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**Stantec, on behalf the Co-operative Group**

**Examination into the Leicester City Local Plan**

**Matter 16: Development and Infrastructure**

**Issue 16: Has the Plan been positively prepared and is it justified, effective and consistent with national policy in respect of its policies and proposals for infrastructure in Leicester?**

**Policy DI01 – Developer Contributions and Infrastructure**

***Q469: Does Policy DI01 satisfy paragraph 34 of the NPPF, which states that plans should set out the contributions that are expected from development, including infrastructure for, amongst other things, education, health and transport?***

1. Paragraph 34 of the NPPF states that plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure).
2. As written, policy 34 of the draft Local Plan is not considered to align with the NPPF in this respect. It is acknowledged, however, that the supporting text provides a link to Appendix 4 of the Plan, which sets out a comprehensive list of what infrastructure the Council considers is required in order to support the Plan once adopted, and the policy clearly requires development to mitigate its impact through necessary infrastructure. The Council's expectations in terms of affordable housing are set out elsewhere within the Plan, therefore, the Co-op considers that a link to the list at Appendix 4 should be written into the text of the Policy, for the avoidance of doubt.
3. Notwithstanding this, it is noted that Appendix 4 sets an extensive list of infrastructure requirements, and the funds that are required to deliver these, but provides no indication of how these funds will be secured, where the funds will come from or how the infrastructure will be delivered. The Co-op considers that clarity is required in this respect within the Plan's Appendix itself, particularly for the development industry who will need to understand to what extent the financial burden for this infrastructure will be placed on themselves. Failure to do so could lead to developments being stalled as a result of unexpected viability discussions.
4. It is noted that a greater degree of information on the specific nature of the infrastructure that the Council claims is required is set out within the Infrastructure Assessment and Delivery Schedule (Doc. Ref: EB/DI/1a). However, it does not provide clarity on how these funds will be secured, or who will be responsible for the delivery of this infrastructure.
5. The Plan indicates that the requested information, and further details of developer contributions will be set out within a new supplementary planning document (SPD), to be prepared following the adoption of the Plan. However, in order to be compliant with paragraph 34 of the NPPF, the SPD cannot introduce additional requirements over and above the Plan. The SPD could take a number of years to produce and adopt, which is not considered appropriate given the pressing need to deliver new homes, and on an assumption that the Council will look to developers to fund the required infrastructure.

**Q470: What is the timescale for the production of the ‘developer contributions and infrastructure supplementary planning document’ (SPD) and what will it cover, bearing in mind that the Planning Practice Guidance<sup>9</sup> states that it is not appropriate to set out new formulaic approaches to planning obligations in SPDs or supporting evidence base documents, as these would not be subject to examination? To be effective does this SPD need to be mentioned within the policy?**

6. The Co-op considers that this is a question for the Council to answer, but would reiterate the concerns set out in response to Q469 above in that, at present, there is no certainty around the nature of developer contributions, or the expectation that will be placed on planning applicants, nor is there any clarity on when a new SPD will be produced, or how long it will take. This being the case, and notwithstanding the Council’s response to this question, the Co-op does not consider that the approach currently set out in the draft Local Plan is appropriate moving forward, particularly given the urgent need for new homes and the government impetus on swift delivery.

**Q471: The Whole Plan Viability Assessment (May 2022) [EB/DI/3] states, in paragraph 12.100, that, on the whole, the Council is not securing developer contributions. Where is the evidence to show that Policy DI01 would be effective in delivering contributions, particularly on brownfield sites?**

7. The Co-op does not wish to comment in response to this question.

**Q472: In considering viability in decision making, is Policy DI01 clear and unambiguous on the guidance being referred to and the circumstances in which development contributions may be varied?**

8. No. The Co-op does not consider that Policy DI01 is clear and unambiguous in this respect. We note that the viability section of the policy is very brief, simply stating that “Any consideration of viability, including in decision making, will be in accordance with the guidance”.
9. The policy does not state which guidance is being referred to here however, having regard to the supporting text, particularly that at paragraph 18.9 of the draft Plan, the “guidance” referred to by the Council is assumed to be the “current planning guidance”, along with Section 106 of the Town and Country Planning Act (1990) and the Community Infrastructure Levy – CIL Regulations 2010 (as amended).
10. Notwithstanding, the term “guidance” is still considered to be rather vague, and it is considered that the Policy text (not just the supporting text) should be clear and specific and should therefore refer to the Planning Practice Guidance (PPG), as well as the legislation, as detailed above. This would provide a far clearer, and unambiguous framework for the consideration of viability in planning decisions over and above the policy as it is currently written.

**Q473: Within the updated Infrastructure Assessment 2023 [EB/DI/2], it is stated that a number of the infrastructure requirements would be funded by the Local Authority. What evidence is there to demonstrate that the necessary funding would be available over the Plan period?**

11. Akin to previous responses above, it will be for the Council to demonstrate how it intends to fund infrastructure requirements and, as also stated above, it is not clear from the information available where the funds are likely to come from. If the financial burden is to be placed with the development industry, then the Council should provide further information, at this stage, and not place reliance upon the future production of a Developer Contributions SPD.

***Q474: What evidence is there to demonstrate that the necessary infrastructure requirements can be delivered over the Plan period?***

12. As stated previously, there is a degree of ambiguity in terms of how and when infrastructure will be delivered. It is noted that the Updated Infrastructure Assessment, dated January 2023 (Doc. Ref: EB/DI/2) provides a series of broad timeframes for delivery, but it is not clear what assumptions these timeframes are based upon, and so it is not possible to gauge how realistic they are. This is something that the Council will clearly need to provide clarity on, as well as providing more information on funding sources, as per the responses above.

***Q475: Are there any inter-dependencies between infrastructure schemes and the delivery of development allocated in the Plan? If so, is further clarification required in the relevant policies, such as development thresholds triggering a need for specific infrastructure?***

13. It is assumed that, to a certain extent, the burden of funding and delivering certain infrastructure requirements will fall to the development industry as part of planning applications. The Co-op has no objection to this, in principle, provide that the matter is properly evidenced and justified, including through viability testing. As indicated throughout this Statement, however, the extent of this reliance, or indeed how this relates to individual site allocations is not established. Whilst the strategic allocations may benefit from a degree of clarity, as per their specific policies, the same cannot be said for the non-strategic sites.
14. The Council has confirmed that it intends to prepare a Developer Contributions SPD document following the adoption of the Plan, however, and as previously stated, this could take a number of years to develop and adopt, which would result in a period of 'limbo' whereby planning applications will be submitted for the allocated sites, with no clear guidance on what is to be expected from them in terms of development contributions. This lack of clarity is unhelpful and could result in otherwise sustainable and acceptable developments being stalled over lengthy viability discussions which could have been avoided had this information been made available from the outset.
15. If the Plan is to succeed in delivering substantial growth, and significantly boost the supply of housing land, in line with the provisions of the NPPF, then the Council should include this information at the Local Plan stage, to provide confidence to the market and support the investment in Leicester.