

March 2020

**Variation of Independent Water Networks  
Limited's appointment to include  
Oakwood Park, Clacton-on-Sea, Essex**

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Trust in water

# Variation of Independent Water Networks Limited's appointment to include Oakwood Park, Clacton-on-Sea, Essex

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## 1. About this document

### Variation of Independent Water Networks Limited's appointment to include Oakwood Park, Clacton-on-Sea, Essex

On 12 January 2020, Ofwat began a [consultation on a proposal](#) to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water and sewerage services provider for a development in Affinity Water Limited's ("**Affinity Water**") water supply area and Anglian Water Services Limited's ("**Anglian Water**") sewerage services area called Oakwood Park in Clacton-on-Sea, Essex ("**the Site**").

The consultation ended on 14 February 2020. During the consultation period, we received representations from two organisations, which we considered in making our decision. On 24 February 2020, we granted Independent Water Networks a variation to its existing appointment to enable it to supply water and sewerage 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 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 and Anglian Water to become the appointed water and sewerage 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 (**“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 and sewerage 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 and discharge agreements with Affinity Water and Anglian Water respectively.

#### **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.

The Site is a greenfield site, with no record of previous development, and no assets or properties on the Site. We have received letters from Affinity Water and Anglian Water confirming that they have no connections on the Site for water or sewerage respectively.

#### **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 that the Site demonstrates sufficient financial viability, and Independent Water Networks has satisfied us that it can finance the proper carrying out of its functions.

#### **3.3 Assessment of ‘no worse off’**

Independent Water Networks will match the charges of Affinity Water and Anglian Water for water and sewerage, respectively.

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 and Anglian Water. Based on this review, we are satisfied that customers will be offered an appropriate level of service, including some improvements in the Guaranteed Standards Scheme by Independent Water Networks, and that overall customers will be ‘no worse off’

being served by Independent Water Networks instead of by Affinity Water and Anglian Water.

### **3.4 Effect of appointment on Affinity Water and Anglian Water's customers**

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the charges that Independent Water Networks' 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 and Anglian 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 and Anglian 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 existing customers of £0.01 and no impact for Anglian Water's existing customers.

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, Persimmon Homes, said that it wanted Independent Water Networks to be the water and sewerage company for the Site.

## 4. Responses received to the consultation

We received two responses to our consultation, from the Consumer Council for Water (“**CCW**”) and Affinity Water. 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 **CCW**

CCW stated that it expects new appointees to provide customers with prices, levels of service and service guarantees that match, or ideally, better those of the existing service provider. It expressed its disappointment that there is no direct financial benefit to customers from having Independent Water Networks as their water and sewerage services provider, rather than Affinity Water and Anglian Water.

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. We do not require applicants to better the service and price of previous incumbents.

CCW recognised that as well as applying the ‘no worse off’ principle when considering NAV applications, that ideally, the incumbent’s existing customers should receive some benefit from the new arrangements.

We note CCW’s concerns regarding the impact on existing customers. The bill impact on customers of Affinity Water and Anglian Water is negligible, and customers should be left no worse off in the round. This is before considering benefits gained by incumbent companies having to compete for new sites developed in their water and sewerage supply areas.

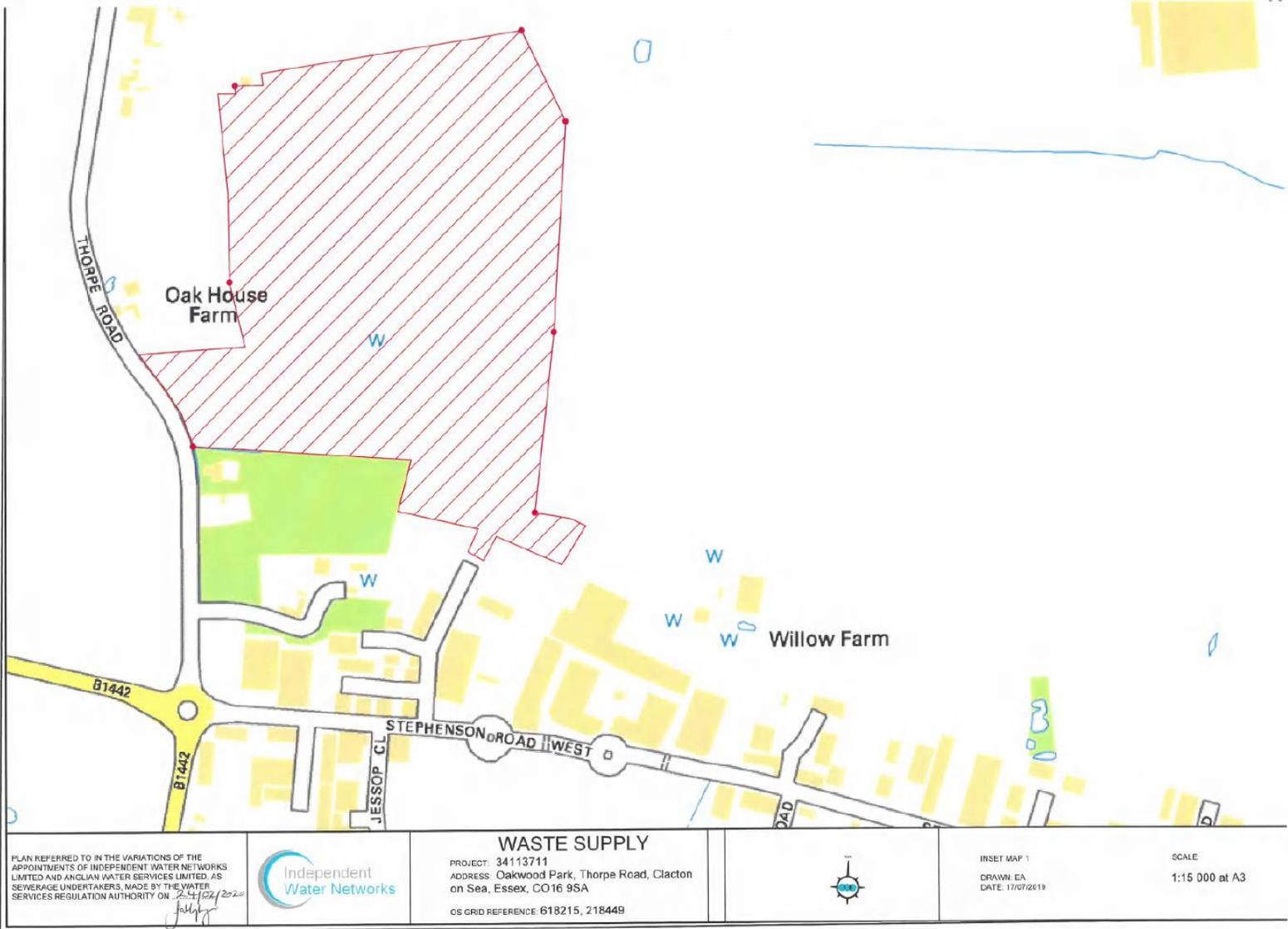
### 4.2 **Affinity Water**

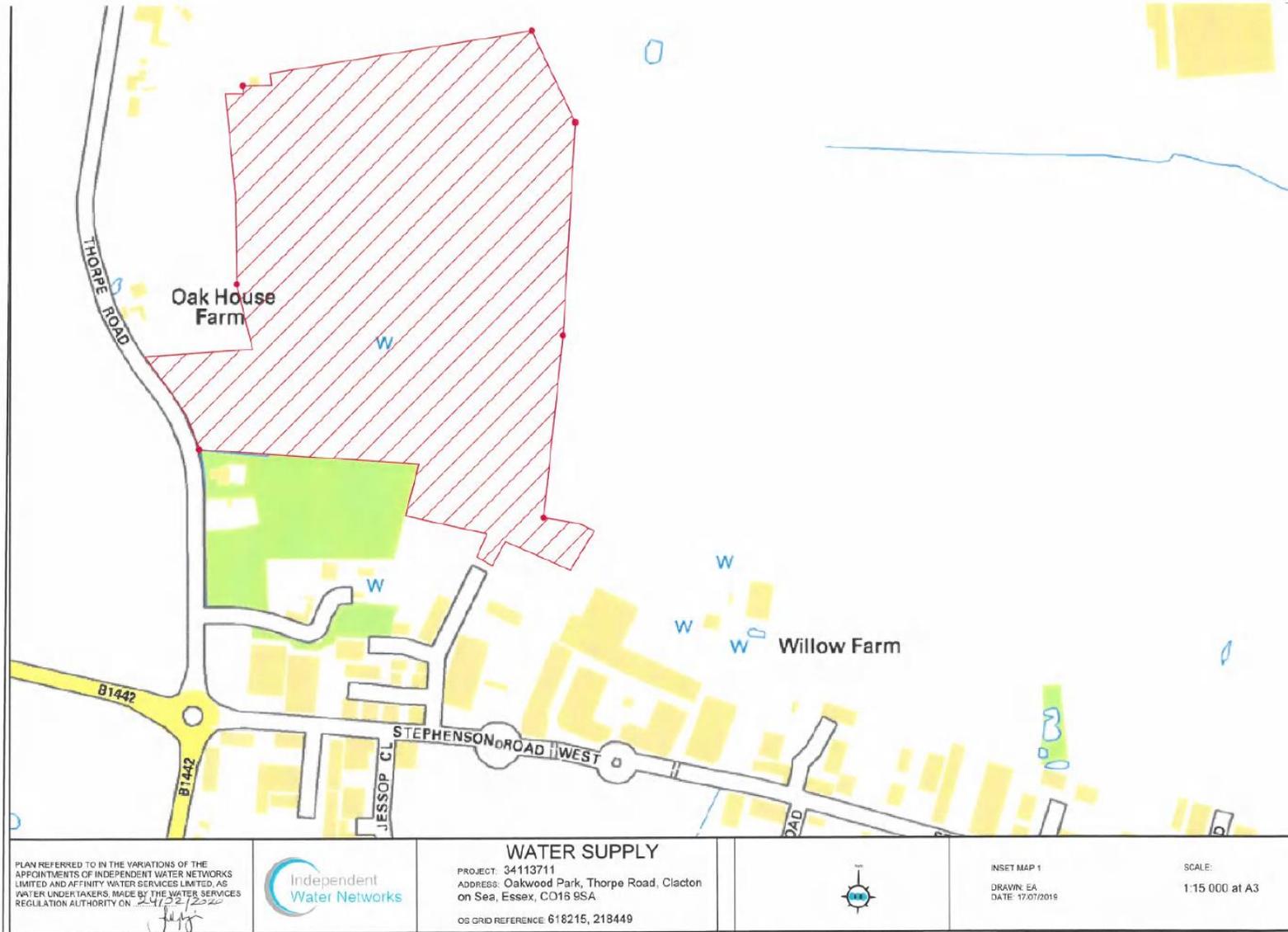
Affinity Water responded to the consultation and stated it had no objections to the variation to its supply area.

## **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 and sewerage services. This appointment became effective on 25 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](http://www.ofwat.gov.uk)  
Email: [mailbox@ofwat.gov.uk](mailto:mailbox@ofwat.gov.uk)

March 2020

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