

Developer Contributions for Wastewater Infrastructure – Consultation Questions

The availability and capacity of wastewater infrastructure is currently affecting development proposals in Belfast and could impact significantly on the delivery of the agreed growth ambition outlined in the Belfast Agenda. In this context, the consultation on developer contributions for wastewater infrastructure is welcomed, as is the acknowledgement that this alone will not provide the funding to implement the improvements that are needed to wastewater infrastructure in Northern Ireland.

In addition to the proposed developer contributions, the intention to work with the Executive to increase wastewater investment, and further work on the Water, Flooding and Sustainable Drainage Bill are welcomed and we look forward to seeing more detail emerge around those solutions in due course. Developer contributions (if agreed) will only provide a small element of funding needed to maintain, upgrade and improve wastewater infrastructure in Northern Ireland. The majority of the funding can only be found through work with the Executive to increase wastewater investment drawing on lessons learned from other jurisdictions including governance and finance models.

There should also be further consideration of whether the existing budget of NI Water has been appropriately maximised and prioritised ahead of seeking any additional funding. Whilst capital funding cuts have resulted in major projects and wastewater treatment and network improvement works being cut, there remains significant spend on planned and reactive maintenance, management and general spend and water treatments and networks. Expenditure in all these areas should be considered and reviewed to assess whether critical major projects could move forward within existing budgets.

Before answering the questions posed in the consultation, an introduction and commentary on some of the general issues of the proposals are set out below.

Definitions and Guiding Principles

Developer contributions is a term that is most commonly used when considering contributions to be made to a local planning authority for work required facilitate development proposals (para 5.69 of the SPPS). Such payments are usually made under Section 76 of the 2011 Planning Act or Article 122 of the Roads (Northern Ireland) Order 1993. Whilst such definitions can be changed, it is somewhat confusing that the proposed “developer contributions” differ in operation and payment directly to a statutory body. This is exacerbated when considering viability issues and the priority to be given to such mitigation requirements (see later).

The guiding principles of Planning Agreements / developer contributions are set out in Development Management Practice Note 21 and include that the agreement sought is necessary in planning terms, directly related to development with a functional or geographical link and related in scale and kind to the development proposed. This could be a challenge if developer contributions sought under the current proposals involve a levy (which could contribute to infrastructure that is not directly related to development) or where contributions are needed to address existing conditions (therefore the contribution would not be related in scale or kind to the development itself), or where reimbursement proposals are being considered.

Viability Considerations

The consultation recognises that any contribution may have an impact on the viability of development. Currently a local planning authority has to consider mitigating the impacts of any development (i.e. roads and open space contributions) as well as any policy impacts (e.g social and affordable housing). When viability is raised as an issue, assessments must show which contributions are affordable and therefore which may be required to be reduced or waived by the authority. Introducing a separate process for contributions through another body could create a difficult balancing exercise for any planning authority considering a viability assessment of a proposal.

Community Infrastructure Levy processes employed in other jurisdictions of the UK and in Ireland consider all infrastructure requirements and calculates one payment (that is subject to viability testing itself). This results in agreed apportionment to infrastructure that is costed, prioritised and independently examined by a single authority. This is significantly different to the proposals included in the consultation, which could lead to wastewater infrastructure provision being prioritised over other essential mitigation and policy provisions.

Timing

The consultation recognises the issue of timing and suggests the use of negative conditions but this fails to identify a crucial issue that developers could make a contribution towards infrastructure (either voluntarily or through a levy) but it may take some time for others to contribute to the pool of monies and / or for the infrastructure needed for that particular development to come forward. Typically planning permission is given for five years, and if the development is incapable of being implemented until wastewater infrastructure is provided there is a significant risk that permission may lapse before it can be implemented.

Specific Issues for Belfast

There are specific issues for Belfast in the proposals given the scale of growth ambition in the city but also the scale of the investment needed to upgrade and improve wastewater infrastructure. In other areas it may be possible for developers to fund (or to pool funds) to pay for the necessary infrastructure upgrades, improvements such as the required upgrades to Belfast Wastewater Treatment Works that have been costed at £184 million are unlikely to be affordable in these circumstances. Even with payment of a levy, it is a significant investment to deliver the works needed in Belfast when there are more affordable (and therefore easily deliverable) options elsewhere in NI. Belfast City Council is therefore concerned that the significant investment needed in infrastructure in the city may not be prioritised over more easily deliverable and affordable option.

The consultation also outlines the intention to maximise the building of houses working to identify where NI Water projects that can release capacity. There is significant risk that more easily affordable and deliverable projects could be funded which may support development in otherwise unsustainable locations.

This concern is further exacerbated if the suggested exemption for rural housing is taken forward. Whilst there is an accepted need for rural housing, such a proposal may have the unintended consequence of supporting development in potentially unsustainable locations, contrary to the Strategic Planning Policy Statement. The SPPS (which has been subject to Strategic Environmental Assessment) is clear that:

“When place-making, planning authorities should make efficient use of existing capacities of land, buildings and infrastructure, including support for town centre and regeneration

priorities in order to achieve sustainable communities where people want to live, work and play now and into the future. Identifying previously developed land within settlements including sites which may have environmental constraints (e.g. land contamination), can assist with the return to productive use of vacant or underused land. This can help deliver more attractive environments, assist with economic regeneration and renewal, and reduce the need for green field development."

In addition, the Regional Development Strategy promotes the importance of Belfast City, at the heart of the Metropolitan area and a major driver for regional economic growth and a focus for administration, commerce, specialised services and cultural amenities. The Strategy sets out the need for sustainable patterns of residential development, promoting development within existing urban areas, recycling land and buildings to make use of suitable sites and reduce the use of greenfield land.

Belfast City Council would therefore suggest that in order to make the most efficient use of land and support the regeneration of vacant or underused land, an exemption should be considered for development that reuses existing derelict buildings in town and city centres. This acknowledges that connections to such buildings may already exist and any contribution could be reduced or waived depending on the intensification of use and the necessary infrastructure improvements required.

It is also important to recognise that viability is a well-documented issue in bringing forward development in Belfast. Whilst viability is considered on a site-by-site basis, a number of residential schemes that have come forward in the city centre have had affordable housing requirements waived on the basis of viability issues. Funding available in other jurisdictions (such as brownfield development funding) is not available in Belfast and NI which significantly affects development viability and delivery. Additional charges (whether voluntary or through a levy) could disproportionately affect development in Belfast which could be subject to more abnormal costs due to brownfield and remediation costs.

Clarity over calculation and application of costs

Costings currently included in viability assessments can be independently assessed before developers enter into an agreement with a local authority. In other jurisdictions Levy levels are subject to consultation and in some cases independent examination. Introducing voluntary contributions or a levy based on costs calculated by NI Water would need to be subject to some independent assessment to ensure the figures are robust and defensible. For transparency, there would also need to be clarity on what would be included in the costs whether that's costs for Wastewater Treatment Work upgrades, network connections, network upgrades or maintenance.

The consultation document appears to suggest that only housing developments should be subject to the levy. Belfast City Council considers that all development types (including residential and commercial) could have an impact on wastewater infrastructure and therefore any voluntary contributions or levy should apply to all types development, and it should be cognisant of the scale and nature of the development, so that a 2 bedroom house or flat should contribute less than a 6 bedroom house if all other conditions are equal.

There are some developments, however where a compulsory levy could have significant implications and unintended consequences and impacts on rate payers and existing government funding. The consultation document recognises that government would meet the cost of development for social housing and that exemptions could apply to social housing to ensure that the levy does not disproportionately impact vulnerable groups.

Belfast City Council would be supportive of further consideration of this issue and would also include public sector projects in a possible list of exemptions if the contributions were to be widened to include all development types rather than just residential.

The Council is one of the biggest developers in the city currently with a physical programme of approx. £400m. The assets we develop are all for the benefit of the city for use by residents and visitors for example new leisure facilities, new tourism and community infrastructure, new sporting and open space provision. Any levy on Council-led projects will have an impact on overall capital costs and could therefore make projects unviable. This could mean that projects which have significant community, economic health, social and environmental benefits could be negatively impacted, or the costs passed on to the ratepayers.

Issues for Local Development Plans

Whilst not related specifically to developer contributions, it should be noted that Belfast City Council is currently drafting its LDP Local Policies Plan (LPP). The current availability of wastewater infrastructure should not preclude the advancement of a plan led system. The Belfast LDP Plan Strategy recognises that development should not come forward without appropriate supporting infrastructure and whilst the LPP looks to provide certainty as to where development could come forward to 2035, the process of site identification, analysis and allocation cannot be held in abeyance until the appropriate infrastructure is in place.

Question 1 – Do you agree with the principle that a pathway for developer contributions should be introduced in Northern Ireland?

- Neither agree nor disagree

Whilst the intention to find funding for critical infrastructure is supported, on the basis of the information contained in the consultation, Belfast City Council can neither agree nor disagree that developer contributions for wastewater infrastructure should be introduced. There are significant questions remaining on the scale and impact of such charges on development in Northern Ireland and in Belfast in particular, as well as uncertainty on the prioritisation of spend of any monies collected and the timing of infrastructure provision.

Question 2 – Referring to Section 4 of the consultation report, which option do you think would be the best pathway?

- Both option 1 and option 2

As Belfast City Council can neither agree nor disagree that developer contributions for wastewater infrastructure should be introduced, it is suggested that further work is carried out on the implications of both options 1 and 2 to fully understand which one may be the best pathway. This does not mean that both should be introduced.

Option 1: Voluntary Development Contributions for Wastewater Infrastructure

Question 3 – If voluntary developer contributions are introduced, how should these be made?

Both an upfront payment and a bond.

If contributions are required, there should be an ability to either make an upfront payment or enter into a bond. Developments will differ in terms of deliverability and finance

arrangements and requiring one or the other might have implications for delivery of development.

Question 4 – if voluntary developer contributions are introduced, do you agree that there should be a reimbursement scheme?

The introduction of a reimbursement scheme recognises that voluntary contributions may deviate from the current guiding principles of developer contributions in that a developer could be required to pay more for infrastructure than is directly related in scale to their own development.

There would also be no certainty that other developments would contribute in future and therefore that any reimbursement would be possible, which could result in one development significantly over paying for infrastructure connections.

The ability to accurately model development coming forward in an area to allow payment and reimbursement should be based on the plan-led approach which would require all authorities to be significantly more advanced in their Local Policies Plan production. The plan-led approach underpins the Community Infrastructure Levy in England where infrastructure to bring forward development sites allocated in the plan is costed and prioritised.

Option 2: Compulsory Developer Wastewater Contribution Levy

Question 5 – What are your views on how a compulsory levy should be introduced?

A compulsory levy can only be introduced if all infrastructure to be provided is costed and prioritised and the funding apportioned to developer contributions is identified. This would need to be based on viability considerations and the levy may therefore differ in different parts of Northern Ireland. Significant engagement and consultation may be needed on which infrastructure should be prioritised.

The levy can only work if there is greater clarity on how the remaining finance for the infrastructure is to be found, as any uncertainty could lead to a gap in funding for infrastructure or only the prioritised schemes coming forward. This could cause significant delay for development or could ultimately mean that development is not delivered.

There also needs to be clarity on timing issues for provision of infrastructure and whether development could progress in an area before the implementation of the necessary infrastructure.

Any levy should apply to all development, not just housing and in recognition of the need to deliver significant infrastructure, Belfast City Council would not be supportive of an exemption for rural housing as this could be interpreted as being supportive of unsustainable development patterns. There should also be recognition of the scale of development in any levy so that larger houses and larger commercial floorplates would be required to contribute proportionately.

Impact Assessments

Question 6 – Do you have any comments to make on any of the impact assessments that accompany this consultation

- There are no comments on the s75 screening form, Human rights impact assessment, Rural needs assessment or Initial Regulatory assessment. The need for Strategic Environmental Assessment or Sustainability Appraisal of any prioritisation

of infrastructure should be considered to avoid unintentionally undermining the Regional Development Strategy and Strategic Planning Policy Statement by prioritising provision of infrastructure in areas where it is affordable / easier to deliver, but which could lead to unsustainable development patterns.