

November 2020

Variation of Albion Water Limited's appointment to include Castle Hill, Ebbsfleet, Kent

1. About this document

Variation of Albion Water Limited's appointment to include Castle Hill, Ebbsfleet, Kent

On 25 August 2020, Ofwat began a consultation on a proposal to vary Albion Water Limited's ("**Albion Water**") appointment to become the sewerage services provider for a development in Independent Water Networks Limited's ("**Independent Water Networks**") sewerage services area called Castle Hill in Ebbsfleet, Kent ("**the Site**").

The consultation ended on 24 September 2020. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 15 October 2020, we granted Albion Water a variation to its existing appointment to enable it to supply sewerage services to the Site.

This notice gives our reasons for making this variation.

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2. Introduction

The new appointment and variation mechanism, specified by Parliament and set out in primary legislation, allows one company to replace the current company as the provider of sewerage services for a specific area. This mechanism can be used by new companies to enter the market and by existing companies to expand into areas where they are not the appointed company. In this case, Albion Water applied to replace Independent Water Networks to become the appointed sewerage company for the Site.

A company may apply for a new appointment (or a variation of its existing appointment to serve an additional site) if any of the following three criteria are met:

- None of the premises in the proposed area of appointment is served by the existing appointed company at the time the appointment is made (the “**unserved criterion**”);
- Each premises is likely to be supplied with at least 50 mega litres per year (in England) or at least 250 megalitres per year (in Wales) and the customer in relation to each premises consents (“**the large user criterion**”);
- The existing water and sewerage supplier in the area consents to the appointment (“**the consent criterion**”).

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we seek to ensure that the future customers on the site – who do not have a choice of supplier – are adequately protected. When assessing applications for new appointments and variations, the two key policy principles we apply are:

1. Customers, or future customers, should be no worse off than if they had been supplied by the existing appointee; and
2. We must be satisfied that an applicant will be able to finance the proper carrying out of its functions as a water and/or sewerage company.

Entry and expansion (and even the threat of such by potential competitors) can lead to benefits for different customers (such as household and business customers and developers of new housing sites). Benefits can include price discounts, better services, environmental improvements and innovation in the way services are delivered.

Benefits can also accrue to customers who remain with the existing appointee, because when the existing appointee faces a challenge to its business, that challenge can act as a spur for it to improve its services. We believe the wider benefits of competition through the new appointments and variations mechanism can offset any potential disbenefits for existing customers that might arise. We consider these potential disbenefits in more detail below.

3. The application

Albion Water applied to be the sewerage services appointee for the Site under the consent criterion set out in section 7(4)(a) of the Water Industry Act 1991 (“**WIA91**”). Albion Water will serve the site by the operation of an onsite waste water treatment facility.

3.1 The consent criterion

To qualify under the consent criterion, an applicant must provide a letter of consent from the existing appointee consenting to the variation of its area of appointment corresponding to the applicant's application.

We have a letter from Independent Water Networks confirming that it consents for Albion Water to take over the Site from it. Albion Water has also contacted existing customers at the Site to inform them of the proposed changes.

3.2 Financial viability of the proposal

We will only make an appointment if we are satisfied that the proposal poses a low risk of being financially non-viable. We assess the risk of financial viability on a site-by-site basis and also consider the financial position of the company as a whole.

Based on the information available to us, we concluded the site demonstrates sufficient financial viability, and Albion Water has satisfied us that it can finance its functions and that it is able to properly carry them out.

3.3 Assessment of ‘no worse off’

Albion Water will match the charges currently offered by IWN, and will be issuing joint bills with **Independent Water Networks** (who will continue to serve the Site for water supply services), so that there will be no impact on the price or billing for customers at the site.

With regard to service levels, we have reviewed Albion Water's Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of **Independent Water Networks**. Based on this review, we are satisfied that customers will be offered an appropriate level of service by Albion Water and that overall customers will be ‘no worse off’ being served by Albion Water instead of by **Independent Water Networks**.

3.4 Effect of appointment on Independent Water Networks's customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the charges that Independent Water Networks's existing customer base may face.

To assess the impact that granting the site may have on the incumbent's customers, we normally compare the revenue the incumbent might have been expected to receive and the maintenance costs it would expect to incur if it were to serve the site directly, as opposed to the revenues it would receive and costs it would incur from the proposed NAV arrangement.

However, as this is transferring from one NAV to another with consent on an incomplete site, this is a fairly unique transfer. Independent Water Networks will no longer receive an income from sewerage customers on the site customers, but it will now not have operational costs of the on-site facilities and the arrangements for the consented variation have covered any wider loss of revenue, such that we don't estimate it will have impact on customers

We therefore consider that granting this variation to Albion Water would have a negligible impact (if any) on customers' bills and could have potential benefits for customers.

This does not take into account the potential spill-over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

3.5 Developer choice

Where relevant, we take into consideration the choices of the site developer. In this case, the developer, Ebbsfleet Development Corporation, said that it wanted Albion Water to be the sewerage company for the Site.

4. Responses received to the consultation

We received three responses to our consultation; from the Consumer Council for Water (“**CCW**”), the Environment Agency (“**EA**”) and Drinking Water Inspectorate (“**DWI**”). We considered these responses before making the decision to vary Albion Water's appointment. The points raised in the response are set out below.

4.1 CCW

CCW stated that in general it expects new appointees to provide customers with prices, levels of service and service guarantees that match, or ideally, better those of the existing service provider. It expressed its disappointment that there is no direct financial benefit to customers from having Albion Water as their sewerage service provider, rather than Independent Water Networks.

CCW stated that as well as applying the ‘customers should be no worse off’ principle when considering NAV applications, that ideally, it considers that that the incumbent’s existing customers should receive some benefit from the new arrangements. It recognised that due to the unusual circumstances of this application Ofwat has been unable to calculate if there will be any cost to Independent Water Network’s existing customers.

CCW recognised that the levels of service that Albion Water offers typically match or exceed those provided by Independent Water Networks and agrees with Ofwat’s overall assessment that customers will be no worse off in terms of the level of service they will receive from Albion Water. However, like Independent Water Networks, Albion Water will not be able to offer its financially vulnerable customers a social tariff in the way that larger water companies do. Until it can provide a formal social tariff, however, CCW expects Albion Water to offer appropriate flexible support to any individual in financial difficulty who would otherwise benefit from a social tariff. This should not be at the expense of its other customers.

We note CCW’s concerns regarding the impact on existing customers. One of our key policies is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of price and service than if they had been supplied by the previous incumbent. We do not require applicants to better the service and price of previous incumbents.

4.2 EA

EA responded seeking clarification of the discharge and permitting arrangements for the Site's treatment works.

Albion Water engaged with the EA to address this comment and to provide details of the existing permit arrangements in place, and the EA confirmed it was satisfied with Albion Water's response on 7 October 2020.

4.3 DWI

The DWI responded confirming it had no comment on the application.

Conclusion

Having assessed Albion Water's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Albion Water's area of appointment to allow it to serve the site for sewerage services. This appointment became effective on 16 October 2020.

**Ofwat (The Water Services Regulation Authority)
is a non-ministerial government department.
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