

January 2020

Proposal to grant a variation of appointment to Independent Water Networks Limited to enable it to provide water services to a site called Bidwell West Boundary Variation in Houghton Regis, Bedfordshire

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1. About this document

We propose granting a variation of appointment to Independent Water Networks Limited as a water company and varying the appointment of Affinity Water Limited 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 18 January 2019, we granted a variation of appointment to Independent Water Networks to enable it to provide both water and sewerage services to a development of 1,800 household properties and 14 business customer at a site called Bidwell West (“**Bidwell West 1**”).

This application

Independent Water Networks Limited (“**Independent Water Networks**”) has now applied for a variation to its appointment to be able to provide water services to a site called Bidwell West Boundary Variation in Houghton Regis, Bedfordshire (“**Bidwell West 2**”).

Bidwell West 2 adjoins Bidwell West 1 which is within the water services area of Affinity Water Limited (“**Affinity Water**”). It consists of four household customers, the four household properties are already fully built out and are currently supplied by Affinity Water. Independent Water Networks has confirmed that there is no intention to build any more properties on the Bidwell West 2 site.

Independent Water Networks will supply water to Bidwell West 2 by way of bulk supply agreement with Affinity Water. It intends to vary the bulk supply agreement that is currently in place for Bidwell West 1.

A site boundary map can be viewed in section 8 of this document.

3. The applicant

In October 2007, Independent Water Networks obtained its first appointment as a water and sewerage undertaker for a housing development at the Long Croft Road site in Anglian Water's area. Since then Ofwat has agreed to vary Independent Water Networks' area of appointment so it can serve a further 41 sites for water and/or sewerage. The register of new appointments and variations can be viewed [here](#).

4. The proposal

Ofwat proposes to:

- grant a variation of appointment to Independent Water Networks as a water company to include Bidwell West 2 in its water supply area; and
- vary the appointment of Affinity Water as a water company by excluding Bidwell West 2 from its water supply area.

By means of the above, Independent Water Networks will become the water supplier for Bidwell West 2.

5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation¹, 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, and updated them more recently, when we published our new appointments and variations – [policy](#) (2015) and [process](#) (2018) documents. In December 2015, 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.

¹ 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

Independent Water Networks has applied to become the water company for Bidwell West 2 under the consent criterion, set out in section 7(4)(a) of the WIA91.

6.1 The Consent Criterion

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.

Independent Water Networks has provided a letter from Affinity Water which confirms that it consents to this variation of appointment. The letter confirms that Affinity Water consents to the transfer of the four household customers that it is currently serving to Independent Water Networks.

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 supplier².

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.

² Since 1 April 2017, 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) have been able to switch their water and/or sewerage supplier.

6.3 Price

Independent Water Networks proposes to offer a discount of 2.5% to customers on the Bidwell West 2 site for the 2019-2020 charging year. Independent Water Networks has not yet published its charging scheme for the charging year 2020-21 as Affinity Water has not yet published its charging scheme. Although, customers on the Bidwell West 2 site will be no worse off after the 2019-2020 charging year as Independent Water Networks' charges will not exceed those of Affinity Water.

6.4 Levels of service

Every appointee is required under its conditions of appointment to publish Core Customer Information for its household customers. Water companies must also publish a Code of Practice on leakage. We have assessed Independent Water Networks' 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 Bidwell West 2 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 Affinity Water were to be the customers' water services supplier.

6.5 Site owner choice

We have been provided with signed consent forms from each of the four affected household customers. Each of these customers has consented to Independent Water Networks becoming their water supplier.

6.6 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 application³.

³ 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.

6.7 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 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. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try to quantify the possible effect in an easily understandable way.

We have assessed the potential magnitude of this impact by comparing how much Affinity Water might have expected to receive in revenue from serving Bidwell West 2 directly, were they to serve Bidwell West 2, with the revenues they might expect from the proposed arrangement with Independent Water Networks.

We estimate that there will potentially be no annual increase on the water bills of existing Affinity Water customers if we grant this variation to Independent Water Networks.

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

6.8 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.

We assessed the financial viability of the Bidwell West 1 application before we granted that application in January 2019. During that assessment we considered the revenues and costs of the Bidwell West 1 site relating to water and sewerage services, should the relevant variations be granted. Following our site based review we concluded that Bidwell West 1 demonstrated sufficient financial viability.

On this basis, our view was that the risk of Bidwell West 1 not being financially viable was small. As a result we were satisfied that the applicant would be able to finance the proper carrying out of its functions if the variation was granted.

It is proposed that the four properties at Bidwell West 2 will connect to the network on Bidwell West 1. Given that the properties will be connected to the network on Bidwell West 1 and the number of properties to be added to the network is not material, we consider that the financial assessment we completed for Bidwell West 1 is applicable in relation to the current application for Bidwell West 2.

Independent Water Networks entered into an unlimited Keepwell agreement with its owner BUUK in July 2013. Independent Water Networks has confirmed that this agreement was still in place and covers Bidwell West 2. This meets our requirements, in that it covers one year's annual operating costs required to supply the number of connections the business is projected to have in two years' time.

We are satisfied that Bidwell West 2, combined with Bidwell West 1, is financially viable and that the applicant would be able to finance its functions if this variation were granted.

7. Conclusion and next steps

In assessing Independent Water Networks 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 Independent Water Networks would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed variation on the existing customers of Affinity Water.

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

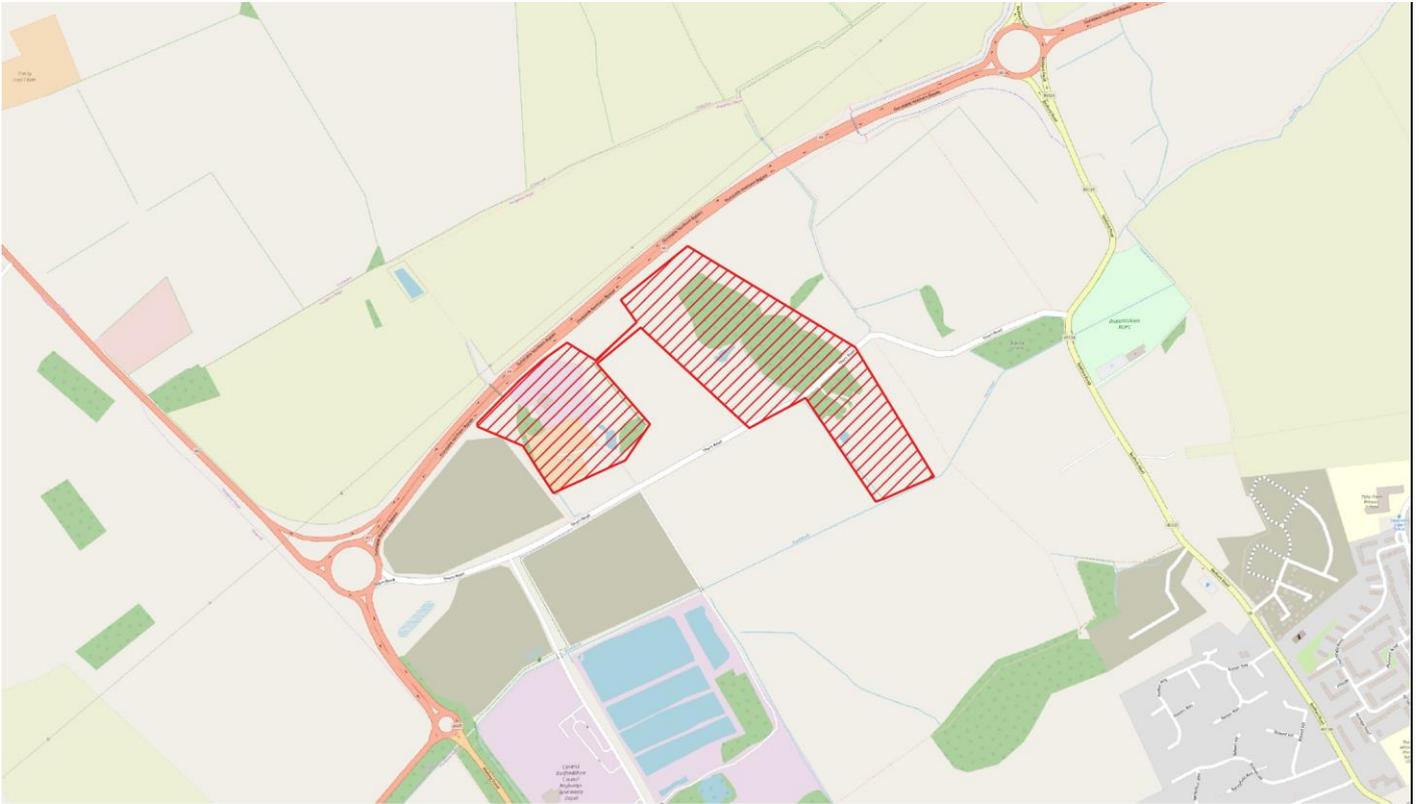
Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing to Hayley Robinson at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at hayley.robinson@ofwat.gov.uk.

Representations must be received by Ofwat no later than 17.00 hours on 11 February 2020. 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



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

ADDRESS: BIDWELL HOUGHTON REGIS LU5
(BOUNDARY VARIATION)
OS GRID REFERENCE: 499756, 224422

SCALE: 1:10000
DRAWN BY: CS
DATE: 12/12/2019



BIDWELL (BOUNDARY VARIATION) INSET WATER MAP 2



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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