

February 2019

Trust in water

**Proposal to grant a variation of appointment
to Independent Water Networks Limited to enable
it to provide water and sewerage services to a site
called Eastern Quarry, Swascombe, Kent**

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1. About this document

We propose granting a variation of appointment to Independent Water Network Limited as a water and sewerage company and varying the appointment of Thames Water Services Limited and Southern Water Services Limited as a water and sewerage company. This notice is a consultation on this proposal under section 8(3) of the Water Industry Act 1991 (“**WIA91**”).

The consultation period will last for 28 days from the date of publication of this notice. Having considered any representations submitted during the consultation period in response to this consultation notice, Ofwat will decide whether or not to variation of appointment set out above.

2. The Site

Independent Water Network Limited (“**IWN**”) has applied for a variation to its appointment to be able to provide water and sewerage services to a site called Eastern Quarry (“**the Site**”). Site boundary maps can be viewed in section 8 of this document.

The Site is within the water area of Thames Water Utilities Limited (“**TMS**”) and the sewerage services area of Southern Water Services Limited (“**SRN**”).

If granted, IWN will provide water and sewerage services to 4,500 household customers and six business customers on the Site. IWN proposes to provide water supply services through a bulk supply agreement with TMS and sewerage services to the Site by way of bulk discharge agreement with SRN.

IWN states that the Site be fully built out by 2040.

3. The applicant

In October 2007, IWN obtained its first appointment as a water and sewerage undertaker for a housing development at the Long Croft Road site in Anglian Water's (ANH) area. Since then Ofwat has agreed to vary IWN's area of appointment so it can serve a further 25 sites for water and/or sewerage. The register of new appointments and variations can be viewed [here](#).

4. The proposal

Ofwat proposes to:

- Grant a variation of appointments to IWN as a water and sewerage company; and
- Vary the appointment of TMS as a water company and vary the appointment of SRN as a sewerage company by excluding the Site from these companies' water supply area and sewerage services area respectively.

By means of the above, IWN will become the water and sewerage services supplier for the Site.

5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation¹, provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee 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 appointees to expand their businesses.

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our statutory duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we consider that we must ensure that the future customers on a 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:

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

We clarified these two policy principles in February 2011 when we published our New appointments and variations – [policy](#) and [process](#) documents. In November 2012, we published our '[Statement on our approach for assessing financial viability of applications for new appointments and variations](#)'. This states that we will adopt a company-based assessment of financial viability, rather than a detailed site-based assessment, where it is appropriate to do so.

When we assess whether customers will be no worse off as a result of the appointment, we not only consider the customers on the site but also the generality of customers – i.e. customers of the existing provider and customers more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

¹ The legal framework for new appointments is set out in the WIA91. Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

6. The application

IWN has applied to be the water and sewerage company for the Site under the unserved criterion, set out in section 7(4)(b) of the WIA91.

6.1 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.

IWN provided letters from both incumbents, stating their views that the Site is unserved. TMS stated this in a letter dated 14 November 2018, and SRN stated this in a letter dated 12 November 2018. Given the evidence provided we are satisfied that the Site is unserved.

6.2 Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. In assessing applications to supply new development sites, Ofwat acts on behalf of both existing customers as well as potential new customers who are not yet on site, to protect their interests. The fact that future customers on a site have not directly chosen their supplier is not a position unique to new appointments and variations – only business, charity and public sector customers (“Business Customers”) in England and Wales are able to choose their supplier².

Recognising this, our assessment of an applicant’s proposals includes analysis of its plans to ensure customers will be at least no worse off in terms of their annual bills and levels of service than if they had been supplied by the existing appointee in whose geographical area the relevant site sits. We will continue to protect customers on a site by regulating the new appointee's prices and service levels.

² The majority of Business Customers where the area of the relevant appointed company is not wholly or mainly in Wales (and whose premises are, or are likely to be, supplied with at least 50 MI where the relevant area is wholly or mainly in Wales) have been able to switch suppliers of water and/or sewerage from 1 April 2017.

6.3 Price

IWN proposes to match the charges to customers on the Site to those of TMS and SRN – i.e. – it will not offer a discount.

6.4 Levels of service

Every appointee is required under its conditions of appointment to publish and make available Core Customer Information for its household customers (“codes”). We have assessed IWN’s proposed codes and our view is that these are of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the points covered by the above codes than they would be if TMS and SRN were to be the customers’ water and sewerage services supplier.

6.5 Site owner choice

IWN has the consent of the Site owner, Eastern Quarry Limited and their contracted developer Henley Camland, to become the water and sewerage services provider; a letter of consent has been provided to Ofwat.

6.6 Environment Agency (EA) and Drinking Water Inspectorate (DWI)

We take the views of these organisations into account before progressing to formal consultation on an application for a new appointment. Both the EA and DWI have informed us that they are content for us to consult on this application³.

6.7 Incumbent’s existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that TMS and SRN’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. It is therefore necessary to use a

³ The Environment Agency and the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA91.

simplified set of figures. We have expressed the effect in 'per bill' terms to try to quantify the possible effect in an easily understandable way.

We have assessed the potential magnitude of this impact by comparing how much TMS and SRN 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 IWN.

We estimate a potential £0.051 annual increase on the water bills of existing TMS customers and a potential increase of £0.025 on the sewerage bills of existing SRN customers if we grant this variation to IWN. This is once the Site is fully built out.

This estimate 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 sites.

Therefore we consider that granting this variation to IWN would have a very small financial impact on customers' bills and could have potential benefits for customers.

6.8 Ability to finance and properly carry out its functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company.

Following our risk assessment a decision was made to move to a company based assessment of financial viability for IWN, rather than the site-by-site assessment of each individual application.

IWN has an unlimited Keepwell agreement from its owner Brookfield Utilities UL Limited (BUUK) in July 2013. IWN have confirmed that this agreement is still in place and will cover this proposed new site. BUUK continue to hold an investment grade credit rating with Moody's.

We have considered the current financial position of the company as a whole and are satisfied that the company can finance its functions. We have concluded that the Site demonstrates sufficient viability based on the applicant's central assumptions.

7. Conclusion and next steps

In assessing IWN's application, we have considered the general benefits of new appointments. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and IWN would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed variation on the existing customers of TMS and SRN.

We are currently minded to grant the variation under the unserved criterion. We are consulting on our proposal to do so.

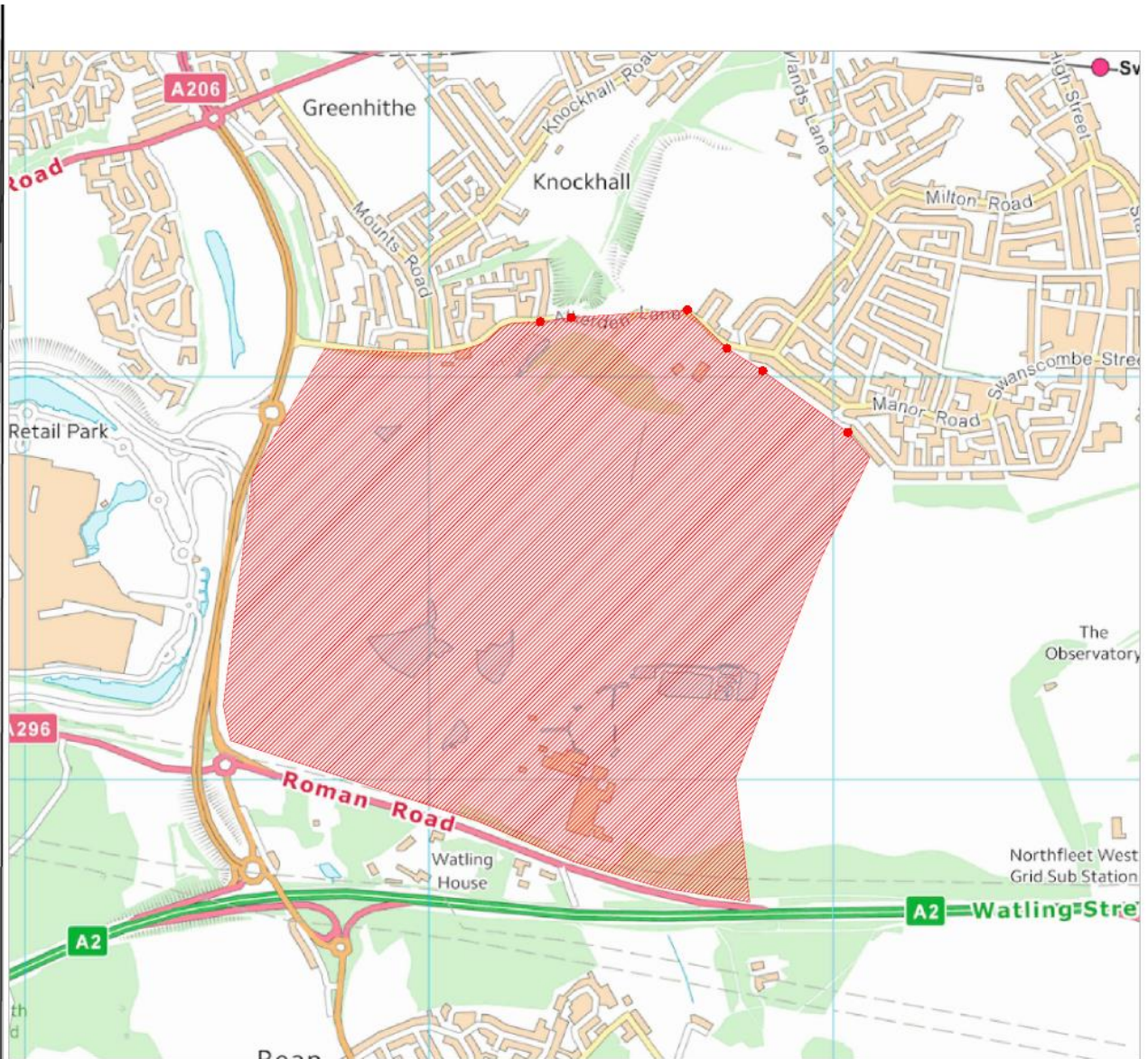
Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing to Jemma Bailey at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by completing the webform.

Representations must be received by Ofwat no later than 17.00 hours on 18 March 2019. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at <http://www.ofwat.gov.uk/foi/>

Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat's retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat's Privacy Policy in our [Publication Scheme](#).

8. Site Maps



PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND SOUTHERN WATER SERVICES LIMITED, AS WASTE WATER SUPPLIER, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON

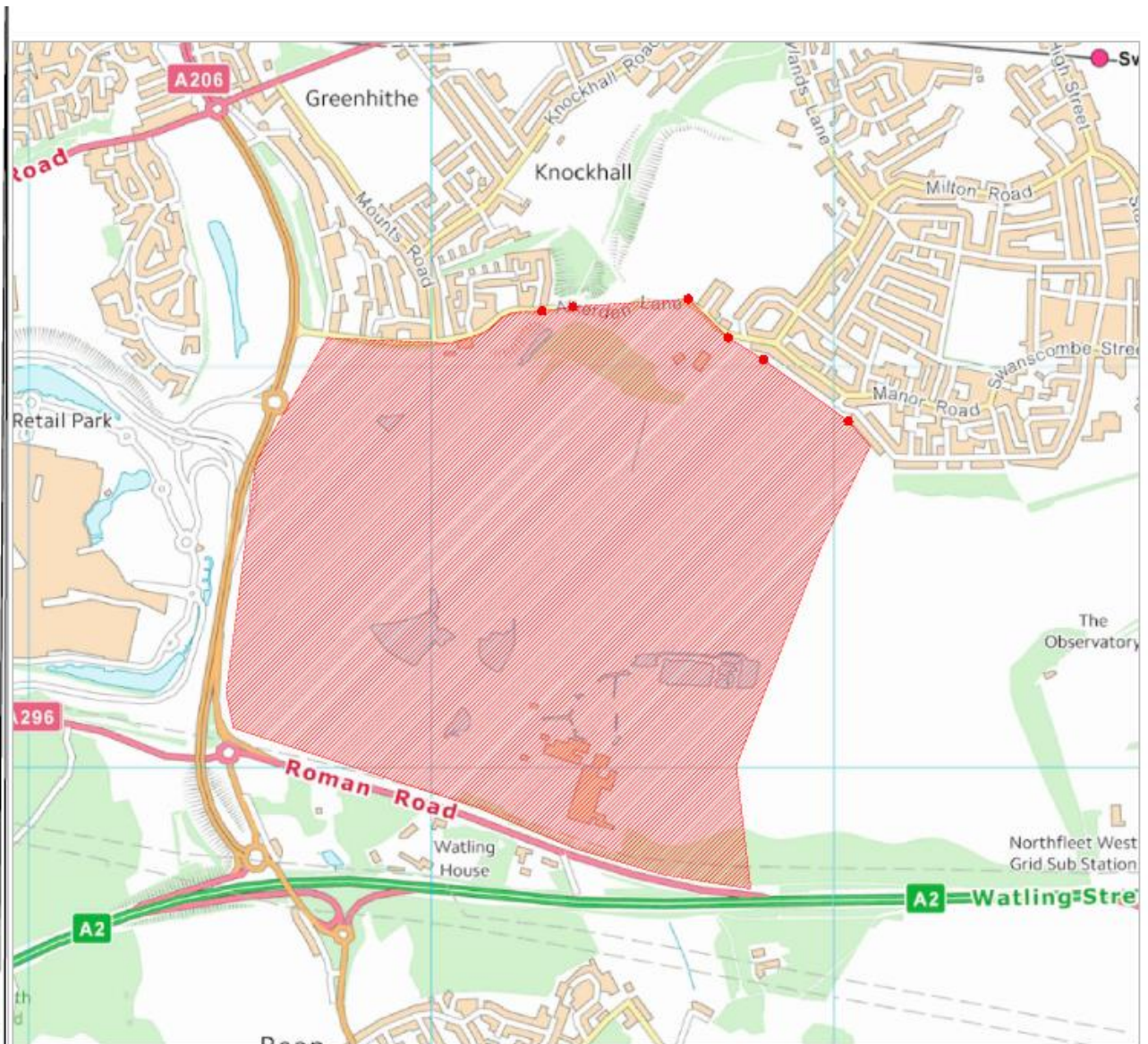


WASTE SUPPLY
 PROJECT: 34090470
 ADDRESS: Eastern Quarry, Ebbsfleet, DA9
 OS GRID REFERENCE: 559295, 173428

INSET MAP 1
 DRAWN: EA
 DATE: 23/10/2018



SCALE:
 1:50 000 at A3




PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND THAMES WATER SERVICES LIMITED, AS POTABLE WATER SUPPLIER, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON



WATER SUPPLY
PROJECT: 34090470
ADDRESS: Eastern Quarry, Ebbsfleet, DA9
OS GRID REFERENCE: 559295, 173428

INSET MAP 1
DRAWN: EA
DATE: 23/10/2018



SCALE:
1:50 000 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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February 2019

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