

December 2020

NAV consultation notice – Lodge Farm, Witham

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1. About this document

We propose granting a Variation of appointment to Northumbrian Water Limited (“**Northumbrian Water**”) as a water company and varying the appointment of Anglian Water Services Limited (“**Anglian Water**”) as a water company. This notice is a consultation on this proposal under section 8(3) of the Water Industry Act 1991 (“**WIA91**”).

The consultation period will last for 28 days from the date of publication of this notice. Having considered any representations submitted during the consultation period in response to this consultation notice, Ofwat will decide whether or not to grant the variation of appointment set out above.

2. The Site

Northumbrian Water has applied for a Variation of appointment to be able to provide water services to a site called Lodge Farm, Witham, in Essex (“**the Site**”). Site boundary maps can be viewed in section 8 of this document.

The Site is within the water services area of Anglian Water. The Site is located on the boundary between Northumbrian Water and Anglian Water

The Site will comprise 190 residential properties, as part of a development comprising a total of 750 residential properties. There are no business properties planned. The Site is expected to be fully built out in 2025.

It is intended that Northumbrian Water will provide services to the Site using its own resources. The Site straddles the boundary between the two water companies, and Northumbrian Water will provide water by extending the services provided to that section of the development which is in its existing area of appointment over the boundary to cover the additional 190 properties.

The particular circumstances of this application is that the variation process is being utilised in order to provide a practical and pragmatic solution to the provision of water services to a cross-boundary development.

3. The applicant

Northumbrian Water is an appointed water and sewerage undertaker, incorporated in 1989, and providing mains water and sewerage services to the counties of Northumberland, Tyne and Wear, and parts of North Yorkshire, where it provides water and sewerage services to 2.7million customers. It also operates as Essex and Suffolk Water, providing water services only to 1.8million customers in the south east of England. It is a wholly owned subsidiary of Northumbrian Water Group.

4. The proposal

Ofwat proposes to:

- grant a variation of appointment to Northumbrian Water as a water company to include the Site in its water supply area; and
- vary the appointment of Anglian Water as a water company by excluding the Site from its water supply area.

By means of the above, Northumbrian Water will become the water services supplier for the Site.

5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation,¹ provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee as the provider of water and / or sewerage services for a specific area. This mechanism can be used by new companies to enter the market and by existing appointees to expand their businesses.

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our statutory duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we consider that we must ensure that the future customers on a 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 that:

- customers, or future customers, should be no worse off than if the site had been supplied by the existing appointee; and
- Ofwat 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.

We clarified these two policy principles in February 2011, and updated them more recently, when we published our new appointments and variations – [policy \(2015 and 2019\)](#) and [process \(2018\)](#) documents. In December 2015, we published our '[Statement on our approach for assessing financial viability of applications for new appointments and variations](#)'. This states that we will adopt a company-based assessment of financial viability, rather than a detailed site-based assessment, where it is appropriate to do so.

When we assess whether customers will be no worse off as a result of the appointment, we not only consider the customers on the site but also the generality of customers – i.e. customers of the existing provider and customers

¹ The legal framework for new appointments is set out in the WIA91. Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

6. The application

Northumbrian Water has applied to be the water company for the Site under the unserved criterion, set out in section 7(4)(b) of the WIA91.

6.1 Unserved status of the Site

To qualify under the unserved criterion, an applicant must show that at the time the appointment is made, none of the premises in the proposed area of appointment is served by the existing appointee.

The Site is on greenfield land on the boundary between the areas of appointment of Northumbrian Water and Anglian Water. Anglian Water has provided a letter to confirm that it has no infrastructure in the vicinity. Extending Northumbrian Water's infrastructure to cover the whole of the development is felt to be the most practical solution to providing water services to the Site. Having reviewed the facts of this Site, and taking into account the letter from the incumbent, we consider the Site to be unserved.

6.2 Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. In assessing applications to supply new development sites, Ofwat acts on behalf of both existing customers as well as potential new customers who are not yet on site, to protect their interests. The fact that future customers on a site have not directly chosen their supplier is not a position unique to new appointments and variations – only business, charity and public sector customers (“**Business Customers**”) in England and Wales are able to choose their supplier.²

² The majority of Business Customers where the area of the relevant appointed company is not wholly or mainly in Wales (and whose premises are, or are likely to be, supplied with at least 50 MI where the relevant area is wholly or mainly in Wales) have been able to effectively switch suppliers of water and/or sewerage since 1 April 2017.

Recognising this, our assessment of an applicant's proposals includes analysis of its plans to ensure customers will be at least no worse off in terms of their annual bills and levels of service than if they had been supplied by the existing appointee in whose geographical area the relevant site sits.

6.3 Price

Northumbrian Water is an established water undertaker and proposes to make charges to customers on the Site in accordance with its existing charges scheme. We have not conducted a detailed assessment of the comparison of the charges of both incumbent companies, as the charges levied on customers by both companies are regulated by Ofwat, and are comparable. Northumbrian Water proposes extending its charges scheme across the entire development, rather than consider matching the prices and services of Anglian Water in the area of the development covered by the Site.

6.4 Levels of service

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers. We have assessed Northumbrian Water's proposed Customer Code of Practice, and our view is that it is of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the scope of Northumbrian Water's proposed Customer Code of Practice than they would be if Anglian Water were to be the customers' water services supplier.

6.5 Site owner choice

Northumbrian Water has the consent of the Site developer, Redrow Homes, to become the water services provider.

6.6 Environment Agency (EA) and Drinking Water Inspectorate (DWI)

We take the views of these organisations into account before progressing to formal consultation on an application for a new appointment. Both the EA and DWI informed us that they are content for us to consult on this application³.

6.7 Incumbent's existing customers

In considering whether customers will be no worse off, we would normally consider the potential effects of this variation on the prices that Anglian Water's existing customer base may face.

In the specific circumstances of this application, it is considered that the cost avoided by Anglian Water in not providing infrastructure to serve the Site by the incumbent is likely to outweigh any revenue that Anglian Water would receive from its customers. It is therefore considered that extending the infrastructure serving the rest of the development to the Site represents the most practical approach to providing services, and will have no negative impact on the bills paid by Anglian Water customers.

6.8 Ability to finance and properly carry out its functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water company.

We have considered the revenues and costs of the Site relating to the provision of water services should the relevant variation be granted. The Site is extremely small compared to Northumbrian Water's existing portfolio and would not have material impact on the financeability of its existing business. We are satisfied that Northumbrian Water will be able to finance its functions if this variation is granted.

³ The Environment Agency and the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA91.

7. Conclusion and next steps

In assessing Northumbrian Water's application, we have considered the general benefits of new appointments. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and Northumbrian Water would be able to finance, and carry out, its functions.

We are currently minded to grant the variation under the unserved criterion. We are consulting on our proposal to do so.

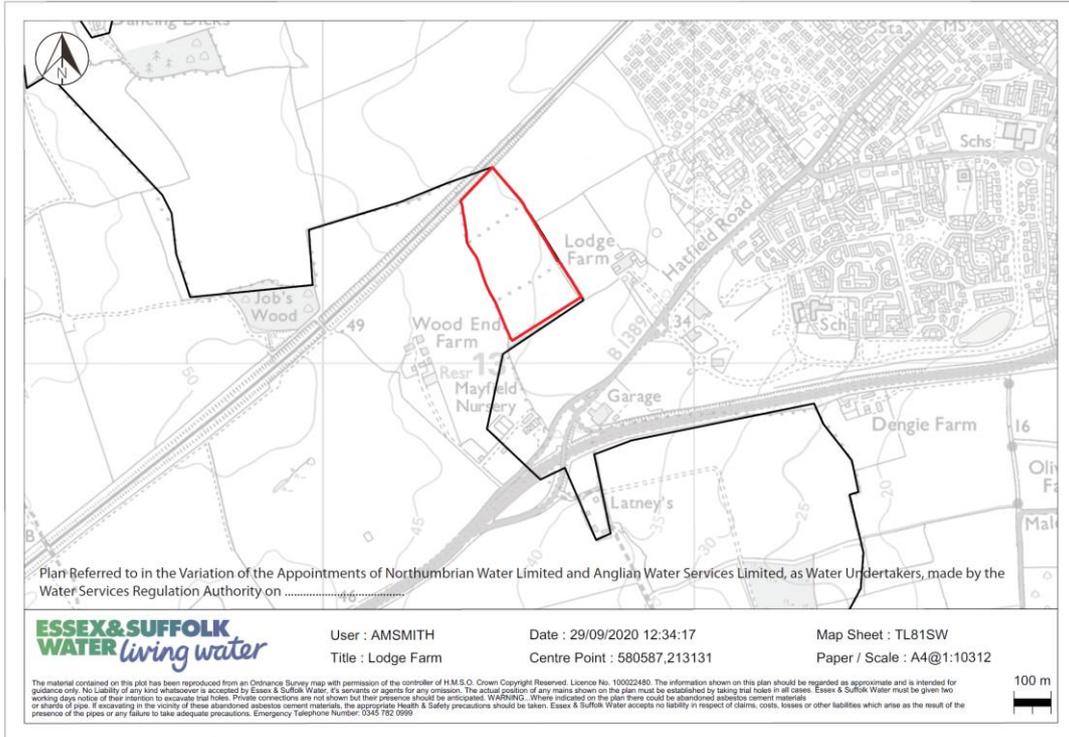
7.1 Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing to Chris Daly at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at chris.daly@ofwat.gov.uk.

Representations must be received by Ofwat no later than 17.00 hours on 4 January 2021. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at <http://www.ofwat.gov.uk/foi/>.

Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat's retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat's Privacy Policy in our [Publication Scheme](#).

8. Site maps



**Ofwat (The Water Services Regulation Authority)
is a non-ministerial government department.
We regulate the water sector in England and Wales.**

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