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Your Ref

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11 March 2010

Department of Local Government and the Environment
Murray House
Mount Havelock
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Isle of Man IM1 2SF

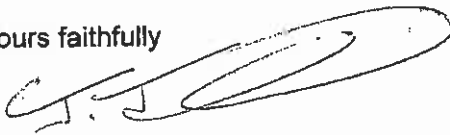
Email: planningpolicy@dlge.gov.im and Post

Dear Sirs,

Re: Proposed Development Order, Cooil Road / Colooney's Lane, Braddan

In relation to the consultation process in respect of the Cooil Road, Development Order, we enclose herewith the submissions of our client, Mr Karl Killian of Garey Ashen, Colooney's Lane, Cooil, Braddan.

Yours faithfully



Callin Wild

Enc.

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DEPT. OF LOCAL GOVERNMENT
AND THE ENVIRONMENT

Advocates: Jeremy Collin, Jonathan Wild, Peter Shimmin, Kevin Goldie, Lesley Webb
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THE TOWN AND COUNTRY PLANNING ACT 1999 ("the Act")

THE TOWN AND COUNTRY PLANNING (COOIL ROAD) ORDER 2010 ("the Draft Order")

**The submission of Mr K. Killian,
Garey Ashen, Colooneys Lane, Cooil, Braddan, Isle of Man**

1. I am the freehold owner of the property known as Garey Ashen, which is situate at Colooney's Lane, Cooil, Braddan, Isle of Man. Garey Ashen is located at the south end of the western edges of the area of land proposed to be designated under the Order as it abuts Colooney's Lane. My property is marked in green on the map forming Appendix A to this submission.
2. I have lived in the property since January 2006 years having purchased the site in late summer 2001. I built the property thereon through 2005. I reside at the property with my son. Various views from the property and of the surrounding area form Appendix B to this submission.

OBJECTIONS TO PROPOSED DESIGNATION

3. My objections fall under seven main heads:
 - A. Inconsistency with existing land use policies within the Strategic Plan and relevant Local Plans
 - B. A lack of relevant strategic and local survey information relating to the availability and suitability of land for employment
 - C. Prematurity based on information to hand
 - D. In relation to the business park and office uses proposed:-

- there is currently an over-supply of land already zone for use for such purposes within the current Isle of Man business park site to the north of Cooil Road;
- there is currently an over-supply of land already zoned for office use or business park in Douglas which would be suitable for corporate office headquarters (e.g. Victoria Road, Douglas; Steam Packet buildings / Parade Street; Villiers phases 3 and 4) prior to specific allocation on a green field out of town site;
- the proposed siting of the business park element at the western edges of the Cooil Road site means it is almost inevitable that the only way to access will be by car rather than public transport due to the absence of any reasonably adjacent public transport infrastructure;
- the Business Park designation allows for the tallest buildings (18m) within the proposed development; the proposed site layout means that these could be situate at the extremity of the site closest to the existing countryside and potentially very close to the properties in Colooney's Lane

E. Low numbers of car sales areas in the town centre which are likely to re-locate to the site

F. The absence of any specific provision for open space between Colooney's Lane and the western edge of the proposed designated area

G. An under emphasis on the environmental impact, particularly on bats in the area.

A. INCONSISTENCY WITH POLICIES IN THE ISLE OF MAN STRATEGIC PLAN

4. Section 2 (4) of the Act provides that the proposals in an Area Plan shall be in general conformity with the Isle of Man Strategic Plan ("ISP"); but in case of any inconsistency between the provisions of the ISP and the provisions of an Area Plan, whichever came into force later shall prevail.
5. Currently the land at issue is not zoned for development at all whether through an Area/Local Plan or the ISP. Accordingly the guiding principles of General Policy 3 apply

to establish a presumption against development in areas not so designated in the appropriate Area / Local Plan. Further, Environment Policy 1 of the ISP states that:-

"The Countryside and its ecology will be protected for its own sake. For the purposes of this Policy, the Countryside comprises all land which outside the Settlements defined in Appendix A3 at A.3.6 or which is not designated for future development on an area plan. Development which would adversely affect the countryside will not be permitted unless there is an over-riding national need in land use planning terms which outweighs the requirement to protect these areas for which there is no reasonable and acceptable alternative"

6. In addition to being "countryside" as described in Environment Policy 1, under the live Braddan Local Plan 1991 the land is classified as being an Area of High Landscape Value and Scenic Significance ("AHLV"). Therefore Environment Policy 2 applies, which states:

"Within these areas the protection of the character of the landscape will be the most important consideration unless it can be shown that:

- (a) The Development would not harm the character and quality of the landscape; or*
- (b) The location for the Development is essential.*

There are a number of other policies which point towards development being located in existing centres on land zoned for such purposes and the protection of undeveloped land¹.

7. Although not explicitly stated in the Department's accompanying Background Statement (Appendix 2), I can only assume that that the Department purports to rely on exception (g) to General Policy 3². However there is to my mind a big difference between the Department considering

¹ See Strategic Policy 6 and 7.

² Development will not be permitted outside of those areas which are zoned for development on the appropriate area plan with the exception of... (g) development recognised to be of overriding national need in land use planning terms and for which there is no reasonable and acceptable alternative.

"that the proposed development is necessary to encourage economic development and provide employment on the Island in line with the Government Strategic Plan 2007 to 2011 and the [ISP]" (per Background Statement)

and there being an

"overriding national need in land use planning terms and for which there is no reasonable and acceptable alternative".

(the relevant ISP policy tests)

8. The Department of Trade and Industry has engaged ECOTEC Research & Consulting Limited on the following basis:-

"to provide assistance in the preparation of a proof of evidence to support a Development Order which will be considered at a Planning Inquiry" [emphasis added]

I do not consider that such an engagement provides the necessary balanced view which one ought to expect when the Department [DoLGE] should be undertaking an exercise of balancing all material factors to determine the *"overriding national need...and for which there is no reasonable alternative"*. I return to consider the ECOTEC report at Part B. of my submission below.

9. When the final form ISP was published in July 2007, it was stated:-

"9.1.4 ...Across the Island there are some one hundred and eighteen hectares of land allocated for industrial development³. Much of this is concentrated around Ballasalla and the Airport. There is, however, a spread of land available across the Island to support employment and regeneration opportunities in each area. Such land will be important to support the regeneration of the Service Centers and the Gateway and Employment role of the airport area.

9.1.5 The Douglas area has seen by far the bulk of the industrial land take up in recent decades and much of the land allocated for such purposes has been taken up.

³ Which included the land at Cooil Road albeit it was then (as now) agricultural land.

This is why the Department has resolved to proceed with a Development Order for the development of some twenty hectares of employment land to the south of Cooil Road. A recent report on the take up of industrial land in the Douglas area indicated that it has been a faster than anticipated and at current rates that all the land will be required by 2015. While the situation will be subject to detailed assessment in the preparation of the Plan for the east, the Department is satisfied that the release of additional land is both necessary and appropriate at this stage.

9.1.6 *The Department has also reviewed planning permissions for office development. The majority of these are focused in the Douglas area. Take up has been low in recent years with the exception of certain relocation to corporate headquarters, such as Skandia. There are a number of sites still available for new office development, in addition to the existing stock. Of note is the recent trend for sites with office consent to subsequently secure planning permission for residential use. The most notable example being the final phase of the Villiers Development, which now has a residential permission in addition to its partially implemented office consent.*

10. It is notable that within the ISP and in line with recommendation made by the Inspector⁴, an addition was made to ¶ 9.2.3 of the ISP such as to include a specific reference to locational implications of new IT-based forms of industry and accordingly a new final sub-paragraph was added to ¶ 9.2.3 of the ISP in the following terms:-

"Many IT and E-businesses successfully operate in the new generation of industrial buildings. At the same time many operate successfully in standard office environments or even heritage buildings. In planning terms the principal distinction is between those enterprises that manufacture physical products and require production, packaging and distribution space and those enterprises whose products, as such, do not have the same processing requirement. In most cases the former enterprises can be located in industrial estates or business parks in a range of different buildings. In the latter, office type accommodation may now be appropriate.

⁴ ¶ 9.2.1 of Inspector's Report published by DoLGE in November 2005

11. Whilst the Inspector's Report did not make any specific recommendation relevant to designation of areas as Business Parks, the concept was introduced into the ISP as a defined term in Appendix 1:

Business Parks

A development encompassing land for light industrial purposes, warehousing, new-technology companies involved in scientific, commercial, or industrial research or development and office accommodation as the corporate headquarters of companies having multiple and diverse interests (but excluding financial / professional services to visiting members of the public); buildings should be set in parkland which should dominate the landscape.

12. Strategic Policy 9 of the ISP states:

"...all new office development (except in corporate headquarters suitable for a business park location) must be sited within the town and village centres on land zoned for these purposes in area plans, whilst taking into account business policies 7 and 8⁵

Taking all these policies in the round (and it is submitted that the current Braddan Local Plan 1991 policies and the Strategic Plan policies are entirely consistent), the proposed re-zoning is going to be an exception to a number of pre-existing policies and such exception only arises when there is

"overriding national need in land use planning terms and for which there is no reasonable and acceptable alternative" [emphasis added]

13. It is quite clear from ¶ 9.1.5 of the ISP that there is available alternative land located near to the Airport 'Gateway' which is not only a reasonable and acceptable alternative but is also an *available* alternative. Furthermore, the existing Local Plan designates the

⁵ Business policy 7 effectively reiterates this policy but states "exceptionally, permission may be given for new office space (a) on approved business parks for corporate headquarters which do not involve day to day callers.

Business policy 8 states that new office buildings should, in terms of height and mass, respect the scale and character of adjoining and nearby buildings and should accommodate parking in accordance with the standard specified in appendix 7 of the [ISP]

land as an AHLV and accordingly there needs to be yet further exceptional grounds for the development proposed.

14. In addition to these applicable Strategic and Local policies, it submitted that the emphasis of the existing Douglas Local Plan is to encourage development in the town centre. This ought particularly to be the case in relation to offices and corporate headquarters.

B. LACK OF RELEVANT STRATEGIC AND LOCAL SURVEY INFORMATION

Employment Land Availability Study

15. Following the March 2005 public inquiry in relation to the draft Strategic Plan the Inspector noted in his report dated October 2005 (published by the Department in November 2005) the Department's stance relevant to an alleged lack of survey information (¶ 5.112):

"Paragraph 5.1 of the Consultation Draft Plan [November 2004 draft] states 'in terms of the capacity of the area designated for office use in Douglas, it is considered that these will meet any foreseeable demand and that there may indeed be an overprovision'.

It is DLGE's view that on the basis of the existing allocations for office and industrial land, there is no need for a survey of available land for economic use. Such a survey would identify an over-supply of office space and sites with consent or allocated for offices. That situation has not changed much since the publication of the Issues Report 2000".

16. The Inspector nevertheless made a specific recommendation in his report (¶ 5.195) that the Island Spatial Strategy (as it then stood) be modified in that:

"further information be obtained, in the form of an urban capacity study, a survey of the availability of land and buildings for employment purposes...before the [strategic] plan proceeds further".

17. I am advised that the best practice approach to the preparation of an employment land review is outlined in guidance published by the UK Government ("*Employment Land Review Guidance Note*" (December 2004)). It has three main stages:

- (1) Taking stock of the existing situation;
- (2) Creating a picture of future land requirements; and
- (3) Identifying a new portfolio of sites.

I am further advised that it is recommended that policy development, monitoring and review are suggested throughout the three stages.

18. In the context of the development of the ISP, an "Employment Land Availability" study ("ELA Study") was circulated in April 2007 in purported compliance with the Inspector's recommendation referred to at paragraph 15 above, stating that it was:

"a study of employment land on the Island... undertaken to establish the availability of land for employment use, to inform the final stages of the process of the adoption of the [ISP] [¶ 1.1 ELA study].

The scope of the study involved desk based research based on a review of all allocated land in existing local plans and research of planning history relating to all employment sites. It was explained that:-

"vacant buildings have been identified, where relevant. However the focus of the study has been on the strategic availability of employment land" [¶ 1.4 ELA Study].

A further study was also undertaken focusing on land available for office purposes in the Douglas and Onchan areas, the format of which comprised a schedule of office permissions in Douglas and in Onchan.

19. In relation to the studies undertaken as part of the ELA Study (which eventually formed Appendix 9 of the ISP), I firstly do not consider that they do what the Inspector recommended. I also understand that the ELA Study was not even referred to the

independent Inspector to see if he thought it was adequate. Thirdly, I also understand that the representations received in respect of the ELA Study were not subject to any further independent consideration by the Inspector, even though the ELA Study would inevitably form the evidence base for the final policies within the ISP.

20. Moreover and more worryingly given what I say about the apparently long held determination of the Department / DTI / Government to rail-road a development order on to the proposed site, it would seem the Department has not been adhering to recommended best practice relevant to studies of this nature as referred to at paragraph 17 above.
21. I say this because it seems that between the Inspector's Report into the then draft ISP⁶ and the publication of the final draft of strategic plan and the ELA Study in April 2007, the Department had resolved to proceed with a draft Development Order in virtually identical terms to that now proposed but to do so outwith the then ongoing Strategic Plan process.
22. One could speculate that the Department had [in April 2007] only recently identified a strategic need for 'employment land' at the site; this would be surprising if it had been adhering to best practice as described at paragraph 17 above, as the three fold process is an overlapping one and it would also appear that the ELA Study was only completed in April 2007. One could also speculate, perhaps unfairly, that the Department sought to bring forward the draft Development Order at that time in the fashion they did to try and avoid arguments for re-opening the Strategic Plan process before the independent Inspector who had chaired the public inquiry.

The ECOTEC report

23. As stated at paragraph 8 above, the Department of Trade and Industry commissioned the ECOTEC report. It is instructive to note that the ECOTEC Report is limited (per pg. 1) to:

⁶ Published by the Department in November 2005

- *review and analyse the current take-up of employment land within the Eastern sector of the Island;*
- *review and assess the projected requirements for employment land in the Eastern sector to provide a conclusion as to the quality and adequacy of existing economic intelligence [emphasis added]*

24. I consider that because there has to be an "overriding national need...and for which there is no reasonable alternative" to site the development where it is, the ECOTEC report is flawed in starting its analysis from the site rather than starting at an island wide level and ending up with this site as the best one, balancing also the various "exceptions" which have to be overcome. It is obvious that any report which limits its analysis to the Eastern sector pre-supposes that the Eastern sector is the appropriate sector for the proposed zoning.
25. Further, to the extent that the ECOTEC report seeks to rely on the abandoned draft Braddan Plan, it is flawed.

The EIA

26. The Environmental Impact Assessment ("EIA") produced by TEP similarly seeks to rely on imported parts of the abandoned draft Braddan Plan as if they are established policy. The established policy is the Braddan Local Plan and the ISP.
27. Likewise, to the extent that the report is informed by the ELA Study (see for example ¶ 3.33 of seq of EIA) it is flawed by given the reasons I criticise the ELA Study above. It is also noticeable that the Consultants responsible for informing the social-economic assessment of the DTI, the very entity which ECOTECH were instructed by to support the Development Order.
28. I therefore consider that Chapter 3 of the EIA is fundamentally flawed in that it relies upon information gathered from the department [DTI] seeking to promote the Development Order through the auspices of the Department [DoLGE]. However, the EIA (unlike the ECOTECH Report) refers to itself as having been produced by TEP "in support of a Development Order being promoted by the Department of Local Government and the

Environment, as opposed to the Department of Trade and Industry (see paragraph 8. above).

C. PREMATURITY WITHOUT PUBLIC INQUIRY INTO ISSUES

29. Without prejudice to what I say in the remainder of my submission, I also consider the Draft Order should in any event be called in for a public inquiry before an independent inspector. A number of the documents circulated in this consultation pre-suppose that the matter will be called in for a public inquiry⁷
30. Firstly, it is quite clear that the Department has a pre-determined policy of seeking to try and designate land at the Cooil Road site as land suitable for industrial use⁸ and for mixed commercial and industrial use⁹.
31. It is significant to note that at ¶ i.9 of the Environmental Impact Non-Technical Summary dated March 2009 and ¶ 3.62 of the EIA also establish the Department's view as being that it

"does not consider that there are suitable alternative sites which meet the Spatial Strategy and other policies in the approved Strategic Plan. Most of the potential areas around Douglas, Onchan and Braddan are classified as areas of high landscape value and coastal or scenic significance. Alternative sites that have been considered are poorly related to the strategic highway network and the other principal gateways to the Island (Douglas Harbour and Ronaldsway Airport)..."

32. In relation to the Department's apparent desire to rail-road this Development Order, I note that ¶ 3.62 of the EIA states that *"the issue of potential alternative sites will be set out in the Department's statement setting out the background to the Development Order"*. However, the Background Statement (Appendix 2) simply states at ¶ 1.6 *"The Department does not consider there are suitable alternative sites for this type of development which meets spatial strategy and other policies in the approved Strategic Plan"*.

⁷ e.g. p. 1 ¶ 1.1. of ECOTEC Report; ¶ 1.2 of Appendix 2 (Background Statement)

⁸ Modified Draft Braddan plan

⁹ December 2006 draft Development Order

33. I do not consider this bald statement amounts to a proper analysis, not least given the further statement that most of the potential areas is around Douglas, Onchan and Braddan are classified as AHLV and coastal or scenic significance. The Department conveniently ignores that this classification applies to the proposed development area.

34. The Department further states at ¶ 1.2 of its Background Statement accompanying the draft Order that

"it [it is] proceeding by way of a Development Order as it considers it is necessary to secure the site for economic development at the earliest opportunity and in advance of the preparation of the Area Plan for the east of the Island. Promoting the development of the area through a Development Order does not prejudice parties with an interest in the development of the area as their views will be considered by an independent Inspector who will report to the Departments. A decision by the Department who make the Development Order will need to be approved by Tynwald".¹⁰

35. From this, it seems to me that the Department is ignoring the existing AHLV notation relevant to the land and, as with the ECOTEC Report, the starting point is the relevant site which is seems keen to promote rather than a 'top down' strategic Island-wide or even an eastern area analysis. The Department's view is to me unreasonable as it ignores the fact that there are plenty of identified alternative *available* sites well located on the strategic highway network and close to the airport Gateway in particular.

36. One further issue concerns me relevant to the Department's apparent predisposition to this development, namely the fact that the interests of a private developer (Tesdale Limited) appear to be one of the main driving forces for the Development Order. I note with some concern from ¶ 3.35 of the EIA that there is reference to an agreed minimum annual take-up of 2.02ha per annum (agreed between DTI and Tesdale Limited in a letter dated 18 May 2006).

¹⁰ *Contra* ¶ 2.3 (c) of Appendix 2 of the same Background Statement which suggests that only if there were objections to the draft Development Order would a public inquiry be arranged.

37. I query whether it is an appropriate task of the Department to promote this proposed Development Order rather than have the private land owner [Tesdale Limited] go through the planning approval process. If a private planning application was perceived by the Council of Ministers to be of general importance to the Island (or for some other reason ought not to be determined by the Department) then the Council of Ministers ("CoMin") would call the application in under Section 11 of the Act. Under the call in process either CoMin would determine the application or – as here, if the Department had an interest in the proposal – it would be referred to an independent inspector who would hold an inquiry and report on his findings.
38. Here it appears the Department is advancing the scheme on the basis of 'overriding national need' and accordingly the matter should be called into a public inquiry. A public inquiry would be held if (i) an Area Plan were being promoted for the east of the Island or (ii) in the case of a planning application of general importance for the Island per Section 11 of the Act.
39. Each of these processes (Call in / Area Plan) would require a public inquiry. I consider that this would be the appropriate time and place to consider the need for the proposed designation as a whole, but more particularly the proposed designation in relation to the specific 'business park' uses proposed. These are the uses which are earmarked to located at the western edge of the proposed site.

D. BUSINESS PARK USES

40. In relation to business park uses, I refer to the definition I set out above at paragraph 11 above. That definition in its own right can encompass light industrial purposes, warehousing, new-technology company business and office accommodation as corporate headquarters. The western extremity of the proposed zoning is set aside for proposed business park use. However, it is instructive to note that large parts of the rest of the site are already earmarked to be used for industrial purposes and presumably those zonings can also be used for light industrial purposes, warehousing and new technology companies. Even though I criticise the EIA, it is quite apparent from ¶ 3.28

that, that there remains a significant number of potential office schemes to be taken up in more central areas of Douglas.

Over-supply of land already zoned for Business Park use within existing Business Park

41. It should be noted from the draft Braddan Plan and the Development Order relevant to the existing Business Park (north of Cooil Road) that the full extent of the site bounded by (i) the 'old' element of Vicarage Road (which runs one way in a northerly from Cooil cross-roads) (ii) by Cooil Road and (iii) the access from the new roundabout through the Isle of Man Business Park remains largely undeveloped.
42. Adopting a sequential approach, one would have anticipated that an element of take up of this designation would have occurred prior to any further attempts to secure a designation of virgin land for the same purposes at a virtually adjoining site (which is further from the town centre and largely undeveloped in its surrounds)

Over-supply of land already zoned for headquarters / Business Park use within Douglas

43. I note from ¶ 2.5 of the EIA that an area of land between 21,000 sq m and 42,000 sq m could be designated depending on the actual allocations taken up within the site.
44. According to the ELA Study and EIA, there is a significant tranche of land available in Victoria Road, Douglas which would be ideally suited to allocation for Business Park use. I am aware of two sites, the first being opposite the prison and the other site being further up Victoria Road near the CMI and Valmet offices. According to the entry in the 'Office Consents in the Douglas Area' table produced by the Department, the total proposed office space available at Victoria Road is 13,592 sq m (from planning application 89/01503/B).
45. There is also a significant tranche of Government owned town centre land available at Parade Street currently being used as a temporary car park and offices which is quoted

as being some 18,813 sq m (from planning application 02/00366/B). There are various other empty and undeveloped sites in the Douglas Town Centre which could be redeveloped (Villiers, Walpole Avenue, Fort Street area) which would add to regeneration of the town centre if made available for use as offices. If there are operations which *really* require an out of town centre location, there is, as I have submitted above, a ready availability of undeveloped land within the existing business park.

46. The EIA at ¶ 3.28 states that "*despite local agents claiming a lack of available space within Douglas, there are a number of sites that have the potential for development*". Despite this assessment the Department nevertheless reaches a 'policy assessment' (per page 11 of the EIA) that

"Office space in Douglas is severely limited and there are no suitable alternative sites for large, flexible office buildings within the centre of Douglas."

I consider this is yet another example of the Department's predisposal to progress this scheme. Limiting the analysis of the available of sites to central Douglas conveniently ignores the edge of centre sites at Victoria Road.

Lack of sustainability of business park uses from transport point of view

47. I note from ¶ 2.5 of the EIA and Figure 1 of the indicative master plan for the site that it is broadly proposed that that an area of land between 21,000 sq m and 42,000 sq m be designated for business park uses be located at the western edge of the site i.e. furthest from Douglas town centre and potentially closest to the residential properties on Colooney's Lane.
48. The EIA makes some telling comments about the way it is likely people will access the proposed zoning generally. In the context of a corporate headquarters, it is an issue which could be avoided by securing a properly located site:

- 2.13 *There is a pedestrian footway on the north side of the Cooil Road between the Spring Valley Roundabout and Cooil Road roundabouts. There is no pedestrian footway on the south side. There is currently no footway north of the Cooil Road roundabout but there is an upgraded footway on Vicarage Road to the north of the development site¹¹*
- 2.14 *There are no segregated cycle paths in the vicinity of the proposed development site*
- 2.15 *There is currently a half hourly bus service during week days along Cooil Road. There are four bus stops on Cooil Road between the Cooil Road roundabout and the Spring Valley cross roads roundabout. The bus service provides links to Peel and Douglas, where it connects with other services.*
49. From this I take the fact that there are no bus stops west of the Cooil Road roundabout closest to the area set down for business park use and there are little or no footpaths on the western section of Cooil Road (west of the roundabout) which is in fact a 40mph limit section of road.
50. Further, if one looks at either of the Indicative Master Plans¹² it is quite clear that there is to be a single new access to the proposed designated zone via a new roundabout to be constructed outside B&Q with an additional emergency access via Ballapaddag. I do not consider it likely that the indicated roadways lend themselves to any form of public transport being provided, which is a concern if there are proposals for buildings acting as 'corporate headquarters' of a significant size. (The EIA contains references to significant developments such as Manx Telecom, Skandia and Scottish Provident). Moreover as the EIA acknowledges, Business Park uses have the highest employee densities (¶ 3.51) and there is a requirement for a car parking space for every 15 sq m of nett floor space (see Parking Standards chart at A.7.6 of the ISP).
51. I also do not consider that the junction between Colooney's Lane / Cooil Road / Old Vicarage Road lends itself to any form of significant improvement bearing in mind the

¹¹ i.e. through the current Isle of Man Business Park

¹² The indicative master plan for the November 2007 Scoping Report is less extensive in area than the indicative master plan produced as Figure 2 to the EIA. I attach both copies as Appendix C to this Proof, together with the "ecological constraints and mitigation" drawing (D1531.006); Figure 2 to EIA. Also within appendix C is the map to which I refer at paragraph 68.

visibility constraints that exist at such junction. It is notable that the current indicative masterplans only provide for one entrance to the site via a new roundabout to be constructed outside B&Q, as opposed to any further access from the Colooney's Lane end of the development.

Business Park designation allows for the tallest buildings (18m); these will be at edge of the site closest to the existing countryside and potentially very close to the properties in Colooney's Lane

52. The business park use designation provides for a maximum building height of some 18 metres which is the tallest permitted use within the site. As a matter of common sense it would be logical to include provision for the tallest buildings away from existing residential properties at the extreme edge of the site as it verges on to virgin agricultural land. The topography of the site as it approaches Colooney's Lane is such that it rises out of a hollow to the highest point of the whole proposed site (¶ 2.4 of the EIA) and there will be a visual impact from Garey Ashen and Colooney's Lane, as is apparent from the EIA¹³.

E. LIMITED NUMBER OF BRAND MARQUE CAR SHOWROOMS LOCATED IN TOWN CENTRE TO TAKE UP DESIGNATION FOR CAR SHOW ROOMS

53. Following an analysis of the yellow pages of the Isle of Man phone directory, I have identified that the following vehicle retailers operate in what may be described as town centre sites:-

- Elite Vehicles – Peel Road (former Athol Garage) mixed 2nd hand
- Rupert Downward Car Sales – South Quay mixed 2nd hand

¹³ See e.g. ¶¶ 5.134 and 5.194 EIA for Garey Ashen; ¶¶ 5.100 and 5.157 for Colooney's Lane

- | | |
|--------------------------------------|----------------------------|
| • DW Cars – Rosemount | mixed 2 nd hand |
| • Swift Motors – Fort Street | mixed 2 nd hand |
| • Ingear motors – Castle Mona Avenue | mixed 2 nd hand |
| • Barry Curran Motors – Demesne Road | Hyundai and Subaru |
| • Kingswood Honda – Kingswood Grove | Honda |

54. The first five operations I mention are second hand specialists who are unlikely to have brand marque backing or their own sufficient finances to shift their operation from their current locations and more particularly to establish the sort of facilities which would justify a move to a purpose built site with the proposed development zone.
55. Of those who might have 'manufacturer' backing for a move, Barry Curran Motors currently have a large site in an otherwise relatively undeveloped area of town (which is within the Douglas town Centre regeneration zone) to which ready access is available not only by car but also by public transport. The only town centre car sales operation which I can realistically see moving up to the proposed development zone is Kingswood Honda, which has the backing of a strong brand marque and which operates in a very constraint site. Obviously that brand has chosen not to move up to the current business park unlike its competitors Buchanan (BMW and Mini), Oxleys (Toyota) and Caledonian (Toyota).
56. Leaving aside the fact that the majority of the above operations are not ones which I consider would move, the locations that they occupy are also not what might be defined in town centre location for which could a more appropriate use might be found be put to more appropriate use in any event. The relevant test for development in the countryside is that there has to be an overriding national need in land use planning terms and for which there is no reasonable and acceptable alternative.
57. I note from the ECOTEC report that 'car sales' are simply not identified as a growth sector relevant to the Isle of Man's economy (¶ 3.3). Based on the location of the various car showrooms to which I refer, I very much doubt there is going to be much demand for office facilities at the relevant sites or that industrial uses would be appropriate. It would

therefore appear that the inference is that the relevant sites would be used for further residential development, but there is plainly no overriding national need that such development takes place on the town centre car showroom sites identified.

58. In summary, there is no demonstrable overriding national need for the car showroom allocation within the proposed Development Order, whether on the basis of my observations above and more importantly in the context of the EIA and ECOTEC reports. Again it seems as if the Department has come up with the idea rather than it being evidence based; however, unlike the proposed designation of the site as a whole, the Department simply has no evidence rather than evidence which starts its analysis from the wrong point.

F. NON-INCLUSION OF AREA OF OPEN SPACE TO EAST OF COLOONEY'S LANE

59. The map accompanying the draft modified Braddan Plan (which was abandoned by the Department in 2006) showed provision for an area of open space to be included between the western edge of the proposed industrial development and Colooney's lane to the western edge.
60. Based on what I say above, I do not consider there is any or any demonstrable *"overriding national need in land use planning terms and for which there is no reasonable and acceptable alternative"* for the proposed re-zoning for Business Park use.
61. However, if there is a demonstrable need for *some* Business Park use, then my fall back submission is that the extent of the Business Park designation should be limited for the following reasons:-
- a) to minimise the visual impact on residents in the Colooney's Lane / Cooil area;
 - b) to maximise efficient and sustainable use of land
 - c) to provide a designated 'open space' between Colooney's Lane and the furthest westerly extent of the business park
 - d) to protect the water course located across the road from the Isle of Man business park (see Part F below)

e) to ensure the bats in the area have as much of their environment protected as possible. (see Part F below)

62. The independent Inspector's report into the draft Braddan Plan (produced as Appendix D) stressed the need for there to be a landscaping scheme to

*"consider and protect the amenities of those living at Clybane Cottage and Creg-de-Shee as well as those who may use the whole southern side of the Coolil Crossroads, using appropriate planting in undeveloped open space to separate the dwellings from the industrial development"*¹⁴.

(at this time Garey Ashen had not been built so is not mentioned)

63. Although the Inspector recommended that the whole of the land running up to Colooney's Lane be designated for use for industrial purposes, he did so in the context of making a specific mandatory policy for there to be a *"link from Coolil Road to Colooney's / Killkenny Lane to provide an alternative means of access to the area"*¹⁵. It is quite clear from both Indicative Master Plans that there is to be no such alternative access in the proposed order.

64. As I state above, the Colooney's Lane / Coolil Road / Old Vicarage Road junction has very restricted visibility due to the layout of surrounding buildings. It is instructive that rather than route the Outer Douglas Link Road through the top of 'old' Vicarage Road, the Department determined to build a new roundabout to ensure access through the Isle of Man Business Park to the improved Vicarage Road. As I state above, the Colooney's Lane / Coolil Road / Old Vicarage Road junction has very restricted visibility due to the layout of surrounding buildings.

65. I therefore submit (and obviously the draft Braddan Plan process never concluded) the Department cannot gain any support from the Inspector's recommendation that there need not be a specific Open Space designation [i.e. a buffer] alongside Colooney's Lane as the two proposals are entirely different.

¹⁴ ¶368 (2) of Appendix D

¹⁵ ¶368 (5) of Appendix D

66. The two proposals also have different contexts given that the Inspector specifically recommended (¶ 368 (3)) that *“new buildings must be as low in height as possible and designed to a high standard to reflect the prominence and rural character of the site”* whereas Business Park uses allow for buildings up to a maximum of 18m in height,
67. I therefore consider an Open Space buffer would be entirely appropriate given the site layout, sustainability issues and the potential building height issue. I do not consider a 'landscaping' solution will assist; one only has to look at the existing Business Park to see the limited actual extent of landscaping despite the notional 'park' being supposed to dominate the landscape (see definition at paragraph 11 above).
68. As to the extent of the buffer I refer to page 4 of Appendix C, which shows the buffer size I propose. It would:
- protect fully protect hedges A, E and F as well as the entirety of the hedge between hedges A and E which would otherwise be lost;
 - help to minimize damage to the watercourse (Field 3) near the existing Business Park roundabout and ensure its long-term sustainability;
 - prevent an undue extension of the road network into the site and therefore make the site more sustainable from a transport viewpoint;
 - secure a natural end to the Business Park aspect, taking account of topography.
69. All these facts to my mind mean that the justification for the Department to establish an *“overriding national need in land use planning terms and for which there is no reasonable and acceptable alternative”* needs to be that much stronger when it comes to consider designating that part of the proposed zone between the watercourse/hedges E/F and Colooney's Lane. Indeed the Indicative Masterplans at pages 1 and 2 of Appendix C each appear to envisage an end to the development some distance away from Colooney's Lane.

G. INADEQUATE CONSIDERATION OF ENVIRONMENTAL ISSUES

Watercourse

70. It is noted from page 83 of the EIA that standing open water (wetlands) are established as a UK BAP priority habitat. The EIA continues, the watercourse adjacent to the roundabout is to be retained and managed under the site proposals as will the surrounding area. (¶ 6.65). It is unlikely that the pond will suffer from construction traffic encroachment as the surrounding habitat will also be retained. However, pollution would run off from the construction activities and could have a significant effect at the local level.

"6.66 negative impacts at the local level are also predicted in the operational phase of the development".

Environment Policy 7 of the ISP states that:-

"Development will not normally be allowed within eight meters of any watercourse in order to protect the aqualic and bank side habitats and species".

It would appear from the "Ecological Constraints and Mitigation" drawing (reproduced at page 3 of Appendix C) that the only way any development could take place beyond the buffer I suggest is by driving an extension of the Internal access road through hedges E and F. Given the likely disruption that any such construction work would cause, I consider there is a significant risk of pollution of the watercourse during the construction phase (as the EIA seems to accept) and also on an ongoing basis. Further, if there is development on the upside of the watercourse (towards Colooney's Lane), there will be increased surface run-off of water from impermeable surfaces.

Bats

71. In relation to bats, I have to take issue with ¶ 6.68 of the EIA which states that only very low levels of bat activity were recorded during survey. It is not immediately clear where the surveying was undertaken relevant to bats, but the CD Rom of video footage I have

taken (Appendix E) at Garey Ashen, along Colooney's Lane and at the top of Vicarage Road, shows that Colooney's Land / Vicarage Road is an area of significant bat activity and accordingly (assuming there is to be any business park designation) it would be entirely appropriate for there to be a buffer of open space to best preserve the existing natural landscape and maximise the mitigation of any development required in the national need.

CONCLUSION

72. In terms of the Island Strategic Policy, the Department has to simply failed satisfy its own policy test that there is a demonstrable 'overriding national need in land use planning terms and for which there is no reasonable, acceptable alternative' when bringing forward this development proposal.
73. There is a demonstrable failure to adhere to existing land use policies and/or an arbitrary application of the same, a lack of appropriate survey information premised which takes as its starting point and a granted fact that the proposed site is appropriate. Further, certain of the specific allocations proposed are demonstrably not ones for which – even on the Department's own evidence there is either an overriding national need or for which there are no acceptable alternatives (e.g. business park and car showroom uses).
74. Finally, as is apparent from the photographs at Appendix B, there is clearly going to be an adverse impact on those who reside in Colooney's Lane and it is entirely appropriate to preserve the rural/semi rural aspect of the Cool area. At the very least, there should be a significant buffer between Colooney's Lane and the western extent of any development assuming the development does satisfy the relevant policy tests. In particular, this will be necessary to preserve the current environment at Colooney's Lane / Cool and to minimise the overall environmental impact on the countryside.

Dated 11 March 2010
Mr K Killian