

July 2021

Variation of Leep Networks (Water) Limited's appointment to include D'Urton Lane in Broughton, Preston

About this document

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On 29 March 2021, Ofwat began a [consultation](#) on a proposal to vary Leep Networks (Water) Limited's ("**Leep Water**") appointment to become the water and sewerage services provider for a development in United Utilities Water Limited's ("**United Utilities**") water supply and sewerage services area called D'Urton Lane, in Broughton, Preston ("**the Site**").

The consultation ended on 27 April 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 14 July 2021, we granted Leep Water a variation to its existing appointment to enable it to supply water and sewerage 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 and 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, Leep Water applied to replace United Utilities to become the appointed water and 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 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

Leep Water applied to be the water and sewerage services provider for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (“**WIA91**”). Leep Water will serve the Site by way of bulk supply and discharge agreements with United Utilities.

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 greenfield, and aerial photographs show that there are no buildings or constructions on the Site. United Utilities has provided a letter dated 8 December 2020 confirming that, in its view, the Site is unserved.

Having reviewed the facts of this Site, and taking into account the letter from the incumbent, we consider the Site to be 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 by considering 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 Leep 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’

Leep Water will match the charges of United Utilities at the Site.

With regard to service levels, we have reviewed Leep Water's Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of United Utilities. Based on this review, we are satisfied that customers will be

offered an appropriate level of service by Leep Water and that overall customers will be 'no worse off' being served by Leep Water instead of by United Utilities.

2.4 Effect of appointment on United Utilities' customers

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that United Utilities' existing customer base may face.

The calculation necessarily depends on a range of assumptions, and there are clearly difficulties involved in quantifying the effect on customers of United Utilities. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try and quantify the possible effect in an easily understandable way. Broadly, we have assessed the potential magnitude of this impact by comparing how much United Utilities might have expected to receive in revenue from serving the Site directly, were it to serve the Site, with the revenues it might expect from the proposed arrangement with Leep Water.

In this case, we have calculated that if we grant the Site to Leep Water, there may be a potential increase on both the water and sewerage bills of United Utilities' existing customers of £0.005

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

2.5 Developer choice

Where relevant, we take into consideration the choices of the site developer. In this case, the developer, Willmott Dixon Construction Limited said that it wanted Leep Water to be the water and sewerage 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 Environment Agency (“**EA**”) and the Drinking Water Inspectorate (“**DWI**”). Both the EA and the DWI confirmed that they were content with the application and responses to any enquiries, and had no objections to the application proceeding. We considered CCW's response before making the decision to vary Leep Water's appointment. The points raised in CCW's response are set out below.

3.1 CWW

CCW states that when considering applications for new appointments or variations it expects new appointees to provide consumers with prices, levels of service and service guarantees that match, or ideally better, those of the incumbent water and sewerage company.

CCW noted its disappointment that there will be no direct financial benefit to customers from having Leep Water as their provider of water and sewerage services given it plans to match the charges of United Utilities. However it noted Leep Water proposes to match or exceed United Utilities' service standards. CCW noted that where Leep Water exceeds United Utilities' service standards it does so by offering greater levels of compensation if it fails to meet the level of service it commits to. For this reason CCW supports the application and agrees with our assessment that overall customers will be no worse off.

CCW noted that Leep Water will not be able to offer a social tariff to financially vulnerable customers in the way United Utilities does, but will offer the standard WaterSure tariff for qualifying customers. CCW states that given its relatively small size and customer base it may be appropriate for Leep Water to tailor some of the services that it provides.

CCW set out its expectation that Leep Water would offer appropriate, flexible support to any customer in financial difficulty who would otherwise have benefitted from a social tariff and CCW does not expect this to be at the expense of its other customers. CCW expects Leep Water to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW noted our conclusion that United Utilities' existing customers would see a potential increase of £0.005 in their water bills and £0.005 in their sewerage bills as a result of the variation. It notes that whilst this is a very low increase, it is unclear as to whether there will be any significant benefits from the arrangement for the incumbent's customers.

Our response

One of our key policies with respect to new appointment and variations 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 charges and service than if they had been supplied by the previous appointee. We do not require applicants to better the service and price of previous incumbents.

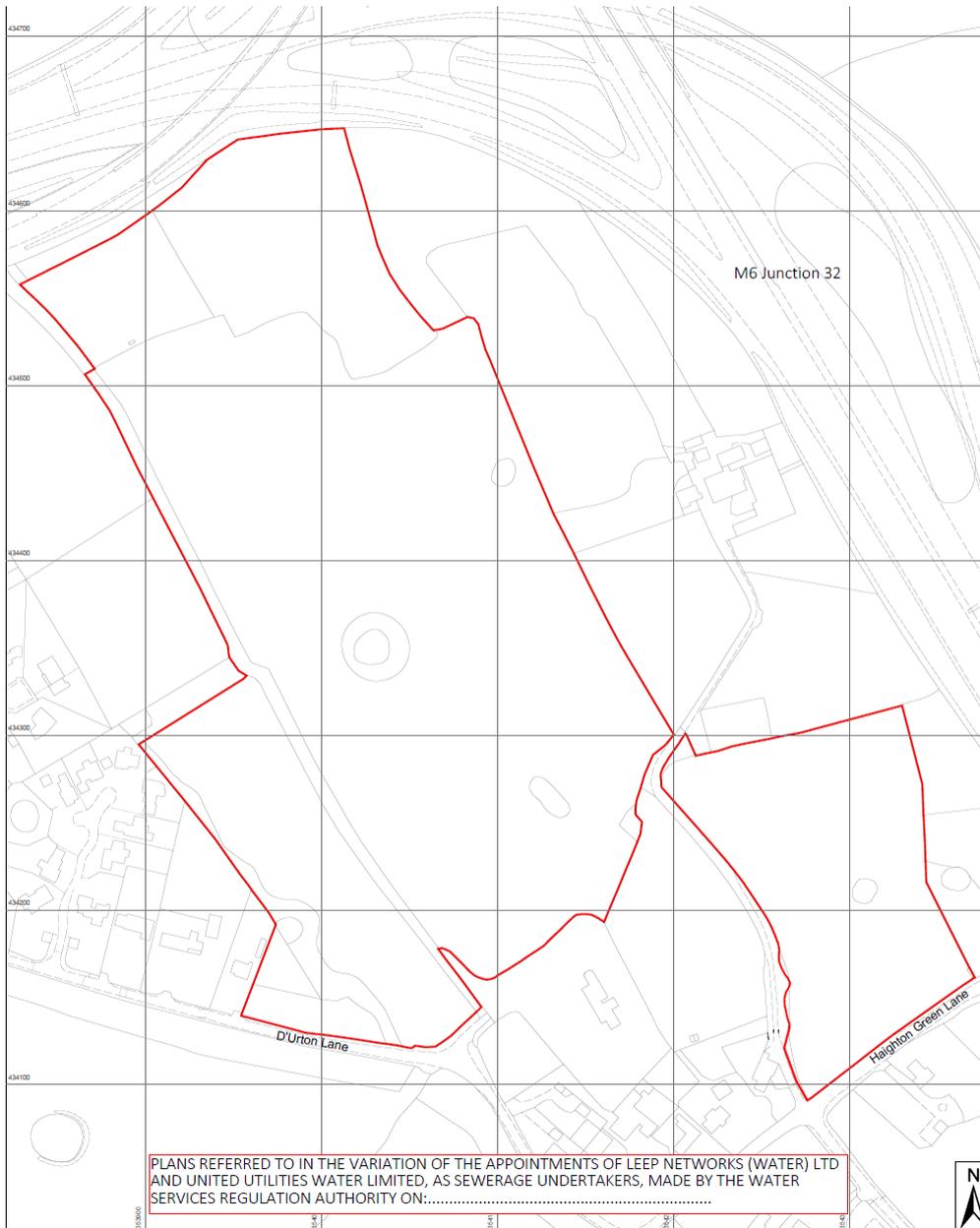
4. Conclusion

Having assessed Leep Water's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Leep Water's area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 15 July 2021.

Appendix 1: Site Maps



Variation of Leep Networks (Water) Limited's appointment to include D'Urton Lane in Broughton, Preston



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is a non-ministerial government department.
We regulate the water sector in England and Wales.**

Ofwat
Centre City Tower
7 Hill Street
Birmingham B5 4UA
Phone: 0121 644 7500

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