have the clear benefits claimed by Argent.”

- 7.154 This conclusion was reached by the Inspector notwithstanding that there were generalised statements that put a contrary view (ibid, para 13.184). His conclusion was endorsed by the Secretary of State (ibid, para 22). A similar conclusion should apply at Howbury Park.

- 7.155 It is not Bexley Council’s case that there will not be instances where rail freight is better than road. But if you look at the specifics in relation to Howbury Park that is most unlikely to be the case with respect to CO₂ emissions. Government policy does not say that rail is always better than road. The *White Paper on Transport* advocates a considerably more sophisticated approach, namely (CD4.39, paras 8.8 and 8.9):

“The Government’s policies should not be guided by attachment to particular forms of transport, but by the approach that offers the best value for money to deliver the best outcomes for our economy, society and the environment.

.....

We will continue to encourage freight traffic to be shifted from road to rail or water where this makes sense,.....”

Parking

National Policy

- 7.156 At the national level, the policy relating to parking is one of restraint. It is not sufficient just to be less than the maximum. *PPG13*, paragraph 49 provides that:

“The availability of parking has a major influence on the means of transport people choose for their journeys. Some studies suggest that levels of parking can be more significant than levels of public transport in determining means of transport.....”

7.157 It then goes on to say (ibid):

“Reducing the amount of parking in new development... is essential, as part of a package of planning and transport measures, to promote sustainable transport choices.”

7.158 Accordingly, reducing parking is not an optional extra but it is essential as part of the package. In developing and implementing policies on parking, *PPG13*, paragraph 51 encourages local authorities to:

“ensure that... levels of parking provided in association with development will promote sustainable transport choices.”

7.159 One of the ways that ProLogis fell into error was to say that, because the application was for less parking spaces than the maximum permitted for Class B uses, that was satisfactory. But *PPG13* advises at paragraph 55 that:

“It should not be assumed that where a proposal accords with the relevant maximum standard it is automatically acceptable in terms of achieving the objectives of this guidance.”

The London Plan

7.160 The *London Plan* similarly has a policy of restraint. The relevant policy provides that the Mayor will, in conjunction with the boroughs (CD3.3, policy 3C.22):

“... seek to ensure that on-site car parking at developments is the minimum necessary and that there is no over-provision that could undermine the use of more sustainable non-car modes.”

7.161 As with national policy, it does not say that if you are within the maximum then that will be acceptable in parking terms.

The Bexley UDP

7.162 The policies in the *UDP* are in line with this national and regional level policy. They speak of this restraint (CD3.5, paras 8.48 and 8.49). The standard in the plan is for all Class B uses and one space for every 100 to 400m² gross floor area (ibid, Annex1, p130). But employment densities are very much lower for Class B8 uses than Class

B1. Offices of equivalent size to the warehouses proposed would be expected to generate about five times the number of jobs.¹

The Parking Accumulation Study

7.163 One of the fundamental problems with the parking accumulation study is that it plans on 70% of people being able to be drivers to the site (CD4.31, para 3.1.5). It plans to have enough spaces so that the site can replicate what is currently achieved in the North End ward, which includes sites that do not have a travel plan, and are further from the station. It effectively plans for the failure of the travel plan. The danger with this is that, if you leave out one of the essential elements of the travel plan - restraint - you are going to help bring about its failure.

7.164 As to the 70% figure, ProLogis's consultants accept that the figure could be lower. In their note on trip generation they state (CD4.30, para 3.2.6):

“At Howbury it is expected that [the figure of 70%] could be lower as it is closer to the station than other employment sites in the ward and a bus service will be extended into the site.”

7.165 It is accepted that the 70% “*primarily includes the isolated Darent Industrial Estate*” (PDL/0.7, meeting on 18 May 2006, para 6.1). It is also accepted that there are areas of the North End ward which already achieve 56% (ibid, meeting on 16 November 2006, para 4.3). In the technical note on trip generation, the 70% is described as a “*worst case*” (CD4.30, para 3.2.7). Accordingly, the accumulation study makes sure there will be enough spaces for the worst case of how many people may want to drive if the travel plan totally fails and if no allowance is made for the site being better located than most in North End ward.

7.166 The accumulation exercise then starts with too high a number. It starts with 354 (CD4.30, Table 2.3). This was a figure that in the Transport Forum meetings neither TfL nor the Highways Agency accepted (PDL/0.7, meeting on 16 November 2006, para 5.1). Whether one looks at the amount of traffic that goes out, making allowance for a background number, or those that come in for the shift before, one arrives at a number very much below that chosen. If the number arriving for the evening shift change is taken to be the number parked at midnight, as the Council's highways and parking witness, Mr Able, suggested, the number would be 196. Alternatively, if 90 is deducted from those leaving, as ProLogis's highways witness, Mr Findlay, put forward, the overnight figure would reduce to 264 (PDL/5.4, para 2.3.5). Thus the overnight total would be in the range of 196-264. The maximum accumulation at the afternoon shift changeover would be correspondingly reduced from the 1077 calculated by WSP to somewhere between 919 and 987.

¹ See LBB 5.3. A 198,000m² office development would generate $198,000/19 = 10,421$ jobs c.f. 1,500 to 2,440 predicted for the development.

- 7.167 It would be wholly wrong in Mr Able's view to provide 10% surplus parking spaces over the maximum accumulation to make it still easier to park at work. TfL did not support this number. The provision of effectively unrestrained parking on the site would undermine the aims and success of the travel plan.
- 7.168 ProLogis have furthermore put forward no mechanism for the removal of spaces once provided and rejected the Council's suggested condition which would have secured this (LBB0.6, Condition 34 and PDL/0.14, para 57). Their approach of effectively providing unrestrained parking on the site would undermine the travel plan and takes no account of Government guidance and those development plan policies which call for parking restraint. In their reports the GLA were not satisfied on parking numbers (CD1.2, paras 61-62 and CD1.7, para 33). If they have changed their position, this has not been explained.

Highways Matters

- 7.169 The Council's position on highways matters is that they want the access junction to work according to normal standards and the rest of the network to experience nil detriment as a result of the proposals.

Trip Rates

- 7.170 Throughout all the highway meetings, the wrong figure was used for the amount of development on the site. Effectively traffic generation was assessed for warehouses with a total floor area of 185,800m², not the 198,000m² proposed. The Highways Agency and TfL were apparently content. The figures were only revised shortly before Mr Findlay gave evidence (PDL/5.7), well after publication of the ES.
- 7.171 In terms of trip rates, the Council's position is that the safest assessment for trip rates is to use the TRICS database and the 85th percentile figures. If the Secretary of State does not agree that 85th percentile figures should be used, then the Council would argue for the average trip rates derived from the TRICS database. There is so much uncertainty as to how Howbury Park would operate, that this is the correct approach. At the inquiry ProLogis would not agree to any condition or obligation that creates any certainty about delivery of the rail use (see above). Also, whilst ProLogis used surveys at DIRFT to estimate the traffic that Howbury Park would generate, the two sites have very different characteristics. DIRFT is a national distribution centre in an isolated location. Its trip rates are very different to those observed at the TRICS sites.
- 7.172 In terms of the 85th percentile, it was accepted in cross-examination by Mr Findlay that it was requested by TfL by letter. It was used by ProLogis's consultants, WSP, in Technical Note 6. It was also used in an earlier Transport Assessment (TA) (November 2005 Planning Statement, Volume 3, pp33 and 34 and Appendix D). The TRICS sites for which data is available are not comparable in scale or location to the warehouses proposed at Howbury Park (LBB4.4, p5). Accordingly, it follows that the correct approach is to use the 85th percentile traffic generation figures, in accordance with the Guidance on Transport Assessments published by the DfT and DCLG (CD4.40, para 4.62). The IHT guidelines note that the approach of using 85th

percentile figures is common (ibid, para 2.2.10). The argument ProLogis advance against their use comes from an odd reading of a TRICS caveat. They say that for small samples, their bold quotes should not be relied upon. However, the good practice guide says that it is for the data supplier to prove the robustness of the figures. Just because one has few samples, it does not mean the 85th percentile approach should be abandoned; such an approach would be convenient but bizarre.

- 7.173 The reality is that what the good practice guide recommends is to establish the robustness. Here there is a good measure of agreement if the cross testing approach is done with medians, which suggests that the 85th percentile figures are robust.

Site Access Roundabout

- 7.174 TA23/81 notes that the starting parameters for any roundabout junction assessment should not be showing RFCs of greater than 0.85 using ARCADY software. That is the appropriate standard for the site access roundabout (LBB4.4, paras 2.5.1 and 2.5.2). It is the standard to which the current roundabout was designed. The proposed new roundabout at the site access should clearly work, and there is no reason why RFCs of 0.85 or below should not be achieved. Policy T6 in the *Bexley UDP* states that the Council will refuse planning permission for development that would cause traffic to rise above the design flow unless improvements are anyway programmed, or the applicant is prepared to undertake improvements to increase the design flow capacity to safely accommodate the demands from the development.
- 7.175 The design for the roundabout submitted with the application would not be satisfactory, whereas the present roundabout would operate with a maximum RFC on Thames Road of 0.77 (PDL/5.1, p32, Table 6.3).
- 7.176 It is significant that ProLogis did not give any adequate reasons as to why the site access should not be designed to the 0.85 RFC standard. Indeed, a revised design for the roundabout was produced during the course of the inquiry implicitly adopting this approach (PDL/5.19).
- 7.177 The reality is that on all the evidence ProLogis must be required to do improvements to this site access junction. The present junction works with an RFC well within the 0.85 limit (see above). With the traffic from the site and from Grosvenor Waste using the junction, the new roundabout proposed would have a queue of 17 on Thames Road and a RFC of 0.96 (PDL/5.5, Table 3.5). With the alternative geometry measured by the Council's highways witness, Mr Edwards, the RFC would be 0.944 (LBB4.4, p17). This would not be satisfactory.
- 7.178 As to the improvements proposed in PDL/5.19, these are not agreed. The Council has several concerns. First, the calculations appear to be based on the wrong size of warehouses (185,800m², not 198,000m² – see para 7.170 above). Second, they do not model 100% of Grosvenor Waste traffic using the site access, which would seem probable given the new connection proposed. Third, the design has not taken into account the Toucan crossing as proposed. Fourth, a scale drawing would need to be examined to make sure the design complies with current standards regarding entry

path curvature (LBB4.8). Finally, the junction should be shown to work with a maximum RFC of 0.85 at the critical time for that section of the network – i.e. considering peak hours for the development traffic (07.00 to 08.00 and 14.00 to 15.00) not just peak hours on the wider network.

- 7.179 Further, the Council's position is that the trip rates used should be the 85th percentile rates derived from TRICS, not the average trip rates derived from the DIRFT surveys for the reasons given in paragraphs 7.171 and 7.172 above.
- 7.180 The Council do not seek to argue that a satisfactory design for the proposed site access roundabout could not be developed. Accordingly, should the Secretary of State be minded to grant planning permission for the development, contrary to the Council's case, a Grampian condition would need to be applied specifying the design parameters to be applied (LBB0.6).

Crayford Way Roundabout

- 7.181 The position is similar with respect to the Crayford Way roundabout. Even taking ProLogis's figures, the junction would not work satisfactorily with the development traffic. The RFCs would increase from a base position in the pm peak of 0.87 on both the Thames Road East and Thames Road West approaches, and very modest queues, to 0.97 and 1.00 (PDL/5.4, Tables 3.4 and 3.6). The queue length in the pm peak on Thames Road East would double from 17 to 34 vehicles (ibid). Mr Edwards' figures similarly show a considerable worsening of the position in 2025 (LBB4.4, p21).
- 7.182 Thus, on either view, the Crayford Way roundabout exceedances of design flows would be exacerbated by the development, in conflict with policy T6 of the *UDP*. There is no dispute that the test of nil detriment, which so far as this junction is concerned was not seriously challenged, would not be achieved even on ProLogis's own figures. Again a Grampian condition would be necessary.
- 7.183 As to the further analysis submitted in PDL/5.20, this would not provide a solution. The development has not been modelled on the correct floor area, DIRFT traffic figures have been used as opposed to TRICS, and the Grosvenor Waste traffic has not been assigned fully to the new access. Also, no drawing has been provided to allow the geometry to be checked for compliance with the design standards (LBB4.8).

The Bridge

- 7.184 Regrettably, the Thames Road bridge has been taken out of the improvement programme for Thames Road. Whilst Bexley Council accord high priority to the bridge's replacement, currently there is no funding available for the works and no guarantee that it will come forward without the development.
- 7.185 At the inquiry there was a difference of opinion between the highway engineers as to whether the capacity of the present bridge should be assessed as 1,800 or 2,000 PCUs per hour. Mr Edwards, for the Council, argued for 1,800 taking account of the

- character of the road and the guidance in TA79/99 (CD4.25). The matter is anyway not determinative of the issue.
- 7.186 On the basis of a capacity of 1,800 and using the methodology that Mr Edwards adopted, the queue at the bridge would increase dramatically from 93 to 204 vehicles (LBB4.3, Appendix 4).
- 7.187 Ultimately, even if one takes 2,000 as the capacity through the bridge, the effect of the proposal is either to create problems and queues where there were not any or to exacerbate what would be an existing bad position.
- 7.188 It is clearly the correct approach to use demand flows. This is because demand flows represent where people want to go using the best route in the model. Demand flows with the existing bridge retained would increase from 1,860 to 2,107 vehicles per hour travelling eastbound in the am peak hour as a result of the development (PDL/5.9, Figure 5). So the effect of the development would be to push the model from working to not working. In the pm peak, the position is that the development would exacerbate base flows that will be above the capacity (PDL/5.9, Figure 6). Accordingly, even looking at the Appellant's case in the am peak, flows are pushed over capacity; and in the pm peak, flows already over capacity would be exacerbated.
- 7.189 There are also problems with relying to a great extent on the KTS model for the bridge because the bridge is on the extreme edge of the model. The model has not been validated. Its stability is questionable.
- 7.190 Looking at the position of the bridge from a common sense point of view, it is quite clear that adding more traffic going west from the development when there is a restriction would exacerbate the problem. In the pm peak, ProLogis's evidence is that the predicted flow of 2,149 PCUs if the bridge were widened would be reduced to 2,026 PCUs with the present bridge retained. (PDL/5.4, Appendix A, Table 3.3). Mr Findlay accepted that this traffic would reassign to other roads because of the bridge restriction (PDL/5.9, para 2). The analyses show several other instances where the development would exacerbate or create problems through the bridge (LBB0.8, paras 16.25 to 16.29). 14.00 to 15.00 would be the critical hour for traffic flows on Thames Road near to the site access, at which time the development would add 311 light vehicles and further heavy vehicles to the present flow.
- 7.191 In policy terms, the development would cause local traffic to exceed the design capacity of Thames Road and/or generate additional traffic on a road on which the flows would already exceed the design flows, in conflict with policy T6 of the *Bexley UDP*.
- 7.192 It is of course impossible to quantify exactly how much the new bridge would cost, albeit that Mr Able, provided the latest estimate. This cannot be a bar on the developer having to comply with policy T6. It is not an unreasonable stance to take that a development of the scale proposed, which would clearly have significant effects on the network, particularly between 07.00 and 08.00 and 14.00 and 15.00 should comply with the policy and create a nil detriment. To remedy this, if the Secretary of

State is minded to grant planning permission, a Grampian condition should be attached to the permission granted to bring the development into accord with policy T6 (LBB0.6, Additional Condition A). Alternatively, if the view is taken that a development of this size should not fully fund infrastructure that it requires to go ahead, but that some of this should fall upon the taxpayers, then the best route would be to give a “minded to grant” decision so that negotiations can take place.

Conclusions

- 7.193 This is an application for literally colossal buildings which would cause massive harm to the Green Belt. It is contrary to well established national and development plan policy.
- 7.194 The alleged benefits do not amount to anything like very special circumstances. There is no demand, let alone need, for the rail facilities proposed and there is an empty intermodal terminal waiting for customers nearby at Barking. The policy of the Government is to use what we have rather than to waste non-renewable finite precious resources. Bexley Council have considered these matters carefully and attended the inquiry to be cross-examined. They urge that the proposals be rejected. Less weight should be given to the views of the GLA, who chose not to attend the inquiry, and the SRA, who have now been abolished.
- 7.195 As to compliance with the development plan, the proposal would be contrary to the plan’s Green Belt and landscape policies, contrary to the employment policies and contrary to the parking policies.
- 7.196 The adopted London Plan must be given greater weight than the emerging plan. It clearly requires that any site for the type of use proposed should be wholly or substantially on previously developed land. Thus the only available conclusion is that the proposed development is:
- contrary to the development plan;
 - contrary to national Government planning policy; and
 - contrary to the previous decision of the Secretary of State on LIFE, which had a similar balance.
- 7.197 Accordingly, the appeals should be dismissed.

8. THE CASE FOR DARTFORD BOROUGH COUNCIL

Introduction

- 8.1 The two appeals concern the same development, being a Strategic Rail Freight Interchange (SRFI) at Howbury Park. The main part of the development is within the London Borough of Bexley and the majority of the evidence before the inquiry concerned this part of the development. Only a relatively small part of the development falls within Dartford Borough, namely the access road and bridge across the River Cray.
- 8.2 Bexley and Dartford Borough Councils' case is that the site falls within the Green Belt and that there are no very special circumstances which outweigh the policy and further harm the development would cause. Bexley Council called evidence in respect of the detail of the very special circumstances put forward by the Appellant, ProLogis, and challenged the factual basis of their evidence at the inquiry. Due to resource constraints, Dartford Borough Council did not call such evidence in respect of the overall development and did not cross-examine the Appellant's witnesses on this basis. Dartford Borough Council accepts that in this regard their case is reliant on that made by Bexley Council.
- 8.3 Dartford Borough Council's position remains, however, that, even on the Appellant's case, there are no very special circumstances outweighing the harm to the Green Belt. Plainly, if the Inspector and/or the Secretary of State is satisfied, contrary to the view of the two Councils, that there are in fact very special circumstances justifying the development in the Green Belt, then it forms no part of Dartford Borough Council's case that there is a differential in that regard in respect of the part of the development in Dartford Borough.

Green Belt

Presumptive Policy Harm

- 8.4 The starting point must be both a recognition that the site falls within the Green Belt and that accordingly close attention to that is required. The Appellant has conceded that the development is inappropriate development in the Green Belt. The significance of this must not be glossed over.
- 8.5 The Appellant cannot point to any national planning policy in support of SRFIs. This is plainly significant. *PPG2* maintains clear and continuing support for the protection of the Green Belt and stands in stark contrast to the absence of national planning policy in support of SRFIs. It states:

"1.1 The Government attaches great importance to Green Belts, which have been an essential element of planning policy for some four decades. The purposes of Green Belt policy and the related development control policies set out in 1955 remain valid today with remarkably little alteration....."

2.1 The essential characteristic of Green Belts is their permanence. Their protection must be maintained as far as can be seen ahead....

3.2 Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.”

8.6 The fact that an applicant needs to demonstrate very special circumstances to justify inappropriate development in the Green Belt is a longstanding policy requirement. The first central government policy advice on Green Belts, Circular 42/55, enshrined this principle and for over 50 years Government policy has been that what would now be described as inappropriate development should not be approved in the Green Belt "except in very special circumstances". The unchanging nature of the commitment to this policy of protecting the Green Belt by successive governments is significant and the lack of alteration in both the purposes of the Green Belt, and the development control policies over time, draws comment in PPG2 (PPG2, para 1.1 - see above).

8.7 The courts have consistently affirmed the need for very special as opposed to merely special circumstances. In *Doncaster Metropolitan Borough Council v. Secretary of State for the Environment, Transport and the Regions* [2002] EWHC 808 (Admin), Mr Justice Sullivan warned at paragraph 74 that:

“It is important that the need to establish the existence of very special circumstances, not merely special circumstances in Green Belt cases, is not watered down.”

8.8 In light of this policy context, and the absence of a national planning policy in support of SRFIs, it is not sufficient to categorise the case as a struggle between “parochial” concerns and progress at a strategic level which must prevail. The Green Belt is of national importance. There is no national planning policy in respect of SRFIs which suggests that they ought, or even may, be regarded as very special circumstances. The Government, through planning policy, can and does address such issues where it regards a particular form of development as of national importance. PPS22, for example, addresses the potential tension between Government support for renewable energy developments and the planning system and more local concerns and contemplates that in the context of the Green Belt the environmental benefits associated with increased energy production from renewable sources may amount to very special circumstances (PPS22, para 13).

8.9 The commitment at a national level to the protection of the Green Belt plainly trickles down to local policy. Policy SS2 of the Adopted *Kent and Medway Structure Plan* (CD3.4) affirms the general presumption against development in the Green Belt as

does policy GB2 of the *Dartford Local Plan* (CD3.6) and policy GB2 of the *Dartford Local Plan Review Second Deposit Draft*.

Further Harm

- 8.10 In addition to the presumptive policy harm, Dartford Borough Council contend that the development would occasion further harm to the openness, purposes and integrity of the Green Belt. The site currently acts as a buffer between built development and the integrity of this would be harmed by the development proposed. Whilst Mr Parkinson accepted in examination in chief that the appeal decision cited in his evidence (DBC1, Section 6 and CD8.2) concerned a different case of very special circumstances than that advanced by the Appellant, the decision is still relevant insofar as it addresses the detrimental visual impact of a road and bridge in this particular location.
- 8.11 This further harm is a key concern. The appeal site is in an exposed location and the bulk and height of the elevated roadway and the bridge would be very visible, particularly when the bridge is elevated (DBC1, para 7.5). HGVs and other vehicles using the road would also draw attention to the bulk and impact of the roadway and bridge (ibid, para 7.8). The part of the appeal site within Dartford is visible from a number of key public vantage points, including Bob Dunn Way and footpaths to the north and east of the site (ibid). Given the size and design of the roadway they are features which will be seen over a wide area and from over a very long range.

Submissions

- 8.12 The first step is for the Appellant to show that there are very special, as opposed to special, circumstances which justify development in the Green Belt. The development is for a large amount of warehousing as part of an SRFI and Dartford Borough Council contend that, even on the Appellant's case, very special circumstances have not been demonstrated. The "balance" which is required is between the presumptive policy harm occasioned by the development and also the further harm to the openness and purposes of the Green Belt on the one hand (harm, which in accordance with *PPG2* is afforded substantial weight) and the case of very special circumstances being advanced by the Appellant. The case of very special circumstances must clearly outweigh the harm. This is a high threshold and the burden is firmly on the Appellant.
- 8.13 Dartford Borough Council remain of the view that the Appellant has failed to meet the high threshold required by national planning policy.
- 8.14 Even on the factual basis of the case being put forward by the Appellant, the paucity of their case in terms of any national planning policy support for SRFIs, the need for which forms the lynchpin of their case on very special circumstances, is significant. Dartford Borough Council submit that the longstanding national planning policy support for the protection of the Green Belt, which is in turn reflected at the regional and local level, stands in stark contrast, and that the Appellant has failed to meet the threshold required in the circumstances of this case. Accordingly, the appeal should be dismissed.

9. THE CASE FOR KENT COUNTY COUNCIL

The Central Consideration

- 9.1 Kent County Council (KCC) agrees with the Inspector's assessment that the Green Belt issue is likely to be a central consideration in the Secretary of State's determination of the appeals, if not "the" central consideration (INQ2). The test is whether there are very special circumstances for a strategic rail freight interchange (SRFI) at Howbury Park which clearly outweigh the harm caused by the inappropriateness of the development and any other harm caused to the Green Belt (PPG2, para 3.2).
- 9.2 In their consideration of the proposal, KCC have not addressed "local matters" (KCC1, para 1.4). Rather, the Council have sought to address policy need for the development of SRFIs in the London area and how that need can be met at Howbury Park with particular benefits for encouraging freight on rail through Kent.

Policy Need

- 9.3 In the London International Freight Exchange (LIFE) appeal decision, under the heading "*Very Special Circumstances*", the Secretary of State recognised that there was a "*policy need*" for SRFIs "*in that the Government is seeking to encourage the transfer of freight transport from road to rail. In part this is in response to European policy to promote cross-frontier rail transport. The need is also made clear in the Strategic Rail Authority's Freight Strategy and Strategic Plan*" (CD8.1, para 15).
- 9.4 That need has not gone away. In his evidence KCC's witness, Mr Martin, identified relevant European policy and its development since 1996 (KCC1, Section 2). That policy recognises that a proper network of rail freight terminals is necessary to ensure success of the policy to shift more freight from road to rail.
- 9.5 He also had regard to the Strategic Rail Authority's (SRA's) *Freight Strategy* published in 2001, and the requirement there for three or four large new interchanges in the South East (CD4.8, p25). This requirement was reiterated in the SRA's *Strategic Rail Freight Interchange Policy*, published in 2004 (CD4.10, para 6.10).
- 9.6 Bexley Council have criticised reliance on SRA policy on the ground that it is not planning policy. The Secretary of State, however, placed weight on the 2001 policy in his determination of the LIFE appeals (CD8.1: para 15). In his open letter of the 14 October 2005, the Secretary of State for Transport described the policy as "*based on the Government's existing policies for transport, planning, sustainable development and economic growth...*" and stated that it would remain "*a source of advice and guidance*" (CD4.14). The utility of the SRA's policy has been subsequently confirmed in the Department for Transport's *South Eastern Regional Planning Assessment for the railway* (CD4.5, p48).
- 9.7 KCC submit, accordingly, that the SRA's *SRFI Policy* is Government guidance recently considered which should be given substantial weight in these appeals.

- 9.8 While the Government's *Sustainable Distribution Strategy* (CD4.3) encourages the full use of existing interchanges, it does not preclude the development of new interchanges on greenfield sites. What *PPG13* paragraph 45 expressly requires is that local authorities should identify sites, both existing and potential, which could be critical in developing infrastructure for the movement of freight (such as major freight interchanges). Where possible these should be away from congested central areas and residential areas with adequate access to trunk roads. The evidence demonstrates that Howbury Park is such a site.

The SRA's Strategic Rail Freight Interchange Policy: March 2004

- 9.9 KCC contend that significant weight should be placed on the SRA's *SRFI Policy* as being soundly based. It notes that the SRA see SRFIs as a "*form and type of rail interchange without which longer term growth and development of an efficient rail freight distribution network will not be achieved*" (CD4.10, para 4.2). It recognises that:
1. SRFIs are necessary to promote a shift from road to rail freight (CD4.10, para 4.3);
 2. a network of SRFIs is required to support longer term freight growth (ibid, para 4.4);
 3. SRFIs represent the potential for businesses to use rail freight now or in the future and are key features in encouraging a gradual conversion from road to rail (ibid, para 4.5); and
 4. SRFIs will normally accommodate both rail and non rail-served businesses at the outset, with an expectation of increasing the proportion of rail servicing over time (ibid).
- 9.10 What is being said here is that the policy need for a transfer of freight from road to rail will be delivered over time if a network of SRFIs is provided.
- 9.11 Mr Martin stated that he is "convinced" that a SRFI at Howbury Park would be so used. His conviction is well founded on all the evidence. The proposed investment is being made and underwritten by ProLogis, a leading company in international logistics with established rail freight facilities in other regions of the UK. The S106 Undertaking (PDL/0.15) provides for an unprecedented package of measures to act as a catalyst to rail freight growth in the local area. SRFIs elsewhere in the UK have become established over time, notably at Hams Hall and Daventry (DIRFT). Furthermore, there are significant opportunities to attract rail freight to Howbury Park; Teesport/Asda, M&S wine through the Channel Tunnel are examples. It is accepted that other long distance rail freight could come from areas such as Liverpool, Immingham and Glasgow. The Need Case provides further examples of traffic that could be hauled by rail through Howbury Park (CD1.10, paras 4.28–4.48).

- 9.12 Further, and importantly, only 21% of freight train paths through the Channel Tunnel are currently used (CD4.36, Table 3.9) and the rail routes via Ashford and Maidstone through Kent and south London have below 40% utilisation (ibid, Figure 3.2). Accordingly, there is unused capacity and considerable scope for growth of freight on rail through Kent. This a view shared by the DfT's *South Eastern Regional Planning Assessment for the railway* (CD4.5) which highlights the potential for very strong growth in Channel Tunnel traffic in the longer term.
- 9.13 With regard to present and future rail network capacity, the Secretary of State can and should place substantial weight on the authoritative statement from Network Rail, the operators of the railway network, that they will work with ProLogis on the development of Howbury Park (PDL/6.13). On the evidence provided, the Secretary of State can conclude that there is a reasonable prospect that the necessary freight paths will be made available to serve Howbury Park in the future when required.

Location

- 9.14 The *South Eastern Regional Planning Assessment for the railway* notes that the SRA policy, endorsed by Government, favours sites for development which are strategically located close to good road and rail links (CD4.5, p48). This requirement, when considered in the light of the recommendation of the Eddington report - that the priorities of transport policy should be congested and growing urban areas and their catchments - is supportive of the locating of an SRFI at Howbury Park. The site is, as a matter of fact, on the edge of the UK's principal market. It has direct access to the road and rail routes to the main international gateways in Kent and on the south and east coasts, including the designated rail freight route to the Channel Tunnel. It meets the main criteria for an SRFI identified by the SRA (KCC1, para 4.26).

Other Sites

- 9.15 When cross-examined on his evidence on alternative sites, Bexley Council's rail witness, Mr Niblett, said that he was not making a positive case that there was a suitable, viable and available alternative site for an SRFI in substitution for Howbury Park. Bexley Council's principal focus was on pressing the potential of Barking as a site for a SRFI. Mr Martin rightly queried whether the Barking or Willesden freight facilities could be compared with the proposals for Howbury Park. But in any event Barking and Howbury Park would not be alternatives but complementary to one another in the policy context of there being a need for a network of SRFIs to encourage the transfer of freight from road to rail.
- 9.16 This complementarity is considered further in the Intermodality Report (PDL/6.18, para 5.3 and Section 6). KCC support and commend this analysis which demonstrated that the two sites offer distinct rail freight opportunities. It accords with Transport for London's view that the Howbury Park proposal would offer potential as a complementary facility on the south bank of the Thames to potential developments at Barking/Dagenham (CD4.37, p4). Bexley Council have not identified an alternative site to Howbury Park for a SRFI in south-east London.

Kent and Medway Structure Plan

- 9.17 The *Kent and Medway Structure Plan* was adopted in 2006. It is part of the development plan for the purposes of section 36(8) of the Planning and Compulsory Purchase Act 2004. It promotes the expansion of the rail network in Kent including rail access to Dover, Sheerness and Thamesport and greater use of the Channel Tunnel (KCC1, para 7.9). Policy TP23 supports proposals which encourage the transfer of freight from road to rail at portside locations and would permit an inland intermodal interchange, subject to criteria being met. However, unless the terminal is located near to London an inland intermodal facility could fail to bypass the congested sections of the M20 and the A2/M2 in mid and west Kent (KCC5 and 6). Howbury Park is well located in this respect to receive Channel Tunnel rail freight. In doing so it would bypass the congested international roads in Kent and, thereby, encourage growth in the movement of freight by rail. Accordingly, whilst the appeal site is predominantly in the London Borough of Bexley, its location nonetheless accords with the generality of Structure Plan policy.

Very Special Circumstances

- 9.18 KCC, of course, do not ignore the policies in the Structure Plan which seek to protect the Green Belt (SS2) and the requirement that, where inappropriate development is proposed, very special circumstances need to be demonstrated that clearly outweigh the harm to Green Belt. The very special circumstances that KCC rely on are set out in KCC1, para 9.2. They include, in particular, the compelling need to realise the benefits of transferring freight from road to rail by the provision of appropriate SRFI infrastructure. This special circumstance is properly to be considered in the context of a longer term view of the policy need for SRFIs, which takes into account the substantial investment in the Channel Tunnel. It offers the opportunity to achieve a significant transfer of freight from road to rail for international traffic with particular benefits for the relief of congestion on roads through Kent, particularly the M20 and the M25. The achievement of that transfer is contingent on the provision of an appropriately located SRFI in the London area; that is the inescapable logic.
- 9.19 Howbury Park is such a site. In the absence of any cogent evidence that there is a credible alternative site elsewhere in south-east London, either within the Green Belt or without, the appeals ought to be allowed, in the public interest of realising the acknowledged policy need to encourage the sustainable growth of freight off road and on to rail.

10. THE CASE FOR SLADE GREEN COMMUNITY FORUM

Introduction

- 10.1 Slade Green Community Forum (SGCF) opposes the proposed development on behalf of the residents of Slade Green in North End ward. A majority of local people is opposed to the proposal, particularly because of the impact on local traffic, the loss of Green Belt and the impact on the centre of Slade Green.

Impact on Local Traffic

- 10.2 SGCF has general concerns as to where the traffic from the development would go and what its impact would be. At present on-road parking on South Road, Erith results in traffic queuing back to the North Road/South Road/Boundary Street/Larner Road roundabout. This causes problems for people and businesses in Slade Green as this prevents them going round this roundabout to access Slade Green via Bridge Road (SGCF/1, para 4.4). ProLogis's transportation witness, Mr Findlay, confirmed that no work had been done to assess the impact of the proposals on this junction. SGCF believe that even a small amount of extra traffic would result in more frequent queuing and problems.
- 10.3 SGCF is also concerned that extra traffic on Bob Dunn Way and at Junction 1a of the M25 would cause delays to local people wishing to use local amenities via Crossways Boulevard (notably Asda at Greenhithe and Bluewater Shopping Centre). SGCF do not see how the plans agreed with the Highways Agency to regulate the traffic lights at this junction, in circumstances where there will be extra traffic on Bob Dunn Way and extra traffic going on and off the M25, can result in anything but greater queues from Crossways Boulevard.
- 10.4 The Borough Council and ProLogis argued about the different traffic models presented to the inquiry, but the reality is that no-one knows for sure. In his evidence, ProLogis's representative, Mr Woodbridge, cited Asda as one possible user of the facility. This illustrates the point. If they were to use the facility, in all likelihood extra vehicles would travel between the proposed site and their existing depots in Erith and on Crossways Boulevard, with extra impact on both of the junctions of concern noted above. In cross-examination, Mr Findlay accepted that the possibility of HGVs travelling between the proposed site and the container ferry terminal off Crossways Boulevard had not been taken into account. This, or the possibility of a user of the proposed site having a warehouse at Crossways, would not be considered in any study of Junction 1a and in any resulting measures. It is clear that there would be a traffic impact locally, but it is also clear that where the impact would be felt is dependent on who actually uses the proposed site.
- 10.5 The traffic impact would also be dependent upon the success of the travel plan. This is put at risk by the number of car parking spaces proposed, which would make it very easy to come to the site by car. Currently 70% of people working in North End ward travel to work by car and the number of car parking spaces proposed assumes that this

would be the case at the site. However, these figures include the Darent Industrial Estate, which has no public transport, industrial areas on Manor Road served by one bus and Social Service workers at the Howbury Centre who need their own transport during the day to get to cases. It was agreed that except at the time of the afternoon shift change, there would be a substantial number of free parking spaces available on the site. If shift change times for the different occupiers were staggered, the peak parking demand may be reduced. The proposed level of parking spaces would do little to help the travel plan succeed, and its failure would add to the amount of traffic predicted for local roads.

- 10.6 The traffic impact would also depend on the site's success in moving freight by rail. SGCF notes the suggested conditions to help this, but it also notes the concerns expressed by Bexley Council regarding whether the proposal would succeed given the gauging issue. If the application is permitted, it should be given the best possible chance not just to succeed as a rail freight depot initially, but also to sustain that success. In his evidence Mr Woodbridge suggested some potential users, such as DHL, would serve a series of different clients, and that contracts with their clients could be renewed, perhaps every five years. The incoming clients would need to be encouraged to use the rail freight opportunities. SGCF believe the lack of positive measures to encourage rail use beyond the initial three years proposed could lead to a progressive reduction in the amount of goods moved to the site by rail. This in turn would increase the number of HGV movements and the impact on local roads.

Loss of Green Belt Land and Mitigation

- 10.7 The proposal envisages that the Crayford Marshes would be put into a trust and opened up more for community use, which ProLogis argue would be a major benefit. SGCF see the more active management of the marshes by a trust as having a potential positive impact. However, when someone in Slade Green says they are "going out onto the marshes", to get away from their problems, to think, or just to relax, they do not actually mean the marshland itself. Quite often this would simply be a walk from the Slade Green end of Moat Lane, down to the River Darent and back again. Most of this would be alongside the proposed site, and to achieve the same sense of openness would entail going much further if the development proceeds. People may well not have the time, fitness or suitable clothing to do this, so the community would suffer a loss of amenity. Furthermore, the hedgerow on Moat Lane, which is part of what makes it pleasant to walk along, will be lost at the end nearest Slade Green as the road would be widened to create a bus lane.
- 10.8 SGCF is also concerned about the future sustainability of the Crayford Marshes.
- 10.9 First, the proposals envisage that drainage water from the site flowing towards the marshes would be carefully regulated. In his evidence ProLogis's drainage witness, Mr Armitage, advised that this could be achieved with the right controls. However, nothing in the application or the conditions guarantees that such controls would be put in place.

- 10.10 Second, although flood risk is low it is not as low as stated by ProLogis. It was agreed in cross-examination that the 5.9m AOD quoted as the height of a 1 in a 1,000 year tide was a year 2000 figure. But by 2080 sea levels could rise by as much as 86cm (SGCF/15, para 2.2), and it was established under cross-examination that the 1 in a 1,000 year tidal surge for the year 2000 would not be the 1 in a 1,000 year surge later in the century, as the frequency of such events is being increased by global warming. That the risk of flooding is not non-existent is also shown by the fact that the Environment Agency and Bexley Council continue to talk to residents who live on the same flood plain as the Crayford Marshes about flood risk and what to do in the event of a flood (SGCF/10). SGCF are concerned that any trust established to run the site would not have sufficient funds to clean-up and restore the marshes if a flood were to occur.
- 10.11 Third, SGCF is concerned that the Environment Agency may propose using the site for controlled flooding, so as to better protect London, as they have to make a decision as to what to do with flood defences after 2030 (SGCF/11). They do not expect to finalise their plans for this until late 2008 (SGCF/12). However, SGCF ask that if anything emerges in draft documents from the Environment Agency that may affect Crayford Marshes and reduce the mitigation they provide, then the Secretary of State should take this factor into account when assessing this application.
- 10.12 SGCF is also concerned that the mitigation offered through the Environmental Studies Centre may not work as well as it should. In particular, if there is not a good footpath alongside and near the proposed bus lane on Moat Lane, local schools will not use the facility as they will not consider the walk to the Centre to be safe enough. An additional condition would overcome this (SGCF/18).
- 10.13 The most positive impact of the proposals as perceived by local people is the potential for jobs for people locally. But there is nothing that guarantees there would be jobs for local people. Initial investment in training for this is planned, but nothing further. There is nothing in the plan that helps train the future workforce by working with schools to provide training for young people to ensure their suitability for the jobs on offer. The claimed sustainability advantages of continuing to provide jobs for local people may not be achieved. Potentially this would also impact on the success of the travel plan, which assumes sufficient people would be local to the site to use public transport or arrive on foot or by bike.
- 10.14 Also, with such a large potential workforce, people with disabilities should fill some of the jobs. But two factors may limit this. First, the number of disabled car parking spaces should be able to expand if there is greater demand. Second, Slade Green Station lacks disabled access between its sides and a long journey around local roads is necessary to get from one side to the other. This also prevents disabled access to the site from the 428 bus. SGCF is concerned that the amount of money that ProLogis would provide for improving Slade Green Station would not be adequate to address this key issue (SGCF/18).

Impact on the Centre of Slade Green and the Community

- 10.15 Various impacts will be felt by the people of Slade Green, particularly those living in the centre of Slade Green and near the railway line.
- 10.16 It emerged during the inquiry that the rail authorities may be unhappy with the use of the Sidcup line for routes to the proposed rail freight depot, and it was suggested that the lines from Plumstead might be used instead. This would bring a greater number of trains close to housing in Slade Green. In this regard ProLogis argue that existing train movements take place around the clock, but in fact their own evidence shows there are no train movements between 01.00 and 05.00, and very few trains between 23.00 and 01.00 and between 05.00 and 06.00 (PDL/9.4, para 6.1). Train movements during these hours to or from the proposed terminal would cause night-time disturbance to local residents.
- 10.17 Local residents are also concerned that if the proposed pocket park is allowed, it would turn into a haven for teenage drinking and for drug selling. However, if the area is simply landscaped in a way similar to elsewhere, not only would people have lost a view across the farmland and marshes, they would be looking at something completely uninteresting. If a decision is made to approve the application, a far better proposal for this area would be to create a wildlife area, with limited access for educational purposes. Preferably it should be managed by the same trust intended to manage Crayford Marshes and the Environmental Studies Centre.
- 10.18 Another impact would be the emotional and practical impact of house prices falling, particularly in those streets within the conservation area (Moat Lane and Oak Road). This would cause stress to residents. Practical impacts would include people not being able to move for employment, family or other reasons because of negative equity; and older people being less adequately able to use the value of their homes to provide for their old age.
- 10.19 Additional car parking in the centre of Slade Green by workers at the site would also add to an already congested situation. Whilst it is fair to assume that most workers arriving by car would use the car parks on the site, some of those living to the west of the site might find their journey is quicker if they drive to the centre of Slade Green, park and walk to the site rather than travel down North End Road and Thames Road to get to the site (SGCF/1, para 4.10).
- 10.20 On noise, SGCF note that only a limited number dwellings are to be given assistance with noise mitigation measures. But others would be affected and would suffer extra noise when in their gardens. This represents a loss of amenity (SGCF/1, para 4.8, GB1).
- 10.21 As to the proposed extension of the No 89 bus route into the site, SGCF is concerned that this would have a negative impact on Slade Green. If the proposed bus entry is not adequately monitored, abuse may occur. Also, ProLogis accept that there is no practical way to extend the route into the site without sending each double-decker No 89 bus around the centre of Slade Green twice (SGCF/4, paras 2.1.3 and 2.1.4). The

number of buses passing the houses, which are set close to the road, would increase from 14 buses per hour to 20 buses per hour, which would inflict additional noise on the occupiers. The extension of the route would also add to congestion as the buses would pass along roads where parking is on the street on both sides. In particular, problems would arise in front of the shops on Forest Road, where parking for the shops reduces the carriageway to a single lane, and buses have to negotiate around on-coming cars. It was also agreed that during the hours between shift changes, many of these buses would be likely to run to and from the Howbury Park site empty.

10.22 SGCF note that a shuttle bus might be an alternative. We believe that this would have a much more positive impact on the travel plan. In particular it would run when it was needed, and could be planned to interchange properly with other bus services and the train services. It would also not suffer from the inevitable peak time delays experienced by buses that come all the way from Lewisham, and so would actually be there when workers were changing from other buses or the trains at Slade Green Station. SGCF therefore ask that if the application is approved, it is only approved with options for a shuttle bus, which should include the possibility of this being run by TfL, possibly using a London Community Transport Association member. If the application is approved without a restriction on extending the No 89 bus route, mitigation should be included, to take place if the option of using the No 89 is approved. This should include mitigation to local residents for additional noise and congestion on their streets, and mitigation for the additional problems on Forest Road (SGCF/8).

10.23 If the application is approved, many of the “*raft of measures to benefit the wider community*” initially promised by ProLogis in their consultation leaflet (SGCF/3) would simply not take place (SGCF/1, paras 1.3.1 and 5.1). This would have negative impact, as people would be less inclined to believe future organisations proposing changes in the area, and less inclined to engage with any consultation process. This in turn would make the work of SGCF and others working to improve the community that much harder.

Conclusions

10.24 Many of the concerns expressed by SGCF could be addressed by further conditions being imposed upon the applicant - the effects on the North End Road/South Road junction, the effect of too many car parking spaces on the travel plan, the site’s ongoing use as a rail freight depot, the loss of the hedgerow in Moat Lane, the flood risk for Crayford Marshes, variability of water drainage onto the marshes, house values, car parking in Slade Green, the pocket park, night time train movements, the lack of a guarantee of local jobs, and accessibility to jobs for people with disabilities. All could be covered by measures that reduce the problem (SGCF/18).

10.25 However, some things could not be addressed - the extra distance needed to reach an area of truly open space, the extra traffic on local roads and the impact on Crossways Boulevard, the noise impact on people in their gardens, the noise from additional train movements and the effect on the community of the failure to deliver items initially promised by the applicant. All of these, however, could be mitigated to some degree

- by a more general measure to benefit the community, namely the setting up of a “community chest” to fund projects of benefit to the local community (SGCF/18).
- 10.26 In the absence of such mitigation, SGCF take the view that the negative impacts on the Slade Green community would be such as to justify refusing the application.
- 10.27 But even if this is all addressed, SGCF nonetheless believe that the location and scale of the development is unacceptable and the application should be turned down.
- 10.28 As to location, the site is at a narrow point in the Green Belt. It does not abut other industrial land but a community with housing, and it is in an area with already congested roads. As for scale, if the proposal were half the size, it would not stand next to a conservation area, and residents would not have the stress of losing value in their homes and possibly being trapped and unable to move when they need to. If it were half the size, the Green Belt impact would not be so great, and the Green Belt could flow round the site. If it were half the size, local people would still be able to walk down Moat Lane and get a sense of space, and the loss of amenity would not be so great. If it were half the size, the impact of extra traffic on local roads would be much less.
- 10.29 So if it were half the size, would the local community oppose it? One resident, strongly opposed to the application, stated "No, given the jobs, we'd grab it with both hands, wouldn't we?" At half the size, SGCF might support the application.
- 10.30 SGCF does not know whether a terminal half the size could be viable. But if it could be, then this application is of the wrong scale and should be turned down. If it could not, then this application is in the wrong location and should be turned down. Accordingly, SGCF asks that the appeals be dismissed.

11. THE CASE FOR BEXLEY LA21 NATURAL ENVIRONMENT FOCUS GROUP

Introduction

- 11.1 The central question in the appeal is the clear breach of planning policy involved in taking Green Belt land. This is the core of Bexley LA21 Natural Environment Focus Group's (NEFG's) objection. ProLogis claim that this is mitigated by, amongst other matters, the arrangements to be made for the Crayford Marshes. The marshes are a Site of Metropolitan Importance for Nature Conservation (SMINC) and a potential Site of Special Scientific Interest (SSSI). To evaluate ProLogis's claim, it is essential to establish the true value of each side of the equation, and NEFG's evidence attempted to do this. However, as is always the case in ecological investigations, the evidence is incomplete, on both sides of the inquiry and on both sides of the equation. It is a truism, in all ecological work, that absence of evidence is not evidence of absence. When there are as many gaps in the evidence as there are in this case, the only responsible course is to recommend no change.

The Value of the Site as Green Belt and Green Grid

- 11.2 The value and status of the site as Green Belt land is the subject of legislation and policy stretching back over many years. It is addressed in the London Borough of Bexley's evidence. NEFG adopt the Council's submissions on this matter.
- 11.3 As to the East London Green Grid, this is being developed from a proposal by the Mayor of London to establish and create green spaces throughout East London, north and south of the river, particularly in areas that are currently seen as being deficient. The north of Bexley is one such area, and the application site provides a key location within this area in which the Green Grid Framework can be established, enhancing the green space within the Borough. Again, this issue is discussed in more detail in the London Borough of Bexley's evidence.
- 11.4 If the appeal succeeds, the development will fragment the Green Belt within the London Borough of Bexley. This is contrary to the evidence given by Mr Goodwin who asserted that fragmentation would not occur. The term "encroaching fragmentation" is applied to this type of development, in which a new development spreads out from an earlier one. In this case the construction of the railway was a divisive fragmentation event, which divided the marshes. The appeal proposal is a development which will spread into the Green Belt from the line of the original development, i.e. encroaching fragmentation.

The Value of the Site as a Green Lung

- 11.5 The value of the whole of this area of Green Belt land to local residents is described in Tula Maxted's submissions (NEFG/M/2). It has not been challenged. It is supported by evidence from the Slade Green Community Forum. The value of the open skies and open landscapes of the whole area are described by Dr Gray (NEFG/G/2, paras

3.1-3.8). The people of Slade Green and other local communities should be free to continue to enjoy this section of London's Green Belt.

The Value of the Application Site for Biodiversity

- 11.6 As to the site's value for biodiversity, here the inquiry is handicapped by a lack of species evidence. This is clear from the paucity of records held by Greenspace Information in Greater London (GIGL) (NEFG/C/4 and PDL/8.4, Appendix 1). Comparison of these records with the earlier records confirms the lack of recording activity in the area, which in turn explains the lack of species evidence. The inquiry would be in a stronger position if there were more species evidence independent of the surveys commissioned by Mr Goodwin for ProLogis.
- 11.7 In terms of habitat, however, we have the descriptions in *Sites of Importance for Nature Conservation in Bexley* (SINCB) (CD5.3 and NEFG/C/4, Annex A). The list of sites is compiled by professional contractors independent of the GLA (CD5.3, Introduction), who are able to compare and contrast sites in a number of different boroughs to establish valid standards of comparison. The prospective sites are then assessed by officers of the GLA Biodiversity Strategy team (ibid). Metropolitan sites are designated by the Mayor of London on advice from the team; borough and local sites are designated by the GLA and the borough concerned jointly.
- 11.8 Under cross-examination, Mr Goodwin made the point that although the sites in SINCB have been designated, they have not yet been through the Local Development Framework process and therefore do not have the protection of the planning system. While this may be true in planning terms, it is irrelevant in ecological terms. In striking a balance between the application site and the mitigation site in terms of their ecological value, it is ecological value that counts. The application site is designated as a Grade II site of Borough Importance (BxBII16) in SINCB.

The Importance of Continuity of Habitat and Biological Corridors

- 11.9 The whole of the Green Belt in this area should be considered on a landscape scale and consideration given to the interaction between the green spaces, albeit that currently some may not be of high ecological importance. The potential value of such sites far outweighs the limited benefits that the mitigation proposals would bring. Replanting, grazing and management of the application site would bring greater ecological benefit than the limited ponds, hedgerows and trees, which it is claimed may act as biological corridors between the remaining fragmented green spaces. Covering the proposed development site with large areas of buildings and hardstandings would create an ecological desert which would negate any benefits from the landscaping. A landscape ecology approach to the relationship of this site to the surroundings needs to be the basis from which an ecological evaluation takes place.
- 11.10 The network of ecological corridors in Bexley connects to the appeal site via site 18635/02 (NEFG/C/4, Map of Habitat Survey Parcels). They include the railway banks (CD5.3, Site BxBII14 and BxBII23), which provide a habitat and corridor for the movement of Common Lizards. The appeal proposals would effectively sever the

connection between the railway lands and the remaining part of the Grade II site of Borough Importance - whilst birds can fly, many other species cannot.

The Value of the Mitigation Proposals for Crayford Marsh

- 11.11 NEFG sympathises with the current owners of Crayford Marsh in the situation they now face, which is not of their making. However, in proposing to transfer both the ownership and the liabilities attached in perpetuity to a separate body with inevitably limited financial resources, they are creating long term problems for the recipient body. Whilst the London Wildlife Trust may be willing to take on the management, they would need to be satisfied as to the full extent of the liabilities they would be taking on and undertake a full risk analysis.
- 11.12 Among other problems in managing any site, that of liaising with adjacent land managers is one of the most critical. When an ecological site relies on an adjacent land manager for its water supply, as is proposed in this case, this situation can become impossible. Mr Woodbridge confirmed under cross-examination that, on completion of the development, he would expect the site to be transferred to the European Fund, a separate company based in Luxemburg. In that case control of the water supply, essential for habitat management and for desalinating the marshes in the event of flooding episodes, enters completely unpredictable territory.
- 11.13 In order to assess the value of the mitigation site and balance it against the value of Green Belt land to be lost, then a risk analysis needs to be undertaken. Unfortunately the necessary evidence and data is not available. The uncertainties include those stemming from the Environment Agency's Thames Estuary 2100 (TE2100) project. (NEFG/C/8).

Thames Estuary 2100

- 11.14 On Thursday 17 May a presentation on TE2100 was made to the Thames Gateway Strategic Partnership. Those present included Yvette Cooper, Minister for Housing and Planning and also, NEFG believe, local authority representatives. Subsequent correspondence from the Environment Agency confirms that at least some early findings of the study have been released to local authorities (NEFG/C/8, penultimate para). Further information is not available. The TE2100 early findings were not available at the time the Statement of Common Ground between the Applicants and the Environment Agency (CD7.1) was compiled. In any event, ProLogis's witness covering flooding matters, Mr Greenyer, confirmed in cross-examination that the discussions between ProLogis and the Agency that led to the Statement of Common Ground concentrated on the application site, and tidal flooding, not the proposed mitigation site on the Crayford Marshes.
- 11.15 NEFG respects the difficult position that the officers of the Environment Agency are in. It remains true, however, that information has been released at central and local government level which is not yet available to voluntary organisations, or to the public, and is therefore not available to the inquiry.

- 11.16 NEFG regard it as essential that the latest and most reliable evidence be used, both by any organisation taking on the management of Crayford Marsh to assess the liabilities and risks they are committing themselves to, and by those responsible for determining the appeal in balancing the value to be lost on the application site against the value possibly to be gained on the mitigation site.
- 11.17 While that information is not available to this inquiry, it is available at Minister of State level and elsewhere within central and local government. In this regard NEFG submits that it would be unreasonable, in terms of the Wednesbury criteria, to exclude it from consideration. By the time the Secretary of State announces a decision, parts of the information will be more widely available.
- 11.18 On the substance of the information available so far, NEFG's representative has been told that both Dartford and Crayford Marshes will be proposed for flood storage areas. Habitat or biodiversity considerations are far behind that primary purpose, if anywhere. NEFG/C/8 also confirms that the critical area is the Thames Estuary between the Thames Barrier and Tilbury. Only when the results of TE2100 are available will it be possible to draft long term management proposals for the proposed mitigation area. It may well prove impossible to secure the site in perpetuity. If this is so, then the balance between the loss of Green Belt and the mitigation proposals needs to be recalculated.
- 11.19 If the management proposals for the Marshes are in reality only feasible in the short term, followed by abandonment to salt marsh (a relatively common habitat), then this should be openly recognised. The Secretary of State will need to have an accurate report of what mitigation is offered for the loss of Green Belt land. If only a short term continuation of the Inner Thames Grazing Marsh habitat on this site is in fact feasible, this should be made clear to the Secretary of State and to all the other parties involved.

12. THE CASE FOR THE LONDON WILDLIFE TRUST

- 12.1 London Wildlife Trust (LWT) recognises that the development will only be permitted if there are sufficient grounds to overcome the harm to the Green Belt.
- 12.2 The development site comprises mainly grassland of limited interest. It has some interest for wildlife in its present condition (LWT2, Section 3), but its value, given past and present management, is more directly related to its contribution to the openness of the wider landscape.
- 12.3 The proposals for habitat creation within the site would help to mitigate the losses, provided that they are properly implemented and managed and monitored in the long term. But they would not fully compensate for the losses within the development area and the proposal to create a nature reserve from part of Crayford Marsh, and to provide funding to safeguard and enhance its value for wildlife, is a vital part of the mitigation package.
- 12.4 LWT have considered the evidence presented in relation to the ecology of the site, and the statements prepared by Natural England and the Environment Agency in particular. The Trust concludes that, taken as a whole, the proposals would adequately compensate for ecological losses from the development and create new opportunities for managing the main part of Crayford Marsh in a better way in future, whilst also encouraging greater public access and engagement with the area.
- 12.5 LWT sees this as a starting point for safeguarding the future of London's Southern Marshes.

13. THE CASE FOR INDIVIDUAL OBJECTORS TO THE PROPOSAL

- 13.1 **Gill Bruckner** (GB1) objects to the proposal to build a rail freight depot on Green Belt land. It would be too big and it would drastically increase traffic in the area. Experience with the present train depot suggests the development would not provide a large number of jobs for Slade Green residents. Diesel engines are very noisy and smelly and, whilst some residents may be offered double glazing, you cannot double glaze a garden. Also air conditioning is expensive to run and not environmentally friendly. In the past Slade Green has been used as a dumping ground. It is the poor relation in Bexley Borough. The development would create light pollution, noise pollution and air pollution and would increase congestion on the roads. Planning permission should be refused.
- 13.2 **Ian Lindon** (IL1 and IL2) is the chairman of Local Agenda 21 in Bexley. He objects to the proposal because of the extensive area of natural habitat that would be lost. ProLogis accept that the planting and ground modelling would never totally screen the development and that there would be an impact on sites of nature conservation interest. As such, it would be contrary to policies G1, ENV15, ENV23 and ENV39 of the *Bexley Local Plan*.
- 13.3 His main concerns, however, are the lack of rail capacity on a network that is already overcrowded and the impact of the additional HGVs and employees' vehicles on Bexley's roads. Rail capacity will not be available in the daytime, so the trains would have to run at night, which would disturb local residents. The single spur connection to the main line would be very inefficient. If it is subsequently found that the rail service is not viable, the Borough would be left with a monstrous scar on the Crayford Marshes, only suitable for HGV use.
- 13.4 Traffic across London is growing and Bexley is heavily reliant on car use. The Thames Gateway Bridge, if it is permitted, would place further strain on the local roads. The proposal would conflict with *PPG13* which requires developments generating substantial freight movements, such as distribution warehousing, to be located away from congested central and residential areas.
- 13.5 **Dave Reynolds'** particular interest is the effect the proposal would have on the future viability of passenger rail transport in Bexley and Dartford (DR1 and DR2). Currently the configuration of railway lines and services is such that Dartford residents have a "turn up and go" service to London Bridge of eight trains per hour. But services are less frequent at the intermediate stations. The *London Plan* aims to improve this; and Government planning policy aims to promote public transport and reduce the need to travel by car. Ideally a turn up and go service should run at a frequency of 10 minutes or less; but none of the routes serving stations in the Bexley Borough currently achieve this. The population in the Thames Gateway area, which the lines serve, is expected to grow significantly.
- 13.6 As to the proposals, the link to the North Kent main line would be at the busiest section of track in the whole of Bexley Borough, close to the Crayford Creek junction.

To cater for the proposed future enhancements to the passenger service, capacity for 32 passenger trains each way on this section of track is required during the daytime outside peak hours. Movements into and out of Southeastern's Slade Green Depot also need to be allowed for. Introducing additional freight train services that need to cross the line at slow speed would use any remaining capacity and prevent further enhancement of the passenger service.

- 13.7 ProLogis's analysis is flawed, in that it did not examine the feasibility of introducing the required freight trains alongside the expected increases in the passenger services. Similarly, Network Rail only identify paths for three freight trains each way, based on the winter 2005 timetable; they did not address future enhancements of the passenger service. Southeastern have not confirmed that the proposal would not affect the operation of their depot. Planning permission should be refused because of the detrimental effect the proposal would have on the capacity of the future passenger network.
- 13.8 **Tim Walters** (TW1) lives close to the proposed development and when plans were announced he was advised that the value of his property would decrease by at least £30,000 if the terminal proceeded. What is currently a quiet neighbourhood would be turned into a sprawling industrial estate with attendant air, traffic and noise pollution. Rail movements and loading/unloading operations at night under floodlights would be particularly disturbing. The development would increase flood risk. ProLogis is a big company and appropriate recompense should be offered to those who would be affected by the proposal.
- 13.9 **Juliette Miller** (JM1 and JM2) is concerned that the proposal would increase noise, light pollution and traffic in the area. It would operate around the clock and the number of buses passing properties such as hers in Slade Green would be doubled. A lovely tranquil area of Green Belt land, which is home to a number of different animals and birds, would be lost. Many people moved to Slade Green because they wanted a traditional house in an area with green space. This green space would be taken and the proposed landscaping would not overcome the visual impact. The proposed rail freight depot would be very close to the conservation area and would not preserve its character. Local residents' living conditions would be harmed and their houses devalued.
- 13.10 **Connie Egan** moved to Slade Green because of the green space it offered. This should be preserved along with the wildlife it supports. Planning permission for the proposed development should be refused.
- 13.11 **Brian Rodmell** (BR1 and BR2) is a long standing resident of Slade Green. He supports the principle of rail to road transfer facilities to the extent that they help to shift freight from road to rail, where less fuel is generally needed. However, he considers that ProLogis's criteria for selecting the site are unduly restrictive. They reproduce fairly closely the features of the Howbury Park site, but rule out other sites that are potentially suitable. As an example, a key criterion is the minimum site size of 40ha, but only some 3ha of this is used for the intermodal transfer facility.

- 13.12 An alternative location for the development would be on the “White Hart Triangle”, adjacent to the North Kent line near Plumstead station. This has an area of around 20ha, but is large enough to accommodate the intermodal transfer area and a number of warehouses. It is designated as employment land and European Union funds have been applied to fund the construction of an access road to the A2016. It is served by a fairly frequent bus route. It is about 8km further west than Howbury Park and more convenient for Greater London’s industrial belt. Unlike Howbury Park it is not Green Belt land.
- 13.13 In their submissions, ProLogis argue that a large warehouse complex is needed to achieve the economies of scale that would make it possible to develop the road and rail connections. In this regard the Triangle would not offer so much scope for cost spreading, but the capital costs would also be reduced having regard to the investment already made in access roads. It would also benefit from proximity to the Woolwich Industrial area, with potential to develop shared services.
- 13.14 It is understood that the Russell Stoneham Estate is prepared to make the land at Howbury available to ProLogis at an attractive price. This reflects the Estate’s unsuccessful attempts to obtain planning permission for more development on the Crayford Marshes. This would bring a competitive advantage to ProLogis over other developers, but such advantage would not constitute the “exceptional circumstances” needed for a major departure from Green Belt policy.

14. WRITTEN REPRESENTATIONS

Inspector's note. Written representations submitted in response to the appeal can be found in the red folder (INQ5). Prior to the inquiry opening some ten written representations were received. These included submissions from the Environment Agency (INQ5/8) and the Greater London Authority (GLA) (INQ5/10). Further representations were received whilst the inquiry was sitting, including submissions from the Environment Agency (INQ5/13 and INQ5/17) and Transport for London (INQ5/11 and INQ5/16). Other submissions came from Crossrail (INQ5/3), CPRE (INQ5/6), Freight on Rail (INQ5/9) and consultants representing Kent International Gateway (INQ5/12). Several local residents wrote individually objecting to the proposals and a petition containing some 800 signatures objecting to the proposal was sent to the inquiry (INQ5/16).

Written representations submitted to the Councils whilst the applications were before them included consultation responses from English Nature, English Heritage, the Port of London Authority, the London Green Belt Council, Bexley Civic Society, the Strategic Rail Authority, the Ramblers' Association and Bexley Thames-Side Partnership. These can be found with the questionnaires.

The Greater London Authority (INQ5/10)

- 14.1 On 4 April 2007 the GLA wrote confirming that the Mayor of London generally supports the proposal, subject to the caveats contained in the Stage II Planning Report (CD1.7). This report concludes that the proposal would be inappropriate development in the Green Belt. It would have a detrimental impact on the strategic purposes of the Green Belt, would result in urban sprawl and would not safeguard the openness of the area. It would be contrary to Green Belt Policy. It would not meet the emerging "*strategic policy objectives*" which generally resist the loss of Green Belt. Furthermore, the site has historically been used as a farm and is not previously developed land. Notwithstanding this, the view is taken that the development is justified by the special circumstances of there being a strategic need for the facility and the lack of alternative sites with access to the road and rail network that could accommodate a facility of the size required. The report notes that the consequences of not allowing such a proposal would be that key new markets for rail freight are unlikely to be developed in the London area and the *London Freight Plan* modal share targets for rail will be very difficult to achieve (CD1.7, para 25).
- 14.2 Reservations in the report concern several matters of detail regarding the architectural design of the buildings, the landscaping proposals and the proposals for footpaths. However, it is accepted that many of the points raised could be controlled through conditions or the S106 Undertaking, should planning permission be granted. Concerns are also voiced regarding the lack of details regarding the arrangements to transfer land in the Crayford Marshes to a trust to manage as a nature reserve. On noise, the report notes that relatively few properties would be affected and concludes that adverse noise impact would not be of such a scale as to indicate a major, strategic noise conflict. On air quality, it is suggested that monitoring should be carried out to ensure there are no excessive emissions of dust and PM₁₀ particles in the construction phase.

- 14.3 Whilst several concerns expressed by TfL at the time the report was written¹ were noted (CD1.7, para 16 et seq), the report concludes that the rail aspect of the proposal would be acceptable, notwithstanding that it would operate predominantly as a road-based facility with very high levels of HGV movements, particularly over the initial 10-15 year period. The report states that TfL believes that the proposal represents the best opportunity to achieve a strategic rail freight facility in London (ibid, para 109).

The Highways Agency

- 14.4 The Highways Agency is satisfied that the proposal conforms in principle with national transport policy aimed at transferring freight from road to rail. Notwithstanding this, concerns were raised regarding the impact that traffic from the development would have on the queues and delays at M25 Junction 1a (HA1.1 to HA4). Negotiations continued, however, and further analysis was undertaken, following which the Highways Agency wrote advising that the S106 Undertaking entered into by ProLogis (PDL/0.16) will address their concerns. Accordingly, the Agency advised that it does wish to maintain its objection to the proposal (HA5).

The Environment Agency

- 14.5 By letter dated 18 February 2007 (INQ5/8) the Environment Agency formally withdrew its objections to the proposal. A Statement of Common Ground was prepared, containing a series of conditions which the Agency requested should be attached to any planning permission granted (CD7.1, Section 8). Subsequently the Agency confirmed that the addendum flood risk assessment supplied by ProLogis removed the need for a condition to be imposed requiring a further flood risk assessment to be undertaken (INQ5/13). They also wrote confirming that the schedule of conditions agreed at the inquiry covered all the matters addressed by the Agency's conditions set out in the Statement of Common Ground (INQ5/17).

Transport for London (INQ5/11 and INQ5/16)

- 14.6 Transport for London (TfL) support the proposal from a rail perspective as it would help to achieve the *London Plan* policy aspiration to provide rail-based intermodal facilities.
- 14.7 Whilst initially TfL raised concerns in relation to the rail element, and the lack of strong commitments to future upgrades, ProLogis clarified matters and TfL take the view that the obligations contained in the S106 Undertaking reasonably address TfL's concerns. Some degree of uncertainty remains over the level of future freight use on the network, but TfL will work with the other stakeholders to deliver the proposals with the aim of achieving the *London Plan's* policy aspirations.
- 14.8 Negotiations and discussions have also resulted in agreement on car parking and public transport funding. Whilst TfL still have some reservations about the final

¹ Note TfL subsequently wrote to the inquiry, see para 14.6 et seq below.

outcome the travel plan might deliver, the Framework Employee Travel Plan/Freight Travel Plan (PDL/5.21) is acceptable.

Cross London Rail Links (INQ5/3)

- 14.9 Cross London Rail Links (CLRL) note that the application site affects the margins of the area safeguarded for Crossrail by the Directions issued by the Secretary of State for Transport on 22 February 2005. Notwithstanding this, CLRL advise that the footprint of the proposed Crossrail Depot at Slade Green can be accommodated adjacent to the appeal site provided the boundary treatment is appropriate. If a suitable condition is imposed on any consent granted to secure this, CLRL do not wish to register a formal objection to the proposal.¹

CPRE (INQ5/6)

- 14.10 CPRE consider the proposal would constitute a serious and unacceptable intrusion into the Green Belt. Direct land take would be significant. Also, the development would attract supporting development, much of which would be likely to further erode the Green Belt. CPRE do not accept that the claimed environmental advantages of rail transport over road transport constitute exceptional circumstances within the terms of PPG2.

Erith Town Centre Forum (INQ5/14)

- 14.11 Erith is a riverside town which is currently being regenerated as part of the Thames Gateway. The regeneration is bringing an influx of traffic. The town is bisected by the A206 which links the M25 to the Belvedere Industrial Park. Much of the A206 through Erith is residential. It is congested, with tailbacks at peak times. Traffic from the development would add to congestion, increase pollution and exacerbate medical problems particularly for the young and elderly. The barrier the A206 would create through Erith would discourage people from coming to the town and adversely affect its economy.

Freight on Rail (INQ5/9)

- 14.12 Freight on Rail see Howbury Park as essential for the success of rail freight movement to, from and across London. London is a huge growing market which needs to be serviced. The site has good connections to the M25 and ProLogis's commitment to the scheme is shown by their willingness to finance the rail infrastructure and intermodal terminal and to provide a range of financial and other incentives to secure its success. Network Rail have committed to provide three rail paths to the terminal

¹ Subsequently Cross London Rail Links e-mailed Bexley Council shortly before the inquiry closed (INQ5/18). In that letter they suggested a further condition should be imposed on any consent granted, in order to "adequately safeguard the provision of a possible Crossrail extension to Ebbsfleet, by ensuring that alterations associated with the development within the Slade Green Depot area are compatible with Crossrail requirements in this area of land."

initially and Freight on Rail understand that there is unlikely to be an issue with providing further paths as traffic builds up.

- 14.13 National policy has consistently supported the growth of rail freight and the rail industry is confident that the proposal can introduce new customers to rail. Whilst the amount of goods moved by rail declined slightly in the mid-1990s, it has since risen. Major companies are investing in alternatives to distribution by road. Over the last ten years rail freight tonne kilometres have increased by 60% and deep sea container traffic and domestic intermodal traffic are both forecast to grow significantly over the next ten years. The similar freight interchange at Daventry (DIRFT) has seen steady growth.
- 14.14 Moving freight by rail reduces CO₂ emissions and helps to alleviate congestion on the roads. Rail is the safest form of transport.
- 14.15 There is no alternative site within the defined catchment area, which studies have shown to have a particular need for a rail freight interchange. A network of three or four strategic rail freight interchanges is required for London, and refusal of planning permission for the Howbury scheme would not encourage other schemes to come forward, having regard to the precedent that would be set.

Kent International Gateway (INQ5/12)

- 14.16 Consultants representing Kent International Gateway (KIG) wrote on behalf of the prospective developers of a potential SRFI site at Hollingbourne, considered in the NLP Alternative Sites Report (CD1.4). Details of the KIG proposal were provided. It would operate primarily as a national distribution centre for rail, receiving traffic from Europe and consolidating it onto trains serving the UK. It would also act as a regional distribution centre for the South East, consolidating goods hauled by returning trains from suppliers in the Midlands and the North. Importantly, London would not be its principal market. Accordingly, the KIG and Howbury Park proposals would not be in competition. Rather, they would complement each other as part of the network of SRFIs which needs to be developed in the South East and across the country.

Individual Objectors

- 14.17 **Mr Keep** (INQ5/1) is a retired railwayman. In his view the proposal would be incompatible with the intensive railway passenger services that operate in the area.
- 14.18 **Mr Harvey** (INQ5/2) wrote strongly objecting to the development because of the visual impact that would result, and its effect on those living nearby. Society would be better served by preserving Green Belt land and locating development of the type proposed on brownfield sites, such as the former Joyce Green Hospital.
- 14.19 **Mr and Mrs Salter** (INQ5/5) live at 73 Moat Lane. They object to the proposal on account of the impact it would have on wildlife, Howbury Moat and their family's living conditions. The proposal would not benefit Slade Green - traffic congestion would increase, as would pollution and noise. During construction, noise would

interrupt their peaceful enjoyment of their property and dust would be a nuisance. The semi-rural outlook from their house would be lost.

Consultation Responses and other Written Representations Submitted to the Councils

- 14.20 **English Heritage** note that the scale of the proposed warehouses and their proximity to Howbury Farm suggests they would have an impact on the settings of the Grade II listed barn and the moated site which is a Scheduled Ancient Monument. However, the proposed bund and landscaping would mitigate the impact, and the important views of the protected features are from Moat Lane and the footpath towards Crayford Ness. In English Heritage's view the proposal would affect but not harm the settings of the barn and the moated site. English Heritage do not object to the proposal to use the barn as a rural studies centre.
- 14.21 **Bexley Thames-Side Partnership** acknowledges the positive contribution the proposal would make to reducing road traffic in south-east London and north-west Kent, but considers that the negative impacts on local businesses and communities outweigh the potential benefits.
- 14.22 **The Bexley Civic Society** objects to the development on the grounds that it would involve demolition of existing buildings on the site which are of some historical importance; increase traffic to the detriment of residents of Slade Green and North End; and result in the loss of Metropolitan Open Land and terrestrial and aquatic habitats.
- 14.23 **The London Green Belt Council** note that the loss of Green Belt in the wider area to other schemes has been significant. Cost, including that of alternative sites, should not be the factor determining the application which the Council hopes will be refused.
- 14.24 **English Nature** (now **Natural England**) advise they are broadly satisfied with the Environmental Statement, but comment on some of the supporting information.
- 14.25 **The Strategic Rail Authority** support the proposal. The scheme would satisfy the requirements of the SRA's *SRFI Policy* in that it would facilitate a modal shift from road to rail in London and the South East. The site is suitable for a SRFI and is of an appropriate size to deliver the required critical mass of development for this type of facility. Whilst there do not appear to be any network constraints to the scheme's successful operation, there is not open-ended capacity for the scheme.
- 14.26 **The Ramblers' Association** object to any new access road across the marsh area and note that no indication of the provision to be made for footpaths affected by the proposals has been forthcoming.
- 14.27 **The Port of London Authority (PLA)** advise that the PLA is the statutory Harbour and Navigation authority for Crayford Creek and own the bed and foreshore to mean high water (MHW) mark. Works placed in, on or over the MHW mark require a licence from the PLA. Additional information on the proposed lifting bridge,

particularly in relation to how the lifting operation would be undertaken and the means by which the commitment would be financed, will be required.

- 14.28 In addition some 20 letters were received by Bexley Council from **local residents, businesses and interest groups** objecting to the proposals on grounds similar to those raised at the inquiry. One resident wrote supporting the proposal, subject to the creation of a connecting road between Bob Dunn Way and Walhouse Road.

15. CONCLUSIONS

Inspector's Note. In this section references in square brackets [] indicate the paragraph in which the relevant source material can be found. Where I wish to draw attention to a particular word or passage, I have done this by underlining.

Introduction and Main Issues

- 15.1 There is no dispute that the development would constitute inappropriate development in the Green Belt and that, following the guidance in *PPG2*, it is for the applicant to demonstrate that harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by very special circumstances that justify granting planning permission [6.1, 7.70, 7.71, 7.72, 8.6, 8.7, 8.12]. Protection of the Green Belt is a fundamental plank of the development plan at all levels [5.14, 5.20, 5.38, 5.45, 7.8, 7.9, 8.9], and harm to the Green Belt lies at the core of Dartford Borough Council's reason for refusing planning permission for the part of the development within Dartford Borough. It also features prominently within Bexley Council's putative reasons for refusal.
- 15.2 As I noted at the pre-inquiry meeting, and repeated on opening the inquiry, the balance to be struck between harm to the Green Belt on the one hand, and the need for a strategic rail freight terminal at Howbury Park is, to my mind, likely to be a central consideration in the Secretary of State's determination of the appeals (INQ2). This was not called into question by anyone appearing at the inquiry.
- 15.3 In considering and reporting on this balance, the following fall to be considered in the context of the policies in the development plan and elsewhere:
1. The extent to which the proposal would result in harm to the openness of the Green Belt and the purposes of including land within the Green Belt (Harm to the Green Belt).
 2. The extent to which the proposal would cause other harm, including harm to the landscape and visual impact, harm to features of nature conservation and biodiversity interest and harm to the living conditions of nearby residents and others potentially affected by the proposals. Concerns voiced at the inquiry on the effect the development would have on proposals for enhancing green space in the area, flood risk, and the local highway network also need to be considered, with due thought given to the extent to which any impacts could be addressed by condition. (Other Harm).
 3. The strength or otherwise of ProLogis's very special circumstances case. This includes consideration of the policy support for strategic rail freight terminals (SRFIs). It also requires attention to be given to whether or not the proposed terminal would operate as a rail-based (as opposed to a road-based facility) and whether or not alternative sites for a SRFI are available elsewhere (Very Special Circumstances).

4. Allied to this there is a need to address matters relating to sustainability, including the policy drive to make optimum use of previously developed land and the extent to which granting planning permission for the proposal would be likely to reduce CO₂ emissions arising from the transport of goods (Sustainability).
5. Finally, the extent to which precedents, including particularly the First Secretary of State's decision in respect of the London International Freight Exchange (LIFE) should bear on the decision also need to be considered (Precedents), as does the matter of what conditions should be imposed in the event that the Secretary of State is minded to allow the appeals and grant planning permission (Conditions).

15.4 In this section of the report I consider each of these matters in turn. In doing so I have had regard to the information supplied with the application, including that contained within the Environmental Statement, the Supplementary Environmental Statement and the various technical reports and appendices attached thereto. I have also taken into account the further environmental information supplied in the proofs of evidence and elsewhere during the course of the inquiry.

Harm to the Green Belt

- 15.5 *PPG2 states that “the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness”.*
- 15.6 Against this background there is no doubt in my mind that the proposal would result in substantial harm to the Green Belt on account of loss of openness. The site is agricultural land, currently laid to grass, and the only building on it is a former dwelling - The Grange - now used as offices [2.1]. Whilst the site is at a noticeably higher level than Crayford Marshes to the north of Moat Lane [2.3], and bordered by Southeastern's Depot [2.4], views across it are nonetheless expansive. The openness which is now a characteristic of the site would be lost to the development. 198,000m² of warehouses would be built [1.7], and substantial screening mounds would be introduced at the northern end of the site. Large service yards with parking for HGVs would be located between the warehouses and an intermodal terminal would be built close to the north-east corner of the site where trains would be loaded and unloaded and containers stacked. The height of these containers would be limited by an agreed condition to a maximum of 12m (Appendix E, Condition 33). The buildings would be some 14.7m high to the ridge, and the cable support masts for the roofs would rise to 24.0m [3.3].
- 15.7 Bexley Council's description of the development as “huge” or “massive” [7.17] is not, to my mind, inaccurate. Warehouse Unit A would be one of the largest warehouses in London and the South East (ibid) and in excess of 60ha of Green Belt land would be lost to development, albeit that part would be used for landscaping. The impact on openness is inevitable and not in question. Indeed, ProLogis acknowledge in terms that the development would have a substantial impact on the

- openness of the Green Belt [6.5]. The harm on this account cannot be mitigated [7.29, 7.30].
- 15.8 As to the impact on the purposes of the Green Belt, there is equally no doubt that the proposal would result in significant encroachment into the countryside [7.37]; some 60ha of land that is, as a matter of fact, countryside, would be developed mainly for warehousing. Inevitably the development would also contribute to urban sprawl insofar as the present urban area would be extended [7.32]. However, there is no reason to believe that this sprawl would be “*unrestricted*”. If planning permission for the development were to be granted, the status of the adjoining land to the east and north would not be affected. It would continue to attract the strong protection afforded to the Green Belt and, whilst its size would plainly be reduced, to my mind there is no reason to believe that allowing the appeal would lead to its eventual development [6.5].
- 15.9 As to whether the purpose that the Green Belt serves in preventing neighbouring towns from merging would be compromised, the encroachment is such that the gap between the edge of the Thames Road Industrial Area and Slade Green on the one side, and Dartford and Joyce Green on the other, would be diminished. That gap is already, in Green Belt terms, narrow and the development proposed would reduce it to 1,100m approximately [7.11]. The section of Green Belt involved is also small [7.10] and calculations show that around 10% of its total area would be lost to the development (PDL/1.10). Clearly, the function that the Green Belt serves in maintaining separation between the two settlements alongside the Thames would be materially weakened by the development proposed [7.14]. A gap would remain, however, and its width would, to my mind, be sufficient to maintain a clear physical and visual separation at this point between the eastern edge of London and the western edge of Dartford¹.
- 15.10 It is common ground that the development would not affect the setting and character of historic towns [6.6].
- 15.11 Whether allowing development in the Green Belt would, in this case, fail to assist urban regeneration, by failing to encourage the recycling of urban land, depends on the conclusions reached as to whether or not it would be practicable to develop a SRFI in this sector of London and the South East on previously developed land. This is a matter which I address below.

¹ In looking at this matter it is important to appreciate the nature of the area of Green Belt involved. It lies alongside the Thames, and is centred on the Crayford and Dartford Marshes to either side of the River Darent. It is isolated from the main body of the Metropolitan Green Belt by development in Crayford and Dartford which run together to the south of the appeal site (see plans PDL/1.10 and PDL/1.13). At no point is this section of the Green Belt “*several miles wide*” [7.10]. Insofar as the area of Green Belt in question serves to separate London (Slade Green) from Dartford (Joyce Green), it does so alongside the Thames. Looking more widely, the two settlements already merge.

Other Harm

Landscape and Visual Impact

- 15.12 As to the impact on the landscape, there is no dispute that the landscape of the site is sensitive [2.1, 7.19 et seq]. It is open, predominantly flat and low lying [ibid]. Whilst there are flood defence embankments along the riversides, these are comparatively modest in their scale. There are few hedgerows and trees. It is not a landscape that is readily capable of absorbing change.
- 15.13 Coupled with this, the scale of the proposed buildings is such that from many viewpoints they could not practically be screened. Whilst there is little dispute that the measures which ProLogis propose to mitigate the landscape and visual impact of the proposals are appropriate [6.13]¹, there is no doubt that the character of the landscape immediately about the appeal site would be significantly changed as a result of the development. Its flat, open expansive character would be lost and replaced with massive buildings, surrounded at the northern end of the site by substantial earthworks.
- 15.14 Notwithstanding this, having visited the site and its surroundings and studied the evidence produced by the two landscape witnesses, including the various photo-montages, it seems to me that the proposal's visual impact would be limited from many directions. From the east and south-east, the adjoining landfill, which rises to a peak of around 18m AOD, would largely screen views of the main body of the site from the footpath adjacent to the Rivers Cray and Darent (Supplementary ES, Figures B3 and B4, Sections B1, C1, D1, E1 and F1). From more distant viewpoints in this direction the upper sections of the buildings would be clearly visible, but the lower levels would be screened by the adjoining landfill and the impact would be generally moderate, in my opinion, increasing to substantial if the landfill were to be reduced to its consented levels (CD7.10, Figures B8A, B9A and B10A). From the west, the existing buildings in the Thames Road Industrial Estate would screen the development from nearby public viewpoints; and, whilst the warehouses would be visible from some more distant viewpoints on higher ground to the west, they would generally not break the skyline and I am satisfied that the impact from these viewpoints would be no more than moderate (ES, Volume 4, Chapter B; Volume 5a, Chapter B, and PDL/3.6, Viewpoints 16, 17, 18 and 19).
- 15.15 The locations from which change would be most pronounced would be from Bob Dunn Way and its environs to the south of the site and from viewpoints in an arc to the

¹ At the inquiry Bexley Council's landscape witness Mr Huskisson suggested that the impact of the development could be reduced by lowering the development platform by some 2.4m [6.15]. He conceded, however, that doing so would only reduce the visual impact of the scheme "to a small degree" [6.16]. Calculations were produced subsequently which showed that a large amount of the material generated would need to be transported off site, generating up to 56,000 lorry movements and ProLogis resisted the invitation to amend the proposals [6.17]. In the event, the matter was not pursued further by Bexley Council and was not mentioned in their closing submissions.

north running from Oak Road, through Moat Lane and the edge of Slade Green out to the Crayford and Dartford Marshes.

- 15.16 From the Bob Dunn Way/Thames Road roundabout the proposed new access road and bridge would be clearly visible as would the southern ends of the warehouses. Mounding and screening would prevent direct views into the service yards and parking areas, however, and, as it matures, landscape planting would assist in screening and softening the views of the buildings. The impact would nonetheless remain substantial (ES Volume 4, Chapter B and Volume 5a, Chapter B, Viewpoint 15; Supplementary ES, Figure B12). From further to the east, along Bob Dunn Way, the impact would reduce as the screening afforded by the adjoining landfill site increases. However, should the landfill be reduced in height to its permitted levels then visibility of the buildings from this direction would increase significantly, raising the impact to substantial (CD7.10, Figures B10A and B11A and LBB2.11, p4). From the footpath adjacent to the River Cray, the access road and bridge would be prominent (PDL/3.6, Photomontage Viewpoint 10), but the main body of the development would generally be screened as noted above.
- 15.17 As to the visual impact as seen from Slade Green and the open land to the north and east of the site, there is no doubt in my mind that it is from these directions that the impact would be greatest. Notwithstanding this, within the main body of Slade Green, the impact would generally be limited by the intervening housing (PDL/3.6, Viewpoint 6). However, where the land is more open the warehouses would be clearly visible against the skyline above the existing roofs and the impact would be substantial (ibid, Viewpoint 5). But it is from the edge of the settlement that the impact would be greatest. At the end of Oak Road a large earth embankment would replace the present views across open fields (ibid, Viewpoint 4). Whilst this embankment would screen the lower levels of the development and the planting would provide further screening and visual interest as it matures, to my mind the development would remain a dominating presence when viewed from the eastern end of Oak Road or the footway linking it to Moat Lane (see photograph JM2). In my opinion, the initial impact would be substantial and adverse, reducing only slightly as the planting matures.
- 15.18 Similar impacts would be experienced by walkers and other users of Moat Lane passing the site. This public footpath and cycleway is well used by local residents walking out towards the River Darent who can currently look out through gaps in the hedges across the appeal site towards The Grange [10.7]. These views would be lost and replaced by a substantial embankment, topped in part with an acoustic fence. Sections of the bank would be planted and the toe would be set back from the footpath behind a hedgerow and swale. The bank would perform an essential function in providing a visual and acoustic screen to traffic on the internal access road, which would benefit both users of Moat Lane and the residents of Nos 71 and 73 Moat Lane and Nos 1 to 3 Moat Farm Cottages (PDL/3.13 (revised)). There is no doubt in my mind, however, that the landscape impact would nonetheless still be substantial and adverse, particularly in the early years before the planting becomes established. Walkers on Moat Lane would also experience an increase in ambient noise levels [7.81] similar to that which would impact on nearby residents (see para 15.25 below).

- 15.19 Further from the boundary, the visual impact from viewpoints to the north of the development in the vicinity of Howbury Moat and on the edge of Slade Green would similarly be substantial and adverse (PDL/3.6, Viewpoints 1, 2, 3, 7 and 8) [7.26 to 7.28]. Most houses in this part of Slade Green face out eastwards onto the Marshes, however, and those on the south side of Leycroft Gardens, which face the appeal site, would have their ground floor views obscured by a row of garages. Again these impacts would be reduced as the planting matures.
- 15.20 Beyond the eastern end of the site, walkers on Moat Lane and the footpath which continues along the top of the River Darent flood bank towards the Thames would have clear views of the development when walking back towards Slade Green. From Viewpoint 9 and similar vantage points along the footpath the full extent of the warehousing would be visible (CD7.10, Figure B7A). The distance to the developed edge of Slade Green would be reduced significantly which would impact on the present openness and expansiveness of the view [7.25]. Whilst the mounding now proposed at the north-east corner of the site would screen and reduce the impact of the intermodal area [3.17], there is no suggestion that the impact from this sector would be other than substantial and adverse.
- 15.21 Further from the development, on the Dartford Marshes, the greater distance to the site would reduce the impact. The scale of the buildings would nonetheless be plain to see and the expansiveness of the present views would be reduced (CD7.10, Figure B9A).

Noise, Dust, Air Quality and Lighting

- 15.22 Statements of common ground covering noise (CD7.5 and CD7.8), air quality (CD7.4) and lighting (CD7.7) were concluded between Bexley Council and ProLogis. Reflecting this, Bexley Council's putative reasons for refusal relating to air quality and lighting impacts were withdrawn prior to the inquiry opening, subject to suitable conditions being imposed on any planning permission granted by the Secretary of State (CD1.8)¹. The Council maintained its objection with regard to the impact that operational noise from the development would have on certain nearby residents in Slade Green, however, and others at the inquiry voiced concerns regarding dust, air quality and lighting impacts.
- 15.23 Considering firstly noise, the S106 Non Highway Obligations provide for up to £5,000 each to be paid to provide noise insulation to the five properties most affected by the development – Nos 71 and 73 Moat Lane and Nos 1, 2 and 3 Moat Farm Cottages [1.18, 6.27]. The matters at issue are the effect on these properties and those at the eastern end of Oak Road.
- 15.24 As to the case put by the Council, it is argued, firstly, that there is no obligation on individuals to take up an offer of noise mitigation measures [7.80] and that, secondly, with the windows open, the agreed calculations conclude that the WHO guideline noise level of 30dB inside a bedroom at night would be exceeded at the Moat Lane

¹ See Appendix E, Conditions 21, 22, 26, 30 and 35.

properties [7.79]. But the calculations which underpin this conclusion took no account of the margin for error inherent in the CONCAWE noise prediction methodology which at the 95% confidence limits would increase the night-time BS4142 rating levels for Moat Lane properties to around 8dB. It is thus argued that complaints would be likely, particularly at those times when background noise levels are materially lower than the average [7.83 and 7.84].

- 15.25 As to the points made, I accept that there is no obligation on individuals to take up offers of noise insulation. The offer has nonetheless been incorporated in a S106 Obligation and I see no reason to suppose that it would not be taken up. Even if it were not, the predicted night-time rating noise level outside the Moat Lane properties from vehicles, plant and other activities on the site, calculated using the procedure adopted in BS4142, would only exceed the background (L_{A90}) noise level by some 2.0dB, or 7.7dB if the full addition for the CONCAWE 95% confidence limit were applied (CD7.5, pp58 & 59). Thus the impact with the CONCAWE addition would lie between values that are of “*marginal significance*” and a “*positive indication that complaints are likely*” [4.9]. Also, the night-time cumulative noise impact, which is driven by noise from the access road (and is thus not materially affected by any addition to take account of the CONCAWE confidence limits) would be only some 3.2dB L_{Aeq} higher than the measured existing L_{Aeq} noise levels, representing a moderate impact (CD7.5, pp64 and 65 and paras 4.11 and 7.79 above). Given the attenuation that the building fabric would provide if the offer to provide acoustic insulation is taken up, it is agreed that residents in insulated bedrooms would experience little if any noise impact from the development [ibid].
- 15.26 As to the case put by the Council regarding properties on Oak Road, noise measurements did indeed show that measured background levels are likely sometimes to be significantly lower than the figures used by ProLogis’s consultants to assess the impact of the proposals [7.84]. If these lower levels are used in a BS4142 assessment it might theoretically be concluded that complaints are likely at night [ibid]. However, at Oak Road it is further agreed that the cumulative noise levels from the development, including noise from the access road, would not breach the appropriate WHO guideline levels [4.12]. In these circumstances, it is my firm view that additional mitigation by way of acoustic double glazing, would not be justified.
- 15.27 In conclusion on noise, I find that with the earthworks, noise fences and other mitigation proposed about the site, which would be required by condition¹, and the noise insulation which the S106 Undertaking would secure for the most affected properties, noise from the development would not result in material harm to the living conditions of nearby residents. In this regard I find no conflict with the development plan.
- 15.28 Moving to air quality, expert representatives of Bexley Council and ProLogis agree that air quality impacts for the operational development would range from minor

¹ See Appendix E, particularly Conditions 8 and 22.

adverse to insignificant [4.5]. For its part, the ES records that the standards for NO₂ and PM₁₀ are currently of concern for receptors adjacent to the main roads in both Bexley and Dartford (ES, Volume 4, Chapter E, paras 1.10 to 1.18). However, background pollution levels are generally predicted to fall because of the expected improvements in vehicle emissions (ibid, Table E1 and para 3.37). Also, the increases in the predicted levels of these pollutants due to the development are very small in comparison to background levels at the main sites of concern and the completed development is not predicted to increase the number of receptors at which the annual average NO₂ concentrations are expected to be exceeded (ibid, particularly paras 3.37 and 3.41). Similarly, the number of receptor locations at which the current statutory objectives for PM₁₀ are predicted to be exceeded with the development operational would be fewer than at present (ibid, particularly paras 3.46 and 3.50).

- 15.29 During the construction phase, it is common ground that nearby residents living close to the north-west corner of the site could be troubled by dust from activities on the site if normal precautions to prevent dust rising from haul roads, materials stockpiles and the like are not taken. In my experience this is generally the case where large scale construction works are undertaken and the measures necessary to control dust emissions are well understood. An agreed condition¹ should serve to prevent any nuisance on this account [4.4].
- 15.30 At the inquiry some individuals voiced general concerns regarding the development's potential to increase pollution levels in the area [13.1]. No evidence was presented to support their concerns, however, and Bexley Council agreed in terms that they had no objection to the proposed development on air quality grounds [4.5]. Plainly this was a carefully considered decision, supported by the Borough Environmental Health Officer. To my mind, it should be given significant weight. I accordingly conclude that, having regard to the agreed conditions, development should not be constrained by concerns regarding the impact on air quality. In this regard also I find no conflict with the development plan.
- 15.31 On lighting, the site would operate around the clock. External floodlights would accordingly be required in the operational areas, including the service yards and intermodal terminal. Further lights would also be needed to illuminate the access roads and car parks [3.14]. Plainly, if not sympathetically designed, light spill could result; also nearby residents and others could be affected by glare. Such an outcome was of considerable concern to several local residents [13.1, 13.8 and 13.9].
- 15.32 For their part, ProLogis acknowledge the concerns. An outline design for lighting the development was prepared and the impact analysed in detail by a specialist lighting consultant (ES, Volume 4, Chapter N). This work was subsequently reviewed by a second specialist consultant employed by Bexley Council (CD7.7, para 3.1). It was concluded in short that, with appropriate design incorporating asymmetrical floodlights in the working area and full cut off luminaries for the roads and car parks

¹ See Appendix E, Condition 21(ii).

[6.25], upward escape of light and glare would be minimal and that light spill would be controlled to acceptable levels well within the site boundary [4.13]. Having regard to these findings, Bexley Council concluded that the concerns identified in their putative reason for refusal relating to lighting could be addressed by way of conditions (CD1.8). I agree.

- 15.33 The agreed conditions can be found in Appendix E. Condition 30 requires the external lighting scheme to be submitted to the Council and approved before the development is occupied. Thereafter it prevents any external lights other than those approved being provided on the site. Condition 21(x) similarly requires details of temporary lighting arrangements in the construction period to be submitted for approval.

Nature Conservation and Biodiversity

- 15.34 Areas of nature conservation and biodiversity interest on and about the site include the Crayford Marshes Site of Metropolitan Importance for Nature Conservation (Crayford Marshes SMINC) which covers the marshes to the north of Moat Lane; and the River Thames and Tidal Tributaries SMINC which includes the tidal section of the River Cray passing through the site. A small portion of the site is included within the Crayford Landfill Site of Borough Importance Grade II. Proposals have also been made to extend this designation to cover the remainder of the site area, but this has yet to be formally confirmed [11.8]. Likewise, it is understood that proposals are in hand to designate the Crayford Marshes as a SSSI [11.1].
- 15.35 As regards the ecological impact of the proposals, there is no objection from Natural England, the London Wildlife Trust or any of the local authorities [6.59]. Notwithstanding this, Bexley LA21 Natural Environment Focus Group (NEFG) raised several concerns regarding the potential for the development to harm nature conservation and biodiversity interests [11.6 et seq] and these were echoed to some degree by others present at the inquiry.
- 15.36 As to the site itself, the London Wildlife Trust and the Environment Agency both accept that the main body of the site, which comprises mainly grassland, is of limited interest for wildlife [4.16, 12.2]. Surveys conducted for the ES confirmed that the grassland within the site is of low ecological interest and largely devoid of habitats of significant ecological value (ES, Volume 4, Chapter 5, para 3.41 et seq). The use of the site by protected species is also limited and, where these were recorded, mitigation measures have been proposed to ensure that there is no adverse impact. Whilst part of the Crayford Landfill Site of Borough Importance for Nature Conservation Grade II falls within the site, the majority of the affected land is currently in active use as a landfill site and of limited nature conservation value (ibid, para 4.11). The remainder would be safeguarded.
- 15.37 Turning to NEFG's concerns, there is to my mind no merit in the argument put initially that development of the appeal site should be resisted having regard to its future value as an area for the long term managed retreat of the Crayford Marshes. There are several reasons for this, but fundamentally the level of the site is several metres higher than that of the marshes and its character is entirely different.

Accordingly, massive intervention would be required to render it suitable as an area for managed retreat [6.59].

- 15.38 As to NEFG's further suggestion that the worth of the application site may have been undervalued by a lack of species evidence [11.6], I reject the claim. It may be true that the number of records held by Greenspace Information in Greater London (GIGL) is limited, but there is no evidence to support the view that the surveys commissioned for the ES and subsequently were inadequate or not properly conducted [ibid]. The London Wildlife Trust did not raise criticisms of this kind, neither did Natural England who wrote shortly before the inquiry opened confirming their satisfaction with the ES (PDL/8.3, Appendix 3). In a similar vein, the Environment Agency confirmed in terms that the surveys were sufficient to address their concerns and agreed that the baseline ecological impact assessment was sound [4.16].
- 15.39 With regard to the impact on biological corridors, the GIGL map shows the site as connected to the wider Bexley network of habitat parcels through the adjacent train depot [11.10]. This connection would be severed if the development were to proceed. The railway depot is not, however, identified as a site of importance for nature conservation and its character in terms of habitat is completely different to that of the appeal site. Having regard to the proposals to provide new habitat within the site which would include wildlife corridors [6.60] and would be secured by condition¹, and the lack of any objection from the London Wildlife Trust on the grounds that important ecological corridors would be severed by the development, it seems to me that NEFG's objection on this account should be given only minimal weight.
- 15.40 Turning to the Crayford Marshes, there is no doubt that ProLogis's offer to secure their long term future for nature conservation purposes by transferring the land with an endowment to a trust set up to maintain and manage them is widely supported. The details have to be finalised [1.17], and it is arguable whether the benefit would be as high as claimed given the protection that they are already afforded, which would be increased if, as expected, they are designated as a SSSI [7.31]. The proposals are nonetheless welcomed by London Wildlife Trust as a vital part of the mitigation package [12.3]. They are supported by the Environment Agency who conclude that the hydrology of the marshes would not be compromised by the development and that the proposals for their future management would represent a significant gain for biodiversity [4.16]. Natural England similarly report that they are satisfied that the likely damaging effects of the scheme on features of recognised nature conservation value could be outweighed by the potential benefits of the proposed ecological mitigation and compensation package (PDL/8.3, Appendix 3). The Environment Agency is likewise satisfied that the mitigation proposed for the River Cray crossing would safeguard the Thames and Tidal Tributaries SMINC [4.16].
- 15.41 It is against this background of positive support for the proposals for the Marshes that NEFG's reservations regarding their value should be seen [11.11 et seq]. Whilst the

¹ See Appendix E, particularly Conditions 8 and 12.

future of the Crayford and Dartford Marshes is to some degree uncertain, given that the Environment Agency is currently reviewing the flood risk management strategy for the Thames Estuary, there is currently no report or other material available indicating that material changes are planned which would impact on the Marshes' value as a nature conservation resource. Should this change, then I have no doubt that those planning the changes would have full regard to the implications of their proposals on biodiversity. There is no dispute that the development itself would not be at significant risk from flooding (see below). Accordingly, it seems to me that speculation as to what might possibly happen at some indefinite time in the future with regard to flood protection measures on the Thames is not helpful, and I take the view that it should not materially influence the decision on the appeal proposal. Notwithstanding this, were conclusions from the TE2100 study to emerge in advance of the Secretary of State reaching a decision on the appeal proposal, then it would be open to her to take those conclusions into account in reaching her decision [10.11].

- 15.42 In conclusion on nature conservation and biodiversity, it is inevitable with a site of the size and nature involved, that some impacts would result. However, these impacts would be limited and would be adequately offset by the mitigation measures proposed which would be secured by the agreed conditions and through the S106 Non Highway Obligations. No statutory sites of nature conservation or biodiversity interest would be affected. This position is accepted by Natural England, the Environment Agency and the London Wildlife Trust, who broadly support the proposals, and none of the planning authorities involved maintained objections to the development on nature conservation grounds. To my mind, their collective views should be given weight. Given the suite of mitigation measures proposed, I conclude that, in this regard also, the proposal would not conflict with the development plan.

Heritage Features

- 15.43 Notwithstanding the concerns expressed by the Bexley Civic Society [14.22], my understanding is that there are no known features of recognised heritage interest within the site. However, Howbury Moat (a Scheduled Ancient Monument) lies some 50m north of the site boundary, near to which is a Grade II listed tithe barn [2.6]. The edge of the Moat Lane/Oak Road Conservation Area lies adjacent to the north-west corner of the site [2.7].
- 15.44 The impact on Howbury Moat and the tithe barn was considered by English Heritage. Their proximity to the development was noted, but it was concluded that the important views of the protected features are from Moat Lane and the footpath towards Crayford Ness. In English Heritage's view, the proposal would not harm their settings [14.20]. I do not disagree.
- 15.45 As to the future of the barn, the S106 Non Highway Obligations provide for it to be refurbished and transferred to the body taking on the responsibility for the Marshes Trust Land [1.17]. English Heritage did not object to this proposal [14.20] which seems to me to be a positive move which should help to secure the future of an asset which otherwise may well deteriorate with time.

- 15.46 No properties within the Moat Lane/Oak Road conservation area would be directly affected by the proposed development. In my opinion, its character and appearance would be preserved.

Loss of Green Space

- 15.47 A further plank of NEFG’s objections to the development, taken up by Bexley Council in more depth, concerns the impact on proposals to establish a “Green Grid” in the area. These proposals, which are outlined in a series of recent publications, are in essence to develop a network of open spaces for recreational and other uses in the Thames Gateway. The intention is supported by the Government in the *Thames Gateway Interim Plan* which proposes a “landmark project” for the area including the site [7.40 and 7.41]. Similarly, the Mayor’s draft SPG *East London Green Grid Framework* notates the site and the land to the north and east of it as a “Regional Park Opportunity” [7.42]. The marshes are noted as “having the potential to be a flagship multifunctional site”. At the local level, Bexley Council’s *Managing the Marshes* identifies the Crayford and Dartford marshes as “one of the three major open space opportunities in the London Thames Gateway with strategic importance” [ibid].
- 15.48 Whilst many of these documents have limited status in planning terms, it seems to me that the intention is clearly to develop the wider area of open space, including the appeal site, as part of a regional park. At the same time it is also clear that the proposals are at a relatively early stage. The SPG is still in draft and the process which it sets out for including land as part of a regional park through the development plan has yet to commence [6.7]. So far, land has not been allocated and, critically, the mechanism by which funding would be secured has not been defined [6.7, 6.8]. ProLogis’s suggestion that, as things currently stand, the intention is, “at most an aspiration” [6.8] is not, to my mind, unfair.
- 15.49 Whether, and if so how, the proposal will develop is not known. Equally, it is not at all clear what impact allowing the appeal proposals would have on the proposal¹. For his part the Mayor, specifically considered the impact on the East London Green Grid in his Stage II Report [6.9], but nonetheless wrote confirming his general support for the proposals [14.1]. Accordingly, it seems to me that only limited weight should be given to the proposal’s impact on the emerging Green Grid proposals.

Flood Risk

- 15.50 The statement of common ground with the Environment Agency confirms that the development is not at significant risk of flooding and that the tidal defences in the area

¹ Simplistically, if it is assumed that the intended area of the regional park equates to the area of Green Belt to the south of the Thames centred on Crayford and Dartford Marshes, then permitting the proposed SRFI would reduce the area potentially available for a park from around 500ha to around 440ha (PDL/1.10). However, the site is currently farmland, with no public right of access and this would need to change if it were to make a meaningful contribution to any future regional park. Also, if the land were developed as a SRFI it might still be possible to incorporate some of the peripheral landscaping areas into a future regional park.

are well maintained; accordingly the risk that they will fail is regarded as extremely remote [4.16]. The statement further confirms that the loss of flood plain storage volume consequent upon the development would be negligible and more than offset by the compensation storage proposed [ibid]. At the time the statement of common ground was concluded, the flood risk assessment had not been updated to take account of the revised guidance in *PPS25*, but this was completed subsequently and the Agency wrote confirming that they were content with the addendum flood risk assessment [14.5]. They further confirmed that the conditions agreed at the inquiry covered the matters of concern to the Agency which included the need to ensure the bridgeworks at the River Cray did not impact on the integrity of the flood defences or prejudice nature conservation and navigation interests [ibid].

- 15.51 Given the Agency's position [6.58], and their responsibilities with regard to flood risk management, it seems to me that, notwithstanding the various concerns and questions regarding flooding raised by Slade Green Community Forum (SGCF) [10.10], the Secretary of State can be assured there is no reason to refuse planning permission for the development proposed on flooding grounds.

Highways Issues

- 15.52 Initially the Highways Agency and Kent County Council submitted proofs of evidence raising concerns regarding the impact the proposals would have on the local highway network, particularly at Junction 1a of the M25. At the inquiry opening, ProLogis advised me that negotiations were in hand with the Agency, Kent County Council and Transport for London (TfL) regarding the highways objections and it was hoped that an agreement would be concluded which would enable these parties to withdraw their objections. Subsequently the agreement was concluded and embodied in the S106 Highway Obligations [1.19]. The Highways Agency wrote confirming that they did not wish to maintain their objection [14.4]. TfL similarly wrote confirming that the obligations contained in the S106 Undertaking addressed their concerns [14.7]. Kent County Council, as the responsible highway authority for non-trunk roads within Dartford, withdrew their proof of evidence on highways matters (KCC6).
- 15.53 Notwithstanding this, Bexley Council maintained objections regarding several aspects of the highways proposals. Of particular concern was the adequacy or otherwise of the proposed new roundabout at the site entrance [7.174 et seq], the adequacy of the Thames Road/Crayford Way roundabout [7.181 et seq] and the need for a replacement railway bridge over Thames Road near to Crayford Mill [7.184 et seq].
- 15.54 In pursuing this case, it was accepted by the Council that their concerns could be addressed by modifications to the geometry of the two roundabouts at issue and by ProLogis agreeing to fund the replacement of the Thames Road bridge. A Grampian condition was drafted for the Secretary of State to consider requiring details of these works to be submitted and approved before works commenced and completed before the development is first occupied (LBB0.6, Additional Condition A).

The Entrance Roundabout

- 15.55 The existing roundabout at the junction of the A206 Bob Dunn Way, Thames Road and Burnham Road has three arms. The application provides for the roundabout to be significantly enlarged and a fourth arm added, leading to the proposed SRFI.
- 15.56 There is no dispute that the capacity of the current roundabout is adequate [7.175]. The matter at issue is whether or not the capacity of the proposed replacement roundabout would be adequate to accommodate the traffic from the development. Fundamental to this is a disagreement concerning whether traffic generated by the development should be assessed using data derived from surveys at the Daventry International Rail Freight Terminal (DIRFT), or whether data from TRICS should be used [7.179]. Here, I favour DIRFT as the dataset most likely to be representative of Howbury Park, principally because the DIRFT data is specific to a SRFI whereas the TRICS data is for smaller warehouses than those proposed, served by road only. The DIRFT data was collected expressly to inform the traffic analysis for Howbury Park, with the agreement of the Transport Forum who further agreed, notwithstanding Bexley Council's concerns, that the appropriate data to use was that for an average weekday [6.31, 6.32, 6.34]. I see no reason to depart from this agreement reached with the responsible highway authorities, including Kent County Council who are the highway authority responsible for the site access roundabout [6.39]. Notwithstanding this, it is accepted that the traffic generation for the development was underestimated slightly due to a misunderstanding as to the area of warehousing within the survey cordon at DIRFT [7.170, 7.178]. To my mind, if the design for the entrance roundabout is to be reviewed (which I recommend for the reasons I come to below), this discrepancy should be corrected.
- 15.57 As to the design standard for the roundabout, all present at the inquiry agreed that this should be assessed using ARCADY. But what design standard is appropriate? Here I take the view that there is no reason in principle to depart from the usual approach of designing the roundabout to operate with an RFC (ratio of flow to capacity) of 0.85 or less on all arms in the agreed design year. This is the standard normally applied to new junctions [7.174], which this would be, and it has endured for many years. Whilst I accept that in congested urban situations roundabouts sometimes do function in the peak hours with RFCs greater than 0.85 without excessive queuing, it seems to me inherently unwise to design for such a situation where, as here, the site is unconstrained and the roundabout and its immediate approaches would have to be modified in any event. Importantly, adopting an RFC of 0.85 also allows a small margin for the uncertainties inherent in design, including day to day fluctuations in traffic flow. Notwithstanding this, I do accept that the standard is not absolute and in some circumstances an RFC greater than 0.85 for a future design year may be considered acceptable – it is a matter of balance which experienced highway engineers are best placed to exercise.
- 15.58 Allied to this is the question of what are the appropriate periods at which capacity should be tested. Plainly these should include the hours on which traffic flows on the local network are highest – i.e. the morning and evening peak hours. Alongside this it is important to recognise that at this junction the capacity critical time may not be the

normal peak hours. The expectation is that shift changes would occur outside the peak hours and evidence presented to the inquiry suggests that the entrance roundabout may be more heavily loaded at times when the shifts are changing than in the normal network peak [7.178]. Flow patterns on the roundabout at shift change times would also be different to those at other times of day and may be critical for some elements of the design. This plainly needs to be checked.

- 15.59 Other aspects of the design that will need to be settled before the capacity analysis can be finally concluded include the geometry of the proposed roundabout (which the highway engineers involved should be readily able to agree), the effect of the proposed Toucan crossing [7.178] and the most appropriate routeing for the Grosvenor Waste traffic¹.
- 15.60 In the latter stages of the inquiry, consultants acting for ProLogis submitted an alternative roundabout design taking account of some of the criticisms levelled at their earlier work [7.178]. Unfortunately it only addressed some of the concerns I have identified above and time did not permit its critical appraisal by the responsible highway authority [6.41]. Accordingly, in the event that the Secretary of State decides to grant planning permission for the development, I recommend that a Grampian condition be attached to that permission requiring details of the entrance roundabout to be submitted and agreed before development commences and the roundabout completed before the development is first occupied – see Appendix E, Condition 10.

Crayford Way Roundabout

- 15.61 The Crayford Way roundabout is currently under construction as part of the Thames Road improvement works. It is located on the A206 some 1,200m west of the site access roundabout. It links the A206 to Crayford Way, and the “London Loop” which is a cul-de-sac serving the Grosvenor Waste site and a few smaller industrial premises situated to the north of Thames Road.
- 15.62 Traffic passing through the roundabout would be affected by the proposed development in two ways. Firstly, flows on Thames Road would be increased by traffic generated by the development; and secondly, traffic to and from the Grosvenor Waste site would be reduced as part of the flow generated by that site would be diverted to the proposed new roundabout at the site access (see footnote to paragraph 15.59 above).

¹ Currently all Grosvenor Waste traffic is routed to the A206 Thames Road via the roundabout now under construction at Crayford Way (see below). With the development proposed an alternative route would be available via the proposed access to the SRFI [3.6]. As far as I am aware there is no proposal to close Grosvenor Waste’s present access which logically they would continue to use for traffic routed to or from destinations to the west of their site. Similarly, the site access would logically be used for traffic routed to or from the east. Plainly, the design of the site access roundabout needs to allow for this traffic. However, in the absence of any evidence that the present access would fall out of use, I see no reason to design the site access roundabout for 100% of the Grosvenor Waste Traffic as Bexley Council suggest – see para 7.178 above.

- 15.63 In checking the capacity of this roundabout, both changes need to be taken into account and there is no dispute that ARCADY is appropriate for this. It is equally accepted that, if the roundabout is to be modified, “nil detriment” is the standard which should be applied [6.48, 7.182]. The issue is whether or not modifications are justified.
- 15.64 In regard to this matter, there is no dispute that if the predicted traffic flows for 2025 without the proposed development (the “base flows”) are applied to the roundabout using the geometry supplied by Bexley Council’s consultant, then the ARCADY analysis shows it to be over capacity in the morning and evening peak hours. RFCs for the two Thames Road arms in the morning peak are 0.85 and 0.95; in the evening peak they are 0.94 and 0.96. For the London Loop the RFCs are 1.22 in the morning peak; in the evening the capacity of that arm is noted as “*effectively zero*”. The corresponding queues on Thames Road are modest, at a maximum of 17 vehicles. On the London Loop they are 10 and 20 vehicles in the morning and evening peaks respectively (6.47 and PDL/5.4, Table 3.4). Whilst the Thames Road queues would involve a modest delay, given that the approach flows are of the order of 1,800 vehicles per hour; delays for traffic wishing to exit the London Loop would be significant, particularly in the evening peak when workers at Grosvenor Waste and the other sites served by the road wish to depart, but capacity for that arm at the roundabout is effectively zero.
- 15.65 As to the situation with the proposed SRFI, and no changes to the roundabout geometry, the calculated RFCs on the Thames Road approaches in 2025 would increase slightly as would the calculated queue lengths. The differences would not be large, however. More significantly, with the Grosvenor Waste traffic split between the London Loop and new site entrance roundabout (see footnote to para 15.59 above) the queues and delays on the London Loop would reduce, albeit that in the evening peak capacity would remain effectively zero (6.47 and PDL/5.4, Table 3.6). With the Grosvenor Waste traffic reassigned to the site access only they would be eliminated (*ibid*).
- 15.66 In conclusion, whilst in theory the queues and delays on the Thames Road approaches to the roundabout would be increased in the peak hours by the development, which would bring the proposal into conflict with policy T6 of the *Bexley UDP* [7.182], the evidence is that the increases would be only modest. They would be offset by the significant benefits that would arise from providing an alternative route for the Grosvenor Waste traffic. Given the acknowledged levels of peak hour congestion in the area generally, and the inherent degree of uncertainty involved in calculations of this nature, I take the view that it would be less than reasonable to require ProLogis to fund any necessary adaptations to the roundabout which further analysis showed would be very small in any event [6.48]. This conclusion is reflected in my suggested wording for the Grampian condition covering highways improvements - see Appendix E, Condition 10. Of course, should the Secretary of State be minded to grant planning permission for the development, but disagree with my conclusions in this regard, it would be open to her to extend the condition along the lines suggested by the Council – see LBB0.6, Additional Condition A.

Thames Road Bridge

- 15.67 Thames Road bridge is located on the A206 Thames Road, between the proposed site entrance roundabout and Crayford Way roundabout. It is on the section of Thames Road where dualling works are currently in hand. As part of these works it was originally planned that the bridge would be replaced with a new structure able to accommodate two lanes of traffic in each direction. However, there were problems with the bridge design and Bexley Council dropped the replacement bridge from the road improvement contract. As matters currently stand, the dualling works will be completed without a new bridge and both eastbound and westbound carriageways will be restricted to a single lane under the bridge. At the time of the inquiry there was no programme or funding for replacement of the bridge [6.42, 7.184].
- 15.68 Plainly the situation is less than satisfactory and Bexley Council argued at the inquiry that, since the development was predicted to increase flows on the A206 as it passes under the bridge, queuing at that point would be exacerbated and the proposal would conflict with policy T6 of the *Bexley UDP* [7.185 to 7.191]. Accordingly, they sought funding for a replacement bridge.
- 15.69 As to the merits of the point, I tend strongly to the view that such a demand is not reasonable (see below). Since the advice in Circular 11/95, paragraph 14, on planning conditions is that, to be valid, a condition has, amongst other matters, to be “*reasonable in all other respects*”, it follows that a condition requiring in effect that the developer pays for, or makes a substantial contribution towards, the cost of replacing the bridge should not be imposed. This conclusion is reflected in my suggested wording for the Grampian condition on highways matters already referred to and found at Appendix E, Condition 10. Of course, should the Secretary of State be minded to grant planning permission for the development, but disagree with my conclusion in this regard, it would be open to her to extend the condition along the lines suggested by the Council – see LBB0.6, Additional Condition A.
- 15.70 As to my reasons for concluding that the imposition of such a condition would not be reasonable, they are as follows:
1. If the bridge replacement were “*in an improvement programme*” (as indeed it was before being dropped from the contract now in progress) then there would be no case for applying Policy T6 of the *Bexley UDP* to in effect require the developer of the SRFI to wholly or partly fund its construction. Given also that replacement of the bridge remains Bexley Council’s “No 1 priority” [6.43], there has to be a reasonable expectation that it will be completed in any event by the time the SRFI would become fully operational [ibid].
 2. The bridge’s replacement does not depend on whether planning permission for the SRFI is granted. It is required/planned in any event as part of a scheme to dual and upgrade Thames Road for the wider benefit [6.43].

3. There is no evidence that the Council are similarly resisting other developments in the area that would increase traffic on Thames Road (notably development in the Belvedere Industrial Area) [6.43]. Neither is there any evidence that contributions towards the cost of replacing the bridge have been or are being sought from any such developers.
- 15.71 In any event the precise effect that the development would have on queues and delays at the bridge were it not to be replaced is less than certain. Whilst the Council argued that the capacity of the road under the bridge, were it not improved, would be of the order of 1,800 PCUs per hour each way and queues would be substantial, the advice note relied on to support the capacity figure of 1,800 PCUs per hour is clearly not directed at the situation in question.¹ The Council were furthermore unable to say what capacity figure, if any, had been assumed when it was decided to drop the bridge replacement from the widening scheme [6.46].
- 15.72 As to ProLogis's position, their expert witness, Mr Findlay, calculated that the capacity at the bridge would slightly exceed 2,000 PCUs per hour, as did Bexley Council's consultant responsible for the Thames Road traffic model (TRTM) [6.45]. To my mind, this evidence is to be preferred to that presented by the Council witnesses at the inquiry.
- 15.73 With a capacity at the pinch point of 2,000 PCUs per hour, the evidence from the TRTM (using actual flows) is that there would be no queues at the bridge in 2010 with 50% of the development operational (PDL/5.4, Appendix A). In 2025, with the development fully operational there would be a short queue on the westbound carriageway in the pm peak (ibid), albeit that in this scenario the model runs indicated that some traffic would be displaced to alternative routes [7.190]. Whilst Bexley Council argued at the inquiry that the impact should correctly be assessed using demand flows [7.188] (and, by implication, flows from the KTS model)² their position on this matter appears to be at odds with that of their traffic consultants responsible for the TRTM, which the Council did not question at the time [6.51]. Also, demand flows model where people wish to go in an unconstrained network [7.188]. But in an urban situation, such as found in Bexley, there are numerous capacity constraints which operate to limit traffic flows on some routes in the peak hours and hence to displace traffic to routes which at less congested times of the day would not be the optimum. The effect of these constraints across the network as a whole are seen in the differences between the modelled demand and actual flows.

¹ The advice note relied on is contained in TA79/99 which provides guidance on the maximum capacity of a complete section of urban road, not an isolated pinch point such as would exist at the bridge.

² The figures quoted by Bexley and included in para 16.21 of their closing submissions (LBB0.8) (see para 7.188 of this report) are demand flows from the KTS traffic model. But, the Council's case is that the bridge is on the extreme edge of the KTS model [7.189] and its reliability is questionable. The alternative for this section of the network is the TRTM which was used by Mr Findlay to assess the effect of the bottleneck in his TN14 (PDL/5.4, Appendix A). In this regard, it seems to me that Bexley Council's case is inconsistent.

- 15.74 In practice, if traffic is held up generally along a route, little benefit accrues from relieving one constraint on that route (such as the Thames Road bridge) unless all other constraints on the route are similarly relieved. Accordingly, it seems to me that assessing the effects of not replacing the Thames Road bridge using the modelled actual flows, with and without the pinch point in place at the bridge (as was done in PDL/5.4, Appendix A) is the most appropriate course of action.
- 15.75 These findings add weight to my earlier conclusion that it would not be reasonable for the Secretary of State to accede to Bexley Council's request that a Grampian condition be imposed on any planning permission granted requiring, in effect, that the developer of the SRFI provide or fund a replacement for the Thames Road bridge.

Other Highways Matters

- 15.76 In their submissions SGCF suggest that the development would cause or exacerbate traffic problems at the North Road/South Road/Boundary Street/Larner Road junction, noting that ProLogis's traffic witness conceded that no work had been done to assess the impact on this junction [10.2]. This may be so, but the junction is some distance from the site and, as far as I am aware, not one that was identified as requiring assessment by the responsible highway authorities. In any event, it seems to me from what I heard and saw, that the cure for any congestion would seem to lie in a fairly simple change to parking restrictions [ibid]. I accordingly conclude that it would not be reasonable to refuse planning permission on this account.
- 15.77 Similarly, whilst SGCF argue that traffic generated by the development might delay local people at Junction 1a of the M25 [10.3], this junction was undoubtedly subject to detailed examination by the two highway authorities responsible for its operation who both withdrew their evidence in the light of the S106 Highway Obligations entered into by ProLogis (see para 15.52 above). I see no reason to question their collective judgement in this matter.

Very Special Circumstances

Policy Support for SRFIs

- 15.78 There is no doubt that Government policies support the movement of freight by rail. This is reflected in *PPG13*, paragraph 45, which states that "*land use planning can help to promote sustainable distribution, including ...the movement of freight by rail ...*". Planning authorities are encouraged to identify and protect sites which could be critical in developing infrastructure for the movement of freight, including facilities for allowing road to rail transfer, and to promote opportunities for freight generating development to be served by rail. The policy guidance points to *Sustainable Distribution* as setting out the Government's policy framework on freight.
- 15.79 *Sustainable Distribution* likewise supports and encourages the use of rail for freight distribution. Amongst other measures, it aims to improve integration within the freight transport industry and promotes major freight interchanges as a measure to increase the use of rail and water for freight transport. It notes that freight trains can

- be substantially more fuel efficient than lorries and states that Government wants to see more freight being moved by rail [6.68, 6.69].
- 15.80 On new facilities, it encourages the full and efficient utilisation of existing interchanges, in preference to expansion, in cases where suitable spare capacity exists or can be created, but does not rule out the possibility of creating new facilities where they are required [6.70, 9.8]. DIRFT is quoted as an example of an intermodal rail freight terminal that provides opportunities for fast, integrated road and rail distribution [6.69].
- 15.81 The Government's aim to significantly increase the use of rail by freight was re-affirmed in *Transport 2010*. Whilst subsequently a statement from the Secretary of State for Transport cautioned against treating *Transport 2010's* aspiration to grow rail freight by 80% over ten years as a target, the commitment to significantly increase rail freight remained [6.72].
- 15.82 For its part, the Strategic Rail Authority (SRA) planned to switch a proportion of non-bulk intermodal traffic from road to rail and in doing so saw a need to promote intermodal transfer facilities generally and a requirement for new interchanges in the South East [6.74]. In their *Freight Strategy*, published in 2001, they explained that, in order to grow rail freight, a substantial increase in rail-connected warehouses and intermodal handling capacity would be required [6.75]. On page 25 the document states that "*in addition to the proposed interchange at Colnbrook,... the London region will require two or three major new facilities*" [6.80, 7.58].
- 15.83 This strategy was subsequently developed in the SRA's *Strategic Rail Freight Interchange Policy* issued in 2004. It sets out the importance of having a network of SRFIs to increasing the carriage of freight by rail. It suggests that the capacity required in London and the South East would be met by "*three or four new SRFI in the region, supplemented by smaller locations within the M25 ring*". It notes that the size of SRFIs will vary considerably but that generally they will range between 40ha and 400ha [6.83]. Intermodal facilities and large-scale warehousing on the same site are regarded as a "*key characteristic*" of SRFIs which may also contain processing and manufacturing facilities and bulk handling facilities where there is demand (CD4.10, paras 4.11, 4.12 and 4.19). Open access is noted as important to enable competitive rail haulage and customer choice (ibid, para 4.10).
- 15.84 At the time of its publication there is no doubt that the SRA's *Strategic Rail Freight Interchange Policy* was not a statement of Government policy [6.85, 7.62, 7.63]. It was based on Government policy and Government has since explicitly endorsed "*much of chapters 4, 5, 6 and 7*" as "*still relevant*". It is retained on the DfT's website "*as a source of advice and guidance*". Whilst plainly Government broadly accepts the SRA's advice as set out in the document, this does not, to my mind, render it equivalent to Government policy [7.64].
- 15.85 Neither do I take the view that the subsequent references to the *Strategic Rail Freight Interchange Policy* in the *South Eastern Regional Planning Assessment for the railways* settles the matter for the reasons set out by Bexley Council [7.65 to 7.67].

- 15.86 Notwithstanding this, the development plan lends significant, albeit general, support to SRFIs. Policy 3C.24 in the *London Plan* promotes the provision of rail freight facilities and improved integration between freight modes [5.12, 6.88]. The following policy, 3C.25, specifically supports the provision of strategic rail-based intermodal freight facilities whilst noting that each proposal will be considered on its own merits and in the wider context of the plan [5.13]. The text following the policy records that the SRA's *Freight Strategy* identifies a requirement for three or four large multi-modal freight facilities on or close to the periphery of London, with a number of smaller facilities in the urban area. It advises that any site promoted as a suitable location for a SRFI must meet operational and strategic planning objectives and be located wholly or substantially on previously developed land [ibid].
- 15.87 In the *Draft Further Alterations to the London Plan*, which currently carry only limited weight [5.49], policy 3C.25 is expanded to include sites which would enable the potential of the Channel Tunnel Rail Link to be exploited for freight serving London and the wider region. The explanatory text is altered to include a reference to the *Land for Transport Functions SPG*. The requirement for any strategic rail-based intermodal freight facility site to be wholly or substantially on previously developed land is deleted and replaced with a requirement that new locations for intermodal facilities “*should meet strategic planning and environmental objectives*” [5.50].
- 15.88 Significantly, there is no evidence to suggest that the policy was the subject of objections by Bexley Council [6.90].
- 15.89 As to the SPG, this was adopted in March 2007. It notes that the *Mayor's Transport Strategy* and the *London Plan* support the Government's objective of increasing rail's share of the freight market and delivering a modal shift from road to rail. Boroughs are urged to encourage development of rail freight in appropriate locations and protect existing or proposed rail freight sites [5.57]. Paragraph 12.7 states:
- “Required capacity from rail freight growth in London and the South East would be met by three or four strategic RFIs in the region, supplemented by smaller locations within the M25 ring.....suitable sites are likely to be located where key road and rail radials intersect with the M25.”*
- 15.90 The following paragraph sets out the characteristics of a SRFI and notes that they are such that “*there is a very limited range of suitable sites in the London/South East England area*”. The SPG points to the SRA's *Strategic Rail Freight Interchange Policy* as providing detailed guidance and advice on SRFIs [6.105], following which paragraph 12.12 advises:
- “When planning applications are submitted for new rail freight sites, or for enhancements to existing RFIs.....As a general premise, the potential of rail served freight sites to deliver sustainable transport objectives should be afforded considerable weight by boroughs determining the planning application”*
- 15.91 Again there is no evidence to suggest that the SPG was the subject of adverse representations by Bexley Council during the consultation stage [6.106].
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- 15.92 At the other end of the spectrum, European policy is equally supportive of rail freight in general and the development of a network of rail freight terminals [9.4].
- 15.93 Bringing these policy strands together, there is undoubtedly strong Government support for proposals which foster the movement of freight by rail. The provision of rail freight interchanges is seen as a necessary component in delivering this strategy. Against this policy background, it was the SRA that developed the policy for SRFIs and first identified the need for three or four such facilities to serve London and the South East. Their conclusions were broadly endorsed by Government, but not specifically embodied in Government planning policy guidance.
- 15.94 The matter has, however, moved on and policies in the *London Plan* effectively embrace the SRA's conclusions and support the provision of three or four SRFIs in London and the South East. That support is qualified in the adopted plan, however, which states in terms that any SRFI should be wholly or substantially on previously developed land. Plainly, the appeal proposal would fly in the face of this requirement [6.93]. Given its status as Green Belt, it would equally fly in the face of the emerging replacement to that policy which requires that new locations for intermodal facilities should meet strategic planning and environmental objectives.

A Situation Requiring Relief

- 15.95 In looking at policy matters, it is appropriate to deal with Bexley Council's evidence and submissions on whether or not the asserted need for a SRFI at Howbury Park amounts to a "*situation requiring relief*" [7.108 et seq]. The phrase stems from the LIFE appeal decision where the Inspector concluded, and the First Secretary of State agreed, that there was not a "*clear and compelling need for a SRFI at Colnbrook in the sense of a situation requiring relief*" [7.110, 7.111]. The conclusion was reached having regard, in particular, to the amount of spare capacity available at the Willesden intermodal terminal at the time the LIFE appeal was considered. In doing so it was specifically acknowledged that "*the site at Willesden cannot be compared directly with LIFE, but it is relevant to the question of need and alternative sites*" [7.109].
- 15.96 Whilst plainly the matter was of considerable importance in the LIFE decision, as far as I am aware the phrase "*situation requiring relief*" is not otherwise found in any relevant planning policy. It is a concept which to my mind embraces the general policy requirement that proper use should be made of facilities that exist, where they are suitable, before planning permission is granted for new facilities. In the context of rail freight interchanges, this is clearly embodied in *Sustainable Distribution* – see paragraph 15.80 above.
- 15.97 I deal with the matter of alternatives below, but in regard to this matter there are plainly parallels between the Howbury Park and LIFE proposals insofar as there is an existing intermodal terminal at Barking with capacity to handle a similar number of trains to that which Howbury Park would accommodate [7.58]. It is run by Freightliner and well equipped with gantry cranes. Whilst its access to the main road network is clearly not as good as that which would be provided at Howbury Park, there is, in my opinion, no reason why it could not be improved to an acceptable

standard. At the time of the inquiry the only traffic that the terminal was handling was waste containers; all other intermodal traffic from ports and elsewhere having ceased [7.114].

15.98 Traffic at Willesden, whilst not, in my view, directly relevant to the decision at Howbury Park having regard to its location in inner West London, has similarly declined since the matter was considered by the LIFE Inspector. Indeed, at the time of my visit no intermodal traffic was being handled at that site [7.114].

15.99 Insofar as there is plainly spare intermodal terminal capacity available at Barking which could theoretically handle much, if not all, of the intermodal traffic that might be attracted to Howbury Park if it were to be developed [7.107], it might be concluded that the need for an intermodal terminal at Howbury Park does not amount to a situation requiring relief. However, I do not see the matter in such stark terms. In particular:

1. Whilst the intermodal terminal at Howbury Park could be mirrored by that at Barking there is only very limited potential to develop rail-linked warehousing at Barking (see para 15.105 below) The SRA's guidance, broadly endorsed by Government and referred to in the *London Plan*, is that a key characteristic of SRFIs is the provision of large-scale warehousing and an intermodal terminal on a single site (see para 15.83 above). Their minimum size is seen as 40ha (ibid).
2. Both the former SRA, the *London Plan* and the SPG that followed it all see SRFIs as distinct from intermodal terminals. A continuing role for smaller facilities within the M25 (such as Barking) is clearly envisaged [15.89].

15.100 To my mind the message underlying the policy is clear - SRFIs are not equivalent to intermodal terminals. SRFIs are seen as necessary to bring about a shift from road-based freight haulage to rail-based freight haulage. There is no suggestion in any policy document that I am aware of that a SRFI can in effect be disaggregated to its component parts, with an intermodal terminal separate from large scale rail-served warehousing, and still operate successfully. Indeed, the experience at Willesden and Barking, where traffic has declined markedly since the LIFE decision notwithstanding the lack of alternative rail freight terminals in London, suggests that such intermodal terminals offer little to attract users [6.140]. I accordingly give little weight to the suggestion that planning permission for Howbury Park should be refused because it has not been demonstrated that the need for additional intermodal terminal capacity amounts to a "*situation requiring relief*".

15.101 Further weight to my conclusions in this regard comes from TfL who specifically considered Barking in reaching their decision to support Howbury Park. Their conclusion was that Barking was well placed to serve traffic from Europe travelling via the Channel Tunnel Rail Link [6.136]. They did not see Barking and Howbury Park as being in competition [9.16 and INQ5.10, para 20].

- 15.102 It is useful here also to pick up on the “chicken and egg” analogy [6.112, 7.116]. Plainly, the analogy has its limitations. However, the former SRA and now the Mayor both see a need for three or four SRFIs around the M25 as necessary to foster movement of freight by rail in London and the South East. Currently there are no such terminals anywhere around London, let alone the three or four envisaged by the policies. Accordingly, unless and until they are provided the benefits that they might offer in terms of increasing the proportion of freight carried by rail will not be seen.
- 15.103 In this connection Bexley Council put it that in their *SRFI Policy* the former SRA predicted that non-bulk rail traffic in the South East would increase substantially even without additional rail-connected warehouses [7.116]. This is so; but the increase predicted with 200,000m² of rail-linked buildings is some 4.8million tonnes per year greater [ibid]. As I see it, this conclusion only serves to reinforce the argument for providing SRFIs with rail-linked warehouses.

Alternatives

- 15.104 In considering whether or not very special circumstances exist to outweigh the harm to the Green Belt and other harm that would result from building and operating a SRFI at Howbury Park, it is plainly necessary to consider whether there are alternatives that could meet the identified need. In this regard the application was accompanied by two reports examining alternative sites. The first, compiled by PFD Savills (CD1.3), examined some 19 sites and concluded that two of these – those at Howbury Park and Swanley (also in the Green Belt) would be suitable for a SRFI. The second, compiled by Nathaniel Lichfield and Partners (CD1.4) refined the study. Initially it looked at 34 sites in an arc around South and East London extending from the A1(M) to the M3 corridors, out of which seven sites were selected for more detailed examination. The report concluded that there are no alternative locations for a SRFI within the sector examined, other than Howbury Park, that would be deliverable and offer the opportunity to serve the London Market (CD1.4, para 6.13).
- 15.105 The robustness of this conclusion was accepted by both strategic planning authorities involved [6.131, 9.19, 14.1], but not by Bexley Council who maintained an argument at the inquiry that Barking represented an alternative¹. As to the merits of Bexley Council’s case, the Barking site clearly has potential as a rail interchange; indeed it has all the facilities in place to allow it to operate as an intermodal terminal. Having visited the site, however, the constraints are obvious. Its size is around half the minimum of 40ha specified for a SRFI and the existing railway land is an elongated lozenge shape and not at all suitable for the erection of large-scale rail-served warehouses (see plan in CD1.4). Whilst it might be possible to expand the site to the north, this would require the acquisition of numerous freehold interests and the relocation of the eastbound London, Tilbury and Southend railway track [6.137]. The planning regime is furthermore resistant to the construction of warehousing on the site

¹ Initially Mr Niblett suggested that several other sites to the north of the Thames might also be suitable as alternatives (LBB3.2). However, these were not pursued by the Council following cross-examination on the point.

[ibid]. To my mind, even if a viable scheme were to be drawn up, significant delays in assembling the necessary land would be almost certain [ibid]. I accordingly do not see the Barking site as a realistic alternative to Howbury Park for a SRFI. Notwithstanding this, I do accept, as TfL suggest (see para 15.101 above), that the site may well have a future role in handling specialist high speed/high volume freight trains brought into the UK via the Channel Tunnel and routed to Barking along the Channel Tunnel Rail Link [6.136].

- 15.106 At the inquiry Mr Rodmell suggested that a SRFI on the White Hart Triangle near Plumstead could also operate as an alternative to Howbury Park [13.12]. The suggestion was not taken up by Bexley Council or any other body at the inquiry, however, and it was accepted that the area of the site is around half the minimum of 40ha required for a SRFI [ibid]. In comparative terms the site is also remote from the M25 [ibid]. Having visited the area and considered the evidence presented on the subject, my opinion is that the White Hart Triangle can be safely discounted as a suitable site for a SRFI.

Practical Considerations

- 15.107 In looking at the strength of the very special circumstances case, it is also pertinent to consider whether, if planning permission were to be granted for Howbury Park, the resulting development would operate as a SRFI. Put candidly some objectors to the development were suspicious that ProLogis's proposal for a SRFI was no more than a device to obtain planning permission for a large warehouse complex on Green Belt land in a prime location close to the M25 [6.154]. The suspicions were heightened by ProLogis's unwillingness to enter into any agreement that would make them liable for significant financial payments should the rail facilities not achieve the level of use anticipated [7.133], and by the limited information available regarding the costs and value of the development [7.47].
- 15.108 As to the practical considerations that could potentially constrain the use of rail at Howbury Park the following were cited:

1. Lack of suitable train paths.
2. Restricted loading gauge.
3. Location relative to the UK's major ports.
4. Capacity of the intermodal terminal.

Lack of Suitable Train Paths

- 15.109 It is common ground that during the peak commuter periods passenger traffic using the suburban railway network in the vicinity of the site, including trains entering and leaving Southeastern's Slade Green Depot, is likely to prevent freight trains accessing a SRFI at Howbury Park [7.122, 7.131]. Bexley Council and others are also concerned that at other times of day pressures on the network from passenger trains

might restrict the number and/or routing of trains to and from Howbury Park, thereby limiting the development's potential to succeed as a SRFI.

- 15.110 Evidence on this matter took a significant amount of inquiry time, without, in my view, reaching a completely firm conclusion. In essence, there is little doubt that Network Rail are supportive of the scheme [6.148]. They have effectively guaranteed that paths for three trains each day would be made available on opening the terminal and they state that further paths are likely to be made available as and when required [ibid]. At the same time, they are not prepared to guarantee that all the inbound and outbound paths per day which the fully operational terminal would require will be made available [ibid].
- 15.111 This is, as I understand it, Network Rail's normal practice [6.148], reflecting their need to keep their options open and to deal even-handedly with all train operators who might want to use the network (PDL/6.6, Appendix 2 and PDL/6.13). There is no suggestion on their part that they would not be able to accommodate the growing needs of the terminal.¹ EWS are equally confident that the terminal could be adequately served [ibid] as are Interfleet who undertook several timetable analyses [7.125 et seq]. The evidence also is that there are several unused train paths (including "Q" paths and paths assigned to Channel Tunnel traffic) that could be re-allocated to the terminal in any timetable revision [9.12].²
- 15.112 Alongside this positive picture of path availability, it has to be recognised that the implications of the emerging Kent Franchise and planned timetable changes on the North Kent Lines are not yet fully understood and have not yet been fully assessed [7.122, 7.125, 7.128 et seq, 13.5 et seq]. Accordingly, whilst I take the view that, on the totality of the evidence available, the Secretary of State can be reasonably assured that sufficient train paths would be available to service a SRFI at Howbury Park, I do not consider this guaranteed.

Restricted Loading Gauge

- 15.113 As to loading gauge, the principal route to the site, via Barnehurst is W8 gauge. As such it would not be able to accommodate "high cube" 9ft 6in high containers on standard height wagons [7.97]. The evidence is that a significant number of these high

¹ In reporting this I differentiate between the various letters sent by Barbara Barnes, Network Rail's Head of Customer Services (PDL/6.3, Appendix F; PDL/6.6, Appendix 2 and PDL/6.13) and the e-mail sent by Paul Harwood to Bexley Council's rail witness, Mr Niblett. Whilst Mr Harwood clearly has concerns regarding the potential future availability of sufficient paths to service the terminal [7.123] his e-mail says in terms that this is "*very much my own gut feeling and not the result of any analysis*" (PDL/6.21). Barbara Barnes' letter of 14 April 2007 (PDL/6.6, Appendix 2) advises that Mr Harwood's comments have been taken out of context by Mr Niblett.

² For Q paths see PDL/6.16, Appendix 1. It should also be noted that the two paths identified by EWS and referred to by Bexley in their closing submissions (LBB0.8, para 12.2 and 12.3 - see paras 7.119 and 7.120 above) are both existing unused Q paths allocated to EWS. The submissions do not make this clear.

cube containers are being used for international shipping; moreover, the proportion is increasing [ibid].

- 15.114 Whilst high cube containers could be carried on special low platform wagons, it is plain that this is not the preferred method of doing so [7.98, 7.99, 7.101]; indeed it is proposed to spend large sums of money elsewhere to enhance the gauge from Southampton to the West Coast Main Line and from the Haven ports to the East Coast Main Line via Peterborough to W10 gauge [7.102].
- 15.115 As to the degree to which Howbury Park would be disadvantaged in practice by not being on a route cleared to W10 gauge, it is difficult to reach a firm conclusion. On the one hand there is little doubt that an increasing proportion of the containers used internationally will be high cube (see above); but there is no evidence that this trend is being followed for containers used on inland routes. Indeed, there is evidence that Tesco recently took a decision to employ lower intermodal units for their traffic running between Scotland and DIRFT (which is cleared to W10 gauge) because of the flexibility that it would offer to route trains on alternative or diversionary routes. Other UK operators have likewise taken decisions to use intermodal units compatible with W8 gauge (PDL/6.15, para 7.3).
- 15.116 The number of routes cleared to W10 gauge on the UK rail network is also limited - only some 2% of the total UK rail network is currently cleared to W10, compared to around 30% cleared to W8 or larger (PDL/6.15, Table 3). Notwithstanding this, the lines cleared to W10 gauge are the most important for container traffic and include the West Coast Main Line (WCML) and the route between Felixstowe and the WCML via London. The London Tilbury and Southend Line (which covers Barking) is also cleared to W10 gauge. There are plans to increase the length of the network cleared to W10¹ (see para 15.114 above) but some routes with a more restricted gauge are nonetheless already well used, notably the routes from Southampton which are currently only cleared to W8 (PDL/6.15, Table 5). The existing route from the Channel Tunnel through Kent and south London is cleared to W9 gauge and the CTRL is built to the larger UIC GC gauge, but elsewhere south of the Thames all other routes are a maximum of W8; indeed the majority are W6 (LBB3.8).
- 15.117 As to the penalty which would accrue from using low platform wagons, there is no dispute that build and operating costs with low platform wagons are higher than for standard wagons [7.101]. However, low platform and standard wagons can be mixed in a single train and the penalty in terms of the number of containers which can be carried on a given length of train very much depends on the actual mix of containers involved [6.147 and PDL/6.15, Figure 5]. It is also important in deciding whether a penalty would accrue to consider both the origin and destination of the train – if, for example a train comes to Howbury from a remote destination cleared to W8 gauge

¹ In this connection it should be noted that the Network Rail's Freight Route Utilisation Study identifies the North Kent Line as an "additional priority" for gauge enhancement (CD4.15, Figure 6.2). However, no timetable for this enhancement is given.

such as Tees Dock, then that gauge will in any event dictate the train's configuration (PDL/6.15, paras 9.5 and 9.6).

- 15.118 In conclusion there is little doubt that a SRFI at Howbury Park would be at some disadvantage insofar as the site would only be able to accept trains that would run under W8 gauge, not W10. Notwithstanding this, it has to be recognised that only a small proportion of the UK rail network is currently cleared to W10 gauge. Also, with low platform wagons, high cube containers can be carried on routes cleared to W8 gauge, albeit that doing so incurs additional costs. As such I tend to the view that the disadvantage that Howbury Park would suffer from not being on a route cleared to W10 gauge would not be fatal; indeed the evidence is that any SRFI proposed to serve London and located to the south of the Thames is likely to be at a similar disadvantage.

Location Relative to the UK's Major Ports

- 15.119 A further concern voiced by Bexley Council relates to the distance between Howbury Park and the UK's major ports. In essence the case put is that the distance between the site and Southampton or the Haven Ports is not long enough for rail to compete with road [7.93]. Analysis by Mr Niblett was produced which claimed to show that the "breakeven distance" above which rail haulage would be competitive compared to road haulage would be of the order of 190km for port traffic, rising to around 400 or 500km for non-port traffic [7.94]. Given that the intermodal terminal is expected to account for a high proportion of traffic to the site [7.90], and that a high proportion of this is containerised international traffic routed via the ports [7.92], it was argued that the number of trains using the site would be likely to fall well short of the number forecast by ProLogis.
- 15.120 As to the merits of this line of reasoning, there is no doubt in my mind that it is basically sound, so far as it goes. Whilst I would hesitate to put precise numbers to breakeven distances, and agree with ProLogis that some aspects of Mr Niblett's calculations were difficult to comprehend [6.152], it does seem to me that current practice bears out the case made by the Council. Whilst there are some examples of freight operators running rail services over distances that are less than Mr Niblett's breakeven distance [6.152], there are very few and the evidence is that several that were running have now ceased to do so [7.95]. To my mind it has to be accepted that trains between Howbury Park and Felixstowe (160km) or Southampton (130km) are unlikely to be competitive when compared to road transport. Plainly, trains from Thamesport or the recently approved terminal at Thames Gateway would be even more uncompetitive.
- 15.121 Notwithstanding this, the analysis only goes so far. Freight traffic coming through the Channel Tunnel is not considered, which the site would be well placed to accept. ProLogis expect this to generate three trains daily [7.104]¹. Equally, the breakeven

¹ Whilst Bexley Council question this and point to the general downward trend in freight through the Channel Tunnel over recent years in support of their case [7.105], it seems to me that these effects may well be short

analysis does not attempt to take on board considerations other than cost, and uses today's cost base. Whilst this approach is practical, and in most circumstances would not be unreasonable, it does seem to me that other factors are also likely to drive a movement of road-based traffic to rail. Corporate social responsibility is a major consideration that appears to be driving a move to rail-based transport; others are the impact of increasing congestion on the road network (particularly in the London area) on road-based transport costs and delivery schedules. Escalating fuel costs, the ageing profile of HGV drivers and road pricing, if it is introduced, could all also serve to increase the propensity of those responsible for moving goods to move towards rail-based haulage [6.153].

- 15.122 Plainly these effects cannot be quantified. However, I agree with ProLogis's view that overall the trend is likely to be towards increased rail traffic. This would fit with the Government's ambitions (see paragraph 15.81 above). Also, whilst no documents were produced at the inquiry to back up the former SRA's conclusion, embodied in the *London Plan*, that three or four SRFIs are required to service London and the South East [7.90] it seems to me very unlikely that such a firm conclusion would have been reached without credible research to establish the demand.

Capacity of the Intermodal Terminal

- 15.123 The capacity of the intermodal terminal is the subject of a note (PDL/6.17). It was put into the inquiry by ProLogis's rail witness Mr Gallop but, as the introduction notes, it was discussed with representatives of Bexley Council before it was finalised and the assumptions and variables input to the capacity calculations were broadly agreed between the parties (ibid, paras 1.2 and 1.3).
- 15.124 It concludes that, with two reception sidings, the three primary handling sidings in the intermodal terminal would be capable of handling between 9 and 15 x 420m long trains per day, using reachstackers (PDL/6.17, para 3.4). With gantry cranes this would increase to 13 to 16 trains per day (ibid). On this basis it is concluded that it would be feasible to process the nine intermodal trains per day expected to use the intermodal terminal, and the three conventional trains to the warehouses within the window available to move trains in and out of the site [6.151 and PDL/6.17, para 3.5].
- 15.125 It is further concluded that it would be possible to accommodate trains of up to 775m in length if necessary, albeit that the maximum length of train that can currently operate on the North Kent Line is 512m (3.5 and PDL/6.1, para 7.15).
- 15.126 The S106 Non Highway Obligations require gantry cranes to be provided on the site, together with a second arrival/departure chord as soon as traffic exceeds 24 trains per week or by the end of 10 years in any event [1.16].

term. Given the policy aims at the highest European level to increase the proportion of freight carried by rail [15.92], and the capacity available in the Channel Tunnel at night which could be used to accommodate additional freight I see no reason why the recent downward trend should not be reversed. The draft *London Freight Plan* records that Eurotunnel estimate that freight traffic through the tunnel could increase from 2 million tonnes today to between 6 million and 14 million tonnes [5.55].

Positive Indications that the Development would Operate as a SRFI

- 15.127 Against these concerns it has to be recognised that ProLogis is a major provider of logistics space with wide experience of the market and their customers' requirements. They have recently acquired DIRFT and two other intermodal facilities in the UK and have a programme to deliver SRFIs nationwide [6.122]. Notwithstanding the simple economics of transporting goods by rail, it also has to be recognised that the corporate desire on the part of large retailers and others is embracing environmental matters. Moving goods by rail fits with that agenda as was recently demonstrated by Tesco when they set up the regular intermodal service between Scotland and DIRFT. Other retailers are also reported to be moving towards rail haulage, as are third party logistics operators such as DHL and Eddie Stobart [ibid]. Plainly, if these and similar companies are to move from road-based haulage operations to a mix of road-based and rail-based haulage, they need the warehouses and terminals to fulfil those ambitions (see also para 15.102 above).
- 15.128 There is also no doubt in my mind that ProLogis is fully committed to delivering the rail infrastructure on the site. Whilst they resisted Bexley Council's suggestion that they should enter into an agreement by which financial payments would be made into a fund to promote rail use, should defined targets for rail use not be met [7.133], the S106 Non Highway Obligations nonetheless contain a range of measures that should encourage rail use. These include undertakings to (i) complete the intermodal terminal and other rail infrastructure before any of the rail-served warehouses are occupied and to provide rail sidings to each of the warehouses before they are brought into use; (ii) provide a £3,000,000 rail subsidy fund to pay for lift subsidies for users of the intermodal terminal in the first three years of operation and to secure a regular "start up" train service between the site and an appropriate rail freight hub (with options to increase the funding to £4,000,000 if necessary and to apply the money to alternative measures to encourage rail use if that is agreed to be appropriate); (iii) fund and support the work of the Thames Gateway Sub-Regional Freight Quality Partnership, and finance the appointment of a Rail Officer at TfL; (iv) provide a second rail chord to the site (to allow a train to enter the site whilst a second train is waiting to depart) as soon as traffic to the terminal exceeds 24 trains per week, or within 10 years from commencement of development, in any event; and (v) provide gantry cranes in the intermodal terminal within the same timescale [1.16].
- 15.129 A rail freight plan is also required to be submitted containing specific actions to encourage rail freight with the aim of building the amount of goods arriving at the warehouses by rail to at least 25% by weight by the end of the first 10 years of operation [1.16].
- 15.130 In this connection, Bexley Council argue that the survey carried out at DIRFT showed that only a small proportion of the goods passing through the warehouses there were moved by rail [7.73, 7.86 to 7.89]. They submit that the proportion at Howbury Park would be similarly low. However, my view is that the case made is, at best, weak. My reasons for this are:

1. The survey cordon at DIRFT was not drawn specifically to measure the amount of goods carried by rail, but to measure traffic flows; the cordon included the intermodal terminal and both rail-linked and non rail-linked warehouses [7.86].
2. Whilst more than half the warehouses in the cordon area at DIRFT are rail-linked [ibid], the proportion that is rail-linked across DIRFT as a whole is around 20%.¹ In contrast, at Howbury Park 100% of the warehouses would be rail-linked.
3. No reliable data was available as to what percentage of goods passing through the intermodal terminal was destined to go to or come from those warehouses at DIRFT which lie outside the cordon.
4. Whilst it is argued that there is a large supply of other warehouses in the Thames Gateway near to Howbury Park which the intermodal terminal could serve [7.89], it is my understanding that there are also other major warehousing sites close to Daventry which the intermodal terminal at DIRFT serves. In any event, if the intermodal terminal at Howbury Park were to generate rail traffic destined for other warehouses in the Thames Gateway, I would see that as a positive outcome, not a negative outcome overall.
5. Whilst DIRFT benefits from a W10 gauge rail connection and more reception sidings than would be provided at Howbury Park [7.87, 7.132], I do not see the gauge issue as fatal to the success of Howbury Park for the reasons given above. Equally, there is no evidence to show that the rail facilities proposed at Howbury Park would unacceptably limit its rail capacity or flexibility to accommodate its customers' needs. Indeed, whilst it would appear that the number of reception sidings available at DIRFT is exceptional, it is agreed that several other terminals (including DIRFT, Hams Hall and Birch Coppice) have single track access to the intermodal terminal (PDL/6.17, para 1.17). This is a critical link in the operation of any terminal and it seems to me that in this regard the arrangements proposed for Howbury Park would not be out of step with those found elsewhere.
6. Finally, whilst it is fair to acknowledge that DIRFT operates as a national distribution centre and is better placed to attract port traffic [7.87], Howbury Park would have other advantages. In particular it would be well placed to serve the London and South East markets where there is currently a lack of similar facilities, especially rail-linked warehouses [6.129, 6.130]. It would also be well placed to receive traffic from Europe travelling via the Channel Tunnel [9.14].

¹ See PDL/6.25. The area of non rail-linked warehousing is given as 280,472m². The area of rail-linked warehouses is given as 70,420m².

- 15.131 Overall I accordingly take the view that the evidence does not demonstrate that the warehouses would not attract a significant percentage of goods by rail.
- 15.132 In this connection there is also no doubt that the design of the proposed warehouses at Howbury Park has been optimised to attract users committed to rail. In essence they would be large - indeed Unit A would be one of the largest in London and the South East [6.126, 7.17] - and their width, at around 150m for Units A, B and C, would be considerable. Loading bays suitable for lorries would be provided along one side only, however, and the other side would be taken up by rail tracks. The units would thus not be “cross-docked” which the evidence shows is normally required by operators of road-served warehouses of this size [6.123]. Plainly cross-docking is not an essential requirement for road-served warehouses [7.135]. However, the evidence available points to the conclusion that the larger units proposed at Howbury Park would be difficult to let to a road only user given their configuration. Also, it seems to me that the peak hour cap on lorry movements from the site, embodied in the S106 Highway Obligations [1.19], would further tend to dissuade road-only users from occupying space at the site, albeit that its provisions would only take effect in the peak hours on the local network, which are not normally the peak hours for HGV movements [7.136].

Sustainability

Use of Previously Developed Land

- 15.133 It is a fundamental plank of Government policy, reflected in the development plan for the area, that previously developed land should be utilised for development wherever it is feasible to do so before greenfield sites [5.6, 5.35, 7.48, 7.49, 7.56]. Clearly the appeal proposal would run counter to this principle. But the principle can only hold good where suitable previously developed land is available to meet the need identified. If it is not, as my above conclusions on the availability of alternative sites demonstrates in this instance, then inevitably greenfield land must be used if that need is to be met.

CO₂ Emissions

- 15.134 There is no doubt that when drawing up their *SRFI Policy* (CD4.10) the SRA anticipated that one of the benefits of moving to rail-based freight from road-based freight would be a significant saving in CO₂ emissions [6.83]. Paragraph 5.10 of the document states:

"Rail freight has a material advantage over road freight in terms of carbon dioxide emissions, which impact on climate change. The average CO₂ emission per tonne kilometre of rail freight is 23g whereas, for HGVs, it is 178g."

- 15.135 At the inquiry the correctness of this and similar statements was called into question by Bexley Council. In doing so they pointed out that similar issues had been the subject of evidence at the LIFE inquiry. There the Inspector concluded and the Secretary of State agreed [7.153]:

“For CO₂ emissions, the effect of the development is difficult to predict with any certainty. It could be beneficial or harmful, but would certainly not have the clear benefits claimed by Argent.”

- 15.136 Initially ProLogis calculated that the appeal proposal would, when fully operational, “save” around 35,300 tonnes of CO₂ per year (ES, Volume 5a, Appendix A4, p14). Bexley Council’s witness on the other hand suggested that the development would in fact increase CO₂ emissions [6.115].
- 15.137 During the course of the inquiry the two witnesses sought to gather further data and reach agreement on the matter, but with only limited success. In essence they were able to agree the CO₂ emissions for HGVs, but not those for the Class 66 locomotive which would be used to haul the trains, where it seems to me that the research base is both limited and less reliable. There were also differences in the assumptions made regarding the average number of containers carried per train and the number of HGVs saved (PDL/6.23). “Final” estimates of the savings produced ranged from 2,582 tonnes CO₂ per annum (Bexley) to 33,581 tonnes CO₂ per annum (ProLogis) (ibid).
- 15.138 As to what the actual savings would be I tend on the evidence available to err towards the Class 66 fuel consumption figure ultimately relied on by Bexley Council’s witness which came from GB Railfreight and related specifically to an intermodal train [7.144 and 7.145]. It is in the same range as other figures from AEA and EWS [7.145 and 7.146], but around double that ultimately relied on by ProLogis which came from a press release from Stobarts, with no substantiation to back the figure [7.147]. As to the number of containers which each train would carry, and the consequent saving in HGV trips, I tend towards Bexley’s assumption that there will be an average of 20 containers on each train, which was derived from analysis of actual trainloads at DIRFT [7.149]. It does however, seem to me that Bexley’s assumption that these 20 containers on a train would be carried by 16.6 HGVs is optimistic as it assumes that one third of containers on a train are 20ft in length and all of these are carried in pairs on an HGV (LBB7.5, p2). The assumption takes no account, however, of HGV weight limits which would prevent heavy 20ft containers being loaded in pairs on a single vehicle. Neither does it account for any need to deliver each single 20ft container to a different destination. Overall, it seems to me that an assumption that each train would carry 20 containers and replace 18 or 19 HGVs would be more realistic.
- 15.139 If this line of reasoning is followed through, the total savings in CO₂ would be of the order of 6,000 tonnes per annum.¹ If, alternatively, the average number of containers carried on a train were to increase to the 28 assumed by ProLogis, the figure would increase to around 20,000 tonnes of CO₂ per annum.²

¹ See PDL/6.23. Taking Bexley’s figures for rail, CO₂ generated is 16,184 gm/km. If this replaces 18.5 HGVs the saving is ((18.5x1,065)-16,184) = 3,518gm/km or 6,077 tonnes of CO₂ per annum.

² See PDL/6.23. A train with 28 containers is assumed to displace 26 HGVs. The saving thus becomes ((26x1,065)-16,184) = 11,506gm/km or 19,873 tonnes of CO₂ per annum.

- 15.140 Overall there is little doubt in my mind that, even with allowances for empty running and trip end mileage [7.140, 7.151 and 7.152], the proposal would benefit the environment by reducing CO₂ emissions, albeit that the amount of the reduction in emissions achieved would almost certainly not be as great as that initially claimed by ProLogis.

Design

- 15.141 There is no suggestion that in terms of its sustainability credentials the design of the terminal would be less than satisfactory. Indeed it is proposed that the buildings would incorporate a range of measures to increase their sustainability. These are detailed in the Design Code (ES, Volume 5a, Section A) and would be secured by an agreed condition (PDL/0.13, Condition 6). They include the provision of some 28,240m² of green roof and 6,285m² photovoltaics and other measures to reduce CO₂ emissions. Rain water from the roofs would be collected and used to reduce on-site water consumption whilst run-off from other parts of the site would be directed via treatment ponds to swales and infiltration trenches, with multiple controlled connections to the Crayford Marshes [3.13].

Precedents

LIFE

- 15.142 I have dealt with the LIFE decision above where I consider the matter of a “situation requiring relief”. Whilst plainly many features of that proposal were common to the proposal now being considered, I nonetheless do not see, as Bexley imply, that the Secretary of State’s decision on Howbury Park must necessarily follow that reached in respect of LIFE [7.3, 7.58, 7.69, 7.73]. It is a fundamental principle of the planning process that each application should be determined on its merits, in accordance with the development plan unless material considerations indicate otherwise. It is true that the SRA’s 2001 *Freight Strategy*, which first introduced the concept of a requirement for two or three major new freight facilities around London in addition to Colnbrook, was published before the LIFE decision was reached, albeit not before the inquiry was concluded [6.81]. But policies evolve with time and there is no doubt that in the five years since the LIFE decision (and the seven years that has elapsed since the inquiry was held) the policy base for the provision of three or four SRFIs to serve London and the South East has evolved and strengthened (see para 15.78 et seq above). Accordingly, whilst plainly it would be right for the Secretary of State to have regard to the precedent set by LIFE in reaching her decision on Howbury Park, I do not see that she is bound to arrive at the same conclusion.

Other Precedents

- 15.143 As to other precedents, Bexley and Dartford Councils both brought evidence to the inquiry showing that past attempts to secure development on the area of Green Belt including the appeal site had been unsuccessful and the Green Belt boundary had been upheld [7.12, 7.14, 8.10]. There is no doubt that this is so. However, it is plain that the developments then under consideration were not at all comparable to the appeal

proposal. I therefore take the view that as precedents in favour of dismissing the appeal proposals these decisions should carry insignificant weight.

Other Matters

Car Parking

- 15.144 ProLogis propose that 1,167 car parking spaces be provided in the development [6.53], in five dedicated car parks located near to the office accommodation at the ends of the warehouses. The number would be controlled by condition which would also operate to prevent cars being parked elsewhere on the site (Appendix E, Conditions 28 and 34).
- 15.145 At the inquiry Bexley Council, with support from SGCF, argued that fewer spaces should be provided, in the interests of encouraging workers at the terminal to travel to work by means other than the private car. A maximum of 1,000 spaces was suggested [6.53]. ProLogis resisted the suggestion.
- 15.146 As to the merits of the point, *PPG13*, paragraph 49, records that the availability of car parking has a major influence on the means of transport people choose for their journeys. Reducing the amount of parking in new development is essential to promote sustainable transport choices [7.156 and 7.157]. The requirement to provide no more car parking spaces than necessary is reflected in the *London Plan* [5.11, 7.160] and the *Bexley UDP* [5.21]. Accordingly, it is put that providing more spaces than the minimum required would both conflict with policy and could potentially undermine the success of the travel plan, which aims generally to encourage travel by means other than the private car [7.168].
- 15.147 I acknowledge that the argument put has some force, and that some elements of the parking accumulation study which underpins ProLogis's application for 1,167 spaces are open to question. It seems to me that the number of cars assumed to be parked overnight at DIRFT is probably not as high as the number calculated by ProLogis's consultants [7.166]; equally the underlying assumption that 70% of workers would travel to Howbury Park by car may be pessimistic for the reasons cited by the Council and SGCF [7.164, 7.165, 10.5]. Having considered the matter in the round, I nonetheless conclude that the number of parking spaces should not be reduced below the 1,167 proposed by ProLogis. My reasons for this are as follows:
1. Whilst the number of spaces is large, it is just over half the maximum permitted by the development plan's parking standards [6.54]. Also, whilst these standards apply equally to Class B1 uses and Class B8 uses [7.162], the site is not in a town centre or other highly accessible location which would normally be the case for large-scale Class B1 office uses where the employment density would be significantly higher than the appeal site.
 2. The total number of parking spaces proposed (1,167) would need to be divided between the five car parks proposed. These car parks are linked to

the individual warehouses and, if they were to be occupied by independent companies [6.127], any spaces that were available in one company's car park would probably not be available to workers of a different company. Also, the size of the site is such that a worker in an office at the north end of the site is unlikely to want to park at the south end, or vice versa. In these circumstances I take the view that providing 10% extra spaces over and above the number calculated by the global accumulation study is reasonable [7.167]. Removing any unused spaces, as Bexley Council suggest, would be wholly impractical, given the potential for occupiers and/or their needs to change over time [6.56].

3. The site is expected to operate around the clock. This has two practical consequences. Firstly, the availability of public transport for those workers starting shifts early in the morning or finishing late in the evening is likely to be reduced, leading to an increased tendency/need to travel to or from work by car in comparison to those working normal daytime hours.
4. Secondly, if the shift pattern follows that at DIRFT, the evidence from the parking accumulation study is that the car parks would only approach capacity at the afternoon shift change time (i.e. at the point when workers on the morning and afternoon shifts are both on site as well as those employees working standard daytime hours [6.55]). At all other times spare spaces would be available. Accordingly, restricting the number of car parking spaces on the site would in practice only limit travel choice for workers arriving for the afternoon shift; others would not be affected. Any gains in terms of persuading workers to use more sustainable means of travel by limiting parking spaces would therefore only impact on a small proportion of the workforce.
5. Critically, and allied to the above, should there be a shortage of parking spaces in one of the northern car parks, such that a worker arriving to start his or her shift has difficulty finding a parking space, then it would be open to them to park in one of the nearby residential streets in Slade Green and walk into the site along Moat Lane. Were this to happen – and there are no parking regulations in force or proposed which would prevent it – then local residents would be inconvenienced [6.55, 10.19]. Moreover, the worker would still travel by private car; thus there would be no gain in sustainability terms.
6. Critically also the S106 Obligations and the accompanying Framework Employee Travel Plan/Freight Travel Plan contain a number of obligations aimed at encouraging workers to travel by non-car modes to the site. Schedule 2 of the Highway Obligations (PDL/0.16) sets out some of these. The Non Highway Obligations provide for £180,000 to be paid to extend the No 89 bus route into the site, or alternative measures to maximise the use of public transport by persons employed at the development [1.18]. Other measures set out in the Travel Plan (PDL/5.21) aim to encourage

walking, cycling, travel by train and car sharing. Whilst TfL originally raised concerns regarding the number of parking spaces proposed, they wrote shortly before the inquiry closed confirming that “in principle” agreement had been reached on car parking. Whilst they had reservations about the outcome the Travel Plan might deliver, they advised that it was nonetheless acceptable [14.8].

- 15.148 Should the Secretary of State be minded to grant planning permission for the proposed development but disagree with my conclusions on the appropriate provision to be made for parking cars on the site, then it would, of course, be open to her to adjust the permitted number by varying suggested Condition 34.

Other Industrial and Warehouse Sites

- 15.149 In their evidence Bexley Council drew attention to the more than adequate supply of land for industrial and warehouse uses in the area [7.4, 7.51, 7.52]. Plainly the construction of warehouses on the site would not accord with policy [7.46, 7.50]. But the argument is deeper than this and implicitly it was suggested that, if Howbury Park were permitted, investment which might otherwise have gone to these sites might be lost, thereby undermining regeneration initiatives [6.120]. I reject that argument. Put simply the proposal is for a SRFI with rail-connected warehouses and an intermodal facility [ibid]. There is no suggestion that there are other industrial sites in the Borough where large-scale rail-connected warehouses could be provided. If the Secretary of State determines that planning permission should be granted for Howbury Park, the permission will be for a SRFI containing rail-connected warehouses. Also, the S106 Non Highway Obligations, whilst not providing all the safeguards that Bexley Council would like to see to secure the rail use (see below), would nonetheless ensure that the rail facilities are provided and maintained. A substantial package of incentives would also be put in place to encourage their use. To my mind there is no evidence to support the view that providing rail-linked warehouses on the site as part of a SRFI aimed at meeting the strategic needs of London and the South East would materially impact on the demand for conventional warehouses in the Borough served only by road. Indeed, it seems to me that the provision of a nearby intermodal terminal might well tend to enhance demand for such units.

Employment and Socio-Economic Benefits

- 15.150 There is no dispute that the development would bring a substantial number of jobs to the area, which would be welcomed by residents [6.160, 10.29]. Notwithstanding this, I tend to the view that the employment and socio-economic benefits that would accrue from the development would be modest; there is no shortage of employment land in Bexley (see above), and unemployment in the Borough is unexceptional [7.76]. The employment density at the development is also likely to be less than for other sites of comparable size [7.75]. Accordingly, I take the view that the employment benefits that would flow from the development should not weigh significantly in deciding whether planning permission should be granted.

Conditions

15.151 Conditions were discussed at the inquiry, without prejudice, and largely agreed as between ProLogis and the two local planning authorities (PDL/0.13 and LBB0.6). Should the Secretary of State be minded to grant planning permission for the proposed development, then I recommend that the conditions listed in Appendix E be attached to the permission granted. These conditions follow those discussed and agreed at the inquiry and, to my mind, accord with the six tests for conditions laid down in Circular 11/95. They reflect the nature of the applications, which were in outline with all matters reserved for future consideration except means of access and siting. Several of the conditions are necessary to ensure that any development built accords with the scheme assessed in the ES and at the inquiry¹. Others are necessary to ensure that the amenities of the locality are protected, that pollution is prevented, that the operation of the highway network is not prejudiced and that the development provides and retains appropriate facilities for its future occupiers. As to the individual conditions:

1. **Condition 4.** Whilst a “pocket park” is proposed as part of the development and is shown on the application plans, its provision is not supported by Bexley Council or local residents [6.19, 10.17]. I have therefore adjusted Condition 4 to require the area proposed for the pocket park to be landscaped. This would not preclude it being laid out and managed for its wildlife interest as suggested by SGCF [ibid].
2. **Condition 9.** The area shown to be landscaped is a small area of land which would remain between the proposed access road and the boundary of the application site. It is in the control of the Appellants and all at the inquiry were agreed that it should be landscaped. The condition provides for this.
3. **Condition 10.** The suggested condition relating to the pocket park is deleted for the reasons given above. A new Grampian condition is proposed, requiring details of the proposed highway works on Moat Lane and at the main access roundabout serving the site to be submitted for approval prior to development commencing. This reflects my conclusions on the need for further checks and adjustments to be made to the design of the access road roundabout and the lack of detail on the proposals for Moat Lane, particularly with regard to the footway to the east of the proposed new entrance (SGCF/18, p1). The form of the condition follows that suggested by the Council (LBB0.6, Additional Condition A). The absence of references to the Crayford Mill Railway Bridge and the Thames Road/Crayford Way roundabout reflects my conclusions on these set out above. Similarly, there is no mention of HGV direction signs as this matter is covered by the S106 Highway Obligations (PDL/0.16, Schedule 1, Clauses 4 and 5).

¹ Notably Conditions 4, 5, 6, 7, 8, 11, 12, 21, 22, 31 and 34.

15.152 As to the various amendments and additional conditions suggested by Bexley Council (LBB0.6):

1. **Amended Condition 27:** The suggestions, which are necessary to control parking on the site are accepted and incorporated in Condition 28.
2. **Amended Condition 28:** The amendment to the wording is accepted and incorporated in Condition 29.
3. **Amended Condition 34:** The parking condition has been amended to include specific mention of spaces for disabled and car share drivers, in the interests of clarity, but the other amendments are not accepted for the reasons set out in paragraph 15.147 above.
4. **Additional Condition A:** This has been accepted in part – see note on Condition 10 above.
5. **Additional Condition B:** The requirement to provide parking spaces for HGVs prior to occupying the warehouses is covered by Condition 28. In my opinion, the requirement for a separate emergency “stack” parking area for HGVs is unnecessary and unreasonable having regard to the large amount of space in the service yards and intermodal area which should be readily available to park any HGVs whose departure is delayed by an incident on the highway network.
6. **Additional Condition C:** The Travel Plan is agreed by Kent County Council, the Highways Agency and Transport for London. It is defined in the S106 Highway Obligations (PDL/0.16, definition of “the FTP”) which require its terms to be observed (ibid, Schedule 2). To require it to be separately approved by the local planning authority is unnecessary and could potentially lead to requirements differing from those agreed by the highway authorities principally affected.
7. **Additional Condition D:** The S106 Non Highway Obligations require the rail infrastructure on the site to be provided before the intermodal terminal and warehouses are beneficially occupied (PDL/0.15, Schedule 1, Clauses 1.2 and 1.3). Other obligations indirectly encourage its maintenance and use. There is no specific obligation, however, which would prohibit the removal of all or part of the rail infrastructure at some future date. To my mind, such a requirement would be necessary and reasonable having regard to the nature of the development proposed and the very special circumstances cited by ProLogis as justification for the grant of planning permission for it [6.67 et seq]. I have therefore drafted a condition to this effect and included it in my schedule of suggested conditions (Appendix E, Condition 37).
8. **Additional Condition E:** This condition seeks to prevent construction of more than 50% of the proposed warehousing unless it can be shown that

25% or more of the freight handled in the warehousing already constructed has been moved to or from those warehouses by rail over the previous year. In principle the underlying aim of the condition - to ensure that the warehousing is used for rail related purposes and not simply as road based warehousing - is sound. However, other measures are proposed which would operate to achieve this. These include the requirement to provide and retain the rail infrastructure on site (see note on Additional Condition D above) and the raft of measures included in the S106 Non Highway Obligations to foster and encourage rail use. These include a requirement that a Rail Freight Plan be drawn up for approval containing specific actions to encourage rail freight with the objective of progressively building the amount of goods arriving at the warehouse to 25% by the end of the first 10 years of operation (PDL/0.15, Schedule 1, Clause 1.11). Given these safeguards it seems to me that the further condition suggested by Bexley Council is unnecessary. In any event such a condition would, to my mind, not comply with the requirement that conditions should be “reasonable” set down in Circular 11/95 and I am doubtful whether it would achieve the desired outcome.¹ I accordingly recommend against its imposition.

¹ There are several areas in which it might be concluded that such a condition would not be reasonable. Firstly, the amount of goods brought to a warehouse by rail is dependent on the actions of other parties outside the developer’s control. These include the various companies and other bodies responsible for running the railways. Whilst there is no expectation that any of these would not work to ensure the success of the development from the rail perspective, their ability to do so might be fettered by others and/or they may choose to act less than competitively if a condition were in effect to require 25% of goods to be brought by rail to the first tranche of warehouses to be constructed on the site in order for the second tranche to proceed. Occupiers of the first tranche of warehouses would similarly be put in an unusually strong position when negotiating terms with the developer if the developer’s ability to complete the development were dependent on their actions in bringing 25% of goods by rail to their warehouses.

Secondly, experience at DIRFT suggests that rail traffic to SRFIs will build over time. This is reflected in the requirement for the Rail Freight Plan to aim to progressively build the volume of goods arriving by rail to 25% by the end of 10 years. Coupled with this is the SRA’s advice, subsequently embodied in supplementary planning guidance adopted by the Mayor, that the minimum area for a SRFI should be 40ha [6.132]. Allowing only 50% of the warehousing to be constructed until such time as the first tranche of warehouses is shown to attract 25% of goods by rail would leave the effective area of the facility close to, or below, the minimum size contemplated for a SRFI. This in turn could lead to a reduction in the volume of goods moved by rail to the warehouses as the number of occupiers on the site who would be able to “share” space on trains would be reduced. Such an outcome would frustrate the very purpose for which the condition is intended.

Thirdly, but importantly, the end users of the warehouses are not known. The proposal provides for a wide range of warehouse sizes, with more than 50% of total floorspace in Unit A [3.3]. With the condition proposed, this unit could not be built until the other units had been occupied and achieved 25% by rail. Accordingly, if a potential occupier for this Unit A were to come forward early in the development period, their take up of the unit would be frustrated by the condition. Also, the development may well be constructed in a single phase and taken by a single occupier [6.127].

To my mind the suggested condition, if imposed, could well be open to challenge. Plainly, if the challenge were to succeed, as happened in different circumstances at Birch Coppice [7.139], the condition would no

15.153 As to the suggested amendments to conditions made by SGCF (SGCF/18), the additional clauses which SGCF suggest should be added to Conditions 14 (Moat Lane access) and 18 (drainage strategy) are unnecessary in my view. The management arrangements required to ensure that only authorised vehicles use the Moat Lane entrance would reasonably be interpreted as covering plans for monitoring any abuse. Similarly, I would expect any drainage strategy approved to include proposals for regulating the outflow from the site to the Crayford Marshes, which could be varied over time. The suggestion that the number of parking spaces should be reduced from the 1,167 proposed by ProLogis is rejected for the reasons given in paragraph 15.147 above.

15.154 As to the additional conditions sought by SGCF (SGCF/18):

1. **Moat Lane Hedgerow:** Whilst I agree in principle that any of the hedgerows lost to development on Moat Lane should be replaced, this could be secured by the agreed landscaping condition (Appendix E, Conditions 2 and 8). There is no evidence to suggest that the existing hedgerows are of any particular value for wildlife and requiring replacement hedgerows to be established before the existing are removed would be impractical.
2. **Moat Lane Footpath:** The developer is required by proposed Condition 10 to submit further details of the works proposed to Moat Lane for the Council's approval prior to development commencing (see para 15.151 above). This would allow the concerns raised to be addressed.
3. **Night-time Train Movements:** Whilst there are currently very few trains at night on the rail lines through Slade Green, there is no evidence to suggest that night-time trains to the proposed development would cause unreasonable disturbance to residents living near the site or the railway line. Accordingly, I take the view that the condition is unjustified. To so restrict train movements to a SRFI would also to my mind be unreasonable having regard to the acknowledged requirement for SRFIs to operate around the clock and the need for freight trains in and around London to be timetabled to avoid conflict with daytime passenger movements.
4. **Length of Trains:** The evidence is that trains up to 775m long, would be able to enter the site in one movement [3.5]. These are the longest trains operating anywhere on the UK network. Accordingly, the suggested condition would serve no purpose.

15.155 As to the conditions suggested by Cross London Rail Links [14.9], it is agreed that a condition should be imposed requiring details of the boundary treatment between the site and the area reserved for Crossrail to be agreed before development commences – see Condition 17. It seems to me, however, that the further condition subsequently

longer subsist. Should it fail, then the developer would need to assess the commercial risks involved. It may well be that the development would be abandoned [6.157].

requested [ibid, footnote] is unnecessary as any alterations that might be proposed to the track layout in Slade Green Depot are not part of the planning applications.

The Balance

- 15.156 Bringing my findings and conclusions together, there is no dispute that the development would constitute inappropriate development in the Green Belt [15.1]. It would result in substantial harm to the Green Belt by virtue of loss of openness, with significant encroachment into the countryside [15.6 to 15.8]. The function that the affected area of Green Belt serves in maintaining separation between the settlements of Slade Green and Dartford/Joyce Green would be materially weakened [15.9]. Overall, there is no doubt in my mind that the proposal would result in substantial harm to the Green Belt which it would not be possible to mitigate.
- 15.157 In addition to this harm, impacts on the landscape would be inevitable. The landscape of the area is open, predominantly flat and low lying. It is sensitive to development and not readily able to absorb change [15.12]. Whilst there is little dispute that the measures which ProLogis propose to mitigate the landscape and visual impacts are appropriate, there is equally no doubt that the landscape immediately about the appeal site would be significantly changed as a result of the development. Its flat open and expansive character would be lost and replaced by massive buildings, with substantial earthworks at the northern end of the site [15.13].
- 15.158 Notwithstanding this, the visual impact would be limited from many directions. From the east and south-east the adjoining landfill would screen views from the footpath adjacent to the Rivers Cray and Darent and would screen all but the upper parts of the buildings from more distant viewpoints. Similarly, in views from the west the buildings in the Thames Road Industrial Estate would screen the development from nearby public viewpoints. From more distant viewpoints on higher ground to the west, I am satisfied that the visual impact would be no more than moderate [15.14].
- 15.159 The directions from which visual impact would be greatest would be from Bob Dunn Way and its environs to the south of the site and in an arc to the north running from Oak Road, through Moat Lane and the edge of Slade Green out to the Crayford and Dartford Marshes [15.15]. From these directions the visual impact would be substantial and adverse albeit that the low level activity on the site would generally be screened [15.20]. Planting on the site would mitigate this to some degree, but only as it matures [15.17]. From the eastern end of Oak Road and Moat Lane the development would, to my mind, remain a dominating presence. Equally, the impact on walkers and others who currently use Moat Lane as a recreational route to the marshes would be substantial and adverse [15.17, 15.18].
- 15.160 Similar impacts would be experienced from the edge of Slade Green. However, many of the houses on the edge of the urban area face eastwards onto the marshes and within the main body of Slade Green the visual impact would generally be limited by the screening afforded by intervening housing [15.17, 15.19].

- 15.161 As to other harm, I conclude that, with the mitigation that would be secured by condition and through the S106 Obligation, noise from the development would not result in material harm to the living conditions of nearby residents [15.27]. I further conclude that air quality considerations should not constrain the development [15.30] and that, having regard to the agreed conditions, light spill, glare and upward escape of light would be controlled to acceptable levels [15.32]. With regard to these matters, I conclude that the proposal would not conflict with the development plan.
- 15.162 With regard to nature conservation and biodiversity matters, no statutory sites of nature conservation interest would be affected [15.42], albeit that it is likely that in due course the Crayford Marshes will be designated as a SSSI [15.34]. Natural England, the London Wildlife Trust and the local planning authorities all raise no objections to the development on nature conservation grounds [15.35]. Furthermore, whilst existing features of nature conservation or biodiversity interest on the site itself would be lost to the development, and existing connections to ecological corridors severed, the evidence is that the main body of the site is of limited interest for wildlife [15.36]. New habitat within the site would also be secured by condition. Overall, I take the view that NEFG's objections with regard to wildlife and nature conservation matters should be given only minimal weight [15.37 - 15.39].
- 15.163 As to the proposals for the Crayford Marshes, there is no doubt that ProLogis's offer to secure their long term future for nature conservation purposes by transferring the land with an endowment to a trust set up to maintain and manage them is widely supported [15.40]. The proposals are specifically welcomed by London Wildlife Trust and supported by the Environment Agency [ibid]. Natural England are similarly satisfied that the likely damaging effects of the scheme on features of nature conservation value could be outweighed by the potential benefits of the proposed mitigation and compensation package [ibid]. These would be secured through the agreed conditions and the S106 Non Highway Obligations [15.42]. Given the mitigation measures proposed, I conclude that, in this regard also, the proposal would not conflict with the development plan [15.42].
- 15.164 There are no known features of heritage interest within the site. However, Howbury Moat (a Scheduled Ancient Monument) lies some 50m north of the site boundary, near to which is a Grade II listed tithe barn [15.43]. Notwithstanding their proximity to the proposed development, English Heritage's view is that the proposal would not harm their settings. I do not disagree [15.44]. The Moat Lane/Oak Road Conservation Area lies adjacent to the north-west corner of the site, but it would not be directly affected and its character and appearance would be preserved [15.43, 15.46].
- 15.165 Allied to the loss of Green Belt land is the impact the development would have on proposals to develop a "Green Grid" network of open spaces for recreational and other uses in the Thames Gateway [15.47]. The intention is supported by the Government, the Mayor and Bexley Council, but the proposals are at an early stage and no land has been allocated for this purpose in any development plan [15.47 - 15.48]. Equally no funding has been secured [ibid]. The precise effect the development would have on the proposals is not known [15.49]. Accordingly, it seems to me that only very limited

weight should be given to the development's impact on the emerging Green Grid proposals in the overall planning balance [ibid].

- 15.166 The statement of common ground with the Environment Agency confirms that the development would not be at significant risk of flooding [15.50].
- 15.167 As to Highways matters, the obligations contained in the S106 Highway Obligations led to the Highways Agency, Kent County Council and TfL each withdrawing their objections on highways grounds [15.52]. Whilst Bexley Council maintained objections concerning the design of the site entrance roundabout, I conclude that these concerns can be addressed by condition [15.53 - 15.60]. As to their concerns regarding the capacity of the Crayford Way roundabout, I conclude that it would not be reasonable to require ProLogis to fund any necessary adaptations to the roundabout which the analysis submitted to the inquiry showed would be minor in any event [15.61 - 15.66]. I equally conclude that, in the event that the Secretary of State decides that planning permission for the development should be granted, it would not be reasonable for her to accede to Bexley Council's request that a Grampian condition be imposed requiring in effect that the developer of the SRFI provide or fund a replacement for the Thames Road bridge [15.67 - 15.75].
- 15.168 On parking, I conclude that there is no case for requiring the number of spaces provided to be less than the 1,167 proposed by ProLogis [15.144 - 15.147].
- 15.169 On the supply of industrial and warehouse sites in the London Borough of Bexley, there is no dispute that the amount of land allocated and available for industrial and warehouse uses in the area is more than adequate. However, none of this is suitable for large-scale rail-connected warehouses. If the development is permitted it would be for a SRFI, and safeguards would be put in place to secure the rail facilities and encourage their use. To my mind there is no evidence to support the view that providing rail-linked warehouses on the site as part of a SRFI aimed at meeting the strategic needs of London and the South East would materially impact on the demand for conventional warehouses in the Borough served only by road [15.149].
- 15.170 Turning to the balance, there is no doubt that the proposal would be contrary to the planning policy at all levels insofar as it would constitute inappropriate development in the Green Belt. It would result in substantial harm to the Green Belt by virtue of loss of openness and significant incursion into the countryside and it would materially weaken the separation between settlements [15.156]. It would also result in substantial harm to the landscape and significant visual intrusion [15.157 - 15.160]. Warehouses would be built in an area where they are not contemplated when there is sufficient other land available in the Borough [7.52]. In all these respects the proposal would be clearly contrary to the development plan.
- 15.171 As to the positive aspects, the proposal would accord with policy 3C.24 in the *London Plan* which promotes the provision of rail freight facilities and improved integration between freight modes [15.86]. It would also accord with that part of policy 3C.25 which supports the provision of strategic rail-based intermodal freight facilities [ibid]. Notwithstanding this, it would fly in the face of the requirement set down in the

following text that any site promoted for that use should be wholly or substantially on previously developed land [ibid]. Equally, given the policy imperatives of avoiding inappropriate development in the Green Belt, it would conflict with the emerging policy in the *Draft Further Alterations to the London Plan* which proposes to replace this with a requirement that new locations for intermodal facilities “*should meet strategic planning and environmental objectives*” [15.87].

- 15.172 It is a requirement that, if regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Similarly, *PPG2* advises that inappropriate development in the Green Belt is, by definition, harmful. If proposed, it is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 15.173 As to these tests, it is my firm view that the only factor of any significant weight in favour of granting the proposal stems from the Government’s policy desire to increase the proportion of freight carried by rail. This is reflected in *PPG13* [15.78] and *Sustainable Distribution* [15.79]. It is reaffirmed in *Transport 2010* [15.81]. It is further reflected in the SRA’s *Freight Strategy* and *SRFI Policy* which first identified the requirement for three or four SRFIs to serve London and the South East [15.82, 15.83], albeit that plainly the SRA’s publications did not at the time of their publication constitute Government policy [15.84].
- 15.174 To my mind the fundamental position with respect to whether or not the SRA’s *Freight Strategy* constitutes Government policy has not changed subsequently, despite Government having endorsed it as a relevant source of advice and guidance [15.85]. Notwithstanding this, the *London Plan* offers specific support for SRFIs and identifies a requirement for three or four large multi-modal freight facilities on or close to the periphery of London [15.86]. Further advice and support for SRFIs is also contained in the *Land for Transport Functions SPG*. This both restates the requirement for three of four SRFIs in the region and draws a clear distinction between these and other smaller freight interchanges within the M25 ring [15.89]. It notes that suitable sites for SRFIs are likely to be located where key road and rail links intersect with the M25 [ibid].
- 15.175 Clearly, if this policy requirement for three or four SRFIs in the region is to be met, SRFIs have to be developed. If they are not, the policy will not be fulfilled and the benefits that the Government and the Mayor anticipate will flow from their provision, in the form of an increase in the proportion of freight carried by rail, will not be delivered. In this sense, it might be argued that the need for SRFIs amounts to a “*policy need*” and that, as Bexley Council put it following the precedent at LIFE, the need does not stem from a “*situation requiring relief*”.
- 15.176 However, I do not see the distinction in such stark terms [15.99]. Clearly, there is no situation requiring relief insofar as there is not a shortage of intermodal terminal capacity in the London area. Willesden terminal is, to all intents and purposes, now

unused and the Freightliner terminal at Barking equally appears to be grossly under-used [15.97, 15.98]. But the SRA's publications and the London Plan draw a distinction between SRFIs, which provide an intermodal terminal and rail-linked warehouses on a single site, and intermodal terminals [15.83, 15.86, 15.89]. The policies clearly see a need for three or four SRFIs on the periphery of London near the M25 and smaller facilities in the urban area [ibid]. Willesden is in inner West London [15.98] and has no warehousing; it cannot sensibly be regarded as an alternative to a SRFI at Howbury. Barking is broadly in the same sector of London as the appeal site, but it currently has minimal warehousing and, to my mind, very limited potential for expansion. I do not see it as a viable alternative site for a SRFI [15.105], albeit that there is plainly potential for Barking to serve as one of the smaller terminals envisaged by the policy, or indeed as a terminal handling traffic travelling via the Channel Tunnel Rail Link [15.101].

- 15.177 As to other alternatives, there is no dispute that, Barking aside, there are no viable alternative sites for a SRFI in the arc around south and east London examined by PFD Savills and Nathaniel Litchfield and Partners [15.104 - 15.106]. As a circumstance potentially justifying inappropriate development in the Green Belt, this is a matter which, to my mind, should, in principle, attract considerable weight.
- 15.178 Of course, the weight that the lack of alternatives attracts depends both on the need for the development, which I have addressed above, and the extent to which the proposal would address that need. Put simply, if the proposal would, for any reason, not operate as a SRFI then it should not enjoy the policy support which such proposals attract. Put another way, there is no doubt that a proposal to build road-served warehouses on open land in the Green Belt around London would not come anywhere near to constituting very special circumstances outweighing the harm to the Green Belt that would be inevitable with such a proposal. At the inquiry there was a suspicion on the part of Bexley Council and others that the amount of rail traffic that would use the facility would fall significantly short of that forecast by ProLogis; indeed the suspicion was that the out-turn might well amount to little more than a collection of road-served warehouses [15.107]. But are these suspicions justified?
- 15.179 To my mind, this is a question which it is difficult to answer with complete certainty. On the one hand, there is no doubt that the proposal would result in the provision of an intermodal terminal and rail-linked warehousing on a single site in a location with good road access – i.e. it would have the essential features of a SRFI. The warehousing would also be configured to attract occupiers who intend to make use of the rail sidings, given that they would not be cross-docked, which is a normal requirement for warehouses of the size proposed serviced only by road [15.132]. The intermodal terminal and rail sidings would have to be provided before the warehouses could be occupied, and would have to be enhanced with the provision of a second rail chord at the entrance to the site and gantry cranes in the intermodal terminal by no later than 10 years from commencement of development [15.128]. A condition would prevent subsequent removal of the rail infrastructure [15.152, Additional Condition D] and a substantial package of financial and other measures would be put in place to encourage occupiers of the site and others to make use of the rail facilities [15.128].

Also, it seems to me that the peak hour cap on lorry movements from the site, embodied in the S106 Highway Obligations, would further tend to dissuade road-only users from occupying space at the site [15.132].

- 15.180 On the other hand, it has to be recognised that the site would be disadvantaged to some degree by being served by railway lines cleared only to W8 gauge, by its location at a point on the railway network well used by passenger trains, and by its location relative to the country's major ports. I conclude, however, that the gauge restriction would not be fatal, and that any SRFI proposed to serve London and located south of the Thames is likely to be at a similar disadvantage [15.118]. Equally, whilst the availability of train paths to serve the site would be restricted during the peak commuting hours [15.109], I take the view that, overall, the Secretary of State can be reasonably assured that sufficient paths would be available as required to service a SRFI at Howbury Park [15.112]. As to the site's location relative to the UK's major ports at Southampton and Felixstowe/Harwich, there is little doubt that, at the present time, transporting containers between these ports and a SRFI at Howbury Park is unlikely to be economically attractive compared to transporting them by road [15.120]. The site would be well placed to accept Channel Tunnel traffic, however, and my view is that corporate social responsibility and other considerations are also likely to drive a general move from road-based to rail-based transport [15.121].
- 15.181 If the appeal is allowed, there is plainly no guarantee that the proposal would attract the 12 trains each day for which it is planned, as this is dependent on a number of factors, some of which are outside of the control of the developer¹. It seems to me, however, that all that can reasonably be done to ensure that the proposal would succeed as a SRFI, would be secured either by condition or through the S106 Undertaking.²
- 15.182 To my mind, the Secretary of State can therefore be reasonably assured that, if permitted, the development would indeed operate as a SRFI. In so doing it would provide the first of three or four such facilities which the SRA's *SRFI Policy* and the *London Plan* envisage are required to serve London and the South East. On the other hand, if permission is refused, there can be little doubt that having regard to the conclusion that I have reached above on the availability of alternative sites, no SRFI will be provided to serve the south-east sector of London. This in turn is likely to frustrate Government's and the Mayor's ambitions to increase the percentage of freight transported by rail.

¹ Notably the willingness and ability or otherwise of rail freight operators to run trains to the terminal.

² Whilst I am satisfied as noted, Bexley Council argued at the inquiry for further conditions, in particular one which would prevent construction of the second 50% of the warehousing until it has been shown that rail is being used to bring at least 25% by weight of goods to the warehouses already constructed. I conclude, however, that such a condition would not meet the tests set out in Circular 11/95 [15.152, Additional Condition 8]. They also expressed concerns that the S106 Undertaking did not contain any obligations that "put serious money at risk" should rail traffic not develop as anticipated [15.107].

- 15.183 But do such considerations amount to the very special circumstances required to clearly outweigh the harm to the Green Belt by reason of inappropriateness and the other harm which I have identified in this case? This is a difficult balance and, on the same facts, I accept that different decision makers may well arrive at different conclusions as to which way the balance falls. On the one hand, the presumption against inappropriate development in the Green Belt is a strong and enduring policy and *PPG2*, paragraph 3.2, advises that harm to the Green Belt will be afforded substantial weight by the Secretary of State when considering planning applications or appeals concerning such development. On the other hand, there is a clear policy desire at all levels to increase the proportion of freight carried by rail, as opposed to road, and the SRA's advice, which Government has stated that it broadly endorses, is that three or four SRFIs around London are required to further that aim [15.78 et seq]. This policy is reflected in the *London Plan* and the *Land for Transport Functions SPG*.
- 15.184 As to the development plan, there is no doubt that the proposal would be in conflict with the plan. It would fly in the face of those policies which seek to protect and maintain the openness of the Green Belt [15.156]. It would undermine the purposes of including land in the Green Belt [ibid]. The scale of the buildings proposed is also such that it would result in substantial harm to the landscape and visual intrusion [15.157 et seq]. It would also conflict head on with the *London Plan's* requirement that any site for a SRFI should be wholly or mainly on previously developed land [15.171].
- 15.185 As to whether material considerations outweigh this harm and constitute the very special circumstances needed to clearly outweigh the harm to the Green Belt and other harm, the ability of the proposal to meet part of London's need for three or four SRFIs is, to my mind, the only consideration of significance¹. Whilst there is no national planning policy that suggests that SRFIs may constitute very special circumstances justifying inappropriate development in the Green Belt [8.8], it has to be accepted that, if planning permission is not granted for this proposal, the evidence is that there is no other site to the south and east of London that could meet the need [15.176, 15.177]. To my mind this is a material consideration of very considerable weight and one which meets the test above – i.e. (i) it constitutes very special circumstances that clearly outweigh the harm to the Green Belt and all other harm that I have identified; and (ii) it is a material consideration that indicates a decision other than in accordance with the development plan. I accordingly recommend that the appeals be allowed and planning permission granted, subject to the conditions set out in Appendix E.

¹ In making this statement, I differentiate between the weight to be given to the proposal to provide a SRFI per se and other matters which it was argued favour granting planning permission for the appeal proposal. These include the benefits that might be expected to flow from the development in terms of reducing CO₂ emissions [15.140], the benefits generated by employment at the site [15.150] and benefits to nature conservation interests from the proposals to enhance Crayford Marshes [15.40]. Whilst I recognise each of these as potentially valuable, I nonetheless take the view that their value as material considerations in favour of allowing development that would be contrary to the development plan and constitute inappropriate development in the Green Belt, is not such as to attract significant weight in the overall balance.

15.186 That the Mayor of London, having considered the matter at some length and having had full regard to the policies in the *London Plan*, the impact on London's Green Belt, the Green Grid and other matters, supports the proposal adds weight to my conclusion [14.1, 15.49].

16. RECOMMENDATION

- 16.1 For the reasons given above, I recommend that the appeals be allowed and planning permission granted, subject to the conditions set out in Appendix E.

Andrew M Phillipson

Inspector

APPENDIX A – APPEARANCES

FOR THE APPLICANT:

Christopher Katkowski QC
and John Litton of Counsel

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Nick Gallop BSc

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Justin Gartland MRTPI

Nathaniel Litchfield and Partners Ltd

Barry Chinn BA DipLA MLI

Barry Chinn Associates

FOR BEXLEY COUNCIL

Richard Ground of Counsel

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He called

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David Huskisson Associates

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FOR DARTFORD BOROUGH COUNCIL

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Instructed by Marie Kelly-Stone, Head of
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She called

Graham Parkinson DipTP MRTPI

Dartford Borough Council

FOR KENT COUNTY COUNCIL

Timothy Comyn of Counsel

Instructed by Libby McCutcheon, Solicitor
for Kent County Council

He called

Timothy Martin BA MA MRTPI MCMi

Kent County Council

FOR SLADE GREEN COMMUNITY FORUM

Roy Hillman

Chair, Slade Green Community Forum

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APPENDIX B - DOCUMENTS

Inspector's Note. For completeness and understanding, all proofs of evidence are included as inquiry documents. However, it should be noted that they have not generally been updated to reflect changes made to the evidence during the course of the inquiry.

General Documents

- INQ1 Pre-inquiry meeting note
- INQ2 Inspector's note on issues
- INQ3 Suggested route for accompanied visit - landscape and visual impact effect
- INQ4 Inspector's comments on ProLogis draft conditions
- INQ5 Folder containing written representations
- INQ6 Letter and folder containing copies of letters sent out and advertisements posted by the Appellant relating to the Supplementary Environmental Statement
- INQ7 Planning Inspectorate's letter of 13 August re Supplementary ES
- INQ8 Bundle of letters sent in response to the Supplementary ES
- INQ9 Planning Inspectorate's letter of 29 August re LBB2.11 and closure of inquiry in writing
- INQ10 Planning Inspectorate's letter of 29 August re changes to design proposed in the Supplementary ES, substitute application plans and changes to proposed conditions
- INQ11 Planning Inspectorate's letter of 10 September closing the inquiry in writing

Core Documents

Application Specific Documents

- CD1.1 London Borough of Bexley Planning Control Committee Report on the appeal proposals, (1 August 2006)
- CD1.2 GLA Consultation Response on the application
- CD1.3 PFD Savills Alternative Sites Report (June 2004)
- CD1.4 Nathaniel Lichfield and Partners Alternative Sites Report (November 2005)
- CD1.5 Rail Technical Report (November 2005)
- CD1.6 Environmental Statement (January 2007)
- CD1.7 GLA Stage II Report on the application
- CD1.8 LBB letter to PINS dated 2 March 2007 advising of withdrawal of some of the putative reasons for refusal
- CD1.9 Transport Assessment (January 2007)
- CD1.10 The Need Case (November 2005)

Government Documents

- CD2.1 Sustainable Communities: Building for the Future (February 2003)
- CD2.2 Creating Sustainable Communities: Making It Happen: Thames Gateway and the Growth Areas (July 2003)

- CD2.3 Growth and Regeneration in the Thames Gateway: Interregional Planning Statement (2004)
- CD2.4 London Thames Gateway Development and Investment Framework (April 2004)
- CD2.5 DTLR Circular 04/2001 - Control of Development Affecting Trunk Roads and Agreements with Developers under Section 278 of the Highways Act 1980
- CD2.6 DfT Circular 02/2007 – Planning and the Strategic Road Network

The Development Plan and Related Documents

- CD3.1 Regional Planning Guidance for the South East (RPG9)
- CD3.2 The Thames Gateway Planning Framework (RPG9a)
- CD3.3 The London Plan (2004)
- CD3.4 The Kent and Medway Structure Plan (2006)
- CD3.5 The Bexley Unitary Development Plan (2004)
- CD3.6 The Dartford Local Plan (1995)
- CD3.7 Kent County Council response to the draft South East Plan (2004)
- CD3.8 Sub-Regional Development Framework: East London (2006)
- CD3.9 Local Transport Plan for Kent 2006-2011
- CD3.10 The Mayor's Transport Strategy Revision 2004
- CD3.11 Not used
- CD3.12 Draft Further Alterations to the London Plan (September 2006)
- CD3.13 Dartford's Core Strategy – Preferred Policy Approaches Document (July 2006)
- CD3.14 Dartford's Site Specific Allocations – Preferred Policy Approaches Document (July 2006)
- CD3.15 Extract from Regional Transport Strategy (Chapter 9 of the Regional Planning Guidance for the South East - RPG9)
- CD3.16 Extract from South East Plan Core Document – Draft for submission to the Government (March 2006)
- CD3.17 South East Plan: Annex to Technical Note 3 – Freight (November 2006)
- CD3.18 Extract from SEERA Statement to SE Plan EiP – Matter 3 (October 2006)
- CD3.19 Extract from Highways Agency: Library Paper 1 – South East Plan Model: Methodology Statement (November 2006)
- CD3.20 Extract from Draft East of England Plan (December 2004)
- CD3.21 Extract from Secretary of State's Proposed Changes to the Draft East of England Plan (December 2006)
- CD3.22 Bexley Core Strategy Issues and Options Consultation Paper (November 2006)
- CD3.23 Consultation Draft East London Green Grid Framework

Transportation/Rail

- CD4.1 European Commission White Paper: A Strategy for Revitalising on Railways (July 1996)
- CD4.2 White Paper: A New Deal for Transport: Better for Everyone (July 1988)
- CD4.3 Sustainable Distribution: A Strategy, (March 1999)
- CD4.4 Transport 2010: The 10 Year Plan (July 2000)
- CD4.5 DfT: South Eastern Regional Planning Assessment for the railway (January 2007)
- CD4.6 European Commission White Paper: European transport policy for 2010: time to decide (2001)
- CD4.7 SRA: A Strategic Agenda, (March 2001)

- CD4.8 SRA: Freight Strategy, (May 2001)
- CD4.9 SRA: Freight Strategy Progress Report 1 (May 2003)
- CD4.10 SRA: Strategic Rail Freight Interchange Policy (March 2004)
- CD4.11 TfL: London Rail Freight Study (April 2003)
- CD4.12 TfL: Draft London Freight Plan (September 2006)
- CD4.13 Thames Gateway London: The Logistics Location (August 2006)
- CD4.14 Department for Transport: Statement on Status of SRA Strategic Rail Freight Interchange Policy (14 October 2005)
- CD4.15 Network Rail: Consultation Draft Cross London Route Utilisation Strategy
- CD4.16 GLA: Land for Transport Functions (March 2007)
- CD4.16a GLA: Land for Transport Functions - Draft (May 2006)
- CD4.17 IHT: Moving Freight
- CD4.18 Not used
- CD4.19 The derivation of accessibility indices as a basis for identifying public transport accessibility levels (June 2000)
- CD4.20 National Statistics Census 2001, origin-destination statistics
- CD4.21 Thames Gateway Bridge: Environmental Statement, Non-Technical Summary (July 2004)
- CD4.22 TD 22/06: Layout of Grade Separated Junctions
- CD4.23 TD 16/93: Geometric Design of Roundabouts
- CD4.24 TD 35/06: All Purpose Trunk Roads MOVA System of Traffic Control at Signals
- CD4.25 TA 79/99: Traffic Capacity of Urban Roads
- CD4.26 WSP Technical Note 2: Trip Distribution - Sensitivity Assessment (August 2005)
- CD4.27 WSP Technical Note 3A: M25 Junction 1a - TRANSYT Validation Report (March 2006)
- CD4.28 WSP Technical Note 4: 2022 Forecast Base TRANSYT Model (November 2005)
- CD4.29 WSP Technical Note 7: HGV and Non HGV Trip Generation Methodology Based on June 2006 DIRFT Surveys (July 2006)
- CD4.30 WSP Technical Note 9: HGV and Non HGV Trip Generation (November 2006)
- CD4.31 WSP Technical Note 10: Parking Accumulation (October 2006)
- CD4.32 WSP Technical Note 11: Kent Thameside Saturn Model Results (November 2006)
- CD4.33 WSP Technical Note 12: All Road Sensitivity Test Trip Generation (January 2007)
- CD4.34 WSP: Errata to December 2006 Transport Assessment (February 2007)
- CD4.35 TRRL Research Report 279: MOVA: The 20 Site Trial (1990)
- CD4.36 Network Rail: Freight Route Utilisation Strategy (March 2007)
- CD4.37 TfL: Barking and Dagenham Rail Freight Terminal Study, Executive Summary (December 2004)
- CD4.38 WSP Technical Note 13: Kent Thameside Saturn Model Results – Actual Flows (March 2007)
- CD4.39 DfT: The Future of Transport: a network for 2030 (July 2004)
- CD4.40 DCLG/DfT: Guidance on Transport Assessment (March 2007)
- CD4.41 Kent Thameside Association Passenger Rail Policy (July 2002)
- CD4.42 Network Rail: 2006 Business Plan - Route 1 Kent
- CD4.43 European Commission: Mid-term Review of 2001 Transport White Paper (September 2006)
- CD4.44 Statement to Parliament on the Government's objectives for rail freight: Alistair Darling 19 July 2005

- CD4.45 Extract from DfT Ports Policy discussion documents (May 2006)
- CD4.46 Extract from SRA Integrated Kent Franchise: Consultation on Train Service Specification (February 2004)
- CD4.47 Extract from Network Rail Cross London Route Utilisation Study (August 2006)
- CD4.48 TfL Response to Network Rail Freight RUS
- CD4.49 Extract from Eddington Transport Study (December 2006)
- CD4.50 Dover Harbour Board: Planning for the Next Generation - Second Round Consultation (January 2007)
- CD4.51 WSP Technical Note 14: Impact of the Retention of the Thames Road Rail Bridge
- CD4.52 Llewelyn Davies Yeang and Steer Davies Gleave: Planning for the Development of Rail Freight in London - Rail Freight Site Assessment

Environment

- CD5.1 Managing the Marshes: Vision and Strategy (March 2006)
- CD5.2 Managing the Marshes: Landscape Character Assessment (February 2006)
- CD5.3 Sites of Importance for Nature Conservation in Bexley: Consultation Draft (December 2004)
- CD5.4 Bexley's Biodiversity Action Plan

Economic/Regeneration

- CD6.1 Economic Employment Development Strategy for London Borough of Bexley: Consultative Draft
- CD6.2 Bexley Regeneration Framework 2005-2016
- CD6.3 Not used
- CD6.4 The London Plan: Industrial Capacity Draft Supplementary Planning Guidance (September 2006)

Statements of Common Ground

- CD7.1 Statement of Common Ground with the Environment Agency
- CD7.2 Statement of Common Ground: Planning
- CD7.3 Not used
- CD7.4 Statement of Common Ground: Air Quality
- CD7.5 Statement of Common Ground: Noise
- CD7.6 Not used
- CD7.7 Statement of Common Ground: Lighting
- CD7.8 Joint Note: Noise Level Input at 36 Oak Road and Environs
- CD7.9 Joint Note: Specification of a Site Noise Level Limit for Draft Condition 32
- CD7.10 Agreed statement between Mr Chinn and Mr Huskisson re photomontages

Miscellaneous

- CD8.1 LIFE appeal decision and Inspector's conclusions
- CD8.2 Appeal decision for access road to industrial area adjacent to appeal site
- CD8.3 Appeal decision relating to conditions imposed on Volkswagen's Birch Coppice site
- CD8.4 Planning permission for Hams Hall Rail Freight Terminal
- CD8.5 Refusal notice for proposed SRFI at St Albans

Documents Submitted by ProLogis Developments Ltd

- PDL/0.1 Opening statement
- PDL/0.2 Extract from Thames Gateway Interim Plan
- PDL/0.3 Illustration of sound level difference in terms of sound energy
- PDL/0.4 Maps showing the Plumstead Triangle site suggested by Mr Rodmell
- PDL/0.5 Maps showing location and size of Sainsbury warehouses in Dartford and Waltham Abbey
- PDL/0.6 Thames Gateway Bridge key plan
- PDL/0.7 Transport Forum meeting notes
- PDL/0.8 Bundle of correspondence between the Appellants and Bexley Council regarding the replacement of the Thames Road railway bridge
- PDL/0.9 Briefing note on Belvedere and Erith Opportunity Area
- PDL/0.10 ProLogis response to Bexley Council's request for additional provisions in the planning obligations
- PDL/0.11 Letter re access to Grosvenor Waste site
- PDL/0.12 Briefing note on history and composition of planning applications
- PDL/0.13 Suggested conditions
- PDL/0.14 Closing submissions
- PDL/0.15 S106 Unilateral Undertaking – Non Highway Obligations
- PDL/0.16 S106 Unilateral Undertaking – Highway Obligations
- PDL/0.17 Nathaniel Lichfield and Partners' letter of 25 July 2007 to PINS enclosing Supplementary Environmental Statement
- PDL/0.18 Marrons' letter of 31 August 2007 confirming ProLogis's agreement to substitute condition proposed by the Inspector
- PDL/0.19 Marrons' e-mail of 7 September 2007, commenting on INQ5/18

- PDL/1.1 Mr Gartland's proof of evidence
- PDL/1.2 Mr Gartland's summary
- PDL/1.3 Mr Gartland's appendices
- PDL/1.4 Mr Gartland's rebuttal
- PDL/1.5 Mr Gartland's rebuttal – alternative sites
- PDL/1.6 Amendments to PDL/1.2
- PDL/1.7 Briefing note on Redhill site mentioned in the draft Land for Transport SPG
- PDL/1.8 Briefing note – SRA policy and the London Plan
- PDL/1.9 Note on policy guidance issued since the LIFE inquiry
- PDL/1.10 Map showing the extent of the Green Belt near the site
- PDL/1.11 Plan of Barking Freightliner Depot and adjacent land
- PDL/1.12 Note on SRFI disaggregation – policy basis
- PDL/1.13 Map showing the extent of the Green Belt around London

- PDL/2.1 Mr Sparks' proof of evidence
- PDL/2.2 Mr Sparks' rebuttal

- PDL/3.1 Mr Chinn's proof of evidence
- PDL/3.2 Mr Chinn's summary

PDL/3.3	Mr Chinn's appendices
PDL/3.4	Mr Chinn's rebuttal
PDL/3.5	Photomontages
PDL/3.6	Amended photomontages
PDL/3.7	Note recording extent of agreement on photomontages
PDL/3.8	Comparison between Mr Chinn's and Mr Huskisson's montages – viewpoints 4 and 5
PDL/3.9	Note on matters arising from the site visit
PDL/3.10	Landfill site, proposed restoration layout
PDL/3.11	Landfill site, topographical survey
PDL/3.12	Landfill site, comparison between surveyed levels and approved restoration levels
PDL/3.13	Sections
PDL/3.14	Extract from Countryside Character: Volume 7 South East and London – Greater Thames Estuary: Character Area 81.
PDL/4.1	Mr Greenyer's proof of evidence
PDL/4.2	Not used
PDL/4.3	Mr Greenyer's appendices
PDL/4.4	Mr Greenyer's rebuttal
PDL/5.1	Mr Findlay's proof of evidence
PDL/5.2	Mr Findlay's summary
PDL/5.3	Mr Findlay's appendices
PDL/5.4	Mr Findlay's rebuttal
PDL/5.5	Errata to PDL/5.4
PDL/5.6	Note on agreement with the Highways Agency and Kent County Council relating to highways matters
PDL/5.7	Note on sensitivity test
PDL/5.8	Note on derivation of Tables A and B in the Highways Unilateral Undertaking
PDL/5.9	Response to LBB comments on Technical Note 14
PDL/5.10	Rebuttal to SGCF/4
PDL/5.11	Technical Note 15 - Review of Local KTS Assignments
PDL/5.12	Plan showing location of proposed toucan crossing
PDL/5.13	Replacement figures showing local road network and public transport network
PDL/5.14	Map of North End Ward
PDL/5.15	Technical Note 6 - Comparison of Peak Hour Traffic Generation
PDL/5.16	Note on cycle path and footpath contribution
PDL/5.17	Note on Thames Road traffic model development assumptions
PDL/5.18	Note on HGV management proposals
PDL/5.19	Note on site access roundabout
PDL/5.20	Note on Crayford Way roundabout
PDL/5.21	Employee Travel Plan/Freight Travel Plan
PDL/6.1	Mr Gallop's proof of evidence
PDL/6.2	Mr Gallop's summary
PDL/6.3	Mr Gallop's appendices
PDL/6.4	Mr Gallop's rebuttal – rail matters

- PDL/6.5 Mr Gallop's rebuttal – CO₂
- PDL/6.6 Mr Gallop's rebuttal – the need case
- PDL/6.7 Jeff Miles' note on SRFI policy methodology and analysis
- PDL/6.8 Plan of DIRFT warehousing
- PDL/6.9 Plans of rail lines in the vicinity of the site
- PDL/6.10 Plan of DIRFT intermodal terminal
- PDL/6.11 E-mail from Barry Faries (DHL) re time to strip and reload a container train
- PDL/6.12 Technical note on DIRFT
- PDL/6.13 Letter from Barbara Barnes clarifying Network Rail's position re Howbury Park
- PDL/6.14 "Rail and the Environment" leaflet issued by the Railway Forum 2002
- PDL/6.15 Technical note on loading gauge
- PDL/6.16 Technical note on timetabling
- PDL/6.17 Technical note on intermodal terminal capacity
- PDL/6.18 Technical note on Channel Tunnel Rail Link and Barking
- PDL/6.19 Examples of existing rail services
- PDL/6.20 E-mail setting out Southeastern's comments on evidence presented to the inquiry
- PDL/6.21 E-mail exchange between Mr Niblett and Mr Harwood, Network Rail
- PDL/6.22 Further rebuttal on CO₂ emissions
- PDL/6.23 Comparison of PDL and LBB data on CO₂ emissions
- PDL/6.24 Interfleet timetabling study 12.00 to 14.00 with six passenger trains per hour through Barnehurst
- PDL/6.25 Plan of DIRFT showing warehouse areas and occupiers
- PDL/6.26 Note explaining PDL/6.24
- PDL/6.27 Rebuttal commenting on LBB3.12
-
- PDL/7.1 Mr Woodbridge's proof of evidence
- PDL/7.2 Mr Woodbridge's summary
- PDL/7.3 Mr Woodbridge's appendices
- PDL/7.4 Mr Woodbridge's rebuttal
- PDL/7.5 ProLogis Summary Annual Report 2005
- PDL/7.6 ProLogis Summary Annual Report 2006
- PDL/7.7 E-mail from Chris Geldard, Associated British Ports
- PDL/7.8 Note on buildings of similar scale to those proposed in the Howbury Park market area
-
- PDL/8.1 Mr Goodwin's proof of evidence
- PDL/8.2 Mr Goodwin's summary
- PDL/8.3 Mr Goodwin's appendices
- PDL/8.4 Mr Goodwin's rebuttal
- PDL/8.5 Letter from Natural England confirming their satisfaction with the Great Crested Newt surveys conducted in 2007
-
- PDL/9.1 Mr Colthurst's proof of evidence
- PDL/9.2 Mr Colthurst's summary
- PDL/9.3 Mr Colthurst's appendices
- PDL/9.4 Mr Colthurst's rebuttal
- PDL/9.5 Note on possible boundary noise condition

- PDL/9.6 E-mail to Mr Fox re site layout and other matters
- PDL/10.1 Mr Battle's statement
- PDL/11.1 Mr Jones' statement
- PDL/11.2 Mr Jones' appendices
- PDL/11.3 Note on floodlighting in intermodal area
- PDL/12.1 Mr Armitage's statement
- PDL/12.2 Mr Armitage's appendices
- PDL/12.3 Mr Armitage's rebuttal
- PDL/13.1 Ms Gough's statement
- PDL/14.1 Mr Skinner's statement
- PDL/14.2 Mr Skinner's appendices

Documents Submitted by Bexley Council

- LBB0.1 Letters of notification
- LBB0.2 Note on Council's position on "public pocket park"
- LBB0.3 Note on land restoration programme at former landfill site
- LBB0.4 Extract from LIFE report
- LBB0.5 List of matters requested by the Council, not included in Unilateral Undertakings
- LBB0.6 Council's suggested amendments/additions to the conditions suggested by ProLogis
- LBB0.7 Plans showing LIFE proposals
- LBB0.8 Closing submissions
- LBB0.9 Chelmsford BC v FSS and Draper - [2003] EWHC 2978 (Admin)
- LBB1.1 Mr Bryant's summary
- LBB1.2 Mr Bryant's proof of evidence
- LBB1.3 Mr Bryant's appendices
- LBB1.4 Mr Bryant's rebuttal
- LBB1.5 Extract from programme for EiP into the London Plan Draft Further Alterations
- LBB1.6 Note on warehousing
- LBB1.7 Note comparing the scale of development at Belvedere with the appeal proposals
- LBB1.8 Plan showing the extent of the Green Belt and other green space in the Thames Gateway
- LBB2.1 Mr Huskisson's summary proof
- LBB2.2 Mr Huskisson's proof of evidence
- LBB2.3 Mr Huskisson's appendices
- LBB2.4 Extract from Guidelines for Landscape and Visual Impact Assessment
- LBB2.5 Photomontages showing comparison between Mr Huskisson's and Mr Chinn's models

- LBB2.6 Further photomontages showing comparison between Mr Huskisson's and Mr Chinn's models
- LBB2.7 E-mail exchange re photomontage methodology
- LBB2.8 Extract of plan showing possible filling of the "valley" on the landfill area to the north-east of the site, prepared by MSA for ProLogis
- LBB2.9 E-mail exchange re LBB2.8
- LBB2.10 Plan showing alternative contours for filling to north-east of site
- LBB2.11 Response to Supplementary ES

- LBB3.1 Mr Niblett's summary
- LBB3.2 Mr Niblett's proof of evidence
- LBB3.3 Mr Niblett's appendices
- LBB3.4 Mr Niblett's rebuttal
- LBB3.5 E-mail from Freightliner re the proposed development
- LBB3.6 Withdrawn
- LBB3.7 E-mail to Paul Harwood, Network Rail from Mr Niblett
- LBB3.8 Bundle of papers supplied in response to questions raised during evidence
- LBB3.9 Note on intermodal cost comparisons for destinations from Howbury Park
- LBB3.10 AA route planner printout: Southampton to Wentloog
- LBB3.11 Letter from Southeastern dated 16 January 2007
- LBB3.12 Comment on Interfleet timetable study (PDL/6.24)

- LBB4.1 Not used
- LBB4.2 Mr Edwards' proof of evidence
- LBB4.3 Mr Edwards' appendices
- LBB4.4 Mr Edwards' rebuttal
- LBB4.5 Comment on WSP Technical Note 14
- LBB4.6 Extract from TRICS Good Practice Guide 2006
- LBB4.7 Replacement table 2.2.2 from LBB4.4
- LBB4.8 Comments on site access roundabout and Crayford Way roundabout design revisions (PDL/5.19 and 5.20)

- LBB5.1 Not used
- LBB5.2 Mr Able's proof of evidence
- LBB5.3 Extract from London Employment Sites Database
- LBB5.4 Note re LBB5.3
- LBB5.5 Extract from Technical Note 6
- LBB5.6 Extract from Howbury Park Traffic Assessment - November 2005
- LBB5.7 Comments on Draft Framework Employee Travel Plan/Freight Management Plan

- LBB6.1 Mr Fiumicelli's proof of evidence
- LBB6.2 Extract from IEMA guidelines on noise
- LBB6.3 Extract from BS8233:1999

- LBB7.1 Not used
- LBB7.2 Not used
- LBB7.3 Not used

LBB7.4	Mr Fox's rebuttal
LBB7.5	Note on comparison of CO ₂ emissions for Class 66 locomotives and articulated HGVs
LBB7.6	Extract from LIFE report
LBB7.7	Not used
LBB7.8	EWS representations for the Eddington Transport Study

Documents Submitted by Dartford Borough Council

DBC0.1	Letters of notification
DBC0.2	Closing submissions
DBC1	Mr Parkinson's proof of evidence
DBC2	Written statement - transport

Documents Submitted by Kent County Council

KCC1	Mr Martin's proof of evidence
KCC2	Mr Martin's summary
KCC3	Withdrawn
KCC4	Map showing average inter-urban traffic flows in Kent in 2004
KCC5	Map showing peak hour traffic congestion on inter-urban routes in Kent in 2004
KCC6	Letter withdrawing KCC3
KCC7	Statement on the use of CTRL for freight
KCC8	Closing submissions

Documents Submitted by the Highways Agency¹

HA/1.1	Summary proof of evidence prepared by Mr Shaw
HA/1.2	Proof of evidence prepared by Mr Shaw
HA/1.3	Appendices to HA/1.2
HA/2.1	Summary proof of evidence prepared by Mr Rajah
HA/2.2	Proof of evidence prepared by Mr Rajah
HA/2.3	Appendices to HA/2.2
HA/3	Supplementary proof of evidence prepared by Mr Shaw
HA/4	Supplementary proof of evidence prepared by Mr Rajah
HA/5	Letter dated 15 May 2007 setting out the Agency's formal position.

¹ Inspector's note. Whilst the Highways Agency submitted the proofs of evidence and other documents listed, on 15 May 2007 a letter was sent (HA/5) confirming that the Highway Obligations entered into by ProLogis (PDL/0.16) addressed the concerns raised in the Agency's proofs of evidence. Accordingly, the Agency did not appear at the inquiry to give evidence.

Documents Submitted by Slade Green Community Forum

SGCF/1	Mr Hillman's proof of evidence
SGCF/2	Mr Hillman's summary
SGCF/3	ProLogis community consultation leaflet
SGCF/4	Mr Hillman's supplementary proof of evidence
SGCF/5	Mr Hillman's rebuttal to statement from Freight on Rail
SGCF/6	Withdrawn
SGCF/7	Consultation questionnaire
SGCF/8	Bundle of two letters of objection
SGCF/9	Map showing boundaries of the North End Ward
SGCF/10	SGCF Annual General Meeting Minutes 10 July 2006
SGCF/11	EA pamphlet re "Planning for Flood Risk Management in the Thames Estuary"
SGCF/12	EA news item "Thames Barrier Closes 100 Closures"
SGCF/13	Extract from Thames Estuary Partnership Website re "Thames Estuary 2100"
SGCF/14	Extract from Thames Estuary 2100 Study - Consultation
SGCF/15	London under threat? Flooding Risk in the Thames Gateway - London Assembly Environment Committee, October 2005
SGCF/16	EA comments on "London under threat"
SGCF/17	Information on Dart Terminal
SGCF/18	Commentary on ProLogis's suggested conditions 15 May 2007
SGCF/19	Concluding statement (Closing submissions)

Documents Submitted by Bexley LA21 Natural Environment Focus Group

NEFG/C/1	Mr Cotton's summary
NEFG/C/2	Mr Cotton's proof of evidence
NEFG/C/3	Mr Cotton's appendices
NEFG/C/4	GIGL ecological data search
NEFG/C/5	Whitehall Lane Recreation Ground Reptile Survey and Report
NEFG/C/6	Extract from Flood and Coastal Defence Project Appraisal Guidance
NEFG/C/7	Environmental Sustainability Network – Implementation. Decision Ref. ETR 62/06-07
NEFG/C/8	Letter from EA to Mr Cotton dated 24 May 2007 re planning for flood risk management in the Thames Estuary
NEFG/C/9	Closing statement
NEFG/G/1	Dr Gray's summary
NEFG/G/2	Dr Gray's proof of evidence
NEFG/G/3	Dr Gray's appendix
NEFG/M/1	Ms Maxted's summary
NEFG/M/2	Ms Maxted's statement
NEFG/M/3	Ms Maxted's appendices
NEFG/M/4	Newspaper article re Grosvenor Waste Management

Documents Submitted by the London Wildlife Trust

LWT1 Rule 6 statement
LWT2 Mr Whitbread's proof of evidence
LWT3 Crayford Marsh - Outline Proposals for Transfer to London Wildlife Trust
LWT4 Closing statement

Documents Submitted by Interested Persons Speaking at the Inquiry

GB1 Mrs Bruckner's statement
IL1 Mr Lindon's statement
IL2 E-mail clarifying IL1
DR1 Mr Reynolds' statement
DR2 Supplementary note put in by Mr Reynolds
TW1 Mr Walters' statement
JM1 Mrs Miller's statement
JM2 Photograph taken on passageway linking Moat Lane and Oak Road
BR1 Mr Rodmell's statement
BR2 Supplementary note put in by Mr Rodmell

APPENDIX C - PLANS

Inspector's Note: Identical applications were submitted in August 2004 to Bexley and Dartford Borough Councils, each accompanied by an Environmental Statement (ES). In February 2005, Dartford Borough Council refused planning permission for the works in the Borough of Dartford. In November 2005 the application was revised, following a Regulation 19 request from Bexley Council; new plans were submitted, together with a revised ES. The appeal against Bexley Council's failure to determine the application was submitted in March 2006.

In January 2007 amended plans were issued and the ES further revised. The revision was announced at the pre-inquiry meeting (INQ1, Section 2) and subsequently advertised. In February 2007 ProLogis proposed that the works to the banks of the River Cray should be extended, following comments from the Environment Agency. The site application boundary plan (Drg 2144/PL/52B) was amended, as was the plan showing the proposed profile of the riverbed (Drg 0402-01-07F).

On opening the inquiry, I announced the revisions and asked if everyone was content that the Secretary of State should proceed to determine the appeals on the basis of the revised plans. No one objected.

Subsequently it was discovered during the course of the inquiry that the "as constructed" restoration levels on the adjoining landfill surveyed during the course of the inquiry did not match those previously surveyed in 2004 which were used to prepare the visual impact analysis contained in the ES, or indeed those for which Bexley Council had granted planning permission. A Supplementary ES was prepared and submitted in July 2007. Revised application plans accompanied this showing the proposed adjustments to the design of the access road and its earthworks needed to tie the development into the as constructed levels of the landfill (PDL/0.17). Further illustrative plans were also provided showing the alterations required should it be decided that the landfill should be re-profiled to match the restoration levels for which planning permission was granted (ibid). With both schemes, changes were also proposed to the levels of the area of proposed landscaping at the north-east corner of the site, in order to enhance screening to the intermodal area when viewed from the north-east. By letter dated 29 August 2007 (INQ10) PINS wrote to ProLogis, the two planning authorities and the Rule 6 parties formally proposing that I should complete my report, and the Secretary of State should reach her decision, on the basis of the proposals presented in the Supplementary ES. No one objected.

The plans listed below are those on which I have based my report and those on which it was agreed the Secretary of State should reach her decision. Should the Secretary of State wish to view the original application plans or those submitted in November 2005 or January 2007 they can be found in the appropriate Planning Statement Folders. The plans submitted in July 2007 are in the folder labelled "Supplementary ES: July 2007".

Plans to accompany conditions were prepared during the course of the inquiry to accompany the conditions suggested by ProLogis (PDL/0.13).

Application Plans

Plan Ref.	Drawing Title
2144/PL/49D	Development Parameters Plan
2144/PL/52C	Site Application Boundary
2144/PL/55B	Trust Boundary Plan
2144/PL/66A	EA Access Plan
0402-01-07H	Riverbed plans and sections
855/LE/001/F	Planning layout (Road Access)
855/LE/002/H	Planning layout (Road Access)
855/LE/003/F	Planning layout (Road Access)
855/LE/004/F	Planning layout (Road Access)

855/LE/005/D	Planning layout (Road Access)
855/LE/006/D	Planning layout (Road Access)
855/LE/007/D	Planning layout (Road Access)
855/LE/009/B	EA Access Points General Arrangement
855/LE/012/A	Planning Layout Slade Green Bus Link

Illustrative Drawings

Plan Ref.	Drawing Title
2144/PL/51/B	Illustrative Public Access Plan
2144/PL/56/C	Illustrative Colour Master Plan
2144/PL/100	Illustrative Elevations
2144/PL/101	Illustrative Plans and Sections
2144/PL/102	Illustrative Colour Details
2144/PL/103	Illustrative 3D Visualisation
L540-02-05N	Illustrative Landscape Masterplan
L540-06-F	Illustrative Landscape Masterplan Sections

Plans to Accompany Conditions

Plan Ref.	Drawing Title
2144/PL/49D	“The Parameters Plan”
2144-LE-79A	Bridge Extents Boundary
2144-FE-78	Entrance Land Boundary
2144-LE-85	Site Layout Plan (marked to show extent of area to be used for stacking containers)

Illustrative Plans Showing the Adjustments to the Design Proposed should the Restoration Levels on the Adjoining Site be Re-Profiled to Match those for which Planning Permission was Granted

Plan Ref.	Drawing Title
2144/PL/104	Development Parameters Plan (Replaces 2144/PL/49D)
855/LE/013/B	Planning layout (Replaces 855/LE/002/H)
855/LE/014/B	Planning layout (Replaces 855/LE/003/F)
855/LE/015/B	Planning layout (Replaces 855/LE/004/F)

APPENDIX D - ABBREVIATIONS

AOD	above ordnance datum
ATC	automatic traffic count
CLRL	Cross London Rail Links Ltd (Crossrail)
cm	centimetres
CONCAWE	Oil Companies International Study Group for Conservation of Clean Air and Water - Europe
CPRE	Campaign to Protect Rural England
CTRL	Channel Tunnel Rail Link (High Speed 1)
DfT	Department for Transport
Drg	Drawing
DIRFT	Daventry International Rail Freight Terminal
EiP	Examination in Public
ES	Environmental Statement
et seq	and the following (pages etc)
GIGL	Greenspace Information for Greater London
GLA	Greater London Authority
gm	grammes
ha	hectares
HGV	heavy goods vehicle
ibid	in the same document
IHT	Institute of Highways and Transportation
ILE	Institute of Lighting Engineers
KCC	Kent County Council
KIG	Kent International Gateway
km	kilometres
KTS	Kent Thameside (Traffic) Model

LIFE	London International Freight Exchange
LPA	local planning authority
LWT	London Wildlife Trust
m	metres
m ²	square metres
MHW	mean high water
NEFG	Bexley LA21 Natural Environment Focus Group
NLP	Nathaniel Lichfield and Partners
p	page
para	paragraph
PCUs	passenger car units
PDL	previously developed land
PLA	Port of London Authority
pp	pages
PPG	Planning Policy Guidance (Note)
PPS	Planning Policy Statement
RFC	ratio of flow to capacity
RSS	Regional Spatial Strategy
RUS	Route Utilisation Study
S106	Section 106
SEL	Selective Employment Location
SGCF	Slade Green Community Forum
SINCB	Sites of Importance for Nature Conservation in Bexley
SMINC	Site of Metropolitan Importance for Nature Conservation
SPG	Supplementary Planning Guidance
SRA	Strategic Rail Authority
SRFI	Strategic Rail Freight Interchange
SSSI	Site of Special Scientific Interest

TfL	Transport for London
TN	Technical Note
TRRL	Transport and Road Research Laboratory
TRTM	Thames Road Traffic Model
UDP	Unitary Development Plan

APPENDIX E - CONDITIONS

Inspector's Note. Conditions were discussed at the inquiry (without prejudice). The conclusions of these discussions are reflected in ProLogis's list of suggested conditions (PDL/0.13), the contents of which were, for the most part, agreed by Bexley Council and Dartford Borough Council. Areas of disagreement are recorded in LBB0.6. In the event that the Secretary of State is minded to grant planning permission for the proposed development, I recommend that the following conditions should be attached to the permission granted. The reasons for the conditions, where not explained in the text of the report, can be found in PDL/0.13.

Definitions

In these conditions the following expressions shall have the following meanings:

Local Planning Authority: As between the London Borough of Bexley and Dartford Borough Council means the local planning authority within whose administrative district the part of the site to which the condition relates is located and where a condition relates to the whole development or any part of the development which straddles the boundary between the two local authorities then the expression shall be taken to mean both authorities.

Commencement of development: The earliest date on which any of the material operations (as defined by Section 56(4) of the Town and Country Planning Act 1990) pursuant to the implementation of this planning permission is begun on the application site with the exception of:

- i. any works carried out in connection with any archaeological investigation of the application site; and
- ii. any trial holes or other operations to establish the ground conditions of the application site; and
- iii. any works of demolition and ground clearance.

Environmental Statement: The Environmental Statement revised January 2007 and the Supplementary Environmental Statement dated July 2007.

Parameters Plan: The Development Parameters Plan Drawing No. 2144/PL/49D (or alternatively Drawing No 2144/PL/104 in the event that the levels of the adjoining landfill are reduced to those shown on Figure B3 in the Supplementary Environmental Statement dated July 2007).

Crayford Landfill Phase 7: The area identified as Phase 7 in the planning permission for the landfill on land adjacent to the application site.

Framework Travel Plan: The document entitled "Framework Employee Travel Plan/Freight Management Plan" produced by WSP Consultants and dated 24 May 2007.

Conditions

1. Approval of the details of the design, external appearance of the buildings (including the bridge, the extent of which is shown in blue on Plan 2144-LE-

79A), and the landscaping of the site (hereinafter called the reserved matters) shall be obtained in writing from the Local Planning Authority before any development is commenced.

2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development hereby permitted shall be carried out substantially in accordance with the principles illustrated on the Parameters Plan, with the exception of the area shown as the Public Pocket Park which shall instead be landscaped in accordance with the details submitted pursuant to Conditions 1 and 8.
5. The total gross external area of the warehouses to be erected on the site shall not exceed 198,000 sq.m.
6. Prior to the commencement of development details of the sustainability measures (including a programme of implementation) to be substantially in accordance with Section 5 of the Design Code contained within the Environmental Statement shall be submitted to and approved in writing by the Local Planning Authority. The sustainability measures shall be implemented as approved.
7. The details to be submitted in accordance with Condition 1 shall include a schedule of materials and finishes to be used for the external walls and roofs of the proposed buildings.
8. The landscaping details to be submitted in accordance with Condition 1 shall be substantially in accordance with the Landscape Strategy set out in the Environmental Statement and shall specify:
 - i. details of all ground modelling, re-profiling, bunding and mounding, including a comprehensive ground level survey with information relating to the existing and proposed ground levels above Ordnance Datum and cross-sections at a scale of not less than 1:200 at Moat Lane/Oak Road and 1:500 elsewhere at the boundary;
 - ii. a detailed scheme for the comprehensive treatment of planting and seeding areas including plans and sections at a scale of not less than 1 :1250;
 - iii. all site boundary treatment, retaining walls, gabions, footpaths and security fencing;
 - iv. acoustic fencing and barriers between letters A-B; C-D and E-F as shown on the Parameters Plan; and

- v. a programme of implementation and management plan.

The landscaping scheme shall be carried out as approved and shall be maintained in accordance with the approved management plan for a minimum of ten years after planting. Any trees, shrubs, or other plants which die, are removed or become seriously damaged or diseased during this period shall be replaced with others of a similar type and size unless otherwise agreed by the Local Planning Authority.

- 9. Prior to the commencement of development details of the landscaping scheme for the area shown edged green on plan 2144-FE-78 (including a programme of implementation) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
- 10. Prior to the commencement of development details of the highway works on Moat Lane and at the access to the site from the A206 Bob Dunn Way/Thames Road/Burnham Road junction shall be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied or brought into use until these off-site works have been completed in accordance with the approved details.
- 11. The bridge details to be submitted in accordance with Condition 1 shall specify:
 - i. details of the provision to be made for access for the Environment Agency to and along both banks of the River Cray;
 - ii. details of the bridge piers which shall be substantially in accordance with the Environmental Statement and shall create no greater blockage to the River Cray than shown on the revised application drawings dated January 2007;
 - iii. details of the works to the banks of the River Cray which shall project no further into the watercourse than shown in the revised application drawings dated January 2007 and the Environmental Statement;
 - iv. details of fenders;
 - v. details of guard rails; and
 - vi. the materials and finishes to be used for the external surfaces of the bridge.

The bridge shall be provided in accordance with the approved details.

- 12. Prior to the commencement of development an ecological mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of implementation and a management plan and shall be substantially in accordance with the details contained in the Ecological Chapter of the Environmental Statement (including the provision of a 5m wide

buffer zone alongside all wet ditches and ponds). The ecological mitigation scheme shall be carried out as approved.

13. Prior to the commencement of development a scheme providing details of all permanent access roads, cycle ways and footpaths shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of implementation and shall be substantially in accordance with the Parameters Plan. The scheme shall be implemented in accordance with the approved details.
14. Prior to the commencement of development details of the northern access from Moat Lane together with measures to be introduced to ensure that only authorised vehicular traffic, cyclists and pedestrians can use the northern access from Moat Lane as identified on the Parameters Plan shall be submitted to and approved in writing by the Local Planning Authority. The said details shall specify the type of vehicles to be authorised and the management arrangements for the operation of those measures. Thereafter the northern access shall be provided in accordance with the approved details and the only vehicles to use this access shall be those authorised in accordance with the approved details.
15. Prior to the commencement of development details of the areas affected by all vehicular and pedestrian sight lines and visibility splays within the site including the height of zone within which there shall be no obstruction to visibility shall be submitted to and approved in writing by the Local Planning Authority. The sight lines and visibility splays shall be provided in accordance with the approved details before that part of the development which utilises those sight lines and visibility splays is first brought into use. Thereafter the sight lines and visibility splays shall be maintained in accordance with the approved details.
16. Prior to the commencement of development a scheme specifying the management arrangements for the operation of the lifting bridge shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the bridge shall only be lifted in accordance with the agreed scheme.
17. Prior to the commencement of development details of the boundary treatment between the western boundary of the application site and the area denoted as the “Area reserved for Crossrail” on the Parameters Plan shall be submitted to and approved in writing by the Local Planning Authority. The treatment of that boundary shall be undertaken in accordance with the approved details.
18. Prior to the commencement of development a drainage strategy (including a programme of implementation) shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be substantially in accordance with the details set out in the Environmental Statement. The strategy shall be implemented as approved.
19. Prior to the commencement of development a scheme of archaeological investigation and, if necessary, mitigation shall be submitted to and approved in

writing by the Local Planning Authority. The scheme shall be implemented as approved.

20. Prior to the commencement of development a scheme detailing the location and appearance of the refuse storage areas and recycling facilities shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and maintained as approved.
21. Prior to the commencement of development a construction method statement shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall include:
 - i. details of the means of access to the site (including details of temporary construction accesses to the site and to the banks of the River Cray and details of the temporary bridge over the River Cray);
 - ii. details of the methods to be used to control dust, noise, vibration and other emissions from the site (including emissions to the River Cray);
 - iii. measures to prevent blockages to the River Cray and to control the loadings to the river embankments;
 - iv. a scheme for the routeing, management and signage of construction traffic;
 - v. a scheme for the maintenance and/or temporary diversion of Public Rights of Way;
 - vi. details of fencing to prevent incursion of construction traffic onto landscaped areas within and outside the site;
 - vii. details of all temporary buildings and compound areas including arrangements for their removal;
 - viii. details of areas to be used for the storage of plant and construction materials and waste (including demolition waste);
 - ix. details of the areas to be used for parking, loading and unloading of construction vehicles and for parking employees vehicles;
 - x. details of temporary lighting arrangements; and
 - xi. a programme of works.

All construction shall be carried out in accordance with the approved method statement.

22. Prior to the commencement of development a noise mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall set out the provisions to be made for the control of noise from the

site and shall be substantially in accordance with the Environmental Statement and the Statement of Common Ground on Noise (CD7.5). Noise from the site shall be controlled in accordance with the approved scheme.

23. Prior to the commencement of development a contaminated land assessment and associated remediation strategy together with a programme of implementation, shall be submitted to and approved in writing by the Local Planning Authority.

The assessment and remediation strategy shall include a site investigation report detailing all investigative works and sampling carried out together with the results of analysis and risk assessments to any receptors. The strategy shall be of such a nature so as to render harmless the identified contamination having regard to the proposed end use of the site and the surrounding environment including all controlled waters.

The approved remediation scheme shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the approved methodology and best practice. Any variation to that scheme shall be agreed in writing with the Local Planning Authority in advance of the varied works being undertaken. If during any remediation works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme submitted to and approved in writing by the Local Planning Authority and carried out.

Upon completion of the remediation works this condition shall not be discharged until a validation report has been submitted to the Local Planning Authority. The validation report shall include details of the remediation works and quality assurance certificates to show that the remediation works have been carried out in full in accordance with the approved methodology. The report shall include all relevant correspondence with the regulating authorities and other parties involved with the remediation works, details of post remediation sampling and analysis to show the site has reached the required standard of remediation, and documentation detailing all materials that have been imported to or removed from the site in connection with the remediation works.

24. Prior to the commencement of development a groundwater monitoring scheme relating to the chalk aquifer under the Crayford Landfill Phase 7 (including a programme of implementation) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.
25. Details of the construction of the foundations for each building shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction of that building. The foundations shall be constructed in accordance with the approved details.
26. No works of construction (including earthworks) other than internal works to the buildings, the laying of floors, works requiring rail possessions and tidal works shall be undertaken before 08.00 or after 18.00 on any weekday or before 09.00 or after 14.00 on Saturdays nor at any time on Sundays, Bank or Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

27. Prior to the occupation of each building details of any external storage areas (including the maximum height of any such storage) for that building shall be submitted to and approved in writing by the Local Planning Authority. No materials shall be stored outside the buildings except in the approved areas.
28. No building or the intermodal area hereby permitted shall be occupied until the associated car parking, HGV parking, servicing and manoeuvring spaces and the roads and footpaths providing access for that building or the intermodal area have been constructed and laid out in accordance with details submitted to and approved in writing by the Local Planning Authority. The car parking approved for each building or the intermodal area shall be completed ready for use prior to the occupation of that building but shall not be used prior to such occupation. Cars and HGVs shall not be parked on the site other than in the approved parking spaces unless otherwise agreed in writing by the Local Planning Authority.
29. No building or the intermodal area hereby permitted shall be occupied until the cycle parking for that building or use has been provided in accordance with details submitted to and approved in writing by the Local Planning Authority, such details to be substantially in accordance with the Framework Travel Plan. The cycle parking approved for each building or use shall be provided prior to the occupation of that building or use and thereafter shall remain available for such use at all times unless otherwise agreed in writing by the Local Planning Authority.
30. Prior to first occupation of any part of the development a detailed external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. No external lighting other than that approved shall be provided on the site.
31. The buildings hereby permitted shall be used solely for Class B8 (storage or distribution) purposes and uses ancillary thereto and for no other purpose.
32. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or replacing the same) no extension of the buildings hereby approved shall be carried out.
33. The height of stacked containers on the area coloured orange on the plan ref 2144-LE-85 shall not exceed 12m.
34. No more than 1,167 car parking spaces shall be provided on site including spaces for disabled and car share drivers.
35. There shall be no burning of materials or waste on the site.
36. Details of any gantry cranes to be used on the site shall be submitted to and approved in writing by the Local Planning Authority prior to their first use. No gantry cranes shall be used on the site other than as previously agreed in writing by the Local Planning Authority.

37. No railway line or siding provided within the site further to this permission shall be removed, realigned or closed to rail traffic unless otherwise agreed in writing by the Local Planning Authority.