

October 2019

Trust in water

Variation of Independent Water Networks Limited's appointment to include Manse Farm, Knaresborough, North Yorkshire

1. About this document

Variation of Independent Water Network Limited's appointment to include Manse Farm, Knaresborough

On 28 August 2019, Ofwat began a consultation on a proposal to vary Independent Water Networks Limited's ("**IWN**") appointment to become the water services provider for a development in Yorkshire Water's ("**YKY**") water supply area called Manse Farm, Knaresborough in North Yorkshire ("**the Site**").

The consultation ended on 25 September 2019. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 7 October 2019, we granted IWN a variation to its existing appointment to enable it to supply water and 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 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 YKY 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 YKY.

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 is applying for a variation based on the unserved criterion. YKY has provided a letter, dated 7 June 2019, confirming that, in its view, the Site is unserved. This site is greenfield and having reviewed online satellite maps these also confirm that there are no buildings on the Site.

Given the information provided by the applicant and YKY, we consider that the Site is unserved.

3.2 Financial viability of the proposal

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 has 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.

3.3 Assessment of 'no worse off'

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

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 YKY. 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 YKY.

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 YKY'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 YKY. 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 YKY 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 bills of YKY's existing customers of £0.006.

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 IWN to be the water company for the Site.

4. Responses received to the consultation

We received three responses to our consultation, from Harrogate Council, 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 Harrogate Council

In its response, Harrogate Council noted that it had no comments or objections to Ofwat's proposal at this time.

4.2 CCWater

In its response, CCWater stated it was disappointed that there are no direct financial benefits to customers from being served by IWN rather than YKY for water services, as IWN proposes to match the charges of YKY. It noted that IWN, unlike YKY, does not offer a social tariff other than WaterSure. CCWater stated that it may be appropriate for IWN to tailor some of the services it provides, and IWN should offer appropriate, flexible support to any individual customers in financial difficulty that would otherwise benefit from a social tariff. However, it noted that IWN proposes to match or exceed the majority of the service standards currently provided by YKY. For this reason, CCWater supports our proposal and agrees with our assessment that customers will be no worse off.

We have noted CCWater's concern that there is no direct financial benefit to customers. One of our key policies is that customers should be 'no worse off' if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of price and service than if they had been supplied by the previous incumbent. This requirement has been met by IWN in its proposal to improve the levels of service and match the charges of YKY. We do not require applicants to better the service and price of the previous incumbent(s).

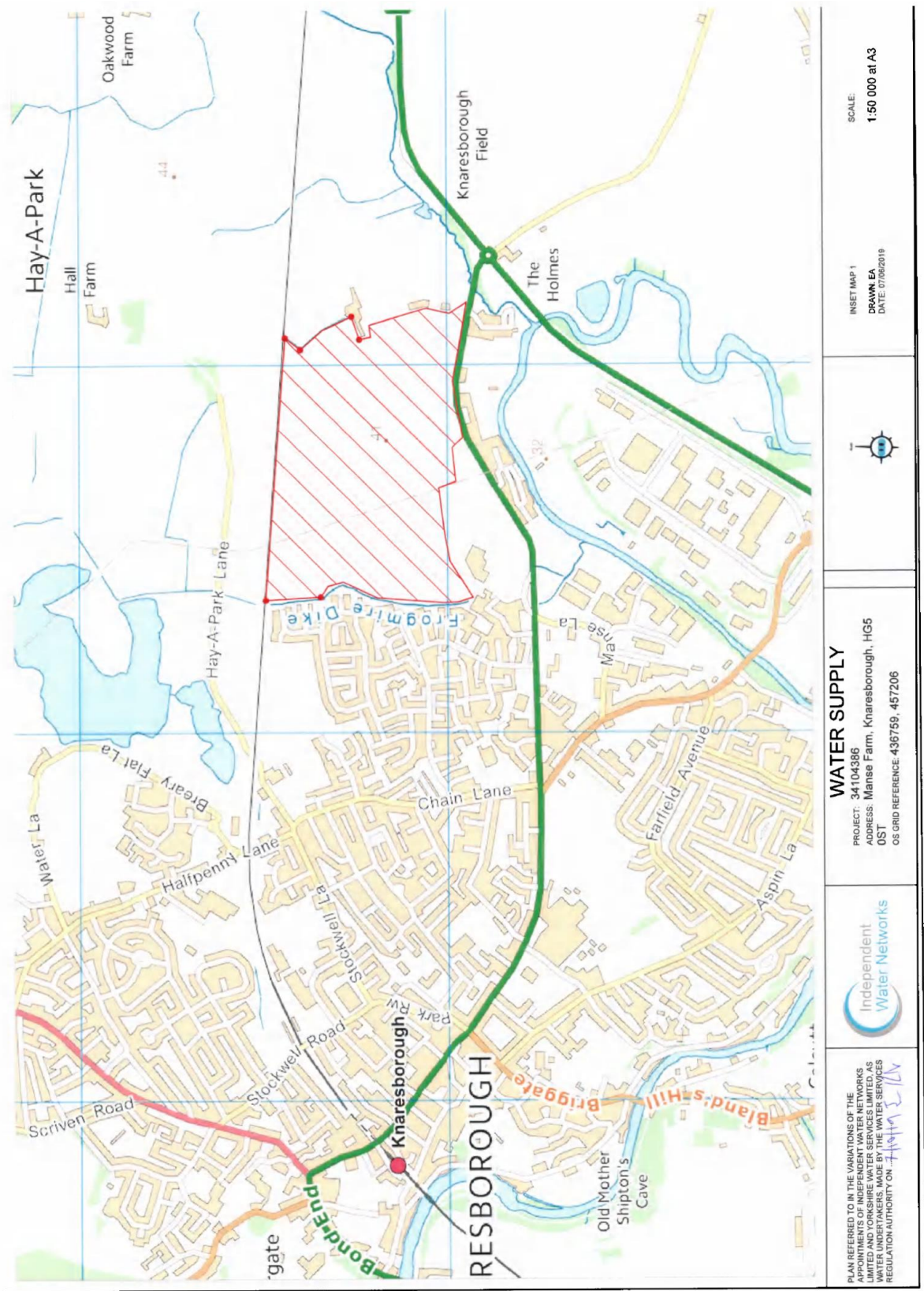
4.3 Environment Agency

The Environment Agency stated that it has no comments to make at this stage and no objections based on the information provided.

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 8 October 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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