



## **Variation of Independent Water Networks' (IWN) appointment to include additional land at Berryfields**

On 21 June 2010, Ofwat varied the appointments of Independent Water Networks (IWN) and Thames Water as water and sewerage undertakers and in doing so enabled IWN to serve a site proposed for 3,600 household customers called Berryfields, in Aylesbury.

On 23 May 2012, IWN applied to Ofwat to vary the area of its appointment at Berryfields by adding a parcel of land to the original Berryfields area. The application did not change any of the assumptions considered in the initial application and it not require that we reassesses the financial viability of the site.

On 16 November 2012, Ofwat began a consultation on a proposal to vary IWN's appointment to become the water and sewerage services provider to this additional parcel of land. The consultation ended on 14 December 2012. During the consultation period Ofwat received two representations which we considered in making our decision.

On 23 January 2013, we granted IWN a variation to its existing appointment to enable it to serve the additional land at Berryfields for water and sewerage services.

This notice gives our reasons for making this variation.

### **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 their businesses. In this case, IWN applied to replace Thames Water as the appointed water and sewerage company for the additional land at Berryfields.

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 is 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 megalitres 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 or 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 that:

1. customers, or future customers, should be no worse off than if the site had been supplied by the existing appointee; and
2. 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.

Entry and expansion (and even the threat of such by potential competitors) can lead to benefits for different groups of people (such as household and non-household 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 raise its game. We believe the wider benefits of competition via 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**

IWN's application to serve this additional parcel of land was submitted under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (WIA91).

To qualify under the unserved criterion under section 7(4)(b) WIA91, 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. IWN provided us with confirmation from Thames Water that it considers the additional parcel of land to be unserved. Having reviewed the facts, we are satisfied that the site is unserved.

We carried out this assessment in sections 3, 4 and 5 for the initial application, and as nothing had changed a further assessment was not necessary. For the sake of completeness we repeat below the conclusion of our assessment in considering the initial application.

## **3. Financial viability of the proposal**

We will only make an appointment if we are satisfied that the proposal is at low risk of being financially non-viable. We assess financial viability risk on a site by site basis and also consider the financial position of the company as a whole. Before consulting we had concluded that, based on the information available to us at that time, the proposal was of low risk of being financially non-viable. We are satisfied that the financial position of the company as a whole is sound.

## **4. Assessment of 'no worse off'**

IWN proposes to give household customers on the Berryfields site a 5% discount on the volumetric water charges of Thames Water, while all other charges will remain at the level of those set for Thames Water's customers. We have approved IWN's Codes of Practice and charges scheme and are satisfied that customers will be offered an appropriate level of service. We consider that customers on the Berryfields site will be 'no worse off' being served by IWN instead of by Thames Water.

## **5. Effect of appointment on Thames Water's customers**

In considering whether customers will be no worse off, we also considered the potential effect this variation may have on Thames Water's existing customer base.

We have looked at this potential impact by comparing how much Thames Water **might** have received in revenue had it supplied the Site directly, with the revenue it will receive through supplying the Site indirectly via supplies to IWN. The calculation necessarily depends on a range of assumptions and this means it is difficult to quantify the effect on Thames Water and it is necessary to use a simplified set of figures. As such, we have expressed the effect in 'per bill' terms to try and quantify the possible effect in an easily understandable way.

When Berryfields is fully built in 2022, the 3,600 household properties on this Site would potentially have made up 0.062% of Thames Water's customer base. We consider that the upper bound of the potential effect could amount to approximately a £0.07 increase per annual bill for each of Thames Water's existing customers by 2022.

However, these calculations do not include costs saved by, or the value of efficiencies adopted by, Thames Water as a result of the competitive impact of new entry and the threat of new entry on unserved sites. The calculations also take no account of potential cost savings by Thames Water for the provision of bulk water supply and discharge services (from dealing with IWN as a single customer for the Site rather than many customers individually) or the offsetting of additional benefits to customers that arise from the new appointments mechanism. From this we concluded that Thames Water's customers will not, therefore, automatically see their bills increase by this amount.

In this case, we considered this potential effect to be outweighed by the benefits of granting this variation.

## **6. Developer choice**

Ofwat takes into consideration the choices of the site developer. In this case, the developer said that it wanted IWN to be the water and sewerage company for the Site.

## **7. Responses received to the consultation**

We received two responses to our consultation, from the Environment Agency and the Consumer Council for Water (CCWater). We considered these responses before making the decision to vary IWN's appointment. The main points raised in the responses are set out below.

## **7.1 CCWater**

Although CCWater acknowledged it had no new comments to make, it reiterated its concern about the cumulative effect of Ofwat granting NAVs in Thames Water's area on the bills of Thames Water's existing customers.

Taking into account the scale of the possible disbenefits that may result for Thames Water's existing customer base and the wider benefits we consider the new appointments regime brings for customers, we consider it likely that the disbenefits will be outweighed by the benefits of granting this variation. As part of our assessment of this application we considered the impact of this variation on Thames Water's existing customers. We have explained the potential impact under 'Effect of appointment on Thames Water's customers' above.

## **7.2 Environment Agency**

The Environment Agency made no objections to us granting this variation, although it made the point that IWN should ensure the whole Berryfields development is included in its Water Resources Management Plan (WRMP). We have reminded IWN of its statutory duty to prepare and maintain a WRMP.

## **8. Conclusion**

Having assessed IWN's application, we have decided to grant a variation to IWN's area of appointment to allow it to serve the additional land at the Berryfields Site. This variation became effective on 24 January 2013.