



BARRATT

DEVELOPMENTS PLC

Consultation Response

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Applying the consultation response as	Housing Developer

1 About us

We've been building high quality new build homes since 1958 and today have a network of 29 housebuilding divisions throughout Britain, selling new build homes under the Barratt Homes and David Wilson Homes brands.

We lead the industry on quality, customer service and sustainability. Every year since 2010, Barratt Homes has been awarded '5 Star' status by our customers in the Home Builder Federation's New Homes Customer Satisfaction Survey. Meanwhile our site managers have won more Pride in the Job Quality Awards than any other housebuilder for 18 consecutive years.

On sustainability, we were the first to set science-based carbon reduction targets and have been recognised by CDP and Next Generation as the leading national sustainable housebuilder. Our homes are highly energy efficient, all built to A or B EPC, as well as using water wisely. Our homes are designed to use 105 lpd, below the 125 lpd required by building regulations.

2 General comments

We thank Ofwat for providing us with the opportunity to respond. The consultation raises important issues that require careful analysis and consideration. Barratt is eager to continue working closely with Ofwat, even (or especially) where we may disagree on specific issues.

Whilst we understand Ofwat's thinking and direction of travel set out in consultation, we have concerns about the overall direction of developer charging. Some of these concerns are ongoing and have been the subject of recent correspondence between Ofwat and ourselves. In particular, we continue to have reservations about aspects of the evidence base and assumptions used by Ofwat to justify some of the proposed changes. Whilst we understand the 'ship may have sailed' regarding particular concerns e.g., income offsets, we consider this consultation an opportunity to present fresh arguments and evidence, which we hope Ofwat actively assesses.

You will be aware from our June 2021 letter to Emily Bulman and Barratt's response to Ofwat's consultation on updating developer charging rules of our of existing concerns about the level and increase in some charges, following the change in charging systems in 2018.

We are sceptical water companies under-recover from developers or that the wider customer base subsidises developer activities. In significant parts of Southern England, we know – both from our own and other developer's sites - reconciled water connection charges are 15-40% lower than the estimated charges.

This figure is derived from hundreds of reconciled water connections. Based on the range of sites reconciled, the overcharging dates back to at least the early 2000's – although we suspect it dates back further.

In relation to Barratt sites across the South of England, water connection final costs are between 20% and 40% lower than the estimated charge. This is hard, empirical evidence of actual charging practices in significant parts of England.

In our experience most water connections are not reconciled, which translates as profit for the water companies concerned. In many cases statutory interest is not calculated or offered to developers – unless specifically requested.

Furthermore, water companies usually receive payment in advance of the works. In our experience, the estimated charge is rarely revisited. There is little competitive pressure on water companies to reduce charges /refund what are, in effect, structural overcharges. The empirical evidence we have indicates many water company's estimated charges design out any chance of under recovery.

Apart from requisitions, water companies are able to recover the actual costs of any works. We consider there is a low chance of a water company undercharging developers where, by law, they can recover actual costs.

Regarding historic requisitions, we consider further investigation and analysis of 'actual' versus estimated developer contributions would be beneficial, assuming such a study has not already occurred. All of the inputs into the developer contribution are within the power of the water company – even if a developer supplies certain information, such as the build rate. In our experience, requisition charges are rarely reconciled post-construction. Based on our limited experience of reconciled requisitions, most of the variance between estimate and final favours the developer.

We draw Ofwat's attention to its own published casework. In relation to section 42, 45 and 98 Water Industry Act 1991 determinations, these all demonstrate the preponderance of overcharging. In particular, water company's approach to the recovery and apportionment of network reinforcement charges was extremely problematic prior to Ofwat deciding disputes such as South East Water v Persimmon Homes, Redrow Homes v Welsh Water and Barratt v Welsh Water.

Water mains and sewers are essentially gifted to the water company. At least in the early years, this infrastructure is a revenue raising asset. Maintenance costs for new water mains should be low. In relation to sewers, water companies do not adopt the assets unless they meet the technical requirements set out in section 104 agreements.

Water companies can raise full sewerage charges even where they do not own the sewer/lateral connections which serve a property. Very few commercial entities are gifted assets in perpetuity, either at no or defrayed cost.

We are unclear if Ofwat's assumptions regarding the overall developer contribution take account of some of the structural overcharging we outline above. This is an area we would like to further engage and explore with Ofwat. We would be happy to share our site-specific data with Ofwat. We have particular concerns with Ofwat's proposal to remove certain developer activities from the price control e.g., water connections for sites of twenty-five premises or above. We consider this proposal is hasty. Whilst competition has increased in the market, in our opinion it is not deep rooted enough to remove water connections from the price control. We note competition is very low in some areas e. g. the South West. In our opinion we need to see self lay connections being nearer fifty percent of the total market before changes are made to price controls. Competition can be a mile wide, but an inch deep.

Based on Ofwat's data, competition is centred in specific regions – the North West and the Midlands. For the majority of England competition is relatively modest or weak. Levels of competition are below 33% in most of England. Water companies remain oligopolies, if not monopolies, for connections for many. Even in areas with higher levels of competition, the self lay organisations are relatively numerous and small compared to the incumbent. Market power very much resides with the incumbent.

Even if Ofwat introduced other measures to protect areas outside of the price control, we consider this may create unnecessary confusion. It would require new rules for market participants to learn and understand quickly. It may put developers at unnecessary risk in a market with a history of charging, competition and customer service issues.

How quickly would alternative protections identify and remedy any charging issue? Removing developer charges from the price control at this stage runs the risk of developers taking part in a 'live experiment'.

It would be more judicious to let the connections market mature for another five years. This would ensure competition is a meaningful reality across all of England. Delaying the removal of some charges from price control will allow Ofwat the necessary time to fully understand how the youthful connections market functions and operates in practice.

If Ofwat maintains its intention to remove specific developer activities from price control, there would be an absolute requirement for stringent controls on water company behaviour. Any mechanisms introduced in lieu of the price control would need to identify and respond to alleged abuses quickly. We would be concerned if resolution of any charging issues was significantly delayed. Ofwat's proposal to introduce protections might create its own issues around the bureaucracy of monitoring etc.

As previously stated, we consider it prudent to wait for competition to expand further before commencing premature changes to the price control.

We are unsure why Ofwat identified 25 properties as the trigger point for removing from the price control.

For clarity, does Ofwat mean properties rather than connections? Is a development of a hundred flats served by bulk supply, but individually metered, one property or a hundred separate premises? For billing purposes, the development is a hundred separate premises. We are unsure

there is robust enough evidence available from the youthful market to safely identify thresholds for when price control does and does not apply.

In summary, we recommend more Ofwat investigations are required to understand why competition varies so much across England and Wales. We note new charging arrangements in developer services are also relatively new – as is D-meX. All of the above factors support no changes to the price control for developer charges until at least 2030.

Ofwat also proposes to remove on-site sewerage from the price control. This is based on the overwhelming majority of sewers and lateral connections being installed by developers, rather than water companies. Based on the low numbers of water company-provided sewers, we have no objection to Ofwat's proposal, subject to other safeguards being in place for developers or customers who have to requisition a sewer/lateral drain. However, developers or customers who have to requisition sewers or lateral drains may be vulnerable to monopoly charging.

At the risk of repetition, we strongly advise Ofwat to proceed carefully. Any changes to the price review need to be based on much stronger evidence than currently exists.

We believe making infrastructure charges even more site specific to be unwise and inconsistent with the government's housebuilding objectives. Unfortunately, many of the areas where new housing is planned for are also areas where other parts of government want to reduce water abstraction/limit new drainage connections.

Why is network reinforcement necessarily an activity only the water company undertakes?

Network reinforcement is largely pipe laying. Any complexity usually relates to connecting to the existing network – sometimes to a large diameter main. However, the connection is usually only a small part of the overall scheme. Furthermore, some self-lay organisations have the expertise to safely connect new to existing mains.

The works require a competent contractor. Whether the work is carried out by an independent or a term contractor should be irrelevant. The best contractor for the job should be the focus of the water company.

New water and sewerage capacity needs to be urgently constructed. Reservoirs and sewage works take a long time to plan and build. We understand Ofwat has specific legal duties. However, we urge Ofwat to try and facilitate cross-government working between environmental regulators and those responsible for housing. It is very frustrating for developers to straddle these conflicting public policy requirements.

We welcome Ofwat's commitment to ensure customers do not pay twice for the activities previously financed in earlier price reviews. Historically, we believe the overall developer charging regime lacked transparency. This makes it difficult to identify and prove what has been charged, and for what – the plethora of charges includes: - infrastructure charges, requisition contributions, apportionment of reinforcement works and water connection costs.

We are concerned we have funded water company works twice on many occasions – a combination of requisition, infrastructure and connection payments. As stated above, we can prove there has been ongoing overcharging in several water company areas in relation to water connections. We hope Ofwat considers our evidence and arguments and ensures developers are treated fairly.

We note the number of investigations/enforcement activities Ofwat has or is undertaking. In particular, the issues have a strong wastewater bias. We are not entirely surprised by the wastewater bias. Our own experience suggests some sewerage companies were struggling to meet their statutory duty to effectually drain their areas. For example, some water companies sought to use the planning system to secure financial contributions from developers they could not achieve through Water Industry Act 1991 provisions.

It is essential the next price review ensures developers do not pay twice. Developers should not finance nutrient reduction measures needed because of historic failures of water companies to comply with their section 94 Water Industry Act 1991 duties.

We attach the excel consultation response spreadsheet. Some of the questions are more relevant to what we do than others. However, we trust Ofwat finds our responses useful and helpful. We would welcome a further opportunity to discuss directly with Ofwat several key developer charging issues. We consider we have new evidence related to key developer charging areas that would assist Ofwat in coming to a rounded, robust view.