

August 2019

Trust in water

## **Variation of Independent Water Networks Limited's appointment to include Minster Way**

## 1. About this document

### Variation of Independent Water Networks Limited's appointment to include Minster Way

On 22 July 2019, Ofwat began a [consultation on a proposal](#) to vary Independent Water Networks Limited's appointment to become the water services provider for a development in Yorkshire Water's water supply area called Minster Way in Beverley (**"the Site"**).

The consultation ended on 19 August 2019. During the consultation period, we received representations from two organisations, which we considered in making our decision. On 27 August 2019, we granted Independent Water Networks Limited a variation to its existing appointment to enable it to supply water 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, Independent Water Networks Limited applied to replace Yorkshire Water Services Limited (“**Yorkshire 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, by promoting effective competition wherever appropriate. 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**

Independent Water Networks Limited 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**”). Independent Water Networks Limited will serve the Site by way of bulk supply agreement with Yorkshire 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.

Independent Water Networks Limited is applying for a variation based on the unserved criterion.

The boundary of the Site has been drawn to exclude three household properties that would otherwise have fallen within the Site boundary - two in the middle and one to the west boundary (see appendix 1). The area map provided also shows two further buildings at Newton Corner, within the boundary of the Site. We understand that the properties at Newton Corner have been demolished.

The three household properties which remain have been excluded from the Site and those customers will remain customers of Yorkshire Water. We asked both Independent Water Networks Limited and Yorkshire Water for assurance that this would not cause operational difficulties. Both parties confirmed that they did not see any difficulties.

Yorkshire Water confirmed in a letter 3 April 2019 that considering the above, it confirms that the Site is unserved.

Having reviewed the facts of this Site, and taking into account the information from the incumbent, 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 Independent Water Networks Limited 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'**

Independent Water Networks Limited proposes to offer a 2.5% discount to customers until April 2020 after which time it will match the charges to customers on the Site of Yorkshire Water – i.e. – it will not offer a discount. First occupancy on the Site is expected to occur in January 2020.

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

### **3.4 Effect of appointment on Yorkshire 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 Yorkshire 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 Yorkshire 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 Yorkshire 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 Independent Water Networks Limited.

In this case, we have calculated that if we grant the Site to Independent Water Networks, there may be a potential impact on the bills of Yorkshire Water's existing customers of £0.008.

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 Linden Homes said that it wanted Independent Water Networks Limited to be the water company for the Site.

## 4. Responses received to the consultation

We received two responses to our consultation, from the Environment Agency and the Consumer Council for Water. We considered these responses before making the decision to vary Independent Water Networks Limited's appointment. The points raised in the response are set out below.

### 4.1 Environment Agency

The Environment Agency responded confirming that it had no objections or comments to make regarding the application.

### 4.2 Consumer Council for Water

In general the Consumer Council for Water (“**CCWater**”) supports the decision to grant this variation.

CCWater commented that it is disappointed that there will be no tangible benefits as a result of granting this variation but goes on to acknowledge that customer will be no worse off as a result. CCWater acknowledged that Independent Water Networks Limited will match and in some cases better the service standards and guaranteed service standards currently provided by Yorkshire Water.

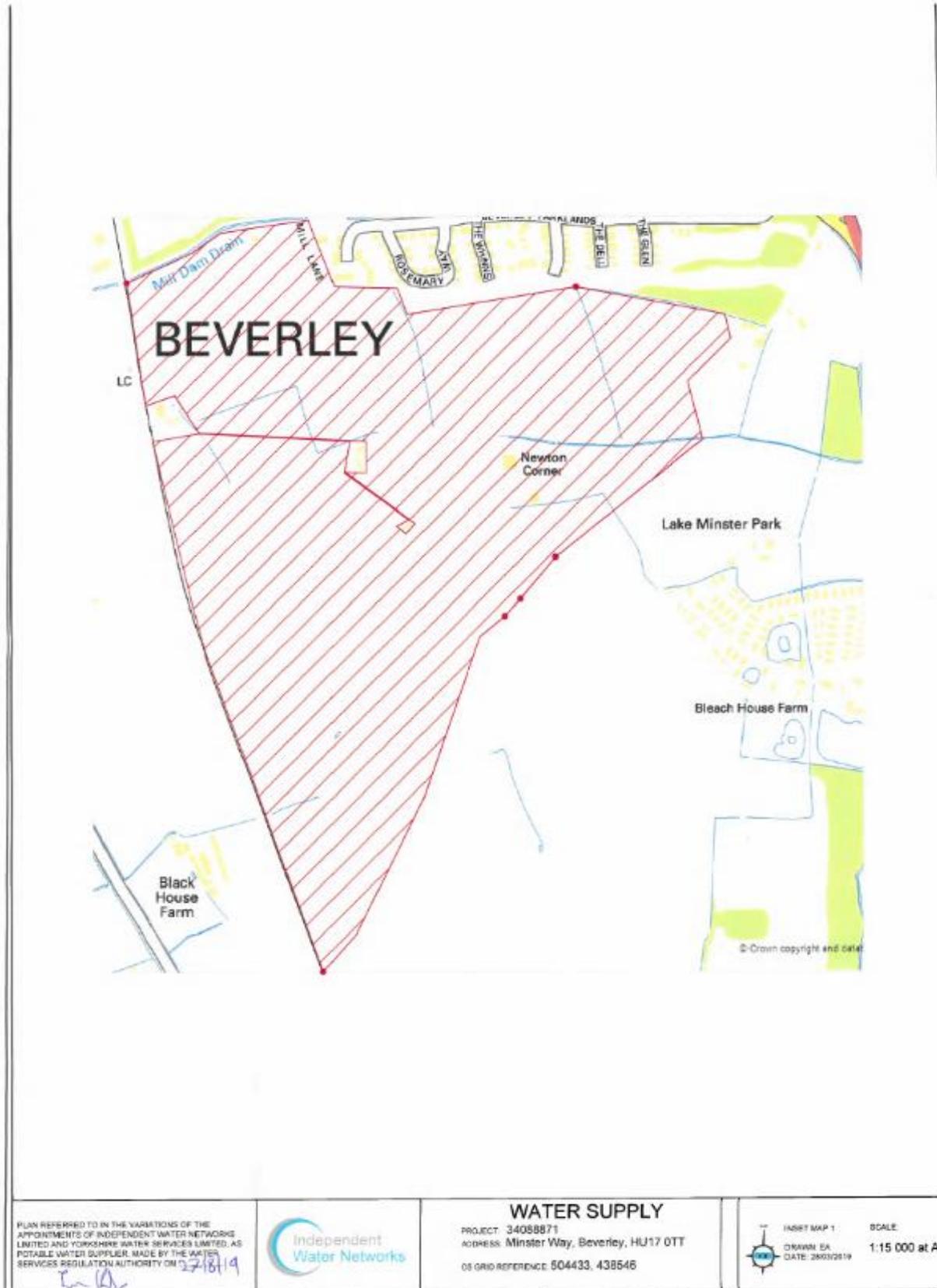
CCWater feels that it would be appropriate for Independent Water Networks Limited to tailor its support for customers in debt or financial hardship. It is on this proviso that CCWater agrees with Ofwat's assessment of no worse off. CCWater would have liked to see some benefit to existing Yorkshire Water customers as a result of the variation.

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 served by the previous incumbent. This requirement has been met by Independent Water Networks Limited in its proposal to improve the levels of service and match the pricing set by Yorkshire Water. We do not require applicants to better the service and price of the previous incumbent.

## **5. Conclusion**

Having assessed Independent Water Network's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Independent Water Networks Limited's area of appointment to allow it to serve the Site for water services. This appointment became effective on 27 August 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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