May 2018

Trust in water

Variation of Independent Water Networks Limited's appointment to include Bishop's Stortford North

Ofwat

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1. About this document

Variation of Independent Water Networks Limited's appointment to include Bishop's Stortford North

On 16 November 2015, Ofwat began a consultation on a proposal to vary Independent Water Networks Limited's ("**IWNL**") appointment to become the water and sewerage services provider for a development in Affinity Water's water supply area and Thames Water's sewerage services area called Bishop's Stortford North in Bishop's Stortford ("**the site**").

The consultation ended on 14 December 2015. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 25 April 2018, we granted IWNL 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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2. 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, IWNL applied to replace Affinity Water and Thames 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 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.

3. The application

IWNL 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**"). IWNL will serve the site by way of bulk supply and discharge agreements.

3.1 Unserved status of the site

Unserved: 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.

IWNL provided us with an independent reporter's report which concluded that the Site is unserved for water and sewerage services. We shared the report with Affinity Water and Thames Water - the incumbents - who both agreed with the conclusion.

3.2 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 IWNL has satisfied us that it can finance its functions and that it is able to properly carry them out.

3.3 Assessment of 'no worse off'

IWNL will match all the incumbents' standard published charges for similar services, except for the volumetric charge for water for household customers which will be 5% lower than Affinity Water's standard charges. What this means is that, for similar services, IWNL's customers on the Site will face a lower combined bill for their water and sewerage services than if they had been supplied by the incumbents.

With regard to service levels, we have reviewed IWNL's Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of Affinity Water and Thames Water. Based on this review, we are satisfied that customers will be offered an appropriate level of service by IWNL and that overall customers will be 'no worse off' being served by IWNL instead of by the incumbents.

3.4 Effect of appointment on Affinity Water and Thames 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 Affinity Water and Thames 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 Affinity Water and Thames 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 Affinity Water and Thames Water might have expected to receive in revenue from serving the Site directly, were they to serve the Site, with the revenues they might expect from the proposed arrangement with IWNL.

In this case, we have calculated that if we grant the site to IWNL, there may be a potential impact on the bills of Affinity Water and Thames Water's existing customers of -£0.02 and £0.00 respectively for existing customers of AFW and TMS.

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.

3.5 Developer choice

Where relevant, we take into consideration the choices of the site developer. In this case, the developer said that it wanted IWNL to be the water and sewerage company for the site.

4. Responses received to the consultation

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

4. 1 CCWater

CCWater was concerned about the possible impact of the Thames Tideway Tunnel ("**TTT**") charge on IWNL's sewerage services charges for the Site.

Under Condition B of a new appointee's licence conditions, a new appointee may not charge customers more than the charges of the relevant incumbent for a similar service. A new appointee at a site in Thames Water's sewerage services area can therefore charge its own customers the same as Thames Water's sewerage charge, which includes the TTT element. In sites that are served via a bulk discharge agreement, this issue does not present any difficulties in that Thames Water is likely to include the TTT element in its bulk discharge price. However, in sites where the new appointee does not have a discharge agreement with Thames Water, there has been a concern that this may give rise to a windfall gain by the new appointee. As this Site will be served by way of a bulk discharge agreement with Thames Water, it is not a concern for this Site.

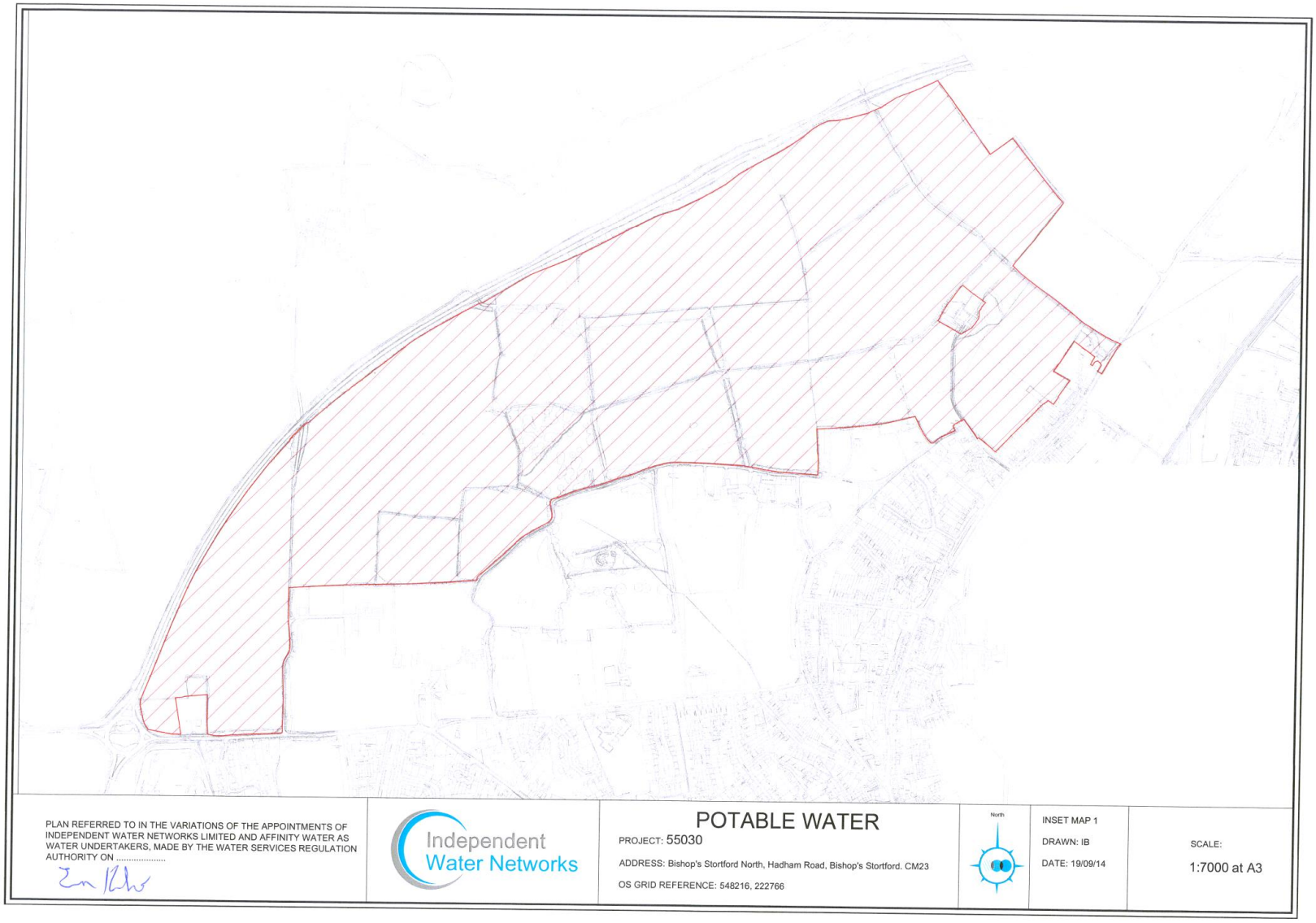
4. 2 EA and DWI

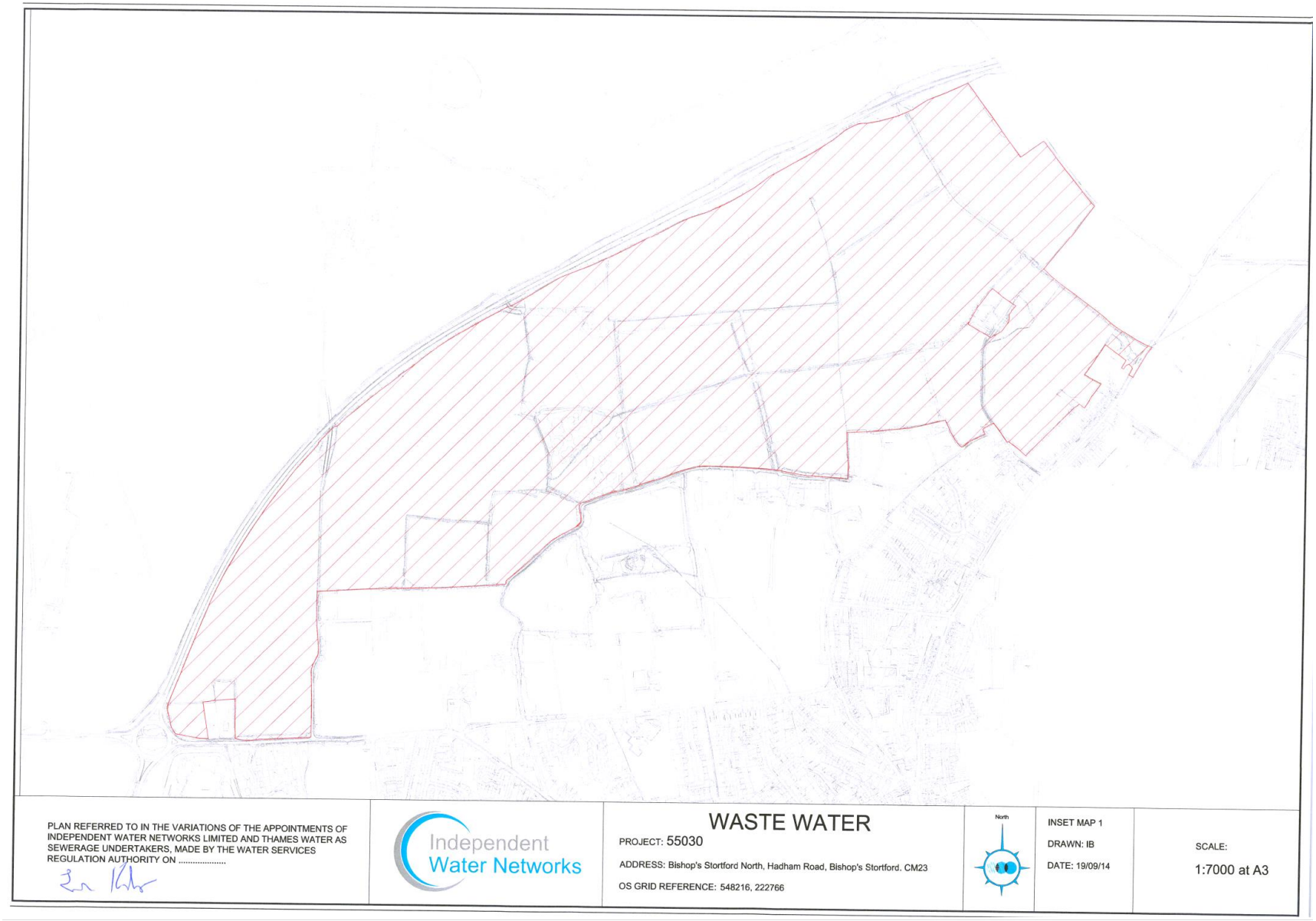
Both organisations have no objections to us granting this variation, but raised technical points, which IWNL has since resolved.

5. Conclusion

Having assessed IWNL's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Affinity Water and Thames Water's areas of appointment to allow it to serve the site for water and sewerage services. This appointment became effective on 25 April 2018.

6. Maps


PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND AFFINITY WATER AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON .....
Independent Water Networks
POTABLE WATER
PROJECT: 55030
ADDRESS: Bishop's Stortford North, Hadham Road, Bishop's Stortford, CM23
OS GRID REFERENCE: 548216, 222766
North
INSET MAP 1
DRAWN: IB
DATE: 19/09/14
SCALE:
1:7000 at A3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DATE: 19/09/14
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1:7000 at A3

Ofwat (The Water Services Regulation Authority) is a non-ministerial government department. We regulate the water sector in England and Wales. Our vision is to be a trusted and respected regulator, working at the leading edge, challenging ourselves and others to build trust and confidence in water.

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