

Warrington Local Plan

Inspector's Matters, Issues and Questions identified by the Inspectors

Response on behalf of Emerald Kalama Chemical Ltd (ref no. 2452)

Matter 1 – Procedural/legal requirements

Q17. What is the intended role of Development Frameworks for Main Development Areas? How will the Local Plan relate to these and masterplans?

Emerald Kalama Chemical Ltd (part of the LANXESS Group) ("Emerald Kalama") are concerned that the development concept diagram for the Fiddler's Ferry site (Policy MD3) appears to have been prepared without full consideration and assessment of the site's constraints and in particular the location of the site adjacent to an Upper Tier COMAH site. There is no evidence within the draft Local Plan that the Council has had any regard to the constraints associated with the site being adjacent to an COMAH site.

Notwithstanding this, Emerald Kalama support the principles set out at MD3.2 points 5 & 6 which require a Development Framework to be prepared prior to the submission of any planning applications on the site providing that they are identified as one of the key stakeholders and are involved in the preparation of the Development Framework. The reasons for which are set out in our representations on Matter 6c. Given the lack of assessment in the formulation of the Local Plan and site selection process, the Development Framework must be informed by an appropriate assessment that demonstrates the Emerald Kalama site will not be adversely affected by the development proposals within this area and that any proposals must have regard to the wider public safety interests.

Given the importance of the Development Framework to setting the requirements for the development of the Fiddler's Ferry site, Emerald Kalama consider that it should be prepared as a Supplementary Planning Document to enable appropriate consultation to take place. A more formal approach will ensure that relevant parties are consulted.

16. Has the Council had regard to the other relevant specific matters set out in S19 of the 2004 Act (as amended) and Regulation 10?

Regulation 10(1)(b) of the Town and Country Planning (Local Planning) (England) Regulations 2012 provides that local plans must take account of the "*objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment*".

Regulation 10(1) (c) provides that local plans must have regard to the need in the long term *“(i) to maintain appropriate safety distances between establishments and residential areas, buildings and areas of public use, recreational areas, and, as far as possible, major transport routes; (ii) in the case of existing establishments, to take additional technical measures in accordance with regulation 5 of the Control of Major Accident Hazards Regulations 2015 so as not to increase the risks to human health or the environment”*.

There is no evidence within the draft Local Plan that this Regulation has been considered in proposing the allocation of Land at Fiddler’s Ferry under policy MD3 or in the wider preparation of the Local Plan. This is considered to be significant flaw in the preparation of the Local Plan.

Regulation 25 of the Planning (Hazardous Substances) Regulations 2015 provides that Councils preparing plans or programmes relating to new developments around establishments where the siting or developments may increase the risk or consequences of a major accident must take measures to ensure that public consultees (any person of whom the Council is aware would be affected or likely to be affected by, or have an interest in, the relevant plan) are given early and effective opportunities to participate in the preparation, modification or review of the plan and to do so by ensuring that they are informed of any proposals to prepare a relevant plan and provide relevant information about such proposals to them, together with confirmation on how and within which timescale to make comments.

Emerald Kalama would be such a consultee given that the draft plan seeks to enable development on the site adjacent to its Upper Tier COMAH site. No such consultation has taken place and it is also unclear from the Council’s examination documents as to whether the Health & Safety Executive have been consulted and involved in the plan making process. In order to demonstrate that the allocation of land at Fiddler’s Ferry under policy MD3 is legally compliant, the Council must show that the Plan complies with the requirements of both these sets of Regulations.