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17 December 2010

To the Council of Ministers

Proposed Development Order – Cooil Road, Braddan

I have the honour to report that from 5-8 October, 12-14 October 2010 and 10-12 November 2010 I held a public inquiry at the Empress Hotel, Douglas into the issues governing the making of the Cooil Road Development Order [CRDO].

The draft Development Order [CD18] was published for consultation on 19 January 2010 by the Department of Local Government and the Environment [DoLGE], now the Department of Infrastructure [DoI]. At the same time DoLGE published a notice which indicated the intention to make that Order under Section 8 of the Town and Country Planning Act 1999 [1999 Act], the effect of which would be to grant planning approval in principle for industrial development of some 19.8ha of land immediately south of Cooil Road and east of Colooney's Lane, Braddan.

Public consultation was for a period of 12 weeks between 19 January and 12 March 2010. After considering representations, the DoI issued an amended Draft Order [CD19] on 17 June 2010 and a Background Statement. The Draft Order was supported by an Environmental Impact Assessment [EIA] [CD15] and Economic Impact Assessment [EclA] [CD16].

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ABBREVIATIONS USED IN REPORT

CD	Core Document
DO	Development Order
CRDO	Cooil Road Development Order
BPDLP	Braddan Parish District Local Plan [Planning Circular 6/91]
DBPP	Draft Braddan Parish Plan 2003
SP1	Strategic Policy 1
GP1	General Policy 1
BP1	Business Policy 1
DAPS	Draft Area Plan for the South
SoCG	Statement of Common Ground
DoLGE	Department of Local Government and Environment
DoT	Department of Transport
DoED	Department of Economic Development
DoI	Department of Infrastructure
TA	Transport Assessment
EIA	Environmental Impact Assessment
EIS	Economic Impact Study
LAVIA	Landscape and Visual Impact Assessment

PRELIMINARIES

1. This report contains main points of evidence given at the inquiry, together with relevant points raised in written representations.
2. I inspected the site of the proposed development and its surroundings on 19 July, 4 October and 9 November 2010. I also visited properties surrounding the site, including Garey Ashen, Kilkenny and Colooney's Cottage on 13 September and 4 October 2010. I inspected alternative sites at Middle Farm on 13 September and 11 October and Port- e- Shee, Braddan Road on 11 October 2010.
3. I held a pre-inquiry meeting on 19 July 2010 in order to identify the main issues and agree programming and procedures for the inquiry [CD29].
4. Abbreviations listed after the Contents help to shorten the report. The list of Documents including proofs and rebuttals are attached in CD55.

SITE AND DEVELOPMENT DESCRIPTION

5. The 19.8ha application site lies to the south of Cooil Road and east of Colooney's Lane. The site is some 4 km from Douglas Town Centre. The Planning Statement of Common Ground [CD26] provides a more detailed site description in paragraphs 1.1-1.7 – this site description is not seriously disputed.
6. The site can be readily seen on TES 10 Appendix 1 Wider Context Plan and Site Context Plan.
7. The proposed development changed during the course of the Inquiry. At the start of the inquiry the proposal the Cooil Road Development Order [CRDO] stated that:
"3. This approval is for the use of the site for all or any of the following purposes -
(a) Those within class 5 (research and development, light industry) or class 6 (storage and distribution of Schedule 4 to the Town and Country Planning (Permitted Development) Order 2005.
(b) Those within the meaning of business parks as defined in Appendix 1 to the document annexed to the Town and Country Planning (Isle of Man) Order 2007;
(c) Showrooms and associated open space used for the display and sale of motor vehicles; and
(d) The siting of a sewage treatment plant and surface water attenuation systems.
4. At least 55% of the area of the site (excluding land used for Strategic Planting) shall be used for the purposes specified in paragraph 3(a), and no more than 15% may be used for the purposes specified in paragraph 3(c)."
8. These proposals were set out in Schedule 2 of the Order in the Conditions section

DEVELOPMENT PLAN POLICIES

9. Relevant local plan policies are found in the 2007 Strategic Plan 2007 and Planning Circular 6/91 - Braddan Parish District Local Plan [BPDLP – CD6]. The 2003 Draft Braddan Parish Plan [DBPP - CD 7] was abandoned; it is not part of the development plan. This matter will be addressed in the cases for the parties and in the Inspector Conclusions.

STATEMENTS OF COMMON GROUND

10. Statements of Common Ground [SoCG] on Visual Receptors, Planning, Industrial Land Availability and Heritage were called for at the PIM.
11. Detailed SoCGs were prepared. Comments were offered on most of them. Unfortunately as they were not agreed by all parties they are of limited value.

MAIN ISSUES

12. The main issues for the CRDO were discussed, then defined by the Inspector during and after the PIM and at the start of the inquiry on 5 October 2010. They are:
 - whether there is sufficient justification for the CRDO to proceed taking into account (a) development plan policies and planning history; (b) economic need; (c) alternative sites; (d) environmental factors such as landscape, residential amenity, ecology, heritage, and (e) highways and transport.
 - if the CRDO does proceed whether it should be amended (a) to prevent development of retail uses, and (b) to further protect the environment, plus other detailed points.
13. From the evidence heard and submitted in written form these issues still set out the matters that need to be examined in deciding whether the CRDO should be made, and if it is made whether the conditions are appropriate.

CASE FOR DEPARTMENT OF INFRASTRUCTURE

The material points are:

Background to the making of the Development Order

14. In 2001 DoLGE published a Draft Plan for the Parish of Braddan [DBPP]. The current application site was included as an allocation for industrial development. Consultation resulted in a variation whereby an area of open space adjoining the existing dwellings on Colooney's Lane was proposed. Following the public inquiry in 2003, the Inspector recommended that the site be developed for employment purposes.
15. For reasons unconnected to the site, Tynwald was informed in June 2006 by the Local Government Minister [DAN2 Appendix 2 - 1336 & 1337T123] that it had decided not to

adopt the Braddan Plan. In making that announcement the expressed intention was to bring forward a Development Order for industrial land and he expressed the view that: *"I am sure Hon Members will agree it is of strategic importance to the Island for there to be sufficient industrial land zoned in appropriate locations..."*

16. Adoption of the Strategic Plan in 2007 required the preparation of an Environment Impact Assessment associated with the making of the Development Order [DO]. The current June 2010 version of the CRDO takes into account the findings of the EIA and the consultations received in respect of the Draft DO.
17. The proposed CRDO will have the effect of granting approval in principle for the development of the site.
18. It is important to address the context of the making of a DO. Whilst a DO has the effect of the grant of planning permission, it is, as a matter of procedure, much more sophisticated than a conventional application. The use of Dos was considered by Tynwald in July 2005 [DAN2 Appendix 1 – 1712T122]. The resolution approved was: *Tynwald is of the opinion that:- (1) in advance of full Area Plans....DoLGE should bring forward DOs in accordance with Section 8 of the Town and country Planning Act 1999 to ensure adequate provision of development land for the needs of housing, business and community purposes as may arise from time to time; (2) any proposals for the release of un-zoned land, for whatever purpose, should be considered by the DoI against the policies of the Strategic Plan and any other relevant social and economic factors; and (3) any such Order should be subject to full public consultation and public inquiry prior to the Order being made by the Department, subject to Tynwald approval."*
19. As anticipated by this resolution, the current DO is promoted by the DoI (successor to DoLGE) on the basis: (a) of the need to ensure an adequate provision of development land for business purposes; (b) it has been considered against the policies of the Strategic Plan; and (c) of being in accordance with full public consultation and public inquiry.
20. In dealing with a DO, the process is very different to that when dealing with a planning application. The procedure that is required to be engaged as part of the DO process is comprehensive and engages the public and community. It is subject to inbuilt safeguards and balances including consideration by an Independent Inspector, public inquiry and subject to Tynwald approval. It is for that reason that Mr McCauley was able to explain the process and distinguish it from a conventional planning application. He said that with a planning application the DoI responds to proposals, whereas with a DO the DoI is making the planning application itself. With a DO a public inquiry should be held so representations could be heard; and an Independent Inspector reports to the Minister; the DO may be debated in Tynwald and the final decision rests with Tynwald. This differentiates a DO from a planning application. This process is analogous to preparing a plan; the steps are similar. He finally said that with a local plan there is consultation; if there are objections a public inquiry is held; an Independent Inspector reports to the DoI; the DoI publishes its response and adopts the plan which can then be approved by Tynwald. Whilst the effect of the CRDO would be to grant planning permission the iterative process of analysis, consideration and decision making is analogous to a plan preparation process.
21. In this regard the application of the policies of the Strategic Plan can be seen in the light of the nature of the application for a Development Order. In this case the background includes the DBPP. Significant or considerable weight should be attached to the DBPP.

It is therefore relevant, appropriate and entirely justified for the DO procedure to engage with the consideration of the DBPP Inspector's report as a material consideration.

22. A planning application would need to demonstrate overriding national need – with a DO it is different. There is a distinction. There is wider consultation with a DO; anyone can make representations. There would be more rigorous scrutiny with a DO compared to a planning application. There are more hurdles to cross with a DO when compared to a planning application.

Economic need

Spatial distribution of employment land

23. The focus of the DoI and Tesdale evidence has been the Eastern portion of the Island where the existing development is most concentrated. Dr Whitfield explains the significance of locating the development in the existing geographical focus of economic activity centred around Douglas. He said that properties in areas such as Ramsey and Jurby are marketed at around £55/m² and properties closer to Douglas achieve rental levels of between £70-75/m²; such higher rental values reflect high land values. Consultation with the DTI (now DoED) shows they expect to pay around £865,000/ha for industrial land in outlying areas away from Douglas and about £1.35m/ha in areas around Douglas.
24. Locations near Douglas are preferred by occupiers owing to the close proximity to target markets, labour force and suppliers. Mr Reid on behalf of Mr Quinn argues that full account should be taken of other areas on the Island, and especially around the airport. That idea was rejected by Dr Whitfield when cross-examined by Mr Sauvain. He explained that there was a continuing reluctance for activities to be concentrated around the airport. Developers were more prone to favour the East of the Island. Dr Whitfield emphasised that economic development needs to understand and work with the market. It is worth noting that Dandara, an objector to the CRDO, and an experienced employment developer on the Island, do not apparently support the approach promulgated by Mr Quinn.

Available supply

25. The updated 2010 DoI Employment Land Availability Study identified 16.25ha of land that is technically available within the East Area of the Isle of Man. Those sites have been identified and considered for the purposes of this inquiry in order to determine the extent which is actually available to service the need. As Mr Delaney explained each site has been reviewed by the DoI and a recommendation made on the commercial deliverability for employment uses has been made. When the list of available sites is analysed only 9.33ha has been calculated as being truly available. Both the DoI and Tesdale consider the available supply to serve the East of the Island is 9.33ha.
26. The actual figure of 9.33ha was calculated by Black, Grace Cowley and has been agreed by the Government. To get to this figure certain sites need to be excluded. The following sites are now not available from the 2010 Employment Land Availability lists prepared by DoI: Ballakinnish Nursery, Braddan 3; White Hoe Industrial Estate, Douglas 1B; School Road, Onchan 2A.
27. Mr McCauley explained that Ballakinnish Nursery was Government owned since about 2007, had been zoned in the abandoned DBPP, but pointed out that the DoT did not like

the access and that nothing had happened to this site. The DoI had been happy with light industrial use on this site provided there was no increase in traffic compared to the previous use as a garden centre. It had been included in all the DoLGE and DoI Employment Land Availability Studies. He did not know why the DoT was happy for the site to be used as a highway maintenance depot for the Richmond Hill improvements. In his view the site was available but not deliverable. The DoT had not commented on this site for the purposes of the CRDO inquiry or CRDO process.

28. Mr McCauley thought access to the School Road site might be difficult. A new access might be required. There could be problems with visibility at the existing industrial access to the site. The DoT had not been asked about access to this site for the purposes of the CRDO inquiry or CRDO process. This site is not available.
29. Dandara submit that there is an even greater need for further employment land than assessed by the DoI. At a recent appeal the evidence of Mr D Humphrey [CD44] was that the supply was of the order of 7.35ha. For this figure the starting point was the 16.25ha from the June 2010 ELAS [CD 13 & 23]. From that gross supply, Mr Humphrey deducted: (a) 4.10ha for land at Ballakinnish Nursery; (b) 2.54ha for land at School Road, Onchan; (c) 1.6ha for land at Middle River Industrial Estate and (d) 0.66ha for land at Spring Valley Industrial Estate. These deductions totalled 8.9ha thus resulting in the total potential supply of 7.35ha.
30. In actual fact the figure put to that appeal by Dandara was of the order of 3.20ha. That was because of the additional deduction made for the 4.15ha at the Dandara owned business park. This was on the basis that it was unlikely to be developed for industrial uses. The reason being that the site was subject to legally enforceable restrictive covenants preventing the site from being used effectively for uses other than business headquarters. The issue of the need for business park uses will be addressed later in this case. It should however be noted that the consensus of informed opinion is that the existing supply of industrial/employment land has to be in the range 9.33ha-7.35ha.

Business Park

31. At this inquiry Dandara say there is a pressing need for general industrial land but not for business park development. That case is inconsistent to the case put on behalf of Dandara 7 years ago at the DBPP inquiry. CD42 is the proof of evidence submitted on behalf of Dandara in April 2003. This proof stated in paragraph 2.1.3: *"The Isle of Man Business Park has been established for over 10 years, and in that time the greater part of the site has been successfully developed. There now remains only 5 undeveloped plots on the main Business Park site, and discussions with potential uses have been ongoing in respect of three of those and have reached an advanced stage."* Paragraph 2.1.6 continues: *The Isle of Man Business Park has provided a successful and much needed facility in employment and business terms since 1991, not just for Braddan but for the central area in the Island as a whole. The Modified Draft Plan recognises that there will be a continued need for this sort of facility; in order that the Business Park remains available for new users beyond the very early part of the life of Braddan Plan it is essential that an area for extension is identified."*
32. The factual position is; (a) supply of sites for business park use is limited – only 4ha at the IoM Business Park; (b) a portion of the Business Park – about 1ha - is only available for HQ use and not the full range of business park uses identified in the Strategic Plan definition [CD3 Appendix 1 p113]; (c) there is not a range and choice of sites available;

(d) the Cooil Road site is suitable for the uses proposed in the Strategic Plan definition of business park; (e) there would be an advantage in further sites being available – that advantage consisting of: (i) an improvement to the range and choice of sites and (ii) the stimulation of competition.

33. The development proposal in the CRDO is supported by the DoED. The importance of that factor can be highlighted by reference to Dandara's own case reported in the decision letter of Appendix 16 of Mr Ryzner's evidence [Tes12]. In support of their case at paragraph 15 of the decision letter Dandara drew attention to the DTI support for the development proposal in that case. The Inspector's conclusion in paragraph 45 gave weight to the views of the DTI in determining whether there was a need for the development.
34. Consequently full weight should be given to the views expressed in the DTI's letter [DoI6 Appendix 1] and the evidence of Mr Kelly himself. He identified for the inquiry high growth sectors such as shipping, aircraft, film and media, e-gaming and space which had helped the Island's economy. He thought that future opportunities from aerospace work, e-gaming, e-business, overseas sales, high value individuals, space and business incubation could lead to a demand for land and property. Mr Kelly said the DTI had supported the CRDO from the outset. In 2008 the DTI asked ECOTEC to provide economic evidence for the CRDO. ECOTEC said that further investigations were needed after they had completed the report. Mr Kelly said that these investigations have not been carried out.
35. Mr Kelly did not know why the Ballakinnish Nursery site and School Road, Onchan site, acquired by the DTI, had been excluded from the list of available employment land – he said this was a matter for Mr McCauley and Mr Black. No steps had ever been taken to bring either of these Government owned sites forward for development. Both sites were acquired as part of the Government land bank for purposes of economic development. Mr Kelly did not know if any businesses had been lost to the Island due to the amount of employment land available. Mr Kelly did not know why the CRDO site had the car showrooms, business park and industrial development uses proposed on it. The letter from the Minister for Trade and Industry states: *"It is a strong view of this Department that failure to address this "timebomb" arising through the shortage of industrial/business park land will have an increasingly adverse effect on the balanced growth of the Isle of Man economy. This will be detrimental to the quality and diversity of employment opportunities and a less resilient economy in the event of a downturn in any individual sector"*. It was DoED's view that the CRDO land south of Cooil Road, Braddan would be a suitable location for economic development.
36. As for the precise details of the DO proposals, Tesdale provided these to the DoI. Tesdale proposed both the business park and car showroom proposals. The % figures were also proposed by Tesdale in discussion with the DoI. The DoI accepted these proposals. When these proposals were suggested there was no evidence and no assessment of demand to support their inclusion. However Mr McCauley said in the inquiry that the quality of car showrooms on the Island was less than one would expect. He said there were environmental reasons for the % proposals.

Conclusion on need

37. All informed opinion that is involved in the bringing forward of employment development shares the view that there is a shortage of such land. The figure accepted by

the DoI in its case of 9.33ha is robust. The best case on supply for Mr Reid on behalf of Mr Quinn is the 17.62ha in JQ1 Appendix 7. As Mr Reid accepted there was a need to have a range and choice of sites to put to the market, that figure itself is woefully inadequate.

38. The take up rate of 2ha/year reflects historical trends and is a sound component in assessing future requirements. DoED is focussed on encouraging employment development to locate to the Island and encouraging the expansion of existing development. The Island has many attractions including taxation advantages and clustering with existing businesses. The anticipated take up of 2ha per annum can be seen as a conservative assumption.

Development plan policies and preparation

39. The Development Plan consists of: (a) 1991 Braddan Parish District Local Plan/BPDLD [CD6] and (b) 2007 Strategic Plan/Strategic Plan [CD3].

BPDLD 1991

40. The BPDLD should be given limited weight. Within this 1991 plan the land is undesignated. As such the Parish Local Plan has a statement to the effect that outside the areas that are proposed for development the remainder of the plan area would be considered designated as of High Landscape Value. As the subject site was not the subject of a development proposal it would therefore be regarded as of High Landscape Value as set out in paragraph 13.3 [CD6].
41. The reason this can be given little weight is because: (a) it was not based upon an examination of landscape characteristics or value; and (b) the subsequent designation of the site in the DBPP for development; and (c) EP2. EP2 states that "*The present system of landscape classification of Areas of High Landscape or Coastal Value and Scenic Significance (AHLVs) as shown on the 1982 Development Plan and subsequent Area Plans will be used as a basis for development control until such time as it is superseded by a landscape classification which will introduce different categories of landscape and policies and guidance for control therein...*" The 1982 Development Plan had the benefit of being discriminatory between areas of landscape value based upon a professional informed assessment. In the 1982 Plan the subject site was not in an Area of High Landscape Value, unlike Middle Farm.

DBPP2003

42. The designation and consideration by an Independent Inspector of the DBPP remains a material consideration to be had regard to in the context of the CRDO consideration. Mr McCauley explains in his proof that in 2001 DoLGE published a Draft Area Plan for Braddan Parish. On this draft plan there was a zoning for industrial development of land east of Colooney's Lane and south of Cooil Road. After considering representations DoLGE decided that the zoning should be varied by introducing an open space area by Colooney's Lane and expanding the zoned area to the east and south. A modified Draft Plan was prepared for consideration at the public inquiry [CD7]. The Inspector, following consideration of objections, recommended that the site be confirmed as employment land. The precise designation approved by the Inspector is set out in Mr McCauley's proof in paragraph 5.5 [DoI7].

43. DoLGE accepted the Inspector's recommendations on this part of the Local Plan. If the Plan had been brought forward to adoption the subject site would have been zoned for industrial development.
44. The DBPP did not proceed to adoption. It was abandoned for the reasons set out in the Ministerial Statement of Tynwald in June 2006 [DAN2 Appendix 2]. The reasons for abandonment of the DBPP are unconnected with the development proposal at Cooil Road. Mr Sauvain on behalf of Mr Quinn suggested in cross examination that the Cooil Road site was one of the tainted sites. This is part of Mr Quinn's case. However this point is inconsistent with the Minister's statement: *"There are concerns regarding the inconsistent treatment of certain areas within the Plan. These have placed a shadow over the integrity of the Plan and whether or not it is fit for the purpose and a true reflection of the suitability for development of certain areas."*
45. The Minister went on [DAN2 Appendix 2 1336T123] to identify the powers available under Section 8 of the 1999 Act. In particular the facility to bring forward a DO to Tynwald for approval. The Minister said: *"It is our intention to bring forward a Development Order for industrial land, as soon as possible. It is likely that such land will be significantly larger in area than the land which has been accepted by both the Inspector and the Department."* It is clear that the Minister in promoting the subject site, coincidental with the statement of abandonment, could not have been regarding the Cooil Road site as one which had a shadow over integrity.
46. It can therefore be seen that the abandonment of the DBPP and the coincidental promotion of the CRDO were inextricably linked in the Ministerial Statement. From that time the Department was committed to the promotion of the DO to secure the development of the land as originally proposed in the DBPP. The preparation of the Strategic Plan and DBPP had been running in parallel up to the point of abandonment. Consistent with the approach expressed by the Minister regard was to be had to the all Island Strategic Plan approved in June 2007. Indeed it was in the light of the provisions of the Strategic Plan that DoLGE commissioned an EIA in support of the DO.

Isle of Man Strategic Plan – June 2007

47. In section 7 of his proof Mr McCauley deals comprehensively with Strategic Plan policies. He lists 42 policies that he considers are relevant to the inquiry. His conclusion following that analysis is that the development proposal is in conformity with the provisions of the Strategic Plan. He analysed the some of the strategic, spatial and business policies of the plan. He left out GP3 by mistake.
48. Mr McCauley places emphasis on BP1; he says this is particularly relevant. BP1 states: *"The growth of employment opportunities throughout the Island will be encouraged provided the development proposals accord with the policies of this Plan."* Part of the written justification for this policy says in paragraph 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. This is why the Department has resolved to proceed with the Development Order for the development of some 20 hectares of employment land to the south of Cooil Road. A recent report on the take up of industrial land in the Douglas area indicates that it has been 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."

49. Criticism has been made of the Dol case because these words in paragraph 9.1.5 did not appear in the original version of the Strategic Plan and were not considered by the Independent Inspector. It is true that those words were not considered by the Independent Inspector. However, these words are entirely consistent with the Ministerial Statement and the decision of Tynwald at the time of the abandonment of the DBPP. That statement pre-dated the adoption of the Strategic Plan. The proposal then, as now, was to proceed with the securing of the DO in order to make provision for sufficient employment land. The statement in the Strategic Plan therefore can be given full weight consistent as it is with the June 2006 Ministerial Statement of Tynwald.
50. In this regard it is important to bear in mind that the Strategic Plan not only reflects the decision in June 2006, but anticipates the preparation of future Area Plans. Hence the policies have to be read in a purposive and constructive manner consistent with the decisions previously made. Adopting an overly legalistic interpretation to the words used especially in the context of future plan making would be inappropriate and unhelpful.
51. SP2 provides: *"New development will be located primarily within our existing towns and villages, or where appropriate in sustainable urban extensions of these towns and villages. Development will be permitted in the countryside only in exceptional circumstances identified in paragraph 6.3."* The subject site is undoubtedly a sustainable extension. The point raised by objectors is whether it is planned in the sense that it appears in an adopted Local Plan. That belies the history of this particular site and the fact that the DBPP process had given the opportunity for objections to be made and did actually analyse objections made to the Cooil Road proposal by an Independent Inspector. Subsequent promotion of the CRDO in June 2006 at Tynwald is a part of the process. To read SP2 as a prohibition on Cooil Road does a disservice to the Strategic Plan as a whole that recognises the need to bring forward the Cooil Road development by means of a DO. In other words, many of the objectors put forward a case that requires a reader of the Strategic Plan to discern inconsistencies in the approach expressed by the Minister in respect of Cooil Road and the precise terms of the policies themselves. Paragraph 9.1.5 has made clear, consistent with the Ministerial Statement, that Cooil Road is part and parcel of the proposals in the Strategic Plan.
52. Indeed if it were seriously to be considered at the time of the abandonment of the DBPP that the proposals of Cooil Road were objectionable because of inconsistency with the then emerging Strategic Plan, it would be inconceivable that the Minister would, in the Statement to Tynwald, promote a DO that was contrary to the emerging Strategic Plan.
53. The main focus of criticism of the CRDO proposal has been on GP3. This policy provides that: *"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 acceptable alternative;.."*
54. The Cooil Road site, as explained by Mr McCauley, falls somewhere between GP2, relating to land uses in Development Plans and GP3 relating to development outside of areas zoned for development. The reason for both policies applying is the advanced stage within which the Cooil Road proposals had been brought to in the DBPP and the Ministerial Statement of intention to proceed by way of DO.

55. If the full rigour of GP3(g) is applied to the CRDO proposal, it would pass that test. There is an overriding national need recognised by the DoED for further land in order to meet the requirements of future employment. The quantum of land proposed is appropriate. It is appropriate given the need to provide a range and choice of sites, to meet the identified requirements across a range of potential users: corporate HQs, car showrooms, research and development facilities, offices and industrial units. And as will be argued later there is no reasonable and acceptable alternative to the CRDO.

Policy conclusions

56. The 1991 BPDLD should be regarded as carrying little weight in the determination of the recommendation associated with the CRDO.

57. There is weight to be attached to the 2003 DBPP and the Inspector's conclusions and recommendations on the Cooil Road site. The DBPP confirms the appropriateness in land use terms of the use of the site for employment purposes.

58. The 2007 Strategic Plan should be given considerable weight in the determination of the recommendation in respect of the CRDO. Consistent with the Ministerial Statement to Tynwald the Strategic Plan recognised the intention to proceed by way of DO in respect of the subject site. The Strategic Plan policies should be seen in that light. The Cooil Road site is consistent with the spatial economic and environmental policies of the Strategic Plan. In particular it represents a sustainable urban extension of the main centre on the Isle of Man. It is an appropriate location for the development for employment purposes as tested before an Independent Inspector at the DBPP and also at this inquiry. The need for additional employment land is recognised by most parties to this inquiry. The appropriateness of the location has also been widely supported.

59. The argument advanced by a limited number of objectors that the proposal is premature pending the preparation for the Eastern Area Plan is misguided. The Ministerial choice was clearly articulated. That choice was to proceed by way of a DO. The logic is apparent. There was recognised to be an urgent need for further employment land. The availability of employment land must also provide flexibility and choice to potential investors. A mathematical calculation simply dividing take up rates into quantum of available land to produce a length of time within which a development plan process can take place does not reflect the flexibility and choice that is an essential component of industrial land supply. The absence of progress on the Eastern Area Plan serves only to demonstrate further the urgent need to confirm the CRDO.

Alternative sites

60. Two sites have been put forward as alternatives to the CRDO site: (a) Port-e-Chee or Drinkwater site; and (b) Middle Farm or Dandara site.

Port-e-Chee

61. The site was identified as area 25 at the time of the DBPP in 2003. In response to Mr Kennaugh's late submission of the site as an alternative to the Cooil Road site, the DoI produced a commentary on this new site [CD38]. At the time of the DBPP inquiry representations were received from Heritage Homes and Baccarat Limited (a company controlled by Henry Kennaugh). CD38 and paragraph 4.1 summarises the unsuitability of the site. The reasons include: (a) the site is poorly located in terms of the Strategic Highway Network; (b) as was recognised in the DBPP, access to the site would be

difficult and require substantial ground modelling for an industrial use; (c) 2 access points would be required for access; (d) the site would lack visual prominence required for a strategic development site; and (e) development of the site with industrial scale buildings would have a greater visual and landscape impact than the residential proposal contemplated originally.

62. Ironically witnesses called by Henry Kennaugh's company included David Appleton. He has been retained for this inquiry by Dandara. When presenting his evidence for Mr Kennaugh at the DBPP inquiry about Port-e-Chee his proof stated: *"Although the site is to some extent visually influenced by adjacent residential development when seen from Ballafletcher Road, its overriding character is more of open countryside than of a suburban area and this is reinforced by the mature woodland adjacent to its boundaries."* He continued: *"In my opinion this area of land forms a strategic open space gap function between Douglas and the Braddan settlements."* David Appleton remains of the view that he expressed to the 2003 inquiry.
63. Most remarkably of all in promoting the site, Mr Kennaugh does not assert that he has any material control over it. It is subject to an option held by Dandara. It is a remarkable omission in their case if they held control over a site that would be preferable in employment terms to both the Cooil Road site and their own Middle Farm site and were not promoting it before this public inquiry. Whilst Dandara [CD53] say they have an option to develop the land for residential purposes there is no evidence that Mr Kennaugh has sufficient control to credibly promote this site as an available alternative to Cooil Road as an employment site.

Middle Farm

64. Dandara's promotion of the Middle Farm site has been far from clear. In their letter dated 9 March 2010 [DAN2 Appendix 3] Dandara referred to an area of about 22ha and failed to provide any plan identifying the site of their objection. In the subsequent letter dated 2 July 2010 [DAN2 Appendix 4] a plan was provided which corrected the area to one of 22acres.
65. It is quite clear from the red edge of the plan attached to that correspondence that the site Dandara are currently promoting before this inquiry is different. It includes the red edge together with the 2 fields lying to the east as shown on TAG3. Therefore the promotion of the current case and objection to the CRDO has essentially been formulated at about the time of the exchange of evidence for the purposes of this inquiry approximately 1 month before it started.
66. The Middle Farm site is a feeble alternative as a substitute to the Cooil Road site. Dandara have had control of Middle Farm for some years. At the time of the DBPP Dandara made representations both in respect of the Cooil Road site and Middle Farm. It is abundantly clear that Dandara supported the development of the Cooil Road site for employment purposes when advised by a competent landscape architect – Iain Reid.
67. It is hardly surprising that at this inquiry both Iain Reid and Dandara are both coy about the case presented at the DBPP inquiry. Hence Mr Sauvain refers to it as a "jury point" and Dandara says it has "no forensic value". This is wrong. The evidence addressed the sustainable urban expansion of Douglas, the appropriateness of the proposed development's location, involved a comparative judgement and was against a background of Dandara promoting other areas for employment related development. The truth is both Iain Reid and Dandara have a lot to be coy about. Whilst the supply and need equation

for further employment land will have changed since the statement was made, the locational characteristics of the site as an appropriate site for development have not. It was those characteristics that were the subject of Mr Reid's evidence. CD37 is Ian Reid's proof on behalf of Dandara to the DBPP. Paragraph 2.1.3 says: "*Part of the site (Cooil Road) is currently proposed to be allocated, in the Modified Draft Written Statement, for employment use, consolidating existing development at Ballapaddag. Heritage Homes Ltd do not seek to challenge the principle of that proposed employment allocation but consider, for reasons set out more fully below, that through the combined consideration of both residential and employment allocation albeit in a slightly reconfigured form, this site would form an appropriate and sustainable urban extension to the existing development form within the Central Area.*"

68. Indeed Iain Reid makes it clear that some consideration had been given as to whether the Cooil Road proposal was preferable to other sites that could be considered. Paragraph 2.1.2 of CD37 – Dandara's witness says: "*Heritage Homes Ltd considers that the general area of land adjacent to the Isle of Man Business Park and lying south and west of Cooil Road, Braddan represents the most suitable site for the longer term strategic development within the central area of Douglas and Braddan. This general location would form a logical urban extension. This area is physically well related to the existing residential development at Ballavagher and Spring Valley estates and existing employment development at the Isle of Man Business Park and Spring Valley Industrial Estate and is well related to the existing principal road infrastructure, with direct access to the principal route between Douglas and the Airport.*"
69. Iain Reid does not resile from his opinions expressed then in 2003. He said in this inquiry that in 2003 there were no other large sites available, so the Cooil Road site was then a suitable site for employment and housing development. In 2003 he said that Heritage Homes accepted the employment proposal at Cooil Road. At that time Heritage Homes did not solely focus on housing; they also promoted additional employment land at the Business Park and close to Middle Farm. It was no part of Heritage Homes case to suggest a site in their ownership or control was preferable to that at Cooil Road. For a sophisticated and well informed developer, if they considered that Middle Farm was a preferable location for employment allocation, it was an astounding omission that they did put that case.
70. It is clear that the logic of Iain Reid's support for the Cooil Road site representing the most suitable site for longer term strategic development remains valid. The Middle Farm site must be rejected in comparison to Cooil Road for those same reasons which are: (a) Middle Farm cannot be regarded as a logical urban extension to Douglas. It is isolated and physically dislocated from any other development. Whether it is combined with the Animal Waste Facility or the Waste Incinerator, the site would remain a pocket of development in the countryside; (b) the site is not physically well related to the existing shadow of an incinerator and an animal waste products facility. These are not suitable neighbours for prestigious development. They would be unattractive to the type of users that would seek a business park location; (d) Middle Farm falls within an Area of High Landscape Value assessed as such in the 1982 Plan. The site was therefore regarded as one of higher sensitivity in landscape terms when compared to Cooil Road.

Environmental impact - EIA

71. The CRDO was accompanied by an Environmental Assessment [CD15] in 2009. This addressed the potential impact of the development on a range of interests of

acknowledged importance. Whilst there are detailed criticisms of the development proposals no substantial challenge has been made to the EIA on the basis that it was inadequately or incompetently prepared. Mr Murray's submissions on behalf of Mr Killian do not demonstrate the EIA was defective. The EIA was fit for purpose by way of informing the reader of the likely significant impact of likely environmental impacts.

Noise

72. The potential for noise interfering with residential amenity is important. There are residential properties close to the proposed development. This matter should be examined at the Master Plan and detailed approval stage. There is no case put forward that noise considerations make the site unsuitable for development.

Amenity

73. Amenity considerations are important. They were recognised at the DBPP inquiry by the Independent Inspector. At that time a proposed area of open space was considered to be appropriate to act as a buffer between the employment development and the residential properties.
74. Now a more sophisticated and bespoke analysis of the development proposals as part of the Master Plan would be preferable. A combination of control over size, appearance, location and soft landscaping would be adequate to protect the residential amenity of local properties.

Ecology

75. There are no ecological problems. The site is not identified as being worthy of any statutory ecological designation. The ecological aspects of the proposed development were given detailed consideration in the EIA. Information about habitats was updated following a survey earlier in 2010. Main ecological impacts include: loss of marshy ground, loss of some field boundaries, loss of some bird nesting and foraging habitat, potential disturbance of nesting birds through removal of trees, hedges and scrub, run off and potential pollution events that could affect the tributaries of the Middle River, reduction in fertiliser from current levels could benefit species diversity.
76. Appropriate working methods, use of barriers and the timing of works would reduce or prevent some construction impacts. Careful design of the site, incorporation of the new landscape proposals and long term habitat management would mitigate for other predicted impacts. The development could ensure that ecological features of value are protected and enhanced.

Archaeology

77. The proposed conditions in the draft CRDO would ensure that an adequate level of protection is afforded to any archaeological interest that is identified during development.

Heritage

78. There is no dispute that Ballavagher Farm and its associated buildings are not of sufficient interest to warrant protection in a statutory sense. That is not to say that they are of no interest. Nor is it to say they should not be incorporated into the new development.
79. Loss of the farmhouse and outbuildings would leave the site bereft of any real connection with its historical context. The DoI approach is consistent with SP1 which says

“Development should make the best use of resources by: (a) optimising the use of previously developed land, redundant buildings, un-used and under-used land and buildings, and be reusing indigenous building materials....” Mr McCauley says the buildings are interesting and capable of being incorporated into the new development. The buildings could be adapted for other uses. Tesdale’s case is that the buildings can be demolished and replaced with employment development.

Landscape

80. Landscape implications were considered in the EIA. No serious criticisms of the approach to landscape assessment in the EIA were made in the Inquiry.
81. It is worth noting that the presence of Robinsons south of Cooil Road has had a considerable impact on the appearance of the area.
82. Dandara’s attempt to compare Cooil Road and Middle Farm is naive. In emphasising the number of visual receptors likely to be influenced by the Cooil Road development Dandara make the point that Cooil Road is a more sustainable location closer to the urban edge than their isolated site. The number of visual receptors impacted by the Cooil Road development is purely a function of its location close to the existing edge of Douglas. The lack of visual receptors at Middle Farm is merely a reflection of its isolation and dislocation from the main urban area.
83. Although Dandara have promoted a site close to Middle Farm, bounded by the A5 and A6, the logic of the Inspector’s comments in paragraph 337 in CD8 apply to the current Middle Farm site. This site makes a contribution to the open nature of the area around the incinerator.

Drainage

84. Drainage was dealt with in the EIA. Drainage would be addressed in the Master Plan. Sustainable urban drainage would be provided.

Highways

85. There have been no objections to the CRDO on grounds of highways or transportation. The only issue is that of a requirement for 2 permanent access points.
86. Both Tesdale at Cooil Road and Dandara at Middle Farm accept the need for a second access. They both assert that this should be an access for emergency vehicles only.
87. The DoI recognise the commercial interest that there would be associated with any risk of third party land being required. Such a consideration is not in the forefront of DoI’s mind when considering the need for a second access. The proposed development is large with potential to generate significant vehicular movements. For Tesdale, Mr Clarke’s initial reluctance to say which of the 2 options was preferable must betray an acceptance that the 2 full access solution was preferable. Mr Sewell for the DoI justifies a need for a 2nd bespoke access. He said in the Inquiry that emergency accesses are often infrequently used and this has its own dangers as people do not know what it is for. He added that although DB32 was for housing development and has been superseded in the UK, it is still relevant for employment development. This is because it deals with practical issues such as pedestrians and cyclists. In the Island there are no standards for industrial access roads.

Conditions

88. The CRDO and the proposed conditions should prevent development of retail uses – save for car showrooms – on the site. The land is to be used for employment development and it would be inappropriate for an open permission to be granted that allowed retail development on any part of the Cooil Road site.
89. Conditions should be appropriate to protect the environment. A Master Plan is required compliant with the EIA analysis that would address the detail of any development to ensure that the final form of development would preserve and enhance environmental interests.

Conclusions

90. There are 12 conclusions. First, the CRDO is an appropriate response for the foreseeable economic needs for employment land. Second, the CRDO is consistent with the economic policy of the Island. Third, there is a demonstrable shortage of suitable and available land to meet the identified needs. Fourth, the approach to take up of industrial land has been conservative and, as there is a need for a range and choice of sites to be available the current need is best described as urgent. Fifth, Cooil Road is a suitable site for development. Sixth, there are no suitable alternative sites that ought to take precedence. Seventh, there is no justification to recommend refusal of the DO on the basis that the outcome of the Eastern Area Plan should be completed. Eighth, the development proposal accords with the provisions of the development plan and in particular with the Strategic Plan which should be given considerable weight. Ninth, the environmental impact of the proposal has been adequately and properly addressed. The mitigation as proposed to be secured by the condition and through the Master Planning of the site will ensure that the ecological interests of the site are preserved and enhanced. Tenth, the residential amenity of the occupants of nearby properties can be adequately protected through the Master Plan and reserved matter stage. Eleventh, provision should be made for the retention of the existing farmhouse to be incorporated into the employment development. Twelfth, provision should be required to provide 2 proper vehicular accesses to serve the site. The site should not be served by a single access with only an emergency secondary access.

CASE FOR TESDALE LTD

The material points are:

Introduction

91. Tesdale either own or have under their control 17ha of this 19.8ha site. The balance is owned by Roselea, who support the making of the CRDO. Dandara own a small triangular area of land around the Isle of Man Business Park roundabout on Cooil Road [TES 12 Appendix 3].
92. Tesdale support the CRDO, subject to amendment of the proposed conditions.

Background to CRDO

93. The inquiry is the culmination of a long standing commitment by the Isle of Man Government to release this land as a strategic site for much needed employment development.
94. The Government is fully committed to pursuing economic growth as one of its highest priorities. To this end a restructuring of Government has taken place. A new Department of Economic Development [DoED] was created on 1 April 2010 thereby bringing together under one department all the various development arms of Government. Its Mission Statement is *"To ensure the economic future of the Isle of Man by creating a world class International Business Centre which allows new and existing business to thrive..."* For the DoI, Mark Kelly told the inquiry that the Government was embarking on an aggressive strategy to attract new businesses to the Island as part of its drive to further improve the economy for everyone.
95. Fundamental to such a strategy is the need to have a ready supply of quality employment land onto which companies can locate. This was recognised by the Minister in his statement to Tynwald back in June 2006 [Tes12 Appendix 13]. He emphasised: *"that it is of strategic importance to the Island for there to be sufficient industrial land zoned in appropriate locations."* This is important not only for new businesses seeking to relocate here for the first time but also to accommodate existing Isle of Man businesses which have been successful and which need to relocate to larger or more prestigious premises. Potential investors tend to be highly mobile and if suitable land is not immediately available they are likely to go elsewhere and be lost to the Island and its economy. The availability of land and premises for employment development is central to winning new business and the Government has clearly stated that it wishes to take a more pro-active approach.
96. In order to meet the variety of needs of business it is necessary to have a wide range and diversity of supply as individual businesses will inevitably have different land and site requirements. It is important that land is available not only in the right quantities but also that the quality of what is available is appropriate. If the Island is to be successful in attracting more businesses in the new technology and knowledge based sectors it is particularly important to have a portfolio of quality sites available.
97. Location is also important. There is no point in having a good supply land available if it is in the wrong location. The evidence clearly establishes that it is around Douglas that most businesses wish to locate. That is for good reason. Douglas is the capital of the Island where half the population lives; it is where most business is located and is close to the Island's largest markets, the biggest labour force and the majority of suppliers. There may be land available in the south of the Island near the airport, but it is not where companies want to be and consequently much of it has remained largely undeveloped for over 25 years. Companies cannot be forced to go there; if that is all that is available the chances of attracting new companies to the Island will be slight. Land is available elsewhere on the Island but it is too remote to meet the needs identified. Growing the economic strength of the area around Douglas will in contrast benefit the whole of the Island economy and everyone who lives here.
98. The existing supply of employment land is extremely limited. Much time has been spent at this inquiry analysing the minutia of precisely how much employment land is currently available. Such an exercise misses the point. There is no readily available supply of good

high quality employment land available in sufficient quantities to satisfy the needs of the wide variety of businesses who may wish to locate here, including the high technology and knowledge based industries. The withdrawal of the DBPP in 2006 has had serious consequences for the availability of employment land. The existing supply has dwindled as it has been used up, with no more land coming forward other than a number of ad hoc releases having been made on appeal in order to improve on a deteriorating situation to cover the short term.

99. The site was originally identified for development in the 2001 DBPP. Following the DBPP inquiry in 2003, the Inspector confirmed the allocation of the site as proposed. It was accepted as the most appropriate site to meet future employment needs over the period of the plan – between 5-10 years. Following withdrawal of the DBPP in June 2006, for reasons unconnected with the site, the Government gave a commitment to bring the land forward via a Development Order. This was to be “*as soon as possible*” because it was “*of strategic importance to the Island for there to be sufficient industrial land zoned in appropriate locations*” [Statement to Tynwald 20 June 2006 TES 12 App 13 p 81-2].

Employment land supply

100. The evidence on what land is currently available by Mr Black should be accepted. These are his conclusions:
1. Isle of Man Business Park, Braddan 1B – 3.05ha (7.5acres) available. This land is likely to be utilised for corporate office HQ buildings, not industrial development.
 2. Isle of Man Business Park, Braddan 1D – 1.1ha (2.7acres) available. Planning consent granted with development imminent.
 3. Spring Valley Industrial Estate, Braddan 2B – 0.66ha (1.6acres). Planning consent for 2 retail units. This land excluded.
 4. Ballakinnish Nursery, Braddan 3 – 4.10ha (10.1acres). Former market garden. Zoning and planning consent required for anything other than market garden use. This land excluded.
 5. Tromode, Braddan 5B – 0.16ha (0.4acres) – available. The last plot available on Government owned Ballafletcher Industrial Estate.
 6. White Hoe Industrial Estate, Douglas 1B – 0.28ha (0.7acres). Plot slopes and reduced in size, consent refused for industrial building, now in use as car park. This land excluded.
 7. Tromode Industrial Estate, Onchan 1B – 0.2ha (0.5acres) available. Last remaining plot on estate.
 8. GE Aviation/Smiths, Onchan 2A – 2.54ha (6.3acres). Government owned site with development constraints of changes of level on site. Support for employment in Onchan LP probably for political reasons. Delete for planning reasons. Perhaps change of use to residential – industrial use unlikely. This land excluded.
 9. White Hoe Industrial Estate, Douglas 12 – 2.56ha (6.3acres) available. Minister granted consent at appeal [Tes8 Appendix 8].

10. Middle River Industrial Estate, Douglas 13 – 1.6ha (4acres) available. Consent lapsed. Used as scaffolding yard.
101. Mr Black is the leading commercial property expert on the Island. He is the only person to give evidence at the inquiry who has direct knowledge of the market. He rightly excludes site no 4 at Ballakinnish Nursery [4.10ha] and site 8 at School Road, Onchan [2.54ha] for the reasons given by Mr McCauley. Neither site is likely to come forward for employment use in the near future. The access problems associated with any significant redevelopment of Ballakinnish was identified in 2003 in paragraph 5.30 of the DBPP and they have yet to be resolved. In the unlikely event that the access problems at School Road, Onchan could be overcome without removing the existing occupied factory building, it is in any event a site which is not well located for modern employment use; residential use may well be more appropriate. Site 6 at White Hoe Industrial Estate is not practical to develop given its size, shape and aspect.
102. Consequently Mr Black identifies 9.33ha of land theoretically available on 7 sites. However such a calculation overstates the position for the following reasons. Site 1, Isle of Man Business Park [3.05ha] is only available for corporate HQ buildings rather than the market generally. Part of site 2, Isle of Man Business Park [1.1ha] has been acquired by Celton Manx. Site 3, Spring Valley Industrial Estate [0.66ha] has been granted planning permission on appeal for retail use. Part of site 9, White Hoe Industrial Estate [2.56ha] has now been acquired.
103. It is acknowledged that a further permission has been granted for industrial sheds at Kirby Farm; however that does not alter the overall picture. The recent application at Summerhill Park is also acknowledged; however Mr Black thinks he would know if there was any genuine intention to bring this site forward.
104. The fact is there is very little land actually available in the Douglas area; what is left is a rag bag of largely small sites – the left overs of a dwindling supply. Certainly not a generous supply of quality sites which the Government rightly wishes to have available. In particular there is virtually no land suitable to accommodate modern clean high tech uses or indeed many of the uses which have been identified as the target sectors which the Government is keen to attract to the Island. It would be misleading to judge the position on the basis of the land available as representing “x” years supply of available employment land. In reality there is very little choice available to anyone wishing to acquire a site in the Douglas area. On any reasonable view there is an urgent need for additional employment land to be granted planning permission now.
105. Resolution of this matter cannot await the Eastern Area Plan. Mr McCauley’s oral evidence was that its preparation would be likely to take 4 years – 48 months from start to finish – meaning an adoption in 2015 assuming a start in 2011. However there is no guarantee that a start will be made in 2011 given that there are limited staff resources available and that the Southern Area Plan has yet to go to inquiry. Furthermore the timetable could well be extended given the commitment to review the Strategic Plan once the results of 2011 Census are known. The likelihood is that this rough timetable for the Eastern Area Plan will slip leading to the Plan not being adopted until well after 2015. Thereafter it would be necessary to submit a planning application which could be appealed against taking a further 12 months before permission was in place. Allowing at least 12 months for the basic infrastructure to be provided would mean that new employment land would not be available until 2017 at the earliest. Such delay is

unacceptable and demonstrates why the matter has to be resolved in advance of the Eastern Area Plan process.

106. The land south of Cooil Road has been identified as the next most suitable area for locating employment land since the DBPP was published in 2001. It remained a proposal of the April 2003 Modified Draft Written Statement where it attracted virtually no objection; indeed it was supported by Dandara at the public inquiry, although objected to by Mr Quinn. The Inspector endorsed the allocation of the site for employment purposes. In 2006 the DBPP was withdrawn for reasons unconnected with this site, at which time the Minister gave an undertaking to bring the site forward through the promotion of a DO; it is inconceivable that such an approach would have been taken had the identification of this site been considered to be tainted in any way. Set against that background it would be surprising to conclude that this CRDO site was not suitable to accommodate the range of employment uses now proposed. Although the range of uses is now somewhat wider, by the inclusion of offices – corporate HQs – and car showrooms, the site remains effectively the same. Indeed Mr Reid effectively recognised that the site was suitable for employment purposes stating that it remained a very strong contender for such uses. Moreover he had supported the allocation of the site as most suitable in 2003 on behalf of Heritage Homes, and even today was not prepared to make any criticism of the site itself. It is noteworthy that his proof of evidence identifies no site specific issues at all.
107. The site itself is well located for the uses proposed. The Isle of Man Business Park and Spring Valley Industrial Estate lie immediately to the north of Cooil Road. The Cooil Road area is located on the south west outskirts of Douglas with easy access to the principal highway system around Douglas, to the harbour facilities in Douglas and airport at Ronaldsway. Those companies involved in distribution are close to the major centre of population on the Island minimising delivery times and travel costs. The concentration of employment at Cooil Road will help to maintain good public transport facilities to this area to the advantage of both employees and customers.
108. There is already a significant area of built development south of the Cooil Road, comprising Robinsons and the Eden Park Garden Centre. This proposal would therefore be adding to development which already exists rather than creating an entirely new area of development. In addition the boundaries of Robinsons/Eden Park Garden Centre are not well landscaped such that this proposal provides the opportunity of improving the interface with the countryside. Barry Chinn's evidence show how the site, including the site boundaries, can be developed so as to be acceptable in landscape and visual terms [Tes10 Appendix 6]. The intention of the developer, Tesdale, is that the site should be well and generously landscaped; although only part of the site is formally to be categorised as business park the intention is that the buildings as whole should be set in parkland which will dominate the landscape. Barry Chinn's evidence also demonstrates how the site can accommodate the proposed development whilst protecting the reasonable amenities of those residents who live on Colooney's Lane. The precise details of buffer planting and of the scale – height - of the development in that area will be agreed at a later stage.

109. The site has a gross area of 19.8ha of which the development area is 14ha [Tes12 Appendix 4].

<i>Area of Order</i>	<i>19.8ha</i>
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Development Area

Excluding footpaths, structural landscaping,

<i>grouped car parking, ancillary service provision</i>	<i>14ha</i>
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Proposed land uses

<i>Industrial Use – 55% of development area</i>	<i>7.7ha</i>
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<i>Business Park – 30% of development area</i>	<i>4.2ha</i>
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<i>Car showrooms – 15% of development area</i>	<i>2.1ha</i>
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Proposed floor areas

<i>Industrial</i>	<i>32,000m²</i>
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<i>Business Park</i>	<i>21,000m²</i>
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<i>Car showrooms</i>	<i>7,000m²</i>
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<i>Total floor area</i>	<i>60,000m²</i>
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(646,000ft² approx)

110. This schedule shows there is ample scope for structural landscaping. Both the industrial and business park development will be set in generous landscaping. It is anticipated that the business park will have site coverage of 25% while the industrial and car showroom areas will have 33% site coverage.

111. Based on his analysis of historic take up rates, Mr Black has assessed a future requirement for 2ha of additional employment land per annum. On that basis the site would represent about 7 years supply of employment land. However it needs to be recognised that the strategy of the Government is to be more pro-active in seeking to attract new firms to the Island than it has been in the past. Furthermore land will not be taken up in a linear way; one inquiry witness described this as “lumpy” – in some years it will be higher, in other years it will be lower than an assumed average. What is important is that there is at all times a ready supply of high quality employment land suitable to accommodate all those who may wish to come to the Island, as well as for those existing companies who wish to expand. Mr Delaney told the Inspector of a need for a strategic site to sustain the economic future of the Island. This means a site of sufficient size and presence to follow on from the Isle of Man Business Park which is now largely complete.

112. Mr Black said *"the scale and quality of any new business/industrial area will be critical to both the success of the development and the growth and expansion of the local economy. The small scale piecemeal approach to industrial development often seen over the last twenty years will not provide the quality and range of facilities which are likely to be required by industrialists and business entrepreneurs making the decision on whether to locate a new business venture on the Island. The Isle of Man is competing in a global market place where businessmen are being offered industrial premises, industrial sites and financial incentives to locate in alternative countries. At the present time there is little to offer an industrialist or business entrepreneur wishing to establish a new business here in the Douglas region."* Tesdale is committed to providing a development of the highest quality allowing the Isle of Man to be able to compete with the best in the global marketplace.
113. The conclusion must be that the site is of an appropriate scale to allow a development of high quality to take place which can offer a wide portfolio of sites in a modern well landscaped environment likely to be attractive to the type of business which the Government is keen to secure on the Island.
114. The uses proposed by the CRDO are correctly identified. The office element of the business park is entirely appropriate on this site; it would be wrong and artificial to seek to restrict the uses on a site of this scale and importance by not allowing a business park to be developed on part of it; as already referred to above it is the intention of Tesdale that the landscape should dominate throughout the site. The Isle of Man Business Park is nearing completion. 3.05ha of the remaining land available is restricted to corporate HQs and is wholly controlled by Dandara. It is in the public interest that there should be a continuing supply of land for the full range of business park uses as well as healthy competition in the market. As to car showrooms this would in any event be an acceptable use on land zoned for industrial use in accordance with Business Policy 5 of the Strategic Plan and as specifically referred to in Strategic Plan paragraph 9.2.6 (a). On that basis there can be no reason for objecting to the CRDO on the grounds that it expressly makes some limited provision for car showrooms. Car showrooms are acceptable in terms of policy and can be found on the existing Isle of Man Business Park.

Development plan

115. The Development Plan comprises the 2007 Strategic Plan and the 1991 BPDLP. It would be surprising if a proposal to grant planning permission outwith the Local Plan for built development on an unallocated 20ha green field site located beyond the development limits of any settlement was found to be in accordance with the policies of the Development Plan. The case for the release of the site is that there is an overriding need to grant planning permission for additional employment development land now which overrides any conflict there may be with the Development Plan and which cannot wait the 5+ years it may take to put the Eastern Area Plan in place.
116. The Development Plan should not have pre-eminence. The Development Plan does not have the primacy which it enjoys on the other Island. Section 10(4) of the 1999 Act provides that in dealing with an application for planning approval the Department *"shall have regard to the provisions of the development plan, so far as material to the applicationand all other material considerations"*. These statutory provisions are repeated in Strategic Plan GP1. Thus the policies of the development plan are merely one of the material considerations to be weighed in the balance along with all other material considerations. If a proposal is judged to be contrary to the provisions of the development

plan the issue is whether the material considerations in favour of the proposal should outweigh the policy objection to it.

117. The 1991 BPDLP is time expired; it is almost 20 years old and is plainly out of date. It makes no provision in relation to the existing development needs of the area and is a document of very little weight in the context of this inquiry.
118. The 2007 Strategic Plan is more recent and relevant. However it is a high level plan which sets out the strategic framework within which the Area Plans will be produced and against which development proposals can be tested. Importantly it makes no land allocations; this being a primary function of the Area Plans. The Strategic Plan was going through its various stages whilst the 2003 DBPP was being prepared. The expectation was that the DBPP would make appropriate land allocations and would have been adopted by the time the Strategic Plan was adopted. With its withdrawal in 2006 a policy vacuum at the local level has been created. Thus the various policies to which attention has been drawn at this inquiry – SP6, BP 2, BP3 – all contemplate that industrial land will be identified or designated in the appropriate Local or Area Plan. The policies do not contemplate such land coming forward outside of the policy framework at the local level. By the time the Strategic Plan was adopted in 2007, the DBPP had been withdrawn. It was no doubt for this reason, in the knowledge that there remained an outstanding and unmet need for additional employment land to be identified, that specific reference was made to the land south of Cooil Road at Strategic Plan paragraph 9.1.5. This land was the site allocated for employment uses in the now withdrawn DBPP. If there is agreed to be an urgent need to identify more employment land now in advance of the Eastern Area Plan, it follows that permission will need to be granted notwithstanding the policies of the Development Plan. In doing so the proposal would be consistent with SP2, it being a sustainable extension of the existing built up area. The contention by objectors that a sustainable extension can, by definition, only come through the plan process, or that it only relates to a mixed use development is rejected. It would be consistent with SP1, which identifies Douglas as the main employment and services centre for the Island. It would be in accordance with BP1 which encourages employment opportunities throughout the Island.
119. At this inquiry much attention has been paid to GP2 and GP3. These 2 policies are opposite sides of the same coin – one dealing with applications within areas zoned for development in the appropriate Area Plan and the other with applications outside areas zoned for development. Whether or not criterion (g) of GP3 is met by the proposal is not the determining issue at this inquiry. If it is, all well and good; however if not, the need for the development overrides the policy objection to it. This proposal should not be shoehorned into the wording of GP3(g). The policy itself was probably intended to cover proposals *“for which there is no ideal site, such as large public utility installations and the new prison”* as referred to by the Strategic Plan Inspector [KK2 Appendix 5]. Seen in that light the policy wording makes complete sense.
120. The CRDO proposal should be tested against GP3(g). The Government appear to consider that there is an overriding national need for this development as evidenced by the making of the draft DO; otherwise it would not have been prepared to make a DO leaving it to Tesdale to make a conventional planning application. The phrase *“and for which there is reasonable and acceptable alternative”* is no doubt a sensible requirement if one is dealing with for example an incinerator or prison. It must however be questioned how relevant this is when dealing with a conventional land use such as employment land. In

the normal course of events an application for employment use should be considered on its merits. Absent the policy, there would be no requirement to consider alternative sites. In the context of this case compliance with GP3(g) is not a determining issue given the nature of the use proposed and the overriding need to grant planning permission for additional employment land now.

121. There is another interpretation of GP3(g) to that adopted by most parties at this inquiry. This is to say the policy is not concerned with the relative merits of different sites in the countryside, but with whether there is any reasonable and acceptable alternative which does not involve developing in the countryside. However for the reasons already set out, this case does not depend on the proposal being found to fit with criterion (g) of GP3.

Alternative sites

122. The matter of alternative sites has taken up much time in this inquiry. The Cooil Road site has been identified as suitable for employment uses since the DBPP was first produced in 2001. The proposed allocation attracted virtually no objection at the 2003 Local Plan Inquiry and certainly no one then suggested that there was a more suitable location for these uses to be accommodated. From 2006 onwards it has been widely known that the Government was committed to promoting a DO in relation to the land. In the 4 years since then only Dandara, and now Henry Kennaugh, have suggested that there is any suitable alternative location for employment land.
123. If there was anywhere else more suitable it would have been identified by now, either through the emerging DBPP process – where the matter of competing sites would commonly be considered – or in the years leading up to this inquiry. The fact that no other sites have emerged is because there are no serious contenders, it being recognised that if more employment land is needed the land south of Cooil Road is clearly the appropriate location. This conclusion is supported by the analysis carried out by Mr McCauley and Mr Black.
124. It is not accepted that it was incumbent on the Government to carry out a comprehensive alternatives site study. There is no legal obligation to assess alternative sites when carrying out an environmental assessment. In considering an application for employment land the issue is whether the application site is suitable for the proposed use, not whether there is some other site that might be more suitable. As a matter of principle the situation should not be different where planning permission is proposed to be granted via a DO. Even if GP3(g) is applied in the way objectors contend, the evidence shows there is no reasonable and acceptable alternative.
125. Even if it is decided that more work should be done to assess alternative sites the CRDO should be confirmed given the overriding need for more employment land to be granted planning permission now. The reality is that it is highly unlikely, given the history of the matter, that some other site would emerge as a serious contender to displace the Cooil Road site. Rejection of the CRDO would mean the matter would be put back to be considered as part of the Eastern Plan, meaning that no significant employment land release would occur for 5 or more years; such a delay would be wholly unacceptable.
126. Middle Farm is plainly unsuitable. The site lies in open countryside and is physically divorced from the urban area of Douglas. Unlike the DO land it lies in the AHLV designated in the 1982 Development Plan which by ENV2 remains the basis for development control. It is not well related to the existing urban area as compared to the

land south of Cooil Road. Further development here would be highly visible from a number of important and sensitive viewpoints, and would appear out of place given its rural location. By contrast the land south of Cooil Road would be seen against the backdrop of, and be read as an extension to, the existing urban area.

127. Middle Farm would be an employment area of much lower quality than what is proposed at Cooil Road. It is hardly a location which is going to be attractive to footloose companies seeking a high quality employment site on the Island; in particular high technology users, research and development and clean science based industries. Given the nature of the existing uses, namely the incinerator, the animal waste processing plant, the industrial sheds, builders yard and stone recycling facility it will only appeal to the lower end of the employment market. This is the antithesis of what is proposed at Cooil Road. It should be rejected as an alternative site as it will not meet the wide range of employment needs that have been identified.
128. With regard to the Drinkwater land suggested by Henry Kennaugh, the DoI assessment is relied on. This shows its unsuitability and general lack of merit as an employment location. Furthermore there is no evidence that it is available for use as an employment site. The landowners have no knowledge of Mr Kennaugh or his proposals for an employment use on the land [CD49]. The site is under option to Dandara to promote it for residential use. Mr Kennaugh's employment proposal is inconsistent with the terms of that option.

Access

129. The CRDO site has always been promoted as being served by a single access off Cooil Road, together with a dedicated emergency access. This approach was the 2007 Transport Assessment. It was the subject of the 2009 EIA by the DoI. The DoT response to the CRDO did not identify the need for 2 points of permanent access but the need for 2 points of emergency access. This would be provided.
130. Mr Sewell's case for 2 permanent points of access relies on the superseded DB32: Residential Roads and Footpaths. The reason for 2 points of access in housing areas is to reduce traffic volumes in front of houses. This guidance has no application to industrial access roads as is evident from the title and from reading paragraph 1.01 [CD52]. This paragraph says the considerations in DB32 do not apply elsewhere in the urban road system. There is no similar guidance in relation to industrial access roads. Each proposal must accordingly be considered on its merits.
131. The site would work well with one permanent access. The roundabout junction proposed onto Cooil Road has adequate capacity to deal with all the traffic arising from the development. A dedicated emergency access would be provided which would ensure that access is maintained to the site at all times for emergency vehicles. There would be several dedicated links between the site and Cooil Road for cyclists and pedestrians. There is no technical highways or traffic requirement for the site to be served by a second access onto Cooil Road. The suggested condition fails the test of reasonableness and necessity.
132. If however there has to be a second permanent point of access it should be done without linking to the Isle of Man Business Park roundabout. To require a link to that roundabout would mean crossing land owned by Dandara who could stifle the development and prevent it coming forward. However it is agreed that the site has

sufficient frontage to Cooil Road to permit an access to be provided elsewhere, possibly using the existing Robinson's access.

Heritage

133. When considering Ballavagher Farm, it is important to distinguish between below ground archaeology and the farm house and its outbuildings. The former is protected by the conditions proposed to be attached to the CRDO and there is no issue with that. As for the latter, neither the farmhouse nor its outbuildings are of registrable quality with the consequence that they can be demolished without any further permission. The farmhouse is a mid 19th century building of no particular merit whose interior has been largely stripped out. There is nothing special about the farmhouse or outbuildings. There is no architectural, historical or archaeological case justifying their retention; the record shows that this was accepted by the relevant experts who were prepared to sign a SoCG to that effect once the buildings had been inspected and it was realised the buildings were not of registrable quality.
134. Mr McCauley's evidence to the inquiry was that it was his Department that sought their retention on the basis that he felt that they were "interesting buildings"; of itself that cannot be a sufficient basis or justification for preventing their demolition. The fact that there is a SP policy basis for allowing or encouraging the reuse or conversion of existing buildings in the countryside is quite different to saying these unregistrable buildings are required to be kept as part of a 21st century employment park when the experts agree that there is no basis for their retention. It follows that no condition requiring their retention is either necessary or reasonable.

Boundaries

135. The CRDO boundary can be drawn tighter up to Robinsons than is shown on the plan attached to the draft DO. CD39 shows the boundary sought. There is no objection to this minor change. The DoI agree with this change. The new plan forms part of CD35(c), which deals with conditions.

Conclusion

136. The CRDO should be made as sought.

CASE FOR DANDARA

The material points are:

Introduction

137. Dandara owns approximately 89ha of land at Middle Farm, Braddan, which can be divided into 3 parcels. The central parcel of some 53.4ha [DAN2 Appendix 5] adjoins the A6 and former A6 to the north and reaches as far as the Isle of Man Steam Railway line and Old Castletown Road to the south east. The north western part of this parcel is adjacent to and includes in part an area of approximately 5.6ha which has been developed with industrial and waste management uses. This area accommodates the Energy from Waste Plant (EFWP), Animal Waste Processing Plant (AWPP), a recycling and construction storage compound, a stone recycling facility and a group of industrial starter

units. The starter units were developed by Dandara in 2 phases; the 2nd phase was only completed in mid-June 2010; the units have proved popular and most have been occupied.

138. Land within this holding is suitable for development for industrial and commercial uses and is capable of addressing any need identified for this DO. The DoI suggest that there is only 9.33ha of industrial land available and deliverable. As 3.05ha of this land is owned by Dandara and is the subject of covenants held by existing Isle of Man Business Park users which restricts its development to offices used as corporate HQs. The land is therefore unlikely to be used for industrial uses and thus the available industrial land should be reduced to 6.28ha.
139. Dandara propose that the Middle Farm site could release an initial phase of about 5.9ha of undeveloped land for employment uses. This would provide about 12.18ha of available industrial land, which at a take up of 2ha/year would give about 6 years supply. Land suitable for subsequent phases would release an additional 6.3ha of land for further employment uses. This would give 9 years supply.
140. Dandara intended to promote the development of this site through the development plan process in the Eastern Area Plan. The DoI's action in promoting the CRDO pre-empts the proper development plan process and makes it necessary to consider the development of this site at this stage. This would allow a proper comparison to be made between the 2 sites. The Middle Farm site is preferable to the Cooil Road site.

Basis for the DO – need and absence of alternatives

141. The basis on which the DO is proposed to be made is set out in the Background Statement to the January 2010 draft DO [CD18]. It is that *“the proposed development is necessary to encourage economic development on the Island”* and *“it is necessary to secure the site for economic development at the earliest opportunity in advance of the preparation of the Area Plan”* [CD18 paragraph 1.2]. It is therefore necessary to consider whether the proposed development is necessary and must be secured in advance of the preparation of the Area Plan. This clearly relates to the issue of the need for land for the uses proposed in the DO.
142. Tynwald has resolved that any proposals for the release of un-zoned land, for whatever purpose, promoted through the use of DOs are to be considered against the policies of the Strategic Plan and any other relevant social and economic factors [DAN 2 Appendix 2]. The use of DOs is not to be seen or used as a weapon of Central Government to disregard the views of individuals and the local community [CD18 paragraph 1.2].
143. The DO is promoted on the basis that parties with an interest in the development of the area are not to be prejudiced. This is necessary in order to comply with Tynwald's resolutions. It can only mean that those with an interest in bringing forward land for development for these purposes will be given the same opportunity to advance their sites as if the development plan process were to be used and therefore their sites must be considered equally in the same manner that they would in a development plan inquiry.
144. This has a number of important consequences. First, it necessarily raises the issue of alternative sites as a matter of law. Second, it must also mean that the DO land is not to receive any advantage by use of this process. Third, the DO land cannot receive any more favourable consideration than were it to be considered through the development plan process. Fourth, weight cannot be given to the fact that the DO has been made, or that

other land has been chosen by the DoI for inclusion in the DO – sites must be considered on an equal footing. Otherwise, the development is able to “pull itself up by its bootstraps”. Fifth, it cannot be a point in favour of confirming the DO, or in choosing the DO land that this stage has been reached in the process, or that to choose an alternative site may result in delay that is an inevitable consequence of the DoI choosing to adopt this particular procedure and failing to get on with the Area Plan in the manner it had pledged to do when the 2003 DBPP was abandoned [DAN2 Appendix 2].

145. The DO is also made on the basis that the DoI “*does not consider there are suitable alternative sites for this type of development*” [CD18 paragraph 1.6]. Clearly the DO is made on the basis that it is necessary to consider alternatives and that alternatives have been considered and there are no suitable alternatives.
146. Given the basis on which the DO is made, it is necessary as a matter of law to consider whether there are alternatives. It is additionally necessary to examine whether the DoI properly considered alternatives. Furthermore it necessarily follows that if there were suitable alternatives this DO would not be made and cannot lawfully be confirmed.
147. The land the subject of the DO is not zoned for development in the extant Braddan Local Plan, which treats the land as part of AHLV. Tesdale’s argument that the BPDLP is time expired is misconceived. The 1991 BPDLP did not have a time period and importantly the Strategic Plan provides that existing local plans are to remain in effect until they are replaced by new Area Plans [CD3 paragraph 1.4.3]. Under cross examination Tesdale’s Mr Ryzner agreed that it would be perverse for the Strategic Plan to treat the 1991 BPDLP as being in operation and remaining in effect if it was considered to be time expired.
148. In consequence of the BPDLP designations, GP3 of the Strategic Plan precludes development of the land unless a relevant exception applies. The only possible exception which could be raised is exception (g), namely that the development is recognised to be of “*overriding national need and there is no reasonable and acceptable alternative*”. Furthermore EP1 provides that the countryside is to be protected for its own sake and for the purpose of this policy the countryside comprises all land outside the settlements as defined in Appendix 3 at A.3.6, or which is not designated for future development on an Area Plan. On this basis the DO land is countryside for the purposes of this policy. The policy prohibits development which would adversely affect the countryside unless there is an “*overriding national need and there is no reasonable and acceptable alternative*”. The development plan therefore requires consideration of alternatives and precludes development unless there is both overriding national need and no alternatives.
149. In opening Mr Trevelyan Thomas for Tesdale submitted that only alternatives in the urban area need to be considered. It is not currently clear whether this point is seriously advanced. This point is not supported by Tesdale’s planning witness. GP3 needs to be applied in a manner consistent with EP1. EP1 seeks to protect the countryside for its own sake and it was therefore agreed that there was a policy requirement to minimize harmful impacts. So, for example, if the DO delivers more development than is needed, it fails to minimize impacts. EP1 expressly requires a consideration of alternatives. Accordingly, whether GP3 or EP1 is applied is immaterial. This is consistent with SP6, which requires major employment generating development to be located in existing centres zoned for such purposes and identified as such in local or area plans. It follows that if such development is to be located outside such zones, this would take place through a plan process which would consider alternatives. Mr Trevelyan Thomas’s point is of no merit.

Under cross examination, Mr McCauley for DoI accepted that consideration of alternatives was required, and in particular that it was necessary to consider the Middle Farm as an alternative.

Scope of Order

150. Section 8 of the 1999 Act provides power for a DO to grant approval for development specified or a class of development specified in the DO. This requires the development or class of development to be specified in the DO. That has not been done in this DO, which appears to rely upon the conditions to define the development. Furthermore the reference to class of use must be read in accordance with the remainder of the Act and must mean a class identified within the Use Classes Order. Business park is not an identified class and the DO cannot lawfully grant approval for business parks.
151. As drafted the CRDO would have provided approval in principle for class 5 and class 6 uses, uses within the meaning of business parks as defined in Appendix 1 of the Strategic Plan and showrooms for the display and sale of motor vehicles and associated open space – albeit this was unlawfully done by way of definition in the conditions rather than the CRDO [CD18 & CD19 Schedule 2]. However the draft conditions in CD35 widened the scope of the approval to include class 4 uses. This is wider than the draft CRDO as the definition of business parks limits office uses to “*office accommodation as the corporate headquarters of companies having multiple and diverse interests*” whilst class 4 is all office uses other than specified offices where the services are provided principally to members of the public. This illustrates why the Act requires the development to be specified in the Order and why the conditions cannot be used to define the development for which approval is granted.
152. Planning permission cannot be granted for more than is applied for. The same principle must apply to DOs. The public consultation required as part of the DO process is undermined if a DO is amended after public consultation so as to provide for a wider approval than the one which was sought at the public consultation stage. The CRDO cannot be authorised in the amended terms proposed.
153. Similarly the draft CRDO provided for a minimum level of industrial development whilst the later conditions changed this to a maximum level. This is a further fundamental alteration which cannot properly be made after the public consultation stage; a new DO would be required.
154. The fact that proposals have been made for changing the terms of the CRDO without any evidence to support such a change serves to emphasize that the CRDO has been made and altered without any proper evidence base or consideration of the available evidence.
155. Mr McCauley explained that the changes were not intended to widen the scope of the CRDO, but rather to clarify what was permitted. This recognises a further flaw with the CRDO in that it appears to be recognised that the scope of the CRDO was not sufficiently clear. This is important given that consultation both with respect to the CRDO and the EIA have been on the basis of something which is not clearly defined. This provides further reason why the Order should not be confirmed.
156. The fact that the DoI could propose changes to clarify the CRDO which inadvertently widened the scope of the CRDO in such important respects is a matter of grave concern. It raises fundamental questions about the care exercised by the DoI in promoting the CRDO.

Legal Tests

157. The Minister confirmed [DAN2 Appendix 1] that with a DO *“any proposals for the development of un-zoned land would be tested against the principles of the Strategic Plan and also against any other relevant social and economic factors”*. The legal test for determining planning applications is in a similar form. The determination of matters under Part 2 (Development Control) of the 1999 Act shall have regard to the provisions of the Development Plan and all other material considerations – see GP1.
158. For Dandara, Mr Humphrey considers there is no material difference between the 2 tests. Whilst the wording is not identical, this must be a correct view. It is common ground that the Strategic Plan is the pre-eminent part of the Development Plan. Other parts of the Plan are capable of being relevant social and economic factors. Furthermore, neither Mr McCauley nor Mr Ryzner could articulate any meaningful difference between *“relevant social and economic factors”* and *“other material considerations”*.
159. Furthermore, the practical effect of the grant of the DO is to grant planning approval in principle. The effect is the same as the grant of approval in principle. As the practical effect is the same, it would be perverse to apply a materially different planning test.
160. Accordingly, there is simply no credible basis for either Mr McCauley or Mr Ryzner to argue that significant weight should attach to policies in the DBPP, simply because the development is promoted through a DO. There is no causal link between the two. It must also be remembered that the planning system is based in the Public Law. The abandoned DBPP makes no distinction between DOs and planning applications. Accordingly third party members of the public could not possibly be expected to know that that it could be a material consideration in one planning process but not another.
161. Mr McCauley and Mr Ryzner raised 5 points to justify their position. Not one is a meaningful distinction. First, the purpose of consultation on the DO and planning applications is the same. It is to elicit relevant responses so that an informed decision can be made. Second, it is wrong to assert that whilst a planning application cannot be changed once it is made, a DO can. A planning application can be the subject of change pre-determination provided there is an opportunity for further consultation. The same must apply to DOs, given the Minister’s requirement for consultation. Further, the local planning authority can grant planning permission which is different from the application – subject to the Wheatcroft principles. Third, Mr Ryzner is wrong to assert that a planning application attaches more weight to policies in extant plans. This is clear from the legal tests. Fourth, Mr Ryzner considers that whilst a DO takes account of planning policies, there may be overriding considerations which may be more important than the policies. The same applies equally with planning applications. Indeed this is plain from GP3(g) which specifically refers to overriding national need. Planning permission can be granted where there is an overriding national need – for any nationally important infrastructure projects. Finally Mr McCauley argues that there is a difference between DOs and planning applications because DOs can rely on abandoned plans. This assertion is circular and self-serving.
162. Indeed this latest assertion is also inconsistent with how the Island has treated the DBPP in other appeals, where no weight has been attached to it. Furthermore, no weight is attached to the abandoned DBPP in the EIA for this CRDO. It is clear therefore that any argument by Mr McCauley – as distinct from the Government – is wholly inconsistent with how the Government has treated the abandoned plan previously. There

is simply no legal or planning basis for treating the abandoned DBPP differently in the DO than in a planning application. This is a significant flaw in the reasoning of the Government in promoting the CRDO.

163. Whether the abandoned plan is not to be considered a material consideration or a material consideration of no weight is entirely academic. It also means that Mr Barrett's, repeated reference to evidence submitted before the Local Plan Inspector pre-2003 is of amusement only. It has no forensic value in the value of the determination of the CRDO. The concentration of DoI on the position in 2003 demonstrates very clearly the paucity of relevant points in the DoI's favour and a reluctance to actually engage in the substance of the argument. The assertion that the Cooil Road site was considered to be the most suitable site by Mr Reid in a proof for Dandara at the DBPP inquiry provides no meaningful support for this CRDO for the following reasons.
164. First, the Middle Farm site was not then considered. It was being promoted by the Government for waste uses. It was not therefore considered as an alternative to the most suitable site. Second, the evidence had been gathered in support of the DBPP in the late 1990s/early 2000s – it is therefore significantly out of date. Third, there was no clear or transparent or understandable evidence base for the scale and location of the employment uses at Cooil Road. It was neither tested nor endorsed by Dandara at the time. Fourth, the site was considered the most suitable for a materially different form of development – it was to be a long term reserve for a Dandara housing led development. Fifth, the Inspector disagreed that it was the most suitable site – a judgement which would in any event have taken no account of Middle Farm as an alternative. Sixth, there has been a material change in planning policy, with the adoption of the Strategic Plan in 2007, which is now agreed to be the pre-eminent part of the Development Plan. Further the Douglas Local Plan and the Onchan Local Plan are now of some vintage. Seventh, the evidence regarding need and alternatives has changed materially since the date of that inquiry. Eighth, the DBPP was formally abandoned which demonstrates the Government's clear resolution that weight should not be attached to it. Further, it was abandoned in 2006 and, again, much has changed since that date.
165. Therefore the legal test requires engagement with the substance of arguments as presented today, rather than an interesting trip down memory lane.

Development Plan considerations

166. The development plan for this CRDO comprises the Strategic Plan, the 1982 Plan and the 1991 BPDLP. The CRDO land is not zoned for development in the 1991 BPDLP and in accord with policy 13.3 of that plan is designated as within the AHLV.
167. Policy 6.7 of the 1991 BPDLP states that no further extension of any industrial areas in to areas designated as open space will be permitted and policy 13.4 states that no further development will be permitted in the open countryside with the exception of those referred to in policy 13.2 – these do not apply. The CRDO is plainly contrary to the 1991 BPDLP.
168. Although the Tynwald resolution does not specifically refer to DOs being considered against the local plan, paragraph 1.4.3 of the Strategic Plan provides that existing local plans are to remain in effect until they are replaced by new Area Plans. Given that DOs are to be considered against the Strategic Plan they must also be considered against the local plan.

169. A replacement for the 1991 BPDLP was promoted and taken to inquiry in 2003. But this replacement was formally abandoned in 2006. The abandoned plan had proposed allocating the CRDO land for industrial development. During the course of preparation of the abandoned plan an application was made for development of part of the CRDO land for car showrooms. This application was refused on appeal on the grounds that the proposal conflicted with policies 6.7 and 13.4 of the 1991 DPDL and presciently on the ground that it was premature pending the determination of the abandoned DBPP [TES12 Appendix 8]. The CRDO proposal is contrary to the same policies but over a much more extensive area of land.
170. When the 2003 DBPP was abandoned the Minister explained that *“the Department will be considering whether or not it is possible or appropriate to ascribe a degree of weight to some of the proposed zonings and policies contained within the Braddan Plan which are outside the main areas of contention”* [DAN2 Appendix 2]. The proposed allocation of the CRDO land appears to have been one of the main areas of contention as recorded in the Report of the Select Committee and therefore the proposed allocation would not be one of the proposals within the abandoned DBPP which was being considered as potentially having some weight. Furthermore there is no evidence that the Department has ever formally come to the conclusion that weight can be given to any of the zonings or policies of the abandoned DBPP.
171. Remarkably Mr McCauley has argued that the proposed allocation can be given almost as much weight as if the DBPP had been adopted. He says this on the basis that draft plans receive as more weight the further they proceed through the process. As a matter of principle and law Mr McCauley’s approach is wrong – whilst draft proposals may receive more weight the further they proceed through the process that is on the basis that there may be increasing confidence that they will ultimately become part of the development plan, but in this case it is absolutely clear that the proposed allocation will not become part of the development plan. The 2003 DBPP has been abandoned and is not going to be resurrected. Ultimately there is to be an Area Plan rather than a Local Plan, but the Area Plan has not started the process at all and there are no proposals in the Area Plan to be considered. The basis upon which weight can be given to draft proposals cannot apply in this case and there is no longer a draft plan as it has been abandoned.
172. Mr McCauley’s contentions as to the weight that can be given to the abandoned plan are all the more remarkable given that the DoI has refused permission on the application on Middle Farm on the basis of the 1991 zonings and in particular on the basis that the 2003 DBPP and Inspector’s report are to be treated as if they never existed given the abandonment of the plan. The DoI argued at appeal the week before this Inquiry started that the DBPP and Inspector’s Report should be treated as if they never existed, and has managed to persuade Inspectors on other appeals that this is the approach to take [CD32]. It is a matter of grave concern that the DoI should be taking such conflicting inconsistent positions before Inspectors.
173. Mr McCauley apparently argues that the abandoned DBPP only has weight attached to it when a DO is progressed and that it will not have any weight in determining planning applications. There is no authority for such a proposition; it is not supported in legislation; it is plainly contrary to the Tynwald resolution which requires that a DO should not be used as a weapon, but considered against the Strategic Plan and subject to a more rigorous examination than planning applications. Interestingly whilst Mr McCauley stated that the DoI had received legal advice, which it accepted, that the abandoned plan

had no weight in determining planning applications, he was less clear about the position with respect to any legal advice for DOs. His failure to disclose that legal advice is telling.

174. To treat the abandoned DBPP differently in the context of a DO is contrary to the basis upon which the DO is expressed to be made, namely that it will not prejudice those with an interest in the development of the area. The Government purports to give the CRDO land a unique advantage and does not allow for equal consideration between sites or even fair consideration against the development plan.
175. The DoI has made a fundamental error in attributing the weight to abandoned DBPP set out in Mr McCauley's proof and this undermines the DoI case for the CRDO.
176. GP3 provides that development will not be permitted outside of those areas which are zoned for development on the appropriate Area Plan, subject to certain exceptions. Mr McCauley accepted that the only exception that could be relied upon is exception (g) which is "*development recognised to be of overriding national need in land use planning terms and for which there is no reasonable and acceptable alternative.*" Furthermore EP1 provides that the countryside will be protected for its own sake and development which would adversely affect the countryside will not be permitted unless there is an overriding national need in land use terms which outweighs the requirement to protect these areas and for which there no reasonable and acceptable alternative. The policy provides that development is in the countryside if it is outside the settlements defined in Appendix 3 or not designated for future development on an Area Plan.
177. There is no Area Plan and CRDO site is outside the settlement and areas zoned for development in the adopted 1991 BPDLP. The CRDO site therefore to be considered against GP3 and EP1. At times Mr McCauley sought to argue otherwise on the basis of reliance upon the abandoned BPDLP and/or a claim that different considerations applied to DOs compared to applications for planning permission. These arguments are misconceived for the following reasons.
178. First, Tynwald's resolution is that DOs are to be considered against the Strategic Plan and are not to be used as a weapon. There is no suggestion that the Strategic Plan is to be treated differently because a DO is involved. To treat the Strategic Plan differently would contravene the resolution that DOs are to be considered against the Strategic Plan and not to be used as a weapon. Second, to treat DOs differently effectively gives a proposal a particular weight and advantage simply because it is promoted by way of Development Order which is completely contrary to the above resolution and undertaking. There is no policy or legal support for such an approach. Third, the terms of the Strategic Plan are clear, in the absence of an Area Plan, GP3 and EP1 apply. There is no Area Plan. The abandoned DBPP cannot satisfy these requirements. Fourth, if it is suggested that in advance of Area Plan one should refer to the relevant local plan, the relevant local plan in this case is the 1991 BPDLP; the proposal is contrary to that plan.
179. In any event Mr McCauley appeared to accept that EP1 did apply and so arguments about the application of GP3 become somewhat academic given that both policies apply the same tests of national need and absence of alternatives.
180. Mr McCauley's arguments about the weight to attach to the abandoned DBPP and the application of GP3 are fundamentally contrary to the Government's position in the EIA. The EIA clearly accepts that GP3 applies [CD15 paragraph 4.5] and that the abandoned DBPP and the zoning of this land have no valid planning status [CD15 paragraph 4.7 &

4.12]. The EIA fundamentally undermines Mr McCauley's position and given that the EIA was produced in March 2009, contradicts his suggestion that the abandoned DBPP was to have weight in the DO process.

181. Policies GP3 and EP1 are consistent with policies 6.7 and 13.4 of the 1991 BPDLP. The CRDO is therefore contrary to both the Local and Strategic Plan.

Need

182. The CRDO would provide approval in principle for use within class 5 (research and development and light industry), class 6 (storage and distribution) car showrooms and business parks (as defined in the Strategic Plan) or possibly class 4 office uses. It is therefore necessary to consider whether there is a need in the national interest for the release of this land now for all of those uses. This requires consideration both of whether there is a need for the release of this quantity of land for those uses and whether the national interest requires that need to be met now. If the Government fails to demonstrate a national need for all of the identified uses the CRDO is contrary to the Strategic Plan and the basis upon which the CRDO is promoted has not been made out. The CRDO could not lawfully be confirmed.
183. The Government and Tesdale consider that within the East of the Island only 9.33ha of land is available for industrial development and commercially deliverable. Dandara have not sought to challenge that figure. Mr Humphrey considers the figure should be lower due to the covenant restrictions on the Dandara business park land at the Isle of Man Business Park. However the CRDO would allow up to 45% of the site to be developed for business park uses. It is not accepted that any case for this significant element of the development has been established.
184. At times the Government and Tesdale tried to argue that the need for development of the CRDO site was established by the abandoned 2003 DBPP and no more needs to be established. Mr McCauley even made the remarkable suggestion that the abandoned DBPP should have almost the same weight as if it had been adopted, despite the DoI arguing only the week before at an appeal inquiry in respect of the Middle Farm extension that the 2003 DBPP and the Inspector's report and reasoning were to be treated as if they never existed. For the reasons given above this is a flawed approach.
185. Even if it were accepted that the abandoned DBPP is a material consideration and weight can be given to it, that provides no practical support to the CRDO on the question of need. A conclusion as to need in 2003 is of limited historical interest but provides no guide as to the need some 7 years later for development as proposed in the CRDO. In any event the evidence as to need before the 2003 inquiry was very limited and was not subject to any proper examination given the inability to cross examine.
186. Even more fundamentally, the abandoned DBPP can provide no assistance in establishing need for the uses in the DO, as the abandoned plan did not propose any of the use of land for business park or office uses. Indeed in so far as reliance is placed upon the abandoned DBPP, it can be established that there is no need for additional land for business park or office uses given that it made no additional allocations for such uses.
187. The Government and Tesdale failed to adduce any evidence as to what might be the requirements for business park land over any period of time or even what might be the expected annual rate of take up of business park land. These matters were simply not covered in the evidence of Mr Kelly, Dr Whitfield, Mr Delaney or Mr Black. Each

witness had to concede in cross examination that they had not considered or analysed the matter and that they and the Government and Tesdale did not adduce evidence on the issue.

188. There are currently 2 areas of land zoned for business park uses – in excess of 2ha at the Summerhill Business Park in Douglas and in excess of 4ha at the Isle of Man Business Park. The IoM Business Park is recognised to be a success. Arguments were raised as to whether Summerhill Business Park would be developed, but no convincing evidence was provided to show the site was not genuinely available. This site is the subject of applications for approval for office development and the fact that the site has been undeveloped for a period of time is no surprise given the recognised over-supply of office development in the recent past.
189. In a situation where there is a supply of land for business park uses, it is not sufficient to demonstrate that there may be or even will be some need for business parks in the future. It is necessary to show why that existing supply will not be sufficient to cater for the demand over whatever may be the relevant period. That fundamental exercise was not undertaken by either the Government or Tesdale.
190. The failure of the Government to produce evidence on this issue is hardly surprising, as it was not a matter that was ever considered in the 2009 ECOTEC Report [CD16: Economic Impact Study] or the 2010 Employment Land Availability Study [CD23]. The ECOTEC Report clearly considered business park and office uses quite separately from industrial uses despite the misguided and wrong answers given by Dr Whitfield in response to Mr Barrett's re-examination.
191. The ECOTEC report identified some 740,000 sq ft of potential office floorspace in Douglas Town Centre, which it identified as the preferred location for occupiers. The report considered what proportion of this supply was actually likely to be available and conclude that it came to 470,000 sq ft. It should be noted that this discount was on the basis of removing all land with consents for other uses. This is not an adequate basis for removal of sites from the supply side – although the fact that permission has been sought and granted for other uses may well indicate that there is limited demand for office accommodation. An important point to note is that a significant proportion of this identified land is owned by the Government which is clearly in a position to secure the development of this land was there to be a need for additional office space. It is also important to recognise that the figure in the ECOTEC report is about 3.5 years out of date and omits permissions granted since early 2007. This includes about 75,000 sq ft obtained by Dandara and there are no figures for what consents may have been obtained by others.
192. The figures are therefore an underestimate. However, even were one to accept 470,000 sq ft as an appropriate supply figure it was accepted by Mr Delaney that this would considerably exceed any requirement for office space. Mr Delaney, despite his research and contact with agents, was unable to identify any published requirement for office space. The highest he could put it was there may at some time in the future be a requirement for about 30,000 sq ft from a financial institution. Set against such limited requirements a 470,000 sq ft supply is clearly more than enough. Mr Black was unable to take the matter further. In addition to the possible interest in a 30,000 sq ft office he considered there was a possibility of interest in other office developments in the future but this was no more than speculation. He accepted that he was unable to state what requirements any businesses might have now or in the future, where such businesses

might wish to locate and importantly whether such businesses would be prepared to locate in a business park still less whether they would prefer to locate in a business park.

193. The absence of any particular demand was highlighted by the correspondence referred to by Mr Delaney. This consisted of 2 letters from motor retailers, one of whom writing from premises in the UK merely supported the proposal without suggesting that he had any intention of locating in the Isle of Man, still less any requirement for land at Cooil Road. The motor retailers could in any event locate on industrial estates and did not require a business park location, as both Mr Black and Mr McCauley accepted. The letters from Cemex made it plain that their interest was in obtaining work in the construction of the CRDO land. There is no suggestion that they had any interest in taking CRDO land. Whilst JCK Ltd did express some interest in taking land on the CRDO land they already have premises on the Balthane Industrial Estate and Mr McCauley accepted that given the nature of JCK Ltd, it was not clear that they would be suitable occupiers of the CRDO land. In total therefore there were only 2 letters which identified any interest in locating on the CRDO land and neither was for office or business park uses; both uses could properly be located on an industrial estate. The absence of any evidence from anybody of a desire to locate office uses on the CRDO land amply demonstrates the lack of any need for business park use on the land.
194. The only witness to really address any potential need for business park uses was Dandara's Mr Humphrey. He explained that the take up rate at the Isle of Man Business Park over the last 17 years was about 0.2ha per annum. The Government and Tesdale both consider that the Isle of Man Business Park has been a great success and that there has not been substantial take up of business park land elsewhere; their witnesses accepted these figures. This evidence categorically establishes that there is only a very limited demand for business park land.
195. The limited requirements for business park land are expressly acknowledged in the ECOTEC report [CD16 p25]. The lack of need for office development and business park uses is recognised in the Strategic Plan [CD3 paragraph 9.1.6] and the ECOTEC report as Mr Delaney accepted.
196. When set against the limited requirements and the substantial amounts of office land available in Douglas, the in excess of 6ha available at the 2 designated business parks is clearly more than sufficient. A need for business park or office uses on the CRDO land cannot be made out.

Alternatives

197. The CRDO is promoted on the basis of there being no alternatives, the Strategic Plan policies GP3 and EP1 preclude the development unless there are no reasonable and acceptable alternatives. Mr McCauley accepts that it is necessary to establish that there are no reasonable and acceptable alternatives. In the circumstances it was necessary for the CRDO promoters – the Government and Tesdale – to establish that there are no alternatives. There is no obligation upon third parties to advance alternatives, nor is any consideration of alternatives to be limited to sites advanced by third parties, and the absence of any specifically promoted alternative does not limit the consideration which needs to be given to alternatives.
198. Given the need to demonstrate that there are no reasonable alternatives the Government's failure to consider alternatives properly is a fundamental flaw in the CRDO which means that it cannot safely be confirmed legally.

199. Alternatives were not properly considered prior to the making of the CRDO. The EIA, which should have addressed alternatives, does not address alternatives or give any proper analysis of why alternatives were rejected. Paragraph 3.62 of the EIA [CD15] effectively refers one to the Background Statement to the CRDO. This is a fundamental flaw in the EIA which means that a proper EIA has not been carried out. As the Government accepts that the CRDO requires an EIA before it can be approved, this is a further reason why the CRDO cannot be confirmed.
200. In the January Background Statement [CD18] paragraph 1.6 is no more informative than the EIA. It merely says that the Department did not consider there to be any alternatives which meet the Spatial Strategy and other policies and explains that the reasons for this are that most area are classified as AHLV, are poorly related to the strategic highway network and principal gateways, and are areas of ecological significance or safeguarded for water supply. This is not an identification and consideration of alternatives anymore than Mr McCauley's generalised comments in his proof of evidence.
201. The reasons given in the EIA and Background Statement for rejecting alternatives are fundamentally flawed. Both documents rejected alternatives on the grounds, first that most of the potential areas around Douglas, Onchan and Braddan are classified as areas of AHLV, but this applies equally to the CRDO land. Surprisingly Mr McCauley was unaware that the CRDO land was in AHLV and initially denied that the CRDO land was in AHLV. However he eventually had to accept the CRDO land was designated as AHLV as a result of policy 13.3 of the 1991 BPDLP [CD19 paragraph 3.3 iv]. As the CRDO land is AHLV to reject alternatives on the basis that they were within the AHLV was wrong. Furthermore the EIA was misleading in this respect. This fundamental error is enough to establish that the Government failed to assess alternatives properly or at all and that it is necessary for the Government to start again and consider alternatives properly. This is a further reason why the CRDO should be rejected.
202. The consideration of alternatives and the rejection of Middle Farm in the CRDO proceeded on the same erroneous basis. The Background Statement to the June 2010 CRDO states that *"the Cooil Road sit lies adjacent to an Area of High Landscape Value however it is not within such an area"* [CD19 paragraph 3.3 iv]. This is now accepted to be wrong. The CRDO has therefore failed properly to consider alternatives and rejected alternatives on an erroneous basis. Again the CRDO cannot lawfully be confirmed.
203. Mr McCauley accepted in cross examination that the Middle Farm site could not be rejected on the basis of any of the issues given as reasons for rejecting alternative sites. Given that the designation as AHLV applies equally to both the CRDO land and the Middle Farm site, this cannot be a reason for rejecting Middle Farm as an alternative. The EIA and Background Statement do not provide a reason for rejecting Middle Farm.
204. Mr McCauley argued that the EIA and Background Statement did not consider alternative sites but instead alternative locations. This does not assist him. First, the suggestion that consideration was not given to alternative sites conflicts with what is said in the EIA and Background Statement, and, if correct, it means that the EIA and Background Statement were misleading and contrary to the acceptance that alternative sites had to be considered. This had not been done. Second, even if alternative locations rather than sites were considered, it should have been apparent that the location of the Middle Farm site, which is one of the nearest alternative locations to the CRDO land, was

an appropriate alternative and could not be rejected on the grounds set out in the EIA and Background Statement.

205. Mr McCauley agreed that one alternative which had to be considered was the Middle Farm site and stated that it had not been considered until June 2010. Given that it is accepted that the Middle Farm site had to be considered, it is a fundamental flaw in the process that it was not considered prior to the making of the CRDO, and it is an even greater flaw that when the DoI purported to consider the site, it in fact considered a different site. The DoI assessed the site that was considered and rejected by the DBPP Inspector; but that site is not the site advanced by Dandara before this Inquiry. Furthermore the DoI errors continued despite Dandara pointing out that it had been considering the wrong site. For example the DoI landscape witness appears to have assessed the site considered by the 2003 Inspector and Mr McCauley still appeared to be ignorant of the fact that the wrong site had been considered. The evidence established that the DoI has never made a proper informed assessment of the Middle Farm site.
206. The DoI's main point against the Middle Farm site appears to be that it is not a sustainable urban extension, whilst the CRDO site is claimed to be a sustainable urban extension. Mr McCauley's evidence in chief appeared to accept that if Middle Farm were a sustainable urban extension it would compare favourably with the CRDO land. This is a further error in the DoI approach. The Strategic Plan defines a sustainable urban extension as "*the planned expansion of a city or town*". This clearly requires a sustainable urban extension to come forward through the development plan process. This has not occurred in the case of Cooil Road which cannot be considered to be a sustainable urban extension.
207. Mr McCauley accepted that "planned" meant brought forward through the development plan process, but claimed that did not apply in this case alone. This was on the grounds that in this exceptional case the CRDO amounted to a plan so as to satisfy the requirements for a sustainable urban extension. This is a further example of the circular approach. This argues that, whilst the purpose of the CRDO is to provide planning approval and despite the Tynwald resolution that DOs are not to be used as a weapon, the fact of making the development proposal by means of a DO somehow creates a presumption in favour of the development proposal. It also changes the consideration to be given to the proposal and somehow alters the construction to be given to the development plan. Such an approach is fundamentally flawed.
208. Mr Humphrey has undertaken a comparative assessment of the merits of the CRDO land and Middle Farm. He has undertaken the assessment in accordance with the Site Assessment Framework adopted by the Government for use in selecting sites through the development plan process [DAN2 Appendix 11]. Mr McCauley accepted that this was an appropriate method for comparing the 2 sites. Mr Humphrey's assessment gave Middle Farm a score of 47, whereas the CRDO land only received a score of 42 [DAN1 p25]. Nobody has produced a meaningful alternative assessment. In the circumstances substantial weight can and should be given to Mr Humphrey's assessment which establishes that Middle Farm is a reasonable and acceptable alternative.
209. Mr McCauley did make some comments on the Site Assessment Framework undertaken by Mr Humphrey. But he did not provide an alternative conclusion or overall score. His first criticism seemed to be that the Site Assessment Framework gave cut and dried figures which did not allow for more suitable gradations in judgement. This was a surprising criticism given that the Site Assessment Framework is the Government's own

method and Mr McCauley confirmed in cross examination that it was sufficiently fine grained to allow proper and adequate comparison of sites. This disposes of that criticism.

210. In addition Mr McCauley made some observations upon the scoring under criteria 7 and 8. Criterion 7 considers the use of public transport. Mr McCauley made the criticism of the scoring in ignorance of the bus services in the locality, in particular the routing of the 4 and 4A up Kewague Hill. Under criterion 7 a score of 3 is given to sites where the furthest point is within 1km walking distance of a bus stop with an hourly peak time service. Both sites come within that category and both are therefore properly scored 3, as Mr McCauley ultimately conceded. Criterion 8 is accessibility via the existing network. Mr McCauley raised an issue about this but ultimately accepted that both sites were correctly scored 4. When questioned on this matter, Mr McCauley was unable to provide any ground for changing the respective scoring between the two sites.
211. A further important point to note is that a limited number of the criteria are classified by the Site Assessment Framework as critical constraints if there is a score of 1 under any of those criteria. One of these criteria is criterion 14: archaeology. The CRDO land contains important archaeological remains which amount to a critical constraint. The presence of a critical constraint results in the removal of the relevant site from further consideration in the development plan process. The presence of a critical constraint must logically result in the removal of the CRDO land from further consideration. Even if that approach were not taken the presence of a critical constraint must carry great weight which further emphasizes that Middle Farm should be chosen ahead of the CRDO land.

Landscape and Visual Impact Assessment [LAVIA]

Planning policy

212. Proposals for development must protect or enhance the character and appearance of the area. This applies to both urban as well as rural areas as set out in SP4. Miss Gratty agreed that this policy applied regardless of landscape designations – i.e. whether AHLV or not. In the light of that policy it was agreed: first, there is a requirement for mitigation; second, the mitigation should minimise adverse impacts on the character and appearance of the area; third, one aspect of mitigation is not delivering more built development than is needed; fourth, if there is a site with less landscape and visual impact than the CRDO site – such as Middle Farm – then development on the CRDO site will not minimise adverse impact on the countryside; fifth, that would apply equally to part of the CRDO site – i.e. where part of the development could be accommodated on a site where there would be less landscape and visual impact; and sixth, if there is a failure to minimise adverse impact on the countryside, there is a failure to comply with Strategic Plan policy.

The EIA

213. Landscape and visual impacts are separate but related impacts. Ultimately LAVIA requires a subjective judgement to be exercised. However it is agreed that such a subjective judgement should be exercised against objective criteria. In order to assess the LAVIA of the CRDO development against an objective framework, TEP produced an EIA. It is agreed that for the EIA to be considered robust, it must be transparent, it must define the terms used and it must be capable of being tested. This must apply equally to any LAVIA of the Middle Farm proposal.

Landscape Character Assessment [LCA]

214. The promoters of the CRDO have sought to draw a distinction between the CRDO land and Middle Farm on the ground that Middle Farm lies in the AHLV. This is a designation formulated in the 1940s. The IoM Landscape Character Assessment was produced in July 2008. It is intended to form the basis of an early objective assessment of character for development control decisions.
215. Both sites fall within Landscape type D – incised slopes and Character area D13 – Santon. These are assessments which post date any designation of AHLV and must supersede them. In any event, it is accepted that a more fine grain analysis is required for development control purposes. Accordingly, no meaningful distinction can be made between the 2 sites on the basis of an identical landscape character designation.
216. The key components of the landscape character of the CRDO site are: first, open gently undulating agricultural landscape, comprising a mix of arable and pastoral land; second, small-medium sized fields with distinctive field boundaries consisting of sod banks, scrub, hedgerows and a few hedgerow trees; third, character influenced by prominent urban fringe and industry adjacent; and fourth, Ballavagher farmstead with in the south east corner of the site as it will contain a range of office buildings, industrial units and car showrooms, roads and footpaths, car parking, service areas, structural landscaping and retained habitat.
217. Miss Gratty agreed that only components (a) and (b) could be considered to make a positive contribution to the character and appearance of the area. Self-evidently the prominent urban fringe and industry adjacent is a detracting element. Of these detracting elements the Richmond Hill Energy from Waste plant, 0.5km south of the site, with its tall chimney and large building mass is a predominant feature of the landscape to the south. The waste plant is one of the defining elements in a 0.5km radius. It follows that if the waste plant is a predominant detracting feature of the CRDO site, the same apply with greater force to the Middle Farm site.

Landscape Impact of the CRDO site

218. In the EIA, the significance of the impact is a function of the sensitivity of the receptor and the magnitude of change. The EIA lacks transparency because whilst terms such as medium sensitivity are employed, no definition is provided. The EIA merely records that the sensitivity of the landscape is reduced by the nearby industrial and residential uses and that the scope for mitigation is good. The same could apply equally to the Middle Farm site.
219. The EIA acknowledges that the character and appearance of the CRDO site will change and change adversely, if the proposed development takes place. The key positive landscape components will be harmed because: first, the open agricultural landscape will be lost; and second, the small medium sized field pattern and many of the internal field boundaries will be lost [CD15 paragraph 6.76]. It is concerning that no assumptions or analysis had informed the EIA LAVIA about the lengths of field boundaries which would be lost.
220. The EIA considers that the loss of the 2 key positive landscape components will have a moderate magnitude of effect [CD15 paragraph 5.148]. Again this term is not defined in the EIA and it cannot be transparently analysed. However, it does take account of the potentially beneficial nature of the development – i.e. the positive impact of the mitigation

planting. This results in an impact of moderate adverse significance which reduces to low adverse after 5-10 years mitigation planting [CD15 paragraph 5.149]. Again whilst Miss Gratty accepted that there should be an explanation, the EIA contains no definition of those terms.

221. This obfuscates the assessment and means that one cannot understand how or why the effect of mitigation is to reduce the magnitude of change and significance of impact. There is clear double counting which serves to reduce the severity of the impact in the assessment. Nonetheless the Government's evidence is that such impacts preserve and enhance the character and appearance of the area. The same approach must also apply to any consideration of the Middle Farm site in assessing whether it complies with policy.

Visual impact of the CRDO site

222. In terms of visual impact, the EIA assesses 15 public viewpoints and 28 private viewpoints. Miss Gratty conceded that the CRDO site was more visible in the local area than Middle Farm.
223. The EIA visual assessment concludes that there would be impacts to key views from public receptor viewpoints, including the PROW north of Clybane Farm – that gives moderate adverse significance. Due to the elevated position of the viewpoint, it would not be possible to mitigate the impact. The second key public viewpoint is from the outside of the Cooil Methodist Chapel – that gives moderate adverse reducing to low adverse with mitigation.
224. There are also adverse impacts to key views from private receptor viewpoints: 3 properties along the southern side of Colooney's Lane – moderate adverse impact; 3 properties along the eastern side of Cooil Road – moderate adverse significance; and 2 properties on Richmond Hill – moderate adverse reducing to low adverse significance with mitigation.
225. Accordingly, it is clear that there will be impacts of moderate adverse significance to both public and private viewpoints from development at the CRDO site. The Government consider these impacts are acceptable.

Assessment of Middle Farm

226. There is a clear legal and planning policy requirement for alternatives to be considered before the CRDO can be confirmed. It is common ground that no comparative LAVIA has been undertaken by the promoters of the CRDO. Accordingly the CRDO cannot be confirmed because the decision maker cannot be satisfied, even on the basis of the promoter's evidence that the impacts to the character and appearance of the area have been minimised. On the contrary, Mr Appleton's evidence demonstrates that the landscape and visual impact of development at Middle Farm will be considerably less than the CRDO site. Middle Farm is therefore a sequentially preferable site.
227. In cross examination Miss Gratty for DoI agreed that first, the EIA LAVIA makes no reference to alternative sites, generally and Middle Farm in particular; second, she had not gained access to the site; third, she had not undertaken a full appraisal; fourth, a robust assessment has to be undertaken before the Inspector could conclude the CRDO site was sequentially preferable; fifth, the Government had not undertaken a robust or transparent or objective assessment of the Middle Farm site, and sixth, the Inspector could not

conclude on the basis of her evidence that the CRDO site was sequentially better or worse than the Middle Farm site.

228. The hole in the Government's evidence is not plugged by Mr Chinn. Only his rebuttal evidence refers to Middle Farm. He accepted in cross examination that his rebuttal is not a LAVIA of Middle Farm. It is rather a rebuttal of Mr Appleton's evidence. Mr Chinn does not tell the inquiry what the impact would be at Middle Farm. The high point of his evidence is to seek to demonstrate that the impacts will be more significant than assessed by Mr Appleton. Accordingly Mr Chinn accepted that his evidence could not be used to compare the landscape and visual impacts of the CRDO site with Middle Farm.
229. Thus it is only Mr Appleton who has undertaken a robust and transparent comparative LAVIA of the 2 sites. Accordingly on the basis of the evidence the only rational conclusion to draw is that the Government/DoI has failed to discharge the evidential burden on them to consider alternatives. Indeed the only comparative analysis by Mr. Appleton demonstrates that the Middle Farm site is sequentially preferable to the CRDO site in both landscape and visual terms.
230. In the absence of any appraisal only a number of discrete points are taken against Middle Farm site in this context. Miss Gratty relies on the findings of the DBPP Inspector's report. In fact cross reference to this document is the full extent of her consideration of the Middle Farm site for the Government. Such an analysis is profoundly inadequate because: first, the DBPP Inspector was not referring to the Middle Farm site now promoted; second, the Inspector's conclusions [CD8 paragraph 337] are not a robust assessment of that site for this type of development; third, if development took place on the Middle Farm site, there would be compliance with the Inspector's recommendations because the area of open space between the A5 and A6 would be protected; fourth, it is not possible to speculate how the DBPP Inspector would have dealt with the promotion of this development on the Middle Farm site; fifth, the better approach is to undertake a robust LAVIA assessment, rather than second guess the DBPP Inspector assessing a different issue and who cannot answer questions at this Inquiry.
231. Mr Chinn's criticisms of development on the Middle Farm site centre on the impact from a number of discrete viewpoints. It is at this point that the absence of a robust LAVIA becomes highly material because the analysis of Middle Farm by Mr Chinn lacks any of the objective assessment which should be the hallmark of any fair or competent assessment.
232. Mr Chinn's first criticism is that the higher parts of phases 2 and 3 are likely to break the skyline and adversely impact on the A25 corridor. He conceded in cross examination however that he had taken no account of the potential effect of mitigation. The southern boundary of Middle Farm is a Manx hedge which appears as a strong ridge line for the A25 corridor. This is a glimpsed kinetic viewpoint by occupants of cars travelling at speed. It is not a sensitive viewpoint. Dandara own both sides of the Manx hedge and there are no constraints to mitigation. Substantial advance mitigation could take place in phases 2 and 3. The existing boundary could be raised marginally and existing ground levels could be reduced. Further there is absolutely no need for development – no more than 6m high – to be placed hard up against the southern boundary and this would not happen. Finally a high quality landscaping scheme could address any residual issues. Accordingly it is not accepted that the development need break the skyline, whether as alleged or at all. This would have been apparent to the promoters had they considered the potential for mitigation on a comparable basis to their own scheme. In any event Mr

Chinn's evidence – at its highest – only demonstrates that the landscape impact will be greater than minor adverse prior to mitigation and negligible after mitigation. Such an analysis fails to demonstrate that the CRDO site is sequentially preferable.

233. Mr Chinn's evidence loses all credibility when he assesses his viewpoint 3 at Ballacutchal Road. In his opinion this is one of the more significant impacts, where the development would constitute a "large scar across the landscape". Such nakedly pejorative terms have no place in a professional assessment and reveal that Mr Chinn has lost any sense of perspective. Mr Chinn agreed that transient road users would have a glimpse across the site from 2.5km away, when looking directly at and over the Incinerator which is and will remain the dominant element in views of the site. Applying the definitions in the EIA, this is at worst a change in a distant view or a change in only a small part of a view. It is at worst of a low significance, and the fact that Mr Chinn has placed such reliance on it demonstrates effectively the limited nature of views of Middle Farm.
234. This leaves the impact from the PROW between the A25 and A5 – viewpoints 5, 6 and 7. The tenor of Mr Chinn's evidence came close to suggesting that visibility from a PROW is equivalent to unacceptability. This is the antithesis of his evidence regarding the CRDO site where moderate adverse impacts from 2 PROWs are identified. The inconsistency is palpable.
235. The footpath which concerns Mr Chinn is not part of a circular route. There are currently access issues but there is no evidence to suggest that has ever been well used. Nonetheless Mr Appleton has considered a bespoke mitigation scheme which will specifically address this impact. He proposes a strong woodland planting belt [DAN3 TAG4] on top of more standard on-site mitigation. In cross examination Mr Chinn did not contest that woodland planting was contextually appropriate and that it would be effective in screening views. Indeed Mr Chinn agreed that screening the waste plant would be a benefit of the planting. Rather the concern was with the time that effective mitigation might take and that it would restrict views. Again given that Dandara own all the relevant land required for mitigation, there is no reason why significant advance planting could not take place. Timing should not be an issue and certainly cannot be more of an issue on this site than on Cooil Road.
236. In all the circumstances, any landscape and visual objections to develop the Middle Farm site are vanishingly thin. Indeed Mr Chinn accepted in cross examination that the visual impact of development on public and private views from the Middle Farm site would be less than the CRDO site. Visual impact is a key component in landscape impact. This is because the planning system is primarily concerned with how the development will be perceived in 3 dimensions. This further suggests that the landscape impact of the Middle Farm site will be less than the Order site.
237. The final objection is that the Middle Farm site is not an urban extension. Rather it concentrates development around a large existing industrial facility. Such an analysis is simplistic. The CRDO land is clearly in the open countryside and separated from the urban land by the firm boundary of Cooil Road and the substantial vegetation bordering it. Further the totality of the evidence clearly demonstrates that the LAVIA of development at Middle Farm will be less harmful than the CRDO development. Such an analysis takes account of the presence or absence of detracting urban elements. Accordingly properly understood and analysed this is not a free standing objection to Middle Farm. The

LAVIA is less and therefore Middle Farm must be considered to be sequentially preferable, regardless of whether it is an urban extension or not.

238. Miss Gratty conceded that she had not undertaken a LAVIA of Middle Farm. Further she had used a higher policy test than she had used for Cooil Road – she asks whether the development would enhance the rural area when she considers material harm at Cooil Road.

239. On this basis the promoters cannot demonstrate that they have considered alternatives. The evidence demonstrates that in landscape and visual impact terms, development is preferable at Middle Farm.

Partial redevelopment of Middle Farm

240. Alternatively it was accepted by Mr Ryzner that first, support for the CRDO land would normally be sought through an allocation of employment land; second, the release of relatively small areas of un-zoned land by developers is unsatisfactory; third, the normal and satisfactory method of delivering employment land is through the development plan process; fourth, alternative sites fall to be considered through the development plan process; fifth, the DO needs to release sufficient land to meet identified needs until the development plan process has allocated sufficient land.

241. Thus it must be recognised that the landscape and visual impact of phases 1, 2 and 3 of Middle Farm are different. Phase 1 comprises the Dandara building (4-5m high), existing industrial units (6m high), an area of soil and stone recycling, and a further area the subject of a recent appeal. All the existing uses could be relocated if necessary to accommodate business park uses. The remainder is agricultural land. Phase 1 is not predominantly agricultural because the predominant feature other than the built elements is the Energy from Waste and Animal Waste plants. This can be contrasted with the Cooil Road site.

242. It follows that the landscape and visual impact of development on phase 1 must be less than development on the CRDO site. This means first, that the proposed scale of development at Cooil Road cannot be justified because it does not minimise the impact; and second Middle Farm should be used to deliver employment land pending the next round of plan making. Neither Miss Gratty nor Mr Chinn could contest this self evident assertion because they had not considered the point, let alone analysed it.

243. In all these circumstances the CRDO fails to comply with the relevant planning policy tests in respect of protecting and enhancing the character and appearance of the countryside.

Conclusion

244. The CRDO proposes development which is contrary to the land use zonings in the 1991 BPDLP which remains the relevant local plan for the CRDO land. In consequence policies GP3 and EP1 presume against approval for the proposal unless an overriding national need for the proposal is established and there are no reasonable and acceptable alternatives.

245. An overriding national need for a business park or additional offices has not been established and there has been no proper assessment of alternatives. Although there has not been a comprehensive assessment of alternatives Middle Farm is clearly a reasonable and acceptable alternative which should be preferred to the CRDO land.

246. The abandoned DBPP cannot be relied on and in any event does not support the proposed development as it zoned the land for a much more restrictive range of uses.
247. The CRDO would result in environmental impacts which would preclude development of the CRDO land, given in particular the availability of the Middle Farm site.
248. The CRDO cannot be amended into a form which removes the above objections and so the CRDO should not be confirmed.

CASE FOR MR J QUINN, KILKENNY, COLOONEYS LANE

The material points are:

Introduction

249. This objection is based on the premise that the appropriate way of bringing forward an employment land allocation of the size contemplated by the CRDO is through the recognised plan led process. This would be through Area Plans as anticipated in the Strategic Plan. The objection also relies on the principles that planning should be transparent and that planning decisions which would permanently change the character of the local area ought to be founded on a secure evidence base and on a thorough examination of the relevant facts.
250. From the evidence produced by the DoI to support the Order, tested under cross examination, the only reasonable conclusions are first, the planning system lacks transparency and consistency. This is shown by the obscure way the balance of uses proposed in the Order was derived and the contradictory approach adopted by DoI witnesses at different inquiries as to the state of the employment land supply.
251. Second, there are strange inconsistencies in the approach adopted by the DoI to the CRDO. One example is the attribution of weight to the DBPP for the purposes of the CRDO whilst disregarding it in other planning decisions; this approach is unsupported by any statutory reason or rational argument, and is hidden in the obscurity of the DoI's internal processes. This different approach is not set out in any public document that was available before the inquiry. Another example is the way the first version of the conditions completely altered the way in which the balance of uses on the site could occur.
252. Third, when the decision to make the CRDO was made, there was virtually no evidence base for the Order; there remain severe and fatal deficiencies in the evidence base as presented to the Inquiry.
253. Fourth, there has been a complete failure to recognise the need for a search for any possible alternative sites which could meet all or part of the alleged need for employment land.
254. Fifth, the adoption of the CRDO procedure, and the application of a different policy approach to it, results in the DoI operating a preferential approach to a site owned by one developer as against any other un-zoned sites owned by other developers that may come forward.

255. Sixth, the making of the CRDO will pre-empt employment land allocations in the proposed Area Plan for the East – possibly for the whole Island – thus avoiding any future scrutiny or audit of the eastern area’s resources for the foreseeable future. The Minister’s assertion that this would not occur [TES 12 Appendix 13 p84] is not explained; it is not supported by evidence. It is one of a number of inconsistent Ministerial statements – this includes the statement that there would be a proper site selection process. The making of the CRDO would be the converse of good land use planning – which ought to involve a careful and considered assessment of the overall capacity of the relevant area to meet all the varied development pressures and needs over a given timescale. All this cannot be what Tynwald envisaged when passing the 1999 Town and Country Planning Act, and when approving the Strategic Plan; nor were Tynwald told of this consequence when the Order procedure was put to them by the former Minister.

Justification for use of the Development Order procedure

256. The main justification for the CRDO seems to be it will take too long to pursue the appropriate development plan procedures to fruition and that employment land will run out during the intervening period.

257. The first question must be whether this argument or justification could ever be an adequate reason for pursuing the Development Order process in preference to Development Plan procedures. The DoI’s painfully slow progress in bringing the CRDO to inquiry should be noted.

258. Even if the advantage in timetable was considered to be a sufficient factor to justify use of this abnormal procedure, it is no excuse for a failure to carry out a thorough examination as to whether there are any other potential opportunities that could contribute towards meeting need. If the Order procedure is appropriate then the exercise should be done thoroughly and in full accordance with the Strategic Plan, and after a thorough site selection process, in which alternatives are considered and eliminated for sound planning reasons. This is what the Minister explained to Tynwald Court on 14 July 2005 [DAN2 Appendix 1].

259. However the DO process is not appropriate. The evidence is that the majority of development pressure occurs in the East Area of the Island. It is critical then that all the development needs for the East Area should be looked at as a whole, together with related issues of settlement boundaries, landscape quality and infrastructure. In particular, if any site is to be promoted as a “sustainable urban extension” further defined as a “planned expansion of a city or town”, the Strategic Plan is clear that the site should come forward through the Area Plan process. Such an “extension” cannot be sensibly planned without carrying out a full assessment of all the development needs for the area, and then examining a range of possible sites to see how such an expansion can be achieved in the most satisfactory way without encroaching on the countryside any more than is essential to meeting those needs.

260. The DO process concentrates attention on the specific development proposed on a particular site. It is simply a way of granting planning permission as set out in section 8 of the 1999 Act. All the argument then comes down to justifying the particular mix and quantum of development proposed, rather than assessing the level and quantum of need in the eastern part of the Island, and identifying the site or sites which may be best suited to meeting the different components of that need. This fault in the DO procedure has been

emphasised in the evidence – particularly in the mismatch between the evidence of employment need and demand and balance of uses on the site.

261. This is seen by the fact that the quantum and mix of the development proposed was not based on any input from the DoI's consultants, nor from the DoI of Economic Development or anyone else. Thus the balance between industrial and business uses on the site does not bear any relationship to evidence given by the DoI's witnesses: Messrs Kelly, Whitfield or Delaney.
262. Also the need for car showroom uses has not been justified by any evidence of need. The so-called letters of interest for car showroom use do not say the writers would take premises on the site. There is also no evidence of harm caused to the economy of the Island through any shortage of car dealers on the Island. The apparent desire to provide land for this low job generating but land hungry purpose flies in the face of any case for the careful husbandry of employment land as a scarce resource. This use is obviously a land use promoted by a developer who will wish to achieve early higher value development on a substantial part of his land.
263. Another example of the mismatch is the total confusion – based apparently on a lack of prior consideration – in the evidence of the DoI's witnesses as to what the function of this site might be in terms of meeting future needs. It is not clear if it is strategic – and if it is, in what sense is it strategic?

The principles that govern the grant of a planning permission on unallocated land in the countryside

264. With the exception of Mr Trevelyan Thomas, it is agreed by all parties that the policies in the Strategic Plan apply to the consideration of the CRDO.
265. SP1 requires (a) the optimisation of previously developed land and (b) the ensuring of the efficient use of sites. However there has been no urban capacity exercise carried out to identify potential for meeting any element of employment needs within the existing built up area. The CRDO proposes a very low density of development on the site – a significant part of which would be, or at least could be, given over to car showroom use.
266. There has been passing reference – obviously an afterthought – to the site being a sustainable urban extension for the purposes of SP2. This afterthought is clearly misconceived as the area is not part of any planned extension and there has been no analysis of what parts of the urban edge of Douglas or adjacent areas might be best suited for such extensions. If the CRDO site is regarded as a sustainable urban extension then this supports the view that the site should come forward as part of the development plan process. SP2 expressly brings in GP3.
267. The site is not zoned in any plan for any of the purposes of GP2. There can be no rational basis for considering the abandoned Braddan Plan as bringing the site within the policy. The Strategic Plan and Section 2 of the 1999 Act define those other plans which are to be treated as Area Plans; an unapproved abandoned plan is not one of them.
268. GP3 contains a presumption against development outside the zoned areas; the only relevant exception is GP3(g). The DoI therefore have to demonstrate an overriding national need for which there is no reasonable and acceptable alternative. All witnesses accept that this policy applies – except Counsel for Teasdale, who argues that the requirement to look for an alternative only applies to land within GP2.

269. EP1 confirms and supports the GP3 approach.

270. The material issues are whether the DoI has demonstrated an overriding national need and whether they have demonstrated that there is no other reasonable and acceptable alternative to the development of this site.

Overriding national need

271. There has been no attempt to produce evidence relating to the Island as a whole. This again distinguishes the DO process from a Development plan approach, where the relationship between the different parts of the Island in terms of meeting national requirements would inevitably need to be considered. It is said that there is little demand for employment or business park development elsewhere on the Island. This is notwithstanding the existence of employment land and buildings, some Government owned, by the airport, and notwithstanding the fact that one component of demand appears to be from the aerospace industry. The failure to address the potential of this land before going for the easier option of developing countryside on the edge of Douglas is in direct conflict with SP1.

272. The appropriate way to assess the need for employment land in the context of the CRDO is:

- (i) to establish the requirement for different types of employment land – preferably based on policy derived from some form of economic assessment for the future;
- (ii) to establish the level of supply in these various categories;
- (iii) to examine the level of take up;
- (iv) to determine the number of years supply;
- (v) to compare this with the requirement and therefore to identify a residual need.

273. Then to establish an overriding national need, a judgement has to be made as to whether any residual need so identified is of such importance to the national economy as to justify an exception being made to the presumption in GP3(g).

The requirement

274. There is no requirement. There is no economic policy document, nor any planning document that identifies what would be a reasonable target for employment land supply over any given period. Messrs Kelly and Whitfield, although giving economic evidence, have not attempted to identify what level of land supply might be required to meet future economic needs in different economic scenarios. Whilst Mr Kelly's evidence identified a number of sectors which the Island might be targeting, in cross-examination the majority of these were found to be employers needing office space which did not require a business park location, with a very small proportion being wholly or in part light industrial in nature.

275. The extent to which the DoI or their advisors have given any prior thought to this point was demonstrated by Mr Delaney who proffered a figure of three times the then claimed supply figure – 27ha. This is coincidentally a similar amount to that which would be available if the CRDO is made. Under cross-examination he admitted he had come up with that figure during the inquiry and even then was unable to justify it. There can be no logic in looking at the available supply at any one point in time and then

multiplying it by 3. This is because the more land which is identified as being available at any one time the greater would be the requirement and the greater the shortfall against that requirement. This would be ridiculous. Mr Delaney's figure was very different from the 30% leeway figure suggested by Dr Whitfield – another figure made “on the hoof”.

276. Matters get worse. Mr Kelly's evidence of the various components of demand which the Island has experienced and might expect to experience in the future indicates a predominant level of demand for office accommodation – but most of this does not have to be located on a business park. Mr Kelly's evidence for components of demand for light industrial uses was even thinner. Dr Whitfield produced evidence as to the amount of jobs that the Cooil Road site [or any other 20ha of land in the East area] might produce; but he does not attempt to identify what level of employment land might be required on the Island to meet the needs of its population over any period in the future.
277. If the question of identification of employment land had come forward through a modern development plan process, it is inconceivable that a requirement figure, or at least a range of figures, would not have been identified and properly justified by economic data.
278. Without a requirement figure, supported by adequate evidence, it is an impossible task to assess what level of land supply is really required and over what period, and whether the current level of supply is adequate to meet any level of need that could properly be described as “national”. It is therefore impossible to come to the view that the Cooil Road site is required to meet any national need.
279. Tesdale, who have a commercial interest in the site coming forward, understandably seek to address the requirement from a market perspective by relying on historical take up rates. All that approach gives is an idea how long a given level of land supply could meet historical demand, if that level of demand is maintained. In view of changing economic circumstances it cannot form any sensible basis for future planning. Yet the DoI and their consultants apparently rely entirely on Tesdale's approach and ultimately on Mr Black's report. Remarkably this document had not been made a Core Document until after it was requested on the first day of the inquiry. It was unclear if anyone had ever seen the full document.
280. Without a properly calculated and tested basis for identifying a land requirement for the Island the DoI cannot begin to establish a national need.

Level of supply

281. Until 2007 there were apparently no available figures for industrial and office land supply on the Island. The 2007 ELAS figures now appear to have been incomplete or inaccurate – although the DoI appear to have relied on them at various points in the past – as did ECOTEC in their original report. The DoI came to this inquiry relying apparently on the 2010 ELAS figures [CD13], but now appear to favour significantly lower figures put forward by Mr Black. However if one is going to compare a land supply with historic take up it is essential that one uses a consistent approach to the definition of when land is available and when it is taken up. It is critical to have a consistent base date on which to assess the balance between take up and supply.
282. From the original 16.25ha of employment land identified in the 2010 ELAS the DoI now seek to eliminate 2 sites: Ballakinnish Nurseries (4.10ha) and School Road, Onchan (2.35ha). Both sites are owned by the Government. Ballakinnish was specifically

acquired as part of the Government land bank. The characteristics of both sites would have been known at the time of the 2010 ELAS. The Government now alleges highway problems, but no highway evidence is provided to the inquiry to support this assertion. The highway issues were known at the time of the DBPP Inquiry and yet the DoI successfully argued at the Inquiry that the site should be identified as an employment site. Equally there is no suggestion that highway conditions have changed since the Onchan School Road site was originally identified and allocated for industrial use in the adopted Onchan Plan. There is no reason, supported by evidence, why either of these sites should be excluded from the supply as being capable of meeting some components of demand.

283. Mr Black's further reduction from the supply of the areas available at the Isle of Man Business Park which he says are imminently about to be taken up is only appropriate as and when they are actually taken up; at present, and using Mr Black's own definition of take up, these areas are not taken up. In fact these 2 sites represent the only inquiry evidence of the likely level of take up in the period 2010-2011 – and possibly 2010-2012 depending when they are actually developed. Mr Black also omits with no apparent justification, some 2ha of land at Victoria Business Park where he was unaware of current planning applications [recorded in the 2010 ELAS] for employment development.

284. Even accepting the need to slightly reduce the figures to take account of the land at White Hoe industrial estate, the loss of one site to retail uses and the position at Kirby Farm, the employment land supply is still in the order of 15-17ha and seems to have remained consistently – and comfortably – at that level since 2005. If Middle Farm comes forward the figure will increase.

Take up

285. The DoI rely entirely on Mr Black for take up rates. The DoI has no evidence of its own on this important matter.

286. Mr Black's approach identifies sites which have apparently been taken up, but which are still available to the market in terms of providing available vacant buildings – Kirby Farm is an example with its row of available new units. It cannot be right to say a site is not available if it is not taken up.

287. If the 2ha/year take up suggested by Mr Black is accepted, this gives about an 8 year supply; this would be more if Dandara's site at Middle Farm becomes available. The supply figure is remarkably similar to that which was identified back in 2005. In the period 2005-2009 other land has come forward to replenish the supply and there is no reason to suppose there may be further windfall sites coming forward in the medium term future.

288. In the last few years the level of take up has slowed down. This is unsurprising in view of world economic conditions. Indeed the only evidence of take up since the end of 2009 is in the two Isle of Man Business Park sites. Mr Black wishes to see them taken out of the land supply, but even these sites have not yet been actually taken up according to his own definition. As they are only likely to be producing buildings sometime next year they actually represent something more like 1.5-2 years take up. On this basis the land supply is considerably greater than 8 years.

289. Much was made during the cross examination of Mr Reid of the need for a "range and choice of sites". This is perhaps a curious point in relation to the promotion of a single 20ha site to meet future needs. However, accepting the principle that it is desirable to

able to offer a range and choice of site, there is no evidence before the Inquiry to suggest that the range and level of choice in the employment land supply in the years 2005-2010 – the relatively consistent 16ha or so figure – has in any way constrained the Island's economic development. Indeed Mr Kelly has proudly demonstrated that the Island's economic growth has continued to be significantly higher than the UK. Equally no evidence – rather than assertion – has been presented that the availability of a similar level of land supply would constrain the Island's economy over the next 5-8 years.

290. Remarkably for a public inquiry dealing with industrial land availability no evidence has been presented of unrequited demand – this is interest from potential employment users having to be turned away - by the DTI/Department of Economic Development for lack of sites, or local estate agents being unable to satisfy the level of enquiries they are receiving. If the land supply had become so critical as to demand immediate action one would have expected some evidence of this nature to exist. The only evidence that could be said to make such a point is in the letter from the Minister for Trade and Industry dated 4th July 2006 annexed to Mr Kelly's evidence. Not only is this letter 4 years old but the complaint is not made in that letter of a problem at the time of the letter, but rather that complaints had been made "*in the past*" on the lack "*of alternative premises and sites*". The fact that there is no current evidence of such complaints and no current evidence of unrequited demand is a clear indicator that the land supply is not currently causing any problems. Mr Black's phrase to describe the current situation was "*thin supply, thin demand*". This is not the description of a land supply that is failing to meet demand.

291. Furthermore there has been no clear analysis as to how the demand breaks down in terms of office development that can be satisfied within the existing urban area – despite Mr Kelly's evidence that this is a significant component of demand in the sectors that he has identified as targets – nor as to the relative levels of demand for second hand buildings compared with the level of supply.

292. Even if there is a need for supply for some more employment land to be identified there is no evidence to demonstrate that 20ha on a single site is required, or even that it is desirable. The fact that the DoI seem prepared to squander a significant part of the proposed site for car dealer purposes – for which there is absolutely no evidence of demand, nor evidence of any significant contribution to the economy – strongly suggests that even the DoI accepts that not all the 20ha is required. And yet granting planning permission for all the 20ha will pre-empt any future decisions on employment land for the foreseeable future.

293. The DoI has completely failed to make out a case for the need to identify a site of this size to meet future employment needs let alone any overriding national need.

The need to identify alternative sites

294. This arises from GP3(g) and EP1. It is also a good practice requirement of preparing an EIA. The authors of the EIA recognise this in the body of the report in paragraph 3.62 [CD15] and in the Non-Technical EIA Summary in paragraph i.9 [CD15]. However while the need for an assessment of alternative sites is recognised in the EIA, the responsibility for doing it is shifted to DoLGE and the DO Background Statement. The Non-Technical Summary suggests the assessment has already been done elsewhere by DoLGE – this is inconsistent with the full EIA. In fact the Background Statement simply repeats the EIA wording whilst the further statement produced in June 2010 only responds

to the Dandara objection relating to the Middle Farm site, and it does not attempt any wider assessment of alternative sites.

295. Mr McCauley also recognises the need to have carried out an assessment of alternative sites, but all he has done is to devote a few paragraphs of his evidence taking us on a Cooks tour of the area describing the scenery as he goes! This is a derisory attempt at paying lip service to the Strategic Plan requirement to demonstrate the lack of alternative sites. It has absolutely no substance, no analysis, and is, frankly, an insult to the reader's intelligence.

296. Mr Black, for Tesdale, has done an exercise of looking at land adjoining the existing industrial estates, but this does not purport to be a full assessment of all relevant planning merits and de-merits of those sites, nor does it attempt to be a comprehensive assessment of the East Area of the Island. Tesdale's approach through Mr Ryzner appears to be that they accept the need to rule out alternative sites but leave it to the objectors to positively identify such sites. However the burden of assessing alternative sites has to be the role of the person or body proposing development in the countryside – this is certainly the DoI, and, to the extent that they support the DO, Tesdale themselves. It is clear no systematic exercise has been done and GP3(g) cannot be met in this regard either.

297. During the cross examination of Mr Reid it appeared that his evidence to the DBPP inquiry 7 years ago that the Cooil Road area was then the most suitable site for sustainable urban extension to contain a mix of uses and a reserve site for housing and covering a much greater area than the site presently under consideration, might in some unexplained way be relevant to the issues before this inquiry. Self evidently they could not be relevant to any current level of need for employment land. As he was not advocating an employment proposal on its own but rather a much larger mixed use site of which a very significant element would be housing it cannot sensibly be relevant to the question whether there was, even at that time, a more suitable site for the employment element alone. In any event the Inspector, while accepting the reserve site argument, rejected the argument that this was the most suitable site and identified Camlork instead. Any argument put forward on reliance on that evidence is in truth a jury point that deserves no serious consideration.

298. *Conclusion on compliance with the Strategic Plan* The CRDO is therefore in conflict with the Strategic Plan in two very material and significant respects – lack of evidence to support national need and lack of any assessment of alternative sites. There are also conflicts with those policies which seek to protect the countryside and which operate a sequential test requiring previously developed land to come forward first. The lack of any assessment of the capacity of the built up area to accommodate any part of the future demand is also fatal to demonstrating compliance with the Strategic Plan.

The weight to be given to the Strategic Plan

299. The Minister made it clear to Tynwald, when proposing the DO procedure [DAN 2 Appendix 2] that any DO would be considered against the policies of the Strategic Plan. The Strategic Plan is in any event a material consideration under the 1999 Act. Whilst it should not be applied slavishly, it must be given very considerable weight – it is relatively recent, it was the subject of a public inquiry and it has been adopted by Tynwald. No reason has been given as to why any of the relevant policies should not be given weight whilst consistency in planning decision making requires that they should be.

300. The fact that after the Inspector's report, a reference was put into the Strategic Plan at paragraph 9.1.5 indicating the DoI's intention to make a DO in respect of the land at Cooil Road does not give any development plan support for the grant of planning permission in principle for this site. The suggestion by the DoI and Tesdale that it does give some support to this DO seeks to elevate a simple statement of fact in explanatory text to a level which matches or outweighs the weight to be given to the policies of the plan itself. This suggestion is absurd. This point can be taken further. The Strategic Plan is not a site specific planning document. The reference in paragraph 9.1.5 neither suggests that development at Cooil Road is consistent with the Strategic Plan policies, nor that an exception to those policies will be applied. It is simply a statement of what procedure will be adopted to bring forward an un-zoned piece of land. The Minister has confirmed that this procedure will require an assessment of the proposal against the policies of the Strategic Plan.
301. Mr McCauley's statement, in answer to the Inspector, that greater weight should be given to the abandoned 10 year old DBPP than the more recent adopted Strategic Plan has no support in law – or common sense – and demonstrates that he has now, belatedly, realised the difficulty that the DoI has in bringing this proposal within the Strategic Plan policies.
302. The primary policy document to which significant weight must be given is the Strategic Plan. The relevant Strategic Plan policies are SP1, SP2, GP3(g) and EP1.

Draft Braddan Parish Plan 2003

303. Little or no weight can be given to the designation of Cooil Road site for employment uses in the DBPP. This plan was prepared 10 years ago. The Minister expressly abandoned it 4 years ago.
304. It is important to consider why Local/Area Plans gain weight as they go through the plan preparation process. It is generally assumed that the proposals have had an appropriate evidence base, that the proposals will have been the subject of consultation and that they will have been the subject to some independent testing either through cross examination at an inquiry or through the exercise of the inquisitorial role by the Inspector. The plan gains further weight by the confidence added to it by its adoption by the relevant authority.
305. In this case Mr McCauley agreed in cross examination that no background evidence to support the assertion that there was a need for industrial land was presented to the DBPP inquiry. There were after all, no accurate land supply figures nor any take up figures available until considerably later in 2007. There was presumably consultation and the opportunity for objection. The issue of need was questioned by Mr Quinn, but apparently the Inspector did not allow cross examination of the Department's assertions. As the Inspector was not presented with any evidence base he had simply to choose between 2 rival assertions as to whether there was a need. There was clearly no testing of any need case for the designation of the site for industrial purposes.
306. The DBPP was not taken to adoption and never will be. It was withdrawn because in June 2006 the Minister who would otherwise have approved it, had lost confidence in it because of the "*inconsistent treatment of certain areas within the Plan*" [DAN2 Appendix 1 1336T123]. In the Select Committee Report and the Minister's evidence to that Select Committee it can be seen that one of the areas of land that the Minister was concerned about was the land south of Cooil Road proposed for industrial use. This land

is the subject land, or at least part of it. In his evidence to the Select Committee the Minister referred to his concern over the Plan's proposal "of a modest extension of the existing Ballapaddag land to the south west" [CD41B] and the fact that the "Commissioners requested a major expansion of this land to include much of the Ballavagher Farm land to the east and south of Robinsons." Mr McCauley described, in answer to Mr Fraser, that one of the 2 allocations in the DBPP which makes up this site was "on land to the south and east of the Robinson's complex". The description of the land in question by Mr Rimington to the Select Committee is clearly describing this land. It is therefore surprising that Mr McCauley disclaimed any knowledge that the subject site was one of the areas under the cloud of suspicion. The fact that the Minister was, at the same time, proposing to make a DO for a larger area of land, including the current site simply indicates that he was providing the opportunity for the merits of, and need for, the development of that land to be thoroughly debated as part of the DO process – bearing in mind his doubts over the integrity of the DBPP making process.

307. Thus, three of the principle reasons why such an earlier plan might be given weight disappear – as there was no evidence for the proposal, the assertion of need was not in fact open to being tested by third parties, and the promoter of the DBPP did not feel confident enough about its integrity to approve it.
308. In addition, the purposes for which the land was being proposed were different – light industrial and (on part) storage and distribution. It follows that the putative designation in the abandoned DBPP cannot support the proposal for a different balance of uses under this DO.
309. From Mr McCauley's cross examination, it is not known what proposal will be carried over into the future East Area Plan, as no significant work has commenced on the evidence gathering stage of the plan preparation process.
310. There is still an adopted plan which covers this site – the 1991 Parish Plan. This is to be treated as an Area Plan within the 1999 Act. In this plan the site is unzoned and designated as land of high landscape value. Until that plan is replaced by a subsequent plan, it remains part of the development plan process.
311. The Minister's initial statement to Tynwald in relation to DO procedure specifically states that they will be considered against the Strategic Plan – there is no mention of any consideration against the then emerging DBPP, for the simple reason no doubt that they were to be brought forward in relation to unzoned land. His later statement made reference to the question whether any weight could be given to aspects of the DBPP that were "*outside the main areas of contention*". In view of the consistent objections to the zoning of the Cooil Road site from Mr Quinn and others it cannot be argued that this site fell into this category.
312. Thus where land is not zoned it has necessarily to be considered against those Strategic Plan policies that apply to unzoned land – i.e. GP3(g). In the context of that policy there is no room for giving any weight to a proposal in an unadopted and abandoned plan to zone land for different land uses. Some weight must be given to the previous plan which has left this site as unzoned.
313. The position of the DoI at this Inquiry in relation to the weight to be given to the abandoned plan becomes absurdly inconsistent. Mr McCauley's evidence in cross examination and in answer to Inspector questions indicates that no weight is given to the abandoned plan in dealing with planning applications; but when considering this CRDO

Mr McCauley insisted the Inspector and DoI should give considerable weight to the allocation of the subject land in the abandoned plan.

314. No legal or rational explanation is given for such different treatment. Either a proposal gains weight through the consultation and scrutiny subjected to it in the local plan preparation process or it does not. The same factors which deprive the earlier proposal of weight must apply whatever future procedure is adopted to promote development. It cannot rationally be given weight in the consideration of an application for approval in principle through one procedure – i.e. the DO – and no weight in the consideration of an application for approval in principle through another procedure – i.e. an application for planning permission.
315. If however Mr McCauley's assertions were accepted that a distinction can and should be made between the two procedures this would demonstrate that the Department's adoption of the DO process was intended to give this application for approval in principle the benefit of the weight to be given to a particular consideration which would not have been available had a more conventional planning process been used. This approach would conflict with the purport of the Minister's statement to Tynwald that the use of the DO procedures was not intended to circumvent the normal procedures for consultation and scrutiny.

Conclusions

316. The essence of this objection is that land south of Cooil Road should only be developed for employment purposes through a properly executed planning process adequately justified by robust evidence; in particular the need for the whole of this area to be developed, rather than any other site or other sites elsewhere should be demonstrated. Mr Quinn has consistently objected to proposals that have led to the gradual erosion of the countryside in this area without proper justification. The basis of this objection is absolutely consistent with the approach that the Strategic Plan adopts and which the Minister had promised would be adopted if they DO procedure was to be followed.
317. Despite the Minister's re-assurances that the Area Plan for the East would be given some priority, and resources, it appears that it has been put on the back burner. Without the impetus of a requirement to identify more sites for specific needs – such as employment needs – it seems likely that any sense of urgency will diminish even further if the CRDO is allowed to pre-empt future employment land decisions for the foreseeable future.
318. All this might not have mattered if the CRDO, and the evidence to support it, had been prepared consistently with the Strategic Plan, supported by a robust case as to the need for the release of a site of this size and in this location now.
319. The evidence produced for this Inquiry has however failed to present such a case for the following reasons. First, there appears to have been inadequate thought or guidance given to identifying the building blocks for a robust need case – i.e. requirement, supply, take up and lack of alternative sites. Second, much of the evidence has been directed at generalities without specific analysis of the relationship between the different components of employment demand and the provision of an appropriate supply consistent with Strategic Plan principles. This was seen in Mr Kelly's and Dr Whitfield's evidence in particular. Third, the evidence has not identified how or why this site and the balance of uses proposed within it will relate to the components of such suggested demand as has been identified. Fourth, there has been a total lack of any evidence to suggest that the

existing land supply – which has remained constant over the last 4-5 years – has operated, or is operating as any constraint on economic development, or that there is any unrequited demand. Fifth, significant parts of the evidence seem to have been given on the “hoof” with little prior thought; for example: Mr Delaney’s requirement figure, the suggestion that this might be a strategic site – whatever that means, the question as to whether this proposal could be regarded as a sustainable urban extension, the weight to be given to the DBPP, and the derisory and cursory dismissal of the possibility of there being any alternative sites. Sixth, no-one appears to have directed their mind to whether a smaller area of this site would provide the required stop gap pending the preparation of the Area Plan.

320. Thus the purported justification behind this CRDO has failed to meet reasonable public expectations of a proper planning process. The DoI’s case may ultimately come down to an argument based on despair – that having delayed so long in both the Area Plan process and the preparation of this DO process, and anticipating further protracted delays, there really is no alternative.

321. The evidence does not however demonstrate such a pressing need or lack of alternatives to give way to this despair. It seems probable that the existing supply will in the present uncertain economic climate last for in excess of 8 years during which time other sites may well come forward. In that period substantial progress ought to be capable of being made in terms of the preparation of the Area Plan. During that period the DoI would have the option, if necessary, of coming back with another DO either for this or some other site – but this time based on robust evidence of need and an adequate assessment of alternatives. Finally, even if there was a need for some land to come forward now as a stop gap measure pending preparation of the Area Plan, there is no justification – and no evidence to support a need – for the whole site to be granted planning permission.

322. This CRDO is misconceived, has not been adequately supported by evidence and should not be made.

MR K KILLIAN

The material points are:

323. Mr Killian is the freehold owner of Garey Ashen, Colooney’s Lane, Cooil, Braddan. This property is located at the south end of the western edges of the land proposed to be designated under the draft CRDO as it abuts Colooney’s Lane.

Development plan policies

324. The only relevant development plan policies are the 2007 Strategic Plan and 1991 BPDLD. It was apparently accepted by the DoI and all other parties that relevant development plan policies excluded the 2003 DBPP.

325. The abandoned DBPP can have no evidential weight whatsoever. The DBPP cannot be relied upon at all insofar as it sets out to allocate land or in relation to the nature and scope of development now proposed. For the DoI, Mr McCauley appears to rely on the DBPP solely in relation to the Cooil Road allocation. However the Hansard extract of Minister Rimington’s statement to Tynwald on 20 June 2006 [DAN2 Appendix 2]

suggests the whole DBPP is inherently flawed. The following part of the Minister's statement is relied on:

"There are concerns regarding the inconsistent treatment of certain areas within the Plan. These have placed a shadow over the integrity of the Plan and whether it is fit for the purpose and a true reflection of the suitability for development of certain areas.

Given the complaint concerning the perception of bias that has been upheld and accepted by the DoI, and the existence of further concerns regarding the inconsistent treatment of certain areas of land, we consider that the integrity of the Plan will continue to be questioned, not least by this Hon. Court."

326. Mr McCauley stated his view that the policy commitment in paragraph 9.1.5 of the Strategic Plan had to have the same weight as DBPP. If that is the case, that policy has to have no weight as Mr McCauley accepted that the site was chosen based on the designation in DBPP.

327. DoLGE's own submissions to the Hampton Court planning appeal [CD30 paragraphs 6 & 7] stated that the DBPP had no weight. Whilst this Inspector is not bound by the findings of another Inspector considering an appeal in relation to different land, this finding should be noted. Similarly the Case Officer's view in the Middle Farm application [CD32] for employment development (10/00155/B) that the DBPP should be treated as if it never actually existed should also be noted.

Application of relevant policies to the CRDO site

328. When questioned by the Inspector on the test established by GP3(g) Mr McCauley indicated that first, he did not think the CRDO site conformed in terms of overriding national need in land use planning terms, and second, the CRDO site did comply in terms of there being an absence of any reasonable and acceptable alternative. Mr McCauley also accepted in answers to the Inspector that the omission from his proof of the GP3(g) test was not deliberate; he further accepted that this policy should have considerable weight.

329. The CRDO cannot proceed by reason of Mr McCauley's response on behalf of the promoting Department to the Inspector's questions about GP3(g). The test in GP3(g) is conjunctive in that both elements have to be satisfied. Mr McCauley accepted the CRDO site did not comply on the overriding national need limb.

330. It is also demonstrable that the DoI singularly failed to consider any alternative sites as part of the EIA process. The Cooil Road Explanatory Memorandum (December 2006) contains no reference to the consideration of alternative forms of development or sites [CD17]. It therefore fails the requirements of GP3(g). The Cooil Road Background Statement (January 2010) makes the following statement in paragraph 1.6 in relation to alternatives: *"The Department does not consider there are suitable sites for this type of development which meet the Spatial Strategy and other policies in the approved Strategic Plan. Most of the potential areas around Douglas, Onchan and Braddan are either classified as areas of High Landscape Value and Coastal or Scenic Significance; are poorly related to the strategic highway network and the principal gateways to the Island (Douglas Harbour & Ronaldsway Airport); are areas of ecological significance; or are land safeguarded for water supply purposes."* This statement is not a robust transparent review of options for meeting the purported need for employment land.

331. The CRDO Background Statement (June 2010) provides no further information on the alternatives considered, despite representations from Mr Killian and others in March 2010 that this is a Development Plan requirement. The DoI makes a bold statement that “*there is a need for additional industrial land and that is a good location*” and then responds to site suggested by one objector, Dandara.
332. This level of justification is wholly inadequate. It would not be accepted by the DoI if a private developer was promoting land for development using this type of justification. The following should have been assessed: (a) possible locations for the proposed development around Douglas, including previously developed land within the urban area; (b) possible locations for the proposed development elsewhere on the Island. The site search should not be artificially restricted to the eastern part of the Island, as the development is intended to meet an overriding national need. (c) possible disaggregation of the development, such as the car showrooms onto a different site. This work would show that the Cooil Road site is the only site that could be satisfactorily delivered to meet the economic needs without causing unacceptable environmental impacts.
333. Only when the alternative sites issue was raised by Dandara and others was there any consideration of this matter as being a germane issue. Mr McCauley’s proof [DoI7] in paragraphs 8.11 onwards appears to offer reasons why such an assessment was not undertaken, and even the *ex post facto* analysis of other sites failed to consider the alternative site (Drinkwater land) advanced by Baccarat. It is irrelevant whether Baccarat can in fact bring forward this land for development. The point is that this land was not even considered by the DoI or even in Mr McCauley’s proof. There is no prohibition in the Island on bringing forward a planning application in respect of land where the applicant has no interest in the land. A particular site ought only to be advanced after EIA provided alternatives have been considered. The CRDO fails both limbs of the test under GP3(g) and for this reason it should not be recommended for approval.
334. Mr McCauley, under questioning by the Inspector, that the CRDO site conformed with SP6 – “*Major employment generating development should be located in existing centres on land zoned for such purposes and identified as such in existing Local and Area Plans*” – yet this analysis is plainly at odds with the fact that the CRDO is outside the Douglas urban area, and the application of GP3(g) is for development in the countryside. Further GP3(g) and EP1 serve to apply a presumption against development outwith the urban area. For this reason, Tesdale’s analysis of the applicable test under GP3(g) is unsustainable.
335. The evidence bases relevant to each of the proposed uses – car showrooms, light industry, R&D, business park – needs further consideration rather than there being a sweeping overall analysis of the situation. In particular, some form of phased development might be appropriate relevant to the business park use noting that 3.05ha of undeveloped land within the IoM Business Park contains covenants restricting the use of such land to corporate HQs, for which there is slow take up [CD43] and where there are alternative sites.
336. At yet other levels, the CRDO does not meet Strategic Plan objectives of securing a sustainable pattern of development, protecting the environment and the amenity of nearby residents. Further the proposed CRDO also fails to meet SP10, as there is poor public transport accessibility and no Travel Plan.

337. The CRDO cannot be recommended for approval as it conflicts with the Development Plan.
338. If there is a need for additional employment land, the correct approach, is for the scale and nature of employment land needs to be determined through the East Area Plan. Consequently the CRDO should not be confirmed and the DoI should be encouraged to bring forward proposals for employment land provision through the East Area Plan – this could start in the very near future and be concluded by 2013 at the latest.

Adequacy of the Environmental Statement

339. Applicable UK guidance relevant to the preparation of the EIA suggests that the EIA development is not sufficient to allow adequate assessment of environmental impacts during construction and operational phases.
340. The CRDO in effect seeks to grant planning permission with conditions. The EIA is an assessment of the development proposed by the CRDO. The following matters fall to be analysed: the red line plan in the Draft CRDO; the Master Plan in the EIA [CD15 Figure 2] and the description of the proposal [CD15 2.2-2.6]. It follows that the proposed development must be considered on the basis of these documents; to fail to do so renders the EIA worthless and the Inquiry flawed. The new Master Plan produced by Mr Chinn [TES9 Appendix 6] cannot be tied to the CRDO.
341. A Parameters Plan could be incorporated into any draft order. The evidence provided by Mr Chinn [TES9 Appendix 6] could be a starting point, but it is new evidence and has not been fully consulted on. There would be nothing preventing the DoI from preparing such a Parameters Plan at the present time on the basis of the submissions to the Inquiry and the prior consultation representations. Assuming the report is completed at the end of this year the likelihood is that any positive recommendation in respect of the CRDO would not be laid before Tynwald until April 2011.
342. Any conditions and reserved matters must be based on the supporting documents and the proposed form of development underpinning the CRDO. A Parameters Plan is required and it is not appropriate to leave issues such as landscaping outside the scope of the conditions of the CRDO.

Development form and impact

343. For Tesdale, Mr Chinn accepted that a condition limiting buildings to 10m maximum height at the western end of the business park development might be appropriate. Mr Chinn also accepted that a Parameters Plan based on his proposals for landscaping development near to Colooney's Lane could be provided.
344. It would seem that some form of buffer and mitigation is required for development near to Colooney's Lane. This would have to be a specific part of a condition.
345. For the DoI, Ms Gratty adopted a flawed approach in suggesting it would be possible to rely on a Master Plan prepared as a consequence of a condition to any approved DO. By that time the principle of the development would have been accepted. She suggested that professional judgement ought to inform the visual impact assessment, but without information and parameters as to location, density and size of buildings proposed it is difficult to reach any firm conclusion on the basis of the current information available.

346. Conditions which attach to any recommended DO must be clear and prescriptive on the development form and the necessary landscaping and other mitigation measures. A clear Parameters Plan is needed at this stage so the proposed development can be fully understood so that impact on amenity can be assessed now rather than at some later stage. Mr Chinn's planting scheme is no more than indicative; unless an appropriate scheme is made condition of any recommended DO, there is no basis for securing it at a later date.

Conclusions

347. The CRDO should not be confirmed. The DoI should bring forward proposals in the forthcoming Eastern Area Plan.
348. If the CRDO is confirmed, this should only be on the terms that no progress should be made on the CRDO until: (a) the nature and form of development has been clearly defined through the preparation of a Parameters Plan and supporting information and, (b) further assessments have been undertaken based on the above information.
349. Any DO which is recommended should include clear prescriptive conditions now which control the nature and form of development linked to the Parameters Plan including: (a) maximum envelope for the buildings, (b) control over the density of the development, (c) limitations on the proximity of buildings to existing properties, (d) maintenance of an area of undeveloped land along Colooney's Lane, and (e) provision of a minimum amount of strategic planting along the boundaries, particularly to the Colooney's Lane properties.

MR H KENNAUGH

The material points are:

350. The objections concern inappropriate use of a DO, lack of proper process, transparency in dealings where Government is involved, Government involvement in the promotion of a private company's interests and reliance on a process that was so badly flawed that the Minister had to withdraw the plan.
351. There is the damage to the planning system from the acceptance that the planning department can zone land in the way this DO is proposing without having due respect for the development plan process. The loss of public perception that planning is still a democratic transparent reliable process administered in a fair manner will have a negative effect; this will damage investors' confidence. The planning department's support of the interests of a private company is incredible. This support comes without substantive justification that should be available.
352. The CRDO sends out the wrong message. It shows developers are seen to influence the planning process, instead of the planning process administering planning.
353. The withdrawal of the DBPP highlighted the fact that planning department had failed in producing a local area plan which was either safe or fair in relation to site selection. It is a matter of public record why the DBPP was withdrawn
354. It was wrong of the planning department, after failing to secure an Area Plan to then adopt the DO process to zone development land in that area. The constitutional process to zone development land within the Island is the development plan process as prescribed in the 1999 Act. The scale and scope of the proposed Cooil Road development dictate that this land can only responsibly be addressed in the Area Plan process.

355. This Inquiry has not produced any evidence of a substantive or conclusive nature to show that the CRDO development represents a matter of overriding national need. Matters of overriding national need should be identified through proper process and supported by factual evidence. This Inquiry was not presented with any evidence that was reliable in identifying such need. Witnesses giving evidence about the Island's economy and future planning needs relied on conjecture and optimism that a green field development site was the future of the Island's economy.
356. Dr Whitfield's terminology was impressive but he delivered no reliable evidence. Mr Delaney's evidence was based on a too narrow and rigid remit to assist the Inquiry. Mr Black's evidence did not provide any credible firm inquiries that new companies or businesses were on estate agents books competing for green field sites. There was no evidence of overriding national need. There was no reliable evidence that a shortfall of supply existed.
357. It was wrong of the planning department to rely on any of the zonings in the withdrawn DBPP. This plan was never approved by Tynwald. This was clearly not a document to robustly underpin the progress of this DO. Sites selected in the withdrawn DBPP were never tested in a manner that could credibly be relied upon. This issue affected the allocations of the whole plan. It is fair to say that the allocations in the DBPP were developer driven instead an informed proper planning based analysis from an evidence base fully justified by the planning department. DoLGE considered land ownership matters in the selection of the Cooil Road site.
358. Area 25, Port-e-Chee, was never considered in a proper manner in the DBPP inquiry. It was deemed by the planning department to be a residential site. But no test was done to see if an alternative use might be suitable such as employment. If it had been zoned for employment then maybe the Cooil Road site may not have been zoned in the DBPP. The DoI rebuttal of Area 25 answers one question. This site was never considered as a contending site in the DO process.
359. Area 25 is in the right location for employment, has limited visual impact and is well appointed in the highway network. It is doubtful if this Inquiry is the right place for the testing of this site for employment uses.
360. The selection of a site or sites for employment should have been a fully transparent process which produced a robust justifiable result in the form of a report. It should be DoI driven and not developer driven.
361. The 2007 Strategic Plan stated that the Area Plan process would deal with future development on the Island. DoLGE/DoI was wrong to rely on the DO process to select a site. The Area Plan process might bring forward a different site to Cooil Road for employment.
362. It was wrong of DoLGE/DoI to insert the proposal to develop Cooil Road into the Strategic Plan after the Inquiry had closed. It was also wrong of the Strategic Plan to identify a particular development site to be brought forward for development. It was wrong for DoLGE to rely on a DTI letter which was not evidence based.
363. The CRDO is the unfair and unsafe product of a series of failures by the planning department to bring forward the Eastern Area Plan. These failures could be rectified without the approval of this CRDO. It is wrong for the Government to promote a DO for

a private company when the Government have no direct interest in the DO or could not benefit in any way.

364. It must be wrong for this CRDO to dictate land zoning for 25 years. This would clearly distort the development pattern of the evolving Eastern Area Plan. The CRDO is inappropriate, unnecessary and unsafe.

RAMSEY TOWN COMMISSIONERS

The material points are:

365. The CRDO is premature until other areas zoned for industrial and commercial use are developed. Also any further similar application must provide proof of the recognised need for such a zoning.
366. Ramsey provides ample labour opportunities, but hundreds of residents commute over 15 miles to Douglas to work. Ramsey has 10.29ha of land identified as being available for industrial use; the majority of this land is south of Sulby River and adjacent to Gladstone Park Industrial Estate. The Ramsey Commissioners wish to see land presently zoned for industrial use around Ramsey being developed and provide local employment. The Commissioners do not want Ramsey to become a dormitory town to Douglas.

MRS V M TEARE COLOONEYS BUNGALOW, COLOONEYS LANE

The material points are:

367. The A24 was not made for heavy traffic. It cannot be widened. Speed is the issue; although the speed limit is 40mph vehicles exceed that limit at Colooney's Lane. This is dangerous when the Methodist Chapel is used.
368. Also access from Colooney's Lane onto the A25 is difficult for farm vehicles.

WRITTEN REPRESENTATIONS

369. **Isle of Man Chamber of Commerce** support plans for economic development, including the CRDO. The 2007 ELAS report shows a shortage of zoned employment land in the Douglas area. The zoning of the Cooil Road site should have come from the Eastern Sector Plan, but this plan has not kept pace with the needs of business. There is a need to resort to a DO. But there is concern that retail development might be allowed on the Cooil Road site because of the PA08/2135 appeal case at Spring Valley Industrial Estate.
370. **Isle of Man Development Company** argues that there is no overriding national need to proceed with the CRDO since there are reasonable and acceptable alternatives available. There is about 8.7 years supply of employment land in the East Area - and this takes no account of vacant employment land in other areas of the Island, or 13,565m² of vacant employment buildings. Permitting the CRDO would prejudice regeneration of the Ronaldsway Industrial Estate and Balthane Industrial Estate, where there are large tracts of available land. When the retail proposals at Spring Valley Industrial Estate were being

considered at the recent appeal, DoLGE did not say there was any employment land shortage. The East Area Plan should be approved in 2012 or 2013. Sites such as Middle Farm and Cooil Road should be properly assessed through that plan. There is no urgent need to confirm the CRDO. The CRDO conflicts with GP3 and SP6. The CRDO should be withdrawn.

371. **Braddan Parish Commissioners** support the CRDO. The most important consideration was the need to ensure that there is a national need for the development. The Commissioners request that there should be major investment in the screening of the land to ensure quality of life for those living close to the area.
372. **Ramsey Chamber of Commerce** would like to ensure that there is no retail development on the CRDO site except for the proposed car showrooms - a relevant condition should be attached to the CRDO.
373. **Peter Morrison, Creg de Shee, Colooney's Lane** doubts if the development of the site satisfies an "*overriding national need*". The economic case is not realistic. The Economic Impact Study was carried out before the unforeseen bombshell of the VAT recalculation with the UK. Also what is the impact of the world recession? The environmental impact of the new development on Creg de Shee would destroy the peaceful rural quality of this property. The details of the new buildings are unclear. The screening of these new buildings is also not clear from the CRDO.
374. **Rose Lea Limited** gives qualified support to the CRDO. Comments on access are dealt with in letters dated 2/9/10 and 11/11/10.
375. **Mrs L A Gidman, Lyndale, Colooney's Lane** considers that agricultural land should not be rezoned for industrial development.

CONDITIONS

376. CD35(c) sets out a revision to the CRDO which includes a change to section 4 in the Order and changes to numerous conditions.
377. The discussion at the end of the inquiry on the revised CRDO with revised conditions is summarised in the Inspector Conclusions.

INSPECTOR CONCLUSIONS

Main issues

378. Before inquiry evidence was submitted I gave inquiry participants directions as to what matters were relevant in considering whether the CRDO should be made. I defined two main issues before the PIM and later amended them slightly. The amended issues are:

- whether there is sufficient justification for the CRDO to proceed in terms of:
 - (a) development plan policy and related planning history;
 - (b) economic need;
 - (c) alternative sites; and
 - (d) environmental impact including matters such as noise, amenity, ecology, archaeology, landscape, drainage, highways.
- (ii) if the CRDO does proceed, should it be amended:
 - (a) to prevent development of retail uses on the site
 - (b) to protect the environment,
 - (c) to incorporate detailed points from objectors and supporters.

379. After hearing the evidence and reading the written representations it is clear that the subjects covered by these two issues are still relevant. The first issue addresses the merits of the CRDO. The second issue covers proposed conditions and technical details of the CRDO.

Development Order v Planning Application

380. In dealing with the merits of the CRDO, there were serious arguments as to how the DO should be determined and whether this was different to the way that a planning application was determined. This matter should therefore be tackled at the outset. The Minister's guidance for the proposed use of Development Orders [Motion 28] was put to Tynwald on 14 July 2005; this motion was carried in Tynwald. It is relevant [DAN2 Appendix 1].

381. The Minister said....*(1) in advance of full Area Plan coverage....bring forward Development Orders in accordance with Section 8.....etc etc....(2) any proposals for the release of un-zoned land, for whatever purpose, should be considered by the Department against the policies of the Strategic Plan and any other relevant social and economic factors. (3) any such Order should be subject to full public consultation and public inquiry prior to the Order being made by the Department, subject to Tynwald approval"*

382. It is worth noting that the correct way to consider a planning application is set out in the 1999 Town and Country Planning Act. Section 10 of the 1999 Act deals with the "*Determination of planning applications.*" Section 10 (4) states "*In dealing with an application for planning approval or an application under subsection (3) the DoI shall have regard to: (a) the provisions of the development plan, so far as material to the application; (b) any relevant statement of planning policy under section 3; (c) such other considerations as may be specified for the purposes of this subsection in a development order, so far as material to the application, and (d) all other material considerations.*"

383. The DO is a way of obtaining a planning consent. A planning application is the main way of obtaining planning consent. It is therefore reasonable to assume that the DO

should be determined in a similar manner to a planning application. There is nothing in law, policy or guidance from Tynwald that says otherwise.

384. It follows that the first matter to be examined should be how the development plan is treated with DOs and planning applications.
385. Mr McCauley, for the DoI, argued that with a DO there would be greater public consultation, more consideration of objections, a public inquiry, a report to the Minister, and finally perhaps a debate and then the approval of Tynwald; he said much of this did not occur with a planning application. Mr McCauley said the DO process was similar to the plan making process. He therefore urged the inquiry to take more account of the abandoned DBPP and the Inspector's report into the abandoned DBPP in considering the CRDO than would be the case with the consideration of a similar planning application. He said the DBPP Inspector's report should have the appropriate weight attached to it in relation to how far it had gone in terms of statutory procedures. He added that most statutory steps had been passed. This meant the DBPP Inspector's report should have considerable weight attached to it. He gave as much weight to the DBPP as Strategic Plan paragraph 9.1.5. At the same time he accepted that DoI planning officers gave no weight at all to the DBPP when considering planning applications. He also said that considerable weight should be given specifically to the Cooil Road proposal in the DBPP, but not to other proposals in the DBPP.
386. Mr McCauley's arguments about the DBPP were sharply criticised by other parties. The first part of Mr McCauley's argument has some force in that there are differences in procedure between determining a planning application and determining a DO. The procedures would certainly be much shorter for a planning application. But the much more important and second part of Mr McCauley's argument is not persuasive. This is the attempt to give considerable weight to the abandoned DBPP when determining the CRDO, and to give no weight at all to the DBPP when considering a planning application. This cannot be right. There is no support from Tynwald, no support in the Strategic Plan and no support from any planning policy document for this novel approach.
387. The extreme danger of this approach can be seen by noting that a planning application by Tesdale and Rose Lea for car showrooms, business park and light industrial development on the Cooil Road site would have no support from the DBPP at all. But a CRDO promoted by the DoI for exactly the same development would receive considerable support from the DBPP. This approach if accepted would be unfair and unreasonable. It could easily lead to accusations that the DoI was offering preferential treatment to particular landowners or developers.
388. The conclusion of all this is that there should not be a sharp distinction between the way a DO is considered and the way a planning application is determined. A decision maker should approach a DO and planning application in a similar way and give similar weight to relevant development plans. The abandoned DBPP should not suddenly be given an entirely different weight with one of the procedures – i.e the DO procedure. I will deal in more detail with the DBPP later in the report.

Development plan

1991 BPDLP

389. This plan is part of the development plan. However in this Inquiry the DoI argues that the BPDLP should be given very little weight. This approach in October 2010 has to

be contrasted with the approach taken by the DoI with recent appeals into 2 planning applications [CD31 & CD32] in September and October 2010. In both appeals the adopted BPDLP is given significant weight by DoI planning officers in their evidence. This inconsistent approach to the same plan from officers in the same planning department is strange.

390. Although it is 19 years old, the BPDLP proposals should still have some weight. This is because the BPDLP is an adopted local plan, tested at local inquiry in 1989 and accepted by Tynwald. The CRDO site lies within the BPDLP area. On this plan the CRDO site is shown as Open Space (Agriculture) on the Proposals Map. However Policy 13.3 says that *"The rural areas of Braddan Parish District will be designated as being of high landscape value...."*. The precise meaning of this proposal remains unclear – it is not explained whether this designation should have the same value as an Area of High Landscape Value and Scenic Significance as defined in the 1982 Development Plan. Because of its age and the significant change in economic circumstances since 1991 this plan has little relevance in relation to employment or economic matters. As for the high landscape value designation, this should still have relevance and be given weight. It follows that the CRDO is in conflict with the 1991 BPDLP.

DBPP

391. The abandoned DBPP is a material consideration. It is important to note again the stance taken by Mr McCauley in the Inquiry. In answer to me, Mr McCauley told the Inquiry that the DBPP should have more weight than Strategic Plan GP3(g); he also said that the DBPP should have the same weight as Strategic Plan paragraph 9.1.5. In his view the DBPP should be given considerable weight in dealing with the CRDO. He declared that not all DBPP proposals should have this considerable weight; he thought that specifically the Cooil Road industrial land proposals should have this degree of weight. He also accepted that the DBPP should have no weight at all when the DoI considered planning applications. This was the approach taken very recently by DoI planning officers when dealing with planning applications and appeals in Braddan. Again this inconsistent approach to the same plan from officers in the same planning department is strange.
392. The evidence submitted to the inquiry strongly suggests that this divided approach to the importance and status of the DBPP is both unreasonable and wrong. From the evidence, it is clear that very little weight indeed should be attached to the proposed designation of much of the CRDO site for light industrial purposes under B/IND/PR/7 and B/IND/PR/8 in the DBPP [CD7]. The plan was started in 2000, was the subject of a public inquiry in 2003, and was abandoned in 2006. There is insufficient supporting evidence to show that the proposals for light industrial uses at Ballapaddag were properly justified in the February 2003 plan. In support of the proposals there is simply an assertion, without any supporting evidence at all, that the DTI recommended that there will be a need for at least 23 acres of land for industrial development based upon recent demand. This assertion follows the statement that *"although no formal assessment of the amount of land required has been undertaken"*.
393. This unjustified assertion about need from the DTI is similar to the way the east part the Cooil Road site seemed to be promoted by the Braddan Parish Commissioners in 2002 [CD41(b) 9TBPC & 10TBPC]. From the Report of the Select Committee it would seem the Commissioners suggestion to allocate more land at Cooil Road to the east and south of Robinsons was motivated by a wish to avoid a monopoly in industrial land ownership

rather than from any clear understanding of employment land requirements, employment land supply or relevant shortfalls in available land. This apparent intention to address monopoly in land ownership by planning process was in turn seriously and correctly questioned by the Minister in his submissions to the Select Committee. [CD41b 9TBPC]

394. There is no evidence that employment land was examined in any detailed or serious way during the DBPP public inquiry. There is nothing in the DBPP itself to show that employment land requirements were properly investigated and considered. There was no recorded discussion or debate in the DBPP inquiry about employment land requirements, employment land supply, employment land shortfall or the most appropriate way of addressing any land shortfall. In addition I was told the Inquiry Inspector did not allow any questioning or cross examination on these or any other matters. He must have had a good reason for this unusual approach to a public inquiry, but unfortunately this reason is not set down in his report. This unusual approach to a public inquiry inevitably reduces the weight to be attached to any inquiry conclusions on employment land. From the Inspector's Conclusions in paragraph 504 [CD8] it is also clear that there is no detailed explanation or examination of the important questions about employment or industrial land issues raised by Mr Quinn in his written representations. No reasons at all were given in the Inspector's report as to why the DoLGE views on industrial land requirements or demand, based on DTI assertions, were accepted. From the plan itself it is not possible to have any idea as to the industrial land requirement, industrial land supply or any shortfall for Braddan; thus there is no indication that this subject was ever examined in the preparation of the plan. It follows that the question of economic need was not satisfactorily addressed at the inquiry. From the submissions made at this inquiry it is clear that there was insufficient evidence to properly justify the Cooil Road employment proposals in the DBPP.
395. The correct approach to the DBPP is set out in the DoI SoCG [CD26]. Although the SoCG was not agreed by all the other parties, it can be assumed that the version drafted by the DoI expresses the views of the DoI. This states in paragraph 7.3 that "*The DBPP does not form part of the Development Plan*". This approach is further supported by DoI Planning Officers in their reports to the Planning Committee in 2010. For application 10/00155/B the Planning Officer stated that "*Since being abandoned it has been established that this previously emerging plan carries no weight in the consideration of planning applications, essentially it should be treated as if it never existed.*" [CD32] For application 09/01535/A the Planning Officer stated that "*The Minister.....advised Tynwald in 2006, that Plan has been abandoned and therefore carries no weight.*"[CD30] For application 07/00486 the Planning Officer said at the inquiry that the DBPP "*is not a material consideration and that work done in connection with it should not be taken into account.*" [CD31] It cannot be right for DoI officers to consistently state that the DBPP should have no weight at all in development control decisions for planning applications and at appeal inquiries, when the DoI are now arguing that the DBPP should have considerable weight in the DO Inquiry. This is illogical and unreasonable.
396. It is worth noting that the EIA gives no weight to the DBPP. In paragraph i.1.6 of the Non-Technical Summary and paragraph 4.7 of the March 2009 EIA, there is the clear statement that "*policies within the DBPP hold no valid planning status*".
397. A further point against giving any weight to the DBPP or to the Cooil Road proposal is the very fact that the Minister seems to indicate that the Cooil Road proposal was regarded as an area of contention. Furthermore the Minister also said the Department was

considering whether it would be possible to give a degree of weight to policies and zonings in the BBPP which are outside the main areas of contention. He said this in June 2006. In the 4 years following this statement the Department has not formally found any proposals or zonings that should have any weight attached to them. The sudden promotion of the idea of the DBPP giving weight to just the Cooil Road proposal at this Inquiry is a dubious proposition. No weight can be attached to this last minute proposition.

398. In short, no weight should be attached to the abandoned DBPP in relation to the CRDO.

Strategic Plan

399. The only relevant up-to-date part of the development plan is the 2007 Strategic Plan. In this plan the most relevant policies are SP1, SP2, GP3 and EP1. Of these policies the most relevant and important is GP3(g).

400. The CRDO does not closely follow SP1. No attempt has been made by the DoI to optimise, or even assess, previously developed land. There is no evidence of any attempt has been made to ensure efficient use of existing sites on the Island, or in the East Area.

401. As for SP2, the CRDO cannot be called a sustainable urban extension. The CRDO cannot be called a planned expansion of a town as defined in Strategic Plan Appendix 1. There is minimal explanation to demonstrate that the site is in the right place for future employment development. There is minimal explanation to show why a smaller site would not have been a more suitable expansion. There is minimal justification for selecting the CRDO site rather than other locations on the edge of Douglas, or other Island towns and villages. Major planned employment expansions, or sustainable urban extensions should come from the development plan process, not from what amounts to not much more than the submission of a planning application. Reliance on the abandoned DBPP or the 2006 Ministerial intention is unhelpful and not persuasive. The abandoned DBPP is unreliable on this matter for reasons already addressed. Significantly, it appears the Minister must have been relying on this DBPP planning source for his 2006 Statement. Arguments that the CRDO is a sustainable urban extension are therefore not made out. There is insufficient justification to maintain that 20ha of development in this countryside location would be sustainable. As the CRDO site is countryside, SP2 clearly states that development in such a location would only be permitted in the exceptional circumstances set out in GP3.

402. GP2 does not apply to the CRDO proposal. GP2 expressly states that it deals only with development within land use zones. It starts: "*Development ...in accordance with the land use zoning and proposals in the appropriate Area Plan...*" Mr McCauley for the DoI argues that the CRDO proposal falls between GP2 and GP3. This cannot be correct. The site is not zoned for any employment use in an Area Plan, or any other approved plan. The proposed allocation of part of the site in the abandoned DBPP does not qualify the site as a confirmed land-use zoning.

403. If abandoned DBPP zonings were suddenly now to be accepted as relevant, there would be many other claims made for land use zonings for housing and employment and other uses in the Braddan area. This situation would be untenable, unreasonable and hopelessly confusing. It is not appropriate to cherry pick abandoned DBPP zonings and declare some of them to have significance and weight. That is what the DoI approach seems to be calling for.

404. GP3 applies to the CRDO site. GP3 opposes development outside areas zoned for development on Area Plans. The site is *"outside of those areas zoned for development"*. The CRDO proposal therefore conflicts with the general thrust of GP3 unless it can be shown to be a reasonable exception. The relevant exception is criterion (g) of GP3. This says that exceptions to this policy include: *"development recognised to be of overriding national need in land use planning terms and for which there is no reasonable and acceptable alternative;"* The CRDO does not meet this exception. There is clear conflict with GP3(g). The reasons that the CRDO does not meet this exception are addressed below where overriding national need and alternative sites are examined.
405. It is worth noting here again that Mr McCauley told the inquiry that GP3(g) should have less weight than the abandoned DBPP. There is no support in planning policy or law to justify this unusual proposition. It is simply wrong.
406. EP1 adopts a similar approach to the GP3 presumption against development. This time the emphasis is on development of land in the countryside which is opposed unless there is an overriding national need and there are no reasonable alternatives. This is essentially the same test as GP3.
407. Most parties at the inquiry made submissions about Strategic Plan paragraph 9.1.5. This is a difficult paragraph to give weight to. It was inserted into the Strategic Plan after the Strategic Plan inquiry. Thus there was no consultation on its contents. It is not policy; instead it contains a site specific proposal. In fact the site specific nature of this paragraph runs directly against the advice in the Strategic Plan in paragraphs 1.3.1 and 1.3.4. The Strategic Plan should deal with general policies for the development and use of land; while Area Plans should deal with site specific proposals. Paragraph 9.1.5 also contains bold assertions not supported by any tested evidence. It remains a dubious paragraph.
408. In fact the paragraph appears to support the CRDO on the basis of a mysterious *"recent report"* on take up of industrial land around Douglas. The report is quoted as concluding that as the take up has been faster than anticipated all the land will be required by 2015. As a result paragraph 9.1.5 goes on to say that the DoI is convinced that it would be appropriate to release additional land – and promote a Development Order for 20ha of employment land.
409. In the inquiry the mysterious report was found to be not one prepared by or for the DoI or Government. It was instead a report prepared for the developers of the subject site by Mr G Black [CD34(a) & (b)]. Mr Black was instructed by Tesdale to *"prepare a report detailing the past demand and potential future demand for industrial land and industrial premises in the Douglas area"*. Why such a commercial report should feature in the Strategic Plan, without any public consultation or discussion was not explained in a satisfactory way in the inquiry. The DoI could not say why it had decided to promote this commercial report in the Strategic Plan. Mr McCauley told the Inquiry that at the time he was aware of the report prepared by Mr Black for Tesdale and someone included it in the Strategic Plan because it was evidence. Mr McCauley could not remember who had inserted this reference into the Strategic Plan, or why. Mr Black himself said he had no idea why or how his commercial report for Tesdale was quoted and relied on in the Strategic Plan in paragraph 9.1.5.
410. Setting aside the strange adoption of commercial reports, not subject to any public consultation, into the Strategic Plan, the actual wording of paragraph 9.1.5 remains

puzzling. Paragraph 9.1.5 states that the take up of industrial land has been faster than anticipated and all the land will be required by 2015. Nowhere in Mr Black's report submitted to the inquiry can this precise assertion be found [CD34(a) & (b)]. As this assertion is very much a part of the reason for the CRDO, paragraph 9.1.5 contains a very unsatisfactory collection of unjustified sentences. DoI support for 9.1.5 relies to a large extent on the paragraph reflecting the 2006 Ministerial Statement in Tynwald about the abandonment of the DBPP.

411. Unfortunately this reliance on the Ministerial Statement has problems. It is not clear why the Cooil Road site was singled out for a DO by the Minister in 2006. In answer to my questions on where, or from whom, the Cooil Road proposal came from, Mr McCauley could not say. He could not remember who had suggested the Cooil Road proposal to the Minister. There was no record of any meeting to support its inclusion. All that Mr McCauley could remember was that there were discussions with the Minister and a range of options were discussed. From this answer it can only be assumed the Minister was relying on the DBPP proposal for that site; there could be no other form of planning advice available to the Minister – certainly none was submitted to this inquiry. When the Minister made the Statement in 2006 about wishing to bring forward a DO for employment land, no clear evidence on industrial land requirements and no clear evidence about industrial land supply was available to the Minister to justify such a proposal. It seems very likely that the Minister was not made aware of the serious shortcomings of the DBPP.

412. Notwithstanding the dubious authenticity of the paragraph, it has to be noted that Mr McCauley told the inquiry that paragraph 9.1.5 should have considerable weight, but not more weight than Strategic Plan policies. He also said it should have the same weight as the DBPP. This approach is wrong. The paragraph was inserted into the Strategic Plan after all the public consultation connected with the Strategic Plan inquiry. It was therefore not subject to any public consultation, public discussion or public inquiry. There is no record as to why this paragraph was composed or who suggested its inclusion. Its assertions are not made out. Furthermore a site specific proposal should not be made in the Strategic Plan. This paragraph is therefore of very limited and doubtful weight. The best that can be said for it is that it is simply a DoLGE/DoI administrative intention to pursue a procedure to obtain a planning consent. In short, very little reliance can be placed on paragraph 9.1.5.

413. Mr McCauley states in his proof that the CRDO complies with SP6. He confirmed this in answer to my questions. However SP6 applies only to major employment development located in existing centres on land zoned for such purposes and identified in existing Local or new Area Plans. It is clear that SP6 cannot apply to this proposal. The site is not within an existing centre and it is not identified in any approved development plan.

414. It follows that the CRDO proposal must be examined carefully against GP3(g). This means that the arguments on overriding national need and alternative sites must be addressed and resolved.

Overriding national need

415. "*Overriding national need*" is not defined in the Strategic Plan. A common sense approach therefore has to be taken as to its meaning. Need in this case must relate directly to economic need and more particularly the need for employment land. National

need must imply that the need applies to the whole Island; national need cannot be normally confined to a single town or village, or even an Area Plan boundary.

416. It should be noted at the outset that Mr McCauley told me the CRDO proposal did not conform with GP3(g) in terms of the overriding national need criterion. This means that the CRDO proposal conflicts directly with GP3(g). Despite this important concession, it is necessary to properly assess the criterion as other parties in the inquiry reached different conclusions on this subject.
417. It is also worth noting that the DoI in the closing submissions relied almost entirely on the overriding national need as being that recognised by the DoED for further land to meet the requirements of future employment.
418. The starting point in assessing national economic need is to set out the agreed types of requirement for new employment land together with a sensible timetable for provision. The next step is to examine the existing and proposed supply of types of employment land and buildings. The final step is to determine if there is a gap between requirement and supply; this can be achieved by carefully investigating relevant take up in recent years and making judgements about future take up rates. If a gap is found then this leads to the identification of a residual national need for employment land.

Land requirement

419. The evidence submitted on this matter was confusing and poor. There simply was no explanation at all by the DoI or its witnesses, including the DoED, as to what the requirements for more employment land for different employment sectors might be over any period. For example, what is remarkable is the proposal to take up scarce and valuable national employment land for car showrooms. There is no clear evidence to demonstrate that providing significant areas of land for car showrooms on a strategic employment site would be vitally important for the Island's economy. Nowhere is there any compelling argument that shows that providing up to 2.1ha [5.2acre] for car showrooms fulfils a vital overriding national need. There is also no clear evidence that the CRDO site is the best national site for new car showrooms for the Island. It seems the car showroom idea came from the developers of the land and not from the DoI.
420. In fact the car showroom idea in the Cooil Road area was first promoted in 2003 [TES12 Appendix 8] on land owned by Robinson's for the relocation of Corkhill's Garage. This proposal was supported by the Minister for Trade and Industry and opposed by Dandara at the appeal in June 2003. The application was refused by the Minister in August 2003. DoLGE clearly decided that there was no requirement for car showroom sites at Cooil Road in 2003 when the DBPP was being examined at inquiry.
421. Similar criticism can be made for the absence of any assessment for the need for more land for business parks. There is no assessment at all as to how long the existing supply of business park land at Summerhill Business Park and Isle of Man Business Park might last. There is no assessment of likely take up in the future and no assessment of any shortfall in business park land supply. The requirement for business park land is simply not addressed by the DoI in any clear way. This is surprising as the DoI accepted Tesdale's suggestion that up to about 6.3ha (15.5acres) of land should be designated for business park uses.
422. It follows that there is no clear justification for the proposed amounts of car showroom, business park land or light industrial land on the CRDO site. There was no

clear evidence on how any need would be best met in terms of one site, two sites or three sites, or where the best locations might be. There was no clear explanation as to why the CRDO was proposing certain % of land for car showrooms, business park uses and industrial uses. Mr McCauley explained in cross-examination that when Tesdale suggested the proposed uses and % figures to the DoI there was some discussion and the proposals were then accepted. At this time there was no evidence and no assessment of demand or need and no technical basis for the % splits. He said the DoI was happy with Tesdale's proposals for environmental reasons.

423. There was no clear explanation as to what precise role the CRDO site would fulfil in the Island – it was not clear if the CRDO site should serve the whole Island, or the East Area of the Island, or Douglas. No clear evidence was submitted by the DoI on how long the CRDO site would provide new employment for – it was not known if the CRDO site would last well beyond the Strategic Plan period, or beyond the Area Plan for the East period. In short, there was no clear explanation in the Inquiry as to the national employment land requirement for the Island which might have supported this CRDO proposal.
424. More specifically it is strange that there is no approved planning policy document setting out the employment land requirement. There is no requirement for car showrooms, business parks or light industry, storage and distribution uses set out in any approved planning document. In the June 2010 Background Statement for the CRDO under the heading of “*Economic Need*” the DoI response to objections about national economic need was to say first, that the DoED continues to support the progression of the CRDO, and second, as 16% [16ha] of currently zoned land [100.05ha] is currently available in the East Area, this shows there is a need for more employment land to be zoned in the East Area. There is no explanation as to why one 20ha site was selected rather than say 2 or 3 smaller sites in different locations. There is no explanation whatsoever as to why a stated available employment land supply of about 16ha – providing 8 years of supply - in the East Area is regarded by the DoI as amounting to an overriding national need for more employment land.
425. This response before the inquiry opened on economic need was therefore totally inadequate. It offered insufficient justification for the CRDO.
426. This leads to the evidence submitted at the Inquiry. This has already been covered to some extent. It is worth repeating that the DoI offered no consistent estimates or figures for land requirements for car showrooms, business parks, light industry, storage and distribution. The DoI's evidence on the precise requirements of the national economic need seemed to be directed at possible types of business that might like to come to the Island – i.e. target markets such as shipping, aircraft, film and media, e-gaming and space - plus assertions the East Area was the right location for new employment development. The DoI seems to rely almost entirely on Tesdale's suggested supply figures and suggested take up figures plus the views of the DoED. There is simply no assessment by the DoI of the requirements for the mix of uses proposed by Tesdale for the CRDO.
427. Tesdale adopts a market approach and says there is a need for a ready supply of quality employment land. And this land must be in the right location, which in turn means around Douglas, and not near the airport. Tesdale goes on to argue that the supply of land is extremely limited – just a rag bag of largely small sites. Tesdale concludes that there is an urgent need for more employment land to be given planning permission now.

In support of this urgency, Tesdale says that the take up rate is about 2ha/year and in future years this gives only a few years supply.

428. It is clear that both the DoI and the developers promoting the CRDO site do not set out clear requirements for the mix of uses proposed on the site. They set out no requirement at all for the proposed car showrooms. They set out no clear requirement for business parks. There is some attempt by Tesdale to suggest a shortfall of land for light industry and storage based on comparing current supply with past take up rates. However on closer inspection the examination of supply is less than convincing.
429. The arguments on the need for a range of sites were not made out. There was no evidence on what type of range of sites was required.
430. In short, on land requirements, there is insufficient evidence on why the CRDO is proposed, on why the particular mix of uses – car showrooms, business park and light industrial, storage and distribution – are suggested, or on why one very large 20ha site was proposed rather than 1, 2, 3 or 4 smaller sites.

Land supply

431. There was limited agreement between the parties on how much employment land was available at the time of the inquiry. It was disappointing that the supply of employment land had not been more thoroughly discussed and agreed well before the inquiry opened. It was strange that an agreed figure did not exist at the time of the 2007 Draft DO, or at the time of the preparation and submission of the CRDO in January 2010, or by the time of the amended CRDO in June 2010.
432. Because of this complete absence of any agreement on land supply figures I asked relevant parties at the PIM in July 2010 to agree land availability figures for the Island and its Areas, plus past and future take up rates.
433. Mr Black told the Inquiry that when he met with Mr McCauley sometime in the summer of 2010 he agreed with Mr McCauley that the 16.25ha of available industrial land shown in the East Area in the DoI 2010 ELAS [CD13] was technically available, but that not all of this land was actually deliverable. By the time the inquiry opened, the DoI and Tesdale asserted that there was only about 9.33ha, or less, of available industrial land in the East Area. IoM Development Co and Mr Quinn and Mr Killian disagreed; they said about double that amount was available – 16-17ha – and there was also substantial floorspace in vacant units [13,562m²] which had been ignored. Dandara accepted the 9.33ha figure and suggested it might be lower.
434. On land supply just 3 disputed sites can be examined to test the DoI's recent judgements on land availability. First, Summerhill Business Park or Victoria Business Park – site 27B – 2.03ha – this includes a small hard surfaced parking area, a concrete floor area of a former building and overgrown land. A planning application was recently submitted for employment development on this land. It was therefore very difficult to see why this site was excluded from the DoI's employment land figures if business park uses are proposed at the CRDO site. This site could be used for business park uses, or more particularly office accommodation. This site should be included in the list of available employment land.
435. Second, School Road, Onchan – site 2A – 2.54ha – this lies to the north and west of GE Aviation factory. The DoI's very recent rejection of this site for employment

development in the Inquiry on grounds of highways problems was not supported by any highway evidence. This was strange as the DoI's highway engineers attended the inquiry to address other matters. The recent rejection of the site can be compared with the DoI's 2010 Employment Land Availability Study [CD13 & 23]. This described this site as "*Site 2A – 2.54 ha of undeveloped land at School Road*". The same Study added that the site was "*Part of Smith's Aerospace site. Constraints due to changes in levels on site.*" The June 2010 Study states that land classified in the Study is "*available for light industrial, warehousing and distribution purposes*". The 2010 Study did not identify highway or access constraints. The April 2007 Study [CD12] referred to a planning consent on this site for light industrial and residential development with access from School Road and Second Avenue and also mentioned constraints due to changes in levels. Again no mention of highway or access problems. The very recent rejection of the availability of this site by the DoI was not justified clearly in the inquiry. The inconsistency between the position taken for the inquiry – rejection of the site - and the clear identification of the site as consistently available in the DoI's Land Availability Studies was unsatisfactory. The same problem applies to Tesdale's approach. In Mr Black's 2005 report for Tesdale [CD34(b)] the School Road site was listed as available for industrial development, although there is a comment that it might be lost to residential development. In his work for Tesdale for the Inquiry Mr Black said the site was not available, because Mr McCauley told him there were planning or access problems. Mr Black also thought the site was designated in the Onchan Local Plan for political reasons. From the evidence presented there are insufficient reasons to suddenly now delete this site from the most recent DoI 2010 ELAS list of available industrial sites. This site should be included in the list of available employment land.

436. Third, Ballakinnish Nurseries – site 3 – 4.10ha – now part occupied by Richmond Hill Improvements Materials Depot. The DoI's very recent assertion that this site has highway problems was not supported in the inquiry by any highway or traffic evidence; this is strange as the DoI's highway engineers appeared at the inquiry on other matters. Furthermore the DoI's highway engineers clearly selected this site for use as a highway maintenance depot very recently to deal with the improvements to Richmond Hill. On my inspections of the site there were frequent movements into and out of the site by HGVs and slow moving vehicles using the existing access. If there had been serious access problems for this site, it is inconceivable that the DoI's highway engineers would have chosen the site as their maintenance depot. In these circumstances, the DoI's current wish to say this site is unsuitable for employment development on high way grounds remains strange. This current view has to be compared with the view of the Minister for Trade and Industry when he said in 2006 [DoI6 Appendix 1] one of the reasons the DTI had acquired this site was "*to have in place a strategic industrial land reserve on the outskirts of Douglas available at short notice to assist with highly important inward investment*". Thus the site was acquired by the former DTI for industrial land bank purposes. In the absence of compelling evidence to the contrary it should be assumed that the DTI would not have acquired this land at high cost for important employment development in 2006/7 [no-one in the inquiry knew precisely when it was acquired by the Government] if there were serious access problems that could not be resolved. In fact it was regarded as industrial land by the DoED as recently as October 2010 in the proof of the DoED witness, Mr Kelly. The very recent change of mind on this site seems to have come from a recent meeting attended by Tesdale's employment land witness, Mr Black, and Mr McCauley; it appears that either Mr McCauley or Mr Black decided the site was available but not deliverable; but no records of this meeting were submitted. What is very strange

about this view is that the DTI were not told or warned about this current important conclusion before purchasing the site at high cost. There is no obvious reason that the view now being expressed could not have been conveyed to the DTI at the time of purchase. The characteristics of the site have not changed. The DTI could now be reasonably unhappy about acquiring a site at high cost to find now that another Government Department suddenly considers the site should not be developed.

437. In 2010 [CD13 & 23] the Ballakinnish site is described as "*Site 3- 4.10 ha of disused land at Ballakinnish Nurseries*". In the latest August 2010 Study it is called the largest vacant employment site. The August 2010 Study says "*the site is now in Government ownership. The future of the site will need to be reviewed as part of the Area Plan for the East. It is unlikely to come forward for development in the short term but may have some potential as employment land in the medium to long term; the site has therefore been included in the figures*". What is significant about these comments is that they are different to those in the June 2010 report; it follows that the Ballakinnish site was being carefully considered by DoI officers who had inspected the site as recently as between June and August 2010 and decided to make more detailed comments about the precise availability of the site. The August 2010 report states that "*For the purposes of this study, land classified as employment use includes that which is available for light industrial, warehousing and distribution purposes. This definition follows that used in the original 2007 report and in the 2009 update*". Nowhere in the August 2010 report is there a hint that when the report says land is available or vacant employment land it does not mean precisely what it says. It is clear that it would be highly improbable and misleading to publish important Employment Land Availability Studies which consistently contained totally false information about Government owned sites. On this evidence the DoI has clearly considered the Ballakinnish site was available for employment development for a long time – about 9 years - starting with the DBPP preparation in 2001. It is only as this inquiry approached that suddenly a very different view of the site was taken by DoI. For all these reasons this site should be included in the list of available employment land.
438. Returning to the total figures for land supply, the June and August 2010 DoI Employment Land Availability Studies both conclude that the East Area has 16.25 ha of vacant and available employment land. It seems reasonable to give weight to the DoI's own published August 2010 Employment Land Availability Study as these sites were carefully examined and a draft report was prepared and then revised. In direct support of the 16.25ha figure there is the Cooil Road Order Background Statement of June 2010. The DoI prepared this Statement in order to set out the background to the CRDO, to summarise representations and identify how the DoI intends to proceed. Under the heading "*Economic Need*" it reports that many representations argued that there was little evidence to prove there was an overriding national need. The DoI response to this objection is set out on pages 3 and 4.
439. The DoI Cooil Road June 201 Background Statement states that there is about 16ha of land currently available for employment use in the East Area. This confirms the DoI ELAS figures. The DoI has had 5 years to work out employment land availability figures for the justification of the CRDO; all the official published figures up until August 2010 state a supply figure of about 16ha for the East Area. This is consistent. Suddenly as the inquiry approaches the figure changes dramatically. Large sites are suddenly deleted at the last moment and the land availability figure drops significantly. This is strange and unhelpful.

440. Assuming the DoI's confirmed land availability figures in April 2007, June 2010 and August 2010 of about 16ha are correct and reasonable and the available 2ha site in the Summerhill Business Park is added to this total, there would be about 18ha of available employment land just in the East Area. From this total I would deduct the 0.66ha Spring Valley Industrial Estate site 3 as this now has planning permission for retail use. This reduces the total to about 17ha.
441. In connection with this Spring Valley Industrial Estate appeal, it is surprising that the DoLGE evidence at the appeal inquiry in January 2010 did not state that there was any shortage of employment land on the Island, or more particularly around Douglas, or in the East Area. The question of economic need or available employment land was not considered relevant by DoLGE at this inquiry for a change of use from industrial to retail. It is not made clear how the economic circumstances have dramatically changed between January 2010 and October 2010 such that Department witnesses can present dramatically different evidence on the same facts. The evidence for this appeal inquiry was prepared at exactly the same time as the publication of the CRDO in January 2010.
442. In addition, I am not entirely convinced from the evidence that no other part of the Island should be included in an assessment of the need for more employment land. There was no clear evidence that the South or West Area were completely unsuitable as locations for new employment sites. Instead there were assertions made without convincing evidence. If land in these areas was included in the land supply figures it radically changes the potential overall supply.
443. In addition no allowance for windfall sites was made by the Government or Tesdale; no calculation was made to assess land from this source. The 3.1ha Kirby Farm site seems to be an example of a windfall site; so too is the Middle Farm site currently promoted by Dandara. All this means that the employment land supply figures suggested by the DoI and Tesdale are far too low. In short, there are too many uncertainties in the claims made by both DoI and Tesdale about the limited supply of available employment land in the East Area. A 17ha supply of employment land in just the East Area of the Island cannot be said to indicate an overriding national need.

Take up rates

444. There was little agreement on recent take up rates. The DoI and Tesdale asserted that the past take up rate of about 2ha/year would continue. Mr Quinn questioned this rate. IoM Development Co and other objectors argued that the future take up rate would be less with some objectors suggesting it would be likely to be as low as 0.37ha/year.
445. These differing amounts of available employment land and differing take up rates give vastly different years of supply for the employment land in the East Area. DoI and Tesdale say the 9.33ha of land would only last about 3-4 years based on 2ha/year take up rates. Some objectors say there could be 47 years supply based on 17.62ha and 0.37ha/year take up rates. Mr Quinn suggests that even taking the DoI 2ha/year would give over 8 years supply for the 15-17ha of employment land.
446. Little account has been taken by the DoI of the very serious problems in the world economy caused by the recession. Thus the Economic Impact Study for the CRDO [CD16] does not provide compelling support for the CRDO. It is not up-to-date and therefore could not take account of the recent unprecedented economic conditions. There is universal uncertainty and unresolved difficulty in knowing how to manage the problems of the recent recession. This global economic problem will inevitably cause a

slowdown in take up rates of employment land on the Island. The suggested 2ha/year take up is likely to be soon reduced. Thus current world economic conditions further increase the time that the existing supply of employment land will last.

Residual national need

447. A further serious weakness in the suggested problem of employment land supply and employment land demand in the Island is the complete lack of evidence of potential investors being turned away because of a land shortage in the last 5 years. The Minister for Trade and Industry stated that there was a *“time bomb arising through the shortage of industrial/business park land...”* in his letter to Mr McCauley on 4 July 2006. That time bomb was identified over 4 years ago. If there was a time bomb or a very serious shortage of employment land in 2006, it is inevitable that potential investors, or firms wishing to come to the Island, would have identified themselves to the Government or local estate agents. This has not happened. No evidence at all of the time bomb was presented to the Inquiry. If there was evidence of potential investors being lost to the Island the Inquiry would have been told. In over 4 years no practical evidence of a single potential investor going elsewhere and being lost to the Island and its economy was submitted to the inquiry. The absence of this practical – not theoretical - evidence is very revealing.
448. Furthermore the DoI insists that the CRDO is a strategic proposal for the whole Island. The inquiry was told by DoI witnesses that the CRDO did not just serve the East Area. In answer to my questions DoI witnesses explained this point. Mr Kelly told me the need for the CRDO was primarily for the East Area but also indirectly for the whole Island. Dr Whitfield told me the CRDO was directed to inward investors for the whole Island’s growth; he added that it was a national site in economic terms. Mr Delaney told me that the Isle of Man needs a new strategic site to sustain the economic future of the whole Island. Mr McCauley told me the CRDO would serve Douglas and the East Area for existing businesses and the whole Island for incoming firms. If the CRDO is a nationally important strategic site it would seem logical that the land requirement, land supply and take up figures should obviously reflect that point. They should not be entirely confined to the East Area as presented in the DoI evidence. This point was not addressed in the DoI evidence.
449. For Tesdale, Mr Black primarily addressed the wider Douglas Area or East Area, not the whole Island. His work underpinned the DoI’s approach to both land supply and take up rates.
450. There is therefore a mismatch between the land supply figures and take up rates relied on by the DoI and Tesdale. The CRDO is proposed to serve the whole Island, but the employment figures used to try to justify it relate only to the East Area.
451. All these many deficiencies in the land requirement and land supply calculations and assumptions by the DoI and Tesdale lead to serious doubts about the case on economic need submitted in support of the CRDO. The evidence points to an adequate supply of employment land for up to the next 8 years. The evidence does not support the urgent release of 20ha of countryside for a mix of car showrooms, business park, and light industrial development at Cooil Road. No overriding national economic need has been demonstrated.

Alternative sites

452. The DoI and Tesdale argue essentially that there is no need to carry out a thorough examination. Tesdale argue that alternative sites would have emerged since 2006 if there had been any; Tesdale also say that there is no need to look for alternative sites.
453. These arguments miss the point. SP2, GP3(g) and EP1 all indicate that there should be proper consideration of alternative sites. There can be no doubt that alternatives sites must be carefully examined. There is no reasonable argument that says a do nothing or do little approach by the DoI is appropriate. The duty from Strategic Plan policies to examine alternative sites does not rest with all landowners or developers in the East Area or Island. Such a planning task could not be reasonably undertaken by individual landowners or third parties. The duty to examine alternative sites rests with the DoI, the promoter of the CRDO. This duty is recognised in the CRDO EIA in paragraph 3.62 [CD15].
454. Another Tesdale argument on alternative sites is to say that even if there has been a failure to consider alternative sites, this does not matter because there is an overriding need for employment land. This argument fails as the overriding national need for more employment land has not been made out.
455. As for the approach of the DoI, the March 2009 CRDO EIA in paragraph 3.62 [CD15] states that *"The issue of potential alternatives will be set out in the Department's Statement setting out the background to the DO. In summary DoLGE does not consider that there are suitable alternative sites which meet the Spatial Strategy and other policies in the approved Strategic Plan."* It is clear from this statement that the authors of the EIA were told that DoLGE had selected and then examined alternative sites. In fact this was wrong. The work was never carried out by DoLGE. This remains a serious error and omission by DoLGE. So despite the clear promise of detailed information on alternative sites by DoLGE, in answer to me in the Inquiry the DoI accept that no detailed assessment of alternative sites has ever been prepared. The only written DoI statement on alternative sites is in the June 2010 Background Statement [CC1 Appendix 2]. In this Statement the DoI respond to objections which say alternative sites have not been considered. The DoI response says *".....the Department maintains that there is a need for additional industrial land and that this is a good location."* Then follows brief comments on Middle Farm. This simple comment in the Background Statement is obviously unsatisfactory. It does not in any way address the issue identified in the CRDO EIA in March 2009.
456. Mr McCauley in dealing with alternative sites relies on the site's planning history and the DBPP preparation [DoI7 paragraphs 8.11-8.31]. In his evidence he also refers to the Douglas Local Plan and Onchan Local Plan and says that both plans restrict development around Douglas. He then gives a general description of land around Douglas. Nowhere does he give any careful assessment of specific alternative sites, or ways of providing employment development. He accepts this omission.
457. The 2009 EIA [CD15] should have provided the DoI with a detailed assessment and recommendations on the suitability of alternative sites. This EIA says it was prepared in order to support the CRDO. There is no main section in the EIA on alternative sites. There is just a very brief statement about "Alternatives" in paragraph 3.62 in the Socio Economic chapter. The wording of this paragraph makes clear that alternative sites were not examined because DoLGE said there were no alternative sites.

458. The EIA is remarkable in the way it deals with the important issue of alternative sites. It devotes just 8 lines to this important issue. By contrast it devotes 23 pages to ecology which is not an important issue for the CRDO site. It must be assumed that either DoLGE/DoI were satisfied with this apparently unbalanced approach, or had informed the authors, TEP, that the work on alternative sites had already been undertaken by DoLGE. Either way the result is unsatisfactory. It should be noted that it is entirely normal for EIAs to invariably contain an assessment of alternative site coupled with the reasons for the final choice of site.
459. To further confuse this matter the EIA Non-Technical Summary [CD15] states in paragraph i.9 that "*Alternative sites that have been considered are poorly related to the strategic highway network...*" This is obviously a typing error in the Summary, as the full document mentions no such consideration of alternative sites.
460. The EIA Conclusions do not mention alternative sites. Instead the Conclusions state in paragraph 11.2 that "*.....the Cooil Road site appears a suitable potential location*". This statement follows assertions that space for offices in Douglas is very limited, development of new office space on business parks would be popular and businesses on the Island high quality accommodation well connected to the airport and Douglas freight terminal. This conclusion suggests that the EIA contains no assessment at all of alternative sites. This is a serious defect of the EIA, particularly as the Strategic Plan policies SP2, GP3(g) and EP1 all state that alternative sites must be examined.
461. In fact this site would be the largest and most important new employment site in the Island. Whenever a significant new site for employment uses is proposed there should be an examination of whether suitable alternative sites exist. The most appropriate site or sites should be selected. This approach follows the clear instructions of SP2, GP3(g) and EP1 which all indicate that for development such as this type of proposal "*there is no reasonable and acceptable alternative*".
462. It would be wrong for the Development Order to support and promote this site if there were other more suitable sites. In the preparation of the CRDO before the Inquiry there was no evidence of a proper consideration of alternative sites. In these circumstances it is inappropriate to try to circumvent this necessary procedure by saying that it might have been carried out under the preparation for the abandoned DBPP. It is equally inappropriate to argue that the public inquiry process for the CRDO provided a means of assessing alternative sites. The only reason that alternative sites were considered in the inquiry was because I decided that this matter was relevant at the PIM. However the examination of objectors' sites is not a satisfactory approach to considering alternative sites. There may be other more suitable sites, not yet identified. It may be the case that more than one site would be suitable or that a smaller part of the CRDO site might be suitable.
463. It would be wrong to cut corners and rush through one of the most important employment land use proposals on the Island without doing the necessary homework.
464. From the evidence the CRDO fails to meet the requirements of SP2, GP3(g) and EP1. The necessary assessments of alternative sites have not been carried out either in the EIA or by DoLGE/DoI at any time. This means it is not possible to know whether a reasonable and acceptable alternative exists.

465.

Middle Farm – Dandara site

466. From the evidence about Middle Farm I note the arguments put by DoI about Dandara's support for major employment and housing development at Cooil Road in the 2003 DBPP inquiry. It would appear that Dandara considered that Cooil Road was a suitable location for these uses in 2003; and at that time Dandara did not suggest that Middle Farm should be the preferred location for such major employment uses. This suggests that Dandara are at best neutral about the Cooil Road site's suitability for employment development.
467. Turning to the Middle Farm site, the incinerator is a dominant feature in the landscape. Together with the animal waste processing plant and industrial units and Dandara stone recycling, this group of buildings and uses presents an untidy cluster of isolated development in the countryside. The aerial photograph in DAN3 Appendix TAG 2 shows the isolated nature of the site and its relationship to the countryside and Douglas.
468. As for the merits of Middle Farm as an alternative site to Cooil Road for employment development, it is clear that the Cooil Road site adjoins the built up area of Douglas and existing employment sites, whereas Middle Farm is about 800m from the nearest part of Douglas. Middle Farm development would certainly expand and consolidate the isolated group of uses centred around the incinerator. But such a significant employment development in this isolated location would represent a serious physical and visual intrusion into the countryside. It would inevitably set harmful precedents for further additions to isolated development in open countryside on the Island.
469. Phase 1 would be the least intrusive in visual terms; phases 2 and 3 would be more easily seen from surrounding countryside as this land is higher and more exposed. Middle Farm would be an unsuitable location for major employment development unless there were exceptional reasons for locating new development in such an isolated location in the countryside to the west of Douglas. Dandara is correct to claim that Middle Farm was not properly assessed in the preparation of the CRDO; Dandara's criticisms of the comparative landscape assessments by DoI and Tesdale have some force in this respect. Middle Farm was only examined late in the day, in the run up to the public inquiry in response to discussions at the PIM.
470. The examination and comparison of Middle Farm and the CRDO site was therefore carried out at the last minute by both parties. This analysis should have been carried out by DoLGE/DoI before the CRDO was submitted. A more rigorous comparison of both sites would have helped this Inquiry.

Port-e-Chee - Henry Kennaugh's site

471. Henry Kennaugh's contribution to the alternative sites issue was to suggest a possible site towards the end of the inquiry. Although he had been asked to submit details of this site months before the inquiry opened, he chose to mention it on Friday 8 October. This very late submission was unhelpful.
472. Port-e-Chee cannot be regarded as a serious suitable alternative site because the parties who have legitimate control over the site seem to have no interest in such a proposal. The site also has unresolved access problems for a major employment development. However there is no reason why this large site could not have been considered by DoI as a possible alternative employment site along with others. The fact

that it might have been rejected, after investigation, on grounds of location and access and inappropriate development is not a reason for not initially looking at the site.

473. From the evidence it seems that the Strategic Plan policy test for alternative sites has not been properly carried out by DoI. It was not carried out when the CRDO was first promoted in 2006. It was not carried out when the CRDO was re-introduced in January 2010 and then amended in June 2010. A belated attempt to look at a site identified by an objector, Dandara, was done after the PIM called for alternative sites to be an Inquiry issue.
474. The Inquiry cannot be sure that the CRDO is the best and most suitable site for any employment need. The Inquiry cannot be sure that a mix of smaller sites would not be a better option than a single site. The work on this subject has simply not been carried out. This is a clear breach of SP2, GP3 and EP1.

Other factors

475. Given the clear conflict with SP2, SP6, GP3(g) and EP1 the next step is to examine other material considerations to see if they override the clear policy objections. As to the weight to be given to the development plan policies compared with other material considerations, it would be reasonable to assume that Government approved policies should have significant weight. Other material considerations would have to be judged on their merits. They would need to be exceptional to override Tynwald approved Strategic Plan policies.
476. The other social and economic factors advanced by the DoI and Tesdale concentrated almost entirely on overriding national economic need. However that factor has already been carefully considered and found to be of insufficient weight.
477. The only evidence on one other factor that might be said to override planning policy objections was the timetable for the Area Plan for the East.

Area Plan for the East

478. The timetable for the Area Plan for East timetable was disputed. Mr McCauley suggested a start in 2011 and adoption by 2015. Tesdale suggest a later start date and adoption after 2015; Tesdale also suggest that if the Cooil Road site has to wait until adoption of this plan to gain planning permission this could mean waiting until 2017 at the earliest. Other parties suggest the Area Plan for the East could be adopted in 2012 or 2013.
479. The DoI and Tesdale have a good point about the likely delay in adopting the Area Plan for the East if there is an urgent need to release land for employment uses and the only way to do this is via the Area Plan for the East. But this begs the question. An urgent need has not been demonstrated. If a specific short term urgent need could be clearly demonstrated then a relevant DO could be prepared, or a relevant planning application could be submitted. The Area Plan for the East could and should deal with long term employment land requirements. A DO is a more suitable device to deal with short term problems with employment land.
480. This seems to be exactly what Tynwald had in mind when they carefully debated the use of DOs on 14 July 2005. Tynwald assumed the DoI would *"provide a detailed case showing the demand for such housing, or industrial land, if that were needed, existed, at that point in time, and in that locality."*

481. It would obviously be wrong to allow a breach of Strategic Plan policies simply because the DoI have failed to ensure that its development plan system is up to date and accurate in relation to employment land requirements. It would also be wrong to allow a breach of Strategic Plan policies because the relevant Area Plan will take a long time to prepare.

482. It follows that no other material considerations or social or economic factors have been identified in this Inquiry which override the strong policy objections to the CRDO.

Landscape

483. There is no doubt that the development would be seen from points in the surrounding countryside. But if the CRDO was properly justified, the issue of landscaping and landscape mitigation could be resolved by appropriate conditions and addressed carefully at the detailed stage of a Master Plan. There was insufficient evidence to show the CRDO was unacceptable on grounds of landscape impact.

Residential and visual amenity

484. Responses from the DoI and Tesdale to objections from local residents about harm to residential amenity are reasonable. This is a matter that could be addressed when details of the development are submitted. Appropriate conditions should ensure that problems of loss of privacy and overlooking and disturbance from noise problems can be satisfactorily mitigated.

Heritage

485. The dispute about Ballavagher Farm and its outbuildings revolves around whether these buildings should be retained rather than demolished. There is no dispute that the archaeological value of the site can be satisfactorily investigated whether or not the buildings are demolished. The DoI accept that the buildings do not meet the criteria for registration and should not be added to the Protected Building Register. The arguments about demolition are more to do with planning policy than heritage or conservation policy. The DoI say the farmhouse and outbuildings are interesting buildings and could be incorporated into the new development.

486. The Strategic Plan policies relied on by the DoI – SP1(a), SP4 and GP3(b) – do not give sufficient support to the wish to retain the Ballavagher buildings. Insufficient evidence was submitted to show that the buildings have any serious architectural, historic or social value or interest which justifies their retention. If new development took place in the vicinity of these buildings, the farm buildings themselves would be likely to look out of place and would also be likely to interfere with a reasonable layout of the new development. The farmhouse is not an attractive building with its modern additions and rendered walls. The case to make the best use of these redundant buildings was not made out in the Inquiry. If the CRDO is made these buildings should be demolished.

Ecology

487. No serious ecological impacts were identified.

Highways and transport

488. The main dispute is over the number of permanent accesses. The DoI ask for 2 permanent points of access. Tesdale disagree. They - the developers – offer 1 permanent

access off a new roundabout at the existing access to the Springhill Valley Industrial Estate, plus a secondary emergency access adjacent to Ballypadag Farm. Tesdale argue that a second permanent access is not required.

489. I prefer Tesdale's arguments on this matter for a number of reasons. First, the DoI seem to rely on the superseded DB32 for the need to provide 2 permanent points of access. However this guidance was only relevant for residential development and did not apply to industrial development. Second, the proposed single roundabout performs adequately in that it has sufficient capacity to accommodate all the traffic generated by the CRDO development. Third, there would be provision of an acceptable emergency access in the Tesdale scheme. Fourth, the Transport Assessment and the EIA produced for the DoI only proposed a single permanent access point and this arrangement was found to perform satisfactorily. For all these reasons there is no compelling need on grounds of safety or traffic flow or policy to provide 2 permanent points of access.

Drainage

490. No drainage problems were identified that could not be overcome by suitable conditions. Provision of sustainable urban drainage would be required and addressed by condition.

Conditions

491. The revised CRDO with revised conditions is in CD35(c). The DoI also prepared a helpful table showing objections and DoI responses [CD35]. The DoI responses in this document are acceptable for those conditions not discussed in the inquiry. The changes and conditions considered below were discussed at the inquiry.
492. The DoI explains that section 4 now sets out the classes of development proposed, the plan in Schedule 1 has been revised and Schedule 2 sets out changed conditions. Condition 1 has sewage treatment plant added to it.
493. The changes to section 4, the revision to the plan and to condition 1 are reasonable.
494. There was argument about condition 2. Tesdale was concerned that it would be difficult to prepare all reserved matters in 4 years. Tesdale said the whole development would take about 7 years to complete at the rate of 2ha/year. The DoI wished to stick to condition 2 or have a more complicated wording involving first reserved matters and remaining reserved matters.
495. Condition 2 is reasonable given Tesdale's anticipated development rate.
496. Condition 4 (b) was disputed by Tesdale. The 5,250m² for class 4 uses was too restrictive for the business park. This is accepted. The reference to the 5,250m² class 4 restriction should be deleted. Tesdale's objection to the 500m² minimum level size is reasonable. This reference to the 500m² should be deleted. There was insufficient justification for the proposed restrictions in size introduced at the last minute.
497. Condition 5(d) was disputed by Tesdale as it was seen to repeat condition 12. Condition 5(d) should be deleted.
498. Condition 10 required amendment. It should read: "No development or other operations shall be commenced in relation to any phase of development until adequate steps, which shall have been previously approved in writing by the planning authority,

have been taken to safeguard against damage or injury during construction works all trees on that part of the site covered by that phase, or those trees whose root structure may extend within that phase. In particular no excavations, site works, trenches or channels shall be cut or pipes or services laid etc etc...”

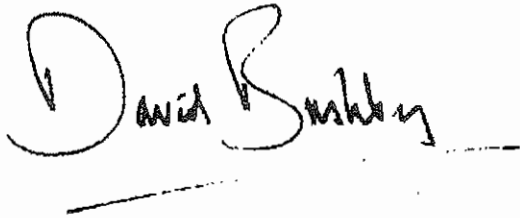
- 499. Condition 12 was disputed by Tesdale. The DoI response is appropriate. Condition 12 should not be changed.
- 500. Condition 13 should include a reference to condition 12 to make it clear.
- 501. Condition 14 (a) should be amended as follows: “(a) In respect of any archaeological remains identified by condition 12 (a), (b) and (c) above.....etc etc”
- 502. Condition 15 should be deleted as the Ballavagher farm and outbuildings do not have sufficient amenity, architectural or historic value to merit retention within a modern industrial development.
- 503. The fears expressed by the Isle of Man Chamber of Commerce about possible retail development at the CRDO site are not made out. The comments about the Inspector in the appeal into application PA 08/2135 finding difficulty in interpreting BP5 are entirely misconceived. This appeal in January 2010 was addressed on the basis of the evidence submitted. There was no clear evidence submitted at all by any party in that inquiry about a need to reserve the appeal site for industrial development.

Conclusion

- 504. The CRDO should not be made. There is insufficient evidence to justify the CRDO.
- 505. There is insufficient evidence to demonstrate that there is an overriding national need for the CRDO. There is insufficient evidence to show that the CRDO is the only solution to any alleged national economic need for employment land.
- 506. This conclusion that the CRDO should not be made will not be welcomed by the DoI, the DoED, or Tesdale. It is a hard decision. But the submitted justification for the CRDO falls a long way short of the standards that Tynwald would expect for such a nationally important proposal put forward by the DoI.
- 507. A disappointing feature of the CRDO was that too much necessary “homework” was left to the last minute. When the draft CRDO was submitted in January 2010 and June 2010 the following 5 matters were unclear: employment land requirement and supply; alternative sites; access; retention of Ballavagher farmhouse and outbuildings; and conditions. It seems that all these matters were addressed just before the Inquiry opened or during the Inquiry. This late preparation is odd given the long time – 4 years - the CRDO has been under consideration by DoLGE and DoI.
- 508. The CRDO clearly breaches important Strategic Plan policies and insufficient material considerations were submitted to outweigh these policy breaches.
- 509. If the Minister decides that the CRDO should be confirmed, despite the Inquiry evidence, the revised conditions set out in CD35(c) should be imposed subject to the comments in the section on conditions above.

RECOMMENDATION

510. The Cooil Road Development Order should not be made.

A handwritten signature in black ink, reading "David Sushky". The signature is written in a cursive style with a large initial "D". A horizontal line is drawn underneath the signature.

INDEPENDENT INSPECTOR

APPEARANCES

For the DoI of Infrastructure

John Barrett of Counsel instructed by DoI of Infrastructure

He called:

Mark Kelly – Department of Economic Development

Chris Whitfield BSc PhD – Ecotec

Andrew Delaney BSc MCD MRTPI – Colliers International

Ian McCauley Dip TP MRTPI – Planning Director, DoI

Francis Hesketh BSc MIEEM MICS – The Environment Partnership

Nick Johnson BA MA AIFA – Oxford Archaeology

Carolyn Gratty BA DipLA CMLI – The Environment Partnership

Derek Sewell BSc MILT – Highways Planning Manager, DoI

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He called:

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Vincent Fraser QC and Giles Cannock of Counsel instructed by David Humphrey

They called:

David Humphrey BA (Hons) MCD MRTPI

Bryan Hall BSc MSc CEng MICE

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For Mr K Killian

K Murray Advocate instructed by M Watts

He called:

Michael Watts Dip URP MRTPI

For Mr J Quinn

Mr Stephen Sauvain QC instructed by Quinn Legal

He called:

Iain Reid Dip TP, MRTPI, Dip LD, CMLI

Henry Kennaugh, Hilberry Green, Douglas

Ramsey Town Commissioners

Mrs V Teare, Colooney's Bungalow

CDSS

Cooil Road Development Order

Core Documents List 8th November 2010

	Document Title	Document Type	Available From
CD1	Isle of Man Government Strategic Plan	National	http://www.gov.im/lib/docs/cso/governmenttstrategicplan200711.pdf
CD2	Isle of Man Economic Strategy 2004	National	http://www.gov.im/lib/docs/treasury/economic/reviseconomicstrategyreport227.pdf
CD3	The Island Development Plan The Isle of Man Strategic Plan – Towards a Sustainable Island Government Report 023/07	National	http://www.gov.im/lib/docs/transport/planning/plan/strategicplanfinalversiontoty.pdf
CD4	Department of Local Government and the Environment Service Delivery Plan 2008	National LINK NOT WORKING	http://www.gov.im/lib/docs/cso/plan/dlge1.pdf
CD5	Department of Local Government and the Environment Service Delivery Plan 2009	National	http://www.gov.im/lib/docs/cso/plan/dolgesdp2009.pdf
CD6	Braddan Parish District Written Statement (Planning Circular 6/91)	Local	Andy Johnstone or Planning Offices
CD7	The Braddan Parish Plan (modified draft written statement incorporating modifications proposed to the Draft Plan issues in April 2001 and for consideration at the Public Inquiry) NB This Plan has now been abandoned.	Local	Andy Johnstone or Planning Offices
CD8	Inspector's report following the April 2001 Public Inquiry on the Draft Braddan Parish Plan.	Local	Andy Johnstone or Planning Offices
CD9	Douglas Local Plan 1998	Local	Andy Johnstone or Planning Offices
CD10	Onchan Local Plan April 2000 Planning Circular 1/2000	Local	Andy Johnstone or Planning Offices
CD11	Ramsey Local Plan 1998	Local	Andy Johnstone or Planning Offices
CD12	Employment Land Availability Study 2007	Study	Andy Johnstone or Planning Offices
CD13	Employment Land Availability Study 2010 (Draft)	Study	Andy Johnstone or Planning Offices
CD14	Landscape Character Assessment Draft PPS (October 2009)		http://www.gov.im/lib/docs/transport/planning/consultations/south/pplslandscapecharacterindevelopme.pdf
			http://www.gov.im/lib/docs/transport/planning/consultations/south/pplslandscapecharacterindevelopme.pdf

			ng/consultations/south/theroleoflandscapecharacterind.pdf
CD15	Environmental Impact Assessment (March 2009)	Order Specific	From Andy Johnstone or Planning Offices (available on CD a paper copy incurs a charge)
CD16	Economic Impact Study (January 2009)	Order Specific	From Andy Johnstone or Planning Offices (available on CD a paper copy incurs a charge)
CD17	2007 Draft Order and accompanying papers	Order Specific	http://www.gov.im/lib/docs/transport/planning/plan/cooilrdorder.pdf http://www.gov.im/lib/docs/transport/planning/plan/cooilrdexplanatorymemo.pdf http://www.gov.im/lib/docs/transport/planning/plan/cooilroadorderipeq.pdf
CD18	January 2010 Draft Order and accompanying papers	Order Specific	http://www.gov.im/lib/docs/transport/planning/plan/180110draftcooilroadorder.pdf http://www.gov.im/lib/docs/transport/planning/plan/backgroundstatement2010january.pdf
CD19	June 2010 Draft Order and accompanying papers	Order Specific	Andy Johnstone or Planning Offices
CD20	The Draft Southern Area Plan		http://www.gov.im/lib/docs/transport/planning/consultations/south/areaplanforthesouthwebversi.pdf
CD21	The Isle of Man Landscape Character Assessment July 2008 produced by Chris Blandford Associates	Study	Available to view from Andy Johnstone or the Planning Offices (available to purchase on CD no paper copies available.) Summary and map available to view at http://www.gov.im/lib/docs/transport/planning/iomlandscapecharacterassessment.pdf
CD22	The Isle of Man Retailing Study – Update May 2009 – produced for the DTI by Roger Tym and Partners	Study	http://www.gov.im/lib/docs/ded/Retail/isleofmanretailstrategyfinalire.pdf
CD23	Employment Land Availability Study 2010 (Final)	Study	Andy Johnstone or Planning Office (CD and Paper copies available - charge applies)
CD24	Transport Assessment Addendum Report – produced by JMP Consultants Limited	Report	Andy Johnstone or Planning Offices

CD25	Statement of Common Ground – Visual Receptors	Statement of Common Ground	Andy Johnstone <u>Planning Appeals - Isle of Man Government - Chief Secretary's Office</u>
CD26	Statement of Common Ground – Planning Issues (Draft Two)	Statement of Common Ground	Andy Johnstone <u>Planning Appeals - Isle of Man Government - Chief Secretary's Office</u>
CD27	Statement of Common Ground – Archaeology and Heritage (Draft Two)	Statement of Common Ground	Andy Johnstone <u>Planning Appeals - Isle of Man Government - Chief Secretary's Office</u>
CD28	Statement of Common Ground – Employment Land Availability (Draft One) (Comment from Barris Liptrott)	Statement of Common Ground	Andy Johnstone <u>Planning Appeals - Isle of Man Government - Chief Secretary's Office</u>
CD29	Pre-Inquiry Meeting Notes (PIM) 19 th July 2010	Notes	Andy Johnstone <u>Planning Appeals - Isle of Man Government - Chief Secretary's Office</u>
CD30	Planning Application 09/01535/A – Officer's Report, Plans & Decision Letter	Planning Application	Andy Johnstone <u>Planning Appeals - Isle of Man Government - Chief Secretary's Office</u>
CD31	Planning Application 07/00486	Planning Application	Andy Johnstone <u>Planning Appeals - Isle of Man Government - Chief Secretary's Office</u>
CD32	Planning Application 10/00155/B	Planning Application	Andy Johnstone <u>Planning Appeals - Isle of Man Government - Chief Secretary's Office</u>
CD33	Planning Application 07/02358/B	Planning Application	Andy Johnstone <u>Planning Appeals - Isle of Man Government - Chief Secretary's Office</u>

CD34(a)	The Demand for Industrial Land and Industrial Premises in the Douglas Area 1985 – 2025 Report dated 1st December 2005 made by Black, Grace, Cowley	Report	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> - <u>Chief Secretary's Office</u>
CD34(b)	Appendix 2 Land currently Zoned For Light Industrial Use In Douglas, Onchan & Braddan		
CD35	Coil Road Development Order – Revised Conditions (Version dated 13 th October 2010 – CD 35(b))	Revised Conditions	DOI/Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> - <u>Chief Secretary's Office</u>
CD36	Extract Isle of Man Bus Timetable	Bus Timetable	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> - <u>Chief Secretary's Office</u>
CD37	Braddan Parish Plan Public Inquiry – Modified Draft Written Statement Evidence Iain Reid on Behalf of Heritage Homes in Relation to Land South West of Coil Road April 2003	Statement	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> - <u>Chief Secretary's Office</u>
CD38	Department of Infrastructure – Comments on Alternative Sites suggested by Mr H Kennaugh	Comments	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> - <u>Chief Secretary's Office</u>
CD39	Proposed Amendment to Site Plan – 6 th October 2010 as prepared by Tesdale	Plan	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> - <u>Chief Secretary's Office</u>
CD40	Re: Draft Braddan Local Plan Inquiry Submission of Baccarat Limited to the Reconvened Inquiry to be held on Monday 8 th December 2003	Submission by Baccarat	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> - <u>Chief Secretary's Office</u>
CD41	Extract from Report of the Select Committee of Tynwald on the Affairs of Braddan Parish Commissioners	Report	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> - <u>Chief Secretary's Office</u>

CD42	Braddan Parish Plan Public Inquiry – Modified Draft Written Statement Evidence Iain Reid on Behalf of Heritage Homes in Relation to Sites adjacent to the Business Park and at Richmond Hill which are Proposed as Open Space by the Modified Draft Plan April 2003 – Proof F	Statement	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> <u>- Chief Secretarys Office</u>
CD43	Isle of Man Business Park – Corporate HQ Offices – as supplied by Dandara	Submission by Dandara	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> <u>- Chief Secretarys Office</u>
CD44	Appeal Statement by Dandara Commercial Limited for Planning Application 10/00155/B Planning Appeal AP10/0101	Appeal Statement	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> <u>- Chief Secretarys Office</u>
CD45	Addendum to Proof of Evidence – Chris Whitfield (Ecotec) October 2010	Addendum to Proof of Evidence	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> <u>- Chief Secretarys Office</u>
CD46	Kirby Farm – Planning Applications: PA 06/01170; PA 08/02311/B – Granting of Planning Approval Planning Application PA 10/01336		Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> <u>- Chief Secretarys Office</u>
CD47	Department of Local Government and the Environment – Department Report: “Island Strategic Plan – Progressing the Plan” March 2007	Report	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> <u>- Chief Secretarys Office</u>
CD48	Extract from “” re the Code of Practice on Access to Government Information	Extract from Code of Practice on Access to Government Information	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> <u>- Chief Secretarys Office</u>
CD49	Email from Mr Richard Drinkwater (Castletown Insurance) to Mr Peter Horsthuis re Drinkwater Estate	Email	Andy Johnstone <u>Planning Appeals - Isle of Man Government</u> <u>- Chief Secretarys Office</u>

CD50	Further Information as provided by Caroline Gratty	Various	Andy Johnstone Planning Appeals - Isle of Man Government - Chief Secretarys Office
CD51	Dandara Commercial Limited – Isle of Man Business Park HQ Areas & 2010 Site Usage Layout	Plan/Map & Data	Andy Johnstone Planning Appeals - Isle of Man Government - Chief Secretarys Office

Cooil Road Proofs of Evidence 8th November 2010

Tesdale Limited

Tes1	Paul Chadwick	Main Proof on Archaeology
Tes1A	Paul Chadwick	Summary of Main Proof
Tes2	Paul Chadwick	Appendices
Tes3	Duncan Bridges	Main Proof on Ecology
Tes3A	Duncan Bridges	Summary of Main Proof
Tes4	Duncan Bridges	Appendices
Tes5	Kelvin Clarke	Main Proof on Highways and Transport
Tes5A	Kelvin Clarke	Summary of Main Proof
Tes6	Kelvin Clarke	Appendices
Tes7	Geoff Black	Main Proof on Industrial Land Availability
Tes7A	Geoff Black	Summary of Main Proof
Tes8	Geoff Black	Appendices
Tes9	Barry Chinn	Main Proof on Landscape
Tes9A	Barry Chinn	Summary of Main Proof
Tes10	Barry Chinn	Appendices
Tes11	Kaz Ryzner	Main Proof on Planning
Tes11A	Kaz Ryzner	Summary of Main Proof
Tes12	Kaz Ryzner	Appendices
Tes13	Kaz Ryzner	Proof on Colooney's Lane
Tes14	Barry Chinn	Supplementary Evidence

Department of Infrastructure

DOI1	Department of Infrastructure
DOI2	Department of Infrastructure
DOI3	Department of Infrastructure

Cultural Heritage *John*
 Ecology *Heidi*
 Economic Need *Heidi*

DOI4	Department of Infrastructure	Development Order
DOI5	Department of Infrastructure	Landscape - <i>Crilly</i>
DOI6	Department of Infrastructure	Economic Policy - <i>Killing</i>
DOI7	Department of Infrastructure	Planning Issues - <i>McE</i>
DOI8	Department of Infrastructure	Transport - <i>Senaka</i>
DAN1	Dandara Dandara Commercial Limited	David Humphrey
DAN2	Dandara Commercial Limited	David Humphrey - Appendices
DAN3	Dandara Commercial Limited	Landscape and Visual Impact
DAN4	Dandara Commercial Limited	Bryan G Hall - Transport
DAN5	Dandara Commercial Limited	Bryan G Hall - Transport - Appendices
DAN6	Dandara Commercial Limited	Bryan G Hall - Transport - Erratum and Appendices
KK1	NLP and Partners (for Mr Killian)	Mr Watts' Proof of Evidence
KK2	NLP and Partners (for Mr Killian)	Mr Watts' Proof of Evidence - Appendices
JQ1	Mr John Quinn Objection of Mr John Quinn	Evidence of Mr Iain M Reid
JQ1	Objection of Mr John Quinn	Evidence of Mr Iain M Reid Appendix 1
JQ1	Objection of Mr John Quinn	Evidence of Mr Iain M Reid Appendix 2
JQ1	Objection of Mr John Quinn	Evidence of Mr Iain M Reid Appendix 3
JQ1	Objection of Mr John Quinn	Evidence of Mr Iain M Reid Appendix 4
JQ1	Objection of Mr John Quinn	Evidence of Mr Iain M Reid Appendix 5
JQ1	Objection of Mr John Quinn	Evidence of Mr Iain M Reid Appendix 6
JQ1	Objection of Mr John Quinn	Evidence of Mr Iain M Reid Appendix 7
JQ1	Mr John Quinn	Letter to Chief Secretary's Office 7th July 2010
IOMDC1	Morbaine Limited - IOMDC	Evidence of Mr Barris Liptrott
IOMCoC	Isle of Man Chamber of Commerce	Letter to Chief Secretary and Proof

HK1	Mr Henry Kennaugh	Submission 31st August 2010
HK2	Mr Henry Kennaugh	Submission 6th September 2010
VAR1	Isle of Man Post	Letter 6th August 2010 Mr Malcolm Macpherson (Managing Director IOM Post)
VAR1	Mrs Gidman	Letter of objection 28th June 2010
VAR1	Ramsey Town Commissioners	Submission 6th September 2010
VAR1	Rose Lea Limited	Submission 2nd September 2010
VAR1	Mr and Mrs Teare	Letter of objection 30th June 2010

Rebuttal Statements 8th November 2010

R1	Morbaine Limited – Barris Liptrott	Rebuttal Statement	
R2	Dandara Commercial Limited – Deed Plan (response to Tesdale)	Rebuttal Statement	
R3	DOI R1 Department of Infrastructure - Rebuttal of Francis Hesketh	Rebuttal Statement	
R4	DOI R2 Department of Infrastructure - Rebuttal of Chris Whitfield	Rebuttal Statement	
R5	DOI 3 Department of Infrastructure – Rebuttal of Andrew Dealaney	Rebuttal Statement	
R6	DOI 4 Department of Infrastructure – Rebuttal of Nick Johnson	Rebuttal Statement	
R7	DOI 5 Department of Infrastructure - Rebuttal of Carolyn Gratty	Rebuttal Statement	
R8	Rebuttal from Mr Bo and Mrs Wendy Larsen	Rebuttal Statement	
R9	Rebuttal Evidence relating to Heritage by Paul Chadwick CgMs – TES 1B	Rebuttal Statement	
R10	Rebuttal Statement from Mr G P R Black (Black, Grace, Cowley)	Rebuttal Statement	
R11	Barry Chinn on behalf of Tesdale Limited – Rebuttal of Evidence in Proof prepared by the Appleton Group (Dandara Commercial Limited)	Rebuttal Statement	
R12	Rebuttal Evidence of Mr Kelvin Clarke JMP	Rebuttal Statement	
CC1	Chief Secretary's Office Counter Copy of Draft Order, etc. Original Responses to Advertisement of Order		