



# Wirral Local Plan – Main Modifications Response Form

## 3. Data Protection Notice

x	Please tick this box to confirm that you understand that your name and your response will be published, that your full name and details will be passed to the Planning Inspectors, and that you have read and understood the Council's privacy notice.
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Please note that all comments will be held by Wirral Council and made available in accordance with our privacy notice, which can be viewed at <https://www.wirral.gov.uk/planning-and-building/local-plans-and-planning-policy/forward-planning-privacy-notice> or obtained from one of the addresses below.

Please read all the information related to this consultation on the Council's webpage at <https://www.wirral.gov.uk/new-local-plan> or which has been placed in public libraries, and the Wirral Local Plan Modifications Response Form Background Note before you make your representations.

## 4. Completed Responses

Please submit your completed Response Form/s **to arrive at one of the addresses below no later than 5pm on Friday 8 November 2024.**

- by email to: [localplan@wirral.gov.uk](mailto:localplan@wirral.gov.uk), clearly marked as 'Wirral Local Plan – Consultation on Main Modifications'  
or
- by post to: Wirral Local Plan - Main Modifications, Wirral Council, PO Box 290, Wallasey CH27 9FQ

Please note that comments received after this deadline will not be accepted.

Please use a separate Response Form for each modification that you wish comment on.

If you require any further information, please contact the Council's Forward Planning Team by e-mail at [localplan@wirral.gov.uk](mailto:localplan@wirral.gov.uk) or by telephone on 0151 691 8235.

# Wirral Local Plan – Main Modifications Response Form

## Part B

1. **To which Modification does your representation relate?** (please insert as appropriate)

Main Modification Reference number: MM50

2. **If your comment is on a Main Modification, do you consider that the Main Modification is:**

Legally Compliant – Yes

Sound – No

3. **Please explain why you consider a Main Modification does not assist in achieving legal compliance or soundness or provide any other comments on it in the box below. Please be as precise as possible.**

Essar Oil (UK) Limited and Stanlow Terminals Limited (“Essar”) own and operate Tranmere Oil Terminal, a deep water terminal which receives some of the World’s largest vessels via the Irish Sea and represents Critical National Infrastructure.

Tranmere Oil Terminal is designated as a top tier site under the Control of Major Accident Hazards Regulations 2015 (“COMAH”) due to the quantity of hazardous substances present. Essar is therefore tightly regulated under the COMAH regime and is required to comply with a range of strict regulations. The storage of hazardous substances at or above certain thresholds, requires a hazardous substance consent (“HSC”) pursuant to the Planning (Hazardous Substances) Regulations 2015. Tranmere Oil Terminal has such consent for the site.

As such, they have a particular interest in ensuring that the emerging Local Plan provides sufficient safeguards and protection for top tier COMAH sites such as the Tranmere Oil Terminal and have made detailed written and oral submissions to the Local Plan Examination on these matters. Essar are disappointed that their representations and suggested modifications particularly to Policy WD16 do not seem to have been taken into account.

For context, a recent planning application on the land adjacent to the Tranmere Oil Terminal has highlighted why having appropriate policy protection for the site in a Local Plan is so important.

Essar raised a number of objections to the proposals on the basis that the introduction of a significant number of employees and vehicles onto a site which straddles all three COMAH consultation zones may create significant difficulties for Essar in continuing to demonstrate that major accident hazard risks remains ALARP. Furthermore, such a use could impede flexibility at Tranmere Oil Terminal which is needed to allow Essar to compete in global markets and to adapt to the needs of the region, as it proposes to do by introducing the Low Carbon Biofuels Hub. The application was however approved.

## Wirral Local Plan – Main Modifications Response Form

Any change in circumstances may impact on Essar’s ability to demonstrate to the HSE that it is operating its site to reduce major accident hazards to a level where they are ALARP. For example, additional mitigation may be needed for Essar to comply with their requirements and the cost of such which, depending on the level of mitigation, may be significant, would be borne by them and not the ‘agent of change’ contrary to paragraph 193 of NPPF.

This is the critical point as such additional mitigation requirements borne out of changes of land use in the vicinity of the site have the potential to significantly impact on the operation of the Tranmere Oil Terminal and the flexibility that it needs to operate in a dynamic and changing market. It is also in a unique position at the forefront of HyNet, the leading industrial decarbonisation cluster unlocking the hydrogen economy in the north west. There aren’t many of these types of facilities in the country, so it is vital that they are given adequate protection and should be considered as a national resource.

Notwithstanding Essar’s disappointment that their suggested modifications have not been taken into account, they are extremely concerned with proposed modification MM50. This would significantly reduce the protection provided to COMAH sites from that which was previously proposed and not improve protection, as set out in our detailed representations to the examination.

Examination document DSH13 (Supplementary Information Requested by the Inspectors – Question 5 prepared by the Council – July 2023) suggests the reasons for removing criteria D as being:

*“The wording of the policy has been rolled forward from Policy P09 Criteria for Development Near Notifiable Hazards of Wirral Council Unitary Development Plan 2000. The exact origins of clause D are unknown due to changes in staffing of the Local Plans team. The policy phraseology is broadly consistent with the latest PPG and HSE advice which is included and highlighted below but there is no specific current PPG guidance or HSE advice mirroring clause D.*

*The Council considers that the removal of clause D as follows would be an appropriate course of action since clause C is sufficient to assess planning applications. This is for reasons for effectiveness”.*

Whilst Essar does not disagree that clause C provides criteria to assess a planning application against, it clearly does not provide the same level of protection as the current policy wording, particularly on existing Hazardous Substance Consents.

As such, it must be made clear that development proposals which would require the modification or revocation of an existing Hazardous Substance Consent, must not be permitted. Such a situation would clearly not accord with NPPF paragraphs 101 and 193 and the Agent of Change Principle, in that it would significantly compromise the ability of Essar to operate.

Paragraph 101 of NPPF advises that policies and decisions should ensure that, *“operational sites are not affected adversely by the impact of other development proposed in the area”.*

## Wirral Local Plan – Main Modifications Response Form

Paragraph 193 of NPPF is clear on this point and states:

*“Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established”.*

If a proposal adjacent to the Hazardous Installation would require the alteration or revocation of the Hazardous Substance Consent, then this clearly demonstrates that the proposal should not be granted planning permission.

Moreover, Policy WD16 including clause D, as originally proposed, did not really go far enough, for the reasons set out in our representations to the examination, as it only sought to protect sites like this one from proposals which would require modification or revocation of an existing HSC and had no regard to protecting them from proposals which would affect the site’s ability to obtain further HSCs. It is expected of sites such as this that the need for different HSCs will evolve over the life of the operation of the site and the ability for such should not be hampered by nearby proposals. However, removal of clause D, as it was proposed means that in making determinations on nearby proposals, decision makers may not take HSCs into consideration as part of the decision making process, which could significantly adversely affect operation of this Upper Tier COMAH site classified as Critical National Infrastructure.

It is considered that the removal of clause D would make Policy WD16 less effective, contrary to the Council’s view and result in it not being consistent with national policy for the reasons set out above.

## Wirral Local Plan – Main Modifications Response Form

### 4. Please set out in the box below the changes you consider necessary to make the Main Modification legally compliant and sound.

At the very least, to make Policy WD16 sound, clause D as currently drafted should be retained.

However, it remains Essar's position, that the local plan needs to have regard to the Tranmere Oil Terminal not just as of importance to the Port, but as an Upper Tier COMAH site classified as Critical National Infrastructure and to build in specific provisions to be met in order to ensure the protection of people within this location. Such a policy should explicitly provide that new development must not prejudice or conflict with the continued and future operation of the Tranmere Oil Terminal site.

It is therefore suggested that either modifications are made to Policy WD16 or an additional policy is added after Policy WD16 with suggested wording as follows:

*“The Tranmere Oil Terminal and its associated infrastructure including pipelines linking it to the Stanlow Manufacturing Complex is of national importance and any new development should not prejudice the continuing and future operation of the site”.*

It is vital that the site is protected not only for its current operations but also for Essar's future investment plans which are now focused on decarbonisation, building new energies infrastructure for the hydrogen economy and developing a low carbon storage hub at both Tranmere Oil Terminal and Stanlow Manufacturing Complex to enable the energy transition and support the UK's ambitions to move to Net Zero.

## Wirral Local Plan – Main Modifications Response Form

5. Do you have any comments on the Sustainability Appraisal or to the Habitats Regulations Assessment in respect of this particular Main Modification? Please provide them in the box below.

N/A

## Wirral Local Plan – Main Modifications Response Form

**6. Do you have any comments on a Proposed Change to the Policies Map? Please provide them in the box below.**

N/A



# Wirral Local Plan – Main Modifications Response Form

## Part C

**Do you have any comments on one of the Councils Additional Modifications? Please provide them in the box below.**

N/A

## Wirral Local Plan – Main Modifications Response Form

Thank you for completing this form.

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