

March 2020

Variation of Independent Water Networks Limited's appointment to include Nestlé's Avenue in Middlesex

1. About this document

Variation of Independent Water Networks Limited's appointment to include Nestlé's Avenue

On 19 December 2019, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water services provider for a development in Affinity Water Limited's ("**Affinity Water**") water supply area called Nestlé's Avenue in Middlesex ("**the Site**").

The consultation ended on 21 January 2019. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 5 February 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.

Contents

1. About this document	2
2. Introduction	4
3. The application	6
4. Responses received to the consultation	9
5. Conclusion	11
Appendix 1: Site Map	12

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 Affinity 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 Affinity 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.

Affinity Water provided a letter confirming that, in its view, the Site is unserved although indicated that there is currently a temporary building supply of water to the Site. Independent Water Networks also advised at the time of application that there is a temporary building supply of water to the Site from Affinity Water and provided evidence that the supply is registered to the developer.

Our [Information Notice: “Applications for New Appointments and Variations \(NAVs\) under the “unserved criterion”](#) states where there is a temporary supply of water from the existing appointee, installed to facilitate the construction process, Ofwat would not consider that the site in question is served. Independent Water Networks stated that the building supply connection is a temporary 32mm connection that has been installed solely for the purposes of the building works. It further clarified that a 32mm service would be insufficient to serve the Site when occupied. Therefore, it would be almost impossible to convert this to a permanent supply to serve customers. Independent Water Networks has confirmed that the temporary building supply will be disconnected once the works are complete and it is no longer required.

Based on the above and having reviewed the facts of this Site, including taking into account the letter from the incumbent, the evidence that the temporary building supply is registered to the developer and subsequent confirmations from Independent Water Networks regarding future disconnection of the temporary building supply, 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 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 will offer a discount of 2.5% to customers on the Site for the 2019-2020 charging year. Customers on the Site will be no worse off after the 2019-2020 charging year as Independent Water Networks' charges will not exceed those of Affinity Water.

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 Affinity 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 Affinity Water.

3.4 Effect of appointment on Affinity 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 Affinity 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 Affinity 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 Affinity 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 Affinity Water's existing customers of £0.01.

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 (Barratt London) said that it wanted Independent Water Networks to be the water company for the Site.

4. Responses received to the consultation

We received three responses to our consultation; from the Drinking Water Inspectorate (“**DWI**”), the Consumer Council for Water (“**CCWater**”) and the Environment Agency (“**EA**”). 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 DWI

The Drinking Water Inspectorate responded to our consultation advising that it has no comments.

4.2 EA

The EA responded to our consultation noting that the summary document explains that the developer will be complying with current building regulations. This requires for all new dwellings to achieve a water efficiency standard of 125 litres of water per person per day. However, The EA noted that a stated per capita consumption value of 129 litres of water per person per day is proposed for this site. It also recognised that the Site was previously a large scale industrial development, situated in water stressed area.

The EA highlighted the expectation that when operating the water supply arrangements for the Site, Independent Water Networks should be able to demonstrate a high level of water efficiency within their terms of reference linked to supplying water to this new residential development.

The EA also noted that the Nestle UK factory had its own borehole, located at TQ 1023 7926. Though the status of this borehole is unknown. The EA strongly recommended that the borehole should be decommissioned in accordance with best practice. It provided an attachment setting this out. The EA considered that decommissioning the borehole would avoid contaminants entering the chalk aquifer beneath and/or any health and safety issues arising.

Independent Water Networks responded to the EA confirming that the developer will be complying with current building regulations for per capita consumption. It advised that Independent Water Networks already liaise with Affinity Water to ensure that a consistent approach to water resource management is undertaken. Independent Water Networks confirmed that this liaison would extend to any new sites it operated. It also clarified that Independent Water Networks will closely monitor water usage on

all its sites by way of loggers on incoming supplies and 100% metering of properties. Independent Water Networks advised that it will also work with the developer to promote water efficient fittings. In addition, Independent Water Networks confirmed that it will decommission the borehole in accordance with the best practice guidance it has received.

On 30 January 2020, the EA confirmed that it was satisfied with Independent Water Networks' response.

4.3 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 Affinity Water for water services. CCWater stated that whilst Independent Water Networks proposes a 2.5% discount for the 2019-20 charging year, it suggested that information about the development suggests there will be no customers on site until later in 2020, so this discount is unlikely to be a positive benefit for customers.

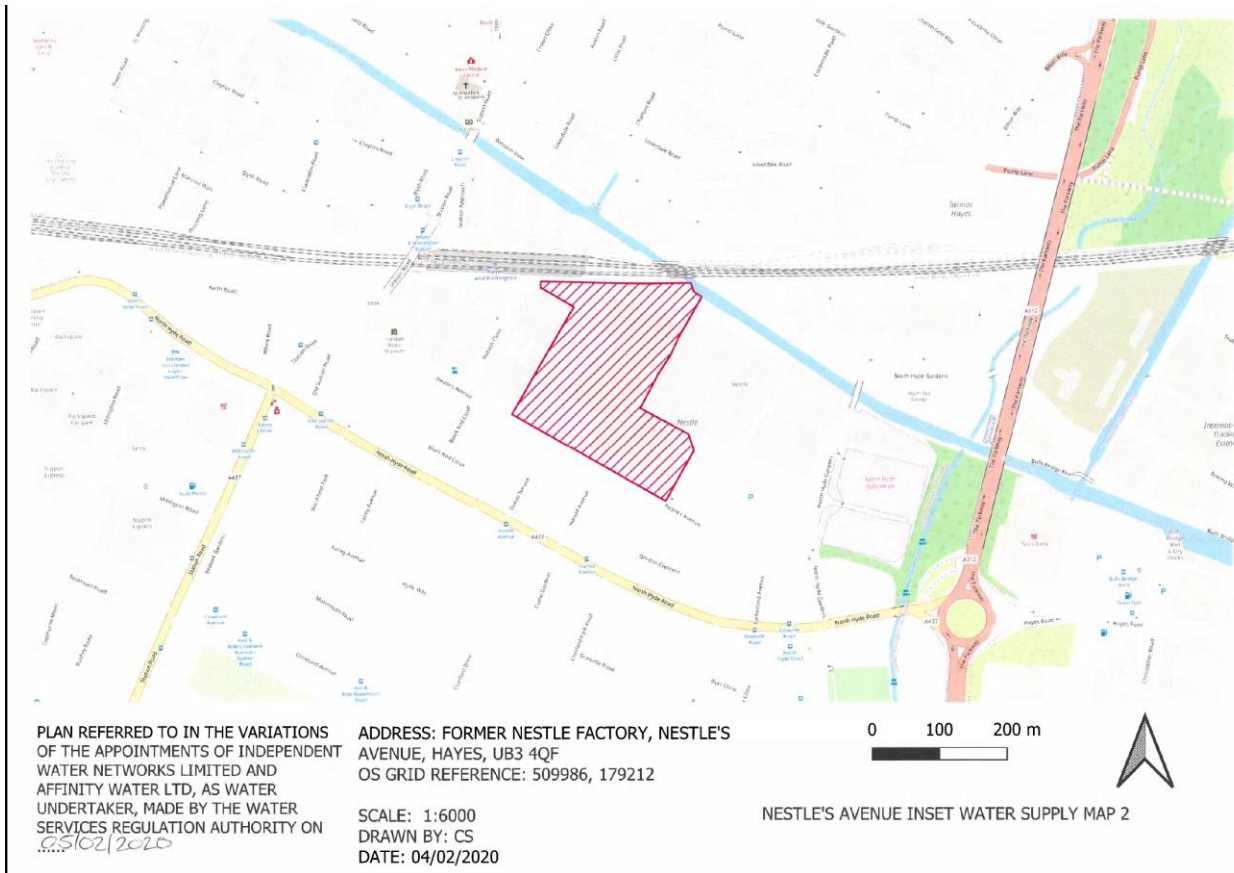
It noted that Independent Water Networks, unlike Affinity Water, does not offer a social tariff other than WaterSure. CCWater stated that it may be appropriate for Independent Water Networks to tailor some of the services it provides, and that it should offer appropriate, flexible support to any individual customers in financial difficulty that would otherwise benefit from a social tariff. However, it noted that Independent Water Networks proposes to match or exceed the majority of the service standards currently provided by Affinity Water. For this reason, CCWater 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 (beyond an initial discount period during the remainder of 2019-20 charging year). 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 Affinity 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 6 February 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.

Ofwat
Centre City Tower
7 Hill Street
Birmingham B5 4UA

Phone: 0121 644 7500
Fax: 0121 644 7533
Website: www.ofwat.gov.uk
Email: mailbox@ofwat.gov.uk

March 2020

© Crown copyright 2019

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3.

Where we have identified any third party copyright information, you will need to obtain permission from the copyright holders concerned.

This document is also available from our website at www.ofwat.gov.uk.

Any enquiries regarding this publication should be sent to us at mailbox@ofwat.gov.uk.

