

January 2019

Trust in water

# Variation of Independent Water Networks Limited's appointment to include Bidwell West

## 1. About this document

### Variation of Independent Water Network's appointment to include Bidwell West

On 29 November 2017, Ofwat began a consultation on a proposal to vary Independent Water Networks Limited's ("**IWN**") appointment to become the water and sewerage services provider for a development in Affinity Water Limited's ("**AFW**") water supply area and Anglian Water Services Limited's ("**ANH**") sewerage services area called Bidwell West in Houghton ("**the Site**").

The consultation ended on 27 December 2017. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 18 January 2019, we granted IWN 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 (“**NAV**”) 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, IWN applied to replace AFW and ANH 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 NAVs, 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 NAVs, 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 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 improve its services. We believe the wider benefits of competition through the NAV 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 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**”). IWN will serve the Site by way of a bulk supply agreement from AFW and a bulk discharge agreement from 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.

Both AFW and ANH have provided letters confirming that the Site is unserved. Given the confirmations we have received and having reviewed the facts, we are satisfied that the Site is unserved.

#### **3.2 Financial viability of the proposal**

We will only vary an existing 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 proposes to charge customers on the Site charges that are equivalent to the charges of ANH and AFW – 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 AFW and 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 AFW and ANH.

### **3.4 Effect of appointment on AFW and 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 AFW and 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 customers of AFW and ANH. 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 AFW and ANH might have expected to receive in revenue from serving the Site directly, with the revenues they might expect from the proposed 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 existing AFW customers of £0.013. There may also be a potential impact on ANH's existing customers of £0.013.

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 said that it wanted IWN 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**"), the Environment Agency ("**EA**") and ANH. We considered these responses before making the decision to vary IWN's appointment. The points raised in the response are set out below.

### 4.1 ANH

ANH confirmed it has no objections to the application. It further stated that it is content that the Site is unserved and that there is capacity at the local treatment works without the need for reinforcement.

### 4.2 CCWater

In its response to our consultation CCWater stated that it was disappointed that customers will not receive any financial benefit from having IWN as its service provider as opposed to AFW and ANH. However, CCWater supports the application as IWN improves on most of the service standards offered by AFW and ANH.

CCWater also highlighted that a small cost will be passed on to IWN's customers. Whilst it notes that this is a very low cost, there has been no material evidence of a significant benefit for those customers arising from a NAV.

One of Ofwat's key NAV policies is that customers should be 'no worse off' if a NAV is granted. In other words, an applicant must ensure its new customers are made no worse off in terms of price and service than if they had been supplied by the previous incumbent. This requirement has been met by IWN in its proposal to improve the levels of service and match the pricing set by AFW and ANH. We do not require applicants to better the service and price of the previous incumbents.

### 4.3 EA

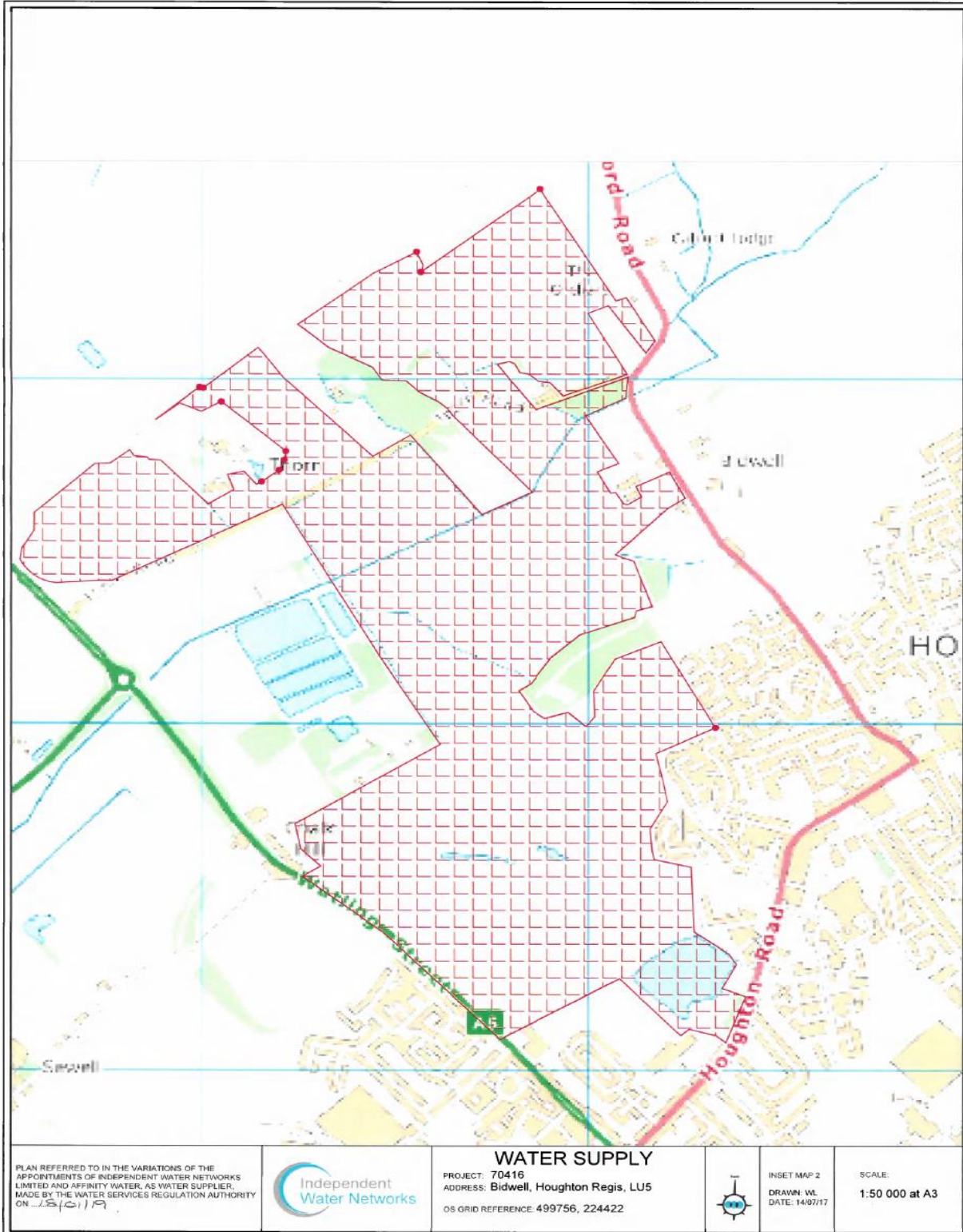
The EA responded to our consultation by email dated 27 December 2017 and had no comments in relation to the application.

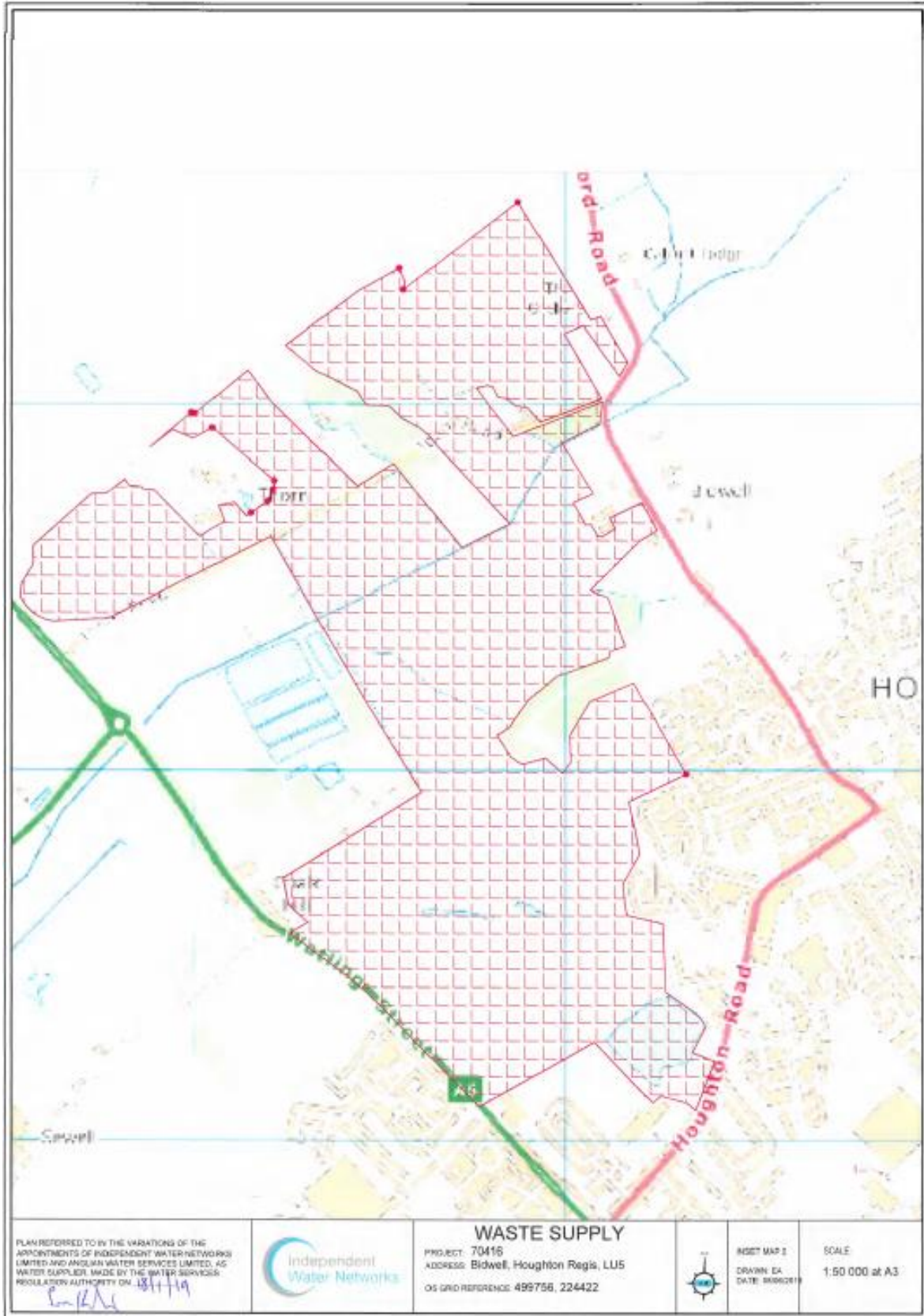


## **5. Conclusion**

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 appointment to allow it to serve the Site for water and sewerage services. This variation became effective on 19 January 2019.

## 6. Maps





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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