

February 2020

**Proposal to grant a variation of appointment to Independent Water Networks Limited to enable it to provide water and sewerage services to a site called Ashby Road in Tamworth, Staffordshire**

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## 1. About this document

We propose granting a variation of appointment to Independent Water Networks as a water and sewerage company and varying the appointment of South Staffordshire Water PLC as a water company and Severn Trent Water Limited as a sewerage 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

Independent Water Networks Limited (“**Independent Water Networks**”) has applied for a variation to its appointment to be able to provide water and sewerage services to a site called Ashby Road (“**the Site**”). The Site will be made up of 1,000 household customers and three business customers, and is situated in Tamworth, Staffordshire.

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

The Site is within the water, and sewerage services areas of South Staffordshire Water PLC (“**South Staffs**”) and Severn Trent Water Limited (“**Severn Trent**”), respectively. IWN will provide water and sewerage services to the Site which is expected to be fully built out by May 2032.

### **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 25 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 and sewerage company by including it in its water supply area and its sewerage services area;
- vary the appointment of South Staffs as a water company by excluding the Site from its water supply area; and
- vary the appointment of Severn Trent as a sewerage company by excluding the Site from its sewerage services area.

By means of the above, Independent Water Networks will become the water and sewerage services supplier for the Site.

## 5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation<sup>1</sup>, 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 – i.e. 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.

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<sup>1</sup> 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 of the WIA91 sets out the procedure for making that appointment or variation.

## **6. The application**

Independent Water Networks has applied to be the water and sewerage company for the Site under the unserved criterion, set out in section 7(4)(b) of the WIA91.

### **6.1 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 current properties or dwellings on it. Independent Water Networks provided a letter from Severn Trent which states the Site is unserved for sewerage.

It also provided Ofwat with a letter from South Staffs which states the Site is unserved for water. In its letter, South Staffs pointed out that although the Site is unserved there is a 'private 1 black poly service pipe' running through the Site. This pipe feeds three properties located outside the Site boundary. South Staffs has recommended to IWN that it liaise with the two property owners, in accordance with Ofwat's guidance. South Staffs considered that Independent Water Networks could deal with this issue in one of two ways. Independent Water Networks could divert the supply pipe to the edge of the Site boundary (and would bear the cost of doing so). This would provide added reassurance that the Site may be considered as unserved. Alternatively, Independent Water Networks could seek consent from the property owners that they would agree to transfer to Independent Water Networks. South Staffs would carry out the disconnection and would bear the cost of doing so.

On 20 January 2020, Independent Water Networks informed Ofwat that it had liaised with the property owners and that the pipe will be diverted when the connections take place. Before the application is granted, we will seek confirmation from both Independent Water Networks and South Staffs that this diversion has taken place.

Having reviewed the facts of this Site, taking into account the letters from the incumbents and confirmation from Independent Water Networks that the service pipe will be moved to the boundary of the Site, we consider the Site to be unserved.

## 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 supplier<sup>2</sup>.

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.

## 6.3 Price

Independent Water Networks will match the charges of South Staffs and Severn Trent – i.e. – Independent Water Networks will not be offering any discount.

## 6.4 Levels of service

Every appointee is required under its conditions of appointment to publish and make available ‘Core Customer Information’ (often referred to as Codes) for its household customers. 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 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 South Staffs and Severn Trent were to be the customers’ water and sewerage services supplier.

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<sup>2</sup> 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) can effectively switch suppliers of water and/or sewerage from 1 April 2017.

## **6.5 Site owner choice**

Independent Water Networks has the consent of the developer Barwood Strategic Land II LLP to be the water and sewerage services provider.

## **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 application<sup>3</sup>.

## **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 South Staffs and Severn Trent'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 South Staffs and Severn Trent 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.

We estimate no annual increase on the water bills of existing South Staffs customers and a potential increase of £0.009 on the sewerage bills of existing Severn Trent customers if we grant this variation to NAV. This is once the Site is fully built out.

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.

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<sup>3</sup> 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.

Therefore we consider that granting this variation to Independent Water Networks would have a very small 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 have considered the revenues and costs of the Site relating to the provision of water and sewerage services should the relevant variation be granted.

Independent Water Networks obtained an unlimited Keepwell Agreement<sup>4</sup> from its owner Brookfield Utilities UL Limited ("BUUK") in July 2013. Recently in September 2019, Independent Water Networks confirmed to Ofwat that this agreement is still in place and will cover this proposed new Site. BUUK continues to hold an investment grade credit rating with Moody's.

On this basis, we are currently satisfied that Independent Water Networks would be able to finance its functions if the variation is granted.

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<sup>4</sup> A Keepwell Agreement is an agreement between a parent company and a subsidiary whereby the parent company guarantees to provide all of the financing that is needed by the subsidiary for the term of the agreement.

## 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 South Staffs and Severn Trent. We are currently minded to grant the variation under the unserved criterion. We are consulting on our proposal to do so.

### Where to send submissions

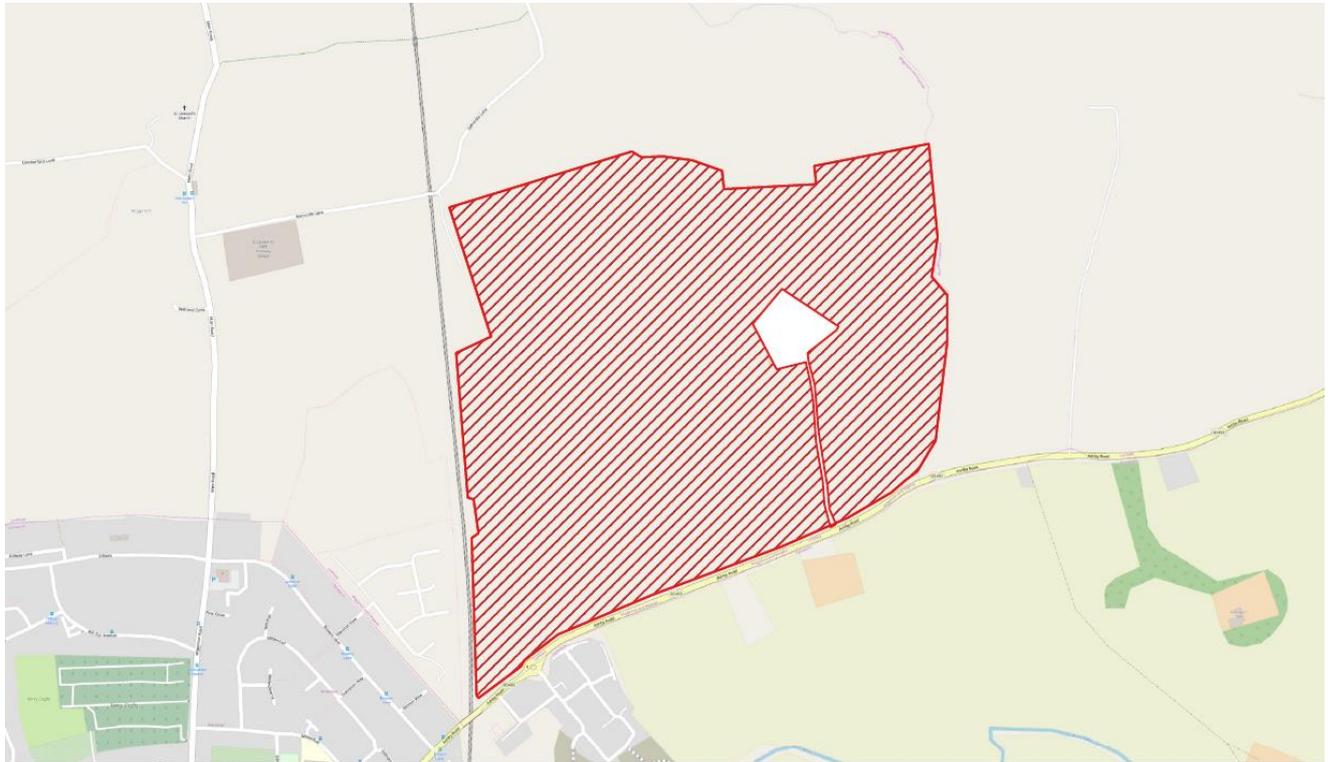
Any person who wishes to make representations or objections with respect to the application should do so in writing to Brigitte Gaylor at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at [brigitte.gaylor@ofwat.gov.uk](mailto:brigitte.gaylor@ofwat.gov.uk)

Representations must be received by Ofwat no later than 17.00 hours on 10 March 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 maps

### Water



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

ADDRESS: ASHBY ROAD, TAMWORTH, STAFFORDSHIRE, B79 0AA  
OS GRID REFERENCE: 421924, 306169

SCALE: 1:9000  
DRAWN BY: CS  
DATE: 10/12/2019

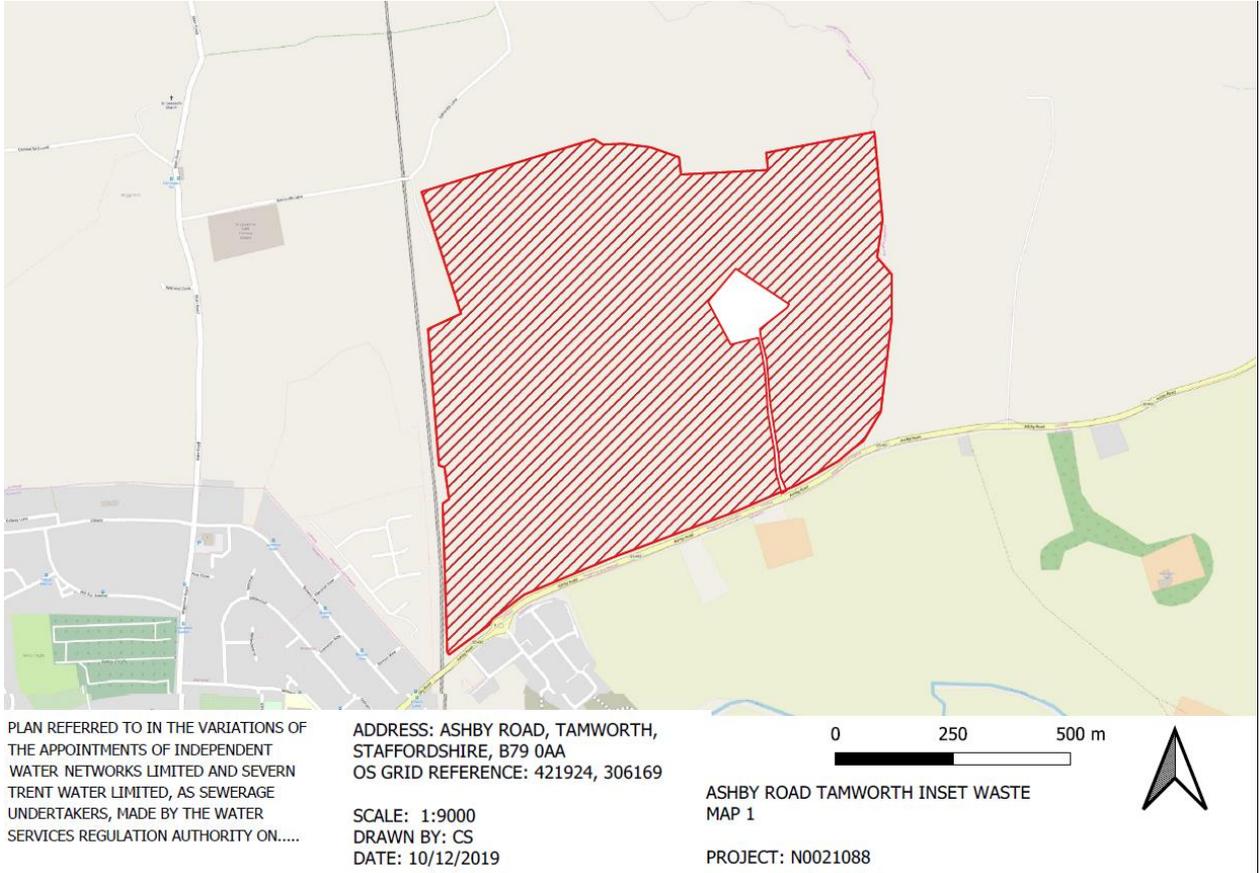
0 250 500 m

ASHBY ROAD TAMWORTH INSET WATER SUPPLY  
MAP 1

PROJECT: N0021088



## Sewerage



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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