

February 2021

# **Variation of Northumbrian Water's appointment to include Lodge Farm in Witham, Essex**

## About this document

# Variation of Northumbrian Water's appointment to include Lodge Farm in Witham, Essex

On 1 December 2020, Ofwat began a consultation on a proposal to vary Northumbrian Water's appointment to become the water services provider for a development in Anglian Water's water supply area called Lodge Farm in Witham ("**the Site**").

The consultation ended on 4 January 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 25 January 2021, we granted Northumbrian Water a variation to its existing appointment to enable it to supply water services to the Site.

This notice gives our reasons for making this variation.

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## 1. 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 water 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, Northumbrian Water applied to replace Anglian Water to become the appointed water company for the Site.

A company may apply for 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 mega litres 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.

## 2. The application

Northumbrian Water applied to be the water services appointee for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (“WIA91”). Northumbrian Water will serve the Site by using its own resources. The development straddles the boundary between Northumbrian Water's area of appointment and Anglian Water's area of appointment, and Northumbrian Water proposes to serve the Site using the infrastructure that will serve the development which is located on Northumbrian Water's side of the boundary.

### 2.1 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 part of a new development of 750 household units. The new development straddles the boundary between the areas of appointment of Northumbrian Water and Anglian Water, such that 190 of the household units are in Anglian Water's water supply area.

Anglian Water has provided written confirmation that the site is unserved, and on this basis, we are satisfied that the Site is unserved.

### 2.2 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 Northumbrian Water has satisfied us that it can finance its functions and that it is able to properly carry them out.

### 2.3 Assessment of 'no worse off'

Northumbrian Water is an established water undertaker and proposes to make charges to customers on the Site in accordance with its existing charges scheme. Northumbrian Water proposes extending its charges scheme across the entire development. 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 via our price control process, and are comparable.

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.

## **2.4 Effect of appointment on Anglian Water's 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.

## **2.5 Developer choice**

Where relevant, we take into consideration the choices of the site developer. In this case, the developer, Redrow Homes Limited, said that it wanted Northumbrian Water to be the water company for the Site.

## 3. Responses received to the consultation

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

### 3.1 CCW

CCW agrees that the proposal is a pragmatic solution to the provision of services to a cross-border development. CCW notes that there will be no cost to Anglian Water's existing customers, given the avoidance of costs which Anglian Water might otherwise incur in extending its infrastructure to the Site.

CCW would usually comment on a comparison on the voluntary and statutory service standards of the applicant and incumbent. However, as all customers on the development will become customers of an incumbent company, Northumbrian Water, CCW does not consider that such a comparison is required. CCW agrees that overall customers will be no worse off in terms of the levels of service they receive as a result of this variation. With respect to charges, CCW considers it appropriate for Northumbrian Water, as a regulated incumbent water company, to charge customers on the Site in line with its own charges scheme.

### 3.2 DWI

The DWI confirmed that it had no comments to make on the consultation.

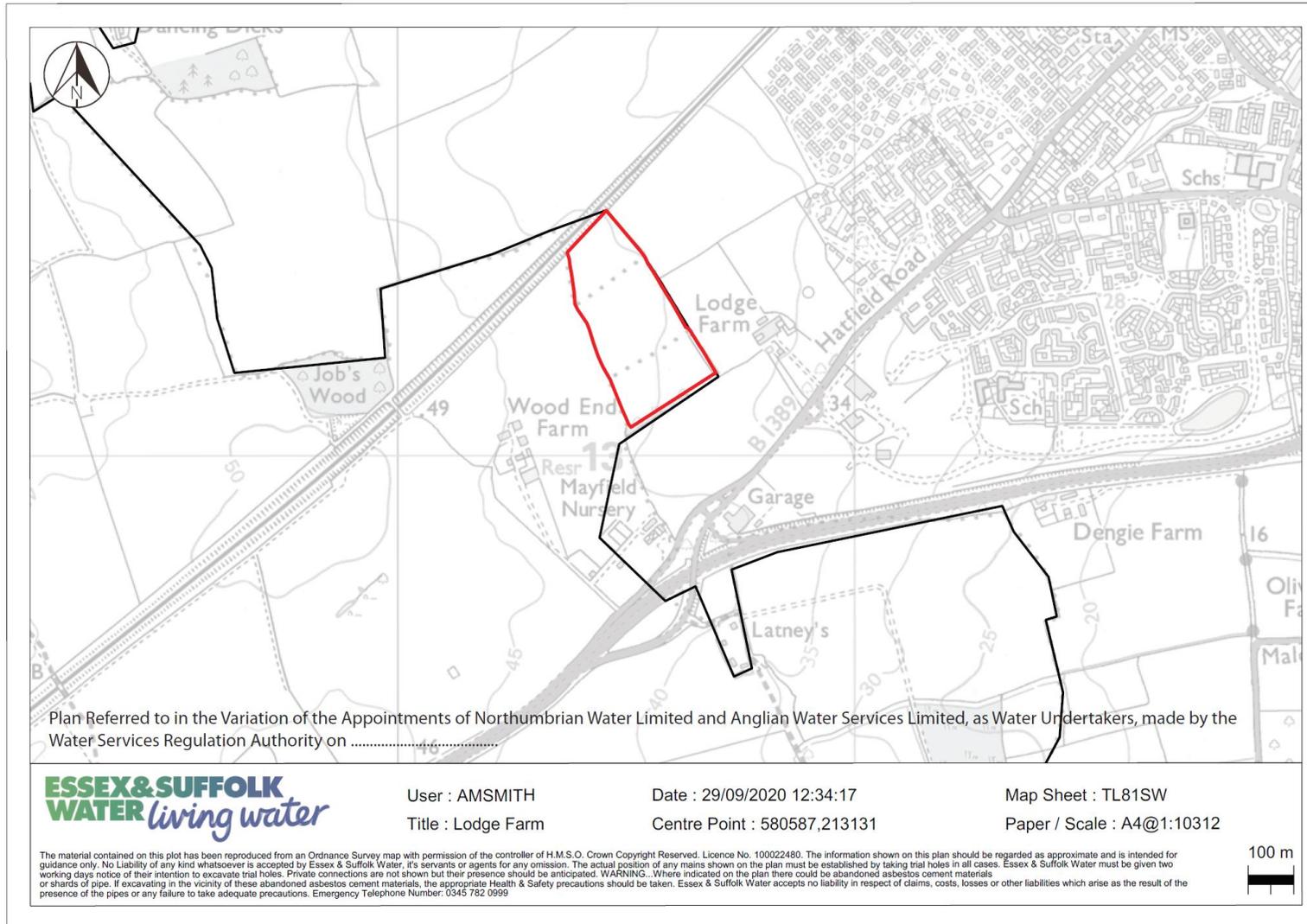
### 3.3 Environment Agency

The Environment Agency confirmed that it had reviewed the information provided by the applicant and it appears to be in line with its expectations, so it has no objections and needs no further information.

## 4. Conclusion

Having assessed Northumbrian Water's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Northumbrian Water's area of appointment to allow it to serve the Site for water. This appointment became effective on 26 January 2021.

## Appendix 1: Site Map



**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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