

November 2019

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

1. About this document

Variation of Independent Water Networks Limited's appointment to include Otterham Quay Lane

On 16 October 2019, Ofwat began a consultation on a proposal to vary Independent Water Networks Limited's appointment to become the water provider for a development in Southern Water Services Limited's water supply area called Otterham Quay Lane in Rainham, Kent ("**the Site**").

The consultation ended on 14 November 2019. During the consultation period, we received representations from two organisations, which we considered in making our decision. On 22 November 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.

Contents

1. About this document	2
2. Introduction	4
3. The application	6
4. Responses received to the consultation	8
5. Conclusion	9
Appendix 1: Site Map	10

2. Introduction

The new appointment and variation (“**NAV**”) 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 Southern Water Services Limited 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

Independent Water Networks Limited applied to be the water 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 using an agreement for the bulk supply of water with Southern Water Services Limited.

3.1 Unserved status of the site

To qualify under the unserved criterion, an applicant must show that at the time the variation is made, none of the premises in the proposed area of appointment is served by the existing appointee.

Independent Water Networks Limited has provided us with a letter from Southern Water dated 21 March 2019, confirming that, in its view, the Site is unserved. Maps provided by Independent Water Networks Limited indicated that there were no buildings within the proposed Site boundary.

On the basis of the information provided by the applicant and Southern Water, we are satisfied that the Site is unserved.

3.2 Financial viability of the proposal

We will only make an appointment or variation 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 have considered the current financial position of the company as a whole and are satisfied that the company 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 will match its customer charges with the Southern Water Services Limited's customer charges. It will not be offering a discount.

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 Southern Water

Services Limited. 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 Southern Water Services Limited.

3.4 Effect of variation on Southern Water Services Limited'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 Southern Water Services Limited'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 Southern Water Services Limited. 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 Southern Water Services Limited 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 Limited, there may be a potential impact on the bills of Southern Water Services Limited's existing customers of less than one penny per annum.

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 Persimmon 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, namely from the Consumer Council for Water (**CCWater**) and from the Environment Agency (**EA**). 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 CCWater

CCWater responded to our consultation setting out that, overall, it supports the application from Independent Water Networks Limited. CCWater welcomed Independent Water Networks Limited's approach of offering guaranteed standards and voluntary service standards which generally match or improve on the standards offered by Southern Water Services Limited.

CCWater was disappointed that there is no direct financial benefit to customers from having Independent Water Networks Limited as their provider of water instead of Southern Water Services Limited. However, CCWater noted that Independent Water Networks Limited improves on many of the service standards provided by Southern Water Services Limited.

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 Independent Water Networks Limited in its proposal to improve the levels of service and match the pricing set by Southern Water Services Limited. We do not require applicants to better the service and price of the previous incumbent.

4.2 EA

The EA indicated in its response that it had no objection to the application, provided that no development is commenced until connection to the supply has been agreed.

Independent Water Networks Limited has confirmed that connection to the supply has been agreed before development has commenced.

5. Conclusion

Having assessed Independent Water Networks Limited'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. This variation became effective on 25 November 2019.

Appendix 1: Site Map

Map



PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND SOUTHERN WATER SERVICES LIMITED, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON



WATER SUPPLY

PROJECT: 34112040
 ADDRESS: Otterham Quay Lane, Gillingham, Kent, ME8 8NF
 OS GRID REFERENCE: 582926, 166197



INSET MAP 1
 DRAWN: EA
 DATE: 27/06/2019

SCALE:
 1:15 000 at A3

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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