

October 2021

# **Variation of Leep Networks (Water) Limited's appointment to include CITU, Climate Innovation District Phase 2**

## About this document

# Variation of Leep Networks (Water) Limited's appointment to include CITU, Climate Innovation District Phase 2

On 18 August 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 Yorkshire Water Services Limited's ("**Yorkshire Water**") water supply and sewerage services area called CITU, Climate Innovation District Phase 2 in Leeds in ("**the Site**").

The consultation ended on 16 September 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 30 September 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.

## Contents

About this document	1
1. Introduction	3
2. The application	5
3. Responses received to the consultation	7
4. Conclusion	9
Appendix 1: Site Maps	10

## 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/or 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 Yorkshire Water 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 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 appointee 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 Yorkshire Water.

### 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 brownfield, a former commercial site, and all previous buildings on it have been demolished. Yorkshire Water provided a letter, dated 27 April 2021, stating that it believes this Site to be unserved for water and sewerage services, but noting there are abandoned water mains shown on the Site.

We have reviewed the facts of this Site and have taken into account the letter from Yorkshire Water. We are satisfied that the Site meets the unserved criterion.

### 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 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 proposes to charge customers on the Site charges that are equivalent to the charges of Yorkshire Water.

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 Yorkshire Water. 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 Yorkshire Water.

## **2.4 Effect of appointment on Yorkshire Water's customers**

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that Yorkshire Water's 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 Yorkshire Water. 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 Yorkshire Water 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 £0.01 increase on the annual sewerage bills of Yorkshire Water's existing customers and no increase on their annual water bills.

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, Climate Innovation District Phase 2 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 Drinking Water Inspectorate (“**DWI**”), Environment Agency and Consumer Council for Water (“**CCW**”). We considered all responses before making the decision to vary Leep Water’s appointment.

The DWI and Environment Agency had no comments or objections with regard to this consultation. The points raised in the response from CCW are set out below.

#### 3.1 CCW

CCW states that in general it expects applicants for a new appointment and/or variation (“**NAV**”) to match or, ideally, better the incumbent’s prices, service levels and service guarantees. This is particularly true for developments that include domestic housing, as household customers cannot choose or switch supplier.

CCW is disappointed that there is no direct financial benefit to customers from having Leep Water as their provider of water and sewerage services, as Leep Water intends to match Yorkshire Water's charges. However, CCW considers that Leep Water’s service levels generally match or exceed those of Yorkshire Water, so overall CCW supports the application. Where Leep Water exceeds Yorkshire Water's standards it does so by offering greater levels of compensation if it fails to meet the level of service it commits to.

CCW notes that Leep Water will not be able to offer a social tariff to financially vulnerable customers in the way Yorkshire Water 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 sets 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 that this should not 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 notes our conclusion that, as a result of the variation, Yorkshire Water’s existing customers would see an increase of £0.01 in their annual sewerage bills and there will be no impact on the annual water bills. However, it notes that there is no evidence of significant benefits to the existing customers of Yorkshire Water arising from the proposed arrangement. CCW questions the value of the NAV regime if it cannot deliver benefits to customers.

## **Our response**

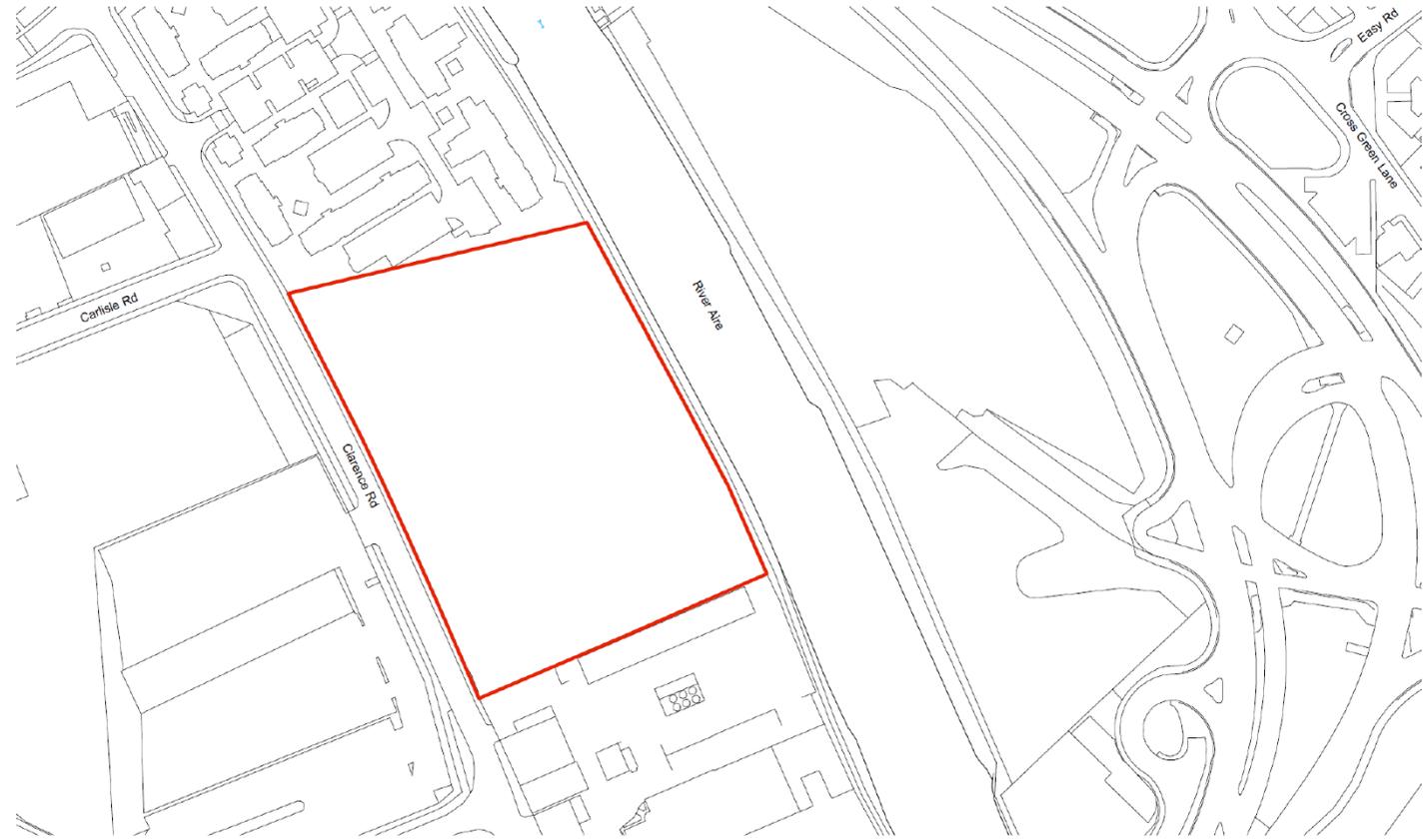
One of our key policies with considering NAV applications is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and service than if they had been supplied by the previous appointee. We do not require 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 1 October 2021.

# Appendix 1: Site Maps

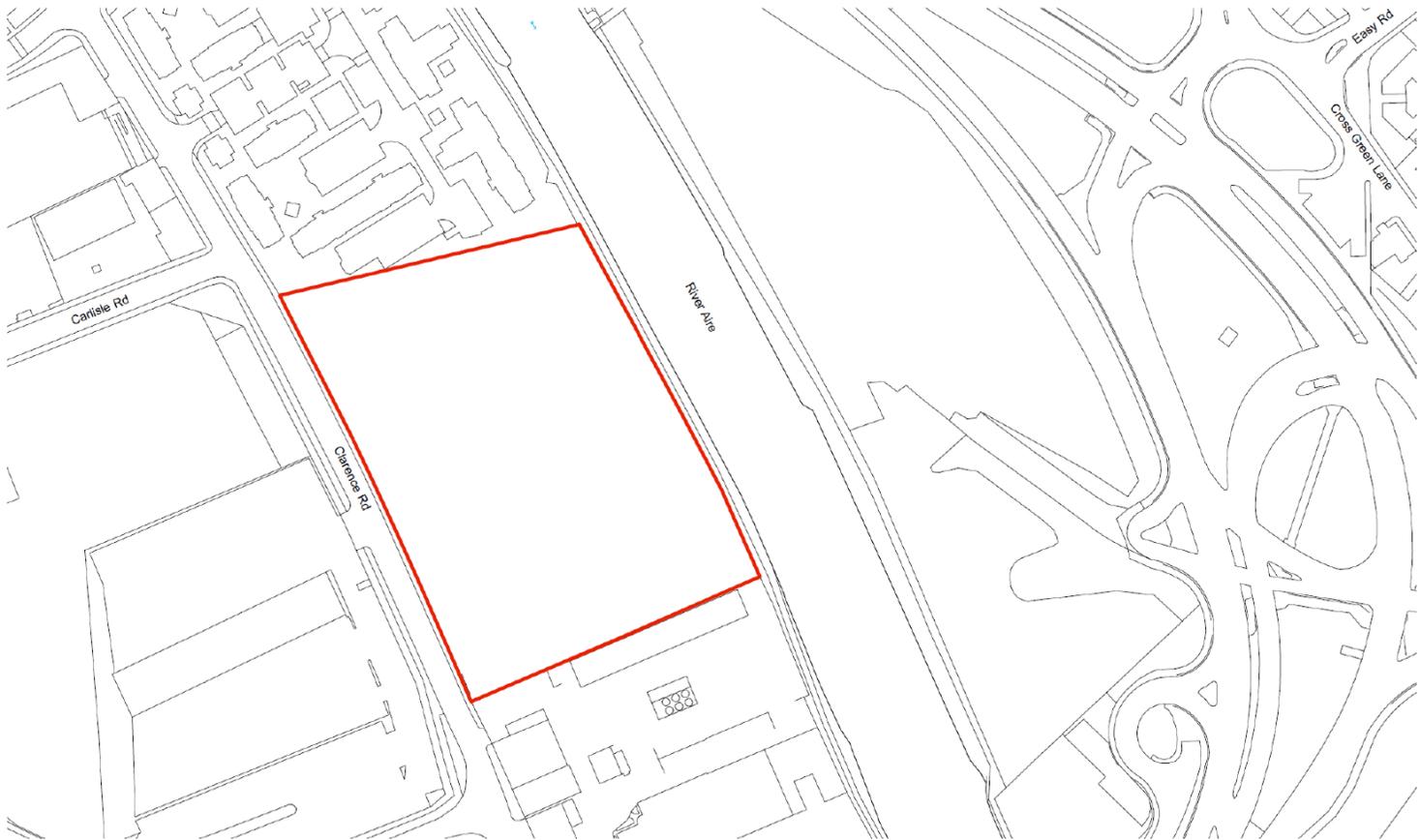
## Water



**PROPOSED LOCATION PLAN**  
1:1250 @ A3

	PLANS REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF LEEP NETWORKS (WATER) LTD AND YORKSHIRE WATER SERVICES LIMITED, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON:..... <b>30 September 2021</b> .....	REVISION DATE DESCRIPTION	CLIENT: CITU PROJECT: PROPOSED RESIDENTIAL DEVELOPMENT ADDRESS: CLARENCE ROAD, LEEDS SE 8 1161 32585 DRAWING TITLE: PROPOSED LOCATION PLAN SCALE: 1:1250 @ A3 DATE: MARCH 2018 DRAWING NO: A306 J- 001	<b>OLLIER SMURTHWAITE ARCHITECTS</b> 106 Albert Mill, 10 Hulton Hall Road, Manchester, M15 6LY T: 0161 261 6400 F: 0161 261 0830 mail@olliersmurthwaite.com
		(Signature)	(Empty table)	

**Sewerage**



**PROPOSED LOCATION PLAN**  
1:1250 @ A3

	<p>PLANS REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF LEEP NETWORKS (WATER) LTD AND YORKSHIRE WATER SERVICES LIMITED, AS SEWERAGE UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON: <b>30 September 2021</b></p>			CLIENT: CITU	<p><b>OLLIER SMURTHWAITE ARCHITECTS</b> 100 Albert Mill, 10 Hulme Hall Road, Manchester, M15 4LY T: 0161 853 0330 F: 0161 853 0330 E: mail@olliersmurthwaite.com</p>
				PROJECT: PROPOSED RESIDENTIAL DEVELOPMENT	
		ADDRESS: CLARENCE ROAD, LEEDS SE 31161 2Z5 8B			
		DRAWING TITLE: PROPOSED LOCATION PLAN			
		SCALE: 1:1250 @ A3	DATE: MARCH 2016		
		REVISION	DATE	DESCRIPTION	DRAWING NO: A300_P_001

*J. Ollier*

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