

July 2019

Trust in water

**Proposal to grant a variation of appointment to South East Water Limited to enable it to provide water services to a site called Aurum Green, Basingstoke**

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## 1. About this document

We propose granting a variation of appointment to South East Water Limited as a water company and varying the appointment of Severn Trent Services Limited, (Trading as Severn Trent Connect) as a water 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 grant the variation of appointment set out above.

## 2. The Site

On 20 July 2018, a new appointment was granted to Severn Trent Connect to provide water and sewerage services to Aurum Green, Basingstoke (“**the Site**”). Since the appointment was made, work has commenced and the Site is already partially complete, but will consist of 130 household dwellings when complete.

South East Water Limited (“**South East Water**”) has now applied for a variation to its appointment to be able to provide water services only to the Site.

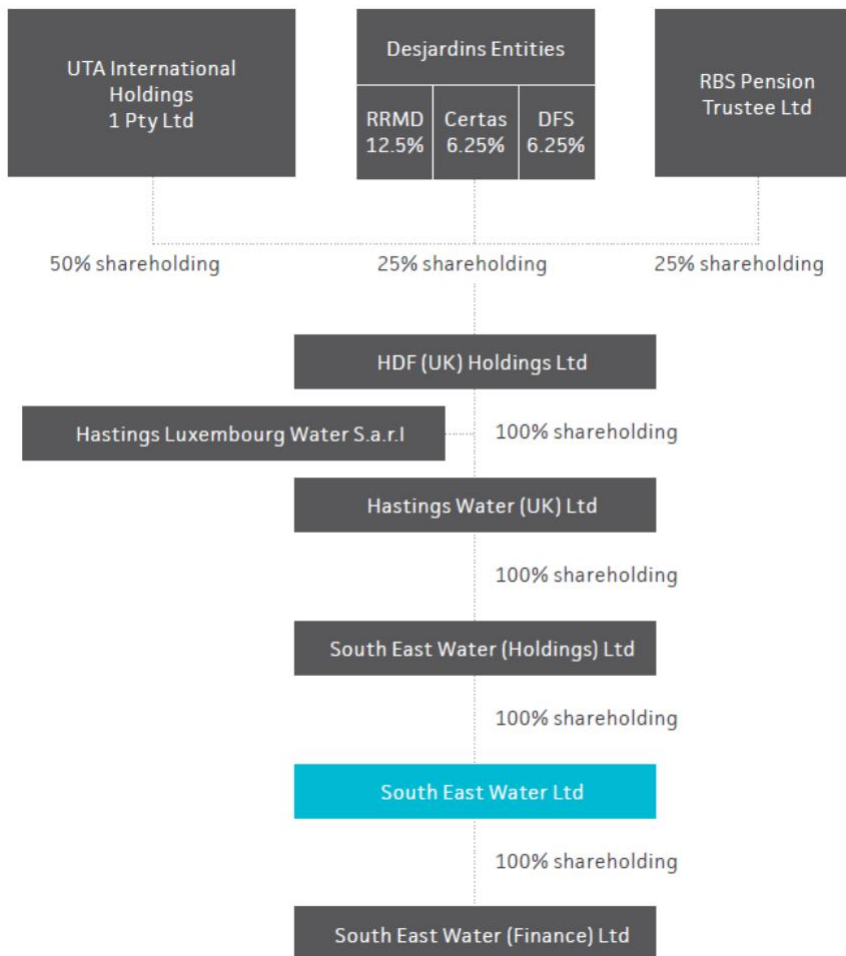
Site boundary maps can be viewed in section 8 of this document.

The Site is within the water and sewerage services area of Severn Trent Connect. South East Water proposes to provide water services to the Site using its existing infrastructure.

The Site will be fully built out in July 2020.

### 3. The applicant

SEW is an incumbent water and sewerage undertaker, serving over two million people across the south east of England. The ownership model for SEW is shown below:



## **4. The proposal**

Ofwat proposes to:

- grant a variation of appointment to South East Water as a water company; and
- vary the appointment of Severn Trent Connect as a water company by excluding the Site from its water supply area.

By means of the above, South East Water will become the water services supplier for the Site, as it were prior to Severn Trent Connect being granted its appointment.

## 5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation<sup>1</sup>, 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 – ie 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.

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<sup>1</sup> 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**

South East Water has applied to be the water company for the Site under the consent criterion, set out in section 7(4)(a) of the WIA91.

### **6.1 Consented status of the Site**

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.

We have a letter from Severn Trent Connect confirming that it consents for South Eats Water to take over the Site from it. We are therefore satisfied that the application meets the consent criterion.

### **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 supplier<sup>2</sup>.

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.

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<sup>2</sup> 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) can effectively switch suppliers of water and/or sewerage from 1 April 2017.



## **6.3 Price**

Severn Trent Connect had previously guaranteed to match South East Water's charges at this Site. As the Site would revert to South East Water it will charge its standard tariff to customers on the Site.

## **6.4 Levels of service**

Every appointee is required under its conditions of appointment to publish a Code of Practice on debt and a Customer Code for its household customers. Water companies must also publish a Code of Practice on leakage. We have assessed South East Water's proposed Codes of Practice and Customer Code, 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 of Practice and the Customer Code than they would be if Severn Trent Connect were to be the customers' water services supplier.

## **6.5 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 informed us that they are content for us to consult on this application<sup>3</sup>.

## **6.6 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 Severn Trent Connect's existing customer base may face.

To assess the impact that granting the Site may have on the incumbent's customers, we would normally compare the revenue the incumbent might have been expected to receive and the maintenance costs it would expect to incur if it were to serve the Site directly, as opposed to the revenues it would receive and costs it would incur from the proposed NAV arrangement.

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<sup>3</sup> 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.

However, as this variation involves a regional water and sewerage company taking services from a site back into its supply area from an appointee, we have noted that Severn Trent Connect fixes its costs based on those of the regional water services supplier at its sites. Therefore this variation will have no impact on customer bills.

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 South East Water would have no financial impact on customers' bills and could have potential benefits for customers.

## **6.7 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.

As South East Water is a large established appointed undertaker, we are satisfied that it is able to finance its functions. It has access to many sources of finance and this Site would represent only a very small proportion of its total regulated activity. We have not required South East Water to propose additional financial security to protect customers on the site.

On this basis, our view is that the risk of this Site not being financially viable is very low and as a result we are currently satisfied that South East Water would be able to finance its functions if the variation is granted.

## 7. Conclusion and next steps

In assessing South East Water'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 South East Water would be able to finance, and carry out, its functions.

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

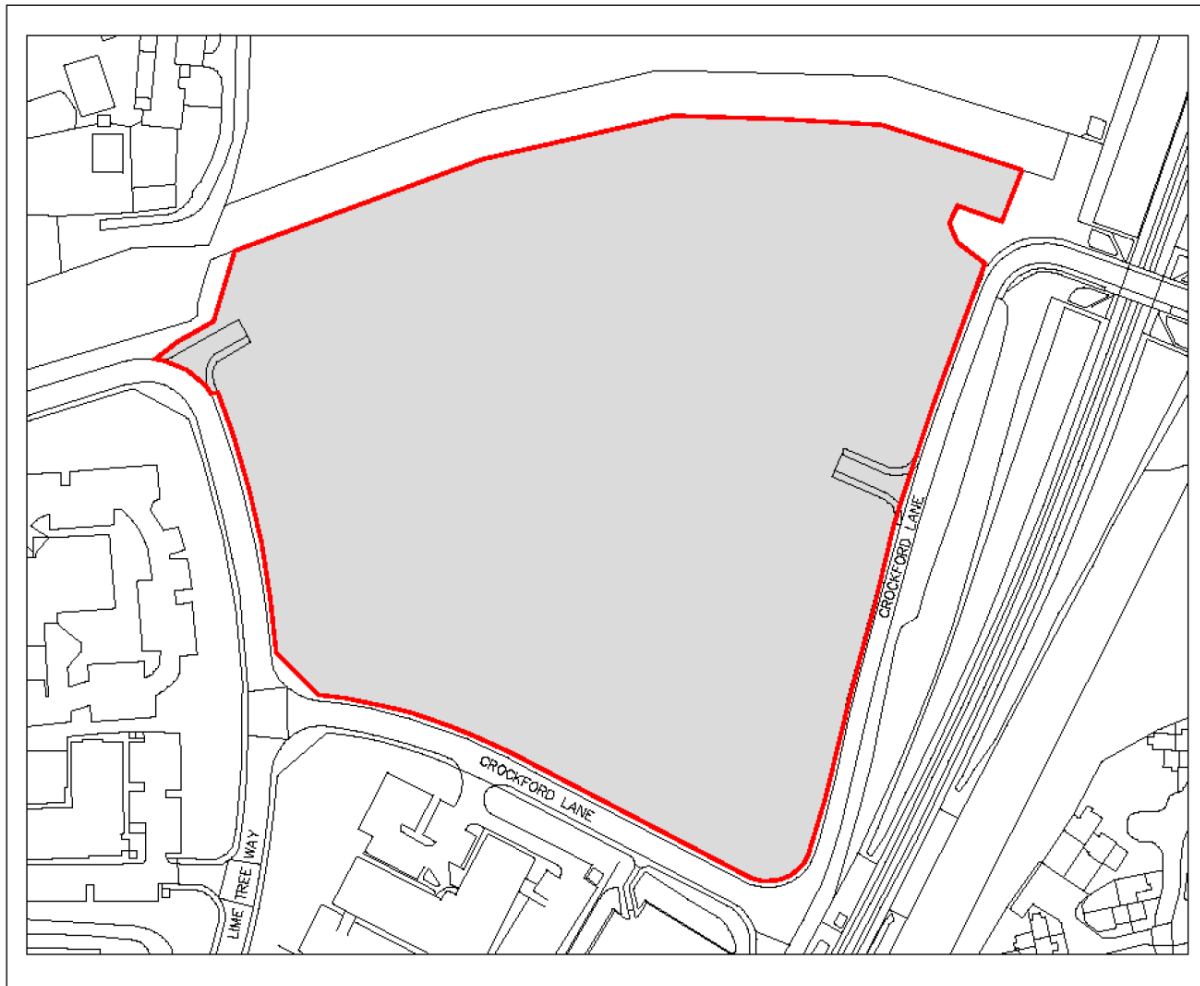
### Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing to Andrew Cheema 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 20 August 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 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](http://www.ofwat.gov.uk)  
Email: [mailbox@ofwat.gsi.gov.uk](mailto:mailbox@ofwat.gsi.gov.uk)

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