

23 September 2019

Trust in water

Variation of Independent Water Network Limited's appointment to include Factory Lane, Brantham, Essex

1. About this document

Variation of Independent Water Network Limited's appointment to include Factory Lane

On 8 July 2019, Ofwat began a [consultation](#) on a proposal to vary Independent Water Network Limited ("IWN")'s appointment to become the water services provider for a development in Anglian Water Services Limited's ("Anglian Water")'s water supply area called Factory Lane in Brantham, Essex ("**the Site**").

The consultation ended on 5 August 2019. During the consultation period, we received representations from two organisations, which we considered in making our decision. On 13 September 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 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 into areas where they are not the appointed company. In this case, IWN applied to replace Anglian Water 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 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

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 a bulk supply agreement with Anglian Water.

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 provided maps of the Site as part of its application. These maps indicated that currently there are no buildings on the Site. In addition, Anglian Water has confirmed that it is not providing water services to any premises on the Site. We are therefore satisfied that the Site is 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 have assessed the financial position of the company as a whole.

Based on the information available to us, we concluded that 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 match Anglian Water’s charges when providing services to customers on the Site.

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 Anglian Water. 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 Anglian Water.

3.4 Effect of appointment on Anglian 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 Anglian 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 Anglian 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 Anglian 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 IWN.

In this case, we have calculated that if we grant the Site to IWN, there is unlikely to be an impact on the bills of Anglian Water's existing customers.

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, St Francis Group, said that it wanted IWN to be the water company for the Site.

4. Responses received to the consultation

We received two responses to our consultation; from the Consumer Council for Water (“**CCWater**”) and the Environment Agency. 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 CCWater

Overall, CCWater agrees with our assessment that customers will be no worse off if served by IWN rather than Anglian Water.

CCWater recognised that IWN was proposing to meet or exceed most of the service standards offered by Anglian Water but expressed disappointment that, by setting charges at the same rate as Anglian Water, IWN was not offering any direct financial benefit to customers.

CCWater accepted that, given its relative size, it may be appropriate for IWN to tailor some of the services that it provides. CCWater set out its expectation that IWN would offer appropriate, flexible support to any customer in financial difficulty who would otherwise have benefitted from a social tariff. CCWater expects IWN to keep its services under review in this regard.

CCWater noted that our calculations suggested that granting the variation would not lead to any increase in the water bills for Anglian Water's customers but noted that we had not identified any significant benefits to Anglian Water's existing customers from the proposals.

Our response

One of our key policies is that customers should be no worse off if an application is granted. An applicant must therefore ensure that its new customers are made no worse off in terms of price and service quality than if they had been served by the incumbent. We consider that this requirement has been met by IWN through its proposal to improve the levels of service and match the pricing set by Anglian Water. We do not require applicants to offer a better service and price than the incumbent.

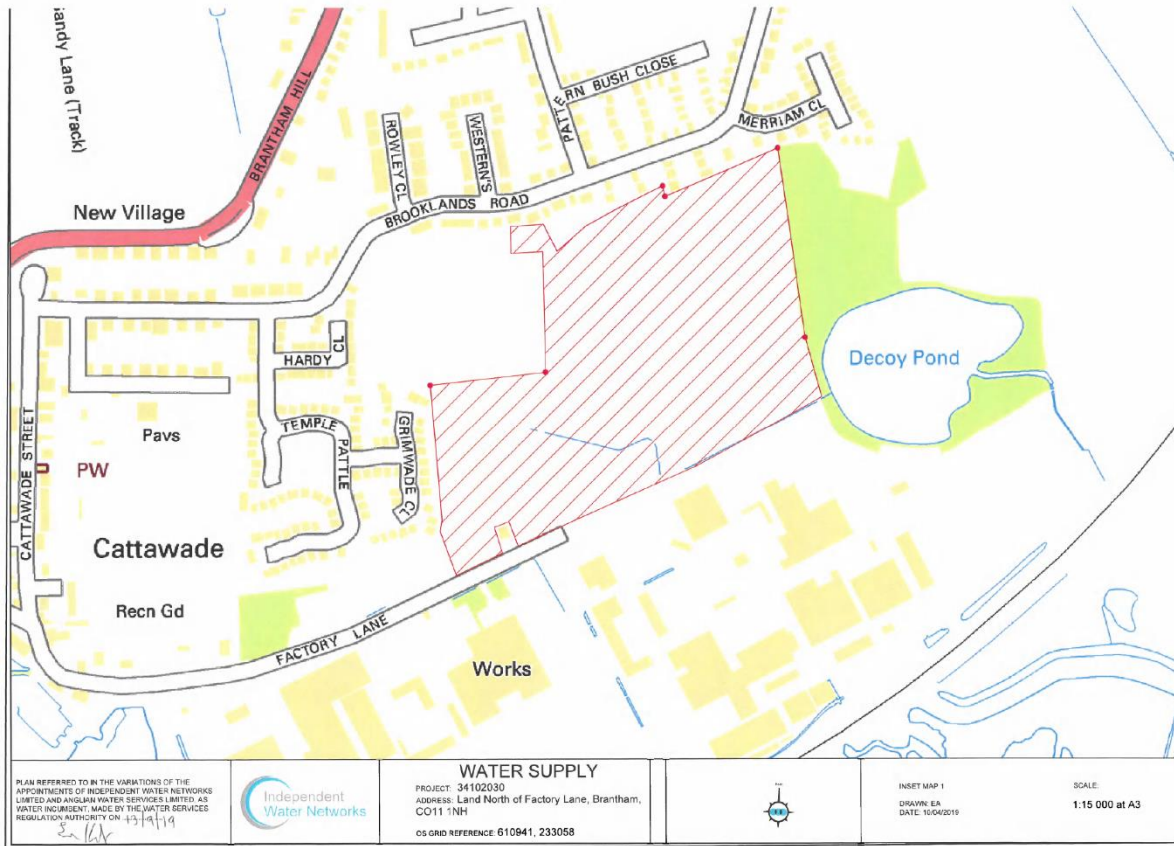
4.2 Environment Agency

The Environment Agency had no further comments to make and raised no objections to the proposals.

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 16 September 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.

Ofwat
Centre City Tower
7 Hill Street
Birmingham B5 4UA

Phone: 0121 644 7500
Fax: 0121 644 7533
Website: www.ofwat.gov.uk
Email: mailbox@ofwat.gsi.gov.uk

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