

April 2019

Trust in water

## **Variation of Independent Water Networks Limited's appointment to include Clipstone Park**

## 1. About this document

### Variation to Independent Water Networks Limited's appointment to include Clipstone Park

On 7 December 2018, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks Limited's ("IWN") appointment to become the water supplier for a development in Anglian Water Services Limited's ("ANH") water supply area called Clipstone Park in Leighton Buzzard ("the Site").

The consultation ended on 7 January 2019. During the consultation period, we received representations from four organisations, which we considered when making our decision. On 24 January 2019, we granted IWN a variation to its existing appointment to enable it to supply water 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 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, IWN applied to replace ANH to become the appointed water 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 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 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 – for example, household customers 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 in the NAV market 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**

IWN 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**”). IWN will serve the Site by way of bulk supply agreement with ANH.

#### **3.1 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.

IWN applied for a variation based on the unserved criterion. The existing appointee provided a letter, dated 15 August 2018, confirming that, in its view, the Site is unserved. According to the letter, the original proposed site boundary contained a small parcel of land known as ‘The Model Village’ which is currently served by ANH. IWN has redrawn the proposed boundary for this Site to exclude this parcel of land to reflect this.

IWN has provided maps of the Site as part of their application package. While ANH states that it does not know whether there are any private supplies on the Site, the maps very clearly indicate there are no buildings and in any event, even if there were private supplies on the Site, this would not render the Site served for the purposes of the Unserved criterion. Having reviewed the facts of this Site, and taking into account the letter from the existing appointee, we consider the Site to be unserved.

#### **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 IWN 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’**

IWN will offer to match existing appointee’s charges for customers on the Site, i.e. it will not offer a discount.

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

### **3.4 Effect of variation on ANH'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 ANH'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 ANH's customers. 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 ANH 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 bulk supply arrangement with IWN.

In this case, we have calculated that if we grant the Site to IWN, there may be a potential impact on the bills of ANH's existing customers of a potential £0.005 increase on water bills.

This impact does not take into account the potential spill over 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, Taylor Wimpey South Midlands, said that it wanted IWN to be the water company for the Site.

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

We received four responses to our consultation, namely from the Drinking Water Inspectorate (DWI), the Environment Agency (EA), the Consumer Council for Water (CCWater) and ANH. The DWI, EA and ANH had no objections to our proposal to grant the variation. The details of CCWater's response are below. We considered these responses before making the decision to vary IWN's appointment.

### **4.1 CCWater**

In its response, CCWater stated it was disappointed that there are no direct financial benefits to customers from being served by IWN rather than ANH for water services, as IWN proposes to charge its customers the same rate as ANH. It noted that IWN does not offer a social tariff, which ANH does. CCWater also noted that IWN proposes to match or exceed many of the service standards currently provided by ANH, notably increased compensation for low water pressure or failing to read a meter once a year, and a free leak repair service on customers' external supply pipes. Overall, CCWater supports our proposal and agrees with our assessment that customers will be no worse off.

### **4.2 Our response**

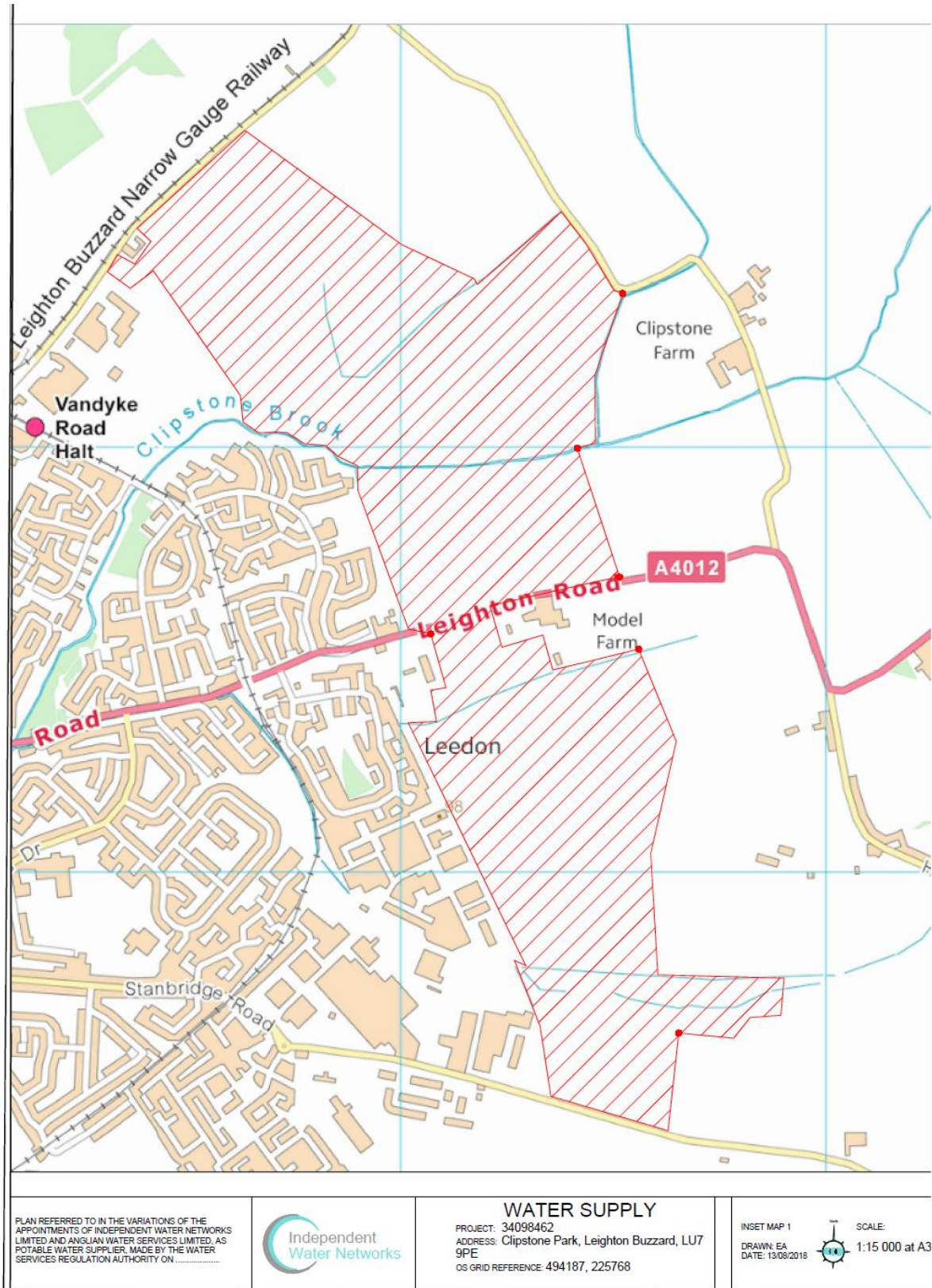
One of the key policy principles Ofwat considers when assessing NAV applications is that customers, or future customers, should overall be no worse off (in terms of the price and service they receive) than if they had been supplied by the existing appointee. This requirement has been met by IWN in its proposal to improve the levels of service and match the pricing set by ANH. Our assessment does not require applicants to better the service and price of the existing appointee.



## **5. Conclusion**

Having assessed IWN's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to IWN's area of appointment to allow it to serve the Site for water services. This appointment became effective on 25 April 2019.

## 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. 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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