

25 September 2019

Trust in water

Variation of Independent Water Networks Limited's appointment to include Malyons Lane, Hockley, Essex

1. About this document

Variation of Independent Water Networks Limited's appointment to include Malyons Lane, Hockley, Essex

On 23 July 2019, 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 Hockley, Essex ("**the Site**"). The Site is in Northumbrian Water Limited's ("**Northumbrian Water**") water supply area, under its 'Essex and Suffolk Water' branding, and in Anglian Water Services Limited's ("**Anglian Water**") sewerage services area.

The consultation ended on 20 August 2019. During the consultation period, we received representations from four organisations, which we considered in making our decision. On 23 September 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 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 Northumbrian Water and Anglian 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

IWN applied to be the water and sewerage services appointee for the Site under the consent criterion set out in section 7(4)(a) of the Water Industry Act 1991 (“**WIA91**”). IWN will serve the Site by way of a bulk supply agreement with Northumbrian Water and a bulk discharge agreement with Anglian Water.

3.1 The consent criterion

To qualify under the consent criterion, an applicant must provide a letter of consent from the existing appointee consenting to the application and consenting to the variation of its area of appointment corresponding to the applicant's application.

IWN has applied to supply this Site under the consent criterion. Northumbrian Water and Anglian Water have each provided letters confirming that they consent to the application and to the variation of their appointment areas. We are therefore satisfied that the application meets the consent criterion.

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 proposed to match the charges for water services of Northumbrian Water and the charges for sewerage services of Anglian Water for customer 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 Northumbrian Water and 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 Northumbrian Water and Anglian Water.

3.4 Effect of appointment on customers of Northumbrian Water and Anglian Water

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the prices that Northumbrian Water's and Anglian Water's existing customer bases may face.

The calculation necessarily depends on a range of assumptions, and there are clearly difficulties involved in quantifying the effect on customers of Northumbrian Water and 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 Northumbrian Water and 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 may be a potential impact on the water bills of Northumbrian Water's existing customers of £0.01 and a potential impact on the sewerage bills of Anglian Water's existing customers of £0.01.

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 – David Wilson Homes – said that it wanted IWN to be the water and sewerage company for the Site.

4. Responses received to the consultation

We received four responses to our consultation; from the Consumer Council for Water (“**CCWater**”), Northumbrian Water, the Environment Agency and the Drinking Water Inspectorate. We considered these responses before making the decision to vary IWN's appointment. The points raised from the responses are set out below.

4.1 CCWater

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

CCWater recognised that IWN was proposing to meet or exceed most of the service standards offered by Northumbrian Water and Anglian Water. However, it expressed disappointment that, by setting charges at the same rate as Northumbrian Water and 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 likely lead to only very small increases in the water bills for Northumbrian Water's customers and the sewerage bills for Anglian Water's customers but noted that we had not identified any significant benefits to the existing customers of these companies 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 Northumbrian Water

Northumbrian Water responded that it was supportive of the application but noted that the maps supplied by IWN did not accurately reflect the locations of the farmhouse and bungalow that were to be excluded from the Site. Northumbrian Water sought confirmation that the farmhouse and bungalow would be excluded from the Site.

Northumbrian Water further noted that it had been in contact with IWN with respect to the inclusion of the farmhouse within the NAV boundary. Northumbrian Water commented that as the farmhouse was no longer served, it would be beneficial for future occupants to be connected to IWN's distribution network. Northumbrian Water stated that it would be happy to agree to the revision of the Site boundary to include the farmhouse as part of the current consultation process, in order to negate the need for a further variation.

Our response

We can confirm that the farmhouse and bungalow are excluded from the Site. Ofwat has also obtained further and revised maps from IWN, which we consider more accurately reflect the exclusion of the farmhouse and bungalow from the Site.

We note Northumbrian Water's comments regarding its discussions with IWN in relation to including the farmhouse in the NAV boundary for this application. However, IWN has informed Ofwat that it does not, at this stage, wish to extend the boundary of its application to include the farmhouse and bungalow, but that it may do so in future. We have therefore assessed the application on the basis that the farmhouse and bungalow are not included in the Site.

4.3 Environment Agency

The Environment Agency considered the proposals to be suitable so long as Anglian Water was able to provide assurance that it has the capacity on its local system to accept the bulk waste water without risking a permit breach which would pose a risk to the environment.

Our response

In light of the Environment Agency's comments, Anglian Water has provided additional information about the capacity on its local system. The Environment

Agency confirmed on 30 August 2019 that it was satisfied with the additional reassurances and that it did not require any further information.

4.4 Drinking Water Inspectorate

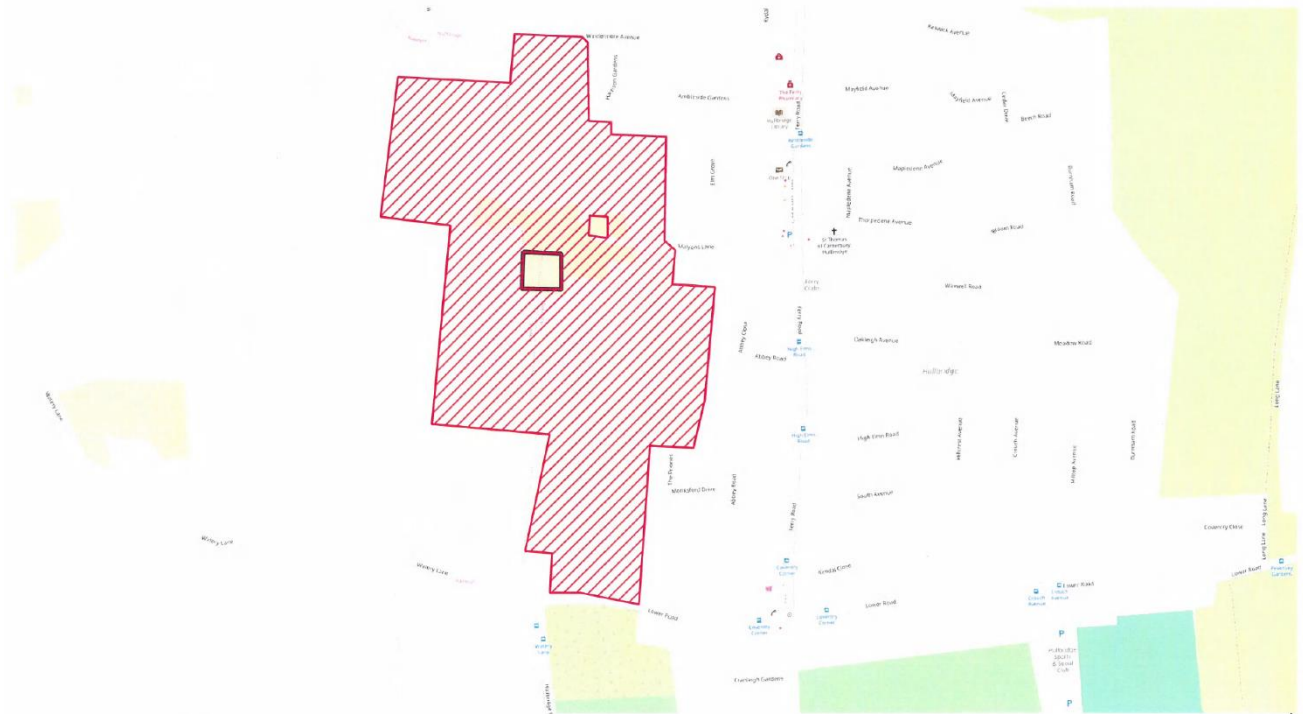
The Drinking Water Inspectorate made no substantive comments and requested that it be informed of the outcome of the consultation.

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 and sewerage services. This appointment became effective on 24 September 2019.

Appendix 1: Site Maps

Water inset map



23/9/19
EA

PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND ESSEX & SUFFOLK WATER LTD, AS POTABLE WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON

ADDRESS: MALYONS LANE, HOCKLEY, ESSEX
OS GRID REFERENCE: 580629, 194563

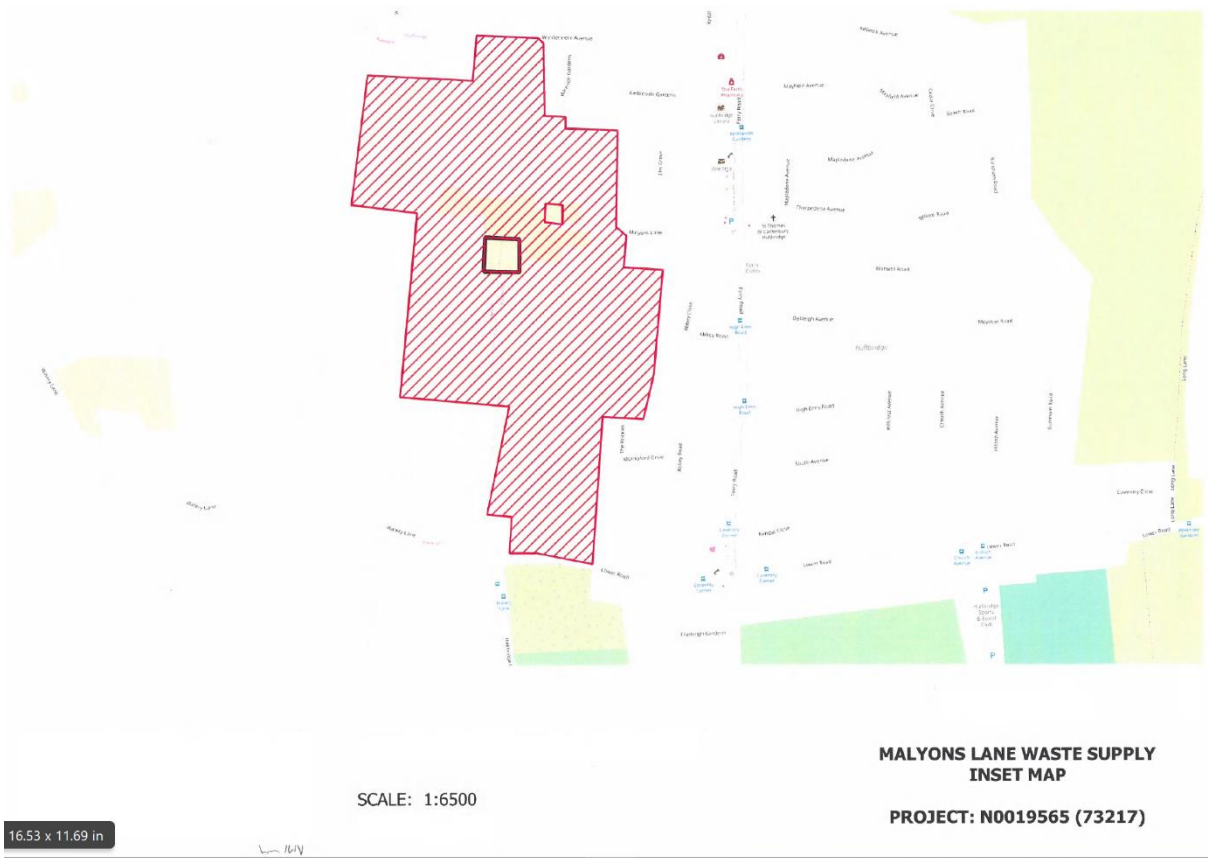
SCALE: 1:6500
DRAWN BY: EA
DATE: 27/08/2019

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**MALYONS LANE WATER SUPPLY
INSET MAP**

PROJECT: N0019565 (73217)

Waste inset 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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