

January 2020

Variation of Independent Water Networks Limited's appointment to include Turners Hill Road, East Grinstead, West Sussex

1. About this document

Variation of Independent Water Networks Limited's appointment to include Turners Hill Road, East Grinstead

On 20 November 2019, Ofwat began a [consultation on a proposal](#) to vary Independent Water Networks Limited ("**Independent Water Networks**")'s appointment to become the water services provider for a development in South East Water Limited ("**South East Water**")'s water supply area called Turners Hill Road in East Grinstead, West Sussex ("**the Site**").

The consultation ended on 18 December 2019. During the consultation period, we received representations from two organisations, which we considered in making our decision. On 22 January 2020, we granted Independent Water Networks 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 applied to replace South East 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, 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 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 will serve the Site by way of bulk supply agreement with South East 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 is applying for a variation based on the unserved criterion, and the Site is greenfield. South East Water provided a letter, dated 1 April 2019, confirming that, in its view, the Site is unserved. A review of aerial satellite maps of the Site also indicated that the Site is unserved, and Independent Water Networks has stated that there are no existing customers on the Site.

Having reviewed the facts of this Site, and taking into account the letter 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 have concluded that the site demonstrates sufficient financial viability, and Independent Water Networks 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 has confirmed that customers on the Site will be no worse off financially than they would have been if they were served by South East Water. Independent Water Networks will offer a £3 discount per annum to customers that sign up to e-billing.

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

3.4 Effect of appointment on South East 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 South East 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 South East 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 South East 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.

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 South East Water's existing customers of £0.004.

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 Site's developers, Linden Homes South East and Taylor Wimpey South West Thames, have said that they want Independent Water Networks 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 (“**EA**”) and the Consumer Council for Water (“**CCWater**”). We considered these responses before making the decision to vary Independent Water Networks' appointment. The points raised in the response are set out below.

4.1 EA

In its response, the EA stated that it does not have any objection to the consultation. However, it noted that Independent Water Networks should review the per capita consumption (“**PCC**”) figure of 139 litres per head per day (l/h/d) it has proposed for the Site's premises, prior to the application being granted.

The EA also noted statements made by Independent Water Networks that the developer would comply with current building regulations of 125 l/h/d, which is significantly lower than 139 l/h/d. The EA also noted that the forecast measured PCC in the Haywards Heath water resource zone in South East Water's Water Resource Management Plan 19 reduces significantly over the planning period. As the development is situated in this zone, the EA expects this trend to be replicated by Independent Water Networks. The EA encouraged the 'optional' requirement of 110 l/h/day for new residential developments, which it considered should be implemented through local policy where the need is clearly evidenced. This 'optional' requirement relates to part G of the Government (Ministry of Housing, Communities & Local Government) Building regulations for England.

The EA also noted that as the bulk supply agreement is to be concluded with the incumbent, no development should commence until connection(s) to South East Water's supply network are agreed.

Finally the EA noted that properties should not be occupied until connection to South East Water's supply network is in operation.

We shared these comments with Independent Water Networks on 19 December 2019 and Independent Water Networks provided responses on the same day. It responded stating:

- In relation to PCC, Independent Water Networks referred the EA to an amended section of a previously submitted document. In relation to the optional requirement of 110 l/h/day for new residential developments,

Independent Water Networks noted that some developers are now building to this standard.

- In relation to the bulk supply agreement and occupying properties before a connection to South East Water's network is in operation Independent Water Networks confirmed that the bulk supply agreement has been finalised and shared with Ofwat.

We shared Independent Water Networks' response with the EA on 20 December 2019. The EA confirmed on the same day that it has no further questions and that the information provided appropriately addressed the points raised.

4.2 CCWater

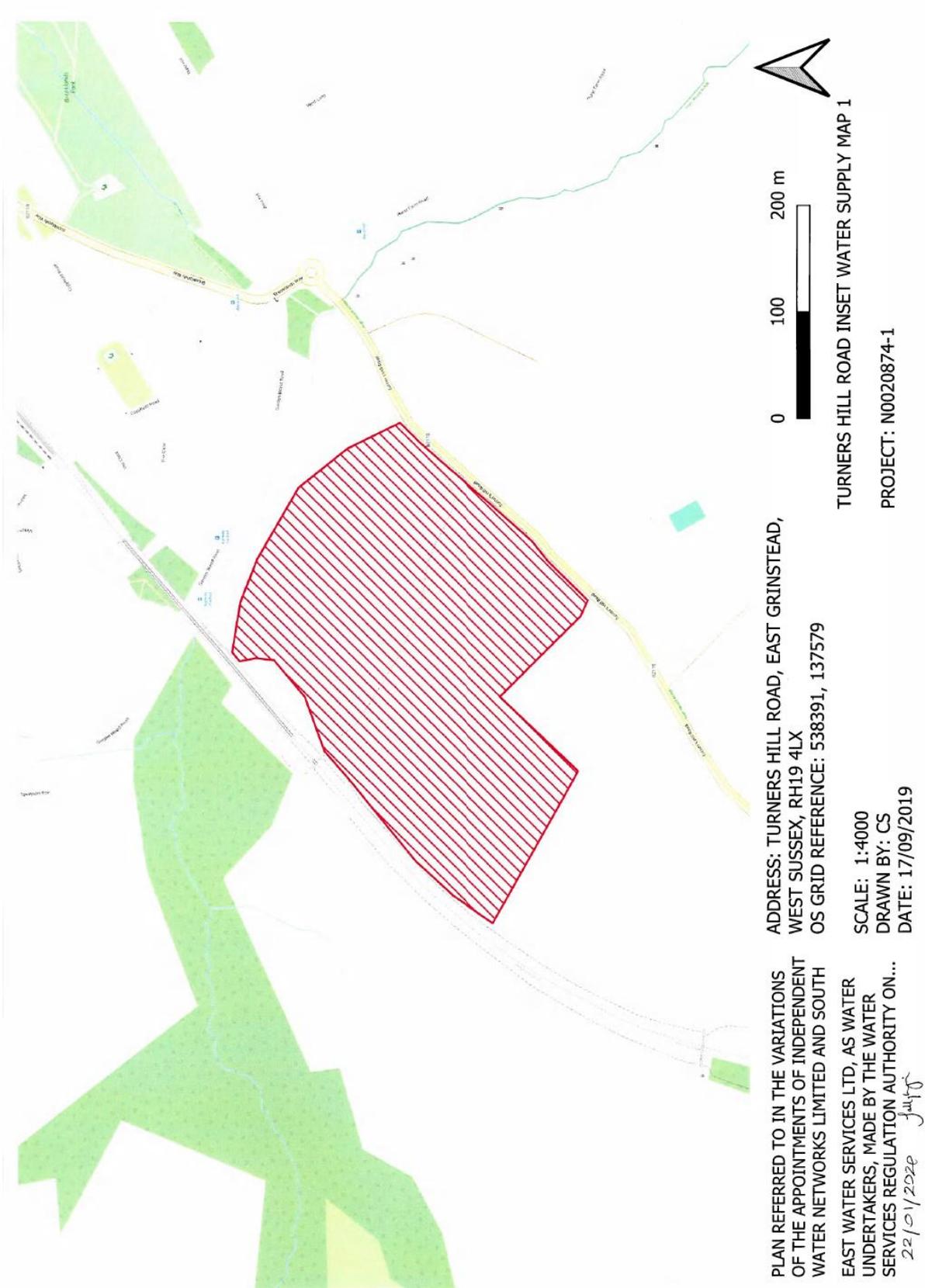
In its response, CCWater stated it was disappointed that there are no direct financial benefits to customers from being served by Independent Water Networks rather than South East Water for water services, as Independent Water Networks proposes to match the charges of South East Water. It noted that Independent Water Networks, unlike South East Water, does not offer a social tariff other than WaterSure. CCWater stated that it may be appropriate for Independent Water Networks to tailor some of the services it provides, and Independent Water Networks should offer appropriate, flexible support to any individual customers in financial difficulty that would otherwise benefit from a social tariff. However, it noted that Independent Water Networks proposes to generally exceed service standards currently provided by South East Water. For this reason, CCWater agrees with our assessment that overall, taking the application as a whole, 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 Independent Water Networks in its proposal to improve the levels of service and match the charges of South East Water. We do not require applicants to better the service and price of the previous incumbent(s).

5. Conclusion

Having assessed Independent Water Networks' application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Independent Water Networks' area of appointment to allow it to serve the Site for water services. This appointment became effective on 23 January 2020.

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.

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