

Consultation Response

OFWAT Consultation on the Scope & Balance of Developer Charges & Incentives - DRAFT

Version 1

Introduction

Barratt Developments PLC is one of the UK's leading housebuilders. Employing specialists from a broad range of disciplines means we have the experience and expertise to manage housing and mixed-use projects of all sizes from start to finish. Barratt is a member of the FTSE 100

In FY 2020 our total home completions were 12,604, largely due to Covid-19, but this is expected to be back up to c15,000 in FY 2021

Barratt has more than 6,500 members of staff working across twenty-seven operating divisions in the UK.

Consultation Response

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Applying the consultation response as	Housing Developer

Q1 – Do you have any comments on key conclusions from the Frontier Economics Report?

1.01 We appreciate that Ofwat has asked for comments on the Report's key conclusions, however there are several aspects of the Report that raise further questions and therefore we feel it prudent to share the following observations:

- 1.02 It is noteworthy that Frontier Economics could find no definition of the 'balance of charges' and how this has been determined in actual monetary terms and we therefore would raise that this statement questions on how in arriving at charging reforms that are to be fair, affordable, transparent, evidenced based and cost reflective can be achieved.
- 1.03 It is important to note that all sewerage companies pursuant to sections 37 and section 94 of the Water Industry Act 1991 have statutory duties and obligations placed upon them, but this has not been referenced within the report.
- 1.04 These obligations include maintenance, and to fund adequate infrastructure to meet future needs of a planning led system. Unfortunately, it would appear that Frontier Economics have not considered to define in monetary terms, what these obligations actually represent when it comes to cost, inclusive of a detailed and apportioned breakdown that identifies Developer contributions in preceding years and seems a missed opportunity.
- 1.05 Whilst Ofwat has confirmed it will not implement a requirement for the Developer Community to fund improvements in strategic infrastructure there is concern that this may change after 2025. We would question how water and sewerage companies could effectively and fairly apportion such costs in the continued absence of full evidential disclosure.
- 1.06 For example, using the most common size of site, i.e., between 50 and 100 dwellings, how would the demand (and contribution) from relatively small sites be accurately determined as a result of being a nominal addition to an existing and significantly larger network, and offset by sites that may have had a previous use and connected to existing networks?
- 1.07 Page 14 of the Report suggests that leakage and sewer infiltration reduction yielding network improvement/betterment should be funded by the Developer Community. This is concerning to read and unfair given the statutory obligations placed on all water and sewerage companies as noted above.
- 1.08 Section 185 Diversions
- Frontier Economics have not considered two important aspects, namely:
1. When diverting existing water or sewerage infrastructure no account has been taken of replacing aged infrastructure.
 2. There are a number of occasions when formal easements are in place and which include 'lift and shift' clauses requiring water and sewerage companies to divert at their entire cost – this too could have been recognised in the Report.
- 1.09 The Report is incorrect in the assumption that Developers decide where new development takes place. Land-use allocations in Local Plans are a material function of the local democratic process. Developers respond to these decisions and turn local plan decisions into construction reality at their cost. Frontier Economics appear to have missed that Water Companies are statutory consultees at the Local/Strategic Plan stage, and therefore are able to have sufficient forward visibility on future infrastructure investment needs, and/or advise planning authorities of capacity limitations and how and when these are to be overcome.
- 1.10 The Report considers what happens in the Energy and Communication Sector(s) respectively. However, the Report is not entirely correct when it comes to who provides the infrastructure. More importantly, it ignores that asset payments are an integral part of the commercial contract.

- 1.11 The position in the water and sewerage sector, whereby Developers pay for the provision of water and sewerage infrastructure and then 'gift' income generating assets to water and sewerage companies is an important aspect, not accounted for in the Report.
- 1.12 In tandem with the latter point, the Report does not account for those sites that have had a former use other than housing, and which were connected to existing company water and sewerage infrastructure which misses the bearing on water and sewerage company infrastructure provision, costs, and charges, especially infrastructure charges.
- 1.13 The Report implies that newly constructed infrastructure may be susceptible to snagging at a level that exceeds the performance of existing assets, thereby increasing water and sewerage company costs which in reality is funded by the Developer through compliance, supported and demonstrated by the lack of post-adoption intervention.
- 1.14 In the introduction and throughout the consultation, Ofwat refer to "*the balance of charges*". However, the Frontier Economics state in unequivocal terms:

"We understand that there is currently no agreed common definition of the balance of charges. Therefore, the concept of keeping the balance of charges broadly maintained is ambiguous, because it is not clear precisely what should be broadly maintained".
- 1.15 The Report does not define the value of the income offset based on actual company charging arrangements. The income offset identified in the Report is around £140/dwelling more than the current average. Irrespective of the value used, the immediate increase in cost for Developers would be considerable and can be shared if felt of value.
- 1.16 The Report does not consider how network capacity is determined, especially for existing foul sewers and how this in turn influences the cost components of the infrastructure charge, in particular when determining the level/cost of network reinforcement and we continue to raised questions on how network capacity is determined.
- 1.17 The Frontier Economics Report refers to water and sewerage company retained contractor costs and whether these are representative and reasonable. Company Board Assurance Statements do not provide the necessary reassurance in this regard and we would advocate that time is spent evaluating term contractor rates/provisions to ensure they are fair and representative, in addition to providing customer value for money.
- 1.18 Our view is that the proposals outlined in the consultation should have been accompanied by a Regulatory Impact Assessment which would have provided greater cost and charging granularity, especially given the increase experienced in Developer Community costs.

Q2 – We seek views on our reasoning and proposals with respect to charges for strategic assets, income offsets and the balance of charges rule.

Balance of Charges

- 2.01 As stated previously and confirmed by Frontier Economics, 'balance of charges; has not been defined and remains both ambiguous and subjective. Evidence, especially monetary, would help explain and define what the balance is.

2.02	<p>On page 13 of the consultation, Ofwat make the following statement:</p> <p><i>"Companies are now required to publish annually the revenues and associated costs for network reinforcements/infrastructure charges and set charges on the basis of average five-year cost".</i></p>
2.03	<p>Despite looking for this information, we have not been able to locate and would welcome Ofwat's steer in this regard. Each company's charging arrangements for 2021/22 has made no mention of such and how they have informed their revised infrastructure charges. Frontier Economics also made no reference to this requirement in their Report thereby raising further questions.</p>
<p><u>Income Offsets</u></p>	
2.04	<p>It has been agreed that the removal of the income offset will result in increased costs for Developers which seems against the statutory guidance issued to Ofwat by Defra, i.e., that cost neutrality for Developers is the expected worst-case outcome of the reforms?.</p>
2.05	<p>Improved competition remains light in the marketplace, in particular those companies able to operate with the larger Developer fraternity, and therefore not fully realised in reality.</p>
2.06	<p>The time taken to secure a NAV licence is circa 85days which does not provide a level playing field to work from. Likewise, barriers to increased competition from Self-lay Providers are also undermining any effective increase in competition that matches an increasing volume in housing output.</p>
2.07	<p>The statutory duty placed on all water and sewerage companies to provide the necessary water and sewerage infrastructure to meet the needs of a growing population is unequivocal. It is the Developer Community that responds to the demand for increased housing provision through the risk-based investments that it makes. It therefore remains a critical customer, singularly dependent on the statutory duties and obligations placed on all water and sewerage companies.</p>
2.08	<p>Crucially, there is nothing in the Water Act of 2014 that repeals the continuance of income offsets and noted previously, the gifting of perpetual income generating assets is not appreciated.</p>
<p><u>Charges for Strategic Assets</u></p>	
2.09	<p>Given the statutory duties and obligations placed on all water and sewerage companies pursuant to Section 37 and Section 94 of the Water Industry Act 1991 this should not be considered as a fair and equitable inclusion within Developer Service charges, furthermore, any such imposition would also necessitate a change in primary legislation.</p>
<p>Q3 – What environmental incentives should water companies be offering developers and NAVs? We are interested in examples of good practice. How can we better support this?</p>	
3.01	<p>Developers have been committed to delivering improved environmental standards and sustainability in new housing for decades. For example, significant reductions in surface water discharge on sites that have had a previous use and incorporating large impermeable areas. However, since the charging reforms were introduced in 2018, sewerage company discounts of infrastructure charges for reduced surface water discharge to existing public sewers, (when given) have been unrepresentative of the betterment created. In our opinion, further work is</p>

required in this area to establish a discount mechanism that is more appropriate rather than the current subjective approach being applied by sewerage companies.

3.02 Similar issues arise when it comes to water supplies to sites that have had a former use and connected to existing water infrastructure. We have experience of some water companies, refusing to give water infrastructure credits.

3.03 Ofwat has once more referenced the role that rainwater harvesting, and greywater recycling can play and we would like to highlighted the UK Government policy is moving towards embodied carbon as the likely carbon assessment metric, i.e., a whole life carbon approach that captures both operational and embodied carbon and that further research should be taken in this regard as a suitable solution, not least forgetting the wider customer interaction with such systems.

3.04 Environmental incentives that are well considered and effective are welcome but, the 'nitrate' issue briefly referred to by Ofwat on page 16 of the consultation, we would suggest, should be addressed by sewerage companies as part of their statutory duties and obligations under s94.

3.05 Nitrate contribution from the urban environment is around a quarter of the total nitrate loading – the Agricultural Industry being the major polluter, but in essence the Developer community is placed in the position to make further payments to be able to implement a planning consent.

Positive, beneficial reform and an opportunity to input into the discussion through consultation is always welcome, with the Frontier Economics Report seemingly to confirming that current charging arrangements require some further discussion, the main points of which we have articulated in our response.

Developers are committed to improved environmental sustainability and will continue to do so. However, the water and sewerage sector must support this journey and be seen to be making its own positive contribution.

We trust that you find our submission helpful and constructive. In the event that you may have any follow-up questions please do not hesitate to contact the respondent.

Gavin Thorne – Group Head of infrastructure and Utilities

Barratt Developments PLC