

Johnstone, Andy (CSO)

From: Curphey, Emily
Sent: 16 June 2010 15:36
To: Johnstone, Andy (CSO)
Subject: FW: Cooil Road comments part 2 (1/2)
Attachments: 20100609160355_001.pdf

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-----Original Message-----

From: Faragher, Paula
Sent: 09 June 2010 16:01
To: Curphey, Emily
Subject: FW: Cooil Road comments part 2 (1/2)

-----Original Message-----

From: Faragher, Paula [mailto:Paula.Faragher@dlge.gov.im]
Sent: 09 June 2010 15:56
To: Faragher, Paula
Subject: Cooil Road comments part 2 (1/2)

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12 MAR 2010

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Eurocars Ltd

Peel Rd

Douglas

Department Of Local Government and The Environment
Murray House
Mount Havelock
Douglas
IM1 2SF

10/3/10

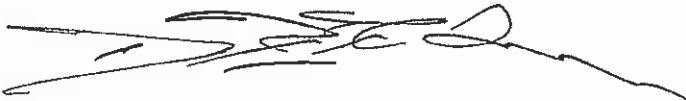
Dear Sirs,

Town And County Planning, Cooil Road Development Order

We would like to record our support in favour of the Cooil Road Development Order 2010. There is a lack of suitable land on the Isle Of Man for quality car showrooms and a shortage of off street display and parking areas. This causes additional congestion, and inconvenience for pedestrians and motorists.

Approval of the Order would improve conditions for all Manx residents, and be a long term asset to the Isle Of Man.

Yours Faithfully,



Donald B Buchanan

Director

Curphey, Emily

From: Curphey, Emily on behalf of DLGE, Planning Policy
Sent: 11 March 2010 15:50
To: Swindlehurst, John
Subject: RE: Cooil Road Development Order

Dear Mr Swindlehurst

Thank you for your comments regarding the proposed Cooil Road Development Order these will be considered all with all others by the Department before a decision is made as to whether and how to proceed with the Order.

Kind regards

Emily Curphey

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From: Swindlehurst, John
Sent: 09 March 2010 13:26
To: DLGE, Planning Policy
Subject: Cooil Road Development Order

I wish to place my objection to the proposed planning order at Cooil Road. My reasons for the objection would be the environmental impact on the area.

At this present economic climate there are many industrial units at already established Industrial Sites around the island lying empty. Surely the drive should be to encourage trade to utilise the existing infrastructure and empty sites rather than creating another building site.

This area has already had its fair share of industrial development with the Incinerator, Ballapaddag and Eden Park, there is major road works taking place and there is still development in the Ballafletcher Estate and Cooil Estate. The visual impact will also be huge and I believe so too will the light pollution and noise pollution from the build and any industrial residents in the future.

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Kilkenny
The Cooil
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IM4 2AG

11th March 2010

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11 MAR 2010

DEPT. OF LOCAL GOVERNMENT
AND THE PARLIAMENT

Dear Sirs

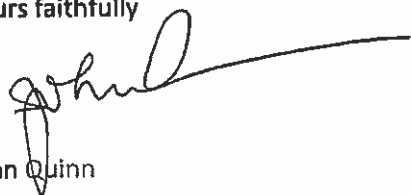
Re: Proposed Development Order – Cooil Road, Braddan

I am enclosing my submission in respect of the above and would be obliged if you would acknowledge safe receipt in due course.

Having considered carefully the terms of your Proposed Development Order and your case in support thereof, I have concluded that not only is it inappropriate but also that it is so contrary to acceptable planning policies and procedures that it is being promoted by you contrary to the rules of national justice.

I therefore invite you to withdraw the Proposed Development Order and to proceed with the Eastern Area Plan process which is clearly the proper procedure for you to follow. I would invite you to consider this invitation urgently and let me have your reasoned response.

Yours faithfully



John Quinn

THE TOWN AND COUNTRY PLANNING ACT 1999
PROPOSED TOWN AND COUNTRY PLANNING (COOIL ROAD) ORDER
SUBMISSION OF JOHN LOUIE MARIE QUINN

Introduction

1. This submission is made by John Louie Marie Quinn of Kilkenny, The Cooil, Braddan. Kilkenny consists of some 85 acres of farmland, an area of registered woodland, farmhouse and agricultural outbuildings.
2. This submission is in objection to the proposed Development Order on the grounds set out below.

Background

The planning system in the Isle of Man is based on the Island Development Plan ("the Development Plan") consisting of a 'Strategic Plan' and one or more 'Area Plans' (S2 Town & Country Planning Act 1999 ('TCPA 1999')).

The Department (the Department of Local Government and the Environment) under S8 TCPA 1999 may make a Development Order which may itself grant planning approval for development specified in the Order or grant planning approval on an application made to the Department in accordance with the Order.

The Strategic Plan covers the whole of the Island and was published in July 2007 and has a plan period up to 2016. The Department has announced its intention to produce a number of Area Plans covering the South, East, North and West of the Island. The Southern Area Plan process is in its final stages. It has been announced by the Department that it has scheduled to start the Eastern Area Plan process later this year (2010).

Until the Area Plans have been published, the existing adopted Local Plans and the 1982 Development Plan Order read in conjunction with the Strategic Plan and any relevant planning policy statements and planning circulars will be the policy framework against which planning applications and planning decisions will be determined (see paragraphs 1.4.3 to 1.5.2 of the Strategic Plan).

Strategic Plan

1. **General Policy 1 of the Strategic Plan provides that "determination of matters under Part 2 (Development Control)...of the 1999 Town and Country Planning Act shall have regard to the provisions of the Development Plan and all other material considerations". A**

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Development Order made under section 8 is a determination under Part 2 of the 1999 Act.

2. Policy 6.1.1 provides that the Development Plan will provide the basis upon which development control decisions are made during the period 2001 – 2016.

“In this way development will be directed towards suitable or preferred locations and away from unsuitable and undesirable locations”

- 3 In dealing with development outside areas zoned for development, Policy 6.3 provides that development will not be permitted outside areas zoned for development on the appropriate area plans except in 8 specified circumstances.

The only exception which could be argued to be relevant to the proposed Development Order is:

6.3 “(g) development recognised to be of overriding national need in land use planning terms and for which there is no reasonable and acceptable alternative.”

This appears to be the basis upon which the Department proposes to make the Development Order (see paragraph 1.2 of the Department’s Background Statement).

- 4 In this matter the Department proposes to make an Order for mixed commercial and industrial purposes on the site at Cooil Road consisting of 22 hectares. The Department says that it is proceeding by way a Development Order because 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 (Background Statement paragraph 1.2) and that it does not consider that there are suitable alternative sites for this type of development (Background Statement paragraph 1.6). – On this basis the Development Order cannot be properly made unless –

- i) there is an overriding national need in land use planning terms for an additional 22ha of land for mixed commercial and industrial purposes,
- ii) the need cannot await preparation of the Area Plan for the East of the Island,
- iii) there is no reasonable and acceptable alternative (including alternative sites).

- 5 **The Department has not brought forward any evidence by way of studies or otherwise to seek to establish that there “is no reasonable and acceptable alternative”.**

There has been no site selection process undertaken by the Department save for the Department expressing its own unsubstantiated and non evidenced based views.

6 The Department has rejected alternative sites on grounds that would apply to the Cooil Road site

The Department claim that potential alternative sites are not suitable because they are classified as area of High Landscape Value (Background Statement paragraph 1.6). The Cooil Road site is designated as an area of High Landscape Value in the Strategic Plan and the adopted local plan (see Cooil Road Development Order EIA Non-Technical Summary) paragraph 1.21).

The Department claim that potential alternative sites are not suitable because they are areas of ecological significance (Background Statement paragraph 1.6). The draft Development Order requires ecological surveys of the site to establish the ecological interest of the site (Schedule 2 paragraph 5(3)(4)). The Department have not established that the site is of any less ecological interest than potential alternative sites.

The Department has acted irrationally and unfairly in breach of the rules of natural justice in rejecting alternative sites on grounds which would apply to the Cooil Road site.

7. The Department has not brought forward any evidence to establish an overriding need for "mixed commercial and industrial purposes."

7.1 The Department has relied upon an Economic Impact Assessment prepared for the Department of Trade and Industry (the Department's right to rely upon this study in the context of this Order will be challenged). This study does not however address a national need for 'a mixed use development' but rather seeks to identify a separate need for offices, a separate need for light industrial, and a separate need for car showrooms.

7.2 In any event, the requirement (if any) for a car showroom cannot itself be of national importance.

7.3 The study seeks to identify that the Development Order would have considerable benefits in terms of the number of jobs created, national income and the quality of jobs created, yet there is no consideration as to where the people in these new jobs might live and so it promotes employment land uses with no associated housing supply in the Eastern Area where there is no existing oversupply of housing.

8. The Economic Impact Assessment focuses on the Eastern Area of the Island and is not therefore an assessment of or evidence of a national overriding economic need.

9. It is not appropriate to use a Development Order justified on an overriding national need basis when it promotes a range of proposed uses; technology, warehousing, car showrooms and offices. It is a scattergun approach totally contrary to the principles of proper planning process and procedures.

- 10 The Department has not established that any need must be addressed immediately and cannot await preparation of the Eastern Area plan.

Good Planning Practice

11. The Strategic Plan provides that where unusual matters arise, or where there is no Manx guidance it will often be appropriate and helpful to have regard to advice published in the UK (paragraph 1.7.1). For guidance on good planning practice pointers the Department ought not only have had regard to the Strategic Plan policies but also to the UK Department of the Environment guide for Development Plans - a good practice guide. It clearly did not as in promoting the Development Order:-
- its consultations were not adequate and effective as for example no local authorities on the Island were consulted to identify the strategies of those authorities in answering any of the perceived national needs;
 - the Development Order fails to follow the strategic planning guidance of the Strategic Plan;
 - the Development Order does not seek to apply and develop the policy framework set out in the higher tier plans, the Strategic Plan and the 1982 Development Plan, Braddan Parish Plan 1991;
 - it fails to address housing needs associated with employment use land.
12. For guidance on good planning practice the Department ought to also have had regard to Planning Policy Statement 12 Local Development Frameworks issued by the office of the Deputy Prime Minister (UK). It clearly did not as:-
- it carried out no sustainability appraisal;
 - it failed to provide an urban capacity study and housing needs survey;
 - It failed to explain how it had addressed the main strategic uses referred to below under the Strategic Plan.
13. It is to be noted that it is the Department itself that is promoting the Development Order as answering an overriding national need yet the Department has no interest itself in the identification of national need and in particular any national need for employment land uses. The Department's only interest in promoting any particular planning uses, save for its function of the administration and control of planning on the Island, is in respect of first time buyer schemes. It is not alleged that the land in question or its uses fall within the Department's own remit and accordingly there is an issue to be determined as to its locus and standing in relation to this matter. It is to be argued that the Department, in bringing forward the Development Order, does so to further a private entity's interests as the Department itself has no standing and thus the Department is acting ultra vires.

14. The Department asserts that it promotes the Development Order:-
- so as not to undermine the future attractiveness of the Island for potential investors and occupiers in the future;
 - to potentially generate in the region of 1,100 – 1,500 additional jobs to the Eastern Sector and 1,300 – 1,800 jobs to the Island as a whole;
 - to generate perhaps £73 – 101 million to the Isle of Man's GDP and in the Order of £62 – 83 million to the Eastern Sector;
 - to answer an identified under supply of industrial land on the Island;
 - to contribute positively towards a number of additional, wider policy objectives (not quantified or identified) all of which are outside the Department's own remit and are contrary to the Strategic Plan and its objectives.
15. In the absence of any overriding national needs, the use of a Development Order is contrary to Good Planning Policy and contrary to the Strategic Plan and its objectives.
16. The Department acknowledged in its Key Findings and Strategic Conclusions (para 6.4) that the impact of its assessment exercise are necessarily only indicative in nature and that any future impacts accruing will be dependent on a range of variable criteria which include availability of potential alternative sites together with wider trends affecting the Island's economy. Accordingly, the Department itself acknowledged that there is no identifiable current pressing overriding national need to which it can refer or upon which it can rely upon which its Development Order can be based.
17. The Department asserts that there is an undersupply of land available for industrial use in the Eastern Sector at the present time. This assertion is challenged. The undersupply of land if any is a matter to be addressed in Area Plans. Planning applications made to address the undersupply of land for residential purposes for example have consistently been refused by the Department as being premature in advance of Area Plans. Despite the existing urgent demand for first time buyer housing, that demand has not in itself been considered an overriding national need. The Development Order is premature in advance of the Eastern Area Plan and will determine matters which should be addressed through the Development Plan process.
18. The fact that the Department is promoting the Development Order at this stage in advance of the already scheduled Eastern Area Plan process is bad planning and an abuse of proper planning procedure. The Department seeks to justify proceeding by way of Development Order at this stage as it considers it is necessary to secure the site for economic development at the earliest opportunity in advance of the preparation of the area plan for the East region. To use this procedure to satisfy a perceived demand in the Eastern area for the next 20 years and to pre-empt the normal Area Plan process is clearly not using this Development Order as an interim measure to answer a perceived national

need but rather as a long term solution which will not only rezone (1) an area currently zoned as being of high landscape value and (2) land in current economic agricultural use. Its zoning would also deprive other areas of the Island and in the Eastern Area in particular of the opportunity to share in the perceived economic success of the Island by providing employment use land.

19. The Department supports the Development Order with, inter alia, Economic Impact Study which had been prepared for the Department of Trade and Industry by external consultants. This study does not address the issue of the **whole Island's needs** to ensure the development of the type that the Development Order seeks to sanction (light industrial, business park and car show rooms) are encouraged and considered on an all-Island basis, not just in the Eastern area and in particular in one central location on Cooil Road in Braddan. It is also noted that:-
- The study is limited in scope. It focuses on the projected requirements for employment land within the Eastern sector of the Island not the Island as a whole.
 - The Government Strategic Plan 2007 – 2011 states a key policy objective under 'Income, employment and the economy' "to raise the standards of living of all the people on the Island through ongoing development of a successful economy and the sharing of its benefits with all the community – (emphasis added).
 - Isle of Man Government Economic Strategy (2004) identifies as one of the key policy challenges in seeking 'to maximise economic growth and prosperity whilst minimising the requirement for additional labour' a challenge of "Reallocating physical resources (emphasis added) – a matter totally disregarded by the study.
 - The land use planning framework for the future commercial development should place in the existing employment centres (identified in the study as Douglas, Ramsey, Peel and Castletown). Yet the study only considers the requirements of the Eastern sector (Douglas, Braddan and Onchan).
 - There is no assessment of the impact of the proposed Development Order on the Northern, Western and Southern areas of the Island. The nature and extent of the proposed area of Cooil Road (the subject of the Development Order some 20 hectares (49 ½ acres)) is such that it will totally absorb the available demand for employment land use for many years to come at the expense of other areas of the Island.
 - The availability of 49 ½ acres of land for employment use and so zoned will inevitably result in existing businesses in other areas of the Island relocating to

Coil Road to the detriment of those other areas and contrary to the declared Government strategy.

- The study is based on an assumption that future demand for employment land use will occur in Douglas and Onchan. There is no evidence base for this assumption as the study acknowledges the Department has not maintained a record of employment land take up across the Island.
 - The study is also based on an assumption unsupported by any evidence base that in the absence of the Coil Road Development Plan, there is likely to be an undersupply of land within the current Strategic Plan period (plan period 2001 – 2016). This conclusion could not have been reached without an Island wide study.
20. There is currently insufficient information available to determine whether the development of the site would be acceptable. The draft Development Order requires ecological, geophysical and archaeological surveys of the site (Schedule 2 paragraph 5(3)(5)(6)). These are matters which need to be properly assessed prior to the grant of planning approval. In addition the draft Development Order requires assessment of the transport issues relating to the proposed development (Schedule 2 paragraph 5(2)). Again this needs to be properly assessed prior to the grant of planning permission.
21. The Department claim that promoting the development through a Development Order will 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 Department (Background Statement paragraph 1.2). This will require an inquiry before an independent Inspector who must consider in full potential alternative sites advanced by parties with an interest in the development of the area.

Conclusion

The Development Order is inappropriate. The development proposal is contrary to the Development Plan and premature the preparation of the Eastern Area plan. The proposal will prejudice the proper production of the Eastern Area Plan. The Department have not established that there is an urgent need to advance this development in advance of the proper consideration of the matter as part of the Development Plan process. There are suitable superior alternative sites which require a full and fair consideration before an independent Inspector.

KAZ RYZNER ASSOCIATES

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Mr Ian McCauley
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10 MAR 2010

DEPT. OF LOCAL GOVERNMENT
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9th March 2010.

Dear Mr. McCauley,

Re.: Proposed Development Order for Cooil Road, Braddan.

I refer to your letter dated 19th January 2010 requiring representations to the draft Order to be submitted by Friday 12th March 2010.

These representations are made on behalf of my clients Tesdale Limited who are the majority landowners of the land the subject of the draft Development Order.

My clients fully support the principle of the Draft Development Order. However they have a number of objections to the detailed wording of parts of the Order as set out below. It is their intention to appear at any public inquiry held into the draft Development Order to present a full case with witnesses explaining both their support for the Development Order and their objections detailed below.

Objections.

Schedule 1: Plan of the Site.

The black line around the site should be amended in the North East corner alongside the Cooil Road to include the additional land shown on the plan attached hereto. This extra land is needed in order to provide an appropriate roundabout junction at the proposed access road into the site.

Schedule 2: Condition 5.

Sub-paragraph 1) (b) (iii) should be reworded to read

"proposals for planting designed to mitigate any adverse visual impact of the development when viewed from the buildings fronting on to Colooney's Lane south of the Cooil Crossroads."

The purpose of this proposed change is to make the wording consistent with the wording of the previous paragraph (b) (ii).

Sub-paragraph 2).

It is recommended in the interests of clarity that in the penultimate line the words "arising from" should replace the word "at".

Sub-paragraphs 3) and 4).

These conditions are unnecessary and should be deleted in the light of the extensive ecological survey work already carried out as part of the EIA. No further ecological surveys are necessary. It has been fully established that the site does not, and is not suitable to support a population of either frogs or lizards. There was no evidence of bat roosts on site and Manx Wildlife Trust concluded that the site had low suitability for bat roosting and foraging. See chapter 6 of the EIA and accompanying surveys at Appendices 6-8.

Sub-paragraphs 5), 6) and 7).

Following a recent detailed assessment of the heritage issues by our consultant Paul Chadwick of CgMs, it is considered that the proposed conditions are unnecessarily onerous. There is no reasonable basis for requiring the retention of Ballavagher farmhouse and its garden or the stone constructed farm buildings; nor the in situ preservation, wherever possible, of all archaeological remains. Furthermore, ground conditions on the site mean that it would not be possible to have a geophysical survey of the whole site. Accordingly these sub-paragraphs of condition 5 should be replaced with the following wording;

- 5) *A geophysical survey of those parts of the site (as shown on the attached plan) and a fieldwalking survey of any ploughed fields within the site.*
- 6) *Such further archaeological investigations as may be identified as required as a result of the geophysical and field walking surveys.*
- 7) *a) Proposals for mitigating the impact of development on any archaeological sites so identified by the geophysical and fieldwalking surveys.*
b) the provision for a suitable record of Ballavagher Farmhouse, associated 19th century farm buildings and its historic gardens prior to demolition and development.

Schedule 2: Condition 6.

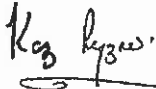
Consistent with the recommendation for sub-paragraphs 3) and 4) of condition 5 above, in light of the extensive work undertaken in the EIA, sub-paragraph (a) of condition 6 should be deleted.

In relation to sub-paragraph (b) of condition 6, it is recommended that the words "which includes an assessment of the transport issues relating to the proposed development, and" be deleted on the grounds that the transport issues will already have been addressed as part of the requirement for the master plan under condition sub-paragraph 2) of condition 5. Also replace the word "at" in the penultimate line with the words "arising from". The condition would then read as follows;

"a report, prepared in consultation with the Department of Transport, which identifies what measures will be taken to deal with the anticipated traffic impacts arising from that phase of development."

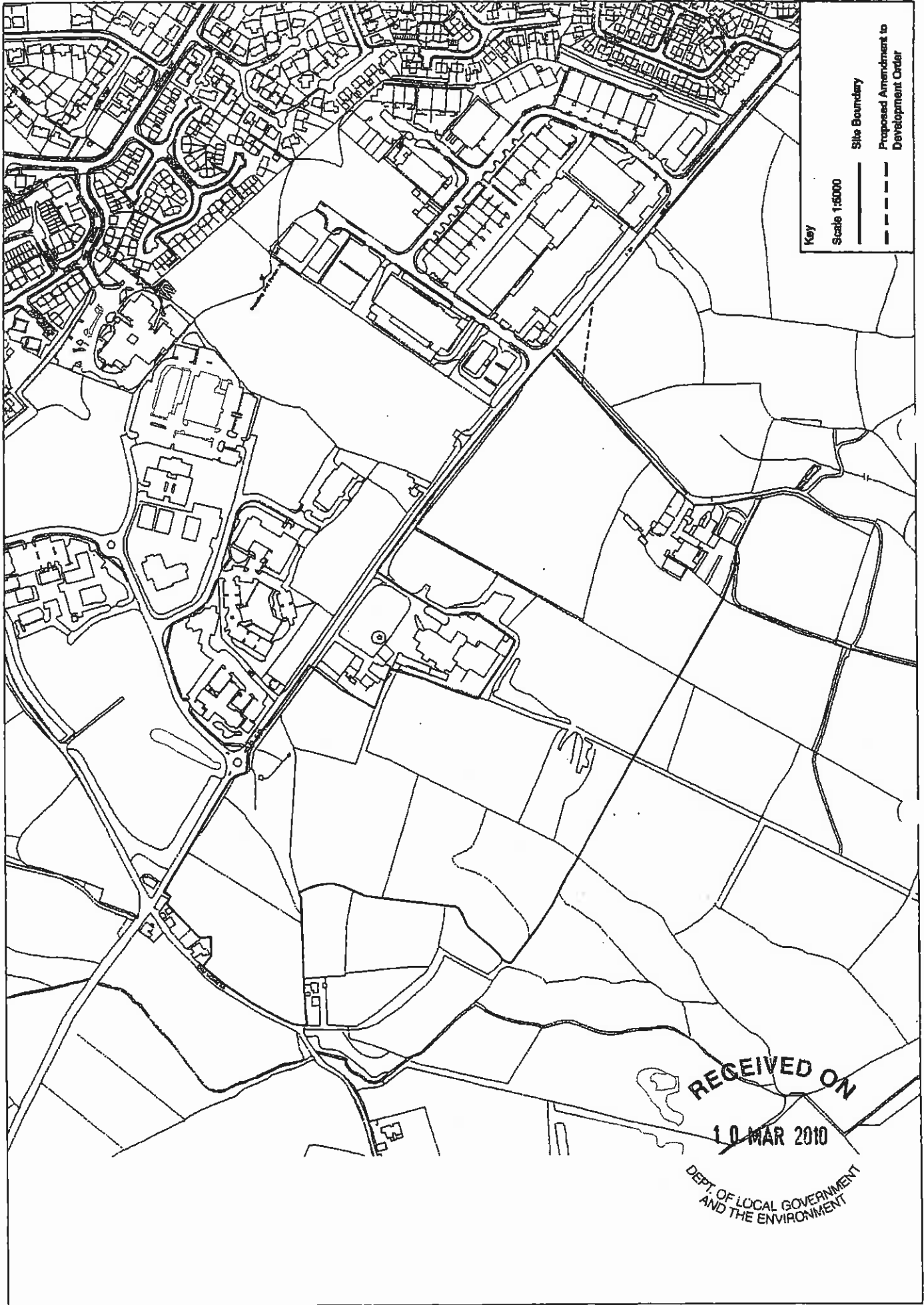
If the above changes are acceptable I would ask that they be incorporated in any final amended version of the Draft Development Order.

Yours sincerely,



Kaz Ryzner. MRTPL
Chartered Town Planning Consultant
On behalf of
Tesdale Limited.

cc. Client.



Key
Scale 1:5000
Site Boundary
Proposed Amendment to Development Order

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